



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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EXECUTIVE DIRECTOR
Vincent P. Brown

DATE: February 1, 2019

TO: Low Income Housing Tax Credit Stakeholders

FROM: Vincent P. Brown, Executive Director

RE: Proposed Emergency Regulation Changes to Readiness Requirements

Attached for public review are the California Tax Credit Allocation Committee (TCAC) staff's proposed regulation changes to Section 10325(c)(7) along with a statement of reasons. Changes to the current regulations are indicated in red text. This memorandum summarizes the proposed regulation changes that will ultimately be presented to the Committee for adoption at a February 2019 TCAC Committee meeting. TCAC staff will conduct a public hearing to explain, answer questions, and solicit comments at the following date, time, and location:

Wednesday
February 13, 2019

State Treasurer's Office Building
915 Capitol Mall, Room 587
Sacramento, CA 95814
2:00 p.m.

Interested persons wishing to express their views on the proposed regulation changes may submit written comments to TCAC by 5:00 pm on Friday, February 22, 2019. Comments should be emailed to azeto@treasurer.ca.gov, preferably in a Microsoft Word document or in an electronic, rather than scanned pdf, format that allows for copying. While TCAC welcomes public comments, staff encourages commenters to be sparing and brief given the short timeframe for staff to turn around responses. In the interest of consistency, TCAC prefers that commenters comment at the public hearing or submit written comments, as opposed to both.

TCAC staff is proposing changes to Section 10325(c)(7) in response to delays resulting from the federal government shutdown. The first proposed change affects a portion of second round 2018 tax credit reservation recipients (nine percent federal credit and four percent federal plus state credit). The proposed change would allow those 2018 credit recipients, with federal funding impacted by the federal government shutdown, an additional 45 days to close their construction period financing as required under Readiness to Proceed point scoring.

Similarly, staff proposes a regulation change to Section 10325(c)(7)(B) permitting 2019 first round project applicants proposing federal funding to provide evidence of environmental review clearances by the Readiness to Proceed deadline provided that evidence is presented in the application documenting the delay due to the federal government shutdown.

Attachment

Section 10325(c)(7)

Proposed change:

Readiness to Proceed. 10 points will be available to projects that document items (A) through (B) 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, 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, an updated CTCAC Attachment 16, 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 or 194 days, as applicable, 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 second round of 2018, the 180-day or 194-day references in the preceding paragraph shall be extended by forty-five (45) days. The extension is only provided to projects that demonstrate to CTCAC, in the form of a timetable and an explanation, that the federal government shutdown impacted their ability to meet Readiness to Proceed requirements prior to the 180-day or 194-day deadline.

The 180-day or 194-day requirements shall not apply to projects that do not obtain the maximum points in this category. Failure to meet 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 10 points:

- (A) enforceable financing commitment, as defined in Section 10325(f)(3), for all construction financing;
- (B) evidence, as verified by the appropriate officials, that all environmental review clearances (CEQA, NEPA, and applicable tribal land environmental reviews) necessary to begin construction, except for clearances related to loans with must pay debt service for which the applicant is not seeking tiebreaker benefit, are either finally approved or unnecessary. For 2019 first round projects that are federal funding recipients and demonstrate to CTCAC at application, in the form of a timetable and explanation, that the federal government shutdown impacted the environmental review clearances process, all federal environmental review clearances necessary to begin construction as verified by the appropriate officials, except for

clearances related to loans with must pay debt service for which the applicant is not seeking tiebreaker benefit, must be either finally approved or unnecessary by the 180-day or 194-day deadline.

For paragraph (B) a final 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.

Reason:

This change involving the 45-day extension is being proposed as a result of the recent federal government shutdown, which has caused delays and impacted the ability of project owners of 2018 second round projects with federal funding to close construction financing within the required time of 180 or 194 days after the award date. TCAC requires that documentation, verifying delays due to the federal government shutdown, be submitted to TCAC prior to the 180-day or 194-day deadline in order to receive the 45-day extension. The documentation must include a timetable and explanation of events resulting in the delay leading up to the 180-day or 194-day deadline.

Similarly, the recent federal government shutdown has also caused delays and impacted the ability of projects applying in the 2019 first round competition with federal funding to receive environmental review clearance (i.e. NEPA) by the application deadline of March 4, 2019 to garner readiness to proceed points. TCAC requires that documentation, verifying delays due to the federal government shutdown, be submitted in the TCAC application by the application deadline of March 4, 2019. The documentation must include a timetable and explanation of events resulting in the delay leading up to the application submittal deadline.