

4 CCR Sections 5000 et seq.

Chapter 1. General Bond Program Provisions

§ 5000. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this division are defined as follows:

“Allocation” means the portion of the State Ceiling awarded by the Committee to an Applicant and includes an HDFC Bond Allocation, as defined in Section 5100.

“Allocation Round” means a meeting or series of meetings of the Committee during which a predetermined portion of the State Ceiling is made available for allocation by the Committee to one or more Applicants selected by the Committee during that meeting or series of meetings.

“Annual Applicant Public Benefits and Ongoing Compliance Self-Certification (Revised 9/20/17)”, hereby incorporated by reference, means the document in the online compliance certification system to be completed by the Issuer in which the Issuer certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

“Applicant” means the following entities submitting an Application to the Committee:

- (a) a state or local governmental agency; or
- (b) a joint powers authority (JPA) applying for bond allocation for a project, except for projects described in Government Code Section 6586.5(c), that is or will be located entirely within the geographical boundaries of one or more of the JPA's members; or
- (c) a special district; or
- (d) a nonprofit public benefit corporation that issues only student loan bonds; or
- (e) any other public agency that is empowered to issue debt. “Application” means the request by an Applicant to the Committee for an Allocation of the State Ceiling which shall include the information specified in article 4 of this chapter.

“Application” means the request by an Applicant to the Committee for an Allocation of the State Ceiling which shall include the information specified in Section 5003 of this chapter.

“Bond” means either a Qualified Private Activity Bond or a Governmental Bond as defined in this section.

“Bond Default” means a material default as defined within an Issuer’s Bond documents, but does not include for the purposes of this definition, defaults that are technical in nature such as a failure to maintain covenants, failing to charge rates sufficient to meet rate covenants, failing to maintain insurance on the Project, or failing to fund various reserves.

“Bond Issuance and Post Issuance Compliance Policies” means policies established by an Applicant to guide the process of issuing private activity bonds and ensuring post-issuance compliance including but not limited to a description of the fee structure, application and approval process (including TEFRA), threshold eligibility criteria for applicants and projects, long term regulatory requirements (if any), and monitoring practices.

“CIEDB” means the California Infrastructure and Economic Development Bank.

“Carryforward” means an election of carryforward for unused volume cap made pursuant to Section 146(f) of the Internal Revenue Code.

“Cash Flow Permanent Bond” means a bond where the identified payment source is based on cash flow availability in the form of residual payments and that are issued for the purposes of providing permanent financing

that (i) does not meet CDLAC's Debt Service Coverage Ratio requirement in Section 5107 and that, (ii) together with all other Bonds not meeting CDLAC's Debt Service Coverage Ratio requirements in Section 5107 (if any), exceed 5% of the total project cost.

"Census Designated Place" means a place designated as a census designated place by the Bureau of the Census.

"Certificate of Completion for Non-Qualified Residential Rental Projects" submitted by the Project Sponsor of a Non-Qualified Residential Rental Project, certifies that all work on the Project was substantially completed, along with the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer's signature indicates that no more than 2% of the proceeds of the bonds issued were spent on the cost of the bond issuance.

"Certificate of Completion for Qualified Residential Rental Projects" submitted by the Project Sponsor of a Qualified Residential Rental Project, and certifies that all work on the Project was substantially completed, along with the aggregate amount disbursed on the loan for qualified project costs. In addition, the officer's signature indicates that no more than 2% of the proceeds of the bonds issued were spent on the cost of the bond issuance.

"Certification of Compliance I" means the document provided in the Committee Resolution to be completed by the Project Sponsor in which the Project Sponsor certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

"Certification of Compliance II for Non-Qualified Residential Rental Projects" is a form for Applicant/Issuers awarded allocation in 2017 forward. Applicant/Issuers retain the Certification form for a period of three years in place of the Certification of Compliance I (11-16-16) to ensure that the Project Sponsor is reporting all relevant compliance and possible changes to the Project or program to the Applicant.

"Certification of Compliance II for Qualified Residential Rental Projects" is a form for Applicant/Issuers awarded allocation in 2017 forward. Applicant/Issuers retain the Certification form for a period of three years in place of the Certification of Compliance I (11-16-16) to ensure that the Project Sponsor is reporting all relevant compliance and possible changes to the Project or program to the Applicant.

"California Debt Limit Allocation Committee" or "CDLAC" or "Committee" means the administrator of the tax-exempt private activity bond program established by GC section 8869.80 et seq.

~~"Committee" means the California Debt Limit Allocation Committee established by California Government Code sections 8869.80 et seq.~~

"Committee Resolution" means for any Allocation, the resolution duly adopted by the Committee that, among other things, memorializes the grant of the Allocation by the Committee to the Applicant.

"Competitive Application Process" means the procedure under which the Committee shall evaluate an Application for an award of Allocation that is competitive based upon the number of points each Application is awarded. Applications submitted under this process shall be awarded points only when the Project qualifies for those points and evidence supporting an award of points is documented in the Application when submitted.

"CSFA" means the California School Finance Authority.

"California Tax Credit Allocation Committee" or "CTCAC" means the administrator of the federal and state low-income housing tax credit program established pursuant to California Health and Safety Code, § 50199.4 et seq.

~~"CTCAC" means the California Tax Credit Allocation Committee.~~

"Distressed Community" means a community that the Applicant demonstrates to be any one or more of the following:

- (a) A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department's most recent annual average for sub-county areas.
- (b) A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.
- (c) A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place such as a census tract or tracts, smaller geographic areas will be used.
- (d) A community or county affected by a state of emergency within California and declared a disaster by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture, or declared to be in a State of Emergency by the Governor of the State of California.

~~“Draw-down Bond Issuance” means a draw-down loan as defined for purposes of 26 U.S.C. sections 103 and 141 through 150 (generally, a Bond issue in which Bonds are delivered to the Bond purchaser intermittently as funds are needed by the Bond Issuer and the Bond Issuer only owes interest based on the amount of Bonds drawn-down).~~

“Executive Director” means the Executive Director of the Committee.

“Exempt Facility Project” means a Project financed with an exempt facility bond satisfying the requirements of 26 U.S.C. section 142, except that airports, docks and wharves, governmentally owned solid waste disposal facilities, spaceports, and Qualified Residential Rental Projects shall not be considered exempt facilities for purposes of these regulations.

“Exempt Facility Project Pool” means the reserve of the State Ceiling established by the Committee for Exempt Facility Projects.

~~“Extra Credit Teacher Home Purchase Program” means a program offering Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds to eligible teachers, eligible administrators, eligible classified employees, and eligible staff members for the purpose of assisting them in becoming homeowners.~~

~~“Extra Credit Teacher Home Purchase Program Pool” means the reserve of the State Ceiling established by the Committee for the Extra Credit Teacher Home Purchase Program.~~

“Federally Bond-Restricted Units” are Project units that are restricted pursuant to 26 U.S.C. Section 142 (d)(1)(A) or (B).

“Fiscal Agent” means a trust company, a national banking association, state banking corporation, or comparable entity with the authority to accept trusts, that performs various administrative and trustee duties in connection with bond, note and other debt issuances, including, without limitation, the maintenance and management of funds and accounts, payments, redemptions, investment of moneys, related tax matters, and other related administrative duties.

“Issuer” means an entity empowered to issue Bonds.

“Job Creation” means new permanent full-time jobs created by the Project Sponsor. The number of jobs created shall be calculated after deducting any jobs within the State that are eliminated by the company. Job Creation must be met within two (2) years following the completion of the Project. The Job Creation requirement may be monitored by CIEDB utilizing California Employment Development Department employment statistics.

“Job Wage” means the average hourly general manufacturing wage for the Metropolitan Statistical Area in which a Project is located, based on the Bureau of Labor Statistics Series Code from the California Employment Development Department. If a Project is not located in an area for which the Employment Development Department keeps hourly wage data or not located in a defined Metropolitan Statistical Area, the closest comparable area in which hourly wage is available may be used.

“LEED Certified” means Leadership in Energy & Environmental Design certification by the U.S. Green Building Council.

“Local Issuer” means a local government entity that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs or small-issue industrial development Bonds or a joint powers authority that issues small-issue industrial development Bonds on behalf of a local government entity.

“Metropolitan Statistical Area” means the geographic entity defined by the U.S. Office of Management and Budget (OMB).

“Mortgage Credit Certificate” means a mortgage credit certificate as defined by 26 U.S.C. section 25(c)(1).

“Mortgage Revenue Bond” means a bond defined by 26 U.S.C. section 143(a).

“Mortgage Revenue Bond Program” means a program defined by 26 U.S.C. section 143(a).

“Open Application Process” means the procedure under which the Committee will evaluate an Application for an award of Allocation that is not competitive. The Committee will not review an incomplete Application except to determine whether the Application is incomplete and notify the Applicant of the deficiency.

“Performance Deposit Certification” means the form titled “Performance Deposit Certification Form for an Application for an Allocation of Qualified Private Activity Bonds” (revised 1-18-12), which is hereby incorporated by reference.

“Placement Agent or Underwriter Statement” means the statement provided by the firm contracted to market the Bonds proposed in the Application that includes a brief paragraph on the firm's history and principals, a summary of the firm's non-binding initial underwriting review, an overview of proposed issuance structure including anticipated debt service coverage ratio, and a statement certifying that the proposed transaction has been initially underwritten and meets the firm's standards for participation.

“Project” means the subject property for which an Application for Allocation has been submitted.

“Project Sponsor” means the entity, or CDLAC authorized affiliate thereof, using the proceeds of a Bond issue to complete the Project described in the Application.

“Project Staff Report” means the staff report published by CDLAC for the Project summarizing the terms, conditions, and expectations of the Allocation as approved by the Committee at a public meeting.

“Project Wage” means the average hourly wage of the jobs created by a Project.

“Qualified Private Activity Bond” means a Bond that satisfies the requirements of 26 U.S.C. sections 141 et seq.

“Qualified Residential Rental Project (QRRP)” means a qualified residential rental project as defined by 26 U.S.C. section 142(d)(1).

“Qualified Residential Rental Project Pool” means the reserve of the State Ceiling established by the Committee for Qualified Residential Rental Projects.

“Regulatory Period and/or Compliance Period” means for projects awarded allocation after December 31, 2016 a period of time enumerated in the CDLAC resolution whereby Annual Applicant Public Benefits and On-going

Compliance Self Certification is required to be submitted. For QRRP projects the period of time will be consistent with Section 5170, for IDBs the longer of project completion or 2 years after the project completion if a job creation election is made, and for all other programs when the project is completed or allocation has been utilized.

“Related Party” means the more stringent of the constructive ownership provisions of 26 U.S.C. section 267 or the following:

- (a) The brothers, sisters, spouse, ancestors, and direct descendants of a person;
- (b) A person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- (c) Two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which stock is held by the same persons or entities for:
 - (1) At least 50% of the total combined voting power of all classes that can vote, or;
 - (2) At least 50% of the total value of shares of all classes of stock of each of the corporations, or;
 - (3) 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.
- (d) There exists concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
- (e) There exists 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;
- (f) There exists 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.
- (g) A grantor and fiduciary of any trust;
- (h) A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a beneficiary of that trust;
- (j) 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;
- (k) A person or organization and an organization that is tax-exempt under 26 U.S.C. section 501(c)(3) or (4) and that is affiliated with or controlled by that person or the person's family members, as provided in the first bullet of this section, or by that organization;
- (l) A corporation and a partnership or joint venture if the same persons own more than:
 - (1) 50% in value of the outstanding stock of the corporation; and
 - (2) 50% of the capital interest, or the profits' interest, in the partnership or joint venture;
- (m) 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;
- (n) 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;
- (o) A partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
- (p) Two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

“Report of Action Taken” means a report provided by and due to the Committee not more than fifteen (15) business days following the use of Allocation to issue Bonds or Mortgage Credit Certificates.

“Report of Action Taken for Bonds” means the specific Report of Action Taken due to the Committee following the use of Allocation for Qualified Private Activity Bonds titled “Report of Action Taken Regarding the Issuance of Private Activity Bonds.”

“Report of Action Taken for MCCs” means the specific Report of Action Taken due to the Committee following the use of Allocation to issue Mortgage Credit Certificates Bonds titled “Report of Action Taken Regarding Mortgage Credit Certificate Program.”

“Report of Action Taken for MCCs (Carryforward)” means the specific Report of Action Taken due to the Committee following the use and/or Carryforward of Allocation to issue Mortgage Credit Certificates titled “Report of Action Taken Regarding a Carryforward Election and a Mortgage Credit Certificate Program.”

“Single Family Housing Program” means a program satisfying the requirements of 26 U.S.C. section 25 and 26 U.S.C. section 143.

“Single Family Housing Program Bonus Pool” means a reserve within the Single Family Housing Program Pool that may be established by the Committee.

“Single Family Housing Program Pool” means the reserve of the State Ceiling established by the Committee for Single Family Housing Programs.

“Single Family Housing State Issuer” means any state agency that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs.

“Small-Issue Industrial Development Bond Project” means a Project that meets the requirements for a qualified small-issue Bond as described under 26 U.S.C. section 144.

“Small-Issue Industrial Development Bond Project Pool” means the reservation of the State Ceiling reserved for Small-Issue Industrial Development Bond Projects.

~~“Standard Permanent Bonds” means Bonds issued for the purposes of providing permanent Project financing which (i) meet CDLAC’s Debt Service Coverage Ratio requirement in Section 5170 or (ii) are not Cash Flow Permanent Bonds.~~

“State Ceiling” means the amount of Qualified Private Activity Bonds that can be issued in California for each calendar year specified by 26 U.S.C. section 146(d) and any amount made available for allocation pursuant to federal legislation.

“State Ceiling Pools” means the individual pools created by the Committee and as defined in this chapter.

“Student Loan Program” means a program that meets the requirements for a qualified student loan Bond under 26 U.S.C. section 144(b).

“Student Loan Program Pool” means the reserve of the State Ceiling established by the Committee for Student Loan Programs.

“Taxable Debt” means conventional financing from a major financial institution or taxable Bonds issued by a municipality including but not limited to Build America Bonds.

“TEFRA Resolution (Tax Equity and Fiscal Responsibility Act of 1982)” means an approval by the applicable elected representative of the governmental unit having jurisdiction over the proposed Project, as required by 26 U.S.C. section 147(f), that is documented and includes a certification executed by the applicable elected representative or their designee.

“Undesignated Reserve Pool” (Pool) means a reserve of the State Ceiling established by the Committee for which there is no demand at the time the Pool is established.

“Veterans Home Loan Program” means a single family housing program administered by the California Department of Veterans Affairs, satisfying the requirements of 26 U.S.C. section 143, and that is restricted to California veterans of military service.

“Welfare-to-Work Plan” means a plan as described by sections 10531, et seq. of the California Welfare and Institutions Code.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5001. Annual Bond Program Announcements; Administration.

(a) The Committee shall, as soon as practicable, give notice of deadlines to submit Applications for each Allocation Round, and after the beginning of each calendar year, and before any Applications are considered, the Committee shall determine and announce the State Ceiling and the portion of the State Ceiling that will be available for each of the State Ceiling Pools with a minimum of ninety (90) percent of the State Ceiling dedicated to QRRPs.

(b) The Committee shall determine and announce the establishment of either an Open Application Process or a Competitive Application Process, or both, for each State Ceiling Pool. The Committee shall determine which process is best for each program pool based on factors including, but not limited to, the amount of the State Ceiling available to the pool and the history of Applications for allocations from each pool.

(c) Notwithstanding any other provision of this article, the Committee may, at any time, alter the competitiveness of Allocation Rounds, the number of Allocation Rounds, the portion of the State Ceiling that will be available to each type of State Ceiling Pool, or any Program within a Pool in each of the Allocation Rounds, the schedule of the Allocation Rounds and the deadlines for Applicants to submit Applications for consideration based on its finding, at a noticed meeting, that the changes are in the public interest and reasonably necessary to further the purposes for which the Committee was created.

(d) If a due date established under these regulations falls on a Saturday, Sunday, or state-recognized holiday, the due date shall be extended to the next business day.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.

§ 5002. Eligible Applicants.

(a) The following types of entities may file an Application: Any state or local governmental agency, joint powers authority (JPA) applying for bond allocation for a Project that will be located entirely within the geographical boundaries of one or more of the JPA members (except for a Project described in Government Code section 6586.5(c)), special district, nonprofit public benefit corporation that issues only student loan Bonds, or any other public agency that is empowered to issue debt. The Issuer of the Qualified Private Activity Bonds or Mortgage Credit Certificates must be the Applicant.

(b) Where the Applicant is administering a Single-Family Housing Program on behalf of one or more jurisdictions, the Applicant must submit the Application to the Committee. The Applicant must also obtain, and provide to the Committee with its Application, a publicly adopted resolution or cooperative agreement from each jurisdiction participating in the Applicant's program that explicitly grant authority to the Applicant to conduct the program in the participant's jurisdiction.

(c) To be eligible to receive CDLAC Bond allocation, all Applicants must submit written Bond Issuance and Post Issuance Compliance Policies for each State Ceiling Pool they request. These policies must be reviewed by counsel having expertise with the federal and state laws pertaining to the issuance or conversion and post-closing compliance of private activity conduit bonds for consistency with applicable federal and state laws. Such review will be documented via a letter from the respective counsel indicating the review has occurred. Additionally, for all Applicants, the policies must be accompanied by a resolution signed by the appropriate governing body formally adopting the policies. If the governing body has delegated approval authority on such matters to the organization's Executive Director, Housing Director or Finance Director, approval by the delegated individuals will suffice. To the extent contractors will be providing services on behalf of an Applicant, the policies should clarify the relationship between the contractor and the Applicant and what, if any, rights the contractor has to income and obligations generated from the issuance activity. CDLAC will review these policies to ensure the legal review has occurred, appropriate approval documentation is in place and for consistency with the CDLAC regulations. CDLAC will

document their formal approval. All Applicant policies must be reviewed and re-approved at least every 5 years thereafter.

(d) Subject to appeal under Section 5005, CDLAC shall not accept Bond Applications on behalf of a Project Sponsor with a QRRP Bond Default or bankruptcy in the last three (3) years or from a Bond Issuer with three (3) or more QRRP Bond Defaults in the last five (5) years.

(e) All projects receiving a bond allocation are required to have a Fiscal Agent or trustee to facilitate in the reporting of the Annual Debt Transparency Reports (ADTR) to the California Debt and Investment Advisory Commission.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8855(k), 8869.84(f), 8869.84(g), 8869.85(a), 8869.85(b), 8869.88 and 8869.89, Government Code.

§ 5003. Minimum Application Requirements and Procedures.

(a) Applications for an Allocation of the State Ceiling shall include the information and documentation prescribed by the Committee specific to the State Ceiling Pool or program to which the Application is addressed. All application questions must be answered completely and supported with satisfactory evidence.

(b) Wherever the Application process contemplates the awarding of points, the Applicant must demonstrate by satisfactory evidence that the related criterion has been satisfied. Where it is determined by Committee staff that the evidence has not been satisfactorily demonstrated, the Executive Director shall not award the related points.

(c) Applications for an Allocation of the State Ceiling may be submitted to the Committee by the means prescribed by the Executive Director. An Applicant must submit all required information appropriate to the type of Bond for which the Applicant requests an Allocation. The Applicant shall submit a complete Application and supplemental material for each project or program for which the Applicant is requesting an Allocation. Only complete Applications bearing the original signatures of an officer of the Applicant or designee and the Project Sponsor, if applicable, will be accepted. Unless specifically exempted, the following items must accompany all Applications:

(1) Performance Deposit Certification and evidence of the performance deposit as provided in section 5006(a), except that for Qualified Residential Rental Projects, an Applicant shall provide the certification and evidence within 20 calendar days following an award of an Allocation.

(2) The filing fee as set forth in subdivision (e) below.

(3) Proof of the bond sale structure requirements pursuant to Sections 5007, 5008, and 5009, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to chapter 3).

(4) An inducement or reimbursement resolution adopted by the governing body of the Applicant approving the project or program to be Bond financed and authorizing a senior officer, or in the case of a Student Loan Program, an officer of the sponsor of the Student Loan Program, to file the Application with the Committee, pay any fees required by the Committee, and certify the posting of the required performance deposit, unless excepted herein.

(d) It is the responsibility of each Applicant and each Project Sponsor to provide the Committee with complete and accurate information at the time the Application is filed. If the Applicant/Project Sponsor (or their attorneys, agents, employees, or other representatives) provides material that is incomplete, erroneous, inaccurate, misleading or false as to a fact to the Executive Director's decision-making process, the Application may be rejected. If incomplete, erroneous, inaccurate, misleading or false information is discovered by Committee staff after an Allocation has been made, the Allocation may be rescinded if Bonds have not been sold or an election to convert Bond authority to Mortgage Credit Certificates has not been filed with the Internal Revenue Service. If Bonds have been sold or converted to Mortgage Credit Certificates, the Committee may take other action as it deems appropriate.

(e) Each Applicant shall submit a filing fee in an amount equal to the product of the amount of Allocation actually used to issue Bonds, or Mortgage Credit Certificates multiplied by .00035. The payment of the fee shall be in two installments as follows:

(1) Initial non-refundable filing fee in the amount of \$1,500 shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications.

(2) Second installment of Filing Fee. The second installment of the filing fee shall be due within thirty (30) days after Bond issuance or issuance of the first Mortgage Credit Certificate. The Committee shall issue an invoice in conjunction with the Committee Resolution transferring the Allocation to the Applicant. The amount of the second installment of the filing fee is the product of the amount of Allocation used to issue Bonds or convert to Bond to Mortgage Credit Certificate authority multiplied by .00035.

(3) If the second filing fee is not received within thirty (30) days, the Committee shall instruct the Applicant to remit the amount due from the performance deposit maintained by the Applicant specifically for the Project or program that was awarded Allocation pursuant to section 5006.

(4) Applications for Allocation for Exempt Facility Projects shall not be charged supplemental filing fees when applicants seek to move the hearing date for allocation later in the calendar year, as long as there are not material changes in the project or financing structure of the application.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(a), 8869.85(b), 8869.87, and 8869.90, Government Code.

§ 5004. Application Ranking and Award Recommendations.

(a) Applications submitted under a Competitive Application Process will be ranked according to the number of points awarded by the Committee pursuant to the evaluation criteria specific to the State Ceiling Pool or program to which the Application is addressed.

(b) At least ten (10) calendar days prior to any meeting at which the Committee is to award Allocations, the Executive Director shall publish a preliminary list of Applicants for which the Executive Director expects to recommend an Allocation (and the amount of those Allocations). During competitive rounds, the following procedures shall be followed for the Qualified Residential Rental Program:

(1) Within ten (10) calendar days after the application due date, a list of applicants, project names, project locations, selected pools and set asides, geographic regions, and requested Allocations and all reported self-scoring totals and tiebreaker scores shall be published on the Committee's website. Applicants shall have five (5) calendar days from the date of publication to notify the Committee of any errors related to the information published in this subsection.

(2) Projects will be evaluated and ranked based on information submitted in the application. Only applications that are substantially complete and self-score high enough to receive an Allocation shall be reviewed. Prior to publishing the preliminary recommendation list on the Committee's website, Applicants and developers/sponsors shall be notified of their preliminary score and the reasons for any modifications from the Applicant's Self-Scoring Worksheet. That notice, or a subsequent notice, may also contain completeness and/or feasibility defects determined during the application evaluation. Notices shall only be sent for projects that self-score high enough to receive an Allocation.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(d), Government Code.

§ 5005. Application Deficiencies and Appeals

(a) Open Application Process Application Deficiency. The Committee will review applications received during an Open Application Process to determine if the application is complete and an application with deficiencies will be deemed incomplete. CDLAC will provide the Applicant with written notification of an incomplete application and provide five (5) business days for the Applicant to cure the deficiencies. If deficiencies are not cured within the five (5) day period, the Application will be disqualified. This provision shall not apply during the Competitive Application Process.

(b) Competitive Application Process Application Deficiency.

(1) Determination of completeness, compliance with minimum requirements, the scoring of the application, and any application submission requirements pursuant to these regulations and the application form shall be based on the documents contained in the application as of the final filing deadline, except as provided in (2) below. Applications not meeting all application information and submission requirements shall be considered incomplete, and shall be disqualified from receiving an Allocation during the cycle in which the application was determined incomplete. Disqualified applicants shall be notified in writing by the Committee of the basis for disqualification and may appeal the disqualification under subdivision.

(2) No additional documents pertaining to: minimum requirements; scoring categories; and any application submission requirements pursuant to these regulations and the application form shall be accepted after the application-filing deadline unless the Executive Director, at their sole discretion, determines that the deficiency is an application omission of either a document existing as of the application-filing deadline, or a document certifying to a condition existing at the time of the application-filing deadline. Any submission of additional documents, including as part of an appeal for an application disqualified under subdivision (c), shall include evidence demonstrating either the document existed as of the application-filing deadline, or the document certifies to a condition existing at the time of the application-filing deadline. It is within the Executive Director's discretion to request any clarifying information or material regarding the additional document(s).

(c) Appeals Process.

(1) The following adverse actions may be appealed:

(A) Determination of the application point score;

(B) Disqualification from participation in the program;

(C) Disqualification of an incomplete application;

(D) Notice of bond rescission and denial of request to extend the deadline under Section 5105(h);

(E) Assessment of negative points; and,

(F) As otherwise specifically permitted under these regulations.

(2) No party, whether an applicant or otherwise, may appeal the evaluation, scoring, ranking, or review of any application other than its own. Appeals shall be limited solely to the evaluation of the Applicant's own application.

(3) Application appeals procedure. The following procedure applies to subdivisions (1)(A) through (C):

(A) Applicants must submit written appeals to CDLAC within five (5) calendar days of the transmittal of the point or disqualification letter. Staff will respond in writing within five (5) calendar days of receiving the appeal.

(B) Applicants may then appeal the staff response to the Executive Director within five (5) calendar days of the transmittal of that response. The Executive Director will respond in writing within ten (10) calendar days of receipt.

(C) A final appeal may be submitted to the Committee within five (5) calendar days of the transmittal of the Executive Director's response. The Committee will hear the appeal at its next regularly scheduled public meeting. All final appeals must be accompanied by a non-refundable fee of five hundred dollar (\$500) payable to CDLAC. The Committee will consider appeals only upon payment of this fee.

(4) The following procedure is for all adverse actions other than subdivisions (1)(A) through (C).

(A) Applicants may appeal the adverse action by submitting a written appeal to the Executive Director within fourteen (14) calendar days of the transmittal of the communication describing the adverse action, unless extended by the Executive Director for up to an additional fourteen (14) days.

(B) The Committee will hear the appeal at its next regularly scheduled public meeting.

(C) All appeals must include a non-refundable fee of five hundred dollars (\$500) payable to CDLAC; no appeal will be considered without this payment.

(5) All appeals must be in writing and state the grounds upon which they are based and, except as provided in subdivision (b)(2), shall be reviewed based solely on documentation submitted with the original application.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.90, Government Code.

§ 5006. Performance Deposit Requirements.

(a) Applications for Qualified Private Activity Bonds shall include evidence of a performance deposit equal to one-half of one percent (.5%) of the Allocation requested, not to exceed \$100,000 made payable to the Applicant, except that for Qualified Residential Rental Projects, an Applicant shall provide the evidence of a performance deposit within 20 calendar days following an award of an Allocation.

(b) Release of Performance Deposit.

(1) The written authorization releasing a performance deposit or refund of deposits paid to the Committee will occur upon the Committee's receipt of a properly completed Report of Action Taken that is appropriate to the transaction type as required in section 5012, all filing fees as required in these regulations and a digital copy of the conformed, recorded Bond Regulatory Agreement. The Committee Resolution shall provide the timeframe for using the Allocation and filing the required Report of Action Taken.

(2) In the case of a Qualified Residential Rental Project that also requests an allocation of state credit reserved for tax-exempt projects from the California Tax Credit Allocation Committee (CTCAC), the full release or refund of a performance deposit will be authorized if the Project Sponsor is able to demonstrate that the failure to use Allocation is solely due to the failure to receive an allocation of state tax credit.

(3) In the case of Mortgage Credit Certificates, the full release or refund of a deposit will not be authorized unless the Allocation has been converted to Mortgage Credit Certificate authority by the date specified in the Committee Resolution.

(c) Forfeiture of Performance Deposit. If less than 80% of the Allocation is used to issue Bonds, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the

amount of awarded Allocation. If at least one (1) Mortgage Credit Certificate is not issued prior to the applicable expiration date, the entire performance deposit will be forfeited. If 80% or more of the Allocation is used to issue bonds prior to the expiration date, or at least one (1) Mortgage Credit Certificate is issued prior to the applicable expiration date, a full refund of the performance deposit will be authorized.

(1) Applicants bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and/or timeframes set forth in the Committee Resolution.

(2) The Applicant shall remit all forfeited performance deposits to the Committee within thirty (30) days of receipt of an invoice issued by the Committee.

(d) Withdrawn or denied application. For Applicants that post the performance deposit prior to award of an Allocation, if the Applicant withdraws an Application prior to consideration by the Committee or if a Project fails to receive an award of Allocation, the performance deposit shall be automatically refunded or released and no written authorization from the Committee shall be necessary. Applicants that receive an Allocation may also return the Allocation to the Committee within twenty (20) days of the award date without threat of negative points.

(e) Nothing in this section shall be construed to address the forfeiture of deposit relative to utilization of carryforward Allocations pursuant to section 5011.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.

§ 5007. Minimum Bond Sale Structure Requirements.

(a) Applicants, other than Applicants for a Mortgage Credit Certificate Program, shall provide evidence of a plan to privately place, limitedly offer or publicly sell the proposed Bonds for an amount no less than the amount requested in the Application. All relevant bond documents for Qualified Residential Rental Projects must permit principal payments or prepayments on the underlying loan(s) as transferred proceeds in a bond preservation and recycling program as permitted by 26 U.S.C. Section 146(i)(6).

(b) Notwithstanding the requirements set forth in Sections 5008 and 5009, the Committee may apply more stringent requirements and thresholds for a given Project.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5008. Private Placement Sales.

(a) Subject to subsection (b) below, applications for Bonds to be issued and sold through a private placement will be deemed to have provided satisfactory evidence of a Bond sale plan required in section 5007 if documentation from the Bond purchaser(s) includes the following:

(1) Project Sponsor (borrower).

(2) Project name and location.

(3) Bond purchase amount.

(4) Salient terms and conditions, including but not limited to the fee structure, proposed term, security, collateral, guarantee, expiration date of the commitment, and recourse of the commitment including the interest rate of the agreement.

(5) Evidence that the lender is committed to move forward with the transaction if the terms and conditions in the commitment letter are met.

(6) The commitment is fully executed by the bond purchaser and project sponsor.

(b) Cash Flow Permanent Bonds to be issued and sold through a private placement including, without limitation, bonds purchased by a property seller in consideration of the provisions of a purchase and sale agreement, will be deemed to have provided satisfactory evidence if the provisions of (a) have been satisfied.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5009. Limited Offering and Public Offering Bond Sales.

Applications for Bonds to be issued and sold will be deemed to have satisfied evidence of a Bond sale plan required in section 5007 if the following is provided:

(a) Project Sponsor (borrower).

(b) Project name and location.

(c) Bond offering amount.

(d) Salient terms and conditions, including but not limited to the fee structure, proposed term, security, collateral, guarantee, and expiration date of the commitment.

(e) Evidence that the placement agent or underwriter is committed to move forward with the transaction if the terms and conditions in the preliminary placement agent or underwriter statement are met.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5010. Committee Resolutions; Use of State Ceiling Allocations; Allocation Expiration.

(a) The granting of an Allocation by the Committee shall be memorialized in a written resolution adopted by the Committee.

(1) The Committee Resolution shall specify the ~~bond issuance deadline in conformance with applicable law, in addition to the following:~~ the Applicant, the use amount of the Allocation, the project or program name for which the Allocation has been provided, the amount of volume cap transferred to the Applicant, applicable authorization for use of carryforward volume cap, the bond issuance deadline ~~Project Sponsor using the Bond proceeds where applicable, the location of the project or program,~~ and any additional terms, conditions or expectations-restrictions imposed on the Allocation by the Committee.

(2) The bond issuance deadline established in the Committee Resolution shall be no later than December 31 of the year following year of the Allocation. For the Small-Issue Industrial Development Bond Program and the Exempt Facility Bond Program, the deadline shall be no later than December 31 of the year of the Allocation.

(b) ~~Use of an~~ Allocation shall be used ~~limited by the provisions of the Committee Resolution. Any changes to the consistent with the terms, conditions, and expectations of the approved Application memorialized specifications contained in the Committee Resolution and, if applicable, the Project Staff Report. Any changes to the terms, conditions, or expectations of the Project prior to Bond issuance the issuance of Bonds, including, but not limited to, changes to the Bond sale structure, the direct purchaser of the Bonds if a private placement of Bonds is indicated, the entity selling Bonds, or the identity of the Applicant, must be approved by the Committee, except the prior to the Bond issuance. The Committee may delegate the authority to approve these changes to the Committee Chair or to the Executive Director. The~~ Executive Director may administratively approve ~~routine and non-substantive~~ changes

that do not require additional Allocation and do not materially change the use of Allocation as approved by the Committee.

(c) Except for the reversion of unused Allocation pursuant to subdivision (d), Allocations are not transferable unless expressly authorized in writing by the Committee.

(1) The Committee may permit transfers of Allocation as follows:

(A) The Committee may permit transfers of carryforward Allocations to the highest scoring Application on a waiting list or, if a waiting list does not exist, the highest scoring Project in queue in a current Allocation Round, or to a project in a previous Allocation Round for which current year allocation was awarded, to use remaining or unused carryforward Allocation.

(B) The Committee may permit transfers of Allocation between Applicants for the same Project. Prior to the transfer of an Allocation between Applicants for the same Project, the new Applicant must demonstrate that both the Minimum Application Requirements outlined in Section 5003 and the specified program threshold requirements have been met prior to the Committee's approval of the transfer.

(2) Where the Applicant is administering a Single Family Housing Program for itself and other participating jurisdictions, the use of Allocation within the participating jurisdictions listed in the Committee Resolution is not considered a transfer. For purposes of this subdivision, participating jurisdictions means those entities that have provided written assignment of their rights to secure an Allocation to the Applicant. The Applicant shall submit copies of the assignments with the Application.

(d) Upon the expiration of an issuance deadline, any amount of the Allocation that has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate authority shall automatically revert to the Committee unless that amount is authorized by the Committee for transfer or is carryforward. If it is carryforward, it shall be used for the bond issuer's next bond issuance pursuant to Section 5011.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

§ 5011. Carryforward Allocations.

(a) The Committee may award Allocation on a carryforward basis for the purpose of providing sufficient time for Applicants to issue Bonds under the current year's State Ceiling and/or to ensure all remaining portions of the State Ceiling are issued. An Applicant receiving an Allocation may not carryforward the Allocation to a subsequent calendar year unless expressly authorized in writing by the Committee.

(b) The Committee will specify the expiration date of the carryforward Allocation in the Committee Resolution memorializing the grant of the Allocation. If any amount of the carryforward Allocation has not been used to issue Bonds or convert Bonds to Mortgage Credit Certificate Authority on or before the expiration date, the performance deposit will be forfeited to the Committee and the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer in accordance with section ~~5010(c)420~~. If the Committee does not require a transfer of the carryforward Allocation, the expiration date may be extended with the approval of the Executive Director until the Allocation expires pursuant to 26 U.S.C. section 146(f)(3) or to each subsequent deadline for submitting Applications to the Committee. At that time, the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer.

(c) Pursuant to Section 5106, the Committee shall establish a rank-order list of all projects to be allocated during a competitive round. The Committee shall determine if the issuers for those projects that are scheduled to receive an allocation are in possession of any carryforward allocation not otherwise reserved for a project that has received an allocation but has not issued bonds, and if that condition exists, the Executive Director shall subscribe that carryforward to the projects that are scheduled to be awarded an allocation in the current round pursuant to

the priorities set forth by the Committee. The issuer's carryforward shall be applied to all projects recommended for an allocation until exhausted.

(d) Carryforward Allocations made to a Veterans Home Loan Program or a CalHFA Single Family Program are not subject to expiration except as set forth in 26 U.S.C section 146(f)(3).

(e) Applicants awarded Allocation on a carryforward basis as prescribed in section shall transmit to the Committee, via the address provided in section 5012, the documents provided to the Internal Revenue Service reporting the carryforward election no later than February 1st of the year immediately following the year in which the Allocation was awarded.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(c) and 8869.86(a)(3), Government Code.

§ 5012. Notification of Bond Issue and Report of Action Taken.

(a) Within twenty-four (24) hours of using the Allocation to issue Bonds or to convert Bond authority to Mortgage Credit Certificate authority, an Applicant or its counsel shall notify the Committee of such use of the Allocation via the e-mail address or facsimile number listed on the Committee's website, www.treasurer.ca.gov/cdlac. The notification shall identify the Applicant, the Project or program, the date the Allocation was used, and the amount of the Allocation used. For Qualified Residential Rental Projects, the notification shall also provide the estimated date of conversion to permanent financing and confirmation that the bond documents meet the requirements set forth in Section 5007.

(b) Within fifteen (15) calendar days of the first Bond closing, conversion of Bonds to Mortgage Credit Certificate authority, or issuance of the first Mortgage Credit Certificate, an Applicant or its counsel shall transmit to the Committee information regarding the issuance of Bonds or the conversion of Bonds to Mortgage Credit Certificate authority by submitting the appropriate Report of Action Taken to the Committee at the address, email, or fax number listed on the Committee's website, www.treasurer.ca.gov/cdlac.

(c) Following the Committee's receipt of a Report of Action Taken, the State Treasurer or their designee shall provide the Applicant with a letter certifying that the Bond issue meets the requirements of 26 U.S.C. section 146. For Mortgage Credit Certificate Applicants, this certification letter shall be provided at the time the Committee resolution is transmitted.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.86(c), Government Code.

§ 5013. Annual Applicant Public Benefits and On-Going Compliance Self Certification.

(a) All Projects that receive an Allocation and are within an existing regulatory period and/or compliance period shall be monitored for compliance with the applicable terms and conditions of the Committee Resolution by the Applicant (Issuer) and CDLAC. When a project is resyndicated by way of a new allocation, a new bond regulatory agreement shall be executed and recorded, and the new Issuer takes responsibility for compliance monitoring and reporting during the term of the new bond regulatory agreement, in accordance with then-current Committee guidelines. Upon request, CDLAC will review and approve a termination of the original bond regulatory agreement with the requirement that the new agreement include affordability requirements that are at least as restrictive as those in the original agreement.

(b) The self-certification must be submitted by the Applicant to CDLAC no later than March 1 of each year (or at such other time as requested by the Committee). The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy affecting the Applicant including but not limited to disqualification from the program.

(1) For Projects receiving an Allocation prior to December 31, 2016, the Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification, via the online compliance certification system annually for the longer of the period the bonds remain outstanding or the period of restriction for QRRP projects outlined in Section 5107(d).

(2) For Projects receiving allocation after December 31, 2016, the Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification via the online compliance certification system every year until the completion of the project and then if the project is subject to a Regulatory Period and/or Compliance Period every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period.

(c) For all QRRP projects receiving allocations after December 31, 2016, Sponsors shall be required to utilize CTCAC's Compliance Online Reference Manual, specifically Section IV: Qualify Tenants for Low Income Housing Tax Credit Units, to verify tenant income in conjunction with initial occupancy. Additionally, Project Sponsors shall be required to prepare and forward a CTCAC Project Status Report (PSR) or equivalent documentation to the Applicant annually in conjunction with the Annual Applicant Public Benefits and On-going Compliance Self Certification. Sponsors shall retain information pertaining to the income verification process for 10 years.

(d) For all QRRP projects receiving allocation after December 31, 2016, compliance with the income and rental requirements of the Federally Bond-Restricted Units identified in the Committee Resolution and the Bond Regulatory Agreement must be demonstrated by the Applicants initial review of 20% of all management files associated with the Federally Bond-Restricted units and subsequent review every three years of 20% of all management files associated with the Federally Bond-Restricted units. Federally Bond-Restricted units will include a distribution of unit locations, sizes and income levels (if applicable) and must be identified in the PSR. For this 20% of files, Applicants must review each initial or subsequent occupant/s and their associated TIC in conjunction with the supporting income verification documentation of each occupant's initial occupancy and make a determination if the project is complying with the income and affordability standards. Additionally, Applicants must ensure a lease is in place and executed. This review may be performed on-site or may be performed through an electronic file audit. Completion of this task in addition to a valid Certification of Compliance II or equivalent form will provide Issuers with the ability to report annually to CDLAC regarding compliance with the Federally Bond-Restricted unit restrictions. Information pertaining to the income verification process will be kept on file for 10 years. Applicants must retain documentation memorializing review and determination of income eligibility for 10 years. Source income documentation must be retained for 1 year. These guidelines rely on the compliance monitoring process and procedures in place for CTCAC. To the extent CTCAC is to alter their compliance policies and procedures, these guidelines shall be reviewed by CDLAC for consistency and changes made where appropriate.

(e) For all QRRP projects receiving allocation after December 31, 2016, Sponsors requesting an allocation of bonds absent the receipt of a CTCAC reservation will be identified at the time of application and will have the following compliance options which will be represented in the Committee Resolution:

(1) Applicants that can demonstrate to the Executive Director's satisfaction experience and current capacity to conduct on-site physical and file inspections through their Compliance Policies will be required to conduct the 20% review of the Federally Bond-Restricted units files on-site and perform a site inspection consistent with their Bond Compliance Policy every 3 years after the Qualified Project Period has commenced.

(2) Applicants that cannot demonstrate to the Executive Director's satisfaction capacity to conduct on-site physical and file inspections through their Compliance Policies will be required to enter into an agreement with a private third party compliance firm, approved by CDLAC, who must conduct the 20% review of Federally Bond-Restricted units files on-site and perform a site inspection consistent with their current policies and procedures every 3 years after the Qualified Project Period has commenced.

(3) A Sponsor can enter into contract with CDLAC or a designee to monitor the Federally Bond-Restricted units for consistency with the bond regulatory agreement and the Committee Resolution. The charge for

this service will be equivalent to the compliance fee charged by CTCAC at the time the project submits their application to CDLAC.

(4) The election of the option will be included in the Committee Resolution.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b) and 8869.86(c), Government Code.

§ 5014. Certification of Compliance.

(a) All QRRP Projects receiving an Allocation prior to December 31, 2016 shall be monitored for compliance with the applicable terms and conditions of the Committee Resolution by the Applicant and CDLAC for the longer of the period the bonds remain outstanding or the period of restriction outlined in Section 5107(d). MCC awards will be monitored until the allocation has been utilized. The Applicant shall annually collect from the Project Sponsor and retain for QRRP projects a Certification of Compliance I as attached to the Committee Resolution.

(b) For all Projects that receive allocation after December 31, 2016 and subject to a Regulatory Period and/or Compliance Period, the Applicant shall collect from the Project Sponsor and retain the applicable QRRP or Non-QRRP Certification of Compliance II as attached in the Committee Resolution or other comparable form outlined in an Applicant's approved Bond Compliance Policies. The QRRP or Non-QRRP Certification of Compliance II will be submitted annually to the Applicant until the Project is completed and then if the project is subject to a Regulatory Period and/or Compliance Period, every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period. Additionally, Applicants shall collect from the Project Sponsor and retain the applicable QRRP or Non-QRRP Certificate of Completion as provided in the Committee Resolution or other comparable form outlined in an Applicant's approved Bond Compliance Policies. In both instances, the certification must be submitted by the Project Sponsor. The Applicant will then provide confirmation of receipt to the California Debt Limit Allocation Committee no later than March 1 of each applicable year (or at such other time as requested by the Committee) via the online compliance certification system. These requirements shall be enforceable by the Committee through an action for specific performance or other available remedy against the Project Sponsor.

(c) All QRRP Projects that receive Allocation and an award of low income housing tax credits shall be monitored by the Committee or an entity acting on its behalf for compliance with the terms and conditions of the Committee Resolution, and shall be subject to the provisions of section 10337 of Title 4 of the California Code of Regulations.

(d) All Non-QRRP Applicants must designate CDLAC, for the life of the bonds, to receive notice of changes in use and circumstances of Bond Default.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5015. Disqualification.

The Committee may disqualify an Application for a portion of the Pool if any of the following have been documented about the Project Issuer, Project Sponsor or any entity that is a Related Party of the Project Sponsor:

(a) Significant outstanding non-compliance in matters relating to the annual Certification of Compliance I or Certification of Compliance II, Certificate of Completion, tenant files or physical conditions at any tax-exempt Bond or low income housing tax credit financed property in California. Requests to excuse properties monitored by the Committee or an entity acting on its behalf and owned by the Project Sponsor or any entity that is a Related Party of the Project Sponsor or management company will not be considered until the Committee has received documentation that the outstanding non-compliance matters have been resolved;

(b) Multiple or repeated failures to use committed public subsidies or private activity Bond allocations within applicable deadlines, or to provide committed physical amenities or services;

(c) Providing false or misleading information in connection with an Application or a prequalification request under Section 5106(c); or

(d) Information that leads the Committee to reasonably and in good faith conclude that an allocation would be inimical to, or incompatible with, the purposes of these regulations, the laws regulating the allocation of the State Ceiling on Qualified Private Activity Bonds, the obligation on the Committee to affirmatively further fair housing pursuant to Government Code section 8899.50(b)(1), or the obligation on the Committee to impose remedial actions under sections 14052 and 14053 of title 2 of the California Code of Regulations. In determining whether an Application is compatible with the Committee's responsibility to affirmatively further fair housing, the Committee shall consider whether the Applicant, Project Issuer, or Project Sponsor has a documented history of violating state or federal fair housing laws.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b), 8869.86(c), and 8899.50, and Sections 11135, 11136, 11137, and 11139, Government Code.

Chapter 2. Qualified Residential Rental Projects

§ 5100. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“Acquisition/Rehabilitation Project” means a QRRP Project applying for an allocation of tax-exempt private activity bonds from the General Pool that is not eligible for treatment as a New Construction Project.

“Adaptive Reuse” means the retrofitting and repurposing of existing buildings that create new Qualified Residential Rental Project units for the market, and expressly excludes any Project that involves rehabilitation or any construction affecting existing residential rental units.

“AMI” or “Area Median Income” means the median family income of a county as set by the U.S. Department of Housing and Urban Development.

“At Risk Project” means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c)(6) and by section 10325(g) of ~~the Title 4 of the California Code of Regulations~~ CTCAC regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code section 17058(c)(4) and section 10325(g) of ~~the CTCAC regulations~~ Title 4 of the California Code of Regulations, except that the federal assistance due to expire within five (5) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

~~“BIPOC Entity” means an entity that is at least 51% owned, managed, and controlled by one or more Black, Indigenous, or Other People of Color or by a non-profit organization with a Black, Indigenous, or Other Person of Color executive director/Chief Executive Officer (CEO) and board membership that is comprised of at least 51% Black, Indigenous, and Other People of Color. For purposes of this paragraph, Black, Indigenous, or Other People of Color means a person who checked the Black or African American, American Indian and Alaska Native, Asian, or Native Hawaiian and Other Pacific Islanders race category or who answered yes to the Hispanic Origin question on the 2020 most current United States Census.~~

~~“BIPOC Project” means a Qualified Residential Rental Project for which the sponsor is a Qualified BIPOC Entity. A BIPOC Project may be a New Construction Project, Rural Project, Acquisition/Rehabilitation Project. The partnership agreement of a BIPOC Project must allocate at least 51% developer fee, cash flow, and net sale proceeds to the BIPOC Entity and provide the BIPOC Entity an option to purchase the development. A BIPOC Project does not include a project for which any principal, partner, affiliate, parent organization, or member of the sponsor entity is eligible to receive maximum General Partner Experience points pursuant to Section 10325(c)(1)(A) of the CTCAC regulations unless (a) those points are awarded to a principal of the BIPOC Entity who no longer is employed by the developer of, or has an ownership interest in, the project(s) which form the basis of the experience points, or (b) those points are available to a nonprofit managing general partner that is (1) eligible under 501(c)(3) of the Internal Revenue Code and (2) not receiving more than 10% of the economic interests of the Project, which include developer fee, cash flow, and net sale proceeds and (3) the BIPOC Entity receives General Partner experience points pursuant to Section 5105(f)(1)(C). All BIPOC Projects shall be prequalified under Section 5106(c) and the BIPOC Entity must remain in the BIPOC Project ownership for a minimum of three years from the date the BIPOC Project is placed into service.~~

“Bond and State Credit Allocation” means the Allocation plus any California State Tax Credits requested from CTCAC for an individual QRRP Project.

“Bond Regulatory Agreement” means the agreement between the Issuer, Project Sponsor, and any third party related to the ownership, financing, and management of a proposed Qualified Residential Rental Project that

binds the parties to the commitments made in the Application that resulted in the Allocation for the Project and any other requirements mandated by 26 U.S.C. section 142.

“Capital Needs Assessment” means the physical needs assessment required for all acquisition/rehabilitation projects as defined in Section 10302(~~k~~) of the CTCAC Regulations.

“Community-Based Development Project” means a QRRP project for which the Project Sponsor is a Community-Based Developer, as defined by the Housing Development and Finance Committee Regulations.

“Community Revitalization Area” means one of the following areas for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to that plan have occurred: 1) a Distressed Community; 2) a Federal Opportunity Zone, Choice Neighborhood, or HUD-approved Neighborhood Revitalization Strategy Area; or 3) a Disadvantaged Community as identified by the California Environmental Protection Agency's CalEnviroScreen map.

“Community Revitalization Plan” means a plan for contributing to concerted community revitalization efforts as demonstrated by a letter from a local government official or the plan's lead agency. The letter shall explain how the proposed project will contribute to the community's planned revitalization and include, but is not limited to, a description of the following community engagement, investment, and other revitalization efforts:

- (a) Community enhancement services in the area, including, but not limited to, job training and after-school enrichment programs.
- (b) Funds, not including funds for the proposed project, that have been expended in the past five (5) years or are being expended or committed to be expended to improve the community infrastructure, including, but not limited to, parks, storm water systems, sewer systems, and streets.
- (c) Projects, not including the proposed project, that have been completed within the past five (5) years or are underway or committed to be completed that contribute to community revitalization, including, but not limited to, retail, office, and housing projects.

“CTCAC/HCD Opportunity Area Map” shall have the same meaning as in Section 10302(~~eee~~) of the CTCAC regulations. An applicant may choose to utilize the census tract or census block group resource designation, as applicable, from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application. Projects located in map areas designated as “Missing/Insufficient Data” or similar designation with site control prior to December 11, 2024, shall be considered to be in the resource area that most frequently surrounds the perimeter of the Project's map area.

“CTCAC regulations” means the regulations promulgated by CTCAC in division 17 of title 4 of the California Code of Regulations to administer the federal and state low-income housing tax credit program.

“Emerging Developer” means a Project Sponsor that

- (1) has no principal, partner, affiliate, parent organization, or member eligible to receive maximum General Partner Experience points pursuant to Section 10325(c)(1)(A) of the CTCAC regulations unless those points are awarded to a person who no longer is employed by the developer of, or has an ownership interest in, the project(s) which form the basis of the experience points;
- (2) does not hold an ownership interest in two (2) or more QRRP Projects that have been awarded bonds that have not yet been issued; and,
- (3) does not hold an ownership interest in five (5) or more QRRP Projects that have not placed in service in accordance with Section 10322(i) of the CTCAC Regulations.

“Extremely Low/Very Low-Income (ELI/VLI) Set-Aside” means a New Construction Project that has an average AMI of 50% or below and has received ~~either~~:

~~(a) an award of funding from the California Department of Housing and Community Development (HCD), including from the Multifamily Housing Program, the Affordable Housing and Sustainable Communities Program, the Transit Oriented Development Program, the Joe Serna Jr. Farmworker Housing Grant Program, the No Place Like Home Program, Housing for a Healthy California and the Veterans Housing and Homelessness Prevention Program. The income restrictions shall be at least as restrictive as those for which the applicant received an award from HCD. Awards made directly by the department do not include Alternative County Process awards; or~~

~~(b) an award of public funds, as defined in Section 10325(c)(9)(A)(i) of the CTCAC regulations, equivalent to 15% or more of the Project's total development cost, provided that the project meets the following criteria, as applicable:~~

(1) If the project receives points as a Large Family project pursuant to Section 5105(g) and is located in a High Segregation and Poverty Area as specified on CTCAC/HCD Opportunity Area Map, the project shall have income restrictions with a range of at least 30% AMI between the highest and lowest 10% of income-restricted units.

(2) If the project receives points as a Large Family project pursuant to Section 5105(g) and is located in a High or Highest Resource Area as specified on CTCAC/HCD Opportunity Area Map, the project shall have income restrictions that meet the requirements of Section 5105(i)(1)(A).

(3) If the project does not receive points as a Large Family project pursuant to Section 5105(g) or is located in a Moderate, or Low Resource Area as specified on CTCAC/HCD Opportunity Area Map, the project receives maximum points for exceeding minimum income restrictions pursuant to Section 5105(d).

"FHA" means Federal Housing Administration.

~~"FHA Financed Project" means a project financed under 221(d)3, 221(d)4, 223(f) Federal Housing Administration insurance program, or the Section 202 or 811 Capital Advance program, or any HUD-sponsored capital financing pilot program.~~

~~"Final and Conclusive Determination Letter" means a written confirmation from the Department of Finance (DOF) that its determination of an enforceable obligation as approved in a recognized obligation payment schedule is final and conclusive, and reflects DOF's approval of subsequent payments made pursuant to the enforceable obligation.~~

"Gross Rent" means gross rent as defined by 26 U.S.C. section 42(g)(2)(B). Utility allowances, as provided by 26 U.S.C. section 42(g)(2)(B)(ii), will be included for purposes of this calculation. Projects that are At Risk Projects or Projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

"Hard Construction Costs" means the amount of the construction contract, excluding contractor profit, general requirements and contractor overhead.

"Housing Development and Finance Committee" or "HDFC" means the multifamily housing finance committee established pursuant to Section 54925 et seq. of the Health and Safety Code.

"HDFC Bond Allocation" means the portion of the State Ceiling allocated by the Committee for an HDFC Project from the HDFC Pool.

"HDFC Pool" means the portion of the State Ceiling reserved for HDFC Projects.

"HDFC Project" means a proposed QRRP (1) for which the HDFC approved an application for a multifamily affordable housing program award and transmitted the approved application to the Committee for an HDFC Bond Allocation; (2) that is funded by a program administered by HDFC pursuant to HDFC regulations; or (3) with an existing California Department of Housing and Community Development ("HCD") loan or grant.

"Homeless Set-Aside Project" means a New Construction Project in which the greater of 15 units or 25% of the tax credit units are designated for homeless households as defined in Section 10302(kk) of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTCAC regulations.

"HUD" means the United States Department of Housing and Urban Development.

~~"HUD Development Acknowledgement Letter" means HUD correspondence outlining that a project has submitted an application for FHA financing, that the application has been deemed complete, and that HUD is committed to providing the project with a Firm Commitment Letter prior to the issuance expiration date of the project's Allocation.~~

~~"HUD Firm Commitment Letter" means a HUD loan commitment for FHA financing.~~

~~"MAP Lender" means a HUD-qualified lender that prepares FHA forms and performs preliminary underwriting for certain FHA loan applications.~~

"Market Study" means a comprehensive document prepared by a third party which contains information related to the Project's market area.

"Mixed Income Project" means a Qualified Residential Rental Project that is a New Construction project and either (1) is not utilizing the Average Income test of Internal Revenue Code Section 42 (g)(1)(C) and has 50% or fewer of its total units designated as Restricted Rental Units, or (2) is part of the California Housing Finance Agency Mixed-Income Program. In a Competitive Application Process, a Mixed Income Project may only apply for an allocation of tax-exempt bonds if the ratio of tax-exempt bonds, not including recycled bonds, to aggregate depreciable basis plus land basis is less than or equal to the ratio of units that will be restricted pursuant to a CTCAC regulatory agreement.

"Native American Lands" means real property located within the State of California that meets both the following criteria:

- (a) 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.
- (b) the land may be leased for housing development and residential purposes under federal law.

"New Construction Project" means a QRRP project applying for an allocation of tax-exempt private activity bonds that meets at least one of the following: (1) 100% of its units constitute new units to the market, (2) involves the demolition or rehabilitation of existing residential units that increase the unit count by either 25 units or 50% of the existing units, whichever is greater, unless, for existing SRO projects, waived by the Executive Director provided that the applicant demonstrates that full compliance would be impractical, or (3) adaptive re-use of non-residential structures, including hotels and motels that were converted to residential use within the previous five (5) years from the date of the application.

"Neighborhood Change Map" means the Final 2024 Neighborhood Change Map, and any subsequent updates, developed by HCD to identify neighborhoods that have undergone rapid racial/ethnic change and economic change, which present a risk of exacerbating challenges to Affirmatively Furthering Fair Housing. An applicant may choose to utilize the census tract or census block group resource designation from the Neighborhood Change Map in effect when the initial site control was obtained up to seven calendar years prior to the application.

"Permanent Supportive Housing" means a QRRP Project receiving points pursuant to Section 5105(g) as a Special Needs Project for which the minimum required percentage of special needs units are designated as "supportive housing" as that term is defined in Health and Safety Code section 50675.14(b). The project shall comply with the core components of Housing First, as defined in Welfare and Institutions Code section 8255(b), with respect to the units designated for homeless households.

"Public Transit Corridor" means an existing or planned public mass transit guide way or bus way station, or multimodal transportation terminal serving public mass transit operations within one-third mile of the Project.

"Qualified Project Period" shall mean the same as defined in 26 U.S.C. section 142(d)(2)(A) and regulations promulgated thereunder, except that the minimum term shall be consistent with Section 5107.

"Recycled Bonds" means previously issued Allocation that meets the requirements of IRC section 146(i)(6).

"Rent Comparability Matrix" means the form by which the third party that has completed the Market Study required under Section 5102(b)(1) provides information comparing the Project to comparable properties in the Project's market area and evidences that each of the Project's unit types has met the requirements of Section 5102(b)(7)7(a)(2).

"Residential Rental Regulatory Agreement" means a covenant recorded against the title of a subject property by a government entity limiting the property's use to rental housing and restricting tenant incomes and rents to no more than 80% of the Area Median Income of the County in which the property is located.

"Restricted Rental Units" means tenant occupied units within a Qualified Residential Rental Project that are restricted to households earning 60% or less of the applicable median family income pursuant to a Bond Regulatory Agreement.

"Rural Project" means a Qualified Residential Rental Project that is a New Construction Project located in a rural area as defined by Health and Safety Code section 50199.21 but shall not include a Mixed Income Project.

"Rural Project Pool" means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.

"Scattered Site Project" means multiple location Projects that:

- (a) except where a single existing project-based Section 8 contract is in effect that covers all locations, consist of no more than five (5) locations; and
- (b) are not contiguous except for the interposition of a road, street, stream or similar property; and
- (c) are proposed to be financed through a single pooled bond transaction; and
- (d) all locations are:
 - (1) subject to a Residential Rental Regulatory Agreement or subject to a federal, state, or local rental or operating assistance agreement:
 - (A) within the boundaries of the same city, or
 - (B) within a 10-mile diameter circle within the same county, or
 - (C) within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more; or
 - (2) All projects not described within (d)(1) must be within a one (1) mile diameter.

"Standard QRRP Application" means the Application for an Allocation of the Qualified Residential Rental Project Pool titled "Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)" (Revised 05-31-2018), which is hereby incorporated by reference.

"Supplemental Allocation" means the award of allocation to a Qualified Residential Rental Program Applicant for a Project that received previous Allocation.

"Supplemental Allocation Pool" means the reserve of the State Ceiling established by the Committee for supplemental allocation on Qualified Residential Rental Projects.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Section s 8869.84(b), 8869.84(c), Government Code.

§ 5101. Announcement of Qualified Residential Rental Project Pools, Set-Asides, and Minimum Points.

(a) There shall exist within the Qualified Residential Rental Project Pool the following pools and set-asides:

- (1) New Construction Pool for New Construction Projects that are not Rural Projects:
 - (A) Homeless Set-Aside ~~Projects~~ within the New Construction Pool
 - (B) ELI/MLI Set-Aside within the New Construction Pool
 - (C) Mixed-Income Set-Aside within the New Construction
- (2) Rural Project Pool for Rural Projects, not to exceed ten percent (10%) of the total Qualified Residential Rental Project Pool
- (3) Acquisition/Rehabilitation Pool
- (4) ~~BIPOC Emerging Developer~~ Pool ~~for BIPOC Projects~~
- (5) ~~HDFC Pool~~
- (6) Supplemental Allocation Pool ~~for Supplemental Allocation Requests~~

(b) As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee shall determine and announce what amount of the ~~QRRP~~Qualified Residential Rental Project Pool shall be available in each Allocation Round to each of the ~~QRRP~~Qualified Residential Rental Project Pool pools and set-asides. Until July 1, 2029, the HDFC Pool shall be allocated at least one-half of the amount of state ceiling dedicated to QRRP.

(c) The Committee shall establish a minimum point threshold for the New Construction, Rural, Acquisition/Rehabilitation and ~~BIPOC Emerging Developer~~ Pools

(d) For the purpose of allocating bonds available under the New Construction Pool, annual apportionments of bonds shall be made in approximately the amounts shown below:

Geographic Region	Apportionment
Coastal Region (Monterey, Napa, Orange, San Benito, San Diego, San Luis Obispo, Santa Barbara, Sonoma, and Ventura Counties)	21%
City of Los Angeles	17%
Balance of Los Angeles County	16%
Bay Area Region (Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Santa Cruz Counties)	21%
Inland Region (Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Bernardino, Stanislaus, and Tulare Counties)	16%
Northern Region (Butte, El Dorado, Placer, Sacramento, San Joaquin, Shasta, Solano, Sutter, Yuba, and Yolo Counties)	9%

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(b), 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5102. QRRP Application Procedures and Requirements.

(a) Applicants seeking an Allocation shall be considered in accordance with the applicable provisions of these regulations and the submission of a complete QRRP Application

(b) No application is complete without meeting the All applications shall include the following threshold requirements at the time the application is filed and to the Executive Director's satisfaction:

(1) The housing need and demand requirements of Section 10325(f)(1) of the CTCAC regulations.

~~—(2) Demonstrated site control. The Applicant shall provide eThe evidence that the Project site control requirements of -site is and will remain within the control of the Applicant or Project Sponsor at the time of Application submission as set forth in Section 10325(f)(2) of the CTCAC regulations. -within the control of the Applicant or Project Sponsor. Applicants shall provide information regarding the current owner of the project property, if other than the Project Sponsor. Except as provided below for reapplications, a current preliminary or final title report, or, for projects that will be located on Native American Trust Lands, a Land Title Status Report from the Bureau of Indian Affairs or an attorney's opinion regarding chain of title and current title status, all of which shall be dated no more than ninety (90) days prior to Application deadline, shall be submitted with all applications for the purposes of this requirement. A commitment for the title insurance or a title insurance document are not acceptable substitutions for a preliminary title report, final title report, or a title report. The Committee may permit the site control title report of an unsuccessful application to be submitted, only once, in the reapplication cycle immediately following the unsuccessful application.~~

(A) Site control may be evidenced by any of the following:

(i) ~~The Applicant or Project Sponsor holds fee title as evidenced by the current (within 90 days prior to the Application date) preliminary or final title report;~~

(ii) ~~An executed lease agreement or lease option for the length of time the Project will be regulated under this program between the Applicant or Project Sponsor and the owner of the subject property;~~

(iii) ~~An executed disposition and development agreement for the length of time the Project will be regulated under this program between the Project Sponsor and a public agency; or~~

(iv) ~~A valid, current, and enforceable contingent purchase and sale agreement or option agreement between the Project Sponsor 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.~~

(v) ~~Valid, current and enforceable purchase and sale agreements, contingent purchase sale or option agreements in combination between the Project Sponsor, a third party and the owner of the subject property such that the Committee can determine that upon a grant of Allocation the Project Sponsor has a right to acquire the subject property.~~

(vi) ~~The Executive Director may determine that site control has been demonstrated where a local agency has documented its intention to acquire the site, or portion of the site, through eminent domain proceedings as evidenced by order(s) of possession.~~

(32) The local approvals and zoning requirements of Section 10325(f)(4) of the CTCAC regulations.

(4) The financial feasibility requirements of Section 10325(f)(5) of the CTCAC regulations.

(5) Utility Allowance. The Project Sponsor shall provide the utility allowance estimate as described in requirements of Section 10322(h)(21) of the CTCAC regulations.

(23) Local Approvals and Zoning. The Project Sponsor shall provide evidence, no later than the application due date for the allocation round in which the Project is seeking an allocation, that the project meets the requirements of Section 10325(f)(4) of the CTCAC regulations.

(6) Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a QRRP must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the AMI. The rent restricted units that meet this requirement, with the exception of Mixed Income Projects, acquisition rehabilitation projects already subject to a Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement, and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the Project. All projects shall offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.

(7) Minimum Rent Restrictions. Except for projects subject to an existing Residential Rental Regulatory Agreement that propose tenant paid rents and income targeting not exceeding one hundred-five percent (105%) of the current rents and targeting and operate with a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%) as demonstrated by a market study completed pursuant to 26 U.S.C. Section 42(m)(1)(A)(iii) and subdivision (b)(1); the proposed tenant paid rents for each Restricted Rental Unit type (defined by bedroom count) in the proposed development shall be at least ten percent (10%) below the weighted average rent for comparable market rate units and each Restricted Rental Unit's value ratio (dollars per square foot) shall be at or below the weighted average unit value ratio for comparable market rate units as demonstrated in a Rent Comparability Matrix required pursuant to subdivision (b)(1).

(38) Project Sponsor and Project Developer. If not requesting experience points pursuant to Section 5105(f), the application must provide evidence that the development team possesses the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project include a summary of the Project Sponsor and Project Developer experience developing or rehabilitating housing with tax-exempt bond financing. A list of projects must be included. The list may take the form of the CTCAC Experience Attachment.

(49) Legal Status of development team members.

(A) Applicants shall provide information regarding the legal status of the Project Sponsor and Developer.

(i) Financial Viability. Disclose any legal or regulatory action or investigation that may have a material impact on the financial viability of the project or the Project Sponsor and Developer. The disclosure should be limited to actions or investigations in which the applicant or the applicant's parent, subsidiary, or affiliate involved in the management, operation, or development of the project has been named a party. Not Applicable is an unacceptable response.

(ii) Fraud, Corruption, or Serious Harm. Disclose any legal or regulatory action or investigation involving fraud or corruption, or health and safety where there are allegations of serious harm to employees, the public, or the environment. The disclosure should be limited to actions or investigations in which the Project Sponsor and Developer or the Project Sponsor's and Developer's current board member (except for volunteer board members of non-profit entities), partner, limited liability corporation member, senior officer, or senior management personnel has been named a defendant within the past ten years. Not Applicable is an unacceptable response.

(iii) Disclosures required under (i) and (ii) should include civil or criminal cases filed in state or federal court; civil or criminal investigations by local, state, or federal law enforcement authorities; and enforcement proceedings or investigations by local, state or federal regulatory agencies. The information provided must include relevant dates, the nature of the allegation(s), charters, complaint or filing, and the outcome. For a publicly-traded company, the relevant sections of the company's 10K, 8K, and 10Q most recently filed with the Securities and Exchange Commission may be attached in response ~~subparagraph (i) to question #1~~. With respect to ~~subparagraph (ii) a response for question #2~~, previous 10K, 8K, and 10Q filings of the company may be attached if applicable.

(B) Applicants shall disclose the following information for the Project Sponsor, Developer, General Contractor, and Property Manager:

(i) Fair Housing, Anti-Discrimination, and Labor Laws. Disclose any regulatory or investigative proceeding related to affordable housing development or management by a local, state, or federal agency relating to an alleged, pending, or closed violation of fair housing, anti-discrimination, or labor laws and the status of the proceeding, as applicable. Only report closed matters with an adverse punitive or financial outcome.

(510) Enforceable Financing Commitments.

(A) 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.

(B) An "enforceable financing commitment" must:

- (1) 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;
- (2) be subject only to conditions within the control of the applicant, but for obtaining other financing sources including an award of Tax Credits;
- (3) have a term of at least fifteen (15) years if it is permanent financing;
- (4) demonstrate feasibility for fifteen (15) years at the underwriting interest rate, if it is a variable or adjustable interest rate permanent loan;
- (5) 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
- (6) be accepted in writing by the proposed mortgagor or grantee, if private financing.

(611) Legislative Districts and Census Tracts. Applicants shall provide the following: Federal Congressional District in which the proposed Project is located, State Senate District in which the proposed Project is located, State Assembly District in which the proposed Project is located, Census Tract in which the proposed Project is located.

(712) Prior Tax-Exempt Allocation Award. The Application will provide a narrative explanation of the circumstances surrounding the prior allocation and why additional allocation is being requested.

~~(813)~~ Project Description. Applicant shall submit a narrative description of the proposed Project. The description must contain, at a minimum, the following details: 1) the number of acres of the site (include topography and special features), 2) a description of the surrounding neighborhood, 3) the targeted population for the project (i.e., large families, seniors, etc.), 4) the expected start and completion date of construction/rehabilitation, 5) physical features of the project (i.e., description of buildings, grounds, project amenities, etc.), 6) unit configuration, 7) unit amenities, 8) scope of rehabilitation work, and 9) if applicable, a description of other unique features of the project. ~~(10)(a)~~ If the Application is submitted under a non-competitive process, the Application must include a description of the Project Type and Characteristics, including the construction type and proposed tenant population pursuant to Section 5000. (b) If the Application is submitted under a competitive process, Project Type and Characteristics documentation must be included pursuant to Sections 5000 and 5100.

~~(10) 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 as set forth in Section 10325(f)(1).~~

~~(914)~~ Detailed Unit Affordability Information.

(A) The application will include the Federal Bond-Election of 20% at 50% Area Median Income, or 40% at 60% Area Median Income.

(B) For At-Risk projects and 4% low income housing tax credit projects, this shall mean that the Project units must have Gross Rents that are restricted to households whose incomes must be 50% or less of the AMI; or Gross Rents that are restricted to households whose incomes must be 60% or less of the AMI. Applications not meeting this minimum requirement will be deemed incomplete.

(C) The Application will include tables with the following information on the Restricted Rental Units: Number of Bedrooms/Number of Bathrooms, Unit Size in square feet, number of units in subtotals and total, total square feet per unit type in subtotals and total, proposed monthly tenant-paid rent per unit (excluding utilities), proposed monthly rental subsidy per unit, proposed monthly income per unit, monthly utility allowance, monthly gross rent, percent of Area Median Income based on monthly gross rent, and annualized total rental income. The Application will include another table, Market Rate Units, including number of bedrooms, unit square feet in subtotal and total, number of units, proposed monthly tenant-paid rent per unit (excluding utilities), total proposed tenant paid rent and annualized total rental income. Application will include a table, "Managers' Units" Restricted or Market Rate. The table will include columns for number of bedrooms, unit square feet in subtotal and total, number of units, proposed monthly manager-paid rent per unit, total proposed monthly manager-paid rent and annualized total rental income. Application will include a table with total number of units (excluding manager units), total number of restricted units, percent of total restricted units, number of units at or below 50% AMI, percent of units at or below 50% AMI, number of units above 50% to 60% AMI, percent of units above 50% to 60% AMI, number of restricted rental units with 3 or more bedrooms, and percent of restricted rental units with 3 or more bedrooms. Applicants shall provide a breakdown of Project unit types, size, number of units, proposed tenant-paid rent, monthly utility allowances (if any), subsidies (if any) and unit percentage of Area Median Income (AMI) level based on monthly Gross Rent.

~~(4015)~~(A) Applications that contain Recycled Bonds as a source of financing must include a commitment letter from an Issuer that:

- (i) Includes signatures of all necessary and appropriate parties to the transaction,
- (ii) States the requested amount of Recycled Bonds, and
- (iii) States if the Recycled Bonds will be delivered at closing or before conversion.

(B) The Issuer must notify CDLAC of the use of Recycled Bonds either through the Report of Action Taken or once funds are delivered to the Project Sponsor.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5103. Additional Requirements for Pool Eligibility Acquisition/Rehabilitation Projects.

(a) Acquisition/Rehabilitation Projects Pool.

(1) Acquisition/Rehabilitation Projects must complete a minimum of \$15,000 in hard construction costs per unit, except At Risk Projects that receive only an award of Bond authority and do not receive low income housing tax credits must spend the minimum amount required by 26 U.S.C. section 147(d)(2).

(2) (b) In a Competitive Application Process, Acquisition/Rehabilitation Projects shall ~~meet all of the following criteria:~~

(1) Shall (1) complete at least \$60,000 in hard construction costs per tax credit unit; and

(2) At least 60% of hard construction costs shall be expended only on immediate health and safety improvements, seismic and accessibility improvements, and/or the replacement of major systems with a remaining useful life of less than ten years, as evidenced by a CTCAC Capital Needs Assessment and a CA-licensed general contractor's estimate of each cost.

(3) (c) Applicants proposing rehabilitation or demolition of occupied housing shall comply with Section 10322(h)(28) of the CTCAC regulations.

(4) (d) Except as provided below for reapplications, the Applicant shall submit a Capital Needs Assessment with report and inspection dates 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, and distinguishing between immediate and long-term repairs. The Capital Needs Assessment shall also include a fifteen (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 Capital Needs Assessment shall be prepared by the Project's architect, as long as the architect has no identity of interest with the Project Sponsor or other member of the development team; or by a qualified independent third party who has no identity of interest with any of the members of the development team. The Capital Needs Assessment is not required if the Project, within the immediately preceding three (3) years, received an Allocation and this requirement was satisfied in the original Application. The Committee may permit the Capital Needs Assessment of an unsuccessful application to be submitted, only once, in the reapplication cycle immediately following the unsuccessful application.

(b) Emerging Developer Pool. To apply under the Emerging Developer pool:

(1) The Project Sponsor must meet the definition of an Emerging Developer.

(2) No partner, member, shareholder, affiliate, or other entity of the Project may hold an ownership interest in five (5) or more QRRP Projects that were awarded from the Emerging Developer Pool and have not placed in service in accordance with Section 10322(i) of the CTCAC Regulations.

(3) The Project Sponsor must commit to maintaining a material ownership interest in the Project for a minimum of five (5) years following the date the project is placed in service.

(4) The Project Sponsor must commit to providing project guarantees to the investor and construction lender for loan repayment, project completion, tax credit recapture, and operating deficits.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5104. Additional Requirements for Scattered Site Applications.

(a) Applications for Scattered Site Projects shall provide all information required for each site. Additional stipulations are as follows:

(1) For acquisition and rehabilitation projects, a Capital Needs Assessment report may combine information for all Project sites in one report.

(2) For new construction projects and acquisition/rehabilitation projects, a Market Study may combine information for all Project sites in one report; however, the Market Study shall have separate Rent Comparability Matrices for each site.

~~(3) Acquisition/Rehabilitation Projects where each location is subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Sections 5107(b)(1) and 5104(a)(3), a comprehensive market study consistent with 26 U.S.C. Section 42(m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the project must meet at least one of the following requirements: 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:~~

~~(A) as certified by a third party market analyst, the proposed tenant paid rents and income targeting will not exceed one hundred five percent (105%) of the current rents and targeting and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or All of the buildings in the project are subject to existing federal or state rental assistance or operating subsidies, an existing CTCAC Regulatory Agreement, or an existing regulatory agreement with a federal, state, or local public entity.~~

~~(B) as evidenced by copies of executed contracts, the project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date. The proposed tenant paid 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) of the CTCAC regulations).~~

~~(C) The project shall have a vacancy rate of no more than ten percent (10%) for special needs units and non-special needs SRO units without a significant project-based public rental subsidy and five percent (5%) for all other units at the time of the tax credit application.~~

(4) Evidence of site control shall be required for each site.

(5) Any maps provided shall include each site.

(b) An Applicant may seek a waiver of the Scattered Site five (5) location limit. A written request describing how the project will benefit from waiver of the location limit must be submitted no later than the application due date for the allocation round in which the Project is seeking an allocation.

(c) Each site within an Application for a Scattered Site shall be evaluated individually for points as provided in Section 5105. The total points awarded to a Project in any category shall be based on the pro-rata share of total units each site represents. For instance, if only one site meets the threshold for an award of 5 points and the site represents 40% of total units, the Project shall be awarded two (2) points for this category (40% x 5 points).

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5105. Application Evaluation and Points.

(a) The following criteria will be used to evaluate and rank all ~~QRRP~~qualified Residential Rental Project applications, other than HDFC Project applications. Each of the items in this section shall be memorialized in the Committee Resolution.

(b) Acquisition/Rehabilitation Project Priorities (20 points maximum).

(1) A project meeting all of the following criteria shall receive 10 points:

(A) The project does not result in a distribution of net project equity, as that term is defined in Section 10302~~(gg)~~ of the CTCAC ~~R~~regulations, to a general partner or a related party to the general partner. For purposes of this subparagraph, there may be a buyout of a limited partner or equity distributed to a third party seller;

(B) There is no partial or full repayment of existing soft financing, except for loans less than or equal to the greater of \$500,000 or 1.5% of the project's total development costs or for temporary repayments that will be restored in the permanent financing; and

(C) The application's developer fee limit pursuant to Section 10327(c)(2) of the CTCAC Regulations is further limited to a cash-out developer fee no greater than 80% of the CTCAC cash-out developer fee limit.

(2)(A) An At-Risk Project shall receive 20 points.

(B) A project that meets at least one of the following shall receive 9 points:

(i) A replacement or rehabilitation project approved by HUD pursuant to a Section 18 or 22 Demolition/Disposition authorization; ~~or-~~

(ii) A project being rehabilitated under the HUD Rental Assistance Demonstration (RAD) Program, or a rehabilitation project that has received a new Section 515 loan from the United States Department of Agriculture; ~~or~~

~~(iii) A project that received an award from HCD's Portfolio Reinvestment Program~~

~~(iv) A project with a pre-1999 HCD loan.~~

(C) A project that meets at least one of the following shall receive 8 points:

(i) A project with at least \$120,000 in hard construction costs per tax credit unit and is replacing at least two major building systems

(ii) A project applying as an SRO housing type, as defined in Section 10325(g) of the CTCAC regulations, and the rehabilitation will add a bathroom and complete kitchen to each unit.

(D) A project that meets at least one of the following shall receive 7 points:

(i) A project that has previously received an allocation of Low-Income Housing Tax Credits where it has been greater than 20 years from the placed in service date.

(ii) A project that has never received an allocation of Low Income Housing Tax Credits.

(c) New Construction Density and Local Incentives (10 points maximum); Acquisition/Rehabilitation Projects are not eligible for these points). A New Construction Project that meets any of the following shall receive 10 points:

(1) The local jurisdiction has approved the project pursuant to Section 65913.4 of the Government Code; or at a density greater than that allowed by the site's zoning through the use of a density bonus allowed by Government Code Section 65915; or pursuant to a local ordinance; or with concessions and/or waivers granted pursuant to Government Code Section 65915;

(2) The project is being developed at a per net acre density that meets one of the following criteria:

(A) 100 bedrooms per net acre in a metropolitan county;

(B) 60 bedrooms per net acre in a suburban jurisdiction;

(C) 40 bedrooms per net acre in all other areas.

(3) The project is located in a city or unincorporated portion of a county for which HCD has designated the city or county, respectively, as pro-housing pursuant to Section 65589.9(c) of the Government Code.

(4) For purposes of this subdivision, "net acre" is defined as the acreage within the parcel boundaries after subtracting any area affected by the dedication of public right-of-way, the presence of restrictive easements, and non-buildable areas. "Metropolitan county" and "suburban jurisdiction" shall have the same meanings as in Section 65583.2 of the Government Code. Projects with land-use approvals obtained prior to January 1, 2022, shall earn full points in this category.

(d) Exceeding Minimum Income Restrictions (20 points maximum). A project shall receive points in either of the following manners:

(1) 2 points for each full percent that the average affordability of tax credit units is less than 60% of area median income subject to the Gross Rent definition; or

(2) 20 points if the average affordability of tax credit units is less than or equal to 60% of area median income, provided that at least 10% of tax credit units are restricted at or below 30% of area median income and an additional 10% of tax credits units are restricted at or below 50% of area median income, subject to the Gross Rent definition.

(e) Exceeding Minimum Rent Restrictions (10 points maximum). A project shall receive one point for each full percent that the average affordability of tax credit units is more than ten percent (10%) below the average adjusted rental rates of comparable market-rate units as demonstrated by each applicable Rent Comparability Matrix. This percentage shall be calculated separately for units of each bedroom count, with the results for each unit type weighted relative to the percentage of tax credit units of that type in the project, and the resulting percentage shall be used to determine the final point score. In cases where unit sizes of the same unit type vary,

the smallest of these units shall be the basis for comparison. When family comparables are used in addition to senior comparables (outside the 1-mile radius), points will be calculated using the family comparables.

(f) General Partner and Management Company Experience (10 points maximum).

(1) A project shall receive general partner experience points in one of the following manners:

(A) The number of general partner experience points for which it is eligible pursuant to Section 10325(c)(1)(A) of the CTCAC regulations.

(B) 7 points if the project is a joint venture between an entity that receives maximum general experience points pursuant to Section 10325(c)(1)(A) of the CTCAC regulations and an Emerging Developer-BIPOC Entity, provided that the partnership agreement allocates at least 51% of the developer fee, cash flow, and net sale proceeds to the BIPOC Entity and provides the BIPOC Entity an option to purchase the development.

(C) 7 points if the sponsor is an Emerging Developer-BIPOC Entity that (i) is a general partner in at least one California Low-Income Housing Tax Credit development that has received a certificate of occupancy, or if a rehabilitation project, completed rehabilitation, within ten years of the date of application, (ii) submits the certification from a third-party certified public accountant referred to in Section 10325(c)(1)(A)(i) of the CTCAC regulations for that development, and (iii) completes training as prescribed by CTCAC ownership/management, project operations, on-site certification, federal Fair Housing Law, and manager certification in IRS Section 42 program requirements from a CTCAC-approved, nationally recognized entity prior to application submission-a project's placing in service.

(2) A project shall receive management company experience points in one of the following manners:

(A) The number of management company points for which it is eligible pursuant to Section 10325(c)(1)(B)(i) of the CTCAC regulations.

(B) 3 points if the management company will be the Emerging Developer-BIPOC Entity for which the project receives general partner experience points pursuant to paragraph (1)(C). Projects receiving points under this subparagraph shall contract with a management company currently eligible for a minimum of two points under (A) for a minimum of three (3) years following the date the project is placed in service in accordance with Section 10322(i) of the CTCAC regulations.

(g) Housing Types (10 points maximum; Acquisition/Rehabilitation Projects not eligible for these points). A New Construction Project that meets any of the following criteria shall receive 10 points:

(1) The project meets the criteria for any of the housing types described in Section 10325(g) of the CTCAC regulations. Points will be awarded only in one housing type.

(2) The project meets the requirements of subdivision (c) of this section or is a New Construction Project that obtained all land use approvals prior to January 1, 2022.

(h) Readiness to Proceed (10 points maximum). Projects may earn 10 points by documenting enforceable financing commitments as defined in Section 5102(b)(5) for all construction financing and demonstrating that construction can begin within 180 days, 201 days, or 222 days of the bond allocation, as assigned by the Executive Director. Additionally, Applicants shall provide evidence that all deferred-payment financing, residual receipts payment financing, grants and subsidies shown in the application are "committed" at the time of application, as described in CTCAC Regulations Section 10325(f)(8)(A)-(D), except a project is exempt from this requirement if it has funds anticipated and publicly published with provisional awardee names but not yet officially awarded in the capacity required.

(1) Before the end of the assigned deadline, CDLAC must receive:

(A) An executed construction contract.

(B) Recorded deeds of trust for all construction financing (unless precluded by tribal trust land), binding commitments for permanent and any other required financing.

(C) Executed limited partnership agreement with equity investor.

(D) Issued building permits or applicable tribal documents.

(i) Grading permits may be used to meet this requirement only if the city or county does not issue building permits before grading is complete.

(ii) Documentation that the city or county approved construction to begin may be used to meet this requirement for design-build projects where the city or county does not issue building permits until designs are fully complete.

(E) Notice to proceed delivered to the contractor.

(2) If no construction lender is involved, evidence of equity partner admission and initial disbursement must be submitted by the deadline. CDLAC will conduct a financial feasibility and cost reasonableness review upon receipt. In cases of federally or state-declared emergencies (or similar events, at the Executive Director's discretion), extensions may be granted.

(3) Failure to meet the deadline or provide sufficient documentation may result in the Executive Director issuing a notice rescinding the bond allocation for failure to be ready to proceed. Prior to the deadline, the applicant may submit one request for an extension of up to ninety (90) days, which the Executive Director may grant at their discretion. If the applicant fails to meet the requirements by the expiration of the granted extension, the bond allocation may be rescinded, subject to appeal under Section 5005. The Executive Director's denial of an extension request, as well as any notice of rescission, is also appealable under Section 5005. The Committee may issue negative points under Section 5105(m) in connection with any allocation rescission, or with any extension granted or denied, including those addressed through an appeal under Section 5005

(i) Access to Opportunity (10 points maximum).

(1) A New Construction project shall receive points in only one of the following manners:

(A)(i) Except as provided in (ii) below, 10 points if the project receives points as a Large Family project or Special Needs project pursuant to subdivision (g) (except the Special Needs project shall have at least 50% of its units set aside as permanent supportive housing), is located in a High or Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map, and at least 10% of tax credit units shall be restricted at or below 30% of area median income and an additional 10% of tax credits units shall be restricted at or below 50% of area median income (except Special Needs projects shall be exempt from this 50% AMI requirement).

(ii) Using the sort order described in Section 5106, after projects receiving 10 points pursuant to this subdivision have been recommended for allocations that meet or exceed the following threshold, all remaining projects in each pool or set aside shall receive 9 points for meeting the requirements of this subdivision. For the purpose of awarding points per round, excluding an established waiting list, pursuant to this subdivision, 10 points shall be awarded until 48% of the amount available to a pool or set aside has been allocated or until the next eligible project in line would allocate over 52% of the amount available to the pool or set aside. Subsequently, all remaining projects in each pool or set aside shall receive 9 points for meeting the requirements of this subdivision.

(B) 9 points if the project does not receive points pursuant to subdivision (i)(1)(A). With respect to New Construction Projects, at least 10% of tax credit units shall be restricted at or below 30% of area median income and an additional 10% of tax credits units shall be restricted at or below 50% of area median income.

(j) Service Amenities (10 points maximum). A project shall receive the number of points for which it is eligible pursuant to Section 10325(c)(4)(B) of the CTCAC regulations, except that projects not meeting one of the housing types specified in Section 10325(g) of the CTCAC regulations shall be able to choose the services provided without regard to the housing type conditions within the service amenity categories.

(k) Cost Containment (12 points maximum). A project shall receive 1 point for each full percent that the project's eligible basis is less than the project's CDLAC adjusted threshold basis limit, except that a New Construction Project that receives points as a Large Family project or Special Needs project pursuant to the conditions specified in Section 5105(i)(1)(A) and is located in a High or Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map shall receive 2 points for each full percent that the project's eligible basis is less than the project's CDLAC adjusted threshold basis limit. For purposes of this subdivision, a project's CDLAC adjusted threshold basis limit shall be the project's threshold basis limit as determined pursuant to Section 10327(c)(5) of the CTCAC regulations, except that the increase for deeper targeting pursuant to Section 10327(c)(5)(C) of the CTCAC regulations shall be limited to 80%.

(l) Site amenities (10 points maximum). A new construction project shall receive up to 10 site amenity points for which it is eligible pursuant to Section 10325(c)(4)(A) of the CTCAC regulations, except that a maximum of three points shall be available to any project that meets the Resource Area criteria of Section 10325(c)(4)(A)11.

(m) Negative Points (no maximum).

The Committee may deduct points for an Application involving a Project Sponsor that has been or is a Related Party to a Project Sponsor (i.e. in the ownership structure) for which an Allocation has been awarded as follows:

(1) Ten (10) points may be deducted for each failure to fully utilize the leveraged soft resources for which points were awarded in connection with the prior Allocation, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control or the amount not utilized is not material, or is the result of voluntarily returning leveraged soft resources due to the project being over-sourced, or if a change in federal or state law provides additional financial resources that result in a reduction in leveraged soft resources. This deduction may be assessed against the Project Sponsor for a period of up to two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(2) Ten (10) points may be deducted for each failure to issue Bonds or utilize 90% or more of a Supplemental Allocation, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction may be assessed against the Project Sponsor for a period of up to two (2) succeeding years (10 points each year) following the year the Allocation was awarded.

(3) Ten (10) points may be deducted for each failure to spend the proceeds of Bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control, the amount not spent is not material or is consistent with the requirements of Section 5006(c), or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction may be assessed against the Project Sponsor for a period of up to three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

(4) Ten (10) points may be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction may be assessed for a period of up to three (3) calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.

(5) Ten (10) points may be deducted in connection with any adverse action taken under Section 5105(h). This deduction may be assessed against the Project Sponsor for a period of up to two (2) succeeding years (10 points each year) following the year the Allocation was awarded.

(6) Where CTCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.

(7) Where CTCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5106. Ranking.

After all Applications for Qualified Residential Rental Projects are evaluated pursuant to Section 5105, the Applications shall be ranked and may be awarded an Allocation as follows, except that a project shall not receive a bond allocation if it had requested and is not scheduled to receive an award of State Tax Credits:

(a) Applications for Rural Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Rural Projects awarded the greatest number of points after factoring in the tiebreaker pursuant to Section 5106(f), as applicable, shall be awarded an Allocation from the Rural Pool. Applications for Rural Projects not receiving an Allocation will not be eligible for consideration for an Allocation under subdivisions (b) or (d) of this section.

(b) Applications for Acquisition/Rehabilitation Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Acquisition/Rehabilitation Projects awarded the greatest number of points after factoring in the tiebreaker pursuant to Section 5106(f), as applicable, shall be awarded an Allocation from the Acquisition/Rehabilitation Pool. Applications for Acquisition/Rehabilitation Projects not receiving an Allocation pursuant to this subdivision will not be eligible for consideration for an Allocation under subdivisions (a) or (d) of this section.

(c) ~~Applications for BIPOC Projects.~~

~~(1) For any QRRP allocation round, all Applicants intending to qualify as a BIPOC Project to compete in the BIPOC pool shall pre-qualify as a BIPOC Project under this subdivision. Pre-qualification means the Executive Director determined the Applicant is a BIPOC Project under Section 5100.~~

~~(A) At least 15 business days prior to the QRRP Application due date for an allocation round in which an Applicant intends to compete as a BIPOC Project, the Applicant shall submit a prequalification request to the Executive Director using the prequalification request form available on the CDLAC website.~~

~~(B) The Executive Director shall issue a decision in response to any requests received under subdivision (c)(1)(A) within 10 business days and no later than five (5) business days prior to a QRRP allocation round application due date. The Executive Director may request clarification or additional documentation from the Applicant about the prequalification request that may extend the Executive Director's time for response.~~

~~(C) A pre-qualification approval letter is required to be included in any application submitted for a QRRP allocation round where the applicant intends to compete in the BIPOC pool.~~

~~(D) The Executive Director's decision under subdivision (c)(1)(B) is not appealable to the Committee. Nothing herein limits an Applicant's right to an appeal under Section 5005 or the Committee's authority to disqualify an application under Section 5015.~~

~~(E) Applicants with pre-qualification requests not granted by the Executive Director shall not complete in the BIPOC pool but shall be eligible to complete for an Allocation under subdivisions (a), (b), and (d) of this section.~~

(2) Applications for Emerging Developer ~~BIPOC~~ Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for ~~BIPOC~~ Emerging Developer Projects awarded the greatest number of points after factoring in the tiebreaker pursuant to Section 5106(f), as applicable, shall be awarded an Allocation from the ~~BIPOC~~ Emerging Developer Pool. Applications for ~~BIPOC~~ Emerging Developer Projects not receiving an Allocation pursuant to this subdivision shall be eligible for consideration for an Allocation under subdivisions (a), (b), and (d) of this section.

(d) Applications for Qualified Residential Rental Projects that are New Construction Projects, exclusive of Rural Projects, will then be ranked together. Applications receiving the greatest number of points after factoring in the tiebreaker pursuant to Section 5106(f), as applicable, shall be awarded an Allocation from the New Construction Pool in the following manner.

(1) Set Aside application selection. Beginning with the top ranked application from the Homeless Set Aside, followed by the Extremely Low/Very Low Income Set Aside, and the Mixed Income Set Aside, the highest scoring applications in each Set Aside shall be awarded an Allocation pursuant to the procedures in subdivision (e). A project that meets the criteria of both the Homeless Set Aside and the Extremely Low/Very Low Income Set Aside shall be eligible for an allocation from either Set Aside. If the Homeless Set Aside is undersubscribed in a competitive round the remaining funds will transfer to the Extremely/Very Low Income Set Aside. All New Construction Projects, exclusive of Rural Projects, that do not receive an allocation from a Set Aside shall be eligible for an allocation from their respective geographic region pursuant to subdivision (d)(2).

(2) Geographic region application selection. Bonds available in the New Construction Pool that are not reserved to a Set Aside shall be allocated to the highest ranking applications according to the geographic allocation described in Section 5101. Projects receiving an allocation in the Rural, Acquisition/Rehabilitation, or ~~BIPOC~~ Emerging Developer Pools or in the Homeless, Extremely Low/Very Low Income, and Mixed Income Set Asides shall not be counted towards the geographic apportionments.

~~(e)(3)~~ In the final allocation round of the year, any bonds remaining in any QRRP pool, Set Aside, or geographic region shall be allocated to the highest-ranking Project or Projects. Those amounts shall not be added to the respective QRRP pool, Set Aside, or geographic region in the following year, and any allocations pursuant to this paragraph shall not be subtracted from the geographic allocations in the following year.

~~(ef)~~ If the last project allocation in a Pool, Set Aside, or geographic region requires more than the bonds remaining in that Pool, Set Aside, or geographic region, those overages shall be subtracted from that Pool, Set Aside, or geographic region in determining the amount available in the Pool, Set Aside, or geographic region for the subsequent allocation round. The last project to be allocated in a Pool, Set Aside, or geographic region shall not receive an Allocation unless at least 80%, or 100% in the final round of the year, of the requested Allocation for that project is remaining in that Pool, Set Aside, or geographic region for that round. When the first or next highest-ranking project does not meet the 80% or 100% rule above, that project, as well as any subsequent projects in rank order that also do not meet the 80% or 100% rule, may be skipped over to the next highest-ranking project that meets the 80% or 100% rule. However, for all Allocation Rounds except the final Allocation Round of the calendar year, a project shall not be funded by this skipping process unless (a) it has a point score within one point of the first project skipped and (b) has either a final tiebreaker score equal to at least 75% of the

first skipped project's final tiebreaker score or a final tiebreaker score equal to at least 75% of the final tiebreaker score of the first skipped project after the last funded project in the Pool, Set Aside, or geographic region. If bonds within a Pool, Set Aside, or geographic region remain unallocated at the end of an allocation round, they shall be added to the subsequent round amounts in the same Pool, Set Aside, or geographic region. In the final allocation round of the year, the allocations within a Pool, Set Aside, or geographic region shall not exceed the amount of bonds available in the Pool, Set Aside, or geographic region.

(fg) If two or more Applications are awarded the same total number of points, those Applications shall be ranked according to the highest amount of public benefit per dollar of cost-adjusted Bond and State Credit Allocation requested.

(1) A project's public benefit is the sum of all of the following:

(A) The project's unit production benefit, which is the product of the bedroom-adjusted number of tax credit units multiplied by \$50,000. To calculate a project's bedroom-adjusted number of tax credit units, the Committee shall first multiply the number of tax credit units of each bedroom count by the adjustment factor for units of that bedroom count. A project's bedroom-adjusted number of tax credit units shall be the sum of each of these products. The adjustment factors shall be .9 for a studio unit, 1 for a 1-bedroom unit, 1.25 for a 2-bedroom unit, 1.5 for a 3-bedroom unit (up to no more than 30% of the total units, then those additional units shall be counted as 2-bedroom units), and 1.75 for a 4-bedroom or larger unit (up to no more than 10% of the total units, then those additional units shall be counted as 2-bedroom units).

(B) The project's rent savings benefit, which is as follows:

(i) For all projects not covered in subparagraph (ii), the product of the sum across all tax credit units of each unit's difference between the monthly fair market rent established by HUD for the county in which the project is located and the area median income monthly gross rent limit for that unit at the targeted rent level for the appropriate bedroom size, all calculated according to the methodology for tax credit rents, multiplied by 180. If this calculation results in a negative number for any particular unit, then the rent savings benefit for that unit shall not be lower than zero. Units with federal project-based rental assistance or a similar local rental assistance program approved by the Executive Director shall be assigned targeted rent levels ~~of the greater of actual rent targeting or 30% AMI regardless of their actual income targeting.~~ If the average affordability of tax credit units, exclusive of units with rental assistance, is less than 40% AMI, then the calculation shall assume a targeted rent level of 40% AMI for each tax credit unit that does not have rental assistance.

(ii) For Acquisition/Rehabilitation Projects whose actual rents are less than the CTCAC rent limits, the sum of the following: (a) for tax credit units without federal project-based rental assistance or a similar local rental assistance program approved by the Executive Director, the product of the sum across all such units of each unit's difference between the monthly fair market rent established by HUD for the county in which the project is located and the average rent charged for each unit over the last three years, as documented with rent rolls or property audits, multiplied by 180; and (b) for tax credit units with federal project-based rental assistance or a similar local rental assistance program approved by the Executive Director, the product of the sum across all such units of each unit's difference between the monthly fair market rent established by HUD for the county in which the project is located and the targeted rent ~~level at levels the greater of actual rent targeting or 30% AMI regardless of their actual income targeting.~~

(C) The project's population benefit, which is comprised of an ELI benefit and a special populations benefit.

(i) The ELI benefit is the product of the number of tax credit units targeted at 30% of AMI or below, limited to no more than 50% of tax credit units, multiplied by \$20,000.

(ii) The special populations benefit is the product of the number of tax credit units restricted to persons with Special Needs, as defined in Section 10325(g)(3) of the CTCAC regulations, or veterans, limited to no more than ~~50 than~~ 50% of tax credit units, multiplied by \$10,000, or, for projects eligible for the Homeless Set Aside, the product of the number of tax credit units designated for homeless households and (the number of homeless residents per 100,000 residents) multiplied by \$100. When calculating the per capita homeless count, applicants may use the per capita rate of homelessness for the specific city the project is located in if the city population is at least 100,000 residents. If a project is located in a city of less than 100,000 residents or an unincorporated area, applicants shall use county-level per capita homelessness rates. If the per capita rate of homelessness on a county level is greater than the city-level per capita rate of homelessness, the applicant may elect to use the county-level per capita rate of homelessness. In all cases, the per capita rate of homelessness shall be the most recent Point-in-Time count homeless population divided by the most recent Census population estimate for the corresponding jurisdiction in the year of the most recent Point-in-Time count.

(D) The project's location benefit, which is comprised of a Resource Area benefit, a Community Revitalization Area benefit, a Community-Based benefit and a transit/walkability benefit. If a project is eligible for ~~both~~ a Resource Area benefit, a Community-Based benefit, and a Community Revitalization Area benefit, the applicant shall select only one of these benefits. The Resource Area benefit, Community-Based benefit, and Community Revitalization Area benefit shall not be additive.

(i) The Resource Area benefit is one of the following:

(aa) The product of the bedroom-adjusted number of tax credit units in a Large Family or Permanent Supportive Housing Project located in a Highest Resource Area as specified on the CTCAC/HCD Opportunity Area Map multiplied by \$30,000.

(bb) The product of the bedroom-adjusted number of tax credit units in a Large Family or Permanent Supportive Housing Project located in a High Resource Area as specified on the CTCAC/HCD Opportunity Area Map multiplied by \$20,000.

(cc) The product of the bedroom-adjusted number of tax credit units in a Large Family or Permanent Supportive Housing Project located in a Moderate Resource Area as specified on the CTCAC/HCD Opportunity Area Map multiplied by \$10,000. An applicant may choose to utilize the census tract or census block group resource designation from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

(dd) The product of the bedroom-adjusted number of tax credit units in a new construction or acquisition/rehabilitation project located in neighborhoods identified as experiencing neighborhood change as specified on the HCD Neighborhood Change Map multiplied by \$30,000.

(ee) A project is ineligible for this benefit if it receives a Community Revitalization Area benefit.

(ii) The Community Revitalization Area benefit is the product of the bedroom-adjusted number of tax credit units that are located in a Community Revitalization Area and are a component in the Area's Community Revitalization Plan multiplied by \$20,000. A project is ineligible for this benefit if it receives a Resource Area benefit.

(iii) The transit/walkability benefit is the sum of the following:

(aa) The product of the bedroom-adjusted number of tax credit units within the project, multiplied by the number of transit site amenity points the project receives pursuant to Section 5105(l), multiplied by \$4,000;

(bb) The product of the bedroom-adjusted number of tax credit units within the project, multiplied by the number of non-transit site amenity point categories for which the project is eligible for the maximum points pursuant to Section 5230(m) (see CTCAC regulation Section 10325(c)(4)(A)2. through 9.), multiplied by \$4,000; and

(cc) The product of the bedroom-adjusted number of tax credit units within included with at the project that has received an award from HCD's Transit Oriented Development Program or Affordable Housing and Sustainable Communities Program, or that is located within ¼ mile of a transit stop with service at least every 30 minutes during peak hours (or at least two departures during each peak period for a commuter rail station or ferry terminal) or within ½ mile of a transit stop with service at least every 15 minutes (or at least four departures during each peak period for a commuter rail station or ferry terminal) multiplied by \$25,000. For purposes of this subdivision, a "transit stop" is a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop, and "peak hours" are from 7:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:00 p.m., Monday through Friday.

(iv) The project's Community-Based benefit, which is the product of the bedroom-adjusted number of tax credit units multiplied by \$20,000, for a Community-Based Development Project. A project is ineligible for this benefit if it receives a Resource Area or Community Revitalization Area benefit.

(2) The cost-adjusted Bond and State Credit Allocation shall be calculated by reducing the unadjusted Bond and State Credit Allocation request by the following, as applicable:

(A) For purposes of this section, the unadjusted Bond calculation will assume an amount equal to the greater of 27.5% of the aggregated depreciable basis plus land basis or the actual amount requested for all projects. Additionally, the State Credit Allocation request will be calculated excluding Farmworker State Credits.

(B) 15% for projects that are paid for in whole or in part out of public funds and are subject to a legal requirement for the payment of state or federal prevailing wages on the entire project. An additional 3% for projects that certify that either (i) 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 (ii) the general contractor has an enforceable commitment to participate in state-approved apprenticeship training programs and provide health care for construction workers and their dependents.

(C) Either 10% for projects in which at least 95% of the construction is Type I, as defined in Title 24, Section 602.2 of the California Building Code; or 5% for projects in which at least 95% of the construction is Type III, as defined in Title 24, Section 602.3 of the California Building Code, or a combination of Type I and Type III.

(D) 25% of the statewide basis delta for the county in which the project is located. At least 10 days prior to the first application deadline of each calendar year, the Committee shall publish the statewide basis delta for each county, which shall represent the percentage difference between the two-bedroom 4% tax credit threshold basis limit for the county and the median two-bedroom 4% tax credit threshold basis limit for any county in the state, as those limits are determined by CTCAC pursuant to Section 10302~~(ff)~~ of the CTCAC regulations.

(E) For Acquisition/Rehabilitation projects requiring seismic upgrading of existing residential structures, and/or requiring on-site environmental remediation, including cleanup of lead or asbestos, and sporic growth, the lesser of 15% or the percentage of the bond request related to such costs, to the extent that the project architect or seismic engineer certifies in the application to the costs associated with such work.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5107. QRRP Program Minimum Restriction TermRequirements.

~~(a) All Qualified Residential Rental Projects must meet the following minimum income and rent restrictions, which will be included in the Committee Resolution.~~

~~(1) Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the AMI. The rent restricted units that meet this requirement, with the exception of Mixed Income Projects, acquisition rehabilitation projects already subject to a Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement, and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the Project. All projects shall offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.~~

~~(2) Minimum Rent Restrictions. Except for projects subject to an existing Residential Rental Regulatory Agreement that propose tenant paid rents and income targeting not exceeding one hundred five percent (105%) of the current rents and targeting and operate with a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%) as demonstrated by a market study completed pursuant to 26 U.S.C. Section 42(m)(1)(A)(iii); the proposed tenant paid rents for each Restricted Rental Unit type (defined by bedroom count) in the proposed development shall be at least ten percent (10%) below the weighted average rent for comparable market rate units and each Restricted Rental Unit's value ratio (dollars per square foot) shall be at or below the weighted average unit value ratio for comparable market rate units as demonstrated in a Rent Comparability Matrix meeting the requirements of article 4 of this chapter.~~

~~(b) The market study required under this Chapter shall meet the current guidelines as required by the California Tax Credit Allocation Committee (CTCAC), in California Code of Regulations, Title 4, Section 10322(h)(10) and the following:~~

~~(1) A full Market Study with a Rent Comparability Matrix for each applicable unit type prepared within (180) days of the Application deadline by an independent third party having no identity of interest with the Applicant, Project Sponsor, or Related Party is required.~~

~~(2) The study must establish both need and demand for the proposed Project. If the Market Study does not support sufficient need and demand for the Project, the Application may be considered ineligible to receive an award of Allocation.~~

~~(3) A market study shall be updated when proposed subject project rents change by more than five percent (5%); or the distribution of higher rents increased by more than 5%, or 180 days have elapsed between the earliest site~~

inspection date for the subject property or comparable properties and the application submission deadline for the round in which the Project is seeking an allocation. CDLAC shall not accept an updated market study when more than twelve (12) months have passed since the earliest listed site inspection date of either the subject property or any comparable property. In such cases, applicants shall provide a new market study.

~~(4) Acquisition/Rehabilitation projects subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Section 5107(b)(1), a comprehensive market study consistent with 26 U.S.C. Section 42 (m)(1)(A)(iii). The study shall be a written statement, certified by a third-party market analyst, which includes a current rent roll. In addition, the project shall meet at least one of the following requirements:~~

~~(A) As certified by a third-party market analyst, the proposed tenant paid rents and income targeting will not exceed one hundred five percent (105%) of the current rents and targeting and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or~~

~~(B) As evidenced by copies of executed contracts, that the Project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.~~

~~(c) Utility Allowance Evidence. All Projects shall be subject to the use of Gross Rent as defined by Section 5100 and shall provide evidence in one of the following forms:~~

~~(1) A letter from the local public housing authority that includes a current utility allowance schedule, certifies that the proposed Project is located within its jurisdiction and itemizes which components of the utility allowance schedule applies to the Project. Projects that are subject to a Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program do not require a housing authority certification and may rely solely on the utility allowance included in a HUD rent schedule provided the schedule specifically identifies the name of the Project.~~

~~(2) If a Project is to be substantially retrofitted for energy conservation or will be newly constructed with substantial energy conservation, the Applicant may submit revised utility allowances based on the projected reduction in utility costs after construction or retrofit. The revised utility allowances shall be validated by either of the following:~~

~~(A) A letter from the public utility or housing authority having jurisdiction over the Project that validates the revised utility allowances based on the proposed use of energy conservation materials, or~~

~~(B) A current utility allowance estimate consistent with 26 CFR section 1.42-10 (4-1-17), which is hereby incorporated by reference. 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; and in accordance with the CTCAC's minimum requirements for utility allowance estimates, Title 4, Division 17, Chapter 1, Section 10322(h)(21).~~

~~(d) Minimum restriction term.~~

~~(a)(1)~~ Income and rent restrictions as identified in the Committee Resolution for the total number of units must be maintained for the Qualified Project Period. Except as provided in subdivision ~~(b2)~~, the Qualified Project Period shall be fifty-five (55) years following the date on which fifty percent (50%) occupancy is achieved or otherwise

commencement of the Qualified Project Period. Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date.

~~(b) (2)~~ If a Project is intended for eventual tenant ~~homeowners~~ homeownership the applicant shall provide evidence of a financially feasible program in the Application. The program shall include, but is not limited to, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, no involuntary relocation of tenants, and a plan for conversion of the facility to home ownership no sooner than the end of the initial 15-year Qualified Project Period as required by 26 U.S.C. section 142(d)(2)(A). In such a case, the ~~regulatory agreement~~ Committee Resolution shall contain provisions for the enforcement of such covenants.

~~(c) Debt Service Coverage Ratio.~~

~~(1) For Qualified Residential Rental Projects, the minimum debt service coverage ratio (the ratio of the net operating income from the Project divided by the required debt service on the debt associated with the Project) shall meet the requirements outlined in Section 10327(g)(6) of CTCAC Regulations, except for FHA/HUD projects, RHS projects or projects financed by the California Housing Finance Agency.~~

~~(2) Applicants shall complete the following information relating to the Debt Service Coverage Ratio contained in the commitment for private placement purchase of bonds or limited offering and public offering sales using annualized pro forma figures:~~

~~(A) Potential gross income less vacancy rate. Applicants shall use market area vacancy rate or appraised vacancy rate, but in no event use less than 5%. If less than 5% is being used, a written explanation as to the reason must accompany the Application.~~

~~(B) Net operating income (effective gross income minus operating expenses (include Operating & Replacement Reserves), and~~

~~(C) Principal plus interest (debt service), and~~

~~(D) The debt service coverage ratio (net operating income divided by principal plus interest). If Potential Gross Income is significantly higher than Monthly Gross Rent, then CDLAC may ask the applicant to identify other sources of Potential Gross Income to ascertain that these other sources are allowed.~~

~~(3) The Applicant shall also submit an itemized breakdown of the operating expenses. Annual operating expenses: general administrative (advertising, legal, accounting/audit, security, other and total general administrative), management fee, utilities (fuel, gas, water/sewer, other, total utilities), payroll/payroll taxes (on-site manager, maintenance personnel, insurance, other, total payroll/payroll taxes), maintenance (painting, repairs, trash removal, exterminating, grounds, elevator, other, total maintenance), service amenities budget (service coordinator/social worker, other, total service amenities), other (specify)(total other), total annual residential operating expenses, total real estate taxes, total reserves (operating and replacement), annual commercial operating expenses (if applicable), total commercial space expenses (if applicable) and total operating expenses. is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.~~

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

§ 5108. Bond Allocation Limits and Issuance Deadline Extensions

(a) Private Activity Bond allocation awards made in or before Round 2 of 2025 cannot exceed 55% of the aggregated depreciable basis plus land basis. In determining compliance with this test, CDLAC staff may rely on the legal or tax opinion submitted with the application.

(b) Private Activity Bond allocation awards made after Round 2 of 2025 cannot exceed 30% of the aggregated depreciable basis plus land basis, except the Executive Director may grant a request for an allocation award up to 40% of the aggregated depreciable basis plus land basis if the request demonstrates to the Executive Director's satisfaction that (1) the project's permanent financing supports the larger allocation award, and (2) the project is unable to obtain recycled bonds from the applicant. In determining compliance with this provision, CDLAC staff may rely on the legal or tax opinion submitted with the application.

(c) The following issuance deadline rules apply to QRRP allocations made prior to December 31, 2025:

(1) Bond issuance deadline extensions may be granted based on the terms of the Regulations governing the allocation.

(2) Any project awarded an allocation subject to the limit set forth in (a) and requesting an expiration date extension to January 1, 2026 or later is required to reduce the project's allocation to comply with the limits set in subdivision (b) or demonstrate to the Executive Director's satisfaction why the project cannot be restructured to meet the reduced allocation limits.

(3) Negative points under Section 5105(m)(5) must be assessed to any project awarded an allocation in Round 2 of 2025, that received maximum readiness points, and receives an expiration date extension after November 19, 2025, at the time such request is granted by the Executive Director or the Committee.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

§ 5109. Supplemental Allocation Process.

(a) Requests for Supplemental Allocations may be submitted throughout the year. Except as provided in subdivision (b), staff shall review each request for Supplemental Allocation and make a recommendation to the Committee regarding any possible award of additional Allocation. Awards of Supplemental Allocations pursuant to this subdivision shall be memorialized in a Committee Resolution. All applicable requirements imposed on the associated initial project Allocation, including, but not limited to, the expiration of Allocation, Bond issuance deadlines, extensions, transfers of Allocation, carryforward elections and reporting shall be equally applicable to Supplemental Allocations.

(b) The Committee may delegate authority to the Executive Director to award Supplemental Allocation to projects awarded an allocation subject to the limit set in Section 5108(a) and that issued Bonds prior to January 1, 2026, where the total delegated supplemental requests are both of the following:

(1) No more than 10% of the project's Committee approved allocation; and

(2) No more than 52% of the aggregate depreciable basis plus land basis.

(c) ~~For projects awarded Supplemental Allocation where the original allocation was awarded in Round 2 of 2022 or later, the~~ The Project Sponsor shall be subject to reduction in its tiebreaker calculation determined by the Committee for a period of one round following the award of Supplemental Allocation.

(d) A non-refundable \$600 filing fee for supplemental awards must accompany each Application to cover the Committee's review costs.

(e) Projects awarded a Supplemental Allocation for which no Bonds were issued from the original award, or any prior Supplemental Allocation, shall have the expiration date of the original allocation.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b), and 8869.90, Government Code.

§ 5110. Open Application Process for HDFC Projects ~~assisted by HUD.~~

(a) HDFC Projects shall be considered for a bond allocation exclusively through the HDFC Pool and evaluated pursuant to the applicable provisions of Regulation 5110. HDFC Projects are not eligible for any other CDLAC pools or set-asides and will be reviewed solely under the requirements, processes, and criteria governing the HDFC Pool. A CDLAC Forward Commitment letter may be granted in lieu of an award of allocation until the Applicant receives the HUD Firm Commitment letter for the Project. A complete Open Qualified Residential Rental Pool Application may be submitted when the Project meets the following requirements:

~~(1) Applications must meet the requirements of a Qualified Residential Rental Project, as described in Chapter 2.~~

~~(2) Applications may be submitted at any time with an expected staff review period of at least thirty (30) days.~~

~~(3) The Applicant must disclose upon application that the Project is a FHA financed development.~~

~~(4) In lieu of a HUD Firm Commitment letter, a MAP Lender commitment letter outlining the FHA financing must accompany the Application.~~

~~(5) All awards of allocation following a CDLAC Forward Commitment must occur prior to the last day of the calendar year.~~

~~(6) Proof of HUD Firm Commitment Application Submittal will be due within thirty (30) days of CDLAC Forward Commitment Approval.~~

(b) To qualify for the HDFC Pool, applications must either be transmitted to CDLAC directly by HDFC or include a letter of support issued by HDFC. The Committee shall make an award of allocation for a new Application if the following is submitted no later than the application due date for the allocation round in which the project is seeking an allocation:

~~(1) a complete Standard QRRP Application and application fee;~~

~~(2) a MAP Lender commitment letter outlining the FHA financing; and~~

~~(3) a HUD Development Acknowledgement Letter.~~

(c) Applications must identify an eligible Applicant, as defined in Section 5002, meet all threshold application requirements set forth in Section 5003 and applicable program rules, and include detailed unit affordability information consistent with subparagraphs (b)(9), (b)(14), and (b)(15) of Section 51024), and (10) All projects requesting an assignment and assumption of an existing HAP Agreement must have submitted their assignment and assumption application to HUD by the CDLAC application date.

(d) HDFC may transmit applications to CDLAC at any time. Such applications will be subject to a staff review period of no less than thirty (30) days. Applications submitted to CDLAC by an eligible Applicant must be submitted during an application round in accordance with Section 5001.

Evaluation Criteria:

~~(1) Applications will be reviewed according to the Multi-Family Housing criteria, as referenced in Section 5105.—~~

~~(2) Applications meeting the requirements of Section 5105 will be provided a Forward Commitment in lieu of an award of allocation.~~

~~(3) Upon receipt of a HUD Firm Commitment letter, CDLAC will present an allocation recommendation to the Committee for formal approval. The CDLAC closing timeframe will commence once the Committee grants the allocation.~~

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections ~~8869.84(b)(c), 8869.85(a) and 8869.85(b)~~, Government Code.

§ 5111. Expiring Projects in Difficult Development Areas or Qualified Census Tracts.

(a) To confirm that a QRRP application is complete in order to retain a project's current year Difficult Development Area/Qualified Census Tract (DDA/QCT) status, an Applicant must submit the following items to CDLAC no later than 16 days prior to the expiration date of the project's DDA status:

- (1) the project's completed Qualified Residential Rental Project application; and
- (2) a written statement identifying the CDLAC allocation round in which the Applicant intends to seek an allocation, pursuant to a CDLAC generated list of eligible allocation rounds for projects in expiring DDA/QCT areas; and
- (3) a written request that CDLAC confirm the Application is complete.
- (4) a non-refundable \$,1,500 fee.

(b) Upon determining that the application is complete, CDLAC will, prior to the expiration of the project's DDA status, provide the Applicant with a letter stating that the application is complete.

(c) The letter described in subsection (b) shall be void and of no effect unless the bond issuances for the project occur within the federally mandated timeframe for bond issuances applicable to projects with expiring DDA statuses.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), ~~and 8869.85(b)~~, and 8869.90, Government Code.

§ 5112. Post-Issuance Compliance.

(a) All QRRP allocation recipients are required to execute a Bond Regulatory Agreement (the "Regulatory Agreement"), as a condition to the Committee's making an allocation, which will be recorded against the property for which the allocation is used, and will reflect all commitments outlined in exhibit A of the Committee's resolution. For projects submitted to CDLAC after December 31, 2016, the Regulatory Agreement shall terminate prior to the end of the CDLAC Resolution affordability term only in the event of (i) involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action of a federal agency after the bond issuance which prevents the Issuer, Fiscal Agent and/or the trustee (as applicable) from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, and/or transfer of title by deed in lieu of foreclosure in connection with a deed of trust directly or indirectly securing the repayment of Standard Permanent Bonds, or repayment of a non-Bond related obligation that provides permanent project financing and meets the requirements of section 5107 or condemnation or a similar event, but only if, in the case of the events described in either clause (i) or (ii) above, the bonds are redeemed within a reasonable period or the proceeds for the event are used to provide a project that meets the requirement of the Regulatory Agreement.

(b) If Cash Flow Permanent Bonds finance project costs in projects submitted to CDLAC after December 31, 2016, all units identified in the CDLAC resolution, including both the Federally Bond-Restricted Units and the Other Restricted Units, will be incorporated into the Bond Regulatory Agreement. Assumptions to be included in the Bond Regulatory Agreement regarding the Other Restricted Units will include the AMI as outlined in the

CDLAC resolution, a limitation that tenants pay no more than 30% of their income, and 1.5 person per bedroom occupancy standard to determine the applicable rent.

(c) For projects receiving allocation after December 31, 2016, The Bond Regulatory Agreement will:

- (1) Incorporate the CDLAC resolution by reference and as an attachment;
- (2) Have a term consistent with the income and rental restrictions established in the Resolution. The Bond Regulatory Agreement shall terminate in 55 years (50 years for Projects located on Native American Lands) from the date 50% occupancy is achieved or the commencement of the CDLAC Qualified project period, whichever date is earlier;
- (3) Include all applicable income and affordability requirements outlined in 26 U.S.C. § 142, Cal. H&S Code § 34312.3 (c)(1) & (2), Cal. H&S Code § 51335(a), and Cal. H&S Code § 52080 (a)(1);
- (4) Clarify that compliance with items not contained within the body of the Bond Regulatory Agreement but referred to in the CDLAC resolution are the responsibility of the Sponsor to report to the Issuer;
- (5) Designate CDLAC to receive notice of changes in ownership, Issuer, project name and management company; and
- (6) Designate CDLAC to receive all notices regarding defaults associated with the rents and income requirements, Bond Default, and regulatory termination.

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

- (1) the Sponsor shall in good faith apply for and accept all available renewals; and
- (2) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall immediately notify CDLAC in writing and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the CDLAC resolution. Upon documenting to CDLAC'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 CDLAC resolution up to the federally and state-permitted maximums. Rents shall be raised only to the extent required for financial feasibility, as determined by CDLAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by CDLAC 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.

Chapter 4. ~~[Reserved]~~ Extra Credit Teacher Home Purchase Program

Article 1. Definitions

~~§ 5300. Definitions.~~

~~In addition to the definitions set forth in Government Code sections 8869.82 and 8869.84(g); and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:~~

~~“Academic Performance Index” or “API” means the index created by the Public Schools Accountability Act of 1999 to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socio-economically disadvantaged subgroups within schools (Education Code 52052).~~

~~“Eligible Administrator” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:~~

- ~~(a) — Administrative Services Credential Administrative Services Credential (Examination)~~
- ~~(b) — Standard Supervision Credential Standard Administration Credential~~
- ~~(c) — General Elementary School Administration Credential General Elementary School Supervision Credential~~
- ~~(d) — General Secondary School Administration Credential General Secondary School Supervision Credential~~
- ~~(e) — General Administration Credential General Supervision Credential~~
- ~~(f) — The Supervision Credential General School Principal or Supervisor Credential~~

~~“Eligible Classified Employee” means an employee of a school district employed in a position not requiring certification qualifications and who provides administration or service at a High Priority School.~~

~~“Eligible Staff Member” means any person who holds one of the following credentials issued by the California Commission on Teaching Credentialing:~~

- ~~(a) — School Nurse Credential~~
- ~~(b) — Clinical or Rehabilitation Service Credential~~
- ~~(c) — Pupil Personnel Services Credential (e.g. School Counseling, School Social Work, School Psychology and Child Welfare and Attendance)~~
- ~~(d) — Library Media Teacher Service Credential~~
- ~~(e) — Designated Subjects Vocational Education Teaching Credential~~

~~“Eligible Teacher” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:~~

- ~~(a) Single Subject Teaching Credential~~
- ~~(b) Multiple Subject Teaching Credential~~
- ~~(c) Specialist Instruction Credential in Special Education~~
- ~~(d) Education Specialist Instruction Credential~~
- ~~(e) Standard Elementary Teaching Credential~~
- ~~(f) Standard Secondary Teaching Credential~~
- ~~(g) Standard Early Childhood Education Teaching Credential~~
- ~~(h) Standard Restricted Special Education Teaching Credential~~
- ~~(i) General Kindergarten-Primary Teaching Credential~~
- ~~(j) General Junior High Teaching Credential~~
- ~~(k) General Elementary Teaching Credential~~
- ~~(l) Special Secondary Teaching Credential in Art~~
- ~~(m) General Secondary Teaching Credential~~
- ~~(n) Special Secondary Teaching Credential in Business Ed~~
- ~~(o) Special Credential for Teaching Exceptional Children~~
- ~~(p) Special Secondary Teaching Credential in Homemaking~~
- ~~(q) Special Secondary Credential for Teaching Lip Reading~~
- ~~(r) Special Secondary Credential for Teaching the Blind~~
- ~~(s) Special Secondary Limited Teaching Credential in Music~~
- ~~(t) Special Secondary Credential for Teaching the Partially Sighted Child~~
- ~~(u) Special Secondary Credential for Teaching Industrial Arts~~
- ~~(v) Special Secondary Teaching Credential in Speech Arts~~
- ~~(w) Special Secondary Teaching Credential in Music~~
- ~~(x) Special Secondary Credential for Teaching the Mentally Retarded~~
- ~~(y) Special Secondary Credential for Teaching Credential Limited in Agriculture~~

~~(z)——Special Secondary Teaching Credential in Correction of Speech Defects~~

~~(aa)——Special Secondary Teaching Credential in Physical Ed.~~

~~“ETCHP Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for an Extra Teacher Credit Home Purchase Program” (revised 11-16-16), which is hereby incorporated by reference.~~

~~“Extra Credit Teacher Home Purchase Program Eligibility Certificate” means the certification to be completed and submitted by the employing school district, County Office of Education or local Board of Education that certifies to all of the following: The Program Participant is an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member; the Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or dismissal of the Program Participant; the entity completing the certificate has verified with the California Commission on Teacher Credentialing that the credential of the Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or revocation of the credential of the Program Participant; and the personnel file of the Program Participant reflects that he or she has not been dismissed from employment with any school or school district for any reason, and that he or she has not been the subject of a disciplinary suspension that has been upheld.~~

~~“High Priority School” means a California K-12 public school ranked in the bottom 50% of all schools based on the most recent Academic Performance Index, i.e. schools receiving an API Statewide Ranking of 1, 2, 3, 4 or 5.~~

~~“Homeownership Assistance” means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must: Be in a minimum amount of \$7,500 or 3% of the purchase price of the home, whichever is greater; be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the three (3)-year service commitment. Applicants will not be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition. The Committee may establish, or concur with the establishment of, higher assistance limits to ensure program participation in high cost areas.~~

~~“National Board Certification” means certification from the National Board for Professional Teaching Standards based upon successful completion of a voluntary assessment program covering a variety of subject areas and student developmental levels.~~

~~“Program Participant” means an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member who receives a Mortgage Credit Certificate or a loan funded by Mortgage Revenue Bonds from an Issuer receiving an Allocation from the Extra Credit Teacher Home Purchase Program Pool.~~

~~*NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(g), Government Code.*~~

Article 2. Eligibility Requirements

~~§ 5310. Application Process.~~

~~Applications for an Allocation of the Extra Credit Teacher Home Purchase Program Pool shall be considered in accordance with the provisions of chapter 1 and the submission of an ECTHP Application.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5311. Application of Standards.~~

~~Issuers of Mortgage Revenue Bonds or Mortgage Credit Certificates pursuant to this chapter may apply these eligibility standards to borrowers without regard to the date of receipt of Allocation.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5312. Applicant Eligibility.~~

~~An Applicant requesting an Allocation from the Extra Credit Teacher Home Purchase Program Pool must be an approved Issuer of Mortgage Credit Certificates or Mortgage Revenue Bonds and must propose an Extra Credit Teacher Home Purchase Program whereby Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds will be made available to Eligible Teachers, Eligible Administrators, Eligible Classified Employees, and Eligible Staff Members. Issuers of Mortgage Credit Certificates and Mortgage Revenue Bonds may apply jointly.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5313. Program Goals.~~

~~The Extra Credit Teacher Home Purchase Program proposed by the Applicant must be for the purpose of recruiting and retaining Eligible Teachers, Eligible Administrators, and Eligible Classified Employees in High Priority Schools and the Applicant must commit to and describe its plan to promote, publicize and market the program in conjunction with school district(s) and county office(s) of education to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5314. Program Provisions.~~

~~The Extra Credit Teacher Home Purchase Program proposed by the Applicant must, at a minimum, include all of the following:~~

~~(a) A specific plan that gives priority to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees working in High Priority Schools ranked 1, 2 or 3 in the API rankings.~~

~~(b) A provision that Eligible Teachers, Eligible Administrators, and Eligible Classified Employees include such individuals who are assigned to a school district but provide administration or service to at least one High Priority School for the length of the service commitment.~~

~~(c) A provision restricting the program to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees who agree, through a written service commitment, to teach, provide administration or service in a High Priority School for a minimum of three (3) years continuously from the date the Mortgage Credit Certificate or the loan funded by Mortgage Revenue Bonds is awarded to the Program Participant, and for whom an Extra Credit Teacher Home Purchase Program Eligibility Certificate has been completed and submitted by a duly authorized representative of the employing school district or county office of education.~~

~~(d) A written service commitment of the Program Participant. Program Participants are required to certify to the Applicant when they have fully performed the service commitment or request to be excused from the service commitment pursuant to subdivision (e) of this section. Early pay off of a loan does not constitute an excuse from the service commitment. Certifications of service commitment must be signed by either:~~

~~(1) A duly authorized representative of the employing school district or county office of education; or~~

~~(2) The Program Participant under penalty of perjury.~~

~~(e) A provision by which Program Participants will be excused from their service commitment in the following cases:~~

~~(1) The Program Participant has been continuously employed at the same school since the date of the service commitment, but the school is no longer considered a High Priority School;~~

~~(2) The Program Participant's departure from the High Priority School was involuntary, and was not the result of disciplinary action, and she/he accepts another eligible position at a California K-12 public school within one year of the date of departure;~~

~~(3) Hardship cases, including but not limited to serious illness, death and divorce;~~

~~(4) Occurrences covered under the Family Medical Leave Act or the California Family Rights Act;~~

~~(5) Other exceptions as proposed by the Applicant in the Application and approved by the Committee. The Committee may delegate this authority to the Chair or the Executive Director.~~

~~(f) A priority system such that:~~

~~(1) In the event an Applicant's program is oversubscribed, the Applicant must provide assistance to Eligible Teachers and Eligible Administrators before providing such assistance to other eligible Program Participants.~~

~~(2) Eligible Teachers with National Board Certification shall have priority over Eligible Teachers without such certification.~~

~~(3) Applicants may determine how each priority will be implemented (e.g., a program set aside) and shall indicate such in the Application.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5315. Alternative Schools. [Repealed]~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~Article 3. Evaluation Criteria~~~~§ 5320. Evaluation Criteria~~

~~Upon a determination that an Application meets the minimum requirements pursuant to article 2 of this chapter, Applications will be evaluated based on the following criteria:~~

- ~~(a) The amount of the Homeownership Assistance to be provided and the percentage of Program Participants to whom it will be provided.~~
- ~~(b) The strength of the Applicant's plan to publicize, promote and market the Extra Credit Teacher Home Purchase Program to School Districts, County Offices of Education, Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.~~
- ~~(c) The extent to which Applicants show the greatest need within the Applicant's jurisdiction to recruit and retain Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.~~
- ~~(d) The Applicant's past performance, if any, in using past Allocations from the Extra Credit Teacher Home Purchase Program Pool.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5321. Allocation Amount~~

~~The Committee will determine the amount allocated to each Applicant based upon the evaluation criteria set forth in section 5320, the number of Applicants applying in the Allocation Round, and the amount of allocation available in the Extra Credit Teacher Home Purchase Program Pool. The Committee may, in its sole discretion, allocate a larger portion of the Extra Credit Teacher Home Purchase Program Pool to Applicants who administer statewide Mortgage Credit Certificate and Mortgage Revenue Bond programs.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~Article 4. Reporting Requirements~~~~§ 5330. Specific Reports~~

~~The Applicant shall annually report to the Committee, no later than January 31 of each year, the following information:~~

- ~~(a) The number of loans or Mortgage Credit Certificates issued aggregated by calendar year;~~
- ~~(b) The schools at which Program Participants are employed, aggregated by API rank and the percent of non-credentialed teachers employed at the school;~~
- ~~(c) The number of Program Participants that have paid off their loans prior to the completion of the service commitment;~~
- ~~(d) The number of Program Participants that successfully complete the service commitment during the prior calendar year;~~
- ~~(e) The number of Program Participants that are currently serving but have not completed the service commitment;~~~~(f) The number of Program Participants that were excused during the prior calendar year from the service commitment under section 5314(e);~~
- ~~(g) The number of Program Participants during the prior calendar year that left a High Priority School without fulfilling their service commitment and who were not eligible for one of the exceptions set forth in section 5314(e);~~
- ~~(h) The number of Program Participants that have not responded to the Applicant's request for certification of the service commitment; and~~
- ~~(i) The total amount of assessment, if any, collected pursuant to section 5340.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

~~Article 5. Noncompliance~~

~~§ 5340. Monetary Assessment~~

~~Where a Program Participant fails to fulfill the requirements of the service commitment and has not been excused from the service commitment, the Applicant may recover as an assessment from the Program Participant a monetary amount equal to the lesser of the following:~~

- ~~(a) One-half ($\frac{1}{2}$) of the Program Participant's net proceeds from the sale of the related residence; or~~
- ~~(b) The amount of monetary benefit conferred on the Program Participant as a result of the loan or Mortgage Credit Certificate, offset by the amount of any federal recapture, as defined by 26 U.S.C. section 143(m)~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(g), 8869.85(a) and 8869.85(b), Government Code.~~

Chapter 12. ~~Beginning Farmer Program~~

Article 1. ~~Definitions~~

~~§ 5600. Definitions.~~

~~In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this division are defined as follows:~~

~~“Agricultural Improvements” means any improvements, buildings, structures or fixtures suitable for use in farming that are located on Agricultural Land. “Agricultural Improvements” do not include personal residences.~~

~~“Agricultural Land” means land located in the State of California that is:~~

- ~~(a) suitable for use in farming and that is or will be operated as a farm, as such term is defined by IRC § 147(c)(2)(D); and~~
- ~~(b) that will be acquired by a Beginning Farmer.~~

~~“Beginning Farmer” means an individual as defined by IRC § 147(c)(2)(C).~~

~~“Beginning Farmer Bond Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Beginning Farmer Bond Program” (11-30-18), which is hereby incorporated by reference.~~

~~“Beginning Farmer Bonds” means conduit revenue bonds issued as authorized by the State of California that meet the requirements of Internal Revenue Code §§ 144(a) and 147(c)-(g).~~

~~“Borrower” means a Beginning Farmer who has received Beginning Farmer Bond financing under the Program.~~

~~“Depreciable Agricultural Property” means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the IRC, including but not limited to farm machinery and breeder livestock, but not including feeder livestock, seed, feed, fertilizer and other types of inventory or supplies.~~

~~“Federal Maximum” means the maximum amount of a loan that federal law allows to be financed under the Program. This amount may be adjusted for inflation in future calendar years as provided for in IRC § 147(c)(2)(H).~~

~~“Financed Property” means property which is financed through the Beginning Farmer Program~~

~~“Related Person” means a person or entity other than the Borrower as defined by IRC §§ 144(a)(3) and 147(a)(2).~~

~~“Substantial Farmland” means any parcel of land as defined by IRC § 147(c)(2)(E).~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

Article 2. ~~Evaluation Criteria~~

~~§ 5610. Minimum Requirements.~~

~~(a) The Beginning Farmer Program proposed by the Applicant must be for the purpose of providing loans to beginning farmers. The beginning farmer must:~~

- ~~(1) Be a California resident;~~

~~(2) Be at least 18 years of age;~~

~~(3) Be a "First Time Farmer" as defined by IRC § 147(c)(2)(C);~~

~~(4) Be the principal operator of the farm;~~

~~(5) Use loan proceeds to purchase land within California or eligible breeder livestock, equipment/machinery and/or new construction or renovations for use in farming operations solely within California;~~

~~(6) Only use the agricultural land, agricultural improvements and depreciable agricultural property for farming by the beginning farmer, his/her spouse, his/her minor children, or any combination thereof;~~

~~(7) Not use loan proceeds to procure seed, feed, feeder stock, fertilizer, personal residence (in excess of the IRC exceptions) or as otherwise prohibited and/or limited by the IRC; and~~

~~(8) Not exceed the lifetime aggregate amount of all loans for any borrower permitted by the IRC.~~

~~(b) The Issuer must certify that each participating lender will:~~

~~(1) Ensure that all of the proceeds of the Bond be used for the acquisition of farmland, construction or reconstruction of improvements or equipping of farmland, or the purchase of property of a character subject to the allowance for depreciation under IRC § 167 or other authorized costs.~~

~~(2) Verify the accuracy of all certifications of each Beginning Farmer and all other information with respect to the Project or Beginning Farmer set forth in an Application.~~

~~(3) Ensure that none of the proceeds of the Bond will be used to provide working capital or the financing of inventory, supplies or other ineligible operating expenses.~~

~~(4) Prior to the approval of the issuance of the bond, not finance or otherwise advance moneys to the Beginning Farmer or any Related Person in connection with the Project which the Beginning Farmer expects to finance with proceeds of the Bond in any manner inconsistent with applicable prohibitions and/or limitations set forth in the IRC.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5620. Scoring Criteria.~~

~~Upon a determination that an Application meets the minimum requirements pursuant to Section 5610, Applications will be scored based on the following criteria:~~

~~(a) Past Program Performance. For each allocation round, programs will be evaluated based on the percentage of the previous year's allocation used by each applicant in comparison to the percentage of the previous year's allocation used by the other applicants in the allocation round.~~

~~(b) Actual Versus Proposed Average Interest Rate and Loan Amount. For each allocation round, programs will be evaluated and ranked based on each applicant's deviation between the currently proposed and previous year's actual average interest rates, as well as the currently proposed and previous year's actual average loan amount, in comparison to the allocation round's other applicants' proposed and previous year's actual average interest rates and currently proposed and previous year's actual average loan amount.~~

~~(c) Additional Points. In a competitive application round, additional points will be awarded to Applicants that commit to the goal of providing allocation to Beginning Farmers that provide the following public benefits:~~

~~(1) Job Creation. A maximum of 20 points will be awarded to programs that use a substantial portion of allocation for programs that will add jobs to local economy (one point per job with a maximum of 20 points). Points will be awarded in the following manner:~~

~~(A) one (1) point will be awarded for each full time job;~~

~~(B) part time jobs will receive a tenth of a point, rounded to the nearest tenth of a point, based on the job's full time equivalency.~~

~~(2) Borrower Preparation. A maximum of 15 points will be awarded to programs that provide a technical assistance component for the following areas:~~

~~(A) Five (5) points will be awarded to Applicants that make available financial management education and/or training;~~

~~(B) Five (5) points will be awarded to Applicants that make available land management education and/or training; and/or~~

~~(C) Five (5) points will be awarded to Applicants that make available resource conservation education and/or training.~~

~~(D) Evidence of the aforementioned technical assistance program(s) shall be submitted with the application and shall include, but is not limited to, third party contracts or agreements for the provision of training, training schedules, program curricula and narratives describing the training programs and written assurance of the education/training provider that beginning farmers will be eligible for the education/training for a minimum period of twenty-four (24) months after the beginning farmer's financing is approved by the Applicant.~~

~~(3) Farm to Fork. Nine (9) points will be awarded to Applicants that use a substantial portion of allocation for programs that establish or enhance farming operations producing edible agricultural commodities for sale and consumption within 200 miles of the farming operations financed by proceeds from a beginning farmer bond. Evidence of the program shall be submitted with the application and shall include, but is not limited to, a description of the program identifying how the program will operate, proposed buyers and sales contracts.~~

~~(4) Family Farms. Three (3) points will be awarded to Applicants that use a substantial portion of allocation for programs to acquire family farms by beginning farmers (land, breeding livestock and/or equipment/machinery).~~

~~(5) Under-Represented Borrowers. Three (3) points will be awarded to Applicants that use a substantial portion of allocation for programs designed to facilitate acquisition of farmland, breeding livestock equipment and/or equipment/machinery by veterans, women and/or under-represented populations.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~§ 5630. Allocation Distribution.~~

~~The Committee will determine the amount allocated to each Applicant based upon the evaluation criteria set forth in section 5620, the number of Applicants applying in the Allocation Round, the amount requested by each Applicant and the amount of allocation available in the Beginning Farmer Program Pool. In a competitive Application year, the maximum requested amount of Allocation per Application shall not exceed twenty million dollars (\$20,000,000). The Committee may waive this cap on a case-by-case basis in its sole and absolute discretion.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~

~~Article 3. Reporting Requirements~~

~~§ 5640. Specific Reports.~~

~~Applicants receiving an allocation shall comply with the reporting requirements contained in Article 11 of Chapter 4.~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.~~