

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the May 17, 2017 Meeting**

1. Roll Call.

Jeree Glasser-Hedrick for State Treasurer John Chiang chaired the meeting of the Tax Credit Allocation Committee (TCAC). Ms. Glasser-Hedrick called the meeting to order at 11:00 a.m. Also present: Alan LoFaso for State Controller Betty Yee; Eraina Ortega for Department of Finance Director Michael Cohen; California Housing Finance Agency (CalHFA) Executive Director Tia Boatman-Patterson; John Hiber for Department of Housing and Community Development (HCD) Director Ben Metcalf, and County Representative Santos Kreimann.

City Representative Lucas Frerichs was absent.

2. Approval of the Minutes of the March 15, 2017.

MOTION: Ms. Ortega moved approval of the March 15, 2017 minutes. Mr. LoFaso seconded and the motion passed unanimously by a roll call vote.

3. Executive Director's Report.

Executive Director Mark Stivers stated that he would like to welcome Ms. Glasser-Hedrick as the new chairperson for the Committee. He also welcomed Marisol Parks, a returning employee who was now a manager for the Development program overseeing Form 8609 processes and placed in service reviews.

Mr. Stivers reminded the Committee that TCAC experienced a significant backlog of placed in service reviews last year. He reported that staff will post a memo later that day announcing that the backlog has been eliminated. Mr. Stivers stated that it is TCAC's goal to complete the initial review and process the regulatory agreement for projects within 60 days of receiving the sponsor's placed in service documents. He noted that issuance of Form 8609's is a longer process because the submissions generally have a number of issues, which can take several weeks or months to resolve.

4. Discussion and Consideration of the 2017 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits for Tax-Exempt Bond Financed Projects.

Development Section Chief, Gina Ferguson, reported that Camellia Place II (CA-17-709) was awarded 4% tax credits in March; however the Agenda for that meeting did not state that the award included State Farmworker credits. She recommended the project for approval, this time with the proper notice in the Agenda.

MOTION: Mr. LoFaso moved approval of staff recommendations. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

5. Discussion and consideration of the 2017 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Ms. Ferguson stated that staff has reviewed and recommended 17 projects for approval under this Agenda item.

MOTION: Mr. LoFaso moved approval of staff recommendations. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

6. Discussion and Consideration of the 2017 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects (Hybrid Projects).

Ms. Ferguson explained that TCAC pursued a hybrid award structure for a limited period of time, which allowed projects that received 9% awards in 2016 to incorporate 4% tax credits and tax-exempt bond financing. She reported that 2 projects, CA-17-751 and CA-17-752, applied for hybrid awards. She confirmed that the projects complied with TCAC regulations and recommended them for approval.

Mr. LoFaso asked staff to comment on the beneficial impact of the hybrid structure with regard to applicants who are strained by tax credit market volatility.

Mr. Stivers stated that just 2 sponsors chose to utilize the hybrid award structure. He estimated that 40 projects from the 2016 Second Round had not closed their financing when the turbulence in the market place began. One project from the 2016 First Round has not closed its financing either; however the project was not subject to readiness deadlines.

Mr. Stivers stated that TCAC extended deadlines for the 2016 second round 9% projects until June 30<sup>th</sup> generally and into early July for the waiting list projects approved late in 2016. Staff did not know the current status of these projects but would have more information by the end of July.

Ms. Glasser-Hedrick asked Mr. Stivers to confirm the location of the 2 recommended projects. She suggested both projects were sizable.

Mr. Stivers stated that CA-17-751 was located in Elk Grove and CA-17-752 was in Fremont. He explained that both projects originally reported more than \$10 million in excess basis, which could be used by the 4% credits.

MOTION: Ms. Ortega moved approval of staff recommendations. Mr. LoFaso seconded and the motion passed unanimously by a roll call vote.

7. Discussion and Consideration to increase the existing Reservation amount of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTC) for a Tax-Exempt Bond Financed Project at Placed-in-Service (PIS) as allowed under TCAC Regulation Section 10322(j).

Ms. Ferguson stated that the existing TCAC project Strawberry Creek Lodge (CA-13-871) reported increases in costs and the requested credit amount. She explained that TCAC regulations provide for reapplication when costs and credit increase by a certain amount. She confirmed that staff reviewed the placed in service documents submitted by the applicant and the project meets TCAC requirements for the additional award.

Ms. Glasser-Hedrick asked Ms. Ferguson to explain the reasons for the increase in project costs.

Ms. Ferguson explained that the applicant increased the scope and timeline of the rehabilitation. In addition, some units that were originally reported as market rate units were filled by income qualified tenants during the course of the rehabilitation. Ms. Ferguson explained that the applicable fraction increased, which caused an increase in the amount of credit requested.

Mr. Stivers explained that projects may reapply for credits if they report a 15% increase in their credit request or a 20% increase in costs.

Ms. Ferguson stated that staff would likely recommend additional projects for credit increases at the next few Committee meetings. She stated that 3 projects, which were placed into service, have signaled to staff that their costs have increased. She noted that applicants have tried to notify staff of cost issues promptly in anticipation that Committee approval will be required for additional credits.

Ms. Glasser-Hedrick stated that she would like to review the upcoming projects to ensure the reported increases in costs are legitimate.

Mr. Stivers noted that he will consider revising the section of the regulations Ms. Ferguson described for the coming year.

Ms. Ortega stated that the Committee has had prior discussions about contingencies being rather high for some projects. She asked Mr. Stivers if projects that reported increased costs did so because their contingencies were underestimated.

Mr. Stivers stated that he did not have the information, but he would research Ms. Ortega's question and respond at a later time.

Mr. LoFaso stated that Ms. Ferguson's earlier comments suggest that the expansion of subsidized affordable units at Strawberry Creek Lodge resulted in a corresponding expansion of the tax credit subsidy to the projects. He asked how much additional credit was attributed to the increase in affordable units.

Ms. Ferguson explained that a small portion of the credits was attributed to the affordable units because the project was able to access more basis. She stated that the largest portion of the additional credit was likely attributed to increased project costs.

MOTION: Mr. LoFaso moved approval of staff recommendations. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

8. Discussion and consideration of appeals filed under TCAC Regulation Section 10330 for 2017 First Round Competitive Applications.

Mr. Stivers invited the applicant for New Direction West Adams (CA-17-025) to comment.

Milo Peinemann introduced himself as the Chief Strategy Officer for New Directions for Veterans, an organization has been working to support housing for veterans. He stated that project CA-17-025 would hold 63 households, comprised primarily of homeless veterans. He commented that the project was located on a wonderful site with an assortment of amenities and services for homeless veterans. Mr. Peinemann requested that staff change the project basis as they deemed appropriate.

Alfredo Izmajtovich from the Cesar Chavez Foundation stated that his firm was a partner with New Directions for Veterans. He stated that CA-17-025 has been in the city's managed pipeline for the past 3 years and was clearly a priority for the city. Mr. Izmajtovich stated that when his firm joined the project the city increased its contribution by more than \$2,000,000 and elevated the project above competitors for its pipeline. He stated that applicant secured \$8.8 million in financing from the State, and the project met additional priorities for the homeless including the mayor's initiative to combat homelessness and provide veteran housing.

Mr. Izmajtovich stated that the appeal would affect other projects in the managed pipeline by simply shifting the city's priorities. He stated that the city has provided letters of support for the project and the appeal, which the Committee members have received. He explained that if the project continues to be delayed it may no longer be eligible for the tax credit program. Mr. Izmajtovich asked that the Committee approve the requested changes to the project basis per staff recommendations.

William Leach from Kingdom Development stated that his firm prepared the application for CA-17-025. He explained that TCAC staff disqualified the project because it did not comply with Regulations Section 10317(d). He explained that it was not possible for the project to comply with both 10317(d), which prohibits special needs projects from voluntarily excluding basis and 10327(c)(5), which necessitates the project to voluntarily exclude basis in order to meet the required basis limits.

Mr. Leach explained that 10317(d) was codified last year to provide flexibility and prevent the State from overspending its state credit budget, whereas 10327(c)(5) was a

long standing rule meant to disqualify projects for requesting excess amounts of credit. He stated that the TCAC application forces projects to comply with 10327(c)(5), but it does not mention the 10317(d) requirements. He concluded that applicants do not know which regulation section they should comply with when they cannot meet the requirements of both.

Mr. Leach asked that the Committee approve changes to the project's excluded basis as staff deems necessary and in accordance with regulation Sections 10322(f) and 10327(a). He confirmed that approving these changes would not increase the applicant's credit request nor would it affect the assigned points, tie-breaker or feasibility.

Mr. Stivers stated that staff has followed regulations, which were clearly designed to reduce over allocation of state credits. He explained that special needs projects, which qualify for both state credits and the federal basis boost are required to maximize their federal credit awards first. He reported that other projects in this category complied with TCAC policy whereas CA-17-025 did not.

Mr. Stivers explained that it is mandatory for projects to not exceed the threshold basis limits and that lowering the basis to meet this requirement is not considered a voluntary reduction under the regulations. He stated that the applicant for CA-17-025 did not report their full basis nor did they reduce it to the level of the threshold basis limit. He explained that the applicant reduced the basis to an amount significantly lower than the threshold basis limit.

Mr. Stivers stated that he denied the appeal for CA-17-025 because the applicant requested a change to their requested basis, which the Committee did not have authority to approve according to the regulations.

Mr. LoFaso asked Mr. Stivers to comment on Mr. Leach's observation that the online TCAC application prompted sponsors to defer as much basis as possible rather than maximize federal basis.

Mr. Stivers stated that staff has included safeguards in the application to prevent errors. He stated that he was unsure as to how staff could prevent the errors associated with CA-17-025 because all projects reduce basis to a certain extent. Mr. Stivers explained that the project was in a subclass of special needs projects, which are required by regulations to maximize federal credits. He commented that staff's inability to prevent such errors should not necessarily excuse the errors.

Mr. LoFaso asked Mr. Stivers if staff felt that "maximizing federal basis" meant the sponsor should have maximized federal basis only to the extent of the minimal deferral called for in 10327(c)(5) or did they expect the sponsor to maximize federal basis as required by 10317(d) in the initial application with no regard for the deferral called for in 10327(c)(5).

Mr. Stivers stated that staff expected the sponsor to report a basis value similar to the project's threshold basis limit, which would have been consistent with 10327(c)(5). He explained that 10317(d) prohibits sponsors from voluntarily reducing their basis. Mr. Stivers stated that the sponsor reported a basis of approximately \$25 million. Staff expected the basis request to be \$21 million. Instead the sponsor's basis request was \$15 million, and the application requested \$5 million in state credits. Mr. Stivers explained that staff expected the credit request to be comprised solely of federal credits.

Mr. LoFaso commented that there seemed to be a conflict between the regulation sections, which the TCAC application did not address.

Ms. Glasser-Hedrick asked Mr. Stivers if the type of application error under discussion was more profuse in the current funding round.

Mr. Stivers reported that CA-17-025 was the only project to make that specific type of error. He noted that other special needs applicants complied with the rules associated with the reduction of basis. He predicted that TCAC would allocate 25% of the available credits to about 7 special needs projects.

Mr. Leach stated that his firm submitted its TCAC application to the city of Los Angeles prior to its application for the city's managed pipeline. He explained that the city officials reviewed the application to ensure the firm requested the appropriate tie-breaker and amount of credits. He stated that in order to meet the requirements of 10327(c)(5) the firm was required to complete a cell within the application form labeled "Voluntarily Excluded Basis".

Mr. Leach stated that he disagreed with Mr. Stivers' interpretation of 10317(d) wherein the term "maximizing federal basis" was not included in the regulation. He stated that an applicant may voluntarily exclude basis if they meet one of two exceptions described in the regulations. He stated that the regulations did not intend to disqualify special needs applicants but rather encourage them to apply for the appropriate type of credits.

Ms. Ortega stated that she would have sympathy for the appeal if CA-17-025 were competing with another special needs application that did not have errors. She explained that the Committee approved a process several years ago whereby the city of Los Angeles was allowed to decide which projects in its managed pipeline would receive tax credits. Ms. Ortega predicted that if CA-17-025 was not funded, staff would recommend another project that was not a priority for the city. She supported the appeal and encouraged staff to proceed as necessary to correct the application errors.

Ms. Glasser-Hedrick stated that staff did not have the ability to make the requested application changes according to the regulations. She questioned the Committee being the arbiter of which projects have value when truly all projects in the queue have value. She stated that she would like staff to exercise more discretion with regard to these matters and develop future regulations changes to that affect.

Mr. LoFaso stated that he agreed with Ms. Ortega's comments and moved for approval of the appeal.

Ms. Ortega seconded the motion.

Mr. Stivers asked if the board members were recommending approval of the applicant receiving the requested amount of state and federal credits or for staff to change the application so the applicant receives only federal credits.

Mr. LoFaso confirmed that the board members were recommending that staff change the application so the applicant receives only federal credits.

Ms. Glasser-Hedrick stated that she wished to amend the motion. She stated that she would like the staff to have a framework with which to make future decisions in a more pragmatic manner and in accordance with the Committee's perspective.

TCAC counsel, Robert Hedrick, stated that the guidance to staff as described by the Chair was not appropriate for inclusion the motion. He explained that the motion was made specifically in regard to the appeal for CA-17-025. He stated that the Chair may provide additional guidance to staff simply as a matter of course.

Mr. LoFaso commented that TCAC has struggled with appeals to the extent they feel the need to codify the final decisions. He stated that this method does not allow the agency to address the current matter before the regulations are adopted.

Ms. Glasser-Hedrick stated that she understood how projects being funded on appeal impacted the sort and the ability of TCAC to deliver credits to projects that have been in the queue for a long time. She suggested the Committee try to create a framework that will allow staff to act more efficiently in their efforts to fund housing that is desperately needed.

Georgina Tamayo from the City of Los Angeles Housing and Community Investment Department confirmed that project CA-17-025 was a priority for the city. She stated that her agency would work with TCAC staff to resolve issues like this in the future.

MOTION: Mr. LoFaso moved approval of application CA-17-025 for federal tax credits. Ms. Ortega seconded the motion. The motion was passed by a roll call vote with Ms. Ortega and Mr. LoFaso voting aye and Ms. Glasser-Hedrick voting no.

Michael Hunter, tribal chairman of the Coyote Valley Band of Pomo Indians, acknowledged his counsel and fellow tribe members who accompanied him to the meeting. Mr. Hunter stated that Coyote Valley Homes I (CA-17-066) was not in competition with any other projects. He commented that there was a perception that a poor tribe may not have the experience needed to carry out successful projects. Mr. Hunter explained that his tribe was uprooted from its reservation and disqualified from receiving educational grants when the tribe was terminated during the 1950's. During the

1970's tribe members won a lawsuit, which reinstated the tribe as the Coyote Valley Band of Pomo Indians.

Mr. Hunter explained that his tribe has applied for and received various grants and loans; however the tribe's experience as a local government was being overlooked. In 1985 the tribe secured the Indian Community Development Block Grant (ICDBG) from the Department of Housing and Urban Development (HUD) to build 30 new homes. In 1989 the tribe used the same grant to build a tribal office and community room. In 1992 the tribe built a recreation center with the support of other local tribes.

Mr. Hunter stated that his tribe received additional grants from the ICDBG program to build a community education center and purchase new land. He explained that the tribal government has years of experience as a general partner; however the State does not recognize this experience. Mr. Hunter stated that his tribe qualified for the Bureau of Indian Affairs (BIA) Loan Guarantee Program. Though the process was very difficult, the tribe succeeded in closing the BIA loan.

Mr. Hunter stated that his tribe was unable to wait for TCAC to change its regulations. In 2015 and 2016 the tribe secured grants from the United States Department of Agriculture (USDA) for a water well and waste system. Mr. Hunter explained that tribe's resources will not be fully utilized if new housing is not approved. He stressed that the tribe is greatly in need of housing and its grants are pending the decision of the Committee.

Keith Anderson introduced himself as general counsel for the Coyote Valley Band of Pomo Indians. He stated that he has become more familiar with TCAC regulations after speaking with individual staff members. He explained that the intent of the regulations is to award firms that are experienced, competent and prepared to utilize funding appropriately.

Mr. Anderson stated that one of the perceived deficiencies in application CA-17-066 was the withdrawal of the original secondary property manager. He explained that the property manager, IRM, withdrew from the project without the applicant's knowledge or consent. Mr. Anderson reported that the applicant was ready to resume the project with Barker Management as the secondary manager. He noted that it is dangerous to allow a company to unilaterally withdraw from a project. He stated that TCAC has set a precedent, which allows a company to unilaterally destroy an otherwise great project.

Mr. Anderson stated that another deficiency related to the applicant's score of zero points in the general partner category. He explained that the Quechan was the only Native American tribe to be awarded credits under the regulations adopted in 2016. The application team that worked on the Quechan project was also hired for CA-17-066. Mr. Anderson stated that the regulations led his firm to believe that the Quechan qualified for tax credits because the project included a secondary property manager. He noted that the Quechan application also included a score of zero points in the general partner category.



Mr. Anderson commented that regulations were somewhat ambiguous because his application team followed the same process as the Quechan, but with different results. He stated that CA-17-066 has been penalized because the applicant made a reasonable interpretation of the regulations and relied on external evidence. Mr. Anderson asked that the Committee conduct a further review of the applicant's background and experience. He noted that no other projects were competing with CA-17-066 in this funding round.

Elizabeth Glynn introduced herself as the Chief Executive Officer of Travois. She requested that application CA-17-066 be permitted to change the original property manager to a qualified one. Mr. Glynn stated that her firm has signed an agreement with Barker Management and has the necessary expertise to move the project forward. She stated that Travois operates in 22 states and has closed more than \$882 million in LIHTC projects exclusively for Native American tribes. She noted that her firm has won tax credits in California four times.

Ms. Glynn explained that none of the projects her firm assisted in other states require applicants to have a co-general partner as described in the TCAC regulations. In addition, none of her firm's previously funded projects in California had a co-general partner. Ms. Glynn commented that applicants in the non-tribal set-asides are different from applicants in the tribal set aside and the requirements for a for-profit developer may not be appropriate for a sovereign government.

Mr. Stivers stated that the 9% tax credit competition is based heavily on program experience. There is a requirement for the Native American apportionment, which states that projects must receive minimum general partner experience points. Mr. Stivers explained that applicants must have experience developing at least 3 projects in the past or partner with an entity that has experience developing 3 projects. He stated that he denied the appeal for CA-17-066 because the applicant had experience developing only one project and therefore did not qualify for the minimum general partner experience points.

Mr. Stivers stated that CA-17-066 was not the same as the Quechan application. The two applicants requested zero points for general partner experience; however the Quechan provided documents showing the applicant had experience developing 6 affordable housing projects. Mr. Stivers reported that all the previously awarded tribal applicants had experience developing 5 or more projects.

Mr. Stivers stated that he was willing to accept the applicant's substitute for the original property management company prior to receiving a LIHTC award although he was concerned about the precedent this action may set. He noted that TCAC usually allows substitutions only after projects are awarded.

Ms. Ortega suggested TCAC may have created a barrier within the Native American set-aside. She stated that tribes that do meet the experience requirements in their own may be forced to seek out a co-general partner that meets the requirements.

Mr. Stivers stated that 5 previously funded projects were able to meet the experience requirements, but he understood some tribes may be forced to partner with a co-general partner. He questioned why the co-general partner requirement interferes with the sovereignty of the tribe when the investor's 99.99% ownership of the project does not.

Ms. Glynn stated that only 10 of the 109 tribes in California are eligible for tax credits according to the current regulations. She encouraged the Committee to research the reasoning for the 3-project minimum described in the regulations. She commented that TCAC policy should be based on evidence and utilized so that tribes can access LIHTC funding.

Ms. Glasser-Hedrick asked Ms. Glynn if she made comments about the regulations during 2015 and prior to adoption of the current regulations.

Ms. Glynn stated her firm has contacted Mr. Stivers regularly and provided feedback during the public comment periods. She explained that her firm has maintained the position that the co-general partner requirement in the TCAC application is not tenable for tribal projects. Ms. Glynn stated that the precedent in other states indicates the co-general partner requirement is not necessary for tribal applicants.

Ms. Glasser-Hedrick asked Ms. Glynn what kind of relationships result from successful projects in tribal communities.

Ms. Glynn stated the investor is a 99% owner of the project through the initial compliance period. After the compliance period the tribe becomes the sole owner of the project. Ms. Glynn explained that tribes pay Travois a flat fee, which is unrelated to the size of the project. She stated that the tribe would receive all of their developer fee, which it can use for another project or program need.

Ms. Glynn stated that tribes must also hire qualified attorneys. She explained that her firm consistently works with 7-10 investors who hire their own general counsel to provide the necessary experience.

Ms. Glasser-Hedrick asked Ms. Glynn if tribal projects have an asset management component after they are placed into service.

Ms. Glynn stated that Travois serves as the development consultant and asset management company throughout the compliance period. She noted that California is the only state her firm has worked in that requires projects to have a secondary property management company. She explained that requirement creates an additional expense for tribes and is an inefficient use of affordable housing resources.

Mr. LoFaso stated that he did not understand Mr. Stivers' concern about the applicant replacing the property management company. He asked why applicants should not be able to disassociate themselves from a company that has received negative points.

Mr. Stivers clarified that the applicant for CA-17-066 did not disassociate themselves from IRM. Rather, IRM disassociated itself from the applicant.

Mr. LoFaso asked Mr. Stivers why the application was unable to know that the management company received negative points.

Mr. Stivers explained that TCAC does not publish that type of sanction between parties on its website. It is generally the responsibility of the sanctioned party to notify their potential partners that they are under a sanction. Mr. Stivers noted that all records related to the issuance of negative points are public records. He explained that he was unable to give points to CA-17-066 for management company experience because staff was notified that IRM would not do the required work.

Mr. Stivers explained that he was concerned that allowing an applicant to change their property management company in the midst of a competitive process to fix a deficiency in their application would set a dangerous precedent.

Mr. LoFaso suggested staff review this issue as they consider changes to the regulations so that applicants can protect themselves from engaging a company that can exit the project unexpectedly.

Mr. LoFaso asked Mr. Stivers to reconcile the fact that the Quechan applicant received zero points for general partner experience with the regulation language that indicates applicants must receive points.

Mr. Stivers clarified that applicants must “garner” points rather than receive points according to the language related to general partner experience. He explained that “garner” means applicants must prove that they are eligible for points according to staff’s interpretation.

Ms. Ortega asked Ms. Glynn to confirm the number of projects associated with the Quechan application.

Ms. Glynn stated that the application had 6 associated projects.

Ms. Ortega asked Ms. Glynn why she thought CA-17-066 would have the same outcome as the Quechan project.

Ms. Glynn stated that in a prior version of the regulations applicants could qualify for experience points by having developed a certain number of projects. Projects that lacked California LIHTC experience could partner with a property manager in order receive points. In the current version of the regulations the California LIHTC component is integrated into each scoring level of the general partner experience.

Ms. Glynn interpreted the current regulations to mean that applicants must have experience developing 3-4 projects, of which 2 must be California LIHTC projects. She explained that all tribes are disqualified under this policy because none of them have experience developing 2 California LIHTC projects.

Ms. Glynn stated that she has never interpreted these regulations in the way TCAC staff has. She confirmed that Travois submitted the information needed to obtain experience points for CA-17-066, but did not request those points. She stated that her firm relied upon the precedent associated with the Quechan project. She concluded that the outcome of the Quechan application confirmed her firm's previous interpretation of the regulations.

Ms. Glasser-Hedrick asked Ms. Glynn what the impact to CA-17-066 would be if the applicant was deferred to the next funding round.

Ms. Glynn explained that the applicant needs to know soon if new housing will be approved so they can make decisions related to other projects such as the waste water system mentioned by Mr. Hunter.

Ms. Glynn stated that there will be no material changes to the application in the next funding round and the regulations would remain the same. She stated that funding made available for California tribal projects may go unused this year because applicants are not eligible to receive it.

Mr. LoFaso suggested staff make clarifying changes to the regulations if they believed "garnering" points means the applicant has the underlying qualifications without being awarded points on their scoring sheet. Staff might also clarify that "management company/general partner" means the applicant is seeking points for their management company and points for their general partner separately.

Mr. LoFaso stated that the Controller has made it a priority to engage tribal governments during her years of service on various State tax boards. He explained that he was comfortable granting the appeal because the applicant had sufficient development experience even though not all of the experience was associated with affordable housing projects. He suggested staff change the regulations to match their interpretations or conduct further discussions to determine the kind of experience tribal governments should have to qualify for LIHTCs.

Ms. Ortega agreed with Mr. LoFaso's comments and encouraged staff to conduct a broader review of the regulations. She suggested TCAC develop a proxy for the experience requirement so staff can ensure tax credits are delivered to projects appropriately. She stated that the general partner requirements seemed inappropriate and tribes should not be required to share developer fees with an outside general partner.

Ms. Glasser-Hedrick stated that the apportionment for tribal projects has been a work in progress for quite some time. She stated that the TCAC's goal is to ensure all

communities can access the program. She agreed that sovereignty was extremely important to tribes. She stated that the parameters for the managing general partner represent one type of proxy.

Ms. Glasser-Hedrick stated that she would like staff to recommend changes to the regulations that help applicants demonstrate the necessary experience. She acknowledged that TCAC's regulation change process did not accommodate the timeframe for CA-17-066.

Ms. Boatman-Patterson stated that she understood the predicament Mr. Stivers was in during the appeal review. She acknowledged that staff has policies and procedures that they must follow; however she agreed with the actions of the voting board members in this situation.

MOTION: Mr. LoFaso moved to grant the appeal for application CA-17-066. Ms. Ortega seconded the motion. The motion was passed by a roll call vote with Ms. Ortega and Mr. LoFaso voting aye and Ms. Glasser-Hedrick voting no.

9. Discussion and consideration of a Resolution to adopt proposed regulations, Title 4 of the California Code of Regulations, Section 10325.5, revising allocation and other procedures.

Mr. Stivers stated that the proposed regulation change would allow a 2016 first round project that did not receive readiness points to request an exchange of its 2016 credits for 2017 credits.

Mr. LoFaso thanked Mr. Stivers for his efforts in addressing credit volatility issues.

MOTION: Ms. Ortega moved approval of staff recommendations. Mr. LoFaso seconded and the motion was passed unanimously by a roll call vote.

10. Public Comment.

Ms. Boatman-Patterson reported that her agency has compared TCAC reports with historical trends in order to identify outliers. She reported that 5 of the 13 acquisition/rehabilitation applicants from the current funding round exceeded the conventional levels for project contingencies. 5 of the 12 new construction projects appeared to have in excess of more than 1 cost center. Ms. Boatman-Patterson stated that the ratio of projects with greater than normal costs was higher in the current funding round than it was in March 2017. 10 of the 25 projects in the current round have questionable costs, which indicated they were outliers.

Ms. Boatman-Patterson stated that she would like to work with the TCAC director to bring future updates to the board regarding cost containment, trends and efforts to identify outlying projects.

Ms. Glasser-Hedrick asked Ms. Boatman-Patterson to describe the parameters her agency used for its cost research.

Ms. Boatman-Patterson stated that her agency reviewed contingencies to determine if costs were higher than normal. Her staff verified whether contingencies exceeded 5% for new construction projects and 15% for rehabilitation projects. Staff also compared the projects' financing costs with interest included.

Ms. Boatman-Patterson stated that certain trends may be the result of market fluctuations, devaluation of tax credits and other uncertainties. She suggested staff review the trends in an effort to decrease project development costs and ensure TCAC resources were used efficiently.

Ms. Glasser-Hedrick reported that the California Debt Limit Allocation Committee (CDLAC) also began to document concerns regarding contingencies during its application reviews. She stated that CDLAC could make its findings available to CalHFA earlier in the application process.

Mr. Stivers confirmed that he would meet with CalHFA staff to discuss these issues further. He explained that it is challenging for staff to evaluate costs for projects on short notice. In addition, staff does not have a standard by which to evaluate individual line items. Mr. Stivers suggested staff discuss market norms with CalHFA in an effort to create a standard.

Mr. Hiber stated that HCD staff would like to be included in the discussions with TCAC and CalHFA.

Ms. Glasser-Hedrick stated that she hoped to provide staff with more leeway to make decisions autonomously in light the comments about 10327(a) that day.

Mr. Leach commented that incentivizing efficient use of public resources is one way to alleviate the problems associated with high project costs. He offered to provide suggestions to staff during the normal regulation change process.

#### 11. Adjournment.

The meeting adjourned at 1:59 pm.