

2013 Proposed Regulation Change with Initial Statement of Reasons
March 13, 2013

Section 10322(i)(2)(B)

Proposed Change:

- (B) an audited certification, prepared by an independent Certified Public Accountant under generally accepted auditing standards, with all disclosures and notes. Effective July 1, 2013, the Certified Public Accountant or accounting firm shall not have acted in an advisory or consulting capacity manner that would impair independence under the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct Section 101 and the Securities Exchange Commission regulations 17 CFR Parts 210 and 240. Examples of such impairing services include bookkeeping or other services relating to the accounting records, financial information systems design and implementation, appraisal or evaluation services, actuarial services, internal audit outsourcing services, management functions or human resources, investment advisor, banking services, legal services, or expert services unrelated to the audit. as a project participant under Section 10322(h)(5). In order to perform audits of final cost certifications, the auditor must have a peer review of its accounting and auditing practice once every three years consistent with the AICPA Peer Review Program as required by the California Board of Accountancy for California licensed public accounting firms (including proprietors); and make the peer review report publicly available and submit a copy to CTCAC along with the final cost certification. If a peer review reflects systems deficiencies, CTCAC may require another CPA provide the final cost certification. This certification shall:
- (1) reflect all costs, in conformance with 26 CFR §1.42-17, expenditures and funds used for the project, as identified by the certified public accountant, up to the funding of the permanent loan. Projects developed with general contractors who are Related Parties to the developer must be audited to the subcontractor level; and
 - (2) include a CTCAC provided Sources and Uses form reflecting actual total costs incurred up to the funding of the permanent loan.
 - (3) certify that the CPA has not performed any services, as defined by AICPA rules, that would impair independence.

Reason:

California Tax Credit Allocation Committee (TCAC) Regulations Section 10322(i)(2)(B) requires that a final cost certification be prepared by a Certified Public Accountant (CPA) that has not acted in an advisory or consulting capacity. The Committee adopted this regulation to ensure the independence of the CPA performing the final cost certification for tax credit projects.

The purpose of these proposed regulations is to clarify that the CPA should not act in any capacity that would impair independence. These proposed regulations delete the broad reference to an advisory or consulting capacity and provides more specificity.

The American Institute of CPAs (AICPA) maintains a Code of Professional Conduct which explains actions that impair independence.

Staff proposes incorporating by reference, the AICPA Code of Conduct rules in Section 101 provide details on assuring independence and can be found at:
http://www.aicpa.org/Research/Standards/CodeofConduct/Pages/et_101.aspx#et_101.02.

Staff proposes incorporating SEC examples of services that impair independence. The AICPA has detailed information from the Securities Exchange Commission that further explains the examples listed in these proposed regulations at:
http://www.aicpa.org/InterestAreas/EmployeeBenefitPlanAuditQuality/Resources/AccountingandAuditingResourceCenters/AuditorIndependence/DownloadableDocuments/11_2003_AICPA_SEC_IndependenceRulesComparison.pdf.

Specifically, the references for the examples in the proposed regulations can be found on the following pages of the above document:

Bookkeeping or other services related to accounting records:	page 20
Financial information systems design and implementation:	page 21
Human Resources:	page 22
Appraisal or evaluation services, actuarial services:	page 23
Internal audit, outsourcing services:	page 24
Legal Services, Expert services unrelated to the audit	page 26
Investment advisor, banking services:	page 23
Management functions:	page 17

These proposed regulations will enable TCAC to implement the original regulation change in accordance with professional standards for CPAs.
