CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE REGULATIONS IMPLEMENTING THE FEDERAL AND STATE LOW INCOME HOUSING TAX CREDIT LAWS

CALIFORNIA CODE OF REGULATIONS
TITLE 4, DIVISION 17, CHAPTER 1

~~June 10~~October 21, 2015

Section 10300. Purpose and Scope

These regulations establish procedures for the reservation, allocation and compliance monitoring of the Federal and State Low-Income Housing Tax Credit Programs ("Housing Tax Credit Programs", "Programs", or individually, "Federal Program" or "State Program") and establish policies and procedures for use of the Tax Credits to meet the purposes contained in Section 252 of Public Law No. 99-514 (October 22, 1986), known as the Federal Tax Reform Act of 1986, as amended, and Chapter 658, California Statutes of 1987, as amended, and Chapter 1138, California Statutes of 1987, as amended.

Internal Revenue Code ("IRC") Section 42 provides for state administration of the Federal Program. California Health and Safety (H & S) Code Sections 50199.4 through 50199.22, and California Revenue and Taxation (R & T) Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5 establish the California State Program and designate the California Tax Credit Allocation Committee ("CTCAC") as the Housing Credit Agency to administer both the Federal and State Housing Tax Credit programs in California. These regulations set forth the policies and procedures governing the Committee's management of the Programs. In addition to these regulations, program participants shall comply with the rules applicable to the Federal Program as set forth in Section 42 and other applicable sections of the Internal Revenue Code. In the event that Congress, the California Legislature, or the IRS add or change any statutory or regulatory requirements concerning the use or management of the Programs, participants shall comply with such requirements.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10302. Definitions

a) AHP. The Affordable Housing Program of the Federal Home Loan Bank.

b) Allocation. The certification by the Committee of the amount of Federal, or Federal and State, Credits awarded to the applicant for purposes of income tax reporting to the IRS and/or the California Franchise Tax Board ("FTB").

c) Applicable Credit Percentage. The monthly rate, published in IRS revenue rulings pursuant to IRC Section 42(b)(1), applicable to the Federal Program for purposes of calculating annual Tax Credit amounts.

d) Capital Needs Assessment or CNA. The physical needs assessment report required for all rehabilitation projects, described in Section 10322(h)(26)(B).

e) Chairperson. The Chairperson of the California Tax Credit Allocation Committee.

f) Committee. The California Tax Credit Allocation Committee ("CTCAC") or its successor.

g) Community Foundation. A local foundation organized as a public charity under section 509(a)(1) of the Internal Revenue Code.

h) Compliance Period. That period defined by IRC Section 42(i)(1) and modified by R & T Code Section 12206(h), and further modified by the provisions of these regulations.

i) Credit(s). Housing Tax Credit(s), or Tax Credit(s).

j) Credit Ceiling. The amount specified in IRC Section 42(h)(3)(C) for Federal Program purposes (including the unused credits from the preceding calendar year, the current year's population based credits, returned credits and national pool credits), and in R & T Code Section 17058(g) for State Program purposes.

k) CTCAC. California Tax Credit Allocation Committee.

l) Developer Fee. All Funds paid at any time as compensation for developing the proposed project, to include all development consultant fees, processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of those customarily required by multi-family housing lenders.

m) Development Team. The group of professionals identified by the applicant to carry out the development of a Tax Credit project, as identified in the application pursuant to subsection 10322(h)(5).

n) Eligible Project. A proposed 9% Tax Credit project that has met all of the Basic Threshold Requirements and Additional Threshold Requirements described in Sections 10325(f) and (g) below.

o) Executive Director. The executive director of the California Tax Credit Allocation Committee.

p) Farmworker Housing. A development of permanent housing exclusively for agricultural workers (as defined by California Labor Code Section 1140.4(b)) that is available to, and occupied by, only farmworkers and their households.

q) Federally Subsidized. As defined by IRC Section 42(i)(2).

r) Federal Credit. The Tax Credit for low-income rental housing provided under IRC Section 42 and implemented in California by the Committee.

s) Financial Feasibility. As required by, IRC Section 42(m)(2), and further defined by these regulations in Section 10327.

t) FTB. State of California Franchise Tax Board.

u) Hard construction costs. The amount of the construction contract, excluding contractor profit, general requirements and contractor overhead.

v) High-Rise Project(s). A project which applies for a Credit reservation pursuant to Section 10325 in which 100 percent (100%) of the residential units (other than manager's units) would be Rent-Restricted Units and for which the project architect has certified concurrently with the submission of an application to the Committee that (1) one or more of the buildings in the project would have at least six stories; and (2) the construction period for the project is reasonably expected to be in excess of 18 months.

w) IRS. United States Internal Revenue Service.

x) Local Development Impact Fees. The amount of impact fees, mitigation fees, or capital facilities fees imposed by municipalities, county agencies, or other jurisdictions such as public utility districts, school districts, water agencies, resource conservation districts, etc.

y) Local Reviewing Agency. An agency designated by the local government having jurisdiction, that will perform evaluations of proposed projects in its locale according to criteria set forth by the Committee.

z) Low-Income Unit. As defined by IRC Section 42(i)(3).

aa) Market-Rate Unit. A unit other than a Low-Income Unit as defined by these regulations.

bb) MHP. Multifamily Housing Program of California's Department of Housing and Community Development.

cc) "Net Project Equity" shall mean the total sale or refinancing proceeds resulting from a Transfer Event less the payment of all obligations and liabilities of the owner, including any secured and unsecured related and third party debt thereof (including, without limitation, repayment of deferred developer fees and repayment of any advances made by a partner to fund operating and/or development deficits).

~~cc)~~dd) Net Tax Credit Factor. The estimated or actual equity amount raised or to be raised from a tax credit syndication or other instrument, not including syndication related expenses, divided by the total amount of Federal and State Tax Credits reserved or allocated to a project. The calculation must include the full ten-year amount of Federal Tax Credits and the total amount of State Tax Credits.

~~dd)~~ee) QAP. The "Low Income Housing Tax Credit Program Qualified Allocation Plan," as adopted in regulation Sections 10300 et. seq., and in accordance with the standards and procedures of IRC Section 42(m)(1)(B).

ff) "Qualified Capital Needs Assessment" shall mean a capital needs assessment for a property subject to a Transfer Event dated within one hundred eighty (180) days of the proposed Transfer Event which (i) meets the requirements of (a) the Fannie Mae Multifamily Instructions for the PNA Property Evaluator, (b) Freddie Mac's Property Condition Report requirements in Chapter 14 of the Small Balance Loan Addendum, (c) HUD's Multifamily Capital Needs Assessment section in Appendix 5G of the Multifamily Accelerated Process Guide, or (d) Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process (ASTM Designation E 2018-08) utilizing a recognized industry standard to establish useful life estimates for the replacement reserve analysis, and (ii) clearly sets forth (a) the capital needs of the project for the next two (2) years (the "Short-Term Work") and the projected costs thereof, and (b) the capital needs of the project for the subsequent thirteen (13) years (the "Long Term Work") and the projected contributions to reserves that will be needed to accomplish that work.

~~ee)~~gg) Qualified Nonprofit Organization. An organization that meets the requirements of IRC Section 42(h)(5), whose exempt purposes include the development of low-income housing as described in IRC Section 42, and which, if a State Tax Credit is requested, also qualifies under H & S Code Section 50091.

~~ff)~~hh) RHS. United States Rural Housing Service, formerly Rural Housing and Community Development Service or RHCDS, formerly Farmers Home Administration or FmHA

~~gg)~~ii) Related Party.

(1) the brothers, sisters, spouse, ancestors, and direct descendants of a person;

(2) a person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;

(3) two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which

(A) stock is held by the same persons or entities for
(i) at least 50% of the total combined voting power of all classes that can vote, or
(ii) at least 50% of the total value of shares of all classes of stock of each of the corporations or
(iii) at least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation;

(B) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;

(C) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;

(D) concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.

(4) a grantor and fiduciary of any trust;

(5) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(6) a fiduciary of a trust and a beneficiary of that trust;

(7) a fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;

(8) a person or organization and an organization that is tax-exempt under Subsection 501(c)(3) or (4) of the IRC and that is affiliated with or controlled by that person or the person's family members or by that organization;

(9) a corporation and a partnership or joint venture if the same persons own more than:

(A) 50% in value of the outstanding stock of the corporation; and

(B) 50% of the capital interest, or the profits' interest, in the partnership or joint venture;

(10) one S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;

(11) an S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;

(12) a partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or

(13) two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

The constructive ownership provisions of IRC Section 267 also apply to subsections 1 through 13 above. The more stringent of regulations shall apply as to the ownership provisions of this section.

~~hh)~~jj) Rent-Restricted Units. Units meeting the requirements of IRC Section 42(g)(2).

~~ii)~~kk) Reservation. As provided for in H & S Code Section 50199.10(e) the initial award of Tax Credits to an Eligible project. Reservations may be conditional.

~~jj)~~ll) Rural. An area defined in H & S Code Section 50199.21.

~~kk)~~mm) Scattered Site Project. A project in which the parcels of land are not contiguous except for the interposition of a road, street, stream or similar property.

(1) For acquisition and/or rehabilitation projects with one pre-existing project-based Section 8 contract in effect for all the sites, there shall be no limit on the number or proximity of sites.

(2) For acquisition and/or rehabilitation projects with any of the following: (A) existing federal or state rental assistance or operating subsidies, (B) an existing CTCAC Regulatory Agreement, or (C) an existing regulatory agreement with a federal, state, or local public entity, the number of sites shall be limited to five, unless the Executive Director approves a higher number, and all sites shall be either within the boundaries of the same city, within a 10-mile diameter circle in the same county, or within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more.

(3) For new construction projects and all other acquisition and/or rehabilitation projects, the number of sites shall be limited to five, and all sites shall be within a 1 mile diameter circle within the same county.

nn) State Credit. The Tax Credit for low-income rental housing provided by the Revenue and Taxation Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, including the State Farmworker Credit, formerly the Farmworker Housing Assistance Program provided by the Revenue and Taxation Code Sections 12206,17058, and 23610.5 and by the Health and Safety Code Sections 50199.2 and 50199.7.

~~ll)~~oo) Tax-Exempt Bond Project. A project that meets the definition provided in IRC Section 42(h)(4).

~~mm)~~pp) Tax forms. Income tax forms for claiming Tax Credits: for Federal Tax Credits, IRS Form 8609; and, for State Tax Credits, FTB Form 3521A.

~~nn)~~qq) "Transfer Event" shall mean (i) a transfer of the ownership of a project, (ii) the sale or assignment of a partnership interest in a project owner and/or (iii) the refinancing of secured debt on a project. The following shall not be deemed a Transfer Event: (i) the transfer of the project or a partnership or membership interest in a project owner in which the debt encumbering the project is not increased, refinanced or otherwise modified, (ii) the refinancing of project debt which does not increase the outstanding principal balance of the debt other than in the amount of the closing costs and fees paid to the project lender and third parties as transaction costs, (iii) the replacement of a general partner by a limited partner upon the occurrence of a default by a general partner in accordance with partnership agreement of the project owner, (iv) a transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party, (v) a "Subsequent Transfer" pursuant to Section 10320(b)(4)(B) hereof, (vi) a transfer of the ownership of a project subject to an existing tax credit regulatory agreement with a remaining term of five (5) or less years if the transfer is made in connection with a new reservation of 9% or 4% tax credits, or (vii) the sale of a project, or the sale or assignment of a partnership interest in a project owner, to an unrelated party for which the parties entered into a purchase agreement prior to October 9, 2015. Notwithstanding the foregoing, the term "Transfer Event" shall be applicable only to projects in which at least 50% of the units are Tax Credit Units.

~~nn)~~rr) Threshold Basis Limit. The aggregate limit on amounts of unadjusted eligible basis allowed by the Committee for purposes of calculating Tax Credit amounts. These limits are published by CTCAC on its website, by unit size and project location, and are based upon average development costs reported within CTCAC applications and certified development cost reports. CTCAC staff shall use new construction cost data from both 9 percent and 4 percent funded projects, and shall eliminate extreme outliers from the calculation of averages. Staff shall publicly disclose the standard deviation percentage used in establishing the limits, and shall provide a worksheet for applicant use. CTCAC staff shall establish the limits in a manner that seeks to avoid a precipitous reduction in the volume of 9 percent projects awarded credits from year to year.

~~oo)~~ ss) Tribe. A federally recognized Indian tribe located in California, or an entity established by the tribe to undertake Indian housing projects, including projects funded with federal Low Income Housing Tax Credits.

tt) Tribal Trust Land. Real property located within the State of California that meets both the following criteria:

(1) is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States.

(2) the land may be leased for housing development and residential purposes under Federal law.

~~pp~~uu) Waiting List. A list of Eligible Projects approved by CTCAC following the last application cycle of any calendar year, pursuant to Section 10325(h) below.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10305. General Provisions

(a) Meetings. The Committee shall meet on the call of the Chairperson.

(b) Report. At each meeting of the Committee at which Tax Credit reservations from the Credit Ceiling are made, the Executive Director shall make a report to the Committee on the status of the Federal and State Tax Credits reserved and allocated.

(c) Forms. CTCAC shall develop such forms as are necessary to administer the programs and is authorized to request such additional information from applicants as is appropriate to further the purposes of the Programs. Failure to provide such additional information may cause an application to be disqualified or render a reservation null and void.

(d) Tax Credit Limitations. No applicant shall be eligible to receive Tax Credits if, together with the amount of Federal or State Tax Credits being requested, the applicant would have, in the capacity of individual owner, corporate shareholder, general partner, sponsor, developer or housing consultant, received a reservation or allocation greater than fifteen percent (15%) of the total Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year.

(e) Allocation Limit. No one project applying for 9% Tax Credits may receive an allocation of more than Two Million Five Hundred Thousand ($2,500,000) Dollars.

(f) Notification. Upon receipt of an application, CTCAC shall notify the Chief Executive Officer (e g., city manager, county administrative officer, tribal chairperson) of the local jurisdiction within which the proposed project is located and provide such individual an opportunity to comment on the proposed project (IRC Section 42(m)(1)(ii)).

(g) Conflicting provisions. These regulations shall take precedence with respect to any and all conflicts with provisions of the QAP or other guidance provided by the Committee. This subsection shall not be construed to limit the effect of the QAP and other guidance in cases where said documents seek to fulfill, without conflict, the requirements of federal and state statutes pertaining to the Tax Credit Programs.

(h) The Committee may, at its sole discretion, reject an application if the proposed project fails to meet the minimum point requirements established by the Committee prior to that funding round. The Committee may establish a minimum point requirement for competitive rounds under either Section 10325 or 10326.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10310. Reservations of Tax Credits

(a) Reservation cycles. The Committee shall reserve Tax Credits on a regular basis in accordance with H. & S Code Section 50199.14(a), pursuant to these regulations and the QAP, incorporated by reference in full.

(b) Credit Ceiling available. The approximate amount of Tax Credits available in each reservation cycle shall be established by the Committee at a public meeting designated for that purpose, in accordance with the following provisions:

(1) Amount of Federal Tax Credits. The amount of Federal Tax Credits available for reservation in a reservation cycle shall be equal to the sum of:

(A) the per capita amount authorized by law for the year, plus or minus the unused, Federal Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;

(B) the amount allocated, and available, under IRC Section 42(h)(3)(D) as of the date that is thirty days following the application deadline for said cycle;

(C) the amount of Federal Credit Ceiling returned, and available, as of the date that is thirty days following the application deadline for said cycle; and,

(D) additional amounts of Federal Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations.

(2) Amount of State Tax Credits. The amount of State Tax Credits available for reservation in a reservation cycle shall be equal to:

(A) the amount authorized by law for the year, less any amount set-aside for use with certain tax-exempt bond financed projects, plus the unused State Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;

(B) the amount of State Credit Ceiling returned, and available, by the date that is thirty days following the application deadline for said cycle; plus,

(C) additional amounts of State Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations and,

(D) five hundred thousand dollars ($500,000) per calendar year in State Farmworker Credits to provide Farmworker Housing, plus any returned and unused State Farmworker Credit balance from the preceding calendar year.

(3) Waiting List Tax Credits. Tax Credits returned (other than those returned pursuant to Section 10328(g)) and Tax Credits allocated under IRC Section 42(h)(3)(D) during any calendar year, and not made available in a reservation cycle, shall be made available to applications on Committee Waiting Lists, pursuant to subsection 10325(h).

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10315. Set-asides and Apportionments

CTCAC will accept applications from Qualified Nonprofit Organizations for the Nonprofit set-aside upon the request of the qualified applicant, regardless of the proposed housing type. Thereafter, CTCAC shall review each non-rural pending competitive application applying as an at-risk, special needs, or SRO housing type under subsection (g) below, first, within that housing type's relevant set-aside. In addition, applicants competing within either the At-risk or Special Needs/SRO set-aside shall be considered as that housing type for purposes of paragraph (g).

(a) Nonprofit set-aside. Ten percent (10%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects involving, over the entire restricted use period, Qualified Nonprofit Organizations as the only general partners and developers, as defined by these regulations, and in accordance with IRC Section (42)(h)(5).

(b) Each funding round, credits available in the Nonprofit set-aside shall be made available as a first-priority, to projects providing housing to homeless households at affordable rents, consistent with Section 10325(g)(4) in the following priority order:

- First, projects with McKinney-Vento Homeless Assistance Act, MHP-Supportive Housing Program, ~~or~~ HCD Veterans Housing and Homeless Prevention Program ~~development capital funding committed~~, or Mental Health Services Act (MHSA) development capital funding committed ~~or anticipated~~. The amount of development capital funding committed shall be at least $500,000 or $10,000 per unit for all units in the project (irrespective of the number of units assisted by the referenced programs), whichever is greater.
- Second, projects with rental or operating assistance funding commitments from federal, state, or local governmental funding sources. The rental assistance must be sponsor-based or project-based and the remaining term of the project-based assistance contract shall be no less than one (1) year and shall apply to no less than fifty percent (50%) of the units in the

proposed project. For local government funding sources, ongoing assistance may be in the form of a letter of intent from the governmental entity.

- Other qualified homeless assistance projects.

To compete as a homeless assistance project, at least fifty percent (50%) of the units within the project must be designated for homeless households as described in category (1) immediately below:

(1) Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
   (A) Has a primary nighttime residence that is a public or private place not meant for human habitation;
   (B) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); or
   (C) Is exiting an institution ~~where (s)he has resided for 90 days or less~~ and ~~who~~ resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

(2) Individual or family who will imminently lose their primary nighttime residence, provided that:
   (A) Residence will be lost within 14 days of the date of application for homeless assistance;
   (B) No subsequent residence has been identified; and
   (C) The individual or family lacks the resources or support networks needed to obtain other permanent housing.

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
   (A) Are defined as homeless under the other listed federal statutes;
   (B) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application;
   (C) Have experienced persistent instability as measured by two moves or more during the preceding 60 days; and
   (D) Can be expected to continue in such status for an extended period of time due to special needs or barriers.

(4) Any individual or family who:
   (A) Is fleeing, or is attempting to flee, domestic violence;
   (B) Has no other residence; and
   (C) Lacks the resources or support networks to obtain other permanent housing.

Any amount of Tax Credits not reserved for homeless assistance projects during a reservation cycle shall be available for other applications qualified under the Non-profit set-side.

(c) Rural set-aside. Twenty percent (20%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects in rural areas as defined in H & S Code Section 50199.21 and as identified in supplemental application material prepared by CTCAC. For purposes of implementing Section 50199.21(a), an area is eligible under the Section 515 program on January 1 of the calendar year in question if it either resides on the Section 515 designated places list in effect the prior September 30, or is so designated in writing by the USDA Multifamily Housing Program Director. All Projects located in eligible census tracts defined by this Section must compete in the rural set-aside and will not be eligible to compete in other set-asides or in the geographic areas unless the Geographic Region in which they are located has had no other Eligible Projects for reservation within the current calendar year. In such cases the rural project may receive a reservation in the last round for the year, from the geographic region in which it is located, if any.

Within the rural set-aside competition, the first tiebreaker shall be applied as described in Section 10325(c)(10), except that the Senior housing type goal established by Section 10315(g) shall be calculated relative to the rural set-aside dollars available each round, rather than against the total credits available statewide each round. In this way, other housing types would be advantaged once ~~15 percent~~the specified percentage of the rural set-aside had been committed to Senior housing type projects.

(1) RHS and HOME program apportionment. In each reservation cycle, fourteen percent (14%) of the rural set-aside shall be available for new construction projects which have a funding commitment from RHS of at least $1,000,000 from either RHS's Section 514 Farm Labor Housing Loan Program, RHS's Section 515 Rural Rental Housing Loan Program, or a reservation from a Participating Jurisdiction or the State of California of at least $1,000,000 in HOME funding.

All projects meeting the RHS and HOME program apportionment eligibility requirements shall compete under the RHS and HOME program apportionment. Projects that are unsuccessful under the apportionment shall then compete within the general rural set-aside described in subsection (c). Any amount reserved under this subsection for which RHS or HOME funding does not become available in the calendar year in which the reservation is made, or any amount of Credit apportioned by this subsection and not reserved during a reservation cycle shall be available for applications qualified under the Rural set-aside.

(2) Native American ~~pilot~~ apportionment. ~~In each of the 2014 and 2015 program years, one~~One million dollars ($1 million) in annual federal credits shall be available during the first round and, if any credits remain, in the second round for applications proposing projects on ~~an Indian reservation~~land to be owned by a Tribe, whether the land is owned in fee or in trust, provided that if the land is off reservation occupancy will be legally limited to tribal households. Apportioned dollars shall be awarded to projects sponsored by Tribes using the scoring criteria in Section 10325(c), and achieving the minimum score established by TCAC under Section 10305(h). In addition, tribal communities shall garner the minimum points available for General Partner/Management Company Characteristics under Section 10325(c)(2) or shall partner or contract with a developer and with a property management entity that would garner the ~~maximum~~ minimum points available for General Partner/Management Company Characteristics under Section 10325(c)(2), except that the management company minimum scoring cannot be obtained through the point category for a housing tax credit certification examination.

(d) "At-Risk" set-aside. Five percent (5%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects that qualify and apply as an "At risk" housing type pursuant to subsection (g) below.

(e) Special Needs/SRO set-aside. Four percent (4%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects that qualify and apply as a Special Needs or Single Room Occupancy housing type project pursuant to these regulations. Any proposed homeless assistance project that applies and is eligible under the Nonprofit Set Aside, but is not awarded credits from that set-aside, shall be eligible to be considered under this Special Needs/SRO set-aside.

(f) Supplemental set-aside. An amount equal to three percent (3%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be held back to fund overages that occur in the second funding round set-asides and/or in the Geographic Apportionments because of funding projects in excess of the amounts available to those Set Asides or Geographic Apportionments, the funding of large projects, such as HOPE VI projects, or other Waiting List or priority projects. In addition to this initial funding, returned Tax Credits and unused Tax Credits from Set Asides and Geographic Apportionments will be added to this

Supplemental Set Aside, and used to fund projects at year end so as to avoid loss of access to National Pool credits.

(g) Housing types. To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below and must meet the applicable "additional threshold requirements" of Section 10325(g), in addition to the Basic Threshold Requirements in 10325(f). The Committee will employ the tiebreaker at Section 10325(c)(10) in an effort to assure that no single housing type will exceed the following percentage goals where other housing type maximums are not yet reached:

Housing Type	**Goal**
Large Family	65%
Special Needs	25%
Single Room Occupancy	15%
At-Risk	15%
~~Special Needs~~	~~15%~~
Seniors	15%

(h) Geographic Apportionments. Annual apportionments of Federal and State Credit Ceiling shall be made in approximately the amounts shown below:

Geographic Area	**Apportionments**
City of Los Angeles	17.6%
Balance of Los Angeles County	17.2%
North and East Bay Region (Alameda, Contra Costa, Marin, Napa, Solano, Sonoma Counties)	10.8%
Central Valley Region (Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare Counties)	8.6%
San Diego County	8.6%
Inland Empire Region (San Bernardino, Riverside, Imperial Counties)	8.3%
Orange County	7.3%
Capital and Northern Region (Butte, El Dorado, Placer, Sacramento, Shasta, Sutter, Yuba, Yolo Counties)	6.7%
South and West Bay Region (San Mateo, Santa Clara Counties)	6.0%

Central Coast Region (Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Ventura Counties)	5.2%
San Francisco County	3.7%

(i) Credit available for geographic apportionments. Geographic apportionments, as described in this Section, shall be determined prior to, and made available during each reservation cycle in the approximate percentages of the total Federal and State Credit Ceiling available pursuant to Subsection 10310(b), after CTCAC deducts the federal credits set aside in accordance with Section 10315(a) through (h) from the annual Credit Ceiling.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10317. State Tax Credit Eligibility Requirements

(a) General. In accordance with the R & T Code Sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5, there shall be allowed as a Credit against the “tax” (as defined by R & T Code Section 12201) a State Tax Credit in an amount equal to no more than 30 percent (30%) of a credit ceiling project’s requested construction-related eligible basis. The maximum State Tax Credit award amount for a tax exempt bond project, or basis described in paragraph (f) below, is 13 percent (13%) of that project’s requested eligible basis. Award amounts shall be computed in accordance with IRC Section 42, except as otherwise provided in applicable sections of the R & T Code.

(b) Allocation of Federal Tax Credits required. State Tax Credit recipients shall have first been awarded Federal Tax Credits, or shall qualify for Tax Credits under Section 42(h)(4)(b), as required under H & S Code Section 50199.14(e) and the R & T Code Section 12206(b)(1)(A). State Farmworker Credits are exempt from this requirement.

(c) Limit on Credit amount. Except for Special Needs applications described in paragraph (d) below, all credit ceiling applications may request State credits provided the project application is not requesting the federal 130% basis adjustment for purposes of calculating the federal credit award amount. Projects are eligible for State credits regardless of their location within a federal Qualified Census Tract (QCT) or a Difficult Development Area (DDA).

(d) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(F)(ii), 17058(b)(2)(E)(ii), and 23610.5(b)(2)(E)(ii), applications for Special Needs projects within a QCT or DDA may request the federal 130% basis boost and may also request State credits. Under authority granted by Internal Revenue Code Section 42(d)(5)(B)(v), CTCAC designates Special Needs housing type applicants for credit ceiling credits as Difficult Development Area projects, regardless of their location within a federally-designated QCT or DDA.

(e) State Tax Credit exchange. Applications for projects not possessing one of the allocation priorities described in subsection (d) may also include a request for State Tax Credits. During any reservation cycle and/or following any reservation or allocation of State Tax Credits to all applications meeting the above allocation priorities, remaining balances of State Tax Credits may be awarded to applicants having received a reservation of Federal Tax Credits during the same year, in exchange for the “equivalent” amount of Federal Tax Credits. Said exchanges shall be offered at the discretion of the Executive Director, who may consider and account for any fiscal or administrative impacts on the project or applicant pool when deciding to whom he/she will offer State Tax Credits.

(f) Acquisition Tax Credits. State Tax Credits for acquisition basis are allowed only for projects meeting the definition of a project "at risk of conversion," pursuant to Section 42 and R & T Code Section 17058(c)(4).

(g) Tax-Exempt Bond Financing. Projects financed under the tax-exempt bond financing provisions of Section 42(h)(4)(b) of the IRC, and Section 10326 of these regulations may apply for State Tax Credits if the following conditions are met:

(1) the project is comprised of 100% tax credit eligible units, excluding managers' units. Excepted from this rule are projects proposed for acquisition and rehabilitation that were developed under the HUD Section 236 or 202 programs, and are subject to those programs' use restrictions. Projects under those circumstances may propose a lesser percentage of eligible units to accommodate existing over-income residents who originally qualified under Section 236 or 202 income eligibility;

(2) the project is not eligible for the 130% basis adjustment, unless proposing a Special Needs housing type;

(3) the project has or will have a current year's tax-exempt bond allocation: That is, that State Tax Credits will not be available to projects that have already received a reservation of 4% credit in the previous year; and

(4) the applicant must demonstrate, by no later than ~~the application filing deadline~~10 business days after the tax credit preliminary reservation, that a tax-exempt bond allocation has been received or applied for~~ prior to submitting under this subsection for State Tax Credits~~.

(h) State Farmworker Credit. Applicants may request State ~~Tax~~ Farmworker Credits for eligible Farmworker Housing in combination with federal credits, or they may request State Farmworker Credits only. ~~Applicants may apply only during competitive rounds as announced by CTCAC.~~ If seeking a federal Credit Ceiling reservation~~ along with State Tax Credits for eligible Farmworker Housing~~, applicants may apply only during competitive rounds as announced by CTCAC and shall compete under the provisions of Section 10325(c) et. seq. ~~if~~ If requesting ~~State Tax Credits and~~ federal credits for use with tax exempt bond financing, or State Farmworker Credits only, applicants may apply over the counter and shall meet the threshold requirements for projects requesting 4% federal credits.~~shall compete under the provisions of Section 10317(i)(2). State Farmworker Credits shall be awarded as follows:~~

~~(1) CTCAC shall award State Farmworker Credits to the highest scoring successful Farmworker Housing application requesting either (a) four percent (4%) federal credits in combination with State Tax Credits, or (b) State Farmworker Credits only.~~

(~~2~~1) If more than one applicant is requesting nine percent (9%) federal credits in combination with State Farmworker Credits during a competitive round, ~~State Farmworker Credits remain after awards made under paragraph (h)(1) above, then~~ CTCAC shall award available State Farmworker Credits to the highest scoring Farmworker Housing application that will receive a reservation of federal credits~~requesting nine percent (9%) federal credits in combination with State Tax Credits~~.

~~(3)~~ If available State Farmworker Credits are inadequate to fully fund a pending request for eligible Farmworker Housing, CTCAC may reserve a forward commitment of subsequent year's State Farmworker Credits for that project alone.

(i) Allocations. The following parameters apply:

(1) An amount equal to fifteen percent (15%) of the annual State Tax Credit authority will be available for bond financed projects. In the first round of each year, CTCAC shall make reservations, up to the 15% limit, for all projects receiving maximum point scores in order of final tiebreaker scores. CTCAC shall make reservations of any remaining State Tax Credits within this set-aside during the second round;

(2) The project will be competitively scored under the system delineated in Section 10325(c)(2) through (8) and (10), except that the only tie breaker shall be the final tie-breaker enumerated at Section 10325(c)(10) of these regulations;

(3) The highest scoring applications under this scoring system will be recommended for receipt of State Tax Credits, without regard to any set-asides or geographic areas, provided they meet the threshold requirements of Section 10326;

(4) If the 15% set-aside has not been reserved prior to year end it may be used in a State Tax Credit exchange for projects that have received 9% Tax Credit reservations;

(5) The Committee may reserve an amount in excess of the 15% set-aside of State Tax Credits for tax-exempt bond financed projects if fewer than half of the State Tax Credits annually available for the credit ceiling competition are reserved in the first competitive credit round, or if State Credits remain available after funding of competitive projects in the second funding round.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10320. Actions by the Committee

(a) Meetings. Except for reservations made pursuant to Section 10325(h) of these Regulations, Reservations of Tax Credits shall occur only at scheduled meetings of the Committee, which shall announce application-filing deadlines and the approximate dates of reservation meetings as early in the year as possible.

(b) ~~Tax Credits and ownership transfers.~~Approvals required by this Section 10320(b) shall not be unreasonably withheld if all of the following requirements, as applicable, are satisfied:

(1) No allocation of the Federal or State Credits, or ownership of a Tax Credit project, may be transferred without prior written approval of the Executive Director. ~~Said approvals shall not be unreasonably withheld.~~ In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(3)(M), in addition to other remedies. The following requirements apply to all ownership or Tax Credit transfers requested after January 31, 2014~~.~~:

(~~1~~A) Any transfer of project ownership (including changes to any general partner, member, or equivalent responsible party), or allocation of Tax Credits shall be evidenced by a written agreement between the parties to the transfer, including agreements entered into by the transferee and the Committee.

(~~2~~B) The entity replacing a party or acquiring ownership or Tax Credits shall be subject to a “qualifications review” by the Committee to determine if sufficient project development and management experience is present for owning and operating a Tax Credit project. Information regarding the names of the purchaser(s) or transferee(s), and detailed information describing the experience and financial capacity of said persons, shall be provided to the Committee. Any general partner change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(2)(A) as the exiting general partner. At a minimum this must be three (3) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the three projects must be Low Income Housing Tax Credit projects in California. If the new general partner does not meet these experience requirements, then substitution of general partner shall not be permitted.

(2) In addition to any applicable requirements set forth in Section 10320(b)(1), all Transfer Events shall be subject to the prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(3)(M), in addition to other remedies. The following requirements apply to all Transfer Events for which approval is requested on or after October 21, 2015:

(A) Prior to a Transfer Event, the owner of the project shall submit to the Executive Director a Qualified Capital Needs Assessment. In the case of a Transfer Event in which a third-party lender is providing financing, the Qualified Capital Needs Assessment shall be commissioned by said third-party lender.

(B) The entity which shall own the project subsequent to the Transfer Event (the "Post Transfer Owner") shall covenant to the Committee (the "Capital Needs Covenant") that the Post Transfer Owner (and any assignee thereof) shall:

(i) set aside at the closing of the Transfer Event adequate funds to perform the Short Term Work (the "Short Term Work Reserve Amount");

(ii) perform the Short Term Work within two (2) years from the date of the Transfer Event;

(iii) make deposits to reserves as are necessary to fund the Long Term Work, taking into account any balance in replacement reserve accounts upon the conclusion of the Transfer Event beyond those required by clause (i). Notwithstanding the foregoing, the Post Transfer Owner shall have no obligation to fund any reserve amount from annual operations to the extent that the funding of the reserve causes the project to have a debt service coverage ratio of less than 1.00 to 1.00. In calculating the debt service coverage ratio for the purposes herein, the property management fee shall not exceed the greater of (a) 7% the project's effective gross income, or (b) such amount approved by HUD or USDA, as applicable. Any property management fee in excess of these limitations shall be subordinate to the funding of the required reserves and shall not be considered when calculating the debt service coverage ratio; and

(iv) complete the Long Term Work when required, or prior thereto, pursuant to the Qualified Capital Needs Assessment.

(C) The requirements of Section 10337(a)(3), if applicable, are satisfied.

The Executive Director may waive or modify the requirements of this Section 10320(b)(2)(A) and (B) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified Capital Needs Assessment. There shall be a presumption that a Transfer Event has insufficient Net Project Equity (and the requirements of this Section 10320(b)(2)(A) and (B) shall be waived) if no Net Project Equity from the Transfer Event is distributed to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited partner(s) as a result of the Transfer Event.

(3) The Capital Needs Covenant shall at all times be subordinate to any deed of trust given to any third party lender to a project. The owner of a project subject to a Capital Needs Covenant shall certify compliance with the terms of said Capital Needs Covenant to CTCAC annually for the term of the Capital Needs Covenant on a form to be developed by the Executive Director. Failure to comply with the terms of the Capital Needs Covenant may subject the owner to negative points and/or a ban on buying or receiving future properties.

(4) If a project seeks to receive a new reservation of 9% or 4% tax credits concurrently with a Transfer Event or during the time that the project is subject to a Capital Needs Covenant, the following provisions shall apply:

(A) The underwriting for the new reservation of 9% or 4% credits shall include a capitalized replacement reserve in an amount equal to the cost of any Short Term Work which will not be performed as of the date of the syndication of the new 9% or 4% tax credits reserved for the project.

(B) After the Transfer Event giving rise to the covenant required pursuant to Section 10320(b)(2)(B) (the “Initial Transfer”), if the project will be subsequently transferred in connection with the closing of the new reservation of 9% or 4% credits (a “Subsequent Transfer”), any increase in acquisition price (if the Initial Transfer was a sale) or the project valuation (if the Initial Transfer was a refinancing) between the Initial Transfer and the Subsequent Transfer which is attributable to a reduction in the amount of annual deposits into the replacement reserve account from those required pursuant to Section 10320(b)(2)(B)(iii) because all or a portion of the Long Term Work will be performed in connection with the new reservation of 9% or 4% credits, must be evidenced in the form of (i) a seller carryback note or (ii) a general partner equity contribution.

(C) Upon the closing of the syndication of the new 9% or 4% credits reserved for the project, the Capital Needs Covenant shall automatically terminate without any further action of the project owner and/or the Committee.

The Executive Director shall have the authority to waive or modify the requirements of this Section 10320(b)(4) if the owner can demonstrate to the reasonable satisfaction of the Executive Director that the requirements of Section 10320(b)(4) would be overly burdensome or would not be in the best interest of the project. Sections 10320(b)(4)(A) and 10320(b)(4)(B) shall not be applicable to any project with an existing tax credit regulatory agreement with a remaining term of five (5) or less years.

(c) CTCAC shall initially subordinate its regulatory contract to a permanent lender but thereafter shall not subordinate existing regulatory contracts to acquisition or refinancing debt, except in relation to new Deeds of Trust for rehabilitation loans, FHA-insured loans, restructured public loans, or as otherwise permitted by the Executive Director. At the request of the owner, CTCAC shall enter into a stand-still agreement permitting the acquisition or refinance lender 60 days to work with the owner to remedy a breach of the regulatory contract prior to CTCAC implementing any of the remedies in the regulatory contract, except that CTCAC shall not enter into a stand-still agreement related to a Transfer Event requested on or after October 21, 2015 unless the conditions of Section 10320(b)(2) have been satisfied. If CTCAC enters into a stand-still agreement related to a Transfer Event, Sections 10320(b)(2), (b)(3) and (b)(4) shall apply to the project.

(d) False information. Upon being informed, or finding, that information supplied by an applicant, any person acting on behalf of an applicant, or any team member identified in the application, pursuant to these regulations, is false or no longer true, and the applicant has not notified CTCAC in writing, the Committee may take appropriate action as described in H & S Code Section 50199.22(b) and in section 10325(c)(3) of these regulations. Additionally the Executive Director may assess negative points to any or all members of the development team as described in Section 10322(h)(5).

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10322. Application Requirements

(a) Separate Application. A separate application is required for each project.

(b) Application forms. Applications shall be submitted on forms provided by the Committee. Applicants shall submit the most current Committee forms and supplementary materials in a manner, format, and number prescribed by the Committee.

(c) Late application. Applications received after an application-filing deadline shall not be accepted.

(d) Incomplete application. Determination of completeness, compliance with all Basic and Additional Thresholds, and the scoring of the application shall be based entirely on the documents contained in the application as of the final filing deadline. Applications not meeting all Basic Threshold Requirements or relevant Additional Threshold (Housing Type) Requirements shown in Sections 10325(f) and (g) or any other application submission requirements described in these Regulations, shall be considered incomplete, and shall be disqualified from receiving a reservation of Tax Credits during the cycle in which the application was determined incomplete. An applicant shall be notified by the Committee should its application be deemed incomplete and the application will not be scored.

(e) Complete application. No additional documents pertaining to the Basic or Additional Threshold Requirements or scoring categories shall be accepted after the application-filing deadline unless the Executive Director, at his or her sole discretion, determines that the deficiency is a clear reproduction or application assembly error, or an obviously transposed number. In such cases, applicants shall be given up to five (5) business days from the date of receipt of staff notification, to submit said documents to complete the application. For threshold omissions other than reproduction or assembly errors, the Executive Director may request additional clarifying information from third party sources, such as local government entities, but this is entirely at the Executive Director's discretion. Upon the Executive Director's request, the information sources shall be given up to five (5) business days, from the date of receipt of staff notification, to submit said documents to clarify the application. The applicant may be required to certify that all evidentiary documents deemed to be missing from the application had been executed on or prior to, the application-filing deadline. If required documents are not submitted within the time provided, the application shall be considered incomplete and no appeal will be entertained.

(f) Application changes. Only the Committee may change an application as permitted by Section 10327(a). Any changes made by the Committee pursuant to Section 10327(a) shall never improve the score of the application as submitted, and may reduce the application's score and/or credit amount.

(g) Applications not fully evaluated. Incomplete applications or others not expected to receive a reservation of Tax Credits due to relatively low scores, may or may not be fully evaluated by the Committee.

(h) Standard application documents. The following documentation relevant to the proposed project is required to be submitted with all applications:

(1) Applicant's Statement. A signed, notarized statement signifying the responsibility of the applicant to:

(A) provide application related documentation to the Committee upon request;

(B) be familiar with and comply with Credit program statutes and regulations;

(C) hold the Committee and its employees harmless from program-related matters;

(D) acknowledge the potential for program modifications resulting from statutory or regulatory actions;

(E) acknowledge that Credit amounts reserved or allocated may be reduced in some cases when the terms and amounts of project sources and uses of funds are modified;

(F) agree to comply with laws outlawing discrimination;

(G) acknowledge that the Committee has recommended the applicant seek tax advice;

(H) acknowledge that the application will be evaluated according to Committee regulations, and that Credit is not an entitlement;

(I) acknowledge that continued compliance with program requirements is the responsibility of the applicant;

(J) acknowledge that information submitted to the Committee is subject to the Public Records Act;

(K) agree to enter with the Committee into a regulatory contract if Credit is allocated; and,

(L) acknowledge, under penalty of perjury, that all information provided to the Committee is true and correct, and that applicant has an affirmative duty to notify the Committee of changes causing information in the application or other submittals to become false.

(2) The Application form. Completion of all applicable parts of Committee-provided application forms which shall include, but not be limited to:

(A) General Application Information
(i) Credit amounts requested
(ii) minimum set-aside election
(iii) application stage selection
(iv) set-aside selection
(v) housing type

(B) Applicant Information
- (i) applicant role in ownership
- (ii) applicant legal status
- (iii) developer type
- (iv) contact person

(C) Development Team Information

(D) Subject Property Information

(E) Proposed Project Information
- (i) project type
- (ii) Credit type
- (iii) building and unit types

(F) Land Use Approvals

(G) Development Timetable

(H) Identification and Commitment Status of Fund Sources

(I) Identification of Fund Uses

(J) Calculation of Eligible, Qualified and Requested Basis

(K) Syndication Cost Description

(L) Determination of Credit Need and Maximum Credit Allowable

(M) Project Income Determination

(N) Restricted Residential Rent and Income Proposal

(O) Subsidy Information

(P) Operating Expense Information

(Q) Projected Cash Flow Calculation

(R) Basic Threshold Compliance Summary

(S) Additional Threshold Selection

(T) Tax-exempt Financing Information

(U) Market Study

(3) Organizational documents. All applicable proposed or executed organizational documents of the applicant entity, including a detailed plan describing the ownership role of the applicant throughout the low-income use period of the proposed project.

(4) Designated contact person. A contract between the applicant and the designated contact person for the applicant signifying the contact person's authority to represent and act on behalf of the applicant with respect to the Application. The Committee reserves its right to contact the applicant directly.

(5) Identification of project participants. For purposes of this Section all of the following project participants, if applicable will be considered to be members of the Development Team. The application must contain the company name and contact person, address, telephone number, and fax number of each:

(A) developer;

(B) general contractor;

(C) architect;

(D) attorney;

(E) tax professional;

(F) property management company;

(G) consultant;

(H) market analyst and/or appraiser; and

(I) CNA consultant.

If any members of the Development Team have not yet been selected at the application filing deadline, each must be named and materials required above must be submitted at the 180 day deadline described in Section 10325(c)(8).

(6) Identities of interest. Identification of any persons or entities (including affiliated entities) that plan to provide development or operational services to the proposed project in more than one capacity, and full disclosure of Related Parties, as defined.

(7) Legal description. A legal description of the subject property.

(8) Site Layout, Location, Unique Features and Surrounding Areas.

(A) A narrative description of the current use of the subject property;

(B) A narrative description of all adjacent property land uses, the surrounding neighborhood, and identification and proximity of services, including transportation

(C) Labeled photographs, or color copies of photographs of the subject property and all adjacent properties;

(D) A layout of the subject property, including the location and dimensions of existing buildings, utilities, and other pertinent features.

(E) A site or parcel map indicating the location of the subject property and showing exactly where the buildings comprising the Tax Credit Project will be situated. (If a subdivision is anticipated, the boundaries of the parcel for the proposed project must be clearly marked; and

(F) A description of any unique features of the site, noting those that may increase project costs or require environmental mitigation.

(9) Appraisals. Appraisals are required for all competitive applications except for tribal trust land and new construction projects that have third party purchase contracts or evidence of a purchase from a third party. If land is donated or leased from a public entity or available

through a related party purchase, an appraisal is required to establish value for competitive scoring.

(A) Rehabilitation applications. An "as-is" appraisal prepared within 120 days before or after the execution of a purchase contract or the transfer of ownership by all the parties by a California certified general appraiser having no identity of interest with the development's partner(s) or intended partner or general contractor, acceptable to the Committee, and that includes, at a minimum, the following:

(i) the highest and best use value of the proposed project as residential rental property;
(ii) the Sales Comparison Approach, and Income Approach valuation methodologies except in the case of an adaptive reuse or conversion, where the Cost Approach valuation methodology shall be used;
(iii) the appraiser's reconciled value except in the case of an adaptive reuse or conversion as mentioned in (ii) above;
(iv) a value for the land of the subject property "as if vacant";
(v) an on site inspection; and
(vi) a purchase contract verifying the sales price of the subject property.

Except as described below, the "as if vacant" land value and the existing improvement value established at application, as well as the eligible basis amount derived from those values shall be used during all subsequent reviews including the placed in service review, for the purpose of determining the final award of Tax Credits. For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits, the applicant may elect to forego the appraisal required pursuant to this Section 10322(h)(9) and use an acquisition basis equal to the sum of the third party debt encumbering the seller's property, which may increase during subsequent reviews to reflect the actual amount~~acquisition basis may increase with CTCAC's approval where (a) the sales price is no more than the sum of the assumed third-party debt on the property and other third party debt on the property that is required to be paid down or paid off, and (b) a third-party appraisal consistent with Section 10322(h)(9) supports the updated purchase price~~.

(B) New construction applications. An "as-is" appraisal with a date of value that is within one year of the application date prepared by a California certified general appraiser having no identity of interest with the development's partner(s) or intended partner or general contractor, acceptable to the Committee.

All applications, including those funded with tax-exempt bond financing, must include a land cost or value in the Sources and Uses budget. A nominal cost will not be accepted, and costs shall be evidenced by sales agreements, purchase contracts, or appraisals. Tribal trust land is excluded from this requirement. However, existing improvement values must be supported by an appraisal pursuant to this section.

(10) Market Studies. A full market study prepared within 180 days of the filing deadline by an independent 3rd party having no identity of interest with the development's partners, intended partners, or any other member of the Development Team described in Subsection (5) above. The study must meet the current market study guidelines distributed by the Committee, and establish both need and demand for the proposed project. CTCAC shall publicly notice any changes to its market study guidelines and shall take public comment consistent with the comment period and hearing provisions of Health and Safety Code Section 50199.17. For scattered site projects, a market study may combine information for all sites into one report, provided that the market study has separate rent comparability matrices for each site.

A market study shall be updated when either proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increases by more than 5%, or 180 days have passed since the first site inspection date of the subject property and comparable properties. CTCAC shall not accept an updated market study when more than twelve (12) months have passed ~~since~~ between the earliest listed site inspection date of either the subject property or any comparable property and the filing deadline. In such cases, applicants shall provide a new market study. If the market study does not meet the guidelines or support sufficient need and demand for the project, the application may be considered ineligible to receive Tax Credits. Except where a waiver is obtained from the Executive Director in advance of a submitted application, CTCAC shall not reserve credits for a rural new construction application if a tax credit or other publicly-assisted new construction project housing the same population either (a) already has a tax credit reservation from CTCAC, (b) is a higher ranking project that will receive a reservation in the same funding round, or (~~b~~c) is currently under construction within the same market area. The Executive Director may grant a waiver for subsequent phases of a single project, where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition.

For acquisition/rehabilitation projects meeting all of the following criteria, a comprehensive market study as outlined in IRS Section 42(m)(1)(A)(iii) shall mean a written statement by a third party market analyst certifying that the project meets these criteria:

- All of the buildings in the project are subject to existing federal or state rental assistance or operating subsidies, an existing TCAC Regulatory Agreement, or an existing regulatory agreement with a federal, state, or local public entity.
- The proposed rents and income targeting levels shall not increase by more than five percent (5%) (except that proposed rents and income targeting levels for units subject to a continuing state or federal project-based rental assistance contract may increase more and proposed rents and income targeting levels for resyndication projects shall be consistent with Section 10325(f)(11) or Section 10326(g)(8)).
- The project shall have a vacancy rate of no more than five percent (5%) (ten percent (10%) for Special Needs and SRO projects) at the time of the tax credit application.

(11) Construction and design description. A detailed narrative description of the proposed project construction and design, including how the design will serve the targeted population.

(12) Architectural drawings. Preliminary drawings of the proposed project, including a site plan, building elevations, and unit floor plans (including square footage of each unit). The project architect shall certify that the development will comply with building codes and the physical building requirements of all applicable fair housing laws. In the case of rehabilitation projects proceeding without an architect, the entity performing the Capital Needs Assessment shall note necessary fair housing improvements, and the applicant shall budget for and implement the related construction work. The site plan shall identify all areas or features proposed as project amenities, laundry facilities, recreation facilities and community space. Drawings shall be to a scale that clearly shows all requested information. Blueprints need not be submitted. A project applying as a High-Rise Project must include the project architect certification required by Section 10302(v).

(13) Placed-in-service schedule. A schedule of the projected placed-in-service date for each building.

(14) Identification of local jurisdiction. The following information related to the local jurisdiction within which the proposed project is located:

(A) jurisdiction or tribe (e.g., City of Sacramento)

(B) chief executive officer or tribal chairperson and title (e.g., Susan Smith, City Manager)

(C) mailing address

(D) telephone number

(E) fax number

(15) Sources and uses of funds. The sources and uses of funds description shall separately detail apportioned amounts for residential space and commercial space.

(16) Financing plan. A detailed description of the financing plan, and proposed sources and uses of funds, to include construction, permanent, and bridge loan sources, and other fund sources, including rent or operating subsidies and reserves. The commitment status of all fund sources shall be described, and non-traditional financing arrangements shall be explained. Those projects with redevelopment-related project financing subject to Department of Finance (DOF) approval are required to provide within the CTCAC application a Final and Conclusive Determination Letter, or other written communication from DOF stating that DOF does not issue, or concludes is unnecessary, Final and Conclusive Determinations for this form of redevelopment financing obligation.

(17) Eligible basis certification. A certification from a third party certified public accountant or tax attorney that project costs included in applicant's calculation of eligible basis are allowed by IRC Section 42, as amended, and are presented in accordance with standard accounting procedures. This must be delivered on the tax professional's corporate letterhead, in the prescribed CTCAC format.

(18) Use of tax benefits description. If the Tax Credits are not to be offered to investors, a detailed explanation of how the tax benefits will be used by the applicant.

(19) Terms of syndication agreement. Written estimate(s) from syndicator(s) or financial consultants on their corporate letterhead and in the prescribed CTCAC format, of equity dollars expected to be raised for the proposed project, based on the amount of Tax Credits requested, including gross and net proceeds, pay-in schedules, syndication costs (including syndicator consulting fees), and an estimated net tax Credit factor, for both Federal and State Tax Credits if both are to be used or if State Tax Credits exchange points are requested. The syndicator shall not pay any fees or provide any other financial or other substantive benefit to a partnership developer unless all such fees or benefits are fully and completely disclosed to CTCAC in the Executed Letter of Intent.

(20) Tax Credit certification. If the Tax Credits are not to be syndicated, a letter from a third party certified public accountant establishing the Tax Credit factor.

(21) Utility allowance estimates. Current utility allowance estimates consistent with 26 CFR Section 1.42-10. The applicant must indicate which components of the utility allowance schedule apply to the project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission, with any solar values determined from the California Energy Commission's Photovoltaic Calculator. The CUAC estimate shall be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS regulations. Use of CUAC is limited to new construction projects and to existing tax credit projects with Multifamily Affordable Solar

Housing (MASH) program awards that offset tenant area electrical load. All CUAC utility allowances require a quality control review and approval. CTCAC will submit modeled CUAC utility allowance estimates to a quality control reviewer and shall establish a fee to cover the costs of this review. ~~CTCAC may also establish a list of quality control reviewers to review projects requesting CUAC utility allowances. Once established, existing tax credit projects with MASH awards requesting CUAC utility allowances may, in lieu of CTCAC submitting modeled CUAC utility allowance estimates to a quality control reviewer, submit the modeled CUAC utility allowance estimates to a quality control reviewer from the list established by CTCAC and submit the completed quality control report to CTCAC.~~ Existing tax credit projects converting to the CUAC shall provide tenants at least 90 days prior to the effective date with an informative summary about the current utility allowance and the proposed CUAC allowances, including notice of any actual rent increase to the tenant. Such projects shall also provide CTCAC with the actual rent increases in the first year's CUAC update submittal. For ~~rehabilitation~~ existing projects requesting CUAC utility allowances, cash flow is limited to 15.0% or less of residential income and a debt service coverage ratio of 1.50 or less, as verified by audited financial statements.

(22) Certification of subsidies. The applicant must certify as to the full extent of all Federal, State, and local subsidies which apply (or for which the taxpayer expects to apply) with respect to the proposed project. (IRC Section 42(m)(2)(C)(ii)) If rental assistance, operating subsidies or annuities are proposed, all related commitments that secure such funds must be provided. The source, annual amount, term, number of units receiving assistance, and expiration date of each subsidy must be included.

(23) Cash flow projection. A 15-year projection of project cash flow. Separate cash flow projections shall be provided for residential and commercial space. If a capitalized rent reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized rent reserve is limited to Special Needs projects, SRO projects, projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and Section 8 project based projects.

(24) Self-scoring sheet as provided in the application.

(25) Acquisition Tax Credits application. Applicants requesting acquisition Tax Credits shall provide:

(A) a chain of title report or, for tribal trust land, an attorney's opinion regarding chain of title;

(B) a third party tax professional's opinion stating that the acquisition is either exempt from or meets the requirements of IRC Section 42(d)(2)(B)(ii) as to the 10-year placed-in-service rule; and,

(C) if a waiver of the 10-year ownership rule is necessary, a letter from the appropriate Federal official that states that the proposed project qualifies for a waiver under IRC Section 42(d)(6).

(26) Rehabilitation application. Applicants proposing rehabilitation of an existing structure shall provide:

(A) An independent, third party appraisal prepared and submitted with the preliminary reservation application consistent with the guidelines in Section 10322(h)(9).

(B) A Capital Needs Assessment ("CNA") performed within 180 days prior to the application deadline that details the condition and remaining useful life of the building's major structural components, all necessary work to be undertaken and its associated costs, as well as the nature of the work, distinguishing between immediate and long term repairs. The Capital Needs Assessment will also include a 15-year reserve study, indicating anticipated dates and costs of future replacements of all major building components that are not being replaced immediately, and the reserve contributions needed to fund those replacements. The CNA must be prepared by the project architect, as long as the project architect has no identity of interest with the developer, or a sponsor, or by a qualified independent 3rd party who has no identity of interest with any of the members of the Development Team. If a waiver of any requirement of the minimum construction standards delineated in section 10325(f)(7) and section 10326(g)(6) is requested, the assessment must show, to the satisfaction of the Executive Director, that meeting the requirement is unnecessary and financially burdensome, and that the money to be spent in rehabilitating other project features will result in a better end product.

(27) Acquisition of Occupied Housing application. Applicants proposing acquisition of occupied rental residential housing shall provide income, rent and family size information for the current tenant population.

(28) Tenant relocation plan. Applicants proposing rehabilitation or demolition of occupied housing shall provide an explanation of the relocation requirements, and a detailed relocation plan including a budget with an identified funding source. Where existing low income tenants will receive a rent increase exceeding five percent (5%) of their current rent, applicants shall provide a relocation plan addressing economic displacement. Where applicable, the applicant shall provide evidence that the relocation plan is consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act and has been submitted to the appropriate local agency.

(29) Owner-occupied Housing application. Applicants proposing owner-occupied housing projects of four units or less, involving acquisition or rehabilitation, shall provide evidence from an appropriate official substantiating that the building is part of a development plan of action sponsored by a State or local government or a qualified nonprofit organization (IRC Section 42(i)(3)(E)).

(30) Nonprofit Set-Aside application. Applicants requesting Tax Credits from the Nonprofit set-aside, as defined by IRC Section 42(h)(5), shall provide the following documentation with respect to each developer and general partner of the proposed owner:

(A) IRS documentation of designation as a 501(c)(3) or 501(c)(4) corporation;

(B) proof of designation as a nonprofit corporation under Health and Safety Code Section 50091;

(C) proof that one of the exempt purposes of the corporation is to provide low-income housing;

(D) a detailed description of the nonprofit participation in the development and ongoing operations of the proposed project, as well as an agreement to provide CTCAC with annual certifications verifying continued involvement;

(E) a third party legal opinion verifying that the nonprofit organization is not affiliated with, controlled by, or party to interlocking directorates with any Related Party of a for-profit organization, and the basis for said determination; and,

(F) a third party legal opinion certifying that the applicant is eligible for the Nonprofit Set-Aside pursuant to IRC Section 42(h)(5).

(31) Rural Set-Aside application. Applicants requesting Tax Credits from the Rural set-aside, as defined by H & S Code Section 50199.21 and Section 10315(c) of these regulations, shall provide verification that the proposed project is located in an eligible rural area. Evidence that project is located in an area eligible for Section 515 financing from RHS may be in the form of a letter from RHS's California state office.

(32) RHS Section 514, 515 or 538 program applications. Rural housing applicants requesting Tax Credits from amounts made available for projects financed by the RHS Section 514, 515, or 538 program shall submit evidence from RHS that such funding has been requested, obligated or committed as defined by RHS.

(33) HOME funds match. Applicants requesting State Tax Credits to match HOME funds shall provide a letter from the local jurisdiction stating why local matching funds are not being provided.

(i) Placed-in-service application. Within one year of completing construction of the proposed project, the applicant shall submit documentation including an executed regulatory agreement provided by CTCAC and the compliance monitoring fee required by Section 10335. CTCAC shall determine if all conditions of the reservation have been met. Changes subsequent to the initial application, particularly changes to the financing plan and costs or changes to the services amenities, must be explained by the applicant in detail. If all conditions have been met, tax forms will be issued, reflecting an amount of Tax Credits not to exceed the maximum amount permitted by these regulations. The following must be submitted:

(1) certificates of occupancy for each building in the project (or a certificate of completion for rehabilitation projects). If acquisition Tax Credits are requested, evidence of the placed-in-service date for acquisition purposes, and evidence that all rehabilitation is completed;

(2) an audited certification, prepared by an independent Certified Public Accountant under generally accepted auditing standards, with all disclosures and notes. The Certified Public Accountant (CPA) or accounting firm shall not have acted a manner that would impair independence as established by the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct Section 101 and the Securities and Exchange Commission (SEC) regulations 17 CFR Parts 210 and 240. Examples of such impairing services, when performed for the final cost certification client, 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. Both the referenced SEC and AICPA rules shall apply to all public and private CPA firms providing the final audited cost certification. 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:

(A) 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;

(B) include a CTCAC provided Sources and Uses form reflecting actual total costs incurred up to the funding of the permanent loan; and

(C) certify that the CPA has not performed any services, as defined by AICPA and SEC rules, that would impair independence;

(3) an itemized breakdown of placed-in-service dates, shown separately for each building, on a Committee-provided form. If the placed-in service date(s) denoted are different from the date(s) on the certificate(s) of occupancy, a detailed explanation is required;

(4) photographs of the completed building(s);

(5) a request for issuance of IRS Form(s) 8609 and/or FTB Form(s) 3521A;

(6) a certification from the syndicator of equity raised and syndication costs in a Committee-provided format;

(7) a project ownership profile on a Committee-provided form;

(8) a sponsor-signed certification documenting the services currently being provided to the residents, including identifying service provider(s), describing services provided, stating services dollar value, and stating services funding source(s) (cash or in-kind), with attached copies of contracts and MOUs for services;

(9) a copy of any cost certification submitted to, required by and/or and approved by RHS or any other lender;

(10) a list of all amenities provided at the project site, and color photographs of the amenities. If the list differs from that submitted at application, an explanation must be provided. In addition, the sponsor must provide a list of any project amenities not included in basis for which the property owner intends to charge an optional fee to residents;

(11) a description of any charges that may be paid by tenants in addition to rent, with an explanation of how such charges affect eligible basis;

(12) if applicable, a certification from a third party tax professional stating the percentage of aggregate basis (including land) financed by tax exempt bonds for projects that received Tax Credits under the provisions of Section 10326 of these regulations;

(13) all documentation required pursuant to the Compliance and Verification requirements of Sections 10325(f)(7) and 10326(g)(6);

(14) all documentation required pursuant to the Compliance and Verification requirements of Section 10327(c)(5)(B);

(15) if seeking a reduction in the operating expenses used in the Committee's final underwriting pursuant to Section 10327(g)(1) of these regulations, the final operating expenses used by the lender and equity investor;

(16) a certification from the project architect or, in the case of rehabilitation projects, from an architect retained for the purpose of this certification, that the physical buildings are in compliance with all applicable building codes and applicable fair housing laws. In the case of rehabilitation projects proceeding without an architect, the entity performing the Capital Needs Assessment shall note necessary fair housing improvements, and the applicant shall budget for and implement the related construction work;

(17) all documentation required pursuant to the Compliance and Verification requirements of Section 10325(c)(6), if applicable;

(18) a current utility allowance estimate as required by 26 CFR Section 1.42-10(c) and Section 10322(h)(21) of these regulations. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS rater, in accordance with current HERS regulations; and

(19) for tribal trust land, the lease agreement between the Tribe and the project owner.

(20) Evidence that the subject property is within the control of the applicant in the form of an executed lease agreement, a current title report (within 90 days of application) showing the applicant holds fee title, or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status.

The Executive Director may waive any of the above submission requirements if not applicable to the proposed project.

(j) Re-application. Proposals submitted under Section 10326 of these regulations do not require new applications for minor changes in costs or Tax Credits alone. Committee staff will normally adjust the Credit amount for projects requesting Tax Credit increases under Section 10326 only at one time, when the placed-in-service package is received and reviewed by Committee staff. However, reapplication is required and applications will be reviewed if the Executive Director deems it necessary to have the Committee take formal action due to substantial changes or an extraordinary increase in Tax Credits requested. "Substantial changes" for this purpose will mean any significant change in unit mix, number of buildings or building layout, or development cost increases greater than 20% of the original costs, and an "extraordinary increase" in Tax Credits will mean an increase greater than 15% of the original reservation amount. It is the applicant's responsibility to notify CTCAC of any such changes and when CTCAC is notified accordingly, new applications may be required. Reapplications at placed-in-service that are requesting additional Tax Credits will be required to submit a fee equal to one percent (1%) of the first year's credit amount. For all other projects, except in unusual, extreme cases such as fire, or act of God, where a waiver of this subsection is permitted by the Executive Director, a re-application for a development that has already received a Tax Credit reservation or allocation shall be evaluated as an entirely new application, and shall be required to return its previously reserved or allocated Tax Credits prior to or simultaneously with its new application. All re-applications shall be subject to negative points under Section 10325(c)(3) if applicable (for example, a project that does not meet the original placed-in-service deadline would receive negative points hereunder). Re-applications shall be subject to the regulations in effect at the time the re-application is submitted. For projects submitted under Section 10326 of these regulations that are requesting additional Tax Credits, the basis limits to be used in the final underwriting shall be those in effect during the year the development is placed-in-service.

(k) Unless the proposed project is a Single Room Occupancy development, a Special Needs development, or within ten (10) years of an expiring tax credit regulatory agreement, applicants for nine percent (9%) Low Income Housing Tax Credits to acquire and/or rehabilitate existing tax credit properties still regulated by an extended use agreement shall:

(1) certify that the property sales price is no more than the current debt balance secured by the property, and

(2) be prohibited from receiving any tax credits derived from acquisition basis.

All applicants for Low Income Housing Tax Credits to acquire and/or rehabilitate existing tax credit properties still regulated by an extended use agreement shall use all funds in the applicant project's replacement reserve accounts for rehabilitating the property to the benefit of its residents, except that an applicant may use existing reserves to reasonably meet CTAC's or another funder's minimum reserve account requirement.

Note: Authority cited: Section 50199.17, Health and Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10323. The American Recovery and Reinvestment Act of 2009

(a) General. The American Recovery and Reinvestment Act of 2009 was administered by CTCAC under regulations adopted October 22, 2009. Awards made under those prior regulations remain bound by the terms of related executed funding agreements, and regulatory agreements.

(b) Fees.

(1) No additional processing fees or performance deposits shall be collected from ARRA funding recipients beyond tax credit fees collected pursuant to Section 10335. Such tax credit fees must be paid by all ARRA fund recipients, including an allocation fee, even where an allocation of credits is not ultimately made. CTCAC may charge an ARRA funds recipient an asset management fee for such services. This fee may be in the form of an annual charge during the project's regulatory term, or may be charged at or about project completion. In the event CTCAC contracts out for asset management services, the contracted entity may charge the sponsor an asset management fee directly.

(2) Asset management fees shall be $5,000 annually for projects of 30 units or fewer, and up to $7,500 annually for projects of 31 to 75 units. Projects containing more than 75 units, will pay up to $7,500 as a basic asset management fee annually, as well $40 per unit of every unit over 75 units. Project owners may pay a one-time asset management fee equal to the total fee over the 15-year period, or a partial one-time upfront fee. If making a partial payment, the remaining annual payments shall be discounted accordingly to assure an equal total payment to a pure annual payment schedule. Where another State or federal housing entity is a project funding source, project sponsors may propose a plan to CTCAC wherein that source shares asset management information with CTCAC. Sponsors may also propose a plan to CTCAC where a syndicator or investor providing professional asset management services to the project shares asset management information with CTCAC. If CTCAC determines that those asset management functions meet federal requirements, CTCAC may agree to accept that information and discount or forgo a fee altogether.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10325. Application Selection Criteria - Credit Ceiling Applications

(a) General. All applications not requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4)(b) and Section 10326 of these Regulations (for buildings financed by tax-exempt bonds) shall compete for reservations of Credit Ceiling amounts during designated reservation cycles. Further, no project that has a pending application for a private activity bond allocation or that has previously received a private activity bond allocation will be eligible to compete under the

Credit Ceiling competition for Federal Tax Credits unless it receives a waiver from the Executive Director.

(b) Authority. Selection criteria shall include those required by IRC Section 42(m), H & S Code Section 50199.14, and R & T Code Sections 12206, 17058, and 23610.5.

(c) Credit Ceiling application competitions. Applications received in a reservation cycle, and competing for Federal and/or State Tax Credits, shall be scored and ranked according to the below-described criteria, except as modified by Section 10317(g) of these regulations. The Committee shall reserve the right to determine, on a case by case basis, under the unique circumstances of each funding round, and in consideration of the relative scores and ranking of the proposed projects, that a project's score is too low to warrant a reservation of Tax Credits. All point selection categories shall be met in the application submission through a presentation of conclusive, documented evidence to the Executive Director's satisfaction. Point scores shall be determined solely on the application as submitted, including any additional information submitted in compliance with these regulations**.** Further, a project's points will be based solely on the current year's scoring criteria and submissions, without respect to any prior year's score for the same projects.

~~An application proposing a project located on multiple scattered sites, all within a five (5) mile diameter circle except where a pre-existing project-based Section 8 contract is in effect,~~ Scattered Site Projects shall be scored proportionately in the site and service amenities category based upon (i) each site's score, and (ii) the percentage of units represented by each site.

The number of awards received by individuals, entities, affiliates, and related entities is limited to no more than four (4) per competitive round. This limitation is applicable to a project applicant, developer, sponsor, owner, general partner, and to parent companies, principals of entities, and family members. For the purposes of this section, related or non-arm's length relationships are further defined as those having control or joint-control over an entity, having significant influence over an entity, or participating as key management of an entity. Related entity disclosure is required at the time of application. Furthermore, no application submitted by a sponsor may benefit competitively by the withdrawal of another, higher-ranked application submitted by the same sponsor or related parties as described above.

SCORING

(1) Leveraging

(A) Cost efficiency. A project application ~~for a new construction or an At-Risk development, or a substantial rehabilitation development where the hard costs of rehabilitation are at least $40,000 per unit,~~ whose total eligible basis is below the maximum permitted threshold basis limits after permitted adjustments, shall receive 1 point for each percent by which its eligible basis is below the maximum permitted adjusted threshold basis limit. In calculating the eligible basis under this scoring factor, CTCAC shall use all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the application form itself or by a letter from the development team's third party tax professional.

(B) Credit reduction. A project that reduces the amount of Tax Credits it is requesting shall receive 1 point for each percent that its qualified basis is reduced. In order to receive points in this category, committed funds must be part of the permanent sources for the development and remain in place for at least ten years.

(C) Public funds. For purposes of scoring, "public funds" include federal, state, or local government funds, including the outstanding principal balances of prior existing public debt or subsidized debt that has been or will be assumed in the course of an acquisition/rehabilitation transaction. Outstanding principal balances shall not include any accrued interest on assumed loans even where the original interest has been or is being recast as principal under a new loan agreement. Public funds points shall only be awarded for assumed principal balances only upon documented approval of the loan assumption or other required procedure by the public agency holding the promissory note.

In addition, public funds include funds from a local community foundation, funds already awarded under the Affordable Housing Program of the Federal Home Loan Bank (AHP)**,** waivers resulting in quantifiable cost savings that are not required by federal or state law, or the value of land donated or leased by a public entity or donated as part of an inclusionary housing ordinance which has been in effect for at least one year prior to the application deadline. Private loans that are guaranteed by a public entity (for example, RHS Section 538 guaranteed financing) shall not be scored as public funds under this scoring factor. Current land and building values, including for land donated or leased by a public entity or donated as part of an inclusionary housing ordinance or other development agreements negotiated between public entities and private developers, must be supported by an independent, third party appraisal, conducted within one year of the tax credit application, and otherwise consistent with the guidelines in Section 10322(h)(9). Building values shall be considered only if those existing buildings are to be retained for the project, and the appraised value is not to include off-site improvements. All such public fund commitments shall receive 1 point for each 1 percent of the total development cost funded. For Tribal pilot apportionment applications, land purchased with public funds shall not be eligible for public funds points. However, unsuccessful Tribal pilot program applicants subsequently competing within the rural set-aside competition could have such tribal land-purchase funding counted competitively as public funding if the land value is established in accordance with the requirements of this paragraph.

To receive points under this subsection for loans, those loans must be “soft” loans, having terms (or remaining terms) of at least 15 years, and below market interest rates and interest accruals, and are either fully deferred or require only residual receipts payments for at least the first fifteen years of their terms. Qualified soft loans may have annual fees that reasonably defray compliance monitoring and asset management costs associated with the project. The maximum below-market interest rate allowed for scoring purposes shall be four percent (4%) simple, or the Applicable Federal Rate if compounding. RHS Section 514 or 515 financing shall be considered soft debt for scoring purposes in spite of a debt service requirement. Further, for points to be awarded under this subsection, there shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land. For 2015 competitive tax credit applications with Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) included as funding sources, a project’s recommendation by state program staff may be substituted for evidence that the funding has been firmly committed, provided that the applicant receives a VHHP or AHSC award prior to the CTCAC award.

Public contributions of off-site costs shall not be counted competitively, unless (1) documented as a waived fee pursuant to a nexus study and relevant State Government Code provisions regulating such fees or (2) the off-sites must be developed by the sponsor as a condition of local approval and those off-sites consist solely of utility connections, and curbs, gutters, and sidewalks immediately bordering the property.

Private "tranche B" loans underwritten based upon rent differentials attributable to rent subsidies shall also be considered public funding for purposes of the final tiebreaker. The amount of private loan counted for scoring purposes would be the lesser of the private lender commitment amount, or an amount based upon CTCAC underwriting standards. Standards shall include a 15-year loan term; an interest rate established annually by CTCAC based upon a spread over 10-year Treasury Bill rates; a 1.15 to 1 debt service coverage ratio; and a five percent (5%) vacancy rate. In addition, the rental income differential for subsidized units shall be established by subtracting tax credit rental income at 50 percent (50%) AMI levels (40% AMI for Special Needs/SRO projects or for Special Needs units within a mixed-population project) from the anticipated contract rent income documented by the subsidy source.

A maximum of 20 points shall be available in combining the cost efficiency, credit reduction, and public funds categories.

(2) General Partner/Management Company Characteristics.

No one general partner, party having any fiduciary responsibilities, or related parties will be awarded more than 15% of the Federal Credit Ceiling, calculated as of February first during any calendar year unless imposing this requirement would prevent allocation of all of the available Credit Ceiling.

(A) General partner experience. To receive points under this subsection for projects in existence for over 3 years, the proposed general partners, or a key person within the proposed general partner organization, must meet the following conditions:

(i) For projects in operation for over three years, submit a certification from a third party certified public accountant that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents, rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial statement has been prepared (which must be effective no more than one year prior to the application deadline) and have funded reserves in accordance with the partnership agreement and any applicable loan documents. To obtain points for projects previously owned by the proposed general partner, a similar certification must be submitted with respect to the last full year of ownership by the proposed general partner, along with verification of the number of years that the project was owned by that general partner. To obtain points for projects previously owned, the ending date of ownership or participation must be no more than 10 years from the application deadline. This certification must list the specific projects for which the points are being requested. The certification of the third party certified public accountant may be in the form of an agreed upon procedure report that includes funded reserves as of the report date, which shall be dated within 60 days of the application deadline. Where there is more than 1 general partner, experience points may not be aggregated; rather, points will be awarded based on the highest points for which 1 general partner is eligible.

3-~~6~~ 4 projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects 4 points

~~7~~ 5 or more projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be California Low Income Housing Tax Credit projects 6 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available ~~for special needs housing type projects only~~ as described above or as follows:

3 Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 3 special needs projects 4 points

4 or more Special Needs projects in service more than 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the 4 special needs projects 6 points

(ii) General partners with fewer than two (2) active California Low Income Housing Tax Credit projects in service more than three years, and general partners for projects applying through the Nonprofit or Special Needs set-aside with no active California Low Income Housing Tax Credit projects in service more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects in service more than three years and which itself earns a minimum total of two (2) points at the time of application.

In applying for and receiving points in this category, applicants assure that the property shall be operated by a general partner in conformance with Section 10320(b).

(B) Management Company experience. To receive points under this subsection, the property management company must meet the following conditions. To obtain points for projects previously managed, the ending date of the property management role must be no more than 10 years from the application deadline. In addition, the property management experience with a project shall not pre-date the project's placed-in-service date.

(i) 6-10 projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 2 points

11 or more projects managed over 3 years, of which 2 shall be California Low Income Housing Tax Credit projects 3 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available ~~for special needs housing type projects only~~ as described above or as follows:

2-3 Special Needs projects managed over 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the special needs projects 2 points

4 or more Special Needs projects managed over 3 years and one California Low Income Housing Tax Credit project which may or may not be one of the special needs projects 3 points

Alternatively, a management company that provides evidence that the agent to be assigned to the project (either on-site or with management responsibilities for the site) has been certified prior to the application deadline pursuant to a low income housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee, may receive 2 points. These points may substitute for other management company experience but will not be awarded in addition to such points.

(ii) Management companies that do not meet the California Low Income Housing Tax Credit project requirement above~~managing fewer than two (2) active California Low Income Housing Tax Credit projects for more than 3 years, and management companies for projects applying through the Nonprofit or Special Needs set-aside managing no active California Low Income Housing Tax Credit projects for more than 3 years,~~ shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects for more than three years and which itself earns a minimum combined total of two (2) points at the time of application.

When contracting with a California-experienced property management company under the terms of paragraph (A)(ii) or (B)(ii) above, the general partner or property co-management entity must obtain training in: project operations, on-site certification training in federal fair housing law, and manager certification in IRS Section 42 program requirements from a CTCAC-approved, nationally recognized entity. Additionally, the experienced property management agent or an equally experienced substitute, must remain for a period of at least 3 years from the placed-in-service date (or, for ownership transfers, 3 years from the sale or transfer date) to allow for at least one (1) CTCAC monitoring visit to ensure the project is in compliance with IRC Section 42. Thereafter, the experienced property manager may transfer responsibilities to the remaining general partner or property management firm following formal written approval from CTCAC. In applying for and receiving points in these categories, applicants assure that the property shall be owned and managed by entities with equivalent experience scores for the entire 15-year federal compliance and extended use period, pursuant to Section 10320(b). The experience must include at least two (2) Low Income Housing Tax Credit projects in California in service more than 3 years.

Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. For points to be awarded in subsection (B), an enforceable management agreement executed by both parties for the subject application must be submitted at the time of application. “Projects” as used in subsections (A) and (B) means multifamily rental affordable developments of over 10 units that are subject to a recorded regulatory agreement, or, in the case of housing on tribal lands, where federal HUD funds have been utilized in affordable rental developments. General Partner and Management Company experience points may be given based on the experience of the principals involved, or on the experience of municipalities or other nonprofit entities that have experience but have formed single-asset entities for each project in which they have participated, notwithstanding that the entity itself would not otherwise be eligible for such points. For qualifying experience, “principal” is defined as an individual overseeing the day-to-day operations of affordable rental projects as senior management personnel of the General Partner or property management company.

(3) Negative points. Negative points, up to a total of 10 for each project and/or each violation, may be given at the Executive Director’s discretion for general partners, co-developers, management agents, consultants, guarantors, or any member or agent of the Development Team as described in Section 10322(h)(5) for items including, but not limited to:

(A) failure to utilize committed public subsidies identified in an application, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant’s control. An exception to this subsection is made for 2015 competitive tax credit applications with Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) financing based on a recommendation by state program staff and accepted with the tax credit application, but ultimately not receiving a VHHP or AHSC award;

(B) failure to utilize Tax Credits within program time guidelines, including failure to meet the 180 day or 194 day, as applicable, readiness requirements, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;

(C) failure to request Forms 8609 for new construction projects within one year from the date the last building in the project is placed-in-service, or for acquisition/rehabilitation projects, one year from the date on which the rehabilitation was completed;

(D) removal or withdrawal under threat of removal as general partner from a housing tax credit partnership;

(E) failure to provide physical amenities or services or any other item for which points were obtained (unless funding for a specific services program promised is no longer available);

(F) failure to correct serious noncompliance after notice and cure period within an existing housing tax credit project in California;

(G) serious, after a notice and cure period, or repeated failure to submit required compliance documentation for a housing Tax Credit project located anywhere;

(H) failure to perform a tenant income recertification upon the first anniversary following the initial move-in certification for all one-hundred percent (100%) tax credit properties, or failure to conduct ongoing annual income certifications in properties with non-tax-credit units;

(I) material misrepresentation of any fact or requirement in an application;

(J) failure of a building to continuously meet the terms, conditions, and requirements received at its certification as being suitable for occupancy in compliance with state or local law, unless it is demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside the control of the owner;

(K) failure to submit a copy of the owner's completed 8609 showing the first year filing;

(L) failure to promptly notify CTCAC of a property management change or changing to a management company of lesser experience contrary to Section 10325(c)(2)(B);

(M) failure to properly notify CTCAC and obtain prior approval of Transfer Events, general or limited partner changes, transfer of a Tax Credit project, or allocation of the Federal or State Credit;

(N) certification of site amenities, distances or service amenities that were, in the Executive Director's sole discretion, inaccurate or misleading;

(O) falsifying documentation of household income or any other materials to fraudulently represent compliance with IRC Section 42; or

(P) failure of American Recovery and Reinvestment Act (ARRA) funded projects to comply with Section 42, CTCAC regulations, or other applicable program requirements;

(Q) failure to provide required documentation of third party verification of sustainable and energy efficient features.

(R) failure to correct serious noncompliance, including incorrect rents or income qualification, incorrect utility allowance, or other overcharging of residents. In assigning negative points, CTCAC shall consider the most recent monitoring results for each of the parties' projects in the most recent three-year monitoring cycle. CTCAC shall allow affected parties a reasonable period to correct serious noncompliance before assigning negative points. Negative points may be warranted when more than ten percent (10%) of the party's total portfolio has Level 3 deficiencies under the Uniform Physical Conditions Standards established by HUD. In addition, negative points may be warranted when more than ten percent (10%) of the tenant files most recently monitored resulted in findings of either household income above regulated income limits upon initial occupancy, or findings of gross rent exceeding the tax credit maximum limits.

(S) the project's total eligible basis at placed in service exceeding the revised total adjusted threshold basis limits for the year the project is placed in service by 40%.

(T) where CDLAC has determined that a person or entity is subject to negative points under its regulations, CTCAC will deduct an equal amount of points for an equal period of time from tax credit applications involving that person or entity or a Related Party.

(U) failure to comply with a requirement of the regulatory agreement or of a covenant entered into 10320(b)(2)(B) or Section 10337(a)(3)(B).

Negative points given to general partners, co-developers, management agents, consultants, or any other member or agent of the Development Team may remain in effect for up to two calendar years, but in no event will they be in effect for less than one funding round. Furthermore, they may be assigned to one or more Development Team members, but do not necessarily apply to the entire Team. Negative points assigned by the Executive Director may be appealed to the Committee under appeal procedures enumerated in Section 10330.

(4) Housing Needs. (Points will be awarded only in one category listed below except that acquisition and/or rehabilitation Scattered Site Projects shall be scored proportionately based upon (i) each site's score, and (ii) the percentage of units represented by each site.) The category selected hereunder (which shall be the category represented by the highest percentage of units in a proportionally scored project) shall also be the project category for purposes of the tie-breaker described in subsection 10325(c)(10) below.

Large Family Projects	10 points
Single Room Occupancy Projects	10 points
Special Needs Projects	10 points
Seniors Projects	10 points
At-Risk Projects	10 points

(5) Amenities beyond those required as additional thresholds ~~Maximum 25 points~~

~~For site amenities and service amenities combined.~~

(A) Site Amenities: Site amenities must be appropriate to the tenant population served. To receive points the amenity must be in place at the time of application except as specified in paragraph (A)(1) and (A)(5) below. In addition, an amenity to be operated by a public entity that is (i) being constructed within the project as part of the tax credit development, (ii) is receiving development funding for the amenity from the public entity, and (iii) has a proposed operations budget from the operating public entity, would be considered "in place" at the time of application. Distances must be measured using a standardized radius from the development site to the target amenity, unless that line crosses a significant physical barrier or barriers. Such barriers include highways, railroad tracks, regional parks, golf courses, or any other feature that significantly disrupts the pedestrian walking pattern between the development site and the amenity. The radius line may be struck from the corner of development site nearest the target amenity, to the nearest corner of the target amenity site. However, a radius line shall not be struck from the end of an entry drive or on-site access road that extends from the central portion of the site itself by 250 feet or more. Rather, the line shall be struck from the nearest corner of the site's central portion. Where an amenity such as a grocery store resides within a larger shopping complex or commercial strip, the radius line must be measured to the amenity exterior wall, rather than the site boundary. The resulting distance shall be reduced in such instances by 250 feet to account for close-in parking,

No more than 15 points will be awarded in this category. For purposes of the Native American apportionment only, no points will be awarded in this category. However, projects that apply under the Native American apportionment that drop down to the rural set-aside will be scored in this category. Applicants must certify to the accuracy of their submissions and will be subject to negative points in the round in which an application is considered, as well as subsequent rounds, if the information submitted is found to be inaccurate. For each amenity, color photographs, a contact person and a contact telephone must be included in the application. The Committee may employ third parties to verify distances or may have staff verify them. Only one point award will be available in each of the subcategories (1-9) listed below. Amenities may include:

1. Transit Amenities

The project is located where there is a bus rapid transit station, light rail station, commuter rail station, bus station, or public bus stop within ~~1/4~~1/3 mile from the site with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday, and the project's density will exceed 25 units per acre. ~~"Rail station" means a heavy-rail or light-rail station within 1/4 mile of the proposed residential development. This includes a planned rail station otherwise meeting this definition, whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.~~ 7 points

The site is within ~~1/4~~1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ~~or~~ bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. ~~"Rail station" means a heavy-rail or light-rail station, within 1/4 mile of the proposed residential development. This includes a planned rail station otherwise meeting this definition, whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.~~ 6 points

The site is within ~~1/3~~1/2 mile of a bus rapid transit station, light rail station, commuter rail station, bus station, or public bus stop ~~public bus stop or rail station~~ with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. ~~"Rail station" means a heavy-rail or light-rail station, within 1/4 mile of the proposed residential development. This includes a planned rail station otherwise meeting this definition, whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.~~ 5 points

The site is located within ~~1/4~~1/3 mile of a bus rapid transit station, light rail station, commuter rail station, bus station, or public bus stop~~regular public bus stop, or rapid transit system stop~~. (For Rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided) 4 points

The site is located within ~~1/3~~1/2 mile of a bus rapid transit station, light rail station, commuter rail station, bus station, or public bus stop.~~regular public bus stop or rapid transit system stop~~ 3 points

In addition to meeting one of the proximity categories described above, the applicant commits to provide to residents free transit passes or discounted passes priced at no more than half of retail cost. Passes shall be made available to each Rent-Restricted Unit for at least 15 years.

At least one pass per Tax Credit unit 3 points
At least one pass per each 2 Tax Credit units 2 points

"Light rail station" or "commuter rail station" includes a planned rail station whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.

A private bus or transit system providing service to residents may be substituted for a public system if it (a) meets the relevant headway and distance criteria, and (b) if service is provided free to the residents. Such private systems must receive approval from the CTCAC Executive Director prior to the application deadline. Multiple bus lines may be aggregated for the above points, only if multiple lines from the designated stop travel to an employment center. Such aggregation must be demonstrated to, and receive prior approval from, the CTCAC Executive Director in order to receive competitive points.

2. The site is within ~~1/4~~1/2 mile of a public park (~~1/2~~1 mile for Rural set-aside projects) (not including school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the parks/recreational facilities and the school district or private school providing availability to the general public of the school grounds and/or facilities) or a community center accessible to the general public 3 points

   or within ~~1/2~~3/4 mile (1.5 miles for Rural set-aside projects) 2 points

3. The site is within ~~1/4~~1/2 mile of a book-lending public library that also allows for inter-branch lending (when in a multi-branch system) (~~1/2~~1 mile for Rural set-aside projects) 3 points

   or within ~~1/2~~1 mile (~~1~~ 2 miles for Rural set-aside projects) 2 points

4. The site is within ~~1/4~~1/2 mile of a full scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold (~~1/2~~1 mile for Rural set-aside projects). A large multi-purpose store containing a grocery section may garner these points if the application contains the requisite interior measurements of the grocery section of that multipurpose store. The "grocery section" of a large multipurpose store is defined as the portion of the store that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 5 points

   or within ~~1/2~~1 mile (~~1~~ 2 miles for Rural set-aside projects) 4 points
   or within 1.5 miles (3 miles for Rural set-aside projects) 3 points

   The site is within 1/4 mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat, and fresh produce are sold (1/2 mile for Rural Set-aside projects). A large multi-purpose store containing a grocery portion may garner these points if the application contains interior measurements of the grocery section of that multi-purpose store. The "grocery section" of a large multipurpose store is defined as the portion of the store primarily devoted to food stuffs that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 4 points

   or within 1/2 mile (1 mile for Rural Set-aside projects) 3 points

   The site is within ~~1/4~~1/2 mile of a weekly farmers market certified by the California Federation of Certified Farmers' Markets, and operating at least 5 months in a calendar year 2 points

   or within ~~1/2~~1 mile 1 point

5. For a development wherein at least ~~30~~ 25 percent (~~30~~25%) of the residential unit shall be three-bedroom or larger units, the site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school, (an additional 1/2 mile for each public school type for Rural set-aside projects) and that the site is within the attendance area of that school. Public schools demonstrated, at the time of application, to be under construction and to be completed and available to the residents prior to the housing development completion are considered in place at the time of application for purposes of this scoring factor. 3 points

   or within an additional 1/2 mile for each public school type (an additional 1 mile for Rural set-aside projects) 2 points

6. For a Senior Development, the site is within ~~1/4~~1/2 mile of a daily operated senior center or a facility offering daily services specifically designed for seniors (not on the development site) (~~1/2~~1 mile for Rural set-aside projects) 3 points

   or within ~~1/2~~3/4 mile (1.5 miles for Rural set-aside projects) 2 points

7. For a Special Needs or SRO development, the site is located within 1/2 mile of a facility that operates to serve the population living in the development 3 points

   or within 1 mile 2 points

8. The site is within 1/2 mile (for Rural set-aside projects, 1 mile) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor's office). A qualifying medical clinic must accept Medi-Cal payments, or Medicare payments for Senior Projects, or Health Care for the Homeless for projects housing homeless populations, or have an equally comprehensive subsidy program for low-income patients. 3 points

   The site is within 1 mile (for Rural set-aside projects, 1.5 miles) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital 2 points

9. The site is within ~~1/4~~1/2 mile of a pharmacy (for Rural projects, ~~1/2~~1 mile) 2 points

   or within ~~1/2~~1 mile (~~1~~ 2 miles for Rural projects) 1 point

10. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of ~~10~~ 15 years, free of charge to the tenants, and available within 6 months of the project's placed-in-service date. Will serve letters or other documentation of internet availability must be documented within the application. If internet is selected as an option in the application it must be provided even if it is not needed for points.
    2 points (3 points for Rural projects)

(B) Projects that provide high-quality services designed to improve the quality of life for tenants are eligible to receive points for service amenities. Services must be appropriate to meet the needs of the tenant population served and designed to generate positive changes in the lives of tenants, such as by increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.

Except as provided below, in order to receive points in this category, physical space for service amenities must be available when the development is placed-in-service. Services space must be located inside the project and provide sufficient square footage, accessibility and privacy to accommodate the proposed services.

The amenities must be available within 6 months of the project's placed-in-service date. Applicants must commit that services shall be provided for a period of ~~10~~ 15 years.

All services must be of a regular and ongoing nature and provided to tenants free of charge (except for day care services or any charges required by law). Services must be provided on-site except that projects may use off-site services within 1/2 mile of the development (1½ miles for Rural set-aside projects) provided that they have a written agreement with the service provider enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. All organizations providing services for which the project is claiming service amenities points must have at least 24 months experience providing services to one of the target populations to be served by the project.

No more than 10 points will be awarded in this category.

For Large Family, Senior, and At-Risk Projects, amenities may include, but are not limited to:

1. Service Coordinator. Responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc.).

   Minimum ratio of 1 Full Time Equivalent (FTE) Service Coordinator to 600 bedrooms. 5 points

   Minimum ratio of 1 FTE Service Coordinator to 1,000 bedrooms 3 points

2. Other Services Specialist. Must provide individualized assistance, counseling and/or advocacy to tenants, such as to assist them to access education, secure employment, secure benefits, gain skills or improve health and wellness. Includes, but is not limited to: Vocational/Employment Counselor, ADL or Supported Living Specialist, Substance Abuse or Mental Health Counselor, Peer Counselor, Domestic Violence Counselor.

   Minimum ratio of 1 FTE Services Specialist to 600 bedrooms. 5 points

   Minimum ratio of 1 FTE Services Specialist to 1,000 bedrooms 3 points

3. Adult educational, health and wellness, or skill building classes. Includes, but is not limited to: Financial literacy, computer training, home-buyer education, GED classes, and resume building classes, ESL, nutrition class, exercise class, health information/awareness, art class, parenting class, on-site food cultivation and preparation classes, and smoking cessation classes.

   84 hours of instruction per year (42 for small developments) 7 points

   60 hours of instruction per year (30 for small developments) 5 points

   36 hours of instruction per year (18 for small developments) 3 points

4. Health and wellness services and programs. Such services and programs shall provide individualized support to tenants (not group classes) and need not be provided by licensed individuals or organizations. Includes, but is not limited to visiting nurses programs, intergenerational visiting programs, or senior companion programs. The application must describe in detail the services to be provided.

   100 hours of services per year for each 100 bedrooms 5 points

   60 hours of services per year for each 100 bedrooms 3 points

   40 hours of services per year for each 100 bedrooms 2 points

5. Licensed child care. Shall be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least 30% of units are three bedrooms or larger).
5 points

6. After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. (Only for large family projects or other projects in which at least 30% of units are three bedrooms or larger).

   10 hours per week, offered weekdays throughout school year 5 points

   6 hours per week, offered weekdays throughout school year 3 points

   4 hours per week, offered weekdays throughout school year 2 points

For Special Needs and SRO projects, amenities may include, but are not limited to:

7. Case Manager. Responsibilities must include (but are not limited to) working with tenants to develop and implement an individualized service plan, goal plan or independent living plan.

   Ratio of 1 FTE case manager to 100 bedrooms 5 points

   Ratio of 1 FTE case manager to 160 bedrooms 3 points

8. Service Coordinator or Other Services Specialist. Service coordinator responsibilities shall include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc.). Other services specialist must provide individualized assistance, counseling and/or advocacy to tenants, such as to assist them to access education, secure employment, secure benefits, gain skills or improve health and wellness. Includes, but is not limited to: Vocational/Employment Counselor, ADL or Supported Living Specialist, Substance Abuse or Mental Health Counselor, Peer Counselor, Domestic Violence Counselor.

   Ratio of 1 FTE service coordinator or specialist to 360 bedrooms 5 points

   Ratio of 1 FTE service coordinator or specialist to 600 bedrooms 3 points

9. Adult educational, health and wellness, or skill building classes. Includes, but is not limited to: Financial literacy, computer training, home-buyer education, GED classes, and resume building classes, ESL, nutrition class, exercise class, health information/awareness, art class, parenting class, on-site food cultivation and preparation classes, and smoking cessation classes.

   84 hours of instruction per year (42 for small developments) 5 points

   60 hours of instruction per year (30 for small developments) 3 points

   36 hours of instruction per year (18 for small developments) 2 points

10. Health or behavioral health services provided by appropriately-licensed organization or individual. Includes but is not limited to: health clinic, adult day health center, medication management services, mental health services and treatment, substance abuse services and treatment. 5 points

11. Licensed child care. Shall be available 20 hours or more per week, Monday through Friday, to residents of the development. (Only for large family projects or other projects in which at least 30% of units are three bedrooms or larger). 5 points

12. After school program for school age children. Includes, but is not limited to tutoring, mentoring, homework club, art and recreational activities. (Only for large family projects or other projects in which at least 30% of units are three bedrooms or larger).

    10 hours per week, offered weekdays throughout school year 5 points

    6 hours per week, offered weekdays throughout school year 3 points

    4 hours per week, offered weekdays throughout school year 2 points

For projects containing a combination of Special Needs units with Senior or Large Family units, applicants shall choose to provide services either as described in items 1 through 6, or 7 through 12. Applicants must demonstrate that all tenants will receive an appropriate level of services.

Items 1 through 12 are mutually exclusive. One proposed service may not receive points under two different categories.

Documentation must be provided for each category of services for which the applicant is claiming service amenities points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state the annual dollar value of the services; commit that services will be provided for a period of at least one (1) year; commit that services will be available to tenants of the project free of charge (except for child care services or other charges required by law); name the project to which the services are being committed. Organizations providing in-kind or donated service must estimate the value of those services. Volunteer time may be valued at $10 per hour.

Documentation shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead.

For projects claiming points for items 1, 2, 7, or 8, a position description must be provided. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category (items 1 through 12).

Applications must include a services sources and uses budget clearly describing all anticipated income and expenses associated with the services program and that aligns with the services commitments provided (i.e. contracts, MOUs, letters, etc.). Applications shall receive points for services only if the proposed services budget adequately accounts for the level of service. The budgeted amount must be reasonably expected to cover the costs of the proposed level of service. If project operating income would fund service amenities, the application's Service Amenities Sources and Uses Budget must be consistent with the application's Annual Residential Operating Expenses chart. Services costs contained in the project operating budget are not to be counted toward meeting CTCAC's minimum operating expenses required by Section 10327(g)(1).

All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals may not be substituted for organizational experience.

Evidence that adequate physical space for services will be provided must be documented within the application.

(6) Sustainable building methods. Maximum ~~10~~ 5 points

Sustainable building methods points shall be awarded to applicant projects committing to the following applicable standards. Except where 90 percent (90%) or more of the proposed units consist of either new construction or rehabilitation, projects consisting of both (i) new construction or adaptive reuse and (ii) rehabilitation of existing units shall be scored on meeting applicable standards for both construction types. In such cases, points shall be awarded based upon the lowest score achieved by each construction type. The application shall include a statement committing the property owner to at least maintain the installed energy efficiency and sustainability features' quality when replacing any such feature.

(A) New Construction and Adaptive Reuse Projects: The applicant commits to develop the project in accordance with the minimum requirements of any one of the following programs: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Program. 5 points

(B) ~~For projects receiving points under section 10325(c)(6)(A), additional points~~ New Construction and Adaptive Reuse Projects: Points for energy efficiency shall be awarded according to one of the following:

(i) Energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in the ~~2008~~ 2013 Title 24, Part 6, of the California Building Code (the ~~2008~~ 2013 Standards), shall be awarded as follows:

~~Percentage better than the 2008 Standards~~	~~Low-Rise Multifamily (3 or fewer habitable stories)~~	~~Multifamily of 4 or more habitable stories~~
~~32.5~~9 percent	~~2~~ 3 points	~~3 points~~
~~35~~ 15 percent	~~3~~ 5 points	~~5 points~~
~~40 percent~~	~~5 points~~	

(ii) Energy Efficiency with renewable energy that provides the following percentages of project tenants' energy loads:

Offset of Tenants' Load	**Low-Rise Multifamily**	**High-Rise Multifamily**

~~20 percent~~	~~2 points~~	~~3 points~~
~~30~~ 20 percent	3 points	4 points
~~40~~ 30 percent	4 points	5 points
~~50~~ 40 percent	5 points	

The percentage Zero Net Energy (ZNE) solar offset of a project's tenant energy loads is to be calculated using the California Utility Allowance Calculator (CUAC) with kilowatt hours (kWh) consumed to be balanced by kilowatts generated on-site. Gas use is to be converted to kWh for percentage ZNE offset calculations, assuming 1 Therm = 29.3 kWh, and 100,100 British Thermal Units (BTUs) = 29.3 kWh. Residential energy loads modeled by the CUAC shall include all energy used by tenants, both gas and electric, regardless of whether the energy load is billed to the owner or the tenants. This calculation excludes non-residential energy uses associates with the community building, elevators, parking lot lighting, and similar end uses, but includes domestic hot water and Heating, Ventilation, and Air Conditioning (HVAC) loads, regardless of whether they are central or distributed.

~~(C)~~ ~~For projects receiving points under section 10325(c)(6)(A), applicants may be awarded points for committing to developing their project beyond the minimum requirements of the green building program chosen in section 10325(c)(6)(A):~~

~~**LEED**~~	~~Silver~~	~~Gold~~
~~**GreenPoint Rated**~~	~~Silver~~	~~Gold~~
	~~3 points~~	~~5 points~~

(~~D~~C) Rehabilitation Projects: The applicant commits to develop the project in accordance with the minimum requirements of any one of the following programs: Leadership in Energy & Environmental Design (LEED); GreenPoint Rated Existing Home Multifamily Program; or 2011 Enterprise Green Communities, to the extent it can be applied to existing multifamily building. 5 points

(~~E~~D) Rehabilitation Projects: The project will be rehabilitated to improve energy efficiency above the modeled energy consumption of the building(s) based on existing conditions. In the case of projects in which energy efficiency improvements have been completed within ~~two~~ five years prior to the application date pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements. The project must undergo an energy assessment that meets the CTCAC Existing Multifamily Assessment Protocols. The report documenting the results of the Assessment must be submitted using the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Report Template. Points are awarded based on the building(s) percentage decrease in estimated Time Dependent Valuation (TDV) energy use (or improvement in energy efficiency) post rehabilitation as demonstrated using the appropriate performance module of California Energy Commission (CEC) approved software:

Improvement Over Current

15 percent	3 points
20 percent	5 points
~~25 percent~~	~~7 points~~
~~30 percent~~	~~10 points~~

~~(F) For projects receiving points under section 10325(c)(6)(D), applicants may be awarded points for committing to develop their project beyond the minimum requirements of the green building program chosen in section 10325(c)(6)(D):~~

~~**LEED**~~		~~Silver~~	~~Gold~~
~~**GreenPoint Rated**~~	~~65~~	~~95~~	~~120~~
~~**2011 Enterprise Green Communities**~~		~~Moderate Rehabilitation~~	~~Substantial Rehabilitation~~
	~~2 points~~	~~3 points~~	~~5 points~~

(~~G~~E) Additional Rehabilitation Project Measures. For projects receiving points under section 10325(c)(6)(D) ~~or (E)~~ applicants may be awarded points for committing to developing, and/or managing, their project with one or more of the following:

1. Projects shall include either:

   a. Photovoltaic (PV) generation that offsets tenant loads; or

   b. PV that offsets either 50 percent (50%) of common area load (if the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual common area electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area); or

   c. Solar hot water for all tenants who have individual water meters.
   ~~3~~ 2 points

2. Project shall implement sustainable building management practices including:

   Develop a project-specific maintenance manual including replacement specifications and operating information of all energy and green building features, and

   ~~Certify building management staff in sustainable building operations per BPI Multifamily Building Operator or equivalent training program, and~~

   Undertake formal building systems commissioning, retro-commissioning or re-commissioning as appropriate (continuous commissioning is not required).
   ~~3~~ 2 points

3. Projects shall individually meter or sub-meter currently master-metered gas, electricity, or central hot water systems for all tenants. ~~3~~ 2 points

(F) Water efficiency:
Irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens) 3 points

(~~H~~G) Compliance and Verification:

1. For preliminary reservation applications, applicants must include a certification from the project architect that the sustainable building methods of Section 10325(c)(6) have been incorporated into the project, if applicable. For applications incorporating the requirements of subsections (A) and (~~D~~C) Green Communities option, and for applications incorporating the requirements of subsections (B), (~~E~~D), and (~~G~~E) above, applicants must include a completed Sustainable Building Method Workbook.

2. For placed-in-service applications to receive points under section~~s~~ 10325(c)(6)(A) ~~and (C)~~ and section~~s~~ 10325(c)(6)(~~D~~C) ~~and (F)~~, the applicant must submit the appropriate required third party verification documentation showing the project has met the requirements for the relevant program.

3. For new construction project placed-in-service applications to receive points under section 10325(c)(6)(B)(i), the applicant must submit a completed Sustainable Building Method Workbook and the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards. This compliance form must be the output from the building(s) modeled "as built" and reflect all relevant changes that impact the building(s) energy efficiency that were made after the preliminary reservation application. The compliance form must be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Documentation for measures that require verification by California Home Energy Rating System (HERS) Raters must also be submitted.

4. New Construction placed-in-service applications for projects that received points under section 10325(c)(6)(B)(ii), the applicant must submit a completed Sustainable Building Method Workbook, a completed CUAC analysis establishing the total tenant energy load, and documentation of the PV output using the CEC's PV Calculator. These compliance forms must reflect all relevant changes that impact building(s) energy efficiency that were made after the preliminary reservation application. The CUAC analysis and other required forms must be signed by a CABEC certified CEA. Documentation for the solar PV installation and other measures that require verification by California HERS Raters must also be submitted.

5. For rehabilitation project placed-in-service applications to receive points under section10325(c)(6)(~~E~~D), the applicant must submit a completed Sustainable Building Method Workbook and the energy consumption and analysis report from the appropriate performance module of CEC approved software, completed by a CABEC certified CEA, which shows the pre- and post- rehabilitation estimated TDV energy use demonstrating the required improvement. The pre-rehabilitation conditions shall be established using

the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Protocols and reported using the CTCAC Existing Multifamily Assessment Report Template, signed by a qualified HERS Rater.

6. For rehabilitation project placed-in-service applications to receive points under section 10325(c)(6)(~~G~~E) the applicants must submit a completed Sustainable Building Method Workbook and the following documentation:

(i) For projects including photovoltaic generation that offsets tenant loads, the applicant must submit a Multifamily Affordable Solar Home (MASH) Program field verification certification form signed by the project's solar contractor and a qualified HERS Rater, and a copy of the utility interconnection approval letter. The applicant shall use the California Energy Commission's Photovoltaic Calculator for purposes of determining the solar values to be input into the CUAC calculator.

(ii) For projects including photovoltaic generation that offsets common area load, the energy analyst shall provide documentation of the load serving the common area and the output calculations of the photovoltaic generation.

(~~ii~~iii) For sustainable building management practices~~ implemented by appropriately trained onsite staff~~, the applicant must submit a copy of the energy management and maintenance manual~~, provide evidence onsite staff has been certified in green building operations and maintenance through the Building Performance Institute Multifamily Energy Efficient Building Operator or equivalent training,~~ and submit the building commissioning plan drafted in accordance with the California Commissioning Collaborative's best practice recommendations for existing buildings or the GreenPoint Rated Multifamily Commissioning requirements. ~~Owner certification of ongoing sustainable building management practices will be provided annually in accordance with Section 10337(c)(3)(A). Projects awarded Tax Credits after January 1, 2015 shall use the CTCAC Green Building Maintenance Manual Template when submitting a copy of the energy management and maintenance manual.~~

(~~iii~~iv) For sub-metered central hot water systems, the applicant must demonstrate compliance with CPUC regulations for hot water sub-metering and billing by submitting a copy of the Utility Service Agreement from project's local utility provider.

7. For placed in service applications to receive points under Section 10325(c)(6)(F), the project architect shall certify that reclaimed water, greywater, or rainwater systems have been installed and are functioning to supply sufficient irrigation to the property (excepting water used for Community Gardens) under normal conditions.

~~7~~8. Failure to produce the appropriate documentation for (2) through (~~6~~7) of this subsection may result in an award of negative points for the development team.

(7) Lowest Income in accordance with the table below — Maximum 52 points

(A) The “Percent of Area Median Income” category may be used only once. For instance, 50% of Income Targeted Units to Total Tax Credit Units at 50% of Area Median Income cannot be used twice for 100% at 50% and receive 50 points, nor can 50% of Income Targeted Units to Total Tax Credit Units at 50% of Area Median Income for 25 points and 40% of Income Targeted Units to Total Units at 50% of Area Median Income be used for an additional 20 points. However, the “Percent of Income Targeted Units” may be used multiple times. For example, 50% of Targeted Units at 50% of Area Median Income for 25 points may be combined with another 50% of Targeted Units at 45% of Area Median Income to achieve the maximum points. All projects must score at least 45 points in this category to be eligible for 9% Tax Credits.

Only projects competing in the Rural set aside may use the 55% of Area median income column.

Lowest Income Points Table:

				Percent of Area Median Income			
		55	***50***	***45***	***40***	***35***	***30***
	80				45	47.5	50
	75				42.5	45	47.5
	70				40	42.5	45
	65			35	37.5	40	42.5
	60			32.5	35	37.5	40
	55			30	32.5	35	37.5
	50		25*	27.5	30	32.5	35
Percent of	***45***		22.5*	25	27.5	30	32.5
Income	***40***	17.5*	20	22.5	25	27.5	30
Targeted	***35***	15*	17.5	20	22.5	25	27.5
Units To	***30***	12.5*	15	17.5	20	22.5	25
Total Tax	***25***	10*	12.5	15	17.5	20	22.5
Credit Units	***20***	7.5*	10	12.5	15	17.5	20
(exclusive of	***15***	5*	7.5	10	12.5	15	17.5
mgr.’s unit)	***10***	2.5*	5	7.5	10	12.5	15

* Available to Rural set-aside projects only

(B) A project that agrees to have at least ten percent (10%) of its units available for tenants with incomes no greater than thirty percent (30%) of area median, and to restrict the rents on those units accordingly, will receive two points in addition to other points received under this subsection. The 30% units must be spread across the various bedroom-count units, starting with the largest bedroom-count units (e.g. four bedroom units), and working down to the smaller bedroom-count units, assuring that at least 10% of the larger units are proposed at 30% of area median income. So long as the applicant meets the 10% standard project-wide, the 10% standard need not be met among all of the smaller units. The CTCAC Executive director may correct applicant errors in carrying out this largest-to-smallest unit protocol. (These points may be obtained by using the 30% section of the matrix.)

All projects, except those applying under section 10326 of these regulations, will be subject to the minimum low income percentages chosen for a period of 55 years (50 years for projects located on tribal trust land), unless they receive Federal Tax Credits only and are intended for eventual tenant homeownership, in which case they must submit, at application, evidence of a financially feasible program, incorporating, among other items, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, and a plan for conversion of the facility to home ownership at the end of the initial 15 year compliance period. In such a case, the regulatory agreement will contain provisions for the enforcement of such covenants.

(8) Readiness to Proceed. ~~20~~ 15 points will be available to projects that document items (A) through (~~D~~C) below, and commit to begin construction within 180 days of the Credit Reservation (after preliminary reservation CTCAC will randomly assign a 180 day deadline for half of the projects receiving a Credit Reservation within each round and a 194 day deadline for remaining projects), as evidenced by submission, within that time, of: a completed updated application form along with a detailed explanation of any changes from the initial application, an executed construction contract, a construction lender trade payment breakdown of approved construction costs, recorded deeds of trust for all construction financing (unless a project's location on tribal trust land precludes this), binding commitments for permanent financing, binding commitments for any other financing required to complete project construction, a limited partnership agreement executed by the general partner and the investor providing the equity, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and notice to proceed delivered to the contractor. If no construction lender is involved, evidence must be submitted within 180 days after the Reservation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred. CTCAC shall conduct a financial feasibility and cost reasonableness analysis upon receiving submitted Readiness documentation.

~~For projects that are federal funding recipients and receiving competitive reservations in the first round of 2013, the 180-day references in the preceding paragraph shall be extended by forty-five (45) days. The extension is provided to projects documenting that the federal government shutdown impacted their ability to meet Readiness to Proceed requirements.~~

In addition to the above, all applicants receiving any readiness points under this subsection must provide an executed Letter of Intent (LOI) from the project's equity partner within 90 days of the Credit Reservation. The LOI must include those features called for in the CTCAC application. Failure to meet the 90 day due date, or the 180-day or 194-day due date if applicable, shall result in rescission of the Tax Credit Reservation or negative points.

Five (5) points shall be awarded for submittals within the application documenting each of the following criteria, up to a maximum of ~~20~~ 15 points. The 180-day or 194-day requirements shall not apply to projects that do not obtain the maximum points in this category. Within the preliminary reservation application, the following must be delivered:

(A) enforceable commitment for all construction financing, as evidenced by executed commitment(s) and payment of commitment fee(s);

(B) evidence, as verified by the appropriate officials, of site plan approval and that all local land use environmental review clearances (CEQA, NEPA, and applicable tribal land environmental reviews) necessary to begin construction are either finally approved or unnecessary; and

(C) evidence of all necessary public or tribal approvals subject to the discretion of local or tribal elected officials (other than those covered by (B)).~~except building permits; and~~

~~(D) evidence of design review approval.~~

For paragraphs (B)~~,~~ and (C)~~, and (D)~~ an appeal period may run up to 30 days beyond the application due date. The applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved within that 30-day period to garner local approval readiness points.

(9) Miscellaneous Federal and State Policies Maximum 2 points

(A) State Credit Substitution. For applicants that agree to exchange Federal Tax Credits for State Tax Credits in an amount that will yield equal equity as if only Federal Credits were awarded. 2 points

(B) Enhanced Accessibility and Visitability. Project design incorporates California Building Code Chapter 11(B) and the principles of Universal Design in at least half of the project's units by including:

- Accessible routes of travel to the dwelling units with accessible 34" minimum clear-opening-width entry, and 34" clear width for all doors on an accessible path.
- Interior doors with lever hardware and 42" minimum width hallways.
  Fully accessible bathrooms complying with California Building Code (CBC) Chapter 11(A) and 11(B). In addition, a 30"x48" clearance parallel to and centered on the bathroom vanity.
- Accessible kitchens with 30"x48" clearance parallel to and centered on the front of all major appliances and fixtures (refrigerator, oven, dishwasher and sink).
- Accessible master bedroom size shall be at least 120 square feet (excluding the closet), shall accommodate a queen size bed, shall provide 36" in clearance around three sides of the bed, and shall provide required accessible clearances, free of all furnishings, at bedroom and closet doors. The master bedroom closet shall be on an accessible path.
- Wiring for audio and visual doorbells required by UFAS shall be installed.
- Closets and balconies shall be located on an accessible route.
- These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26.
- Applicant must commit to obtaining confirmation from a Certified Accessibility Specialist that the above requirements have been met. 2 points

(C) Smoke Free Residence. The proposed project commits to having at least one nonsmoking building and incorporating the prohibition into the lease agreement for the affected units. If the proposed project contains only one building, the proposed project shall commit to prohibiting smoking in designated contiguous units and incorporating the prohibition into the lease agreement for the affected units.~~will contain nonsmoking buildings or sections of buildings. Nonsmoking sections must consist of at least half the units within the building, and those units must be contiguous.~~ 2 points

(D) Historic Preservation. The project proposes to use Historic Tax Credits 1 point

(E) ~~Qualified Census Tract~~Revitalization Area Project. The project is located within a Qualified Census Tract (QCT), a census tract in which at least 50% of the households have an income of less than 60% of the area median income, or a federal Promise Zone and the development would contribute to a concerted community revitalization plan as demonstrated by a letter from a local government official. The letter must delineate the various community revitalization efforts, funds committed or expended in the previous five years, and how the project would contribute to the community's revitalization. 2 points

(F) Eventual Tenant Ownership. The project proposes to make tax credit units available for eventual tenant ownership and provides the information described in Section ~~13025~~10325(c)(7) of these regulations. 1 point

(10) Tie Breakers

If multiple applications receive the same score, the following tie breakers shall be employed:

For applications for projects within single-jurisdiction regional competitions only (the City and County of San Francisco and the City of Los Angeles geographic apportionments), the first tiebreaker shall be the presence within the submitted application of a formal letter of support for the project from either the San Francisco Mayor's Office of Housing or the Los Angeles Housing + Community Investment Department respectively. Within those cities, and for all other applications statewide, the subsequent tiebreakers shall be as follows:

First, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, then the application will be skipped if there is another application with the same score and with a housing type goal that has not been met in the current funding round in the percentages listed in section 10315; and

Second, the highest of the sum of the following two ratios:

(A) Leveraged soft resources~~Committed permanent public funds~~, as described ~~in Section 10325(c)(1)(C)~~below, defraying residential costs to total residential project development costs. Except where a third-party funding commitment is explicitly defraying non-residential costs only, ~~public funds~~leveraged soft resources shall be discounted by the proportion of the project that is non-residential. ~~Permanent funds~~Leveraged soft resources shall be demonstrated through documentation including but not limited to ~~public~~ funding award letters, committed land donations, or documented project-specific local fee waivers.

Leveraged soft resources shall include all of the following:

(i) public funds, as described in Section 10325(c)(1)(C).

(ii) soft loans that meet the criteria described in Section 10325(c)(1)(C) (except that terms shall be of at least 55 years), or grants, from unrelated non-public entities that are not covered by subparagraph (i) and that do not represent Financing available through the National Mortgage Settlement Affordable Rental Housing Consumer Relief programs. The entity providing the soft loans or grants shall not receive any benefit from a related party to the project.

(iii) the value of donated land and improvements that are not covered by subparagraph (i), that meet the criteria described in Section 10325(c)(1)(C), and that are contributed by an unrelated entity (unless otherwise approved by the Executive Director), so long as the contributed asset has been held by the entity for at least 5 years prior to the application due date.

~~The numerator of this ratio may include permanent funding committed by a Community Foundation or a charitable foundation where a public body appoints~~

~~a majority of the voting members. Additionally the numerator may include the value of land and improvements contributed by an unrelated organization formed under Internal Revenue Code Section 501(c), so long as the contributed asset has been held by the organization for at least 10 years prior to the application due date. Such foundation or organization contributions must be in the form of a grant or residual receipts loan. Local land~~ Land donations include land leased ~~from a public entity, or permitted foundation or organization~~ for a de minimis annual lease payment. CTCAC may contract with an appraisal reviewer and, if it does so, shall commission an appraisal review for donated land and improvements if a reduction of 15% to the submitted appraisal value would change an award outcome. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop his or her own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer for calculating the tiebreaker only.

(iv) For purposes of this section, a related party shall mean a member of the development team or a Related Party, as defined in Section 10302(gg), to a member of the development team.

Permanent funding sources for this tiebreaker shall not include equity commitments related to the Low Income Housing Tax Credits.

The numerator of projects with public operating- or rental-subsidies may be increased by 25 percent (25%) of the percentage of proposed tax credit assisted units benefitting from the subsidy. Such subsidies must be received from one or more of the following programs: Project Based Section 8; PRAC (Section 202 and 811); USDA Section 521 Rental Assistance; Shelter Plus Care; McKinney Act Supportive Housing Program Grants; Native American Housing Block Grant (IHBG); California Mental Health Services Act operating subsidies; California Department of Health Care Services; and Public Housing Annual Contributions contracts. Applicants seeking scoring consideration for other public sources of operating- or rent-subsidies must receive written Executive Director approval prior to the application due date.

On or after January 1, 2017, the numerator of projects of 50 or more newly constructed Tax Credit units shall be multiplied by a size factor equal to seventy five percent plus the total number of newly constructed Tax Credit units divided by 200 (75% + (total newly constructed units/200)).

(B) One (1) minus the ratio of requested unadjusted eligible basis to total residential project development costs, with the resulting figure divided by three. For purposes of this tiebreaker paragraph only, requested unadjusted eligible basis shall be increased by the amount of any reduction to eligible basis that is less than or equal to the amount of leveraged soft resources, as described above but exclusive of donated land value, fee waivers, and the amount of private "tranche B" loans underwritten based upon rent differentials attributable to rent subsidies, committed to the project.

The resulting tiebreaker score must not have decreased following award or negative points may be awarded.

(d) Application selection for evaluation. Except where CTCAC staff determines a project to be high cost, staff shall score and rank projects as described below. Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits. CTCAC shall calculate total eligible basis consistent with the method described in Section 10325(c)(1)(A). A project would be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limits by 30%. Staff shall not recommend such project for credits, but shall advise the project's sponsors that they may petition the Committee to award the project credits in spite of its cost. Such petitioners shall be calendared to appear before the Committee ~~in advance of the Committee acting on staff recommendations~~prior to the application deadline, if possible, but in no case later than the first meeting after the application deadline. Prior to the Committee meeting, staff shall provide the Committee with available data on the costs of any similar projects developed within the project's community, as well as any other mitigating information provided within the application, along with a recommendation. Petitioners must explain in writing the project's unusual cost features, and explain why awarding credits would be sound public policy in spite of those costs. In addition, petitioning sponsors must be accompanied by a representative from the relevant local public entity who must also endorse awarding the credits and explain the compelling reason why the Committee should award the requested credits. Only if the Committee acts to authorize consideration of the application in the current competition would the project be considered for credits. Any project that receives a reservation on or after January 1, 2016, regardless of whether or not it is considered high cost at preliminary reservation, may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limits for the year the project is placed in service (or the original total eligible threshold basis limit if higher) by 40%. A project to which the Committee has awarded credits in spite of its cost may be subject to negative points if the project's ratio of total eligible basis at placed in service to the revised total adjusted threshold basis limits for the year the project is placed in service (or the original total eligible threshold basis limit if higher) exceeds the ratio of total eligible basis to the revised total adjusted threshold basis limits that the Committee approved at application by 10%.

Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

(1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside, followed by the Rural set-aside (funding the RHS and HOME program apportionment first, and the Tribal pilot apportionment second), the At Risk set-aside, and the Special Needs/SRO set-aside, the highest scoring applications will have Tax Credits reserved. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315. If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second funding round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the geographic area in which the project is located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.

(A) For an application to receive a reservation within a set-aside, or within a rural set-aside apportionment, there shall be at least one dollar of Credit not yet reserved in the set-aside or apportionment.

(B) Set-aside applications requesting State tax credits shall be funded, even when State credits for that year have been exhausted. The necessary State credits shall be reserved from the subsequent year's aggregate annual State credit allotment.

(C) Except for projects competing in the rural set-aside, which shall not be eligible to compete in geographic area, unless the projects are located within a Geographic Region and no other projects have been funded within the Project's region during the year in question, after a set-aside is reserved all remaining applications competing within the set-aside shall compete in the Geographic Region.

(2) Geographic Areas selection. Tax Credits remaining following reservations to all set-asides shall be reserved to projects within the geographic areas, beginning with the geographic area having the smallest apportionment, and proceeding upward according to size in the first funding round and in reverse order in the second funding round. The funding order shall be followed by funding the highest scoring application, if any, in each of the ten regions. After each region has had the opportunity to fund one project, TCAC shall award the second highest scoring project in each region, if any, and continue cycling through the regions, filling each geographic area's apportionment. Projects will be funded in order of their rank so long as the region's last award does not cause the region's aggregate award amount to exceed 125 percent (125%) of the amount originally available for that region in that funding round. Credits allocated in excess of the Geographic Apportionments by the application of the 125% rule described above will be drawn from the second round apportionments during the first round, and from the Supplemental Set Aside during the second round. However, all Credits drawn from the Supplemental Set Aside will be deducted from the Apportionment in the subsequent round.

When the next highest-ranking project does not meet the 125% rule then the Committee shall skip over the next highest-ranking project to fund a project requesting a smaller credit award that does meet the 125% requirement. However, no project may be funded by this skipping process unless it (a) has a point score equal to that of the first project skipped, and (b) has a final tiebreaker score equal to at least 75% of the first skipped project's final tiebreaker score.

To the extent that there is a positive balance remaining in a geographic area after a funding round, such amount will be added to the amount available in that geographic area in the subsequent funding round. Similarly, to the extent that there is a deficit in a geographic area after a funding round, such amount will be subtracted from the funds available for reservation in the next funding round. Any unused credit from the geographic areas in the second funding round will be added back into the Supplemental Set-Aside. Tax credits reserved in all geographic areas shall be counted within the housing type goals.

(e) Application Evaluation. To receive a reservation of Tax Credits, applications selected pursuant to subsection (d) of this Section, shall be evaluated, pursuant to IRC Section 42, H & S Code Sections 50199.4 through 50199.22, R & T Code Sections 12206, 17058, and 23610.5, and these regulations to determine if; eligible, by meeting all program eligibility requirements; complete, which includes meeting all basic threshold and additional threshold requirements; and financially feasible. In scoring and evaluating project applications, the Executive Director shall have the discretion to interpret the intent of these regulations and to score and evaluate applications accordingly. Applicants understand that there is no "right" to receive Tax Credits under these regulations. The Committee shall make available to the general public a written explanation for any allocation of Tax Credits that is not made in accordance with the established priorities and selection criteria of these Regulations.

(f) Basic Thresholds. An application shall be determined to be complete by demonstration of meeting the following basic threshold requirements, among other tests. All basic thresholds shall be met at the time the application is filed through a presentation of conclusive, documented evidence to the Executive Director's satisfaction.

(1) Housing need and demand. Applicants shall provide evidence that the type of housing proposed, including proposed rent levels, is needed and affordable to the targeted

population within the community in which it is located. Evidence shall be conclusive, and include the most recent documentation available (prepared within one year of the application date and updated, if necessary). Evidence of housing need and demand shall include:

(A) evidence of public housing waiting lists, by bedroom size and tenant type, if available, from the local housing authority; and

(B) except as provided in Section 10322(h)(10), a market study as described in Section 10322(h)(10) of these regulations, which provides evidence that:

(i) The proposed tenant paid rents for each affordable unit type in the proposed development will be at least ten percent (10%) below ~~rents~~ the weighted average rent for the same unit types in comparable market rate rental properties;

(ii) ~~The~~ Except for SRO rehabilitation projects, the proposed unit value ratio stated as dollars per square foot ($/s.f.) will be no more than the weighted average unit value ratios for comparable market rate units;

(iii) In rural areas without sufficient three- and four-bedroom market rate rental comparables, the market study must show that in comparison to three- and four-bedroom market rate single family homes, the affordable rents will be at least 20% below the rents for single family homes and the $/s.f. ratio will not exceed that of the single family homes; and

(iv) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy – 90% occupancy for SRO and Special Needs projects and 95% for all other projects – within six months of being placed in service for projects of 150 units or less, and within 12 months for projects of more than 150 units and senior projects.

~~The CTCAC Executive Director may waive the value ratio requirement in items (ii) and (iii) above for acquisition/rehabilitation projects with any of the following: 1) existing federal or state rental assistance or operating subsidies and/or 2) an existing TCAC Regulatory Agreement. In such cases, the proposed rents and income targeting levels shall not increase by more than five percent (5%) and the project shall have a vacancy rate of no more than five percent (5%) at the time of the tax credit application. Such waiver requests must be approved prior to the application submission and must include evidence from the project market analyst, including relevant market study pages, as to why the project is unable to meet the requirement.~~

~~Scattered-site projects that have received a waiver of the market study requirement from the California Debt Limit Allocation Committee (CDLAC) per Article 10. Section 5250.3 of the CDLAC Regulations are exempt from the market study requirements of Sections 10322(h)(10), 10325(f)(1)(B), and 10326(g)(1)(B). For such projects, a comprehensive market study as outlined in IRS Section 42(m)(iii) shall mean a written statement by a third party market analyst certifying that the project meets the requirements of Article 10. Section 5250.3 of the California Debt Limit Allocation Committee Regulations.~~

Market studies will be assessed thoroughly. Meeting the requirements of subsection (B) above is essential, but because other elements of the market study will also be considered, meeting those requirements in subsection (B) will not in itself show adequate need and demand for a proposed project or ensure approval of a given project.

(2) Demonstrated site control. Applicants shall provide evidence that the subject property is within the control of the applicant.

(A) Site control may be evidenced by:

(i) a current title report (within 90 days of application) showing the applicant holds fee title or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status;

(ii) an executed lease agreement or lease option for the length of time the project will be regulated under this program between the applicant and the owner of the subject property;

(iii) an executed disposition and development agreement between the applicant and a public agency; or,

(iv) a valid, current, enforceable contingent purchase and sale agreement or option agreement between the applicant and the owner of the subject property. Evidence must be provided at the time of the application that all extensions and other conditions necessary to keep the agreement current through the application filing deadline have been executed.

(B) A current title report (within 90 days of application) or for tribal trust land a title status report or an attorney's opinion regarding chain of title and current title status, shall be submitted with all applications for purposes of this threshold requirement.

(C) The Executive Director may determine, in her/his sole discretion, that site control has been demonstrated where a local agency has demonstrated its intention to acquire the site, or portion of the site, through eminent domain proceedings.

(3) Enforceable financing commitment. Applicants shall provide evidence of enforceable financing commitments for at least fifty percent (50%) of the acquisition and construction financing, or at least fifty percent (50%) of the permanent financing, of the proposed project's estimated total acquisition and construction or total permanent financing requirements. An "enforceable financing commitment" must:

(A) be in writing, stating rate and terms, and in the form of a loan, grant or an approval of the assignment/assumption of existing debt by the mortgagee;

(B) be subject only to conditions within the control of the applicant, but for obtaining other financing sources including an award of Tax Credits;

(C) have a term of at least fifteen (15) years if it is permanent financing;

(D) demonstrate feasibility for fifteen (15) years at the underwriting interest rate, if it is a variable or adjustable interest rate permanent loan; and,

(E) be executed by a lender other than a mortgage broker, the applicant, or an entity with an identity of interest with the applicant, unless the applicant is a lending institution actively and regularly engaged in residential lending; and

(F) be accepted in writing by the proposed mortgagor or grantee, if private financing.

Substitution of such funds may be permitted only when the source of funding is similar to that of the original funding, for example, use of a bank loan to substitute for another bank loan, or public funds for other public funds. General Partner loans or developer loans must be accompanied by documented proof of funds being available at the time of application.

In addition, General Partner or developer loans to the project are unique, and may not be substituted for or foregone if committed to within the application.

Projects awarded under a Nonprofit set-aside homeless assistance priority or a Rural set-aside RHS or HOME apportionment pursuant to a funding commitment may not substitute other funds for this commitment after application to CTCAC. Failure to retain the funding may result in an award of negative points.

For projects using FHA-insured debt, the submission of a letter from a Multifamily Accelerated Processing (MAP) lender stating that they have underwritten the project and that it meets the requirements for submittal of a multifamily accelerated processing firm commitment application to HUD. For 2015 competitive tax credit applications with Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) included as funding sources, a project's recommendation by state program staff may be substituted for evidence that the funding has been firmly committed, provided that the applicant receives a VHHP or AHSC award prior to the CTCAC award.

(4) Local approvals and Zoning. Applicants shall provide evidence, at the time the application is filed, that the project as proposed is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, and conditional use permits. Notwithstanding the first sentence of this subsection, local land use approvals not required to be obtained at the time of application include, design review, initial environmental study assessments, variances, and development agreements. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

(5) Financial feasibility. Applicants shall provide the financing plan for the proposed project, and shall demonstrate the proposed project is financially feasible and viable as a qualified low income housing project throughout the extended use period. A fifteen-year pro forma of all revenue and expense projections, starting as of the planned placed in service date for new construction projects, and as of the rehabilitation completion date for acquisition/rehabilitation projects, is required. The financial feasibility analysis shall use all underwriting criteria specified in Section 10327 of these regulations.

(6) Sponsor characteristics. Applicants shall provide evidence that proposed project participants, as a Development Team, possess all of the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee may conduct an investigation into an applicant's background that it deems necessary, in its sole discretion, and may determine if any of the evidence provided shall disqualify the applicant from participating in the Credit programs, or if additional Development Team members need be added to appropriately perform all program requirements. The following documentation is required to be submitted at the time of application:

(A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);

(B) for each of the following participants, a copy of a contract to provide services related to the proposed project:
(i) Attorney(s) and or Tax Professional(s)
(ii) Architect
(iii) Property Management Agent
(iv) Consultant
(v) Market Analyst

(7) Minimum construction standards. For preliminary reservation applications, applicants shall provide a statement ~~of their intent to utilize landscaping and construction materials compatible with the proposed project's neighborhood, and that the architectural design and construction materials will provide for low maintenance and durability, as well as be suited to the environmental conditions to which the project will be subjected. Additionally, the statement of intent shall note~~ that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects. ~~Finally~~In addition, a statement shall commit the property owner to at least maintaining the installed energy efficiency and sustainability features' quality when replacing each of the following listed systems or materials:

(A) Energy Efficiency. ~~New construction buildings shall be thirty percent (30%) better than the 2008 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24) including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy. Alternatively, new construction buildings may meet the 20 percent (20%) Zero Net Energy (ZNE) standard established in Section 10325(c)(6)(B)(ii).~~ New construction and rehabilitation applicants shall consult with the design team, a CABEC certified 2013 Certified Energy Analyst, and a LEED Green Rater or GreenPoint Rater (one person may meet all of these qualifications) early in the project design process to evaluate a building energy model analysis and identify and consider energy efficiency or generation measures beyond those required by this subsection. Prior to the meeting, the energy analyst shall complete an initial energy model based on either current Title 24 standards or, if the project is eligible, the California Utility Allowance Calculator using best available information on the project. The application to CTCAC shall include a copy of the model results, meeting agenda, list of attendees, and major outcomes of the meeting. All rehabilitated buildings shall have improved energy efficiency above the modeled energy consumption of the building(s) based on existing conditions documented using the Sustainable Building Method Workbook's CTCAC Existing Multifamily Assessment Protocols and reported using the CTCAC Existing Multifamily Assessment Report template. Rehabilitated buildings shall document at least a 10% post-rehabilitation improvement over existing conditions energy efficiency achieved for ~~each building~~the project as a whole, except that Scattered Site applications shall also document at least a 5% post-rehabilitation improvement over existing conditions energy efficiency achieved for each site. In the case of projects in which energy efficiency improvements have been completed within ~~two~~ five years prior to the application date pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements. Furthermore, ~~all~~ rehabilitation applicants must submit a completed Sustainable Building Method Workbook with their preliminary reservation application unless they ~~are not seeking competitive points under Section 10325(c)(6)(B),(E), or (G), and~~ are developing a project in accordance with the minimum requirements of Leadership in Energy & Environmental Design (LEED) or GreenPoint Rated Program. In addition, all applicants who will receive points from CDLAC pursuant to Sections 5230(k)(7),(9), or (10) of the CDLAC regulations must submit a completed Sustainable Building Method Workbook with their preliminary reservation application.

(B) Landscaping. If landscaping is to be provided or replaced, a~~A~~ variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the state Model Water Efficient Landscape Ordinance (http://www.water.ca.gov/wateruseefficiency/landscapeordinance/) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.

(C) Roofs. Newly installed roofing~~Roofing~~ shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.

(D) Exterior doors. If exterior doors are to be provided or replaced, insulated~~Insulated~~ or solid core, flush, paint or stain grade exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces, with a standard one-year guarantee and all six sides factory primed.

(E) Appliances. Refrigerators, dishwashers, clothes washers and dryers provided or replaced within Low-Income Units and/or in on-site community facilities shall be ENERGY STAR rated appliances, unless waived by the Executive Director.

(F) Window coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.

(G) Water heater. If water heaters are to be provided or replaced, for~~For~~ units with individual tank-type water heaters, minimum capacities are to be ~~30~~ 28 gallons for one- and two-bedroom units and ~~40~~ 38 gallons for three-bedroom units or larger.

(H) Floor coverings. If floor coverings are to be provided or replaced, a~~A~~ hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Any carpet~~Carpet~~ provided or replaced shall comply~~ing~~ with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D~~, or alternatively, cork, bamboo, linoleum, or hardwood floors shall be provided in all other floor spaces unless this requirement is specifically waived by the Executive Director~~.

(I) All fiberglass-based insulation provided or replaced shall meet the Greenguard Gold Certification (http://greenguard.org/en/CertificationPrograms/CertificationPrograms_childrenSchools.aspx).

(J) Consistent with California State law, projects with 16 or more residential units must have an on-site manager's unit. Projects with at least 161 units shall provide a second ~~In addition, for every 80 non-manager units in a project, at least one~~ on-site manager's unit ~~shall also be provided~~ for either another on-site manager or other maintenance personnel, and there shall be one additional on-site manager's unit for either another on-site manager or other maintenance personnel for each 80 units beyond 161 units, up to a maximum of four on-site manager's units. ~~Special needs projects may demonstrate 24-hour desk staffing in lieu of an on-site manager's unit.~~ Scattered site projects totaling 16 or more units must have at least one on-site manager's unit for the entire project, and at least one manager's unit at each site where that site's building(s) consist of 16 or more units. Scattered sites within 100 yards of each other shall be treated as a single site for purposes of the on-site manager rule only.

In lieu of on-site manager units, a project may commit to employ an equivalent number of on-site full-time property management staff (at least one of whom is a property manager) and provide an equivalent number of desk or security staff capable of responding to emergencies for the hours when property management staff is not working. All staff or contractors performing desk or security work shall be knowledgeable of how the property's fire system operates and be trained in, and have participated in, fire evacuation drills for tenants. CTCAC reserves the right to require that one or more on-site managers' units be provided and occupied by property management staff if, in its sole discretion, it determines as part of any on-site inspection that the project has not been adequately operated and/or maintained.

(K) All tax credit recipient projects shall adhere to the provisions of California Building Code Chapter 11(B) regarding accessibility to privately owned housing made available for public use. Tax credits shall be viewed as invoking those requirements as applicable, including a minimum of ten percent (10%) of the units with mobility features, and four percent (4%) with communications features. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26.

Except of paragraph (J), if~~If~~ a rehabilitation applicant does not propose to meet the requirements of this subsection, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. The Executive Director may approve a waiver to paragraph (J) for a new construction or rehabilitation project, provided that tenants will have equivalent access to management services. All ~~exemptions~~ waivers must be approved in advance by the Executive Director.

Compliance and Verification: For placed-in-service applications, ~~for subsection (A),~~ applicants with new construction projects that will receive points from CDLAC pursuant to Section 5230(k)(7) of the CDLAC regulations must submit either (a) the appropriate California Energy Commission (CEC) compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards, or (b) a completed CUAC analysis establishing the total tenant energy load, and documentation of the PV output using CEC's PV Calculator, which shows the necessary percentage of tenant energy load offset from renewable energy. For subsection (A), applicants with rehabilitation projects~~, the applicant~~ must submit the energy consumption and analysis report using the appropriate performance module of CEC-approved software, which shows the pre- and post-rehabilitation estimated Time Dependent Valuation (TDV) energy use demonstrating the required improvement, in their placed-in-service package. With the exception of applicants developing a project in accordance with the minimum requirements of LEED or GreenPoint Rated Program who will not receive points pursuant to Section 5230(k)(9) or (10) of the CDLAC regulations, applicants must submit a completed Sustainable Building Method Workbook. For subsections (B) through (K) applicants shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics: a certified HERS Rater, a certified GreenPoint rater, ~~or~~ a US Green Building Council certification, or the project architect. Failure to produce appropriate and acceptable third party documentation for (A) through (K) of this subsection may result in negative points.

(8) Deferred-payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, grants and subsidies shown in the application are "committed" at the time of application, except as permitted in subsection (E) and (F) below.

(A) Evidence provided shall signify the form of the commitment, the loan, grant or subsidy amount, the length of the commitment, conditions of participation, and express authorization from the governing body, or an official expressly authorized to act on behalf of said governing body, committing the funds, as well as the applicant's acceptance in the case of privately committed loans.

(B) Commitments shall be final and not preliminary, and only subject to conditions within the control of the applicant, with one exception, the attainment of other financing sources including an award of Tax Credits.

(C) Fund commitments shall be from funds within the control of the entity providing the commitment at the time of application.

(D) Substantiating evidence of the value of local fee waivers, exemptions or land write-downs is required.

(E) Substitution or an increase of such funds may be permitted only when the source of funding is similar to the original funding, for example, private loan to substitute for private loan, public funds for public funds. AHP funds may be substituted for any construction period funding source if an AHP commitment is obtained after the TCAC application due date. Funds from a previously committed source may be increased only in an amount necessary to achieve project feasibility. Adding new funding sources to cover additional, unanticipated costs requires TCAC pre-approval. This provision shall include projects that have already received a reservation or allocation of Tax Credits in prior years.

(F) Funds anticipated but not yet awarded under the following programs shall be exempt from the provisions of this subsection: the Affordable Housing Program (AHP) provided pursuant to a program of the Federal Home Loan Bank; RHS Section 514, 515 or 538 programs; the Department of Housing and Urban Development's Supportive Housing Program (SHP); the California Department of Mental Health's Mental Health Services Act Program; projects that have received a Reservation of HOME funds from the applicable Participating Jurisdiction; projects receiving Housing Tax Credits in 1999 and thereafter and funding under the Department of Housing and Community Development's Multifamily Housing Program; or for 2015 competitive tax credit applications, Veterans Housing and Homeless Prevention (VHHP) and Affordable Housing and Sustainable Communities (AHSC) program financing submitted with a recommendation by state program staff, provided that the applicant receives a VHHP or AHSC award prior to the CTCAC award.

(9) Project size and credit amount limitations. Project size limitations shall apply to all applications filed, pursuant to this Section.

(A) Unit number limits are as follows:
i. Rural set-aside applications - Eighty (80) units maximum
ii. Other than rural set-aside applications – One hundred fifty (150) units maximum.

Rehabilitation proposals are excepted from the above size limitations. In addition, rural set-aside proposals or non-rural HOPE VI or large neighborhood redevelopment proposals may request a size limitation waiver from the Executive Director. Such waiver requests for non-rural proposals must include a plan for the HOPE VI redevelopment, or a specific neighborhood revitalization plan. In granting a size limitation waiver for rural projects, the Executive Director shall determine that the rural community is unusual in size or proximity to a nearby urban center, and that exceptional demand exists within the market area.

(B) Units, for purposes of this subsection, shall:
i. include low-income units;
ii. not include market rate units or manager's units.

(C) The total "units" in one or more separate applications, filed by Related Parties, proposing projects within one-fourth (1/4) mile of one another, filed at any time within a twelve (12) month period, shall, for purposes of this subsection be subject to the above project size limitations, except when specifically waived by the Executive Director in unusual circumstances such as HOPE VI or large neighborhood redevelopment proposals pursuant to a specific neighborhood plan. HOPE VI and other large projects will generally be directed towards the tax-exempt bond program.

(D) The maximum annual Federal Tax Credits available for award to any one project in any funding round shall not exceed Two Million Five Hundred Thousand ($2,500,000) Dollars.

(10) Projects applying for competitive Tax Credits and involving rehabilitation of existing buildings shall be required to complete, at a minimum, the higher of $40,000 in hard construction costs per unit or 20% of the adjusted basis of the building pursuant to IRC Section 42(e)(3)(A)(ii)(I).

(11) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.

(12) CTCAC shall not accept an application from any party that is debarred from applying to CDLAC.

(g) Additional Threshold Requirements. To qualify for Tax Credits as a Housing Type as described in Section 10315(g), to receive points as a housing type, or to be considered a "complete" application, the application shall meet the following additional threshold requirements:

(1) Large Family projects. To be considered large family housing, the application shall meet the following additional threshold requirements.

(A) At least ~~thirty~~ twenty-five percent (~~30~~25%) of the Tax Credit units in the project shall be three-bedroom or larger units, and for projects that receive land use entitlements on or after January 1, 2016 at least an additional twenty-five percent (25%) of the Tax Credit units in the project shall be two-bedroom or larger units, ~~with the remaining units configured based on the demand established in the basic threshold requirements~~ except that for projects qualifying for and applying under the At-risk set-aside, the Executive Director may grant a waiver from this requirement if the applicant shows that it would be cost prohibitive to comply;

(B) One-bedroom units must include at least 500 square feet and two-bedroom units must include at least 750 square feet of living space. Three-bedroom units shall include at least 1,000 square feet of living space and four-bedroom units shall include at least 1,200 square feet of living space, unless these restrictions conflict with the requirements of another governmental agency to which the project is subject to approval. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director. Bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom;

(C) Four-bedroom and larger units shall have a minimum of two full bathrooms;

(D) The project shall provide outdoor play/recreational facilities suitable and available to all tenants, for children of all ages, except for small developments of 20 units or fewer. The Executive Director, in her/his sole discretion may waive this requirement upon demonstration of nearby, readily accessible, recreational facilities;

(E) The project shall provide an appropriately sized common area(s). For purposes of this part, common areas shall include all interior common areas, such as the rental office and meeting rooms, but shall not include laundry rooms or manager living units, and shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1000 square feet; projects from 61 to 100 total units, at least 1400 square feet; projects over 100 total units, at least 1800 square feet. Small developments of 20 units or fewer are exempt from this requirement;

(F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 10 units. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each unit, subject to the further provision that gas connections for dryers shall be provided where gas is otherwise available at the property;

(H) Dishwashers shall be provided in all units unless a waiver is granted by the Executive Director because of planning or financial impracticality;

(I) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).

(2) Senior projects. To be considered senior housing, the application shall meet the following additional threshold requirements:

(A) All units shall be restricted to households eligible under the provisions of California Civil Code Section 51.3. However, starting with projects allocated credits in 2015 all units shall be restricted to residents who are 62 years of age or older under applicable provisions of California Civil Code Section 51.3 and the federal Fair Housing Act (except for projects utilizing federal funds whose programs have differing definitions for senior projects), and further be subject to state and federal fair housing laws with respect to senior housing;

(B) Effective for projects allocated credits in 2015 and thereafter, for new construction projects, one half of all units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of California Building Code (CBC) Chapter 11(B). For rehabilitation projects allocated credits in 2015 and thereafter, 25% of all units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of CBC Chapter 11(B).

All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26;

(C) Projects over two stories shall have an elevator;

(D) No more than twenty percent (20%) of the low-income units in the project shall be larger than one-bedroom units, unless waived by the Executive Director, when supported by a full market study. One larger unit may be included for use as a manager's unit without a waiver;

(E) One-bedroom units must include at least 500 square feet and two-bedroom units must include at least 750 square feet of living space. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director;

(F) Emergency call systems shall only be required in units intended for occupancy by frail elderly populations requiring assistance with activities of daily living, and/or applying as special needs units. When required, they shall provide 24-hour monitoring, unless an alternative monitoring system is approved by the Executive Director;

(G) Common area(s) shall be provided on site, or within approximately one-half mile of the subject property. For purposes of this part, common areas shall be allowed to include all interior common areas, such as the rental office and meeting rooms, but shall not include laundry rooms or manager living units, and shall meet the following size requirement: projects comprised of 30 or less total units, at least 600 square feet; projects from 31 to 60 total units, at least 1,000 square feet; projects from 61 to 100 total units, at least 1,400 square feet; projects over 100 total units, at least 1,800 square feet. Small developments of 20 units or fewer are exempt from this requirement;

(H) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

(I) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the units subject to the further provision that gas connections for dryers shall be provided where gas is otherwise available at the property;

(J) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).

(3) SRO projects. To be considered Single Room Occupancy (SRO) housing, the application shall meet the following additional threshold requirements:

(A) Average targeted income is no more than forty percent (40%) of the area median income;

(B) SRO units are efficiency units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The maximum size for an SRO unit shall be 500 square feet, while the minimum size for new construction SRO units shall be 200 square feet. At least 90% of the units in the project must meet these requirements;

(C) At least one bath shall be provided for every eight units;

(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving General Assistance are willing to pay rent at the level proposed;

(E) The project configuration, including community space and kitchen facilities, shall meet the needs of the population;

(F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost;

(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

(H) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);

(I) A ten percent (10%) vacancy rate shall be used unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;

(J) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider, must accompany the Tax Credit application;

(K) A summary of the experience of the developer and the service provider in providing for the population to be served must accompany the Tax Credit application; and

(L) New construction projects for seniors shall not qualify as Single Room Occupancy housing.

(4) Special Needs projects. To be considered Special Needs housing, at least 50% of the Tax Credit units in the project shall serve populations that meet one of the following: are individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental or mental health disabilities; individuals who are survivors of physical abuse; individuals who are homeless as described in Section 10315(b); individuals with chronic illness, including HIV; homeless youth as defined in Government Code Section 11139.3(e)(2); or another specific group determined by the Executive Director to meet the intent of this housing type. The Executive Director shall have sole discretion in determining whether or not an application meets these requirements. In the case of a development that is less than 75% special needs~~, the non-special needs units must meet another housing type (for example, large family), although the project will be considered as a special needs project for purposes of Section 10325~~ the non-special needs units must meet the senior or SRO housing type (although the project will be considered as a special needs project for purposes of Section 10325) or consist of at least 20% one-bedroom units and at least 10% larger than one-bedroom units. Studio or SRO units must include at least 200 square feet, one-bedroom units must include at least 500 square feet,

and two-bedroom units must include at least 750 square feet of living space. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director. The application shall meet the following additional threshold requirements:

(A) Average targeted income for the special needs units is no more than forty percent (40%) of the area median income;

(B) Third party verification from a federal, state or local agency of the availability of services appropriate to the targeted population;

(C) The units/building configurations (including community space) shall meet the specific needs of the population;

(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving such assistance are willing to pay rent at the level proposed;

(E) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

(F) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

(G) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);

(H) A ten percent (10%) vacancy rate shall be used for pro-forma purposes unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;

(I) Where services are required as a condition of occupancy, special attention shall be paid to the assessment of service costs as related to maximum allowable Credit rents. A third party tax professional's opinion as to compliance with IRC Section 42 may be required by the Executive Director;

(J) A signed contract or memorandum of understanding between the developer and the service provider, together with the resolution of the service provider(s) identified in the preliminary service plan described in paragraph (L), must accompany the Tax Credit application;

(K) A summary of the experience of the developer and the service provider(s) in providing services to the project's special needs populations must accompany the Tax Credit application; and

(L) A preliminary service plan that specifically identifies: the service needs of the projects special needs population; the organization(s) that would be providing the services to the residents; the services to be provided to the special needs population; how the services would support resident stability and any other service plan objectives; a preliminary budget displaying anticipated income and expenses associated with the services program. The Executive Director shall, in his/her sole discretion, determine whether the plan is adequate to qualify the project as a special needs project.

(5) At-risk projects. To be considered At-risk housing, the application shall meet the requirements of R & T Code subsection 17058(c)(4), except as further defined in subsection (B)(i) below, as well as the following additional threshold requirements, and other requirements as outlined in this subsection:

(A) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land); and

(B) Project application eligibility criteria include:

(i) before applying for Tax Credits, the project must meet the At-risk eligibility requirements under the terms of applicable federal and state law as verified by a third party legal opinion, except that a project that has been acquired by a qualified nonprofit organization within the past five years of the date of application with interim financing in order to preserve its affordability and that meets all other requirements of this section, shall be eligible to be considered an "at-risk" project under these regulations. A project application will not qualify in this category unless it is determined by the Committee that the project is at-risk of losing affordability on at least 50% of the restricted units due to market or other conditions;

(ii) the project must currently possess or have had within the past five years from the date of application, either federal mortgage insurance, a federal loan guarantee, federal project-based rental assistance, or, have its mortgage held by a federal agency, or be owned by a federal agency or be currently subject to, or have been subject to, within five years preceding the application deadline, the later of Federal or State Housing Tax Credit restrictions whose compliance period is expiring or has expired within the last five years and at least 50% of whose units are not subject to any other rental restrictions beyond the term of the Tax Credit restrictions;

(iii) as of the date of application filing, the applicant shall have sought available federal incentives to continue the project as low-income housing, including, direct loans, loan forgiveness, grants, rental subsidies, renewal of existing rental subsidy contracts, etc.;

(iv) subsidy contract expiration, mortgage prepayment eligibility, or the expiration of Housing Tax Credit restrictions shall occur no later than five calendar years after the year in which the application is filed, except in cases where a qualified nonprofit organization acquired the property within the terms of (i) above and would otherwise meet this condition but for: 1) long-term use restrictions imposed by public agencies as a condition of their acquisition financing; or 2) HAP contract renewals secured by the qualified nonprofit organization for the maximum term available subsequent to acquisition;

(v) the applicant agrees to renew all project based rental subsidies (such as Section 8 HAP or Section 521 rental assistance contracts) for the maximum term available and shall seek additional renewals throughout the project's useful life, if applicable;

(vi) at least seventy percent (70%) of project tenants shall, at the time of application, have incomes at or below sixty percent (60%) of area median income;

(vii) the gap between total development costs (excluding developer fee), and all loans and grants to the project (excluding Tax Credit proceeds) must be greater than fifteen percent (15%) of total development costs; and,

(viii) a public agency shall provide direct or indirect long-term financial support of at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost.

(h) Waiting List. At the conclusion of the last reservation cycle of any calendar year, and at no other time, the Committee may establish a Waiting List of pending Eligible Project applications already scored, ranked and evaluated in anticipation of utilizing any Tax Credits that may be returned to the Committee, and/or that have not been allocated to projects with the Set-Asides or Geographic Regions for which they were intended. The Waiting List shall expire on the date specified in the Committee's resolution establishing the Waiting List. If no date is specified, the Waiting List shall expire at midnight on December 31 of the year the list is established. During periods without a waiting list, complete credit awards returned by successful geographic apportionment competitors shall be returned to the apportionment of origin.

Selections from the Waiting List will be made as follows:

(1) If Credits are returned from projects originally funded under Set-Asides or Geographic Apportionments, applications qualifying under the same Set-Aside or Geographic Region will be selected in the order of their ranking.

(2) Next, Eligible Waiting List projects in Set Asides or Geographic Apportionments that are not yet fully subscribed will be selected from the Waiting List for reservations. These will be selected first from the Set Asides in order of their funding sequence, and then from the Geographic Apportionments in the order of the highest to the lowest percentage by which each Apportionment is undersubscribed. (This will be calculated by dividing the unreserved Tax Credits in the apportionment by the total Apportionment.)

(3) Finally, after all Set-Asides and Geographic Apportionments for the current year have been achieved, or if no further projects are available for such reservations, the unallocated Tax Credits will be transferred to the Supplemental Set Aside and used for projects selected from the Waiting List, in the order of their score and tie breaker performance ranking, without regard to Set-Aside or Geographic Region. All Waiting List project reservations will be counted toward the projects' Geographic Apportionments.

(4) If there are not sufficient Tax Credits to fully fund the next ranked application on the Waiting List, a reservation of all remaining Tax Credits may be made to that application, and any first recaptured or otherwise available Tax Credits in the following year may be reserved for that application up to the maximum amount previously approved by the Committee

(5) If the rules described above result in selection of a Waiting List application requesting both Federal and State Tax Credits, and State Tax Credits are not at that time available, the Committee shall allow said applicant to substitute other funds from any source in an amount equivalent to the amount of funds anticipated from the sale of requested State Tax Credits. In no case shall the tax Credit factor, loan and grant interest rates and terms, or the total project development cost in any way be altered from that in the application for purposes of achieving project feasibility through the option to substitute State Tax Credits. At the earlier of the date upon which a request is made for a carryover allocation or tax forms, the applicant shall evidence the availability of said funds according to application requirements of these regulations pertaining to the type of fund source.

The option to substitute State Tax Credits with other funds shall be limited to applications receiving an offer of Federal Tax Credits that are returned to the Committee on or before November 1 of the year of the applicable waiting list. For purposes of this subsection, Federal Tax Credits returned prior to November 1, and offered to, but not accepted by, an applicant may be offered to the next eligible waiting list project after November 1. Any such offer after November 1 shall be limited to only the next eligible waiting list project and the Federal Tax Credits shall not be available thereafter to other waiting list projects under the option to substitute State Tax Credits with other funds. After being offered a reservation of Federal Tax Credits, the applicant shall be allowed ten (10) days to provide the Committee with evidence of the availability and willingness of a financing source, that shall not be substituted at a later date with another source, to cover the financing gap remaining due to the absence of State Tax Credits (e.g. a letter of interest). At such time as is required for filing of a carryover allocation, the availability of funds to cover said financing gap shall be evidenced in accordance with subsection 10325(f)(8). Once a reservation of Federal Tax Credits has been accepted for an application pursuant to this subsection, the application shall not be eligible for State Tax Credits should additional State Tax Credits become available for waiting list applications.

(i) Carry forward of Tax Credits. Pursuant to Federal and state statutes, the Committee may carry forward any unused Tax Credits or Tax Credits returned to the Committee for allocation in the next calendar year.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10326. Application Selection Criteria - Tax-exempt bond applications

(a) General. All applications (including reapplications) requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4) for buildings and land, the aggregate basis (including land) of which is financed at least fifty percent (50%) by tax-exempt bonds, shall be eligible to apply under this Section for a reservation and allocation of Federal Tax Credits. However, those projects requesting State Tax Credits will be competitively scored as described in Section 10317(i)(2). The highest scoring applications under this scoring system will be recommended for receipt of State Tax Credit, without regard to any set-asides or geographic areas, provided that they meet the threshold requirements of this section.

(b) Applicable criteria. Selection criteria for applications reviewed under this Section shall include those required by IRC Section 42(m), this Section, and Sections 10300, 10302, 10305, 10320, 10322, 10327, 10328(e), 10330, 10335, and 10337 of these regulations. Other sections of these regulations shall not apply.

(c) Application review period. The Committee may require up to forty-five (45) days to review an application, and an additional fifteen (15) days to consider the application for a reservation of Tax Credits. Applicants must deliver applications no less than sixty (60) days prior to the CTCAC Committee meeting in which they wish to obtain a decision.

(d) Issuer determination of Credit. The issuer of the bonds may determine the Federal Tax Credit amount, with said determination verified by the Committee and submitted with the application. The issuer may request the Committee determine the Credit amount by including such request in the application.

(e) Additional application requirements. Applications submitted pursuant to this Section shall provide the following additional information:

(1) the name, phone number and contact person of the bond issuer; and,

(2) verification provided by the bond issuer of the availability of the bond financing, the actual or estimated bond issuance date, and the actual or estimated percentage of aggregate basis (including land) financed or to be financed by the bonds, and a certification provided by a third party tax professional as to the expected or actual aggregate basis (including land) financed by the proceeds of tax exempt bonds;

(3) the name, phone number and contact person of any entity providing credit enhancement and the type of enhancement provided.

(f) Application evaluation. To receive a reservation of Tax Credits, applications submitted under this Section shall be evaluated, pursuant to IRC Section 42, H & S Code Sections 50199.4 through 50199.22, R & T Code Sections 12206, 17058, and 23610.5, and these regulations to determine if: eligible, by meeting all program eligibility requirements; complete, which includes meeting all basic threshold requirements; and financially feasible.

(g) Basic thresholds. An application shall be determined to be complete by demonstration of meeting the following basic threshold requirements. All basic thresholds shall be met at the time the application is filed through a presentation of conclusive, documented evidence to the Executive Director's satisfaction. Further, in order to be eligible to be considered for Tax Credits under these regulations, the general partner(s) and management companies must not have any significant outstanding noncompliance matters relating to the tenant files or physical conditions at any Tax Credit properties in California, and any application submitted by an applicant with significant outstanding compliance matters will not be considered until the Committee has received evidence satisfactory to it that those matters have been resolved.

(1) Housing need and demand. Applicants shall provide evidence that the type of housing proposed, including proposed rent levels, is needed and affordable to the targeted population within the community in which it is located. Evidence shall be conclusive, and include the most recent documentation available (prepared within one year of the application date). Evidence of housing need and demand shall include;

(A) evidence of public housing waiting lists by bedroom size and tenant type, if available, from the local housing authority; and

(B) a market study as described in Section 10322(h)(10) of these regulations, which provides evidence that the items set forth in Section 10325(f)(1)(B) have been met for the proposed tax-exempt bond project.

Market studies will be assessed thoroughly. Meeting the requirements of Section 10325(f)(1)(B) is essential, but because other elements of the market study will also be considered, meeting those requirements in Section 10325(f)(1)(B) will not in itself show adequate need and demand for a proposed project or ensure approval of a given project.

(2) Demonstrated site control. Applicants shall provide evidence that the subject property is, and will remain within the control of the applicant from the time of application submission as set forth in Section 10325(f)(2).

~~(A) Site control may be evidenced by:~~
~~(i) a current title report (within 90 days of application) showing the applicant holds fee title or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status;~~

~~(ii) an executed lease agreement or lease option for the length of time the project will be regulated under this program between the applicant and the owner of the subject property;~~

~~(iii) an executed disposition and development agreement between the applicant and a public agency; or~~

~~(iv) a valid, current, enforceable contingent purchase and sale agreement or option agreement between the applicant and the owner of the subject property. Evidence that all extensions necessary to keep agreement current through the application filing deadline have been executed must be included in the application.~~

~~(B) A current title report (within 90 days of application) or, for tribal trust land, a title status report, shall be submitted with all applications for purposes of this threshold requirement.~~

(3) Local approvals and Zoning. Applicants shall provide evidence, at the time the application is filed, that the project, as proposed, is zoned for the intended use, and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied. Examples of such approvals include, but are not limited to, general plan amendments, rezonings, conditional use permits. Notwithstanding the first sentence of this subsection, ~~local land use approvals not required to be~~applicants need not have obtained design review approval at the time of application~~ include, design review, initial environmental study assessments, variances, and development agreements~~. The Committee may require, as evidence to meet this requirement, submission of a Committee-provided form letter to be signed by an appropriate local government planning official of the applicable local jurisdiction.

(4) Financial feasibility. Applicants shall provide the financing plan for the proposed project consistent with Section 10325(f)(5).

(5) Sponsor characteristics. Applicants shall provide evidence that as a Development Team, proposed project participants possess the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee shall, in its sole discretion, determine if any of the evidence provided shall disqualify the applicant from participating in the Tax Credit Programs, or if additional Development Team members need be added to appropriately perform all program requirements. General partners and management companies lacking documented experience with Section 42 requirements using the minimum scoring standards at Section 10325(c)(2)(A) and (B) shall be required to complete training as prescribed by CTCAC prior to a project's placing in service. The minimum scoring standards referenced herein shall not be obtained through the two (2) point category of "a housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee to satisfy minimum management company experience requirements for an incoming management agent" established at Section 10325(c)(2). The following documentation is required to be submitted at the time of application:

(A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);

(B) for each of the following participants, a copy of a contract to provide services related to the proposed project:
(i) Attorney(s) and or Tax Professional(s)
(ii) Architect
(iii) Property Management Agent
(iv) Consultant
(v) Market Analyst

(6) Minimum construction standards. Applicants shall adhere to minimum construction standards as set forth in Section 10325(f)(7).

(7) Minimum Rehabilitation Project Costs. Projects involving rehabilitation of existing buildings shall be required to complete, at a minimum, the higher of:

(A) $~~10,000~~15,000 in hard construction costs per unit; or

(B) 20% of the adjusted basis of the building pursuant to IRC Section 42(e)(3)(A)(ii)(I).

(8) Existing tax credit projects applying for additional tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.

(h) Additional condition on applications. The following additional condition shall apply to applications for Tax Credits pursuant to this Section: Except as provided in Section 10317(g)(4), if~~If~~ not currently possessing a bond allocation for the proposed project, ~~at the time the application is considered by the Committee,~~ the applicant shall have either applied for a bond allocation ~~at~~ from the California Debt Limit Allocation Committee~~'s~~ (CDLAC) ~~next scheduled meeting~~prior to or concurrently with submitting an application to CTCAC, or shall have received an initial loan commitment from the California Housing Finance Agency (CalHFA).

(i) Tax-exempt bond reservations. Reservations of Tax Credits shall be subject to conditions as described in this Section and applicable statutes. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the reservation fee described in Section 10335 and an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant of the reservation.

(j) Additional conditions on reservations. The following additional conditions shall apply to reservations of Tax Credits pursuant to this Section:

(1) CDLAC allocation. The applicant shall ~~have received~~receive a bond allocation from CDLAC for the proposed project within 90 days of receiving a reservation;

(2) Bonds issued. Bonds shall be issued within the time limit specified by CDLAC, if applicable; and,

(3) Projects shall maintain at least 10% of the total units at rents affordable to tenants earning 50% or less of the Area Median Income, and shall maintain a minimum 30 year affordability period.

(4) Projects proposing the rehabilitation of existing structures shall provide CTCAC with an updated development timetable by December 31 of the year following the year the project received its reservation of Tax Credits.

(i) The report shall include the actual placed-in-service date or the anticipated placed-in-service date for the last building in the project and the date the project achieved full occupancy. The report shall detail the causes for any change from the original date.

(ii) Projects proposing new construction shall provide CTCAC with an updated development timetable by December 31 of the second year following the year the project received its reservation of Tax Credits. The update shall include the actual placed-in-service date for the last building in the project and the date that the project achieved full occupancy; or the date the project is anticipated to achieve full occupancy.

Other conditions, including cancellation, disqualification and other sanctions imposed by the Committee in furtherance of the purposes of the Credit programs.

(k) Placed-in-service. Upon completion of construction of the proposed project, the applicant shall submit documentation required by Section 10322(i).

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10327. Financial Feasibility and Determination of Credit Amounts

(a) General. Applicants shall demonstrate that the proposed project is financially feasible as a qualified low income housing project. Development and operational costs shall be reasonable and within limits established by the Committee, and may be adjusted by the Committee, at any time prior to issuance of tax forms. Approved sources of funds shall be sufficient to cover approved uses of funds. If it is determined that sources of funds are insufficient, an application shall be deemed not to have met basic threshold requirements and shall be considered incomplete. Following its initial and subsequent feasibility determinations, the Committee may determine a lesser amount of Tax Credits for which the proposed project is eligible, pursuant to the requirements herein, and may rescind a reservation or allocation of Tax Credits in the event that the maximum amount of Tax Credits achievable is insufficient for financial feasibility.

(b) Limitation on determination. A Committee determination of financial feasibility in no way warrants to any applicant, investor, lender or others that the proposed project is, in fact, feasible.

(c) Reasonable cost determination. IRC Section 42(m) requires that the housing Credit dollar amount allocated to a project not exceed the amount the housing Credit agency determines is necessary for the financial feasibility of the project. The following standards shall apply:

(1) Builder overhead, profit and general requirements. An overall cost limitation of fourteen percent (14%) of the cost of construction shall apply to builder overhead, profit, and general requirements, excluding builder's general liability insurance. For purposes of builder overhead and profit, the cost of construction includes offsite improvements, demolition and site work, structures, prevailing wages, and general requirements. For purposes of general requirements, the cost of construction includes offsite improvements, demolition and site work, structures, and prevailing wages. Project developers shall not enter into fixed-price contracts that do not account for these restrictions, and shall disclose any payments for services from the builder to the developer.

(2) Developer fee. The maximum developer fee that may be included in project costs for a 9% competitive credit application is the lesser of 15% of the project's eligible basis plus 15% of the basis for non-residential costs included in the project and allocated on a pro rata basis, or two million ($2,000,000) dollars. A cost limitation on developer fees that may be included in eligible basis, shall be as follows:

(A) For 9% competitive applications applying under section 10325 of these regulations, the following limitations shall apply:

(i) the maximum developer fee that may be included in eligible basis for a new construction or rehabilitation only project is the lesser of 15% of the project's unadjusted eligible basis, or one million four hundred thousand ($1,400,000) dollars; or

(ii) the maximum developer fee that may be included in eligible basis for acquisition/rehabilitation projects is the lesser of 15% of unadjusted eligible construction related basis plus 5% of the unadjusted eligible acquisition basis, or one million four hundred thousand ($1,400,000) dollars; or the maximum developer fee that may be included in eligible basis for projects receiving a waiver of the project size limitations under section 10325(f)(9)(C) of these regulations is the lesser of 15% of the project's eligible basis or $1,680,000 for projects having between 201 and 250 units, $1,750,000 for projects having between 251 and 300 units, and $1,820,000 for projects having more than 300 units.

(B) For 4% credit projects applying under Section 10326 of these regulations, the maximum developer fee that may be included in project costs and eligible basis ~~is the lesser of 15% of the project's eligible basis or two million five hundred thousand dollars ($2,500,000). A cost limitation on developer fees that may be included in eligible basis~~ shall be as follows:

(i) for new construction or rehabilitation only projects, the maximum developer fee that may be included in project costs and eligible basis ~~for a new construction or rehabilitation only project~~ is ~~the lesser of~~ 15% of the project's unadjusted eligible basis. All developer fees in excess of two million five hundred thousand ($2,500,000) dollars plus $10,000 per unit for each Tax Credit unit in excess of 100 shall be deferred or contributed as equity to the project.~~, or two million five hundred thousand ($2,500,000) dollars; or~~

(ii) the maximum developer fee that may be included in project costs and eligible basis for acquisition/rehabilitation projects is ~~the lesser of~~ 15% of the unadjusted eligible construction related basis and ~~five (~~5%~~)~~ percent of the unadjusted eligible acquisition basis. All developer fees in excess of two million five hundred thousand ($2,500,000) dollars plus $10,000 per unit for each Tax Credit unit in excess of 100 shall be deferred or contributed as equity to the project~~, or two million five hundred thousand ($2,500,000) dollars~~. A 15% developer fee on the acquisition portion will be permitted for at-risk developments meeting the requirements of section 10325(g)(5) or for other acquisition/rehabilitation projects whose hard construction costs per unit in rehabilitation expenditures ~~of~~ are at least $~~15,000~~20,000 or where the development will restrict at least 30% of its units for those with incomes no greater than 50% of area median and restrict rents concomitantly.

(C) For purposes of this subsection, the unadjusted eligible basis is determined without consideration of the developer fee. Once established at the initial funded application, the developer fee cannot be increased, but may be decreased, in the event of a modification in basis. Both the developer fee limitations in total project costs described in paragraphs (2) and (2)(B) above, and the developer fee limitations in basis described in (2)(A) and (2)(B) above apply to projects developed as multiple simultaneous phases using the same credit type (all 9% or all 4% credits) in both phases. Only when a phased project is using both credit types may simultaneously phased projects exceed the limitations in (2), (2)(A), and

(2)(B) in the aggregate. For purposes of this limitation, "simultaneous" refers to projects consisting of a single building, or projects on the same or adjacent parcels with construction start dates within six months of each other, or completion dates that are within six months of each other.

(D) Deferred fees and costs. Deferral of project development costs shall not exceed an amount equal to seven-and-one-half percent (7.5%) of the unadjusted eligible basis of the proposed project prior to addition of the developer fee. Unless expressly required by a State or local public funding source, in no case may the applicant propose deferring project development costs in excess of half (50%) of the proposed developer fee. Tax-exempt bond projects shall not be subject to this limitation.

(3) Syndication expenses. A cost limitation on syndication expenses, excluding bridge loan costs, shall be twenty percent (20%) of the gross syndication proceeds, if the sale of Tax Credits is through a public offering or private Securities and Commission Regulation D offering, and ten percent (10%) of the gross syndication proceeds, if the sale is through a private offering. The Executive Director may allow exceptions to the above limitation, in amounts not to exceed twenty-four percent (24%) for public offerings and private Securities and Exchange Commission Regulation D offerings, and fifteen percent (15%) for private offerings, should the following circumstances be present: smaller than average project size; complex financing structure due to multiple sources; complex land lease or ownership structure; higher than average investor yield requirements, due to higher than average investor risk; and, little or no anticipated project cash allowing lower-than-market investor returns. Syndication costs cannot be included in eligible basis.

(4) Net syndication proceeds. The Executive Director shall evaluate the net syndication proceeds to ensure that project sources do not exceed uses and that the sale of Tax Credits generates proceeds equivalent to amounts paid in comparable syndication raises. The Executive Director shall determine the minimum tax credit factor to be used in all applications prior to the beginning of a funding cycle for projects applying under Section 10325 for both Federal and State Tax Credits. The minimum tax credit factor for applications made under Section 10326 shall be adjusted annually based on current market conditions.

(5) Threshold Basis Limits. The Committee shall limit the unadjusted eligible basis amount, used for calculating the maximum amount of Tax Credits to amounts published on its website in effect at the time of application, and in accordance with the definition in Section 10302(nn) of these regulations. This limitation shall not apply for purposes of calculating the final Credit amount upon issuance of tax forms, including projects that have already received Reservation or allocations of Tax Credits.

Exceptions to limits.

(A) Increases in the Threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations. The maximum increase to the unadjusted eligible basis of a development permitted under this subsection shall not exceed thirty-nine percent (39%).

A twenty percent (20%) increase to the unadjusted eligible basis for a development that is paid for in whole or in part out of public funds and is ~~required by a public awarding body to pay~~ subject to a legal requirement for the payment of state or federal prevailing wages or financed in part by a labor-affiliated organization that requires the employment of construction workers who are paid at least state or federal prevailing wages. An additional five percent (5%) increase to the unadjusted eligible basis shall be available for projects that certify that they are subject to a project labor agreement within the meaning of Section 2500(b)(1) of the Public Contract Code that requires the employment of construction workers who are paid at least state or federal prevailing wages or that they will use a skilled and trained workforce, as defined in Section 25536.7 of the Health and Safety Code, to perform all onsite work within an apprenticeable occupation in the building and construction trades. All applicants under this paragraph shall certify that contractors and subcontractors will comply with Section 1725.5 of the Labor Code, if applicable;

A seven percent (7%) increase to the unadjusted eligible basis for a new construction development where parking is required to be provided beneath the residential units (but not "tuck under" parking) or through construction of an on-site parking structure of two or more levels;

A two percent (2%) increase to the unadjusted eligible basis where a day care center is part of the development;

~~An increase equal to any Local Development Impact Fees as defined in Section 10302 of these regulations if the fees are documented in the application submission by the entities charging such fees;~~

A two percent (2%) increase to the unadjusted eligible basis where 100% of the units are for special needs populations;

A ten percent (10%) increase to the unadjusted eligible basis for a development wherein at least 95% of the project's upper floor units are serviced by an elevator.

With the exception of the prevailing wage increase, the Local Impact Fee increase, and the special needs increase, in order to receive the basis limit increases by the corresponding percentage(s) listed above, a certification signed by the project architect shall be provided within the application confirming that item(s) listed above will be incorporated into the project design.

(B) A further increase of up to ten percent (10%) in the Threshold Basis Limits will be permitted for projects applying under Section 10325 or Section 10326 of these regulations that include one or more of the following energy efficiency/resource conservation/indoor air quality items:

(1) Project shall have onsite renewable generation estimated to produce 50 percent (50%) or more of annual electricity use (dwelling unit and common area meters combined). If the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. Five percent (5%)

(2) Project shall have onsite renewable generation estimated to produce 75 percent (75%) or more of annual common area electricity use. If the combined available roof area of the project structures, including carports, is insufficient for provision of 75% of annual electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area. Available solar accessible area is defined as roof area less north facing roof area for sloped roofs, equipment, solar thermal hot water and required local or state fire department set-backs and access routes. Two percent (2%)

(3) Newly constructed project buildings shall be ~~forty-five~~ fifteen percent (~~45~~15%) or more energy efficient than the ~~2008~~ 2013 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). Four percent (4%)

(4) Rehabilitated project buildings shall have eighty percent (80%) decrease in estimated TDV energy use (or improvement in energy efficiency) post rehabilitation as demonstrated using the appropriate performance module of CEC approved software. Four percent (4%)

(5) Irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens). One percent (1%)

(6) Community Gardens of at least 60 square feet per unit. Permanent site improvements that provide a viable growing space within the project including solar access, fencing, watering systems, secure storage space for tools, and pedestrian access. One percent (1%)

(7) Install bamboo, cork, salvaged or FSC-Certified wood, natural linoleum, natural rubber, or ceramic tile in all kitchens, living rooms, and bathrooms (where no VOC adhesives or backing is also used). One percent (1%)

(8) Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, ceramic tile, or natural linoleum in all common areas. Two percent (2%)

(9) Meet all requirements of the U.S. Environmental Protection Agency Indoor Air Plus Program. Two percent (2%)

Compliance and Verification: For placed-in-service applications, in order to receive the increase to the basis limit, the application shall contain a certification from the a HERS Rater, a GreenPoint Rater, or an accredited LEED for Homes Green Rater verifying that item(s) listed above have been incorporated into the project, except that items (5) through (8) may be verified by the project architect. For items (3) and (4), the applicant must submit the energy consumption and analysis report using the appropriate performance module of CEC-approved software, which shows the pre- and post-rehabilitation estimated Time Dependent Valuation (TDV) energy use demonstrating the required improvement, in their placed-in-service application. Applicants must submit a Sustainable Building Method Workbook with the original application and the placed-in-service application. Additionally, for item (6) a management plan must be submitted and must be available to onsite staff. Failure to incorporate the features, or to submit the appropriate documentation may result in a reduction in credits awarded and/or an award of negative points.

(C) Additionally, for projects applying under Section 10326 of these regulations, an increase of one percent (1%) in the threshold basis limits shall be available for every 1% of the project's units that will be income and rent restricted at or below 50 percent (50%) but above thirty-five percent (35%) of Area Median Income (AMI). An increase of two percent (2%) shall be available for every 1% of the project's units that will be restricted at or below 35% of AMI. In addition, the applicant must agree to maintain the affordability period of the project for 55 years (50 years for projects located on tribal trust land).

(D) Projects requiring seismic upgrading of existing structures, and/or projects requiring toxic or other environmental mitigation may be permitted an increase in basis limit equal to the lesser of the amount of costs associated with the seismic upgrading or environmental mitigation or 15% of the project's unadjusted eligible basis to the extent that the project architect certifies in the application to the costs associated with such work.

(E) An increase equal to any Local Development Impact Fees as defined in Section 10302 of these regulations if the fees are documented in the application submission by the entities charging such fees.

(6) Acquisition costs. Applications including acquisition and rehabilitation costs for existing improvements shall be underwritten using the lesser amount of the purchase price or the "as is" appraised value of the subject property (as defined in Section 10322(h)(9)) and its existing improvements without consideration of the future use of the property as rent restricted housing except if the property has existing long term rent restrictions that affect the as-is value of the property. The land value shall be based upon an "as if vacant" value as determined by the appraisal methodology described in Section 10322(h)(9) of these regulations. If the purchase price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. The Executive Director may waive this requirement where a local governmental entity is purchasing, or providing funds for the purchase of land for more than its appraised value in a designated revitalization area when the local governmental entity has determined that the higher cost is justified.

For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits, applications including acquisition and rehabilitation costs for existing improvements shall be underwritten using the sales price that is no more than the greater of the amount of debt encumbering the property or the value established by a third-party appraisal consistent with Section 10322(h)(9). If the purchase price is greater than the appraised value, the additional basis shall be prorated between the land and improvements based on the ratio in the appraisal. If the sales price is no more than the amount of debt encumbering the property and the applicant foregoes an appraisal pursuant to Section 10322(h)(9), TCAC shall approve a reasonable proration of land and improvement basis consistent with similar projects in the market area.

(7) Reserve accounts. All unexpended funds in project reserve accounts shall remain with the project to be used for the benefit of the property and/or its residents, except for amounts designated to be used to pay deferred developer fees, which may be released as stated below. The Committee shall allow operating reserve amounts in excess of industry norms to be considered "reasonable costs," for purposes of this subsection, only for applications requesting a reservation of Tax Credits under the Nonprofit set-aside homeless assistance apportionment, as described in Section 10315(b), SRO, Special Needs, or HOPE VI, or project based Section 8 projects. The original Sources and Uses budget, the pro forma balance sheet and pro forma income/expense statement, and the final cost certification should demonstrate the initial and subsequent funding of the replacement and operating reserves.

(A) The Minimum replacement reserve for projects shall be three hundred dollars ($300) per unit per year; or

(B) For new construction or senior projects, two hundred fifty dollars ($250) per unit per year.

(C) An operating reserve will be funded in an amount equal to three months of estimated operating expenses and debt service under stabilized occupancy. Additional funding will be required only if withdrawals result in a reduction of the operating reserve account balance to 50% or less of the originally funded amount. An equal, verified operating reserve requirement of any other debt or equity source may be used as a substitute, and the reserve may be released following achievement of a minimum annual debt service ratio of 1.15 for three consecutive years following stabilized occupancy.

(8) Applicant resources. If the applicant intends to finance part or all of the project from its own resources (other than deferred fees), the applicant shall be required to prove, to the Executive Director's satisfaction, that such resources are available and committed solely for this purpose, including an audited certification from a third party certified public accountant that applicant has sufficient funds to successfully accomplish the financing.

(9) Self-syndication. If the applicant or a Related Party intends to be the sole or primary tax credit investor in a project seeking Federal Credit Ceiling, the project shall be underwritten using a tax credit factor (i.e., price) of $1 for each dollar of federal tax credit and $.65 dollars for each dollar of State Tax Credit, unless the applicant proposes a higher value.

(d) Determination of eligible and qualified basis. The Committee shall provide forms to assist applicants in determining basis. The Committee shall rely on certification from an independent, qualified Certified Public Accountant for determination of basis; however, the Committee retains the right to disallow any basis it determines ineligible or inappropriate.

(1) High Cost Area adjustment to eligible basis. Proposed projects located in a qualified census tract or difficult development area, as defined in IRC Section 42(d)(5)(c)(iii), may qualify for a thirty percent (30%) increase to eligible basis, subject to Section 42, applicable California statutes and these regulations. Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications relating to sites that have lost their difficult development area status within the previous 12 months as a difficult development area (DDA).

(2) Pursuant to Authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications proposing a project meeting the Special Needs housing type threshold requirements at Section 10325(g)(4) as a difficult development area (DDA).

(e) Determination of Credit amounts. The applicant shall determine, and the Committee shall verify, the maximum allowable Tax Credits and the minimum Tax Credits necessary for financial feasibility, subject to all conditions of this Section. For purposes of determining the amount of Tax Credits, the project's qualified basis shall be multiplied by an applicable Credit percentage established by the Executive Director, prior to each funding cycle. The percentage shall be determined taking into account recently published monthly Credit percentages.

(f) Determination of feasibility. To be considered feasible, a proposed project shall exhibit positive cash flow after debt service for a 15-year minimum term beginning at stabilized occupancy, or in the case of acquisition/rehabilitation projects, at the completion of rehabilitation. "Cash flow after debt service" is defined as gross income (including all rental income generated by proposed initial rent levels contained within the project application) minus vacancy, operating expenses, property taxes, service amenity expenses, operating and replacement reserves and must pay debt service (not including residual receipts debt payments). Applications that qualify for a reservation of Tax Credits from the Nonprofit set-aside homeless assistance apportionment, or from the Special Needs/SRO set-aside as described in subsections 10315(b) and (e), operating reserves may be added to gross income for purposes of determining "cash flow after debt service."

(g) Underwriting criteria. The following underwriting criteria shall be employed by the Committee in a pro forma analysis of proposed project cash flow to determine the minimum Tax Credits necessary for financial feasibility and the maximum allowable Tax Credits:

(1) Minimum operating expenses shall include expenses of all manager units and market rate units, and must be at least equal to the minimum operating expense standards published by the Committee staff annually. The published minimums shall be established based upon periodic calculations of operating expense averages annually reported to CTCAC by

existing tax credit property operators. The minimums shall be displayed by region, and project type (including large family, senior, and SRO/Special Needs), and shall be calculated at the reported average or at some level discounted from the reported average. The Executive Director may, in his/her sole discretion, utilize operating expenses up to 15% less than required in this subsection for underwriting when the equity investor and the permanent lender are in place and provide evidence that they have agreed to such lesser operating expenses. These minimum operating expenses do not include property taxes, replacement reserves, depreciation or amortization expense, or the costs of any service amenities. Out-year calculations shall be a two-and-one-half percent (2.5%) increase in gross income, a three-and-one-half percent (3.5%) increase in operating expenses (excluding operating and replacement reserves set at prescribed amounts), and a two percent (2%) increase in property taxes. However, where a private conventional lender and project equity partner use a 2% gross income and 3% operating expense increase underwriting assumption, CTCAC shall accept this methodology as well.

(A) Special needs projects that are less than 100% special needs shall prorate the operating expense minimums, using the special needs operating expenses for the special needs units, and the other applicable operating expense minimums for the remainder of the units.

(2) Property tax expense minimums shall be one percent (1%) of total replacement cost, unless:

(A) the verified tax rate is higher or lower;
(B) the proposed sponsorship of the applicant includes an identified 501(c)(3) corporate general partner which will pursue a property tax exemption; or
(C) the proposed sponsorship of the applicant includes a Tribe or tribally-designated housing entity.

(3) Vacancy and collection loss minimums shall be five percent (5%) for family, seniors, and at-risk proposals, and ten percent (10%) for special needs and SRO proposals, unless waived by the Executive Director based on vacancy data in the market area for the population to be served.

(4) Loan terms, including interest rate, length of term, and debt service coverage, shall be evidenced as achievable and supported in the application, or applicant shall be subject to the prevailing loan terms of a lender selected by the Committee.

(5) Variable interest rate permanent loans shall be considered at the underwriting interest rate, or, alternatively, at the permanent lender's underwriting rate upon submission of a letter from the lender indicating the rate used by it to underwrite the loan. All permanent loan commitments with variable interest rates must demonstrate that a "ceiling" rate is included in the loan commitment or loan documentation. If not, the permanent loan will not be accepted by CTCAC as a funding source.

(6) Minimum Debt Service Coverage. An initial debt service coverage ratio equal to at least 1.15 to 1 in at least one of the project's first three years is required, except for FHA/HUD projects, RHS projects or projects financed by the California Housing Finance Agency. Debt service does not include residual receipts debt payments. Except where a higher first year ratio is necessary to meet the requirements of subsection 10327(f) (under such an exception the year-15 cash flow shall be no more than the greater of 1) two percent (2%) of the year-15 gross income or 2) the lesser of $500 per unit or $25,000 total), "cash flow after debt service" shall be limited to the higher of twenty-five percent (25%) of the anticipated annual must pay debt service payment or eight percent (8%) of gross income, during each of the first three years of project operation. Pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at placed in service, must demonstrate that this limitation is not exceeded during the first three years of the project's operation. Otherwise, the maximum annual Federal Credit will be reduced at the time of the 8609 package is reviewed, by the amounts necessary to meet the limitations. Gross income

includes rental income generated by proposed initial rent levels contained with the project application.

The reduction in maximum annual Federal Credit may not be increased subsequent to any adjustment made under this section.

(7) The income from the residential portion of a project shall not be used to support any negative cash flow of a commercial portion. Alternatively, the commercial income shall not support the residential portion without evidence that adequate security will be provided to substitute for commercial income deficits that may arise. Applicants must provide an analysis of the anticipated commercial income and expenses.

(8) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) that are subject to the hold harmless rent provisions of the federal Housing and Economic Recovery Act of 2008 (HERA) at application may, at the request of the applicant, be underwritten at the hold harmless rent limits to the extent that they do not exceed the elected federal set-aside current tax credit rent limits, except that the application of the rent adjuster shall be delayed for a number of years equal to the percentage difference between the hold harmless rent limits and the current tax credit rent limits, with the result divided by 2.5 and rounded to the nearest year. The new regulatory agreement shall reflect the current tax credit rent limits, but the project may continue to charge hold harmless HERA rents for units targeted below the elected federal set-aside (i.e., 40% of units at 60% AMI or 20% of units at 50% AMI) provided that the hold harmless rents do not exceed the rent level for the applicable elected federal set-aside and only until such time as the current tax credit rent limits equal or exceed the hold harmless rents.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10328. Conditions on Credit Reservations

(a) General. All reservations of Tax Credits shall be conditioned upon:

(1) timely project completion;

(2) receipt of amounts of Tax Credits no greater than necessary for financial feasibility and viability as a qualified low-income housing project throughout the extended use period;

(3) income targets as proposed in the application; and,

(b) Preliminary reservations. Preliminary reservations of Tax Credits shall be subject to conditions as described in this subsection and applicable statutes. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the performance deposit described in Section 10335 and an executed reservation letter bearing the applicant's signature accepting the reservation within twenty (20) calendar days of the Committee's notice to the applicant of the preliminary reservation. However, should the 20-day period for returning the executed reservation letter continue past December 15 of any year, an applicant may be required to execute and return the reservation letter in less than twenty (20) days in order that the reservation be effective. Failure to comply with any shortened period would invalidate the reservation offer and permit the Committee to offer a reservation to the next eligible project.

(c) Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation but who did not receive all ~~20~~ 15 points in the Readiness to Proceed point category shall provide the Committee with a completed updated application form no later than 180 days or 194 days, as applicable, following Credit reservation.

Upon receipt of the updated application form, the Committee shall conduct a financial feasibility and cost reasonableness analysis for the proposed project, and determine if all conditions of the preliminary reservation have been satisfied. Substantive changes to the approved application form, in particular, changes to the financing plan or costs, need to be explained by the applicant in detail, and may cause the project to be reconsidered by the Committee.

(d) Carryover Allocations. Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation shall satisfy either the Placed-in-service requirements pursuant to subsection 10322(i) or carryover allocation requirements in the year the reservation is made, pursuant to IRC Section 42(h)(1)(E) and these regulations, as detailed below. An application for a carryover allocation must be submitted by October 31 of the year of the reservation, together with the applicable allocation fee, and all required documentation, except that the time for meeting the "10% test" and submitting related documentation, and owning the land, will be no later than twelve (12) months after the date of the carryover allocation.

(1) Additional documentation and analysis. The Executive Director may request, and the holder of a Credit reservation shall provide, additional documentation required for processing a carryover allocation.

(2) In addition to the requirements of the Internal Revenue Code, to receive a carryover allocation an applicant shall provide evidence that applicant has maintained site control from the time of the initial application and, if the land is not already owned, will continue to maintain site control until the time for submitting evidence of the land's purchase.

(3) Certification. The Committee shall require a certification from an applicant that has received a reservation, that the facts in the application continue to be true before a carryover allocation is made.

(e) Placed-in-service. Within one year following the project's completion of construction, the applicant shall submit documentation required by Section 10322(i).

(f) Additional Conditions to Reservations and Allocations of Tax Credits. Additional conditions, including cancellation, disqualification and other sanctions may be imposed by the Committee in furtherance of the purposes of the Tax Credits programs.

(g) Reservation Exchange for High-Rise Projects. A High-Rise Project with a reservation of Federal Credit pursuant to Section 10325, and a carryover allocation pursuant to Section 10328(d) and IRC Code § 42(h)(1)(E), may elect to return all of the Federal Credit during the year immediately following the year in which the carryover allocation is made in exchange for a new reservation and allocation of Federal Credits. An election to return Federal Credits pursuant to this subsection may be made only during January of the calendar year directly following the year in which the initial reservation and carryover allocation are made. The reservation and carryover allocation of the Federal Credits returned pursuant to this subsection shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant specifying the returned credit amount and the effective date on which the credits are deemed returned. The Committee shall concurrently issue a new reservation of Federal Credits to the project in the amount of the Federal Credits returned by the project to the Committee.

(h) CTCAC may contract with accountants and contractors or construction engineers to review the accuracy and reasonableness of a subset of final cost certifications submitted each year. The owner of a project selected for review and the accountant who prepared the final cost certification for such a project shall provide all requested information and generally facilitate the review.

Authority: Section 50199.17, Health & Safety Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue & Taxation Code; and Sections 50199.4-50199.22, Health & Safety Code.

Section 10330. Appeals

(a) Availability. No applicant may appeal the Committee staff evaluation of another applicant's application. An applicant may file an appeal of a Committee staff evaluation, limited to:

(1) determination of the application point score;

(2) disqualification from participation in the program pursuant to subsection 10325(c);

(3) qualification for "additional threshold requirements," pursuant to subsection 10325(g); and, determination of the Credit amount, pursuant to Section 10327.

(b) Timing. The appeal must be submitted in writing and received by the Committee no later than seven (7) calendar days following the transmittal date of the Committee staff's point or disqualification letter. The appeal shall identify specifically, based upon previously submitted application materials, the applicant's grounds for the appeal.

Staff will respond in writing to the appeal letter within 7 days after receipt of the appeal letter. If the applicant is not satisfied with the staff response, the applicant may appeal in writing to the Executive Director within seven days after receipt of the staff response letter. The Executive Director will respond in writing no more than seven (7) days after receipt of the appeal. If the applicant is not satisfied with the Executive Director's decision and wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than seven days following the date of receipt of the Executive Director's letter. An appeal on any given project, when directed to the Executive Director or the Committee, must be accompanied by a one time, five hundred dollar ($500) non-refundable fee payment payable by cashier's check to CTCAC. No appeals will be addressed without this payment. The appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed.

Authority: Section 50199.17, Health & Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue & Taxation Code; and Sections 50199.4-50199.22, Health & Safety Code.

Section 10335. Fees and Performance Deposit

(a) Application fee. Every applicant, including tax-exempt bond project applicants, shall be required to pay an application filing fee of $2,000. This fee shall be paid in a cashier's check payable to the Committee and shall be submitted with the application. This fee is not refundable. Applicants reapplying in the same calendar year for an essentially similar project on the same project site shall be required to pay an additional $1,000 filing fee to be considered in a subsequent funding round, regardless of whether any amendments are made to the re-filed application. At the request of the applicant and upon payment of the applicable fee by the application filing deadline, applications remaining on file will be considered as is, or as amended, as of the date of a reservation cycle deadline. It is the sole responsibility of the applicant to amend its application prior to the reservation cycle deadline to meet all application requirements of these regulations, and to submit a "complete" application in accordance with Section 10322.

(1) Local Reviewing Agency. One-half of the initial application filing fee shall be provided to an official Local Reviewing Agency (LRA) which completes a project evaluation for the Committee. The Local Reviewing Agency may waive its portion of the application filing

fee. Such waiver shall be evidenced by written confirmation from the LRA, included with the application. An application that includes such written confirmation from an LRA may remit an application filing fee of $1,000.

(b) Allocation fee. Every applicant who receives a reservation of Tax Credits, except tax-exempt bond project applicants, shall be required to pay an allocation fee equal to four percent (4%) of the dollar amount of the first year's Federal Credit amount reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee paid by cashier's check made payable to the Committee prior to execution of a carryover allocation or issuance of tax forms, whichever comes first. Preliminary reservation recipients receiving any competitive readiness points under Section 10325(c)(8) must pay one-half of the allocation fee within 90 days of the preliminary reservation, and the balance as described above. This fee is not refundable.

(c) Appeal fee. Any applicant submitting an appeal to the Executive Director and/or the Committee with respect to CTCAC's action on a given application will pay a one time fee to CTCAC. This fee, in the amount of five hundred dollars ($500) must be paid by cashier's check payable to CTCAC, and must accompany the original appeal letter.

(d) Reservation fee. Tax-exempt bond project applicants receiving Credit reservations shall be required to pay a reservation fee equal to one percent (1%) of the annual Federal Tax Credit reserved. Reservations of Tax Credits shall be conditioned upon the Committee's receipt of the required fee within twenty (20) days of issuance of a tax-exempt bond reservation or prior to the issuance of tax forms, whichever is first.

(e) Performance deposit. Each applicant receiving a preliminary reservation of Federal, or Federal and State, Tax Credits shall submit a performance deposit equal to four percent (4%) of the first year's Federal Credit amount reserved. Notwithstanding the other provisions of this subsection, an applicant requesting Federal Tax Credits not subject to the Federal housing Credit Ceiling and requesting State Tax Credits, shall be required to submit a performance deposit in an amount equal to four percent (4%) of the first year's State Credit amount reserved for the project. Notwithstanding the other provisions of this Section, an applicant requesting only Federal Tax Credits not subject to the Federal Credit Ceiling, shall not be required to submit a performance deposit.

(1) Timing and form of payment. The performance deposit shall be submitted in a cashier's check payable to the Committee within twenty (20) calendar days of the Committee's notice to the applicant of a preliminary reservation.

(2) Returned Tax Credits. If Tax Credits are returned after a reservation has been accepted, the performance deposit is not refundable, with the following exceptions. Projects unable to proceed due to a natural disaster, a law suit, or similar extraordinary circumstance that prohibits project development may be eligible for a refund. Requests to refund a deposit shall be submitted in writing for Committee consideration. Amounts not refunded are forfeited to the Committee. All forfeited funds shall be deposited in the occupancy compliance monitoring account to be used to help cover the costs of performing the responsibilities described in Section 10337.

(3) Refund or forfeiture. To receive a full refund of the performance deposit, the applicant shall do all of the following: place the project in service under the time limits permitted by law; qualify the project as a low-income housing project as described in Section 42; meet all the conditions under which the reservation of Tax Credits was made; certify to the Committee that the Tax Credits allocated will be claimed; and, execute a regulatory agreement for the project.

If the Committee cancels a Credit because of misrepresentation by the applicant either before or after an allocation is made, the performance deposit is not refundable. If the project is completed, but does not become a qualified low-income housing project, the performance deposit is not refundable.

(4) Appeals. An applicant may appeal the forfeiture of a performance deposit, by submitting in writing, a statement as to why the deposit should be refunded. The appeal shall be received by the Committee not later than seven (7) calendar days after the date of mailing by the Committee of the action from which the appeal is to be taken. The Executive Director shall review the appeal, make a recommendation to the Committee, and submit the appeal to the Committee for a decision.

(f) Compliance monitoring fee. The Committee shall charge a $410 per low-income unit fee to cover the costs associated with compliance monitoring throughout the extended-use period. Generally, payment of the fee shall be made prior to the issuance of Federal and/or State tax forms. Assessment of a lesser fee, and any alternative timing for payment of the fee, may be approved at the sole discretion of the Executive Director and shall only be considered where convincing proof of financial hardship to the owner is provided. Nothing in this subsection shall preclude the Committee from charging an additional fee to cover the costs of any compliance monitoring required, but an additional fee shall not be required prior to the end of the initial 15 year compliance period.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.

Section 10337. Compliance

(a) Regulatory Agreement. All recipients of Tax Credits, whether Federal only, or both Federal and State, are required to execute a regulatory agreement, as a condition to the Committee's making an allocation, which will be recorded against the property for which the Tax Credits are allocated, and, if applicable, will reflect all scoring criteria proposed by the applicant in the competition for Federal and/or State housing Credit Ceiling.

(1) For all projects receiving a reservation of competitive 9% federal tax credits on or after January 1, 2016 for which all general partners will be Qualified Nonprofit Organizations, the partnership agreement shall include a Right of First Refusal (“ROFR”) for one or more of the nonprofit general partners to purchase the project after the end of the 15-year federal compliance period. The price to purchase the project under this ROFR shall be the minimum price allowed under IRC Section 42(i) plus any amounts required to be paid to the tax credit investors that remain unpaid for approved Asset Management Fees and required payments under the limited partnership agreement for tax credit adjusters that remain outstanding at the time of the sale. The applicant shall demonstrate compliance with this requirement prior to the issuance of the 8609 forms.

(2) For all projects receiving a reservation of 4% and 9% federal tax credits on or after January 1, 2016, the regulatory agreement shall require written approval of the Executive Director for any Transfer Event.

(3) Where a Project is receiving renewable project-based rental assistance or operating subsidy:

(~~1~~A) the Sponsor shall in good faith apply for and accept all renewals available;

(~~2~~B) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall notify CTCAC in writing immediately and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the recorded CTCAC regulatory agreement. Upon documenting to CTCAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for Rent Restricted Units above the levels allowed by the recorded regulatory agreement up to the federally-permitted maximum. Rents shall be raised only to the extent required for Financial Feasibility, as determined by CTCAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by TCAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's Financial Feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.

(b) Responsibility of owner.

(1) Compliance. All compliance requirements monitored by the Committee shall be the responsibility of the project owner. Project owners are required to annually certify tenant incomes in conformance with IRS regulation §1.42-5(c)(3) unless the project is a 100 percent (100%) tax credit property exempted under IRC Section 142(d)(3)(A). Owners of a 100% tax credit property must perform a first annual income recertification in addition to the required initial move-in certification. After initial move-in certification and first annual recertification, owners of 100% tax credit properties may discontinue obtaining income verifications. Owners of 100% tax credit properties must continue to check for full-time student status of all households during the entire tenancy of the households and throughout the initial compliance period, and continue recordkeeping in accordance with paragraph (1) of this subsection. These requirements continue if the tax credit property is sold, transferred, or under new management. Any failure by the owner to respond to compliance reports and certification requirements will be considered an act of noncompliance and shall be reported to the IRS if reasonable attempts by the Committee to obtain the information are unsuccessful.

(2) Accessible Units: Reasonable Accommodations. ~~Projects~~ All new and existing Tax Credit projects with fully accessible units for occupancy by persons with mobility impairments or hearing, vision or other sensory impairments shall provide a preference for those units as follows.

(A) First, to a current occupant of another unit of the same project having handicaps requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then

(B) Second, to an eligible qualified applicant on the waiting list having a handicap requiring the accessibility features of the vacant unit.

When offering an accessible unit to an applicant not having handicaps requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

Owners and managers shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit.

(c) Compliance monitoring procedure. As required by Section 42(m), allocating agencies are to follow a compliance monitoring procedure to monitor all Credit projects for compliance with provisions of Section 42. Compliance with Section 42 is the sole responsibility of the owner of the building for which the Credit is allowable. The Committee's obligation to monitor projects for compliance with the requirements of Section 42 does not place liability on the Committee for any owner's noncompliance, nor does it relieve the owner of its responsibility to comply with Section 42.

(1) Record keeping. The owner of a Credit project is required to keep records for each qualified low income building in the project for each year in the compliance period showing: the total number of residential rental units in the building (including the number of bedrooms, and unit size in square feet); the percentage of residential rental units in the building that are low-income units; the rent charged for each unit; a current utility allowance as specified in 26 CFR Section 142.10(c) and Section 10322(h)(21) of these regulations (for buildings using an energy consumption model utility allowance, that allowance must be calculated using the most recent version of the CUAC); the number of household members in each unit; notation of any vacant units; move-in dates for all units; tenant's (i.e., household) income; documentation to support each household's income certification; the eligible basis and qualified basis of the building at the end of the first year of the Credit period; and, the character and use of any nonresidential portion of the building included in the building's eligible basis.

Upon request, scattered site projects shall make these records available for inspection by CTCAC staff at a single location.

(2) Record Retention. For each qualified low-income building in the project, and for each year of the compliance period, owners and the Committee are required to retain records of the information described above in "record keeping requirements."

(A) Owners shall retain documents according to the following schedule:

(i) for at least six years following the due date (with extensions) for filing the Federal income tax return for that year (for each year except the first year of the Credit period); and,

(ii) for the first year of the Credit period, at least six years following the due date (with extensions) for filing the Federal income tax return for the last year of the compliance period of the building.

(iii) for local health, safety, or building code violation reports or notices issued by a state or local governmental entity, until the Committee has inspected the reports or notices and completes the tenant file and unit inspections and the violation has been corrected. This subsection shall take effect beginning January 1, 2001.

(B) The Committee shall retain records of noncompliance, or failure to certify, for at least six years beyond the Committee's filing of the respective IRS noncompliance Form 8823. Should the Committee require submission of copies of tenant certifications and records, it shall retain them for three years from the end of the calendar year it receives them. Should it instead review tenant files at the management office of the subject project, it shall retain its review notes and any other pertinent information for the same three-year period. The Committee shall retain all other project documentation for the same three-year period.

(3) Certification requirements. Under penalty of perjury, a Credit project owner is required to annually, during each year of the compliance period, meet the certification requirements of U.S. Treasury Regulations 26 CFR 1.42-5(c), (including certifications that no finding of discrimination under the Fair Housing Act, 42 USC 3601 occurred for the project), that the buildings and low income units in the project were suitable for occupancy taking into account local health, safety, and building codes, that no violation reports were issued for

any building or low income unit in the property by the responsible state or local government unit, that the owner did not refuse to lease a unit to an applicant because the applicant had a section 8 voucher or certificate, and that except for transitional or single room occupancy housing, all low income units in the project were used on a nontransient basis. The following must also be certified to by the owner:

(A) the project met all terms and conditions recorded in its Regulatory Agreement, if applicable;

(B) the applicable fraction (as defined in IRC Section 42(c)(1)(B)) met all requirements of the Credit allocation as specified on IRS Form(s) 8609 (Low-Income Housing Credit Allocation Certification.);

(C) no change in ownership of the project has occurred during the reporting period;

(D) the project has not been notified by the IRS that it is no longer a "qualified low-income housing project" within the meaning of Section 42 of the IRC;

(E) no additional tax-exempt bond funds or other Federal grants or loans with interest rates below the applicable Federal rate have been used in the Project since it was placed-in-service; and,

(F) report the number of units that were occupied by Credit eligible households during the reporting period.

(G) the services specified in the Regulatory Agreement were provided to the tenants during the reporting period.

(H) if the project is subject to a cash flow limitation in its Regulatory Agreement, that the limitation has been met.

(4) Status report, file and on site physical inspection. The Committee or its agent will conduct file and on site physical inspections for all projects no later than the end of the second calendar year following the year the last building in the project is placed-in-service, and once every three years thereafter. These physical inspections will be conducted for all buildings and common areas in each project, and for at least 20% of the low-income units in each project. The tenant file reviews will also be for at least 20% of the low-income units in each project, but may be conducted on site or off site. Each year the Committee shall select projects for which site inspections will be conducted. The projects shall be selected using guidelines established by the Executive Director for such purpose, while the units and tenant records to be inspected shall be randomly selected. Advance notice shall not be given of the Committee's selection process, or of which tenant records will be inspected at selected projects; however, an owner shall be given reasonable notice prior to a project inspection.

(A) A Notice of Intent to Conduct Compliance Inspection and a Project Status Report (PSR) form will be delivered to the project owner within a reasonable period before an inspection is scheduled to occur. The completed PSR form shall be submitted to the Committee by the owner prior to the compliance inspection. The Committee will review the information submitted on the PSR for compliance with income, rent and other requirements prior to performing the tenant file inspection.

(B) Each project undergoing a file inspection will be subject to a physical inspection to assure compliance with local health, safety, and building codes or with HUD's uniform physical condition standards. Owners shall be notified of the inspection results.

(C) The Committee may perform its status report, file inspection procedures and physical inspection on Credit projects even if other governmental agencies also monitor those projects. The Committee's reliance on other review findings may alter the extent of the review, solely at the Committee's discretion and as allowed by IRS regulations. The Committee may rely on reports of site visits prepared by lenders or other governmental agencies, at its sole discretion. The Committee shall, whenever possible, coordinate its procedures with those of other agencies, lenders and investors.

(5) Notification of noncompliance. The Committee shall notify owners in writing if the owner is required to submit documents/information related to either the physical or tenant file inspection. If the Committee does not receive the information requested, is not permitted or otherwise is unable to conduct the inspections or discovers noncompliance with Section 42 as a result of its review, the owner shall be notified in writing before any notice is sent to the IRS.

(6) Correction period. It is the intention of the Committee that owners be given every reasonable opportunity to correct any noncompliance. Owners shall be allowed an opportunity to supply missing tenant file documents or to correct other noncompliance within a correction period no longer than ninety (90) days from the date of written notice by the Committee to the owner, unless the violation constitutes an immediate health or safety issue, in which case, the correction should be made immediately. With good cause, the Committee may grant up to a six-month extension of the correction period upon receipt of a written justification from the owner.

(7) IRS and FTB notification. All instances of noncompliance, whether corrected or not, shall be reported by the Committee to the IRS. This shall be done within forty-five (45) days following the termination of a correction period allowed by the Committee, pertaining to IRS Form 8823.

(d) Change in ownership. It is the project owner's responsibility to comply with the requirements of Section 10320(b) and to inform the Committee of any change in the project owner's mailing address.

(e) First year's 8609. Project owners shall be required to submit a copy of the executed first year's filing of IRS Form 8609 (Low-Income Housing Credit Allocation Certification) for inclusion in the Committee's permanent project records.

Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4-50199.22, Health and Safety Code.