

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**

**May 15, 2013**

**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**

The following are the proposed revisions to the Qualified Residential Rental Program:

1. Revision of CDLAC Regulations for Definitions  
The definition of Final and Conclusive Determination Letter is being added.
  - a) The term “Final and Conclusive Determination Letter” is being added and defined in the list of definitions.
2. Revision of CDLAC Regulations for Local Approvals and Zoning (Section 5190)  
To clarify the type of evidence that projects with redevelopment-related project financing are required to provide at the time the Application is filed.
  - a) Adding language to clarify that those Qualified Residential Rental Pool Projects with redevelopment-related project financing that is subject to the approval of the Department of Finance are required to have obtained a Final and Conclusive Determination Letter prior to submitting an application to the Committee.
3. Revision of CDLAC Regulations for Sustainable Building Standards-Minimum Requirements (Section 5205)(a)  
Adding language to clarify when certain minimum requirements are applicable to new construction and rehabilitation projects.
  - a) The requirements of subsections (2) through (11) of this section are only applicable when investment in such elements is proposed in the Project’s scope of work and/ or the Capital Needs Assessment.
4. Revision of CDLAC Regulations for Exterior Doors (Section 5205)(a)(5)  
Adding language to enable the use of a commonly used material on exterior doors.
  - a) Exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces; with all six sides factory primed and subject to a standard one-year guarantee.
5. Revision of CDLAC Regulations for Appliances and Floor Coverings (Section 5205)(a)(6) and (a)(9)  
Adding language to clarify when waivers must be submitted to CDLAC and removing conflicting language to realign CDLAC regulations with TCAC regulations.
  - a) All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline.
  - b) Floor coverings shall no longer have a minimum thickness.

6. Revision of CDLAC Regulations for Capital Needs Assessment (Section 5212)  
Adding language to clarify when Capital Needs Assessments will not be accepted by CDLAC.
  - a) If more than twelve (12) months has passed since the earliest inspection date, then a new Capital Needs Assessment is required.
  
7. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230)(j)(2)(E) and (l)(2)(E)  
Adding language to realign CDLAC regulations with TCAC regulations and to define the full time-equivalent (FTE) formula.
  - a) Two and one-half (2 ½) points will be awarded to Projects located within 1/4 mile of a pharmacy (for Rural projects 1/2 mile).
  - b) A qualifying medical clinic must accept Medi-Cal payments or have an equally comprehensive subsidy program for low-income patients.
  - c) The number of bedrooms X 0.0017 = FTE multiplier. The FTE Multiplier X 2,080 = minimum number of hours per year.
  
8. Revision of CDLAC Regulations for Scattered Site-Application Requirements (Section 5250)(3)  
Adding language to clarify when market study and set of rent comparability matrices are not required for a Scattered Site Project Non-Competitive Round.
  - a) For a Scattered Site Project Non-Competitive Round, a market study and set of rent comparability matrices are not required if the proposed rents do not exceed one hundred and ten percent (110%) of the current rent levels; or if the property has been receiving and will continue to receive state or federal project-based rental assistance or a state or federal operating subsidy for a minimum of the last five (5) years.

Proposed Emergency CDLAC Regulations 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. If approved as per scheduled, the Emergency Regulations would be in-place in time for the September 18<sup>th</sup>, 2013 Application Round.

**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: Leslie J. Campaz*

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

**Proposed Regulation Changes**  
(Proposed new language is underlined and deleted language is struck)

**Chapter 2. Qualified Residential Rental Projects**

**Article 1. Definitions.**

**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 Applicant Public Benefits and Ongoing Compliance Self-Certification (3-21-12)”, hereby incorporated by reference, 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.

“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.

“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.

“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.

“Final and Conclusive Determination Letter” means if an enforceable obligation provides for an irrevocable commitment of property tax revenue and where allocation of such revenues is expected to occur over time, the successor agency may petition the Department of Finance (DOF) to provide a Final and Conclusive Determination which is a written confirmation that its determination of such 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. If the confirmation is granted, then DOF’s review of such payments in future Recognized Obligation Payment Schedules shall be limited to confirming that they are required by the prior enforceable obligation.

“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 1-18-12), 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 QECBs 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 guideway or busway 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 (QECB)” 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.

“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.
- 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;

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- 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 10-1-11), 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 10-1-11), 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.

“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.

“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 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 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, 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. 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 are required to have obtained a Final and Conclusive Determination Letter prior to submitting an application to the Committee.

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

## **Article 5. Sustainable Building Standards**

### **Section 5205. Minimum Requirements.**

(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: The requirements of subsections (2) through (11) of this section are only applicable when investment in such elements is proposed in the Project's scope of work and/or the Capital Needs Assessment:

(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 (Title 23, California Code of Regulations, Section 490 et seq.) (<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, hardwood faces, or fiberglass faces; with all six sides factory primed and subject to 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. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline.

(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. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline.

(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 requirements as established by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (f)(7)(K).

(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), Projects that have been newly constructed or rehabilitated must submit the appropriate California Energy Commission evidence for the Project which shows the necessary percentage improvement better than the Title 24 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:

- A. A certified HERS Rater;
- B. A certified GreenPoint Rater; or
- C. 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 6. Acquisition and Rehabilitation Projects.**

**Section 5212. Capital Needs Assessment.** The Applicant shall submit a Capital Needs Assessment performed within 180 days prior to the Application deadline that details the condition and remaining useful life of the building's major structural components, all necessary work to be undertaken and its associated costs, as well as the nature of the work, and distinguishing between immediate and long term repairs. If more than twelve (12) months has passed since the earliest inspection date, then a new Capital Needs Assessment is required. The Capital Needs Assessment shall also include a fifteen (15) year reserve study, indicating anticipated dates and costs of future replacements of all major building components that are not being replaced immediately and the reserve contributions needed to fund those replacements. The Capital Needs Assessment shall be prepared by the Project's architect, as long as the architect has no identity of interest with the Project Sponsor or other member of the development team; or by a qualified independent third party who has no identity of interest with any of the members of the development team. The Capital Needs Assessment is not required if the Project, within the immediately preceding three (3) years, received an Allocation and this requirement was satisfied in the original Application.

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

## **Article 8. Evaluation Criteria**

**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. The average of all Restricted Rental Unit type percentage points beyond 20% will be used to determine the number of awarded points. All unit types must be more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rental Comparability Matrix to qualify for points under this category. Where sizes (defined by square footage) vary among those units with the highest rent, the smallest of 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 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) Points will be awarded under 1 of the 2 following categories: i) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile (1 mile for Rural Projects) of a full service grocery store of at least 25,000 gross interior square feet; or; ii) Two and one-half (2 ½) points will be awarded to Projects located within

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one-fourth (1/4) mile (one-half (1/2) mile for Rural Projects) of a full service grocery store of at least 5,000 gross interior square feet. Evidence shall include, but is not limited to, the following: a signed letter from a county assessor or city planner for that jurisdiction certifying the square footage of the grocery store, a letter from the store manager, or a letter from the Project's architect. The letter must state the square footage of the grocery market.

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.

(D) Two and one-half (2 1/2) points will be awarded to Projects located near a school. The site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school that children living in the development may attend (an additional 1/2 mile for each public school type for Rural projects) and that the site is within the attendance area of that school. Projects where all units are restricted to households having members 55 years or older, shall not be eligible for points in this category. Evidence shall include, but is not limited to, the following: a signed letter from the school district with the appropriate Project address stating said address is within the boundaries of the school, or documentation from an internet-based school locator tool.

(E) Two and one-half (2 1/2) points will be awarded to Projects located within 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, a pharmacy within 1/4 mile of site (for Rural projects, 1/2 mile) or hospital (not merely a private doctor's office). A qualifying medical clinic must accept Medi-Cal payments or have an equally comprehensive subsidy program for low-income patients. 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 1/2) points will be awarded to Projects located within one-half (1/2) 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. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of 10 years, free of charge to the tenants, and available at the time of the project's placed-in-service date.

(k) Sustainable Building Methods (10 points maximum).

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

(2) The Project Sponsor shall submit a certification at Project completion from the Project's licensed architect 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) New Construction and Adaptive Reuse Projects: 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).

(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 under which the project is constructed, shall be awarded as follows:

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

(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:

|                  |          |          |
|------------------|----------|----------|
| LEED             | Silver   | Gold     |
| GreenPoint Rated | 100      | 125      |
|                  | 3 points | 5 points |

(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:

|                          |           |
|--------------------------|-----------|
| Improvement Over Current |           |
| 15 percent               | 3 points  |
| 20 percent               | 5 points  |
| 25 percent               | 7 points  |
| 30 percent               | 10 points |

(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 Building Performance Institute 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 Application was submitted. 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 evidence as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(F)(5)(i).

(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, the building commissioning plan, and provide evidence onsite staff has been certified in green building operations and maintenance as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(F)(5)(ii). Owner certification of ongoing sustainable building management practices will be provided annually in accordance with section 5144 of the CDLAC Regulations.

(iii) For sub-metered central hot water systems, the Applicant must demonstrate compliance with the California Public Utilities Commission 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 (8) of this subsection may result in an award of negative points for the Project Sponsor.

(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-half (½) 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; and 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. 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 family Projects with after school programs of an ongoing nature. Programs shall include, but are not limited to: tutoring, mentoring, homework club, art and recreation activities. Programs shall be provided on weekdays throughout the school year for at least 10 hours per week.

(B) Five (5) points to Projects with instructor-led educational classes, health and wellness, or skill building classes, including but not limited to: financial literacy, computer training, home-buyer education, GED, resume building, ESL, nutrition, exercise, health information/awareness, art, parenting, on-site food cultivation and preparation, and smoking cessation. Instruction is to be provided a minimum of 84 hours per year (drop-in computer labs, monitoring or technical assistance shall not qualify).

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

(D) Five (5) points to Projects with 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. The services and programs shall include, but are not limited to: visiting nurses programs, intergenerational visiting programs, and senior companion programs. The services and programs shall be provided for a minimum of 100 hours per year.

(E) Five (5) points to Projects with a full time-equivalent (FTE) 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 minimum number of hours per year for the full time-equivalent service coordinator/social worker will be calculated based on the formula: 1) the number of bedrooms X 0.0017 = minimum number of hours per year FTE multiplier; then 2) FTE Multiplier X 2,080 = minimum number of hours per year (up to a maximum of 2,080 hours). 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.)

(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.

## **Article 10. Scattered Site Applications**

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

- (1) Data in Table 1 and Table 2, as defined in section 5170, shall be provided for each site and as a combined total. Each site must independently meet the Committee's income and rent restriction requirements as required in section 5191.
- (2) A Capital Needs Assessment report may combine information for all Project sites in one report.
- (3) For a Scattered Site Project-Competitive Round, 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. For a Scattered Site Project Non-Competitive Round, a market study and set of rent comparability matrices are not required if the proposed rents do not exceed one hundred and ten percent (110%) of the current rent levels, or if the property has been receiving and will continue to receive HUD state or federal project-based rental assistance or a HUD state or federal operating subsidy for a minimum of the last five (5) years.
- (4) Evidence of site control shall be required for each site.
- (5) Any maps provided shall include each site.

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