

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

September 28, 2011

Consideration and Approval of Proposed CDLAC Regulations for Submittal to the Office of Administrative Law for Emergency and Regular Rulemaking Consideration
(Agenda Item No. 4)

ACTION

Approve proposed CDLAC Regulations for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

BACKGROUND

During the last several months while CDLAC was pursuing the initial approval of its regulations, staff determined that there were a number of revision items that would need to be incorporated into those regulations once approved.

On July 20th, 2011, staff recommended various revisions to the approved July 1st regulations. A 15-day public comment period was held, and as a result, changes were made to the proposed Annual Applicant Public Benefits and On-Going Compliance Self Certification Form. Additionally, recent actions by the Internal Revenue Service (“IRS”), the California Industrial Development Financing Advisory Commission (“CIDFAC”), and the California Tax Credit Allocation Committee (“TCAC”) have made other provisions of the current CDLAC regulations out-of-date or obsolete. The following are the proposed revisions not previously considered by the Committee members:

- *All Program Pools*: Removal of Drawdown Bond-Related Language
- *Industrial Development Bonds*: Non-Technical Revisions to the IDB Application and Related Regulations
- *QRRP*: Revision of CDLAC Regulations for Site and Service Amenities
- *All Programs*: Revised Annual Applicant Public Benefits and On-going Compliance Self Certification

1. Removal of Drawdown Bond-Related Language

Section 5133 of the CDLAC Regulations was originally added to accommodate new IRS requirements on drawdown bonds, as detailed in IRS Notice 2010-81. However, the IRS released supplemental guidance, via IRS Notice 2011-63 issued on August 4th, 2011, rescinding the applicability of IRS Notice 2010-81 to private activity bond issuances. The Notice clarifies that, with the exception of Small Issue Bonds (such as Industrial Development Bonds), private placement issuances employing a draw-down funding structure will once again be considered fully issued at the initial closing and first draw-down of the bond proceeds. On August 12th, 2011, CDLAC staff hosted a conference call with a variety of bond counsel to discuss the implications of the supplemental guidance in relation to the CDLAC Regulations, and there was a consensus that it made Section 5133 of the CDLAC Regulations essentially moot and unnecessary. Staff thus proposes the removal of all drawdown bond-related language in the CDLAC Regulations and applications.

2. Non-Technical Revisions to the IDB-Related Regulations

In February of 2009, CIDFAC contemplated and approved revisions to the Industrial Development Bond Program Pool Application related to the point scoring system and other evaluation criteria. These revisions were later shared with CDLAC for inclusion into the CDLAC Regulations and posted application forms. However, the final CIDFAC-approved version of these revisions differed from the version used to update

CDLAC's information earlier this year. Specifically, the maximum point total for the Job Creation & Retention category increased from 35 to 45 points; along with language stating that "any environmental attribute claims must be consistent with the Federal Trade Commission's Guidelines for the Use of Environmental Marketing Terms". CDLAC is now seeking to update our current regulations and forms accordingly. It should be noted that these final CIDFAC-approved revisions were approved at a publicly-held CIDFAC meeting on February 25, 2009.

3. Revision of CDLAC regulations for Site and Service Amenities

Staff proposes changes to Section 5230 for the QRRP evaluation criteria, in alignment with a set of similar regulation revisions approved by TCAC on March 16th, 2011. Specifically, high speed internet service and "WiFi" service connection has been removed from Service Amenities, and instead has been added to the Site Amenities scoring category. New language is proposed to be added to clarify the minimum compliance requirements of each Service Amenity. In addition, a minimum one (1) year contract will be required for the service the applicant is claiming. All of these changes were thoroughly vetted with the development community through TCAC's stakeholder and eventual committee approval processes back on March 16th, 2011.

4. Annual Applicant Public Benefits and On-going Compliance Self Certification

Staff proposes changes to the July 20th Annual Applicant Public Benefits and On-going Compliance Self Certification to accommodate revisions to the questionnaire. In response to public comments, the proposed revisions include: 1) new instructions and revised question language clarifying applicability of the Form; 2) a CDLAC acknowledgement of reliance on the responding issuer's internal procedures and knowledge of the project at the time of submission of the Self Certification; and 3) an update to the list of service amenities as proposed (See attached Public Comment matrix).

Revised draft regulations and a full listing of regulation changes from July 20th and September 28th are attached.

DISCUSSION

Should the Committee approve these revisions, staff plans to then submit the emergency rulemaking package to OAL immediately thereafter. A 5-day public comment period will commence on the day of submittal, with possible enactment within 10 days thereafter.

RECOMMENDATION

Staff recommends approval of the proposed CDLAC regulations for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

Prepared by: Annie Ong

ATTACHMENT A
Proposed Regulations Changes
(Proposed new language is underlined and deleted language is struck)

Section 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:

“Accredited Investor”, also known as a “Sophisticated Investor”, means an entity as defined by the United States Securities and Exchange Commission under Rule 501, regulation D of the Securities Act of 1933.

“Allocation” means the portion of the State Ceiling awarded by the Committee to an Applicant.

“Allocation Round” means a meeting or series of meetings of the Committee during which a pre-determined 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 Issuer Self-Certification” means the document provided in the Committee Resolution 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 any state or local governmental agency, joint powers authority (JPA), special district, nonprofit public benefit corporation that issues only student loan Bonds or any other public agency that is empowered to issue debt that submits an Application to the Committee.

“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.

“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 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.

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

“Certification of Compliance” 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.

“CIDFAC” means the California Industrial Development Financing Advisory Commission.

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

“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.

Agenda Item No. 4
September 28, 2011

“Competitive Application Process” means the procedure under which the Committee will 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 will be awarded points only when the Project qualifies for such points and evidence supporting an award of points is documented in the Application when submitted. The Committee will not consider documentation for an award of points submitted after the Application deadline, nor will the Committee review an incomplete Application except to determine whether the Application is complete.

“Credit Enhancement” means the additional assurance provided by a third party pursuant to a payment guaranty, letter of credit, bond insurance or other similar vehicle with a marketable investment grade credit rating.

“Credit Enhancer” means the party providing Credit Enhancement.

“CTCAC” means the California Tax Credit Allocation Committee.

“Deemed Waived” means any designated Qualified Energy Conservation Bond and/or Recovery Zone Bond Allocation not issued or included in a Plan of Issuance by August 15, 2010 that may automatically be deemed returned to CDLAC for reallocation.

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

- 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.
- 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.
- 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.
- A state designated Enterprise Zone (including a Manufacturing Enhancement Area or Targeted Tax Area).
- A federally designated Empowerment Zone, Enterprise Community or Renewal Community as defined in 26 U.S.C. section 1392.
- A redevelopment project area adopted pursuant to California Health and Safety Code sections 33000 et seq. where the Committee determines that the project area meets the definition of “blighted area” contained in California Health and Safety Code section 33030.

“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 provides payments based on the amount of Bonds drawn-down).

“Eligible QECB Reallocation Applicant” means any city, county (acting directly or through an entity acting on behalf of the city or county pursuant to a joint powers agreement), state entity or Indian tribal government located in the State of California.

“Eligible QECB Reallocation Issuer” means a State or political subdivision as defined for purposes of U.S. Treasury Regulations, section 103, and entities empowered to issue Bonds on behalf of any such entity under rules similar to those for determining whether a Bond issued on behalf of a State or political subdivision constitutes an obligation of that State or political subdivision for purposes of U.S. Treasury Regulations, section 103.

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

Agenda Item No. 4
September 28, 2011

“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, 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.

“General Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee that does not include either Rural Projects or Mixed Income Projects.

“Governmental Bond” means a Bond issued by or on behalf of a governmental entity that is not considered a Qualified Private Activity Bond.

“Investor Representation Letter” means a letter from initial investors of a Bond offering that includes but is not limited to a certification that they reasonably meet the standards of a Sophisticated Investor or Qualified Institutional Buyer, that they are purchasing Bonds for their own account, that they have the sophistication to evaluate the merits and risks of the investment and suffer a loss of the investment, that they have been furnished all the information which they and their advisers requested on the offering and have had an opportunity to ask questions relating to that information, and other such matters.

“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 CIDFAC and 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.

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

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

“Mixed Income Project Pool” means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.

“Mixed Income Project” means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units.

"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).

"Nationally Recognized Statistical Rating Organization" means credit rating agencies that satisfy the requirements of 15 U.S.C. section 78(c)(62).

"Net Proceeds" means proceeds used for "recovery zone property" as defined in 26 U.S.C. 1400U-3(b)(1)(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 1-11-11), which is hereby incorporated by reference.

"Placement Agent 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 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.

"Plan of Issuance" means a report due to CDLAC from a county or municipality receiving a U.S. Treasury Designated Recovery Zone Bond Allocation that includes the following: One, a brief description of the Project(s) to be funded utilizing QECCBs and/or RZBs, including the proposed qualifying project type, sponsor contact information and anticipated Bond amounts; Two, a copy of the locally approved resolution designating the area in which the proposed Project(s) are located as a Recovery Zone(s); Three, an identification of the local approvals obtained to date; and Four, the anticipated construction start date and timeline for project completion and Bond issuance.

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

"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-quarter mile of the Project.

"Qualified Business" means any trade or business as defined under 26 U.S.C. section 1400U-3(c)(2) which exempted "(1) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not a residential rental property as defined in 26 U.S.C. section 168(e)(2); and (2) such term shall not include any trade or business consisting of the operation of any facility described in 26 U.S.C. section 144(c)(6)(B)."

"Qualified Energy Conservation Bond (QECCB)" means a qualified tax-credit Bond as defined under 26 U.S.C. section 54D where: "(1) one-hundred (100%) percent of the available project proceeds of such issue are to be used for one or more 'qualified conservation purposes' (2) the bond is issued by a State or local government, and (3) the Issuer designates such bonds for purposes pursuant to this section."

"Qualified Energy Conservation Bond Reallocation Pool" means the reserve of the amount Deemed Waived by the Committee for reallocation for a Qualified Energy Conservation Bond.

"Qualified Institutional Buyer (QIB)" means an entity defined by the United States Securities and Exchange Commission in Rule 144A under the Securities Act of 1933.

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

“Qualified Recovery Zone Bond Issuer” means eligible Issuers of Recovery Zone Bonds including states, political subdivisions as defined for purposes of U.S. Treasury Regulations, section 103, and entities empowered to issue Bonds on behalf of any such entity under rules similar to those used to determine whether a Bond issued on behalf of a state or political subdivision constitutes an obligation of the state or political subdivision for purposes of U.S. Treasury Regulations, section 103 and subchapter A, 1.103-1(b), or eligible Issuers in conduit financing issues as defined in U.S. Treasury Regulations, subchapter A, 1.150-1(b). An eligible Issuer may issue Recovery Zone Bonds based on a volume cap allocation received by the eligible Issuer itself or by a conduit borrower or other ultimate beneficiary of the issue of the Bonds.

“Qualified Residential Rental Project” 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.

“Qualifying Bond Default” means a Bond Default in which the final disposition resulted in bondholders involuntarily not being paid in whole or in part.

Recovery Zone” means an area designated by the local issuing entity defined pursuant to 26 U.S.C. section 1400U-1(b) as meeting one of the following criteria:

- Significant poverty, unemployment, rate of home foreclosures or general distress
- Economically distressed because of military base closure or realignment
- An area which has been designated as an empowerment zone or a renewal community

“Recovery Zone Bond (RZB)” means a Bond issued as a Recovery Zone Economic Development Bond or a Recovery Zone Facility Bond.

“Recovery Zone Economic Development Bonds (RZEDB)” means a type of Build America Bond issued before January 1, 2011 in which the Issuer shall receive a credit from the Treasury Department equal to 45% of the interest payment.

“Recovery Zone Economic Development Bond (RZEDB) Reallocation Pool” means the reserve of the amount Deemed Waived by the Committee for reallocation of Recovery Zone Economic Development Bonds.

“Recovery Zone Facility Bonds (RZFB)” means a category of Bonds created by the American Recovery and Reinvestment Act of 2009 (ARRA) that will be treated as Exempt Facility Bond Project as defined per 26 U.S.C. section 142.

“Recovery Zone Facility Bonds (RZFB) Reallocation Pool” means the reserve of the amount Deemed Waived by the Committee for reallocation of Recovery Zone Facility Bonds.

“Redevelopment Project Area” means an urbanized area of a community which is a blighted area as defined in sections 33030-33039 of the California Health and Safety Code, the redevelopment of which is necessary to effectuate the public purposes declared in sections 33000, et seq. of the California Health and Safety Code.

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

- The brothers, sisters, spouse, ancestors, and direct descendants of a person;
- A person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- 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:
 - At least 50% of the total combined voting power of all classes that can vote, or;
 - At least 50% of the total value of shares of all classes of stock of each of the corporations, or;
 - 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.

Agenda Item No. 4
September 28, 2011

- 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;
- 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;
- 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.
- A grantor and fiduciary of any trust;
- A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- A fiduciary of a trust and a beneficiary of that trust;
- 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;
- 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;
- A corporation and a partnership or joint venture if the same persons own more than:
 - 50% in value of the outstanding stock of the corporation; and
 - 50% of the capital interest, or the profits' interest, in the partnership or joint venture;
- 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;
- 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;
- A partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or
- 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 three (3) 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 (excluding RZBs or QECBs) titled “Report of Action Taken Regarding the Issuance of Private Activity Bonds” (revised 1-11-11), which is hereby incorporated by reference.

“Report of Action Taken for Bonds (Carryforward)” means the specific Report of Action Taken due to the Committee following the use and/or carryforward of Allocation for Qualified Private Activity Bonds (excluding RZBs or QECBs) titled “Report of Action Taken Regarding the Making of a Carryforward Election and the Issuance of Private Activity Bonds” (revised 1-11-11), which is hereby incorporated by reference.

“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” (revised 1-11-11), which is hereby incorporated by reference.

“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” (revised -11-11), which is hereby incorporated by reference.

“Report of Action Taken for RZBs or QECBs” means the specific Report of Action Taken due to the Committee following the use of Allocation for RZBs or QECBs titled “Report of Action Taken Regarding the Issuance of Recovery Zone Bonds or Qualified Energy Conservation Bonds” (revised 1-11-11), which is hereby incorporated by reference.

Agenda Item No. 4
September 28, 2011

“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 or a CTCAC regulatory agreement for a minimum of thirty (30) years.

"Rural Project" means a Qualified Residential Rental 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.

“RZEDB Application” means the Application titled “Application for an Award of American Recovery and Reinvestment Act of 2009 Recovery Zone Economic Development Bonds” (revised 5-5-11), which is hereby incorporated by reference.

“RZFB Application” means the Application titled “Application for an Award of American Recovery and Reinvestment Act of 2009 Recovery Zone Facility Development Bonds” (revised 5-5-11), which is hereby incorporated by reference.

“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 Business Program” means a program that meets the requirements for eligibility established and administered by CIDFAC.

“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.

“Sophisticated Investor (SI)”, see Accredited Investor definition.

“Special Designation Area” means a community that the Applicant demonstrates is any one or more of the following: One, a state designated Enterprise Zone pursuant to Government Code section 7073, Manufacturing Enhancement Area pursuant to Government Code section 7073.8 or Targeted Tax Area pursuant to Government Code section 7097; Two, a federally designated Empowerment Zone or Enterprise Community pursuant to 26 U.S.C. section 1391, or Renewal Community pursuant to 26 U.S.C. section 1400E; or Three, a redevelopment project area adopted pursuant to California Health and Safety Code sections 33000 et seq., where the Committee determines that the project area meets the definition of blighted area contained in Health and Safety Code section 33030.

“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 the amount reserved to California pursuant to sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 as established by and announced by the Committee in accordance with article 2 of this chapter.

“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, Recovery Zone Bonds or Qualified Energy Conservation Bonds.

“TEFRA Resolution” means the approval signed by the applicable elected representative of the governmental unit having jurisdiction over the proposed Project as required by the Tax Equity and Fiscal Responsibility Act of 1983, and under 26 U.S.C. section 147(f).

“Travelling Investor Representation Letter” means the certification from initial investor(s) of a Bond offering that they have no present intention of reoffering the Bonds in a subsequent public offering, but may be allow to subsequently transfer the Bonds in a limited offering to another permitted transferee provided the transferee agrees to the same representations.

“U.S. Treasury Designated Recovery Zone Bond Allocation” means Allocation received directly from the federal government pursuant to the American Recovery and Reinvestment Act of 2009.

“Verification of Zoning and Local Approvals” means the document by which the appropriate local government planning official having jurisdiction over the Qualified Residential Rental Project certifies at least the following: the Project’s name, address, parcel number, housing type, the Project’s compliance with all applicable local land use and zoning ordinances, a description of the Project’s current zoning, maximum per unit density allowed for the Project’s site, and whether the Project has obtained all local and state land use related approvals.

“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 8869.84, Government Code. Reference: Section 8869.84(c), Government Code.

Article 11. Reporting Requirements

Section 5140. Contact Information. All reports required in this article shall be transmitted to the Committee at the address, e-mail or fax number listed on the Committee’s website, www.treasurer.ca.gov/cdlac.

Section 5141. Notification of Bond Issue. 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 as provided in section 5140. The notification shall identify the Applicant, the Project or program, the date the Allocation was used, and the amount of the Allocation used.

Section 5142. Report of Action Taken. 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 Mortgage Credit Certificates by submitting the appropriate Report of Action Taken to the address as provided in section 5140.

Section 5143. Notification of Carry-Forward Election. Applicants awarded Allocation on a carry-forward basis as proscribed in section 5131 shall transmit to the Committee, via the address provided in section 5140, the documents provided to the Internal Revenue Service reporting the carry-forward election no later than February 1st of the year immediately following the year in which the Allocation was awarded.

Section 5144. Annual Applicant Public Benefits and On-going Compliance Self Certification. All Projects that receive an Allocation and are within an existing regulatory period and/or compliance period shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). The Applicant shall complete and submit the Annual Issuer Self Certification (8-12-11) provided on the Committee website certifying whether or not the Project meets the terms and conditions of the Committee Resolution. The self certification must be submitted by the Applicant to the California Debt Limit Allocation Committee no later than March 1 of each year (or at such other time as requested by the Committee). For calendar year 2012 only, Issuers shall submit self-certifications for pre-2011 bond issuances no later than the extended deadline of September 1, 2012. The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy.

~~Section 5144.~~5145. Annual Notification of Bond Issuances. All Applicants shall transmit to the Committee, via the address provided in section 5140, an annual report on the use of all Allocation and which portion of the State Ceiling was used for each Project, no later than January 15 of the following calendar year. Applicants must identify all Draw-down Bond Issuances and the unused Allocation balance for each award.

Chapter 2. Qualified Residential Rental Projects

Article 1. Definitions.

Section 5170. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms shall have the meanings set forth in this chapter.

“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.

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

“Capital Needs Assessment” means a document containing the information defined in section 5212.

“Community Revitalization Area” means a Distressed Community for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to the plan have occurred.

“Community Revitalization Plan” means a comprehensive plan adopted by a public entity that details specific efforts being undertaken in a neighborhood or a community, that will result in the improvement of the economic conditions and the quality of life in that area.

“Energy Star” means the certification satisfying the requirements of 42 U.S.C. section 6294(a).

“Federally Assisted At Risk Project” means a property that is at risk of conversion as defined by Revenue and Taxation Code section 17058(c)(4) and by section 10325(g)(5)(B)(i)-(v) of Title 4 of the California Code of Regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code section 17058(c)(4) and section 10325(g)(5)(B)(i) of Title 4 of the California Code of Regulations, except that the federal assistance due to expire within two (2) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

“Gross Rent” means gross rent as defined by 26 U.S.C. 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 Federally Assisted At Risk Projects or Projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

“HOPE VI Project” means a Project funded by a grant from the Urban Revitalization Program created by Public Law 102-389 and administered by the Department of Housing and Urban Development under section 24 of the United States Housing Act of 1937 (42 U.S.C. section 1437(v)).

Agenda Item No. 4
September 28, 2011

“Mixed Income Project” means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units.

“New Construction” means a Qualified Residential Rental Project in which 100% of its units constitute new units to the market, and expressly excludes any Project that involves rehabilitation or any construction affecting existing residential rental units.

“Public Funds” means direct grants, below market rate or subsidized loans, loans where the repayment of the financing is deferred into the future or based on residual receipts from the Project’s cash flow, direct funds from a public source including, but not limited to, waiver of fees or the value of land donated or leased by a public agency substantiated by an independent, third party appraisal conducted within the previous twelve (12) months, excluding a property tax exemption. Public Funds do not include any Allocation awarded by the Committee.

“Qualified Project Period” shall mean the same as defined in 26 U.S.C. section 142(d)(2)(A) and regulations promulgated there under, except that the minimum term shall be 30-years.

"Redevelopment Agency Housing Set Aside Program" means a program to assist redevelopment agencies to maximize the impact of housing set aside programs established and funded pursuant to Health and Safety Code section 33334.2 through the use of housing set aside as security for the repayment of tax-exempt private activity Bonds.

“Scattered Site Project” means multiple location Projects which are either At-Risk Projects within the same city or within five (5) miles of each other; or Non-At Risk Projects within one (1) mile of each other.

"Standard QRRP Competitive Application" means the Application for an Allocation of the Qualified Residential Rental Project Pool titled "Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)" (revised 1-11-11), which is hereby incorporated by reference.

"Standard QRRP Non-Competitive Application" means the Application for an Allocation of the Qualified Residential Rental Project Pool titled "Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)" (revised 1-11-11), 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 Request Letter” means the written request of Supplemental Allocation for Projects having been awarded Allocation within the last thirty six (36) months that may be submitted in lieu of a complete Application. The letter must be signed and include information about the Project including the date and amount of prior Allocation, the current status of the Project, revised sources and uses of funds, justification for the request for additional Allocation, and any additional information the Committee or Executive Director deems necessary.

“Sustainable Building Methods” means any method or materials used in the development or rehabilitation of a Qualified Residential Rental Project that will increase energy efficiency by at least 15% above the energy standards set forth by the California Energy Commission in Part 6 (commencing with section 10-101) of Title 24 of the California Code of Regulations or a rehabilitation Project not subject to Title 24 Standards that reduces energy use on a per square foot basis by 25%.

“Table 1” means the table included in the Applications for a Qualified Residential Rental Project that itemizes the proposed number of units, square footage, rent, utility allowance, and the income restriction each unit or other characteristics deemed appropriate by the Committee for the subject Project.

“Table 2” means the table included in the Applications for a Qualified Residential Rental Project that itemizes the proposed total of all units, all restricted units, the number and percentage of units restricted for households at or below 50% of AMI, at or below 60% of AMI, or other characteristics deem appropriate by the Committee for the subject Project.

"Universal Competitive Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development for an Allocation of the Qualified Residential Rental Project Pool titled "Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum" (revised 1-11-11), which is hereby incorporated by reference.

"Universal Non-Competitive Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development for an Allocation of the Qualified Residential Rental Project Pool titled "Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum" (revised 1-11-11), which is hereby incorporated by reference.

"VOC" means a volatile organic compound.

Article 2. Applications

Section 5180. Application Process. Applicants seeking an Allocation of the Qualified Residential Rental Project Pool shall be considered in accordance with the provisions of chapter 1 and the submission of a Standard QRRP Competitive Application or a Standard QRRP Non-Competitive Application depending on whether the Allocation Round for which the Application is being submitted is being conducted under a competitive or non-competitive process as provided in section 5010(b).

Section 5181. Concurrent Application with Other Agencies. Applicants for an Allocation of the Qualified Residential Rental Project Pool that also seek financing in conjunction with the California Department of Housing and Community Development and/or the California Housing Finance Agency may submit a Universal Competitive Addendum or a Universal Non-Competitive Addendum depending on whether the Allocation Round for which the Application is being submitted is being conducted under a competitive or non-competitive process as provided in section 5010(b).

Section 5182. Concurrent Application with CTCAC. Applicants requesting an Allocation for a Qualified Residential Rental Project who concurrently have an application for the same Project filed with CTCAC for consideration under the nine (9%) percent program set forth in section 10325 of Title 4 of the California Code of Regulations will not be permitted to apply to the Committee unless the application to CTCAC is withdrawn prior to the Application deadline.

Section 5183. Subsequent Application with CTCAC. Applicants that receive an Allocation for a Qualified Residential Rental Project are prohibited from subsequently requesting an allocation of 9% low income housing tax credits from CTCAC for the same Project, except where the Executive Director grants a waiver based on extraordinary circumstances, including but not limited to, the passage of significant time or circumstances outside the Applicant's control, and makes a determination that the waiver is consistent with the provision of affordable housing.

Article 3. Minimum Requirements

Section 5190. Readiness. In its Application, the Project Sponsor must demonstrate its readiness to use the Allocation as set forth in this section.

(a) Demonstrated site control. The Applicant shall provide evidence that the Project site is at the time of Application submission within the control of the Applicant or Project Sponsor. A current title report, completed no more than ninety (90) days prior to Application deadline as provided in section 5030, shall be submitted with all applications for the purposes of this requirement.

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

(A) The Applicant or Project Sponsor holds fee title as evidenced by the title report;

(B) 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;

(C) An executed disposition and development agreement between the Project Sponsor and a public agency; or

(D) A valid, current, enforceable contingent purchase and sale agreement or option agreement between the Project Sponsor and the owner of the subject property, including evidence that all extensions necessary to keep agreement current through the date of the award of allocation have been executed.

(E) 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.

(F) 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.

(b) Local Approvals and Zoning. The Project Sponsor shall provide evidence, at the time the Application is filed, that the site is zoned for the Project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials and/or subject to public appeal have been obtained. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits. ~~Notwithstanding the first sentence of this subdivision, local land use approvals not required to be obtained at the time of Application include, design review, initial environmental study assessments, variances, and development agreements.~~ The Applicant may include a completed Verification of Zoning and Local Approvals form signed by an appropriate local government planning official of the applicable local jurisdiction for the purpose of satisfying this requirement.

Article 4. Market Studies.

Section 5200. Minimum Requirements. A full Market Study 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. The study must meet the current Market Study guidelines distributed by the Committee, and establish both need and demand for the proposed Project. If the Market Study does not meet the guidelines or support sufficient need and demand for the Project, the Application may be considered ineligible to receive an award of Allocation. Except where a waiver is obtained from the Executive Director in advance of a submitted application, CDLAC shall not award an allocation to a rural new construction project if a tax-exempt bond, tax credit, or other publicly-assisted project housing the same population is currently under construction within the same market area. The Executive Director may grant a waiver where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition. The Executive Director may also grant a waiver for subsequent phases of a single new construction project where those phases are described in the application of the initial phase,

NEW SECTION NUMBER [TO BE DETERMINED BY OAL]: Minimum Sustainable Building Standards.

(a) Applicants shall provide a certification of their intent to utilize landscaping and construction materials which are compatible with the neighborhood in which the proposed project is to be located, and that the architectural design and construction materials will provide for low maintenance and durability, as well as be suited to the environmental conditions to which the project will be subjected. Additionally, the certification of intent shall note that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects:

(1) Energy Efficiency. All new construction buildings shall be fifteen percent (15%) better than the current Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). All rehabilitated buildings shall have improved energy efficiency above the modeled energy consumption of the building(s) based on existing conditions, with at least a 10% post-rehabilitation improvement over existing conditions energy efficiency achieved for each building.

(2) CALGreen Compliance. New construction high-rise buildings shall meet the mandatory provisions of the CALGreen Code (Title 24, Part 11 of the California Code of Regulations). All rehabilitation projects, including high-rise rehabilitation projects, are required to meet the mandatory provisions of the CALGreen Code for any building product or system being replaced as part of the scope of work.

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

(4) Roofs. Roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.

(5) Exterior Doors. Insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad or hardwood faces, with a standard one-year guarantee and all six sides factory primed.

(6) Appliances. ENERGY STAR rated appliances, including but not limited to, refrigerators, dishwashers, and clothes washers shall be installed when such appliances are provided within Low-Income Units and/or in on-site community facilities unless waived by the Executive Director.

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

(8) Water Heater. For units with individual tank-type water heaters, minimum capacities are to be 30 gallons for one- and two-bedroom units and 40 gallons for three-bedroom units or larger.

(9) Floor Coverings. For light and medium traffic areas vinyl or linoleum shall be at least 3/32" thick; for heavy traffic areas it shall be a minimum 1/8" thick. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Carpet complying with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D, or alternatively, cork, bamboo, linoleum, or hardwood floors shall be provided in all other floor spaces unless this requirement is specifically waived by the Executive Director.

(10) Paint. Use of Low Volatile Organic Compound (VOC) paints and stains (Non-flat: 150 g/l or less, Flat: 50 g/l or less) for all interior surfaces where paints and stains are applied.

(11) Insulation. All fiberglass-based insulation shall meet the Greenguard Emission Criteria for Children and Schools (http://greenguard.org/en/CertificationPrograms/CertificationPrograms_childrenSchools.aspx).

(b) If a rehabilitation applicant does not propose to meet the requirements of this section, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive.

(c) Compliance and Verification. Evidence of Compliance is to be submitted to CDLAC as an attachment to the first Certification of Compliance (the form of which is attached to the project resolution and which is required to be submitted on March 1 of each year). For projects under construction or rehabilitation, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds.

(1) Under subdivision (a)(1), Applicants with new construction projects that have been constructed or rehabilitated must submit the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards

(2) Under subdivision (a)(1), Applicants with rehabilitation projects must submit the California Energy Commission HERS II energy consumption and analysis report, which shows the pre- and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement, with their first annual certification of compliance.

(3) For subdivisions (a)(2) through (a)(11), Applicants shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:

- o A certified HERS Rater
- o A certified GreenPoint Rater; or
- o A US Green Building Council Certification.

(4) Failure to produce appropriate and acceptable third party documentation for subdivisions (a)(1) through (a)(11) of this section may result in negative points.

Article 7. Evaluation Criteria

Section 5230. Evaluation Criteria.

(k) Sustainable Building Methods (~~8~~**10** points maximum).

~~(1) Points described in this subdivision~~ will be awarded provided that the Project Sponsor and the licensed Project architect or mechanical engineer each submit a certification on company letterhead indicating which items, commencing with subdivision (k)(3) of this section, will be included in the Project's design and any relevant specifications.

~~(2) In addition to the certification required in subdivision (k)(1) of this section,~~ ~~†~~The Project Sponsor shall submit a certification at Project completion from the Project's licensed architect or mechanical engineer that the design elements that formed the basis for any award of points pursuant to this section have been met or exceeded. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under this section who fails to meet this requirement will be subject to negative points under subdivision (n) of this section.

~~(3) Projects that develop and commit to certifying the Project under any one of the following programs: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Multifamily Guidelines will receive eight (8) points.~~

~~(4) Projects defined as either New Construction or Adaptive Reuse that exceed the energy standards set forth in Title 24 of the California Code of Regulations by at least 10%, or a rehabilitation Project not subject to Title 24, that reduces energy use on a per square foot basis by 25% as calculated using a methodology approved by the California Energy Commission will receive five (5) points.~~

Agenda Item No. 4
September 28, 2011

(5) Projects that incorporate items from the following list will receive one (1) point for each item used in the Project, up to a maximum of three (3) points:

~~(A) Energy Star rated ceiling fans in all bedrooms and living rooms; or use of a whole house fan; or use of an economizer cycle on mechanically cooled HVAC systems.~~

~~(B) Water saving fixtures or flow restrictors in the kitchen (2 gpm or less) and bathrooms (1.5 gpm or less).~~

~~(C) At least one high efficiency toilet (1.3 gallons per flush) or dual flush toilet per unit.~~

~~(D) Material for all cabinets, countertops and shelving that is free of added formaldehyde or fully sealed on all six (6) sides by laminates and/or a low VOC primer or sealant (150 grams per liter or less).~~

~~(E) Interior paint with no volatile organic compounds. (5 grams per liter or less).~~

~~(F) CRI Green label, low VOC carpeting and pad and low VOC adhesives 25 grams per liter or less.~~

~~(G) Bathroom fans in all bathrooms that exhaust to the outdoors and are equipped with a humidistat sensor or timer.~~

~~(H) Formaldehyde free insulation.~~

~~(I) At least one of the following recycled materials at the designated levels: a) cast in place concrete (20% flyash); b) carpet (25%); c) road base, fill or landscape amendments (30%).~~

~~(J) Design the elements to retain, infiltrate and/or treat on site the first one half (1/2) inch of rainfall in a 24 hour period.~~

~~(K) Inclusion of a construction indoor air quality management plan that requires the following: a) protection of construction materials from water damage during construction; b) capping of ducts during construction; c) cleaning of ducts upon completion of construction; and d) for rehabilitation Projects, implementation of a dust control plan that prevents particulates from migrating into occupied areas.~~

~~(L) The following design features in at least half of the Project's units: accessible routes of travel to the dwelling units with accessible 34" minimum clear opening width entry and interior doors with lever hardware and 42" minimum width hallways; accessible full bathroom on primary floor with 30" x 60" clearance parallel to the entry to 60" wide accessible showers with grab bars, anti scald valves and lever faucet/shower handles, and reinforcement applied to walls around toilet for future grab bar installations; accessible kitchen with 30" x 48" clearance parallel to and centered on front of all major fixtures and appliances.~~

~~(M) Inclusion of no smoking buildings or sections of buildings. To be eligible for an award pursuant to this subdivision, the no smoking sections must consist of at least half the units within the building, and those units must be contiguous.~~

~~(N) An allocation of Historic Tax Credits as defined under 26 U.S.C. section 47(a).~~

~~(O) For rehabilitation Projects not subject to Title 24 Standards, use of florescent light fixtures for at least 75% of light fixtures or comparable energy saving lighting for the Project's total lighting (including community rooms and any common space) throughout the compliance period.~~

(3) New Construction and Adaptive Reuse Projects: Five (5) points will be awarded to projects that commit to developing the project in accordance with the minimum requirements of any one of the following programs: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Multifamily Guidelines.

(4) For project's receiving points under subdivision (k)(3) of this section, additional points for energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in Title 24, Part 6, of the California Building Code (the Standards) under which the project is constructed, shall be awarded as follows:

| <u>Percentage better than the current Standards</u> | <u>Low-Rise Multifamily (3 or fewer habitable stories)</u> | <u>High-Rise Multifamily (4 or more habitable stories)</u> |
|---|--|--|
| <u>17.5 percent</u> | <u>2 points</u> | <u>3 points</u> |
| <u>20 percent</u> | <u>3 points</u> | <u>5 points</u> |
| <u>25 percent</u> | <u>5 points</u> | |

(5) For project’s receiving points under subdivision (k)(3) of this section, applicants may be awarded points for committing to developing their project beyond the minimum requirements of the green building program chosen in subdivision (k)(3) of this section:

| <u>LEED</u> | <u>Silver</u> | <u>Gold</u> |
|-------------------------|----------------------|--------------------|
| <u>GreenPoint Rated</u> | <u>100</u> | <u>125</u> |
| <u>-</u> | <u>3 points</u> | <u>5 points</u> |

(6) Rehabilitation Projects: The project will be rehabilitated to improve energy efficiency above the modeled energy consumption of the building(s) based on existing conditions. Points are awarded based on the building(s) percentage decrease in estimated annual energy use (or improvement in energy efficiency) in the building’s Home Energy Rating System II (HERS II) rating post rehabilitation:

| <u>Improvement Over Current</u> | |
|--|------------------|
| <u>15 percent</u> | <u>3 points</u> |
| <u>20 percent</u> | <u>5 points</u> |
| <u>25 percent</u> | <u>7 points</u> |
| <u>30 percent</u> | <u>10 points</u> |

(7) Additional Rehabilitation Project Measures.

(A) For project’s receiving points under subdivision (k)(6) of this section, applicants may be awarded three (3) points for committing to developing, and/or managing, their project with one or more of the following:

- (i) Photovoltaic (PV) generation that offsets tenant loads; or
- (ii) PV that offsets either 50 percent (50%) of common area load (if the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual common area electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area); or
- (iii) Solar hot water for all tenants who have individual water meters.

(B) For projects receiving points under subdivision (k)(6) of this section, applicants may be awarded three (3) points for projects that implement sustainable building management practices including:

- (i) Develop a project-specific maintenance manual including replacement specifications and operating information of all energy and green building features; and
- (ii) Certify building management staff in sustainable building operations per BPI Multifamily Building Operator or equivalent training program; and
- (iii) Undertake formal building systems commissioning, retro-commissioning or re-commissioning as appropriate (continuous commissioning is not required).

(C) Applicants may be awarded three (3) points for individually metering or sub-metering currently master-metered gas, electricity, or central hot water systems for all tenants.

(8) Compliance and Verification. Evidence of Compliance is to be submitted to CDLAC as an attachment to the first Certification of Compliance (the form of which is attached to the project resolution and which is required to be submitted on March 1 of each year). For projects under construction or rehabilitation, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds. Compliance will be demonstrated as follows:

(A) For Applications that receive points under subdivisions (k)(3) and (k)(5) of this section, the applicant must submit the appropriate required third party verification documentation showing the project has met the requirements for the relevant program.

(B) For Applications that receive points under subdivision (k)(4), the applicant must submit the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards. This compliance form must be the output from the building(s) modeled “as built” and reflect all relevant changes that impact the building(s) energy efficiency that were made after the preliminary reservation application. The compliance form must be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Plans Examiner (CEPE). Documentation for measures that require verification by California Home Energy Rating System (HERS) Raters must also be submitted.

(C) For Applications that receive points under subdivision (k)(6), the applicant must submit the California Energy Commission HERS II energy consumption and analysis report, developed using the Home Energy Retrofit Coordinating Committee's multifamily protocols, which shows the pre- and post- rehabilitation HERS II estimated annual energy use demonstrating the required improvement and is signed by a qualified HERS Rater.

(D) For Applications that receive points under subdivision (k)(7) the applicants must submit the following documentation:

(i) For projects including photovoltaic generation that offsets tenant loads, the applicant must submit a Multifamily Affordable Solar Home (MASH) Program field verification certification form signed by the project's solar contractor and a qualified HERS Rater, and a copy of the utility interconnection approval letter.

(ii) For sustainable building management practices implemented by appropriately trained onsite staff, the applicant must submit a copy of the energy management and maintenance manual, provide evidence onsite staff has been certified in green building operations and maintenance through the Building Performance Institute Multifamily Energy Efficient Building Operator or equivalent training, and submit the building commissioning plan drafted in accordance with the California Commissioning Collaborative's best practice recommendations for existing buildings or the GreenPoint Rated Multifamily Commissioning requirements. Owner certification of ongoing sustainable building management practices will be provided annually in accordance with Section (new section)(A).

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

(9) Failure to produce the appropriate documentation for subdivisions (1) through (7) of this subsection may result in an award of negative points for the Project Sponsor.

Section 5054. Filing Fees. 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:

(a) Initial filing fee. A check in the amount of \$600 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.

(b) Second installment of Filing Fee. The second installment of the filing fee will be due within thirty (30) days after Bond issuance or issuance of the first Mortgage Credit Certificate. The Committee will 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, less the fee paid pursuant to subdivision (a) of this section. ~~For Draw down Bond Issuances, the amount of the second installment of the filing fee is the product of the maximum principle amount (aggregate face amount) of the Bonds to be issued for the Project multiplied by .00035, less the fee paid pursuant to subdivision (a) of this section.~~

(c) 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 5050.

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

~~Section 5133. CarryForward for Draw down Bond Issuances. (a) Awards of Allocation for Projects in which Bond proceeds will be provided on a Draw down Bond Issuance schedule will be made on a carryforward basis. The initial Draw down Bond Issuance must exceed the lesser of \$50,001 or 5% of the total Allocation awarded and occur in accordance with expiration dates provided in section 5100. Subsequent Draw down Bond Issuances may be issued at any time thereafter but may not occur beyond the expiration of the State Ceiling allocated to the Project in accordance with 26 U.S.C. section 146(f)(3). Projects with draw down schedules that exceed a three (3) year period may be awarded replacement Allocation as follows:~~

~~(1) For Allocations that expire in an undersubscribed year, Staff will recommend a replacement award of Allocation and the Committee will prioritize such award of Allocation at the last meeting of the year prior to the expiration of the existing award of Allocation.~~

~~(2) For Allocations that expire in an oversubscribed year, Staff will recommend a replacement award of Allocation and the Committee will prioritize such award of Allocation at the first Allocation meeting of the following year.~~

~~(b) Projects awarded unused carryforward Allocation that is set to expire prior to the final draw identified in its Application's initial draw down schedule must submit a request to supplant expiring Allocation no sooner than sixty (60) days prior to the expiration of the Allocation.~~

Agenda Item No. 4
September 28, 2011

~~(c) Projects that are unable to complete all Drawn-down Bond Issuances within the initial draw-down schedule's time frame and require additional Allocation to supplant expiring Allocation will be required to submit a request for a hardship extension and Allocation replacement no sooner than sixty (60) days prior to the expiration date of the Allocation.~~

~~(d) The Committee will make every effort to provide replacement Allocation to Projects in which Bond proceeds will be provided on a Draw-down Bond Issuance basis. The Committee may delegate its authority to the Executive Director to approve an award of new Allocation or unused previous year carryforward for replacement purposes.~~

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

Section 5370. Evaluation Criteria. (a) Community Economic Need (25 points maximum). Applications will be awarded points for Projects that are located in communities according to the following:

(1) Unemployment Rate (10 points maximum). Based on data from the California Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Small-Issue Industrial Development Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Ten (10) points to a Project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a Project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the Project site, including the tract in which the Project is located will be averaged, divided by the statewide poverty rate and multiplied by one-hundred (100). The following points will be awarded accordingly:

(A) Five (5) points to a Project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Three (3) points to a Project located in an area in which the poverty rate is over one-hundred ten percent (110%) but not more than one-hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum). Points will be awarded provided the following is demonstrated:

(A) Evidence that the Project is located in a Special Designation Area. For redevelopment Projects, a description of blight conditions that exist in the subject area is required.

(B) A scaled-for distance map that is legible and clearly shows the boundaries of the Special Designation Area and the location of the proposed Project with the area boundaries.

(4) Median Family Income (5 points maximum). Points will be awarded for a Project located in an area with a median family income of less than eighty percent (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 may be used.

(5) If a Project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subdivision (a) of this section. For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed Project. The Executive Director shall have the authority to determine whether the alternate information meets the intent of the point category for which such information has been submitted.

(b) Jobs Creation and Retention (~~35~~45 points maximum). Applications will be awarded points for Projects that create and/or retain jobs according to the following:

(1) Job Creation (~~25~~35 points maximum). Applications will be eligible for Job Creation points when full-time new jobs have been created pursuant to the Job Retention definition provided in section 5350. Based on the Project Sponsor's representation that they will make their best efforts to increase the number of direct, full-time employees at the Project site within two (2) years of Project completion, points will be awarded as follows:

(A) Twenty-five (~~25~~35) points to Projects creating a 31% or more increase in the manufacturer's workforce.

(B) Fifteen (~~15~~20) points to Projects creating a 21% to 30% increase in the manufacturer's workforce.

(C) Ten (10) points to Projects creating a 10% to 20% increase in the manufacturer's workforce.

Agenda Item No. 4
September 28, 2011

- (2) Job Retention (10 points maximum). Applications will be eligible for Job Retention points when jobs have been retained pursuant to the Job Creation definition as provided in section 5000. To qualify for Job Retention points, the jobs retained must be those that would be lost in the absence of the requested Allocation. Points will be awarded provided the following:
- (A) Certification that the Project Sponsor will retain the specified jobs for a two (2) year period after the issuance of Bonds. The Committee may verify jobs retained at any time during the two (2) year period, or
 - (B) A verification letter from the appropriate local governmental entity stating that the Project Sponsor's business is at risk of closing local operations, and that the requested Allocation and retention of the Project Sponsor's business is an integral part of its plan to maintain the health of the local economy and retain employment, or
 - (C) Written evidence from the Project Sponsor that the company within two (2) years prior to the submission of an Application for tax-exempt IDB financing, engaged a site selector to find possible relocation sites.
- (c) Workforce and Economic Development (15 points maximum)
- (1) Welfare-to-Work (5 points maximum). Points will be awarded where the Project Sponsor proposes or is participating in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization. Evidence may include a signed letter or documentation demonstrating a proposed plan has been acknowledged or that participation is occurring that includes, at minimum, the manner and extent of the participation.
 - (2) Workforce Training (5 points maximum). To qualify for points in this category, the Project Sponsor must provide copies of official documentation of its current or pending participation. Such documentation shall include copy of an executed contract between the Project Sponsor and the provider; or a formal letter from the provider addressed to the Project Sponsor acknowledging the Project Sponsor's current or pending participation in the program. Points will be awarded where the Project Sponsor participates in one or more training, retraining or apprenticeship programs offered by any of the following state agencies, certified training facilities or postsecondary institutions:
 - (A) The California Employment Training Panel;
 - (B) The California Department of Industrial Relations;
 - (C) A community college;
 - (D) University;
 - (E) Adult school; or
 - (F) A regional occupational program or private training agency approved by the California Bureau of Private Postsecondary and Vocational Education.
 - (3) Exports Outside of California (5 points maximum). To qualify for points in this category, an officer or owner of the Project Sponsor must certify in writing on Project Sponsor letterhead that it exports, or in the case of the construction of a new manufacturing facility at a new Project site, anticipates that it will export as part of its business plan as follows:
 - (A) In excess of 30% of products manufactured at the Project site (5 points);
 - (B) Over 20% and up to 30% of its products manufactured at the Project site (3 points);
 - (C) Up to 20% of its products manufactured at the Project site (2 points);
 - (d) Payment of Employee and Dependent Medical, Dental, Vision and Retirement Costs (20 points maximum). Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide evidence of the amount paid to each medical, dental and vision provider and the amount of employee contribution toward the provision of these benefits. Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:
 - (1) Health, Dental and Vision (15 points maximum).
 - (A) Fifteen (15) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$330 or more per month toward the cost of the medical, dental, or vision for each participating employee of the Project.
 - (B) Ten (10) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$220 or more, but less than \$330, per month toward the cost of the medical, dental, or vision benefits for each participating employee of the Project
 - (C) Five (5) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$110, but less than \$220, per month toward the cost of the medical, dental, or vision benefits for each participating employee of the Project.
 - (2) Retirement Plans (5 points maximum). To qualify for points in this category, the Project Sponsor must provide specific documentation to show it contributes to a Qualified Retirement Plan or other retirement account for each participating employee and must confirm that it will offer such benefits to employees hired in accordance with the representations made pursuant to the Job Creation definition as provided in section 5000.
 - (e) Average Hourly Wage (10 points maximum). Applications will be awarded points based on a comparison of the Project Wage to the most recent Job Wage. The Project Wage will be divided by the Job Wage and multiplied by one-hundred (100). Points will be awarded as:

Agenda Item No. 4
September 28, 2011

- (1) Ten (10) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage.
- (2) Six (6) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage.
- (3) Three (3) points for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.
- (f) Environmental Stewardship (27 points maximum).
 - (1) Land Use (3 points maximum). Points will be awarded to Projects that involve the reuse of the following:
 - (A) Vacant or abandoned buildings; or
 - (B) Vacant or abandoned land with developed infrastructure, excluding land where the immediate prior use was agricultural, open space or other similar use.
 - (2) Public Transportation (4 points maximum).
 - (A) ~~Three (3) points will be awarded to Projects that are located within one-quarter (1/4) of a mile of a regular route stop within a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter (1/4) mile radius of a Public Transportation Corridor.~~ In areas where there is no public transportation system, three (3) points will be awarded to Applications where the Project Sponsor has an adopted transportation system management plan, or;
 - (B) Four (4) points will be awarded to Projects that are located within one-quarter (1/4) of a mile of a regular route stop within a Public Transit Corridor evidenced by a scaled-for-distance map showing the location of the Project is within a one-quarter (1/4) mile radius of a Public Transportation Corridor and where the Project Sponsor provides written evidence of offering public transit subsidies for employees at the Project site.
 - (3) Energy Efficiency/ Renewable Energy (10 points maximum).
 - (A) Five (5) points will be awarded to Projects that utilize designs, materials or techniques to reduce energy usage by at least fifteen (15%) on the part of the Project Sponsor compared to the following benchmarks:
 - (i) For building construction or rehabilitation, the most recently published California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; or
 - (ii) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Project Sponsor. Evidence should include a utility company letter indicating that energy savings are Projected or a written certification from an energy efficiency consultant.
 - (B) Five (5) points will be awarded to Projects that involve the installation and use of Renewable Energy equipment to power the production process. The Project Sponsor must provide written documentation from its utility company which specifies the installation or planned installation of Renewable Energy equipment.
 - (4) Manufacturer of Certified Environmentally ~~Friendly~~ Preferable Products (5 points maximum). Points will be awarded to Projects which produce or will produce environmentally friendly products certified by an ANSI accredited standards developing organization (e.g., Green Seal, Inc.) or by a widely-recognized and reputable organization accredited as a certifier by an ANSI accredited standards developing organization or by a Forest Stewardship Council (e.g., Scientific Certification Systems, Inc.). The Project Sponsor must provide the current, official documentation of the certification and must provide the percentage of the overall output that is comprised of the certified products. In addition, the Borrower or User shall certify in writing that any environmental attribute claims they make concerning their products and services are consistent with the Federal Trade Commission's guidelines for the Use of Environmental Marketing Terms.
 - (5) U.S. Green Building Council (USGBC) LEED-Certified Manufacturing Facility (5 points maximum). Points will be awarded to Projects for which Bond proceeds will be used to construct U.S. Green Building Council (USGBC) LEED-certified facilities, or to make improvements to existing facilities that will qualify it for a LEED certificate. The Project Sponsor must provide either:
 - (A) Official documentation of its registration (including evidence of payment of the registration fee) with the USGBC to obtain LEED certification in cases where the Project involves the construction of a new facility and construction has not begun or is not complete at the time of Application; or
 - (B) Official documentation of receipt of a Silver, Gold or Platinum LEED Certification in cases where construction or improvements and the certification process are completed.
 - (g) Leverage (5 points maximum). Points will be awarded to Projects for which Taxable Debt, a taxable loan, and/or private funds or equity will supplement the use of the tax-exempt Bond financing. The Project Sponsor must provide overall Project costs and certify that one or more of these other sources of financing will be used for Projects expenses with points awarded for achieving the following levels:
 - (1) Five (5) points for Projects where greater than twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.
 - (2) Three (3) points for Projects where greater than ten percent (10%) and up to twenty percent (20%) of total Project costs will be paid from Taxable Debt, a taxable loan, and/or private funds or equity.

(h) Ranking Applications. Where two or more Applications are awarded the same number of points pursuant to this section, the Executive Director will divide the Allocation amount requested by each such Application by the number of jobs created by the related Project, and will rank the Applications based on the lowest amount of requested Allocation per job(s) created.

Section 5230. Evaluation Criteria. (a) The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Any points awarded in this section shall be rounded to the nearest one-tenth decimal place. Each of the items in this section shall be memorialized in the Committee Resolution.

(b) Federally Assisted At-Risk Projects and HOPE VI Projects (20 points maximum). Projects that are Federally Assisted At Risk Projects or HOPE VI Projects will receive ten (10) points. Projects that are Federally Assisted At Risk Projects or HOPE VI Projects and have income restricted tenant paid rents for each Restricted Rental Unit that is at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties will receive ten (10) additional points.

(c) Exceeding the Minimum Income Restrictions (35 points maximum for Qualified Residential Rental Projects other than Mixed Income Projects, 15 points maximum for Mixed Income Projects). Points will be awarded as set forth below for the percentage of units that are Restricted Rental Units. The Gross Rent definition will apply to the rents calculated in this subdivision.

(1) For each ten percent (10%) increment of units restricted at fifty percent (50%) of AMI or below, Qualified Residential Rental Projects other than Mixed Income Projects will receive seven (7) points, and Mixed Income Projects will receive three (3) points (fractional percentages above the minimum 10% increment will be calculated on a pro rata basis and the total points calculated will be rounded to the nearest whole number).

(2) For each ten percent (10%) increment of units restricted at greater than fifty percent (50%) of AMI, and up to sixty percent (60%) of AMI, Qualified Residential Rental Projects other than Mixed Income Projects will receive two (2) points, and Mixed Income Projects will receive one-half (½) point.

(d) Gross Rents (5 points).

(1) Five (5) points will be awarded to Projects which utilize Gross Rents to define Restricted Rental Units as evidenced by one of the following:

(A) 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.

(B) 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:

(i) 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

(ii) A current utility allowance estimate consistent with 26 CFR section 1.42-10. 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. The CUAC estimate shall be signed by a California Association of Building Energy Consultants Certified Energy Plans Examiner (CEPE) who is also either a California licensed Mechanical or Electrical Engineer, or a certified Home Energy Rating System (HERS) rater. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS regulations. The Applicant must indicate which components of the utility allowance schedule apply to the Project.

(e) Exceeding the Minimum Rent Restrictions (10 points maximum). One (1) point will be awarded for each percentage point the highest rental rate of each Restricted Rental Unit type (defined by bedroom count) is more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. Where sizes (defined by square footage) vary among those units with the highest rent, the smallest or these units shall be the basis for this comparison. Applications receiving points under subdivision (b) of this section shall be ineligible to receive points under this subdivision.

(f) Exceeding the Minimum Term of Restrictions (10 points maximum). If the Committee establishes a Competitive Application Process, Applications that maintain the Qualified Project Period for longer than thirty (30) years will be awarded two (2) points for every five (5) years of affordability beyond thirty (30) years.

(g) Large Family Units (5 points). (1) Five (5) points will be awarded to those Projects where at least thirty percent (30%) of the Restricted Rental Units are three-bedroom or larger units.

(h) Leveraging (10 points maximum).

(1) Applications that include Public Funds as a permanent funding source are eligible for points.

All Public Funds must be committed by a public entity at the time of Application. Evidence provided shall signify the form of the commitment, the amount of the loan, grant or subsidy, the length of the term of the commitment, conditions of participation, express authorization from the governing body or an official expressly authorized to act on behalf of said governing body, committing the funds, and the Project Sponsor's acceptance. Commitments shall be final and only subject to conditions within the control of the Project Sponsor. Funding commitments shall be from funds within the control of the entity making the commitment at the time of the Application. One (1) point will be awarded for every dollar of Public Funds committed as a percentage of total development costs (minus developer fees) rounded to the nearest whole number.

(2) Applications that include Taxable Debt as a permanent funding source, in addition to tax-exempt Bond financing, are eligible for points based on the degree that the Taxable Debt supplants the use of tax-exempt Bond financing. The requirement for using Taxable Debt will be included in the Committee Resolution. Taxable Debt may only be utilized for project related expenses, not for the cost of issuance, for which the Applicant could otherwise have used tax-exempt financing in order to receive points under this category. One-half (1/2) of a point will be awarded for every dollar of Taxable Debt committed as a percentage of total development costs (minus developer fees) rounded to the nearest whole number.

(i) Community Revitalization Area Criteria (15 points maximum).

(1) Applications with Projects located in a Community Revitalization Area (CRA) will qualify for points provided that the CRA meets one or more Distressed Community characteristics and includes documentation from the municipality, redevelopment authority or any agency responsible for affordable housing with jurisdiction over the Project that substantiates the following:

(A) Confirmation that a plan for revitalizing the subject area has been adopted, the date of adoption and name of the CRA.

(B) Identification of which Distressed Community characteristic(s) is applicable to the CRA. If the applicable characteristic is pursuant to California Health and Safety Code sections 33030 et seq., a description of the blighted conditions that exist in the subject area must be included.

(C) Confirmation that the Project is within the CRA.

(D) A scaled-for-distance map that is legible and clearly shows the boundaries of the CRA and the location of the proposed Project within the area boundaries.

(2) Points will be awarded if the documentation provided pursuant to subdivision (1) substantiates the following activities:

(A) Five (5) points will be awarded where specific and significant on-going programs in conjunction with community partnerships, evidenced by a legally enforceable agreement(s) between two or more wholly separate entities, have been established, are currently operating, and are providing community enhancement services in the neighborhood, including, but not limited to, job training or after-school enrichment programs.

(B) Five (5) points will be awarded where funds, not including the funds for the proposed Project, have been expended in the last three (3) years, are being expended or are committed to be expended to improve the community infrastructure, including, but not limited to, parks, storm water and sewer systems or street improvements of the overall area.

(C) Five (5) points will be awarded where other Projects, including, but not limited to, retail, office and housing that contribute to community revitalization have been completed in the last three (3) years, are underway or are committed to be completed.

(j) Site Amenities (10 points maximum)

(1) The Committee will award points to Applications with site amenities as described in this subdivision. Except as specifically set forth in this section, points will be awarded only for those amenities that exist at the time of Application. Applicants requesting points for site amenities that do not currently exist must include a letter from the controlling entity, signed by an authorized individual representing the entity, that states the funds for the amenity are committed, and the amenity is planned. The letter shall also state the anticipated date for the amenity to be placed in service which shall not be more than two (2) years after the date the Project is anticipated to be placed in service.

(2) Points will be awarded provided the site amenities are appropriate for the population served, and a scaled-for-distance map showing the location of the Project and amenities are provided as follows:

(A) Two and one-half (2 ½) points will be awarded to Projects located within one-quarter (¼) mile of a Public Transit Corridor or, for Rural Projects where there is no public transportation system, to Projects using a van or dial-a-ride service.

(B) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a park or recreational facility.

(C) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a full service grocery store. A full service grocery store shall mean for the purpose of this section a store or market that provides at minimum, food staples, fresh meats and/or poultry, dairy products, and produce, as well as other personal and household products and sundries.

Agenda Item No. 4
September 28, 2011

- (D) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a public school (K thru 12th). Projects where all units are restricted to households having members 55 years or older, shall not be eligible for points in this category.
- (E) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a medical facility serving seniors or a senior center. Only Projects where all units are restricted to households having members 55 years or older (with the exception of caregivers and others who are exempt by state law from the age restrictions), shall be eligible for points in this category.
- (F) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a public library.
- (G) Two and one-half (2 1/2) points will be awarded to Projects which provide high speed internet or wireless "WiFi" service connection in each unit.
- (k) Sustainable Building Methods (8 points maximum).
- (1) Points described in this subdivision will be awarded provided that the Project Sponsor and the licensed Project architect or mechanical engineer each submit a certification on company letterhead indicating which items, commencing with subdivision (k)(3) of this section, will be included in the Project's design and any relevant specifications.
- (2) In addition to the certification required in subdivision (k)(1) of this section, the Project Sponsor shall submit a certification at Project completion from the Project's licensed architect or mechanical engineer that the design elements that formed the basis for any award of points pursuant to subdivision (k) have been met or exceeded. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under subdivision (k) who fails to meet this requirement will be subject to negative points under subdivision (n) of this section.
- (3) Eight (8) points will be awarded to Projects that commit to becoming certified under any one of the following programs upon completion: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Multifamily Guidelines.
- (4) Five (5) points will be awarded to Projects defined as either New Construction or Adaptive Reuse that exceed the energy standards set forth in Title 24 of the California Code of Regulations by at least 10%, or a rehabilitation Project not subject to Title 24, that reduces energy use on a per square foot basis by 25% as calculated using a methodology approved by the California Energy Commission.
- (5) Projects that incorporate items from the following list will receive one (1) point for each item used in the Project, up to a maximum of three (3) points:
- (A) Energy Star rated ceiling fans in all bedrooms and living rooms; or use of a whole house fan; or use of an economizer cycle on mechanically cooled HVAC systems.
- (B) Water-saving fixtures or flow restrictors in the kitchen (2 gpm or less) and bathrooms (1.5 gpm or less).
- (C) At least one high efficiency toilet (1.3 gallons per flush) or dual-flush toilet per unit.
- (D) Material for all cabinets, countertops and shelving that is free of added formaldehyde or fully sealed on all six (6) sides by laminates and/or a low-VOC primer or sealant (150 grams per liter or less).
- (E) Interior paint with no volatile organic compounds (5 grams per liter or less).
- (F) CRI Green-label, low-VOC carpeting and pad and low-VOC adhesives (25 grams per liter or less).
- (G) Bathroom fans in all bathrooms that exhaust to the outdoors and are equipped with a humidistat sensor or timer.
- (H) Formaldehyde-free insulation.
- (I) At least one of the following recycled materials at the designated levels: a) cast-in-place concrete (20% flyash); b) carpet (25%); c) road base, fill or landscape amendments (30%).
- (J) Design the elements to retain, infiltrate and/or treat on-site the first one-half (1/2) inch of rainfall in a 24-hour period.
- (K) Inclusion of a construction indoor air quality management plan that requires the following: a) protection of construction materials from water damage during construction; b) capping of ducts during construction; c) cleaning of ducts upon completion of construction; and d) for rehabilitation Projects, implementation of a dust control plan that prevents particulates from migrating into occupied areas.
- (L) The following design features in at least half of the Project's units: accessible routes of travel to the dwelling units with accessible 34" minimum clear-opening-width entry and interior doors with lever hardware and 42" minimum width hallways; accessible full bathroom on primary floor with 30" x 60" clearance parallel to the entry to 60" wide accessible showers with grab bars, anti-scald valves and lever faucet/shower handles, and reinforcement applied to walls around toilet for future grab bar installations; accessible kitchen with 30" x 48" clearance parallel to and centered on front of all major fixtures and appliances.
- (M) Inclusion of no-smoking buildings or sections of buildings. To be eligible for an award pursuant to this subdivision, the no-smoking sections must consist of at least half the units within the building, and those units must be contiguous.
- (N) An allocation of Historic Tax Credits as defined under 26 U.S.C. section 47(a).

Agenda Item No. 4
September 28, 2011

(O) For rehabilitation Projects not subject to Title 24 Standards, use of florescent light fixtures for at least 75% of light fixtures or comparable energy saving lighting for the Project's total lighting (including community rooms and any common space) throughout the compliance period.

(I) Service Amenities (10 points maximum).

(1) Points will be awarded provided the Project Sponsor certifies the following:

(A) Service amenities must be appropriate to the tenant population served and committed to for a minimum of ten (10) years. Programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be designed to generate positive changes in the lives of tenants, such as increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well being, or improving the educational success of children and youth.

(B) Services must be provided on-site except that Projects may use off-site services within a one-quarter (1/4) mile of the Project provided that they have a written agreement with the service provider at the time of Application enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Referral services will not be eligible for points.

(C) Contracts with service providers, service provider experience, and evidence that physical space will be provided on- or off-site must be documented within the Application. Documentation must be provided for each category of services for which the applicant is claiming service amenity points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state annual value of the services; commit that services will be provided for a period of at least one (1) year; name the project to which the services are being committed. Evidenced shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category.

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

(D) The Application must propose a combined annual value of at least \$10,000, or \$5,000 for Projects of twenty (20) units or fewer, for those services. This annual value does not apply to high speed internet service when chosen as a single service amenity. In addition, any donated services must be assigned a dollar value by the provider of those services. Applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the Project's service amenities.

(2) Points will be awarded in this subdivision as follows:

~~(A) Five (5) points to Projects which provide high speed internet or wireless "WiFi" service connection in each unit.~~

~~(B)~~ (A) Five (5) points to Family Projects with after school programs of an ongoing nature. Including but not limited to tutoring, mentoring, homework club, art and recreation activities. To be provided weekdays throughout the school year at least 10 hours per week.

~~(C)~~ (B) Five (5) points to Projects with instructor lead educational classes, (such as English as a second language, computer training, etc.) health and wellness, or skill building classes. Includes but not limited to: Financial literacy, computer training, home-buyer education, GED classes, and resume building classes, ESL, nutrition class, exercise class, health information/awareness, art classes, parenting class, on-site food cultivation and preparation and smoking cessation classes but which are not the same as.

(B). Instruction is to be provided a minimum of 84 hours per year (drop-in computer labs, monitoring or technical assistance shall not qualify).

~~(D)~~ (C) Five (5) points to Projects with licensed child care providing 20 hours or more per week (Monday through Friday) to residents of the development.

~~(E)~~ (D) Five (5) points to Projects with and wellness services and programs. Such services and programs shall provide individualized support for tenants (not group classes) but need not be provided by licensed individuals or organizations. Includes, but not limited to visiting nurses programs, intergenerational visiting programs, and senior companion programs. direct client services, such as assistance with activities of daily living, or provision of counseling services. To be provided a minimum of 100 hours per year.

~~(F)~~ (E) Five (5) points to Projects with a bona fide service coordinator/social worker available, provided that the experience of the coordinator, the duties of the coordinator and a budget to pay for the coordinator are included in the Application. The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.)

Agenda Item No. 4
September 28, 2011

(m) New Construction Projects (10 points). Ten (10) points will be awarded to new construction or adaptive re-use Projects with Restricted Rental Units.

(n) Negative Points (No maximum).

(1) The Committee will 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:

(A) Ten (10) points will be deducted for each failure to fully utilize the committed public subsidies or Taxable Debt for which points were awarded in connection with the prior Allocation, unless it can be demonstrated that the failure was entirely outside of the Project Sponsor's control or the amount not utilized is not material. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(B) Ten (10) points will be deducted for each failure to issue Bonds that results in the full amount of the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which Allocation was awarded.

(C) Ten (10) points will 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 entirely outside of the Project Sponsor's control, the amount not spent is not material, or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will be assessed against the Project Sponsor for a period of three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

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

(2) Multiple or repeated failures of subdivision (n)(1) of this section may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

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

ATTACHMENT B

Annual Applicant Public Benefits and On-going Compliance Self Certification

ACKNOWLEDGMENT: The California Debt Limit Allocation Committee (“CDLAC” or “Committee”) does not expect to hold an Applicant (Issuer) responsible for conditions they are not aware of; only for the Applicant to confirm their understanding of the status of the project based upon their own post-issuance compliance procedures. CDLAC will not review the Applicant’s procedures, and in good faith, will assume that the Applicant has in-place procedures they judge to adequately satisfy their post-issuance responsibilities as defined under the Internal Revenue Code and CDLAC Regulations. An Applicant is free to request project information from the Project Sponsor and rely on that information if they believe it satisfies their own compliance procedures and responsibilities. That information can then serve as the basis for the Applicant’s response to the questions within this certification.

INSTRUCTIONS: Per the CDLAC Regulations, all Projects within an existing bond regulatory period and/or CDLAC compliance period shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). The Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification provided on the CDLAC website; certifying whether or not the Project meets the terms and conditions of the Committee Resolution. 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 defined in the CDLAC Regulations or requested by the Committee).

ALL APPLICANTS: Applicant/Issuer Certification of Delivery of Public Benefits

Applicant/Issuer Name:

Project Name:

Application Number (s):

Resolution Number(s):

Property address:

Project Completion Date (*if the depreciable assets and/or project have not yet been placed in operation, please only respond to question 1 and mark “N/A” for all other questions*):

1. To the best of your knowledge, have there been any changes to the ownership entity, principles or property management of the project since the bonds were issued, or since the last certification was provided?
(*If so please attach a request to revise the resolution noting all pertinent information regarding the change*)

2. To the best of your knowledge, has there been a change of use for the project?

3. To the best of your knowledge, has the project satisfied all of the requirements memorialized in the Exhibit A of the Committee Resolution (i.e. qualifying project completion, qualifying depreciable asset purchase, qualifying loan originations, the use of public funds, QRRP manager units, QRRP income rent restrictions, QRRP sustainable building methods, etc.; as applicable), and thus achieving all public benefit requirements (excluding QRRP service amenities) as presented to the Committee? *(If there is more than one resolution for this project the most recent resolution will supersede all previous resolutions)*
 - a) As Issuer for the subject project, were you able to confirm to the satisfaction of your current requirements that the defined public benefits were conveyed at the completion of the purchase of the depreciable assets and/or development of the subject project?

 - b) If the public benefits have been confirmed, what evidence to the satisfaction of your current requirements was received (i.e. invoices, contracts, agreements, rent rolls, on-site audits, etc.)?

 - c) When was the evidence provided to the Issuer, or a site visit completed, to confirm the public benefits?

 - d) If all of your compliance requirements were not met, what corrective action was taken to bring the project into compliance? Is the project currently in compliance?

INDUSTRIAL DEVELOPMENT BOND AND RECOVERY ZONE BOND APPLICANTS ONLY:

Applicant/Issuer Certification of Post-Issuance Compliance (if applicable)

(Note: Once the job creation/retention goals have been achieved, no additional reporting for this section is required by CDLAC in the subsequent annual certifications.)

1. As captured in Exhibit A of the Committee Resolution, the Applicant or Project Sponsor reasonably expects a certain minimum number of new and/or retained jobs associated with the project within two (2) years following the completion of that project:

Please provide the following information:

_____ Number of Existing Jobs Originally Anticipated to be Retained

_____ Number of New Jobs Originally Anticipated to be Created

Is the project complete?

_____ **No. STOP HERE** (no additional reporting on this section is necessary until project completion).

_____ **Yes.** Please Complete the Following Information:

- a) What evidence was provided to confirm that the above listed jobs were retained and/or provided and that the project achieved the job creation/retention goals noted in Exhibit A of the Committee Resolution?

- b) Did the evidence received or observed meet your standards for compliance with the applicable job creation/retention goals?

QRRP APPLICANTS ONLY: Applicant/Issuer Certification of Ongoing Compliance
(Please attach the completed project sponsor certification form as provided in the Committee Resolution)

1. As captured in Exhibit A of the resolution, the QRRP project has committed to and is currently providing the following service amenities for a minimum of ten years, on a regular and ongoing basis, which are provided free of charge (with the exception of day care services):

Please check the services that apply or write N/A where appropriate:

_____ After-school Programs

_____ Educational, health and wellness, or skill building classes

_____ Health and Wellness services and programs (not group classes)

_____ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)

_____ Bona-Fide Service Coordinator/ Social Worker

a) For this reporting period, what evidence (i.e. MOU's, contracts, schedules, calendars, flyers, sign-up sheets, etc.) was provided to the satisfaction of your current requirements to confirm that the above listed services are being provided and have met the requirements of Exhibit A of the Resolution?

b) If all compliance requirements were not met, what corrective action has been taken thus far?

Signature of Officer

Date

Printed Name of Officer

Title of Officer

ATTACHMENT C

**PUBLIC COMMENTS RECEIVED DURING FIFTEEN DAY PRELIMINARY RULEMAKING PERIOD
WITH STAFF RECOMMENDATIONS
CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
August 4, 2011**

Listed below are comments received from the public during the regular rulemaking process that began on **July 21, 2011** and ended on **August 4, 2011**. Staff received six (6) written comments on the proposed language. There were no requests for a public hearing. Staff's response and a recommendation of "Accept" or "Reject" are included for each comment.

| Item # | Section | Public Comments | Commentator | Staff Comments/Recommendations | Accept / Reject (A/R) |
|--------|--|---|---|--|-----------------------------------|
| 1 | 5144 and Annual Certification | Recommends the reporting responsibilities be a requirement of the Owner, not the Issuer. SHRA has limited regulatory authority over existing projects and recommends reporting requirements only be prospective and verbiage be added to regulations and Certification indicating Issuer's reliance on the Owner when making certification. It is the Owner of a property that has working knowledge of compliance and the Owner should be responsible for providing certification. | La Shelle Dozier – Executive Director of Sacramento Housing & Redevelopment Agency James F. Hamill – Program Manager of California Statewide Communities Development Authority | As detailed in Section 5220 of CDLAC Regulations and other IRS guidance such as IRS Notice 92-93 and IRS Publication 4078 (the Tax-Exempt Private Activity Bonds Compliance Guide) the conduit Issuer has the responsibility to insure that the bond proceeds from each of their issuances conform to the Internal Revenue Code (IRC) and CDLAC Regulations; including eligible use and the conveyance of public benefits. CDLAC does not expect to hold Issuers responsible for conditions they are not aware of; only for them to confirm their understanding of the status of the project based upon their own post-issuance compliance procedures. CDLAC will not review the Issuers' procedures, and in good faith, will assume that Issuers have in-place procedures they judge to adequately satisfy their post-issuance responsibilities as defined under the IRC and CDLAC Regulations. Issuers are free to request project information from the project sponsor and rely on that information if they believe it satisfies their own compliance procedures and responsibilities. That information can then serve as the basis for the Issuers' response to CDLAC. Pursuant to this intent, the Certification Form shall be revised to make it explicit that CDLAC will be assuming the Issuer will be relying upon information known to them. | R (but with clarification) |
| 2 | 5144 – Annual Applicant Public Benefits and On-going Compliance Self | 1) Amend the requirement of issuer to annually contact each borrower regarding the number of jobs created within two years after completion of project to specify that one-time public benefits and evidence of such will be required to be reviewed and certified only once, no sooner than | Stanton C. Hazelroth – Executive Director of I-Bank | 1) Jobs confirmation does not need to be performed beyond the initial satisfaction of the jobs goals within the first 2 years. Staff will adjust the Issuer Certification Form to state "reasonable attempt to provide/create jobs". 2) The Certification Form will be revised | A |

| | | | | | |
|---|---------------|---|---|---|-----------------------------------|
| | Certification | two years after project completion. 2) Language in certification is inconsistent with Exhibit A of the resolution. Agency strongly suggests using the Exhibit A language regarding use of best efforts. | | accordingly. | |
| 3 | 5144 | 1) Believes current compliance procedures as defined in section 5220 are more appropriate, which states certification must be submitted by the Project Sponsor to the Applicant who will then forward it to CDLAC. There are concerns with the ability of the applicant to certify annual public benefits and compliance without acknowledging they are relying on certifications from Project Sponsors. 2) Significant procedural and administrative costs would be required by the Applicants to make these certifications independently. | 1) John Stoecker – Financial Advisor California Municipal Finance Authority 2) John Stoecker – Financial Advisor California Municipal Finance Authority; James F. Hamill – Program Manager of California Statewide Communities Development Authority; Daniel Bronfman – President of Growth Capital Associates, Inc. | 1) See Item #1. 2) It is our understanding that most if not all conduit Issuers already charge an annual administrative fee on each issuance to cover reporting activities such as this. | R (but with clarification) |
| 4 | 5144 | Need clarity on penalties imposed by CDLAC if non-compliance is uncovered. | James F. Hamill – Program Manager of California Statewide Communities Development Authority | Committee reserves the right to determine penalties (if any) dependent on the unique circumstances of each case. Proscribing penalties up-front may prevent the Committee from factoring in mitigating circumstances or the defined limited roles of the parties involved for a given case at the time. | R |
| 5 | 5144 | Comments are for Small-Issue IDB program. 1) Verification of job creation/retention should continue to be completed through CIDFAC survey process. 2) The draft On-going Compliance Self Certification Form was not included as part of the proposed regulations and was located in a different area of CDLAC’s website and therefore suggests CDLAC reinstate a Notice of 15-Day Public Comment Period for this section include the Certification Form. 3) Since most Applicants/Issuers would not be required to contact borrowers to obtain first hand information when completing the Certification Form, the section should be revised to reflect that the Certification Form is based only on information received by the Applicant as a result of | Daniel Bronfman – President of Growth Capital Associates, Inc. | 1) The annual CIDFAC Jobs Survey has not been done since before 2004, and was never intended to replace the post-issuance compliance activities of the Issuers. However, if an Issuer still has the survey response information for their older transactions, they are free to use that information for its own compliance process and the completion of the CDLAC Certification; as provided for under their own procedures. 2) The draft Certification Form was published as part of the initial Stakeholders meeting notice, and provided to interested parties during this notice period upon request. 3) See Item # 1. | R (but with clarification) |

| | | | | | |
|---|------|--|--|---|---|
| | | ongoing annual reporting required by the Applicant's policies. | | | |
| 6 | 5144 | <p>1) Agency does not have trained staff to be on site during construction or rehabilitation process and there is no way Agency can certify specifications have been met. Unless on site, there is no way for staff to verify Star ceiling fans, appliances, water-saving fixtures are utilized or purchased and installed.</p> <p>2) Requiring issuers to monitor projects is duplicative and provides no public benefit. Agency does not see a reason why CTCAC and CDLAC cannot coordinate on this matter.</p> <p>3) Building methods and other public benefits are not requirements of the Federal Tax Code. Bond counsel has confirmed the proposed regulations if not complies with would not necessarily affect the status of any bonds. Agency is puzzled by the implications of non-compliance with the proposed regulations to Applicants and Sponsors.</p> <p>4) It will be time consuming and difficult to back-certify past issuances requiring 10-year compliance periods.</p> | Ann E. Kern – Bond Project Manager of San Diego Housing Commission | <p>1) The Project Sponsor is already responsible for securing all third-party evidence confirmations. The Issuer may rely on this evidence to confirm that the requirement has been met. This proposed evidence requirement is similar to the previously established evidence requirements in the CDLAC regulations.</p> <p>2) For all programs, not just QRRP, confirmation of public benefits and compliance with the CDLAC Resolution is a relied upon expectation of each Applicant/Issuer by CDLAC. Issuers, based upon their own procedures, are free to rely upon information from other sources (such as CTCAC) if they so choose.</p> <p>3) Confirming compliance is not for tax purposes only. Ensuring compliance with all CDLAC Resolution requirements is desired to both confirm that new allocation is not provided to parties who fail to meet their previous obligations and ensure that the committed-to public benefits are truly made available to the community.</p> <p>4) CDLAC is sensitive to the time it may take for some Issuers to complete the forms for their projects. As detailed in Section 5144, CDLAC is giving until September of 2012 for those pre-2011 transactions to submit their corresponding forms. Also see Item #1 and Item #3.2.</p> | R |