

## Section 5000. Definitions.....

“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.~~

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

*Note: Income Averaging is not being recommended for CDLAC regulations*

**REASON:** Congress only applied Income averaging to the low income housing tax credit program and not to the bond program, resulting in a mismatch regarding 4% projects. Thus, the borrower makes two elections: 20/50 or 40/60 on the bond side and this or “income averaging” on the tax credit side. They have to comply with both elections.

For CDLAC purposes, since the definition of “Restricted Rental Units” applies only to bond requirements, then there is no need to amend the definition. CTCAC’s definition would be different and would include income averaging and up to 80% AMI units. For this reason, we have also removed the reference to the CTCAC regulatory agreement in your definition of Restricted Rental Unit as that complicates the issue.

**Section 5052. Forfeiture of Performance Deposit.** (a) For Projects receiving an allocation award on or after March 16, 2016, an extension of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132 will result in forfeiture of the Project's performance deposit to the extent that the performance deposit has not previously been forfeited.

(b) If less than 80% of the Allocation is used to issue Bonds, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the amount of awarded Allocation. If at least one (1) Mortgage Credit Certificate is not issued prior to the applicable expiration date, the entire performance deposit will be forfeited. If 80% or more of the Allocation is used to issue bonds prior to the expiration date, or at least one (1) Mortgage Credit Certificate is issued prior to the applicable expiration date, a full refund of the performance deposit will be authorized.

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

(d) The Applicant shall remit all forfeited performance deposits to the Committee within thirty

(30) days of receipt of an invoice issued by the Committee.

(e) An Applicant may request waiver of a performance deposit forfeiture by submitting a written request to the Executive Director within 30 days of the date of the Committee's Forfeiture Fee Invoice. The Committee shall grant a forfeiture waiver upon a showing that the circumstances prompting the forfeiture were unforeseen and entirely beyond the control of the Project's sponsor and development team. The granting of a waiver pursuant to this subsection will not preclude performance deposit forfeiture for subsequent extensions of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132.

(e)(f) If the awarded project is from a joint CDLAC/TCAC application and not awarded State Tax Credit and unable to fill the financing gap, the issuer may return the allocation to committee within 90 days without forfeiture of the performance deposit or assessment of negative points.

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

**REASON:** Since, on February 18, 2020 it was decided that CDLAC would follow its regs and rank order projects using CDLAC score and approve up to the allocation limit for the round, it was understood that there may be some joint applications on the TCAC waiting list that may be unable to obtain state tax credits. This provision allows the issuer to fill the financing gap or can return the allocation within 90 days to the committee without penalty.

**Section 5060. Minimum Requirements.** (a) Applicants, other than Applicants for a Mortgage Credit Certificate Program, shall provide evidence of a plan to privately place or publicly sell the proposed Bonds with or without Credit Enhancement for an amount no less than the amount requested in the Application. **All relevant bond documents for Qualified Residential Rental Projects must permit principal payments or prepayments on the underlying loan(s) as transferred proceeds in a bond preservation and recycling program as permitted by 26 U.S.C. 146(i)(6) and shall require no less than thirty (30) days' notice to CDLAC and to the applicant prior to the redemption of bonds at conversion to permanent financing.** Bond sale structures that include a credit rating shall be subject to the following:

- (1) Governmental Bond issued with full recourse to, or guaranteed by a general obligation of a governmental entity with taxing authority or Qualified Private Activity Bonds with recourse to the corporate parent entity of the Project Sponsor via a corporate guarantee must have an investment grade credit rating for the Project or the source of the aforementioned guarantee for the Project.
- (2) Qualified Private Activity Bonds without a governmental or corporate guarantee shall provide a credit rating specifically for the transaction.
- (3) Governmental Bond issues with limited recourse (i.e. lease revenue Bonds, project-specific recourse, or certificates of participation) may provide either a credit rating specifically for the transaction or provide evidence of a current credit rating for an existing outstanding Bond with the same source of debt repayment.
- (4) All Bond ratings shall include evidence that the credit rating has been provided within the last six  
(6) months, or that the current credit rating for outstanding Bond(s) has been substantiated via the most recent updated surveillance review completed by a rating agency within the last thirty six (36) months.
- (b) Applicants requesting an award of Allocation for pollution control projects administered by the California Pollution Control Financing Authority (CPCFA) should refer to CPCFA or CIDFAC regulations for additional requirements.
- (c) Notwithstanding the requirements set forth in article 6 of this chapter, the Committee may apply more stringent requirements and thresholds for a given Project based upon factors such as, but not limited to the size of the Bond issue and/or the specific ratings of the Applicant and/or Project Sponsor.

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

**REASON:** As CDLAC takes steps to implement a bond recycling program, CDLAC will require that projects receiving new volume cap incorporate language in their bond documents that will facilitate the preservation of volume cap through bond recycling. These provisions will greatly simplify recycling transactions once these projects undergo permanent conversion.

**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, **and for Qualified Residential Rental Projects, the estimated date of conversion to permanent financing and confirmation that the bond documents meet the requirements set forth in section 5060.**

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

**REASON:** The notification shall identify the Applicant, the Project or program, the date the Allocation was used, and the amount of the Allocation used. CDLAC is including Qualified Residential Rental Projects to meet the same requirements set forth in section 5060.

## **Section 5144. Annual Applicant Public Benefits and On-Going Compliance Self Certification.**

(a) All Projects that receive an Allocation and are within an existing regulatory period and/or compliance period shall be monitored for compliance with the applicable terms and conditions of the Committee Resolution by the Applicant (Issuer) and CDLAC. The new Issuer takes responsibility of reporting on projects that have resyndicated after Year 15. Upon request, CDLAC will review and approve a termination of the original bond regulatory agreement with the requirement that the new agreement include affordability requirements that are at least as restrictive as those in the original agreement.

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

- (1) For Projects receiving an Allocation prior to December 31, 2016, the Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification, via the online compliance certification system annually for the longer of the period the bonds remain outstanding or the period of restriction for QRRP projects outlined in Section 5192.
- (2) For Projects receiving allocation after December 31, 2016, the Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification via the online compliance certification system every year until the completion of the project and then if the project is subject to a Regulatory Period and/or Compliance Period every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period.

(c) For all QRRP projects receiving allocations after December 31, 2016, Sponsors will be required to utilize TCAC's Compliance Manual specifically **Section VIV: Qualify Tenants for Low Income Housing Tax Credit Units**, to verify tenant income in conjunction with initial occupancy. No less than every three years after the project is completed, the Sponsor must collect and retain the following income and verification documentation related to all the Federally Bond-Restricted units identified in the Committee Resolution or Restricted Rental Units as defined in Section 5000: TCAC Tax Income Calculation (TIC) or equivalent documentation, all associated source income documentation, and evidence of the verifying income computation. Additionally Project Sponsors will be required to prepare and forward a TCAC Project Status Report (PSR) or equivalent documentation to the Applicant annually in conjunction with the Annual Applicant Public Benefits and On-going Compliance Self Certification. Sponsors must retain information pertaining to the income verification process for 10 years.

**REASON:** CDLAC and TCAC went through the references to various TCAC regulations within CDLAC regulations and found sections that required an update so the reference to the current TCAC regulation would be valid.

## 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 as used in this chapter are defined as follows:

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

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

Department of Housing and Urban Development

“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 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). “Federal Promise Zone” means any area with a continuous boundary and a population of not more than 200,000 that is nominated by a local government or Indian tribe and designated by the U.S.

Department of Housing and Urban Development to receive priority for Federal funding on the basis of its unemployment, poverty, vacancy, and crime rates.

“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) five (5)** calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

“FHA” means Federal Housing Administration.

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

“Final and Conclusive Determination Letter” means a written confirmation from the Department of Finance (DOF) that its determination of an enforceable obligation as

approved in a recognized obligation payment schedule is final and conclusive, and reflects DOF's approval of subsequent payments made pursuant to the enforceable obligation.

"Gross Rent" means gross rent as defined by 26 U.S.C. 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.

"Hard Costs" means the cost of the work specified in a construction contract, including site work, excluding contractor profit, general requirements and contractor overhead.

"High Quality Transit" means a transit line with service seven days per week that operates on a railway, dedicated right-of-way or contains at least one of the following characteristics for at least a portion of its route: use of a High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lane, middle of the road boarding alignment, signal prioritization, or use of limited stop service, including express service and skip-stopping.

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

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

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

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

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

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

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



~~“New Construction PoolNew Construction” - QRRP projects applying for an allocation of tax-exempt private activity bonds who meet at least one of the following: (1) the definition of New Construction in Section 5170, (2) projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater or (3) adaptive re-use of non-residential structures.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.~~

~~“Preservation Pool” – QRRP Projects applying for an allocation of tax-exempt private activity bonds preserving affordability through items such as but not limited to the HUD RAD Program, HUD Section 18 projects and pre-FY2000 AB 1699 projects funded on former IRS code guidelines, projects meeting the definition of an At-Risk project as defined in TCAC regulation 10325(g).~~

~~“Other Restricted Affordable PoolUnits” – QRRP Projects applying for an allocation of tax-exempt private activity bonds from the General Pool that are not eligible for New Construction or Preservation projects. This would include but not limited to acquisition/rehabilitation projects, projects that involve both acquisition/rehabilitation and new construction.means units that are not Federally Bond-Restricted Units but are affordable and identified in the CDLAC resolution as being subject to the long-term rent and income restrictions .....~~

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

**REASON:** On January 15th, 2020, the CDLAC board approved breaking out the Multifamily General pool into 3 sub-pools: New Construction, Preservation, and Other Affordable. Given the competitive nature of CDLAC rounds in the drive to build new units, it was decided, in order to preserve allocation, new construction projects compete in its own pool. It was also discussed, that while there is a need to preserve affordability for acquisition/rehabilitation projects, these projects should be considered and compete but with an at-risk status.

In April, the Committee decided to expand the definition to include RAD projects, HUD Section 18 demolition authorization, and pre-2000 AB1699 projects. Additionally, CDLAC and TCAC went through the references to various TCAC regulations within CDLAC regulations and found sections that required an update so the reference to the current TCAC regulation would be valid.



**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, or, for projects that will be located on Native American Trust Lands, a Land Title Status Report from the Bureau of Indian Affairs or an attorney's opinion regarding chain of title and current title status, dated 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 for the length of time the Project will be regulated under this program between the Project Sponsor and a public agency; or

(D) A valid, current, and 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 the 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, no later than the application due date for the allocation round in which the Project is seeking an allocation, 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 have been obtained. Additionally, if any land use approval is subject to public appeal, within no less than 5 calendar days prior to the first public posting of the Committee, the applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits, but do not include design review approvals. 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. Those Qualified Residential Rental Pool Projects with redevelopment-related project financing that is subject to the approval of the Department of Finance (DOF) are required to have obtained a Final and Conclusive Determination Letter, or other written communication from DOF stating that DOF does not issue, or concludes is unnecessary, a Final and Conclusive Determination for this form of redevelopment financing obligation, prior to submitting an application to the Committee.

(c) Applicant must submit CDLAC form, INFORMATION ON PROJECT SPONSOR, that provides information pertaining to the Project Sponsor identified in the Application. Applicant must submit CDLAC form, COLLECTIVE EXPERIENCE OF PROJECT SPONSOR AND ALL PARTNERS, that provides information pertaining to the experience of the Project Sponsor (if different than the Developer). ~~The Project Sponsor's CTCAC Certificate of Previous Participation and a CTCAC Schedule A form may be submitted as COLLECTIVE EXPERIENCE OF PROJECT SPONSOR AND ALL PARTNERS in lieu of the CDLAC form.~~ The Application must include CDLAC form, INFORMATION ON PROJECT DEVELOPER, that provides information pertaining to the Project Developer identified in the Application. The Application must include CDLAC form, EXPERIENCE OF PROJECT DEVELOPER, that provides information pertaining to the experience of the Project Developer. The Project Developer's CTCAC Certificate of Previous Participation and a CTCAC Schedule A form may be submitted as EXPERIENCE OF PROJECT DEVELOPER in lieu of the CDLAC form. Applicant must submit a list of California projects which the Developer and Project Sponsor (if different than the Developer) has developed or rehabilitated with tax-exempt bond financing. The list shall include the cities and counties in which the projects are located. The list shall be labeled as Attachment W-5. Applicant shall submit CDLAC form, INFORMATION ON PROPOSED MANAGEMENT COMPANY that provides information pertaining to the property management company that will manage the proposed Project.

(i) Detailed Unit Affordability Information. (1) The application will include the Federal Bond-Election of 20% at 50% Area Median Income, or 40% at 60% Area Median Income, (2) For federally assisted at-risk projects and 4% low income housing tax credit projects, this shall mean that the Project units must have Gross Rents that are restricted to households whose incomes must be 50% or less of the AMI; or Gross Rents that are restricted to households whose incomes must be 60% or less of the AMI. Applications not meeting this minimum requirement will be deemed incomplete. (3) The Application will include tables

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

Applicants shall provide a breakdown of Project unit types, size, number of units, proposed tenant- paid rent, monthly utility allowances (if any), subsidies (if any) and unit percentage of Area Median Income (AMI) level based on monthly Gross Rent.

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

**REASON:** CDLAC and TCAC went through the references to various TCAC regulations within CDLAC regulations and found sections that required an update so the reference to the current TCAC regulation would be valid.

## 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 unless otherwise stated in this section. Each of the items in this section shall be memorialized in the Committee Resolution.....

(1) New Construction and Adaptive Reuse Projects: Up to five (5) points will be awarded to projects that commit to developing the project in accordance with the California Tax Credit Allocation Committee's minimum requirements for energy efficient programs, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(A).

(2) New Construction and Adaptive Reuse Projects: Points shall be awarded according to the California Tax Credit Allocation Committee's minimum requirements for energy efficiency programs, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(B).

(3) Rehabilitation Projects: Points are awarded based on the energy efficiency criteria described for Rehabilitation Projects in The California Tax Credit Allocation Committee regulations, Title 4, Division 17, Chapter 1, Section 10325(c)(6)(C), (D) and (E).

(4) Compliance and Verification. The form of evidence shall follow that described in Title 4, Division 17, Chapter 1, Section 10325(c)(6)(G). Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to TCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit Evidence of Compliance to CDLAC.

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

**REASON:** CDLAC and TCAC went through the references to various TCAC regulations within CDLAC regulations and found sections that required an update so the reference to the current TCAC regulation would be valid.

**Section 5233. Allocation Limits.** (a) Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools as follows:

Studio and SRO:	\$522,000
One-bedroom:	\$544,000
Two-bedroom:	\$580,000
Three-bedroom:	\$638,000
Four or more bedroom:	\$671,000

(b) Private Activity Bond allocation awards cannot exceed 60% of the aggregate depreciable basis plus land basis.

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

**REASON:** The current allocation limits in CDLAC regulations were developed in 2016. Construction costs have increased in the past couple of years. The adjustment is based on the change in total development costs between December 2016 applications and December 2019 projects (typically a high volume month for CDLAC).

**Section 5250. Application Requirements.** (a) Applications for Scattered Site Projects shall provide all information required for each site. Additional stipulations are as follows:

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

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

(3) Acquisition/Rehabilitation Projects where each location is subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Sections 5200(a) and 5250(a)(3), a comprehensive market study consistent with 26 U.S.C. Section 42(m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the project must meet at least one of the following requirements:

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

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

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

(5) Any maps provided shall include each site.

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

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

**REASON:** TCAC has been allowing new construction scattered site projects as well as acquisition/rehabilitation scattered site projects. There is a need for clarification in CDLAC regulations as it does not explicitly exclude new construction scattered site projects. For clarification, consistency, and joint application alignment with TCAC, clarification language is suggested to include both types of scattered site projects.