901 P Street, Room 102
Sacramento, CA 95814

February 12, 2024

CTCAC Committee Meeting Minutes

1. *Agenda Item:* **Call to Order and Roll Call**

The California Tax Credit Allocation Committee (CTCAC) meeting was called to order at 11:31 a.m. with the following Committee members present:

Voting Members:	Patrick Henning, Chief Deputy Treasurer, for Fiona Ma, CPA, California State Treasurer, Chairperson Evan Johnson for California State Controller Malia M. Cohen Gayle Miller for Department of Finance (DOF) Director Joe Stephenshaw Department of Housing and Community Development (HCD) Director Gustavo Velasquez Tiena Johnson Hall, Executive Director for the California Housing Finance Agency (CalHFA)
Advisory Members:	County Representative – VACANT City Representative Brian Tabatabai – ABSENT

2. *Agenda Item:* **Approval of the Minutes of the January 17, 2024, Meeting** – *(Action Item)*

Chairperson Henning called for public comments:
None.

MOTION: Ms. Miller motioned to approve the minutes of the January 17, 2024, meeting, and Mr. Johnson seconded the motion.

The motion passed unanimously via roll call vote.

3. *Agenda Item:* **Executive Director's Report**
Presented by: Marina Wiant

Marina Wiant, Executive Director, explained that the House of Representatives passed the Tax Relief for American Families and Workers Act of 2024 on January 30, 2024. The legislation includes key provisions from the Affordable Housing Credit Improvement Act, such as the 12.5% increase for the 9% tax credit program from 2023-2025. If passed by the Senate, this would allow CTCAC to fund more units of affordable housing through the 9% tax credit program.

Additionally, staff is continuing to work on proposed changes to the developer fee with input from the working group. The working group met last week, and staff's goal is to release new draft regulations for public comment on February 22, 2024.

Mr. Johnson asked if the developer fee would be on the agenda at a March meeting.

Ms. Wiant said staff is planning to add a meeting on April 3, 2024, but it has not been scheduled yet. Staff plans to release draft regulations next week, which would allow sufficient time for public comment and time for staff to review the comments and issue a final recommendation to present to the Committee for approval prior to the due date for Round 1 applications.

Chairperson Henning called for public comments:
None.

4. *Agenda Item:* **Discussion of future State Tax Credit allocations and Adoption of the approximate amount of State Tax Credits available in each reservation cycle for the 2024 calendar year (Cal. Code Regs., tit. 4, §§ 10305, 10310, 10317) –** *(Action Item)*
Presented by: Marina Wiant

Ms. Wiant explained that since the enhanced state tax credits were first made available in 2020, staff has explored various ways to effectively allocate the credits and maximize production. Demand for these credits outpaces availability by as much as 3:1. The issue before the Committee today is whether to make all the credits available in Round 1 or split the available credits between the two rounds. For 2024, the current estimate of available enhanced state tax credits is $502.5 million, $200 million of which is being reserved for projects financed by CalHFA's Mixed-Income Program (MIP) and $25 million is being reserved for farmworker housing, leaving approximately $277.5 million for general allocation, which is less than last year. In determining how to allocate the state tax credits in 2024, the Committee may wish to consider which types of projects they would like to prioritize for the state tax credits. Allocating the enhanced state tax credits between the two rounds may give more projects competing in the set asides and pools access to the credits, regardless of the round. However, this would also leave an insufficient amount of state tax credits for projects competing solely in the geographic regions in both rounds. Additionally, with only two rounds planned for this year, more projects will be awarded in each round, and the state tax credits may be fully used earlier in the round. Alternatively, if the entire $277.5 million were made available in the first round, it would allow for more projects applying solely in the geographic regions of the new construction pool to be awarded state tax credits in the first round, similar to 2022 and 2023.

Mr. Velasquez said the Committee would benefit from hearing from stakeholders on this issue. He believes that splitting the state tax credits between rounds would benefit projects that typically require more subsidy. These are the same projects that the Committee prioritized through the establishment of the pools and set asides two or three years ago. It is important for the Committee to continue to honor the priorities that were established because they were established in a way that was data driven. The previous Regional Housing Needs Allocation (RHNA) cycle demonstrated that housing serving homeless and low-income individuals and families had severely underperformed, and that trend is continuing in the current cycle. This was the reason the Committee established the pools and set asides as priorities. From a fairness standpoint, splitting the credits between the rounds also gives equal opportunity for projects to apply. This has worked in the past. Given the demand this year and the volume of state tax credits, the situation may be different, so Mr. Velasquez would like to hear from stakeholders. However, as long as the Committee continues to prioritize the pools and set asides, especially the Extremely Low-Income/Very Low-Income (ELI/VLI) and Homeless pools, the Committee should keep those priorities in mind when making this decision.

Ms. Johnson Hall agreed that it is important to hear from stakeholders on this issue.

Chairperson Henning called for public comments:

Mark Stivers from the California Housing Partnership (the Partnership) said he does not have an opinion on the allocation of the state credits between rounds, and he would also like to hear from the developers on that issue. However, he encouraged the Committee to impose a $175,000 per-unit limit on the enhanced state tax credits for projects in the next regulations package. Large Family projects located in higher opportunity areas get an extra point for a total of 120, which generally makes them immune from the tiebreaker, which is based largely on the amount of tax credits and bonds that are requested. Essentially, projects that have the 120th point can safely ask for more state tax credits than other projects because they don't have the same competitive threshold. There is a big discrepancy between 120-point projects, which average $15 million in state tax credits, and 119-point projects, which average $3.8 million in state tax credits. From an efficiency standpoint, it would benefit the Committee to have a limit of $175,000 per unit for enhanced state credits.

Ms. Johnson Hall asked Mr. Stivers asked if the Partnership's study accounted for different unit sizes.

Mr. Stivers said he is not sure if the Partnership's research team looked at different unit sizes.

Ms. Wiant said that at the Committee's discretion, a per-unit cap for state tax credits could be included in the regulations package being released next week.

Ms. Miller asked if that change would be for the 9% tax credit projects.

Ms. Wiant said it would be for the 4% tax credit projects.

Ms. Miller said she thought staff was waiting for further direction from the Committee prior to proposing changes for the 9% tax credit projects.

Ms. Wiant said the Committee already passed regulations, but the proposed changes would take effect before Round 1 for the 4% tax credit projects.

William Wilcox, Bond Program Manager at the San Francisco Mayor's Office of Housing and Community Development (MOHCD), expressed support for splitting the enhanced state credits between the two rounds. This would best allocate a highly competitive state resource to the projects that meet the priorities that have already been agreed upon by the Committee after significant discussion and research. Allocating all the credits to one round would unfairly prioritize projects that happen to be ready to apply now, only two months before Round 1, when development timelines cannot be reshaped. Projects that can apply in the spring are not inherently better than projects that apply in the fall. Mr. Wilcox urged the Committee to split the enhanced state credits evenly between both rounds to allocate the resources based on the policy priorities that the Committee has already agreed upon for scoring and the tiebreaker instead of reengineering those priorities at this late stage.

Alice Talcott from MidPen Housing said she is happy the Committee is having this discussion because it is important to think about how the state tax credits are allocated, given that this is the second largest subsidy program in the state, second to HCD's Affordable Housing and Sustainable Communities (AHSC) program. The state tax credits have more funding than many of the other HCD programs, so they are an important subsidy source in making bond deals work. Additionally, it is important to meet the state's public policy goals in terms of allocating this scarce funding source. The state credits should be prioritized to the set asides that have been deemed high priorities. However, given the amount of state tax credits this year, and the fact that the bonds will be allocated between two rounds, it seems possible that the state tax credits may not last through the ELI/VLI pool. While that is speculation and Ms. Talcott has not done an analysis, that outcome looks possible. This is a difficult decision, and one of the things that needs to happen is a reevaluation of how these allocations work. If the goal is funding Homeless and ELI/VLI projects, the regulations could be changed to make that more possible. Predictability is important to developers, and having more clarity on when their projects could get allocated would be helpful for planning. Additionally, Ms. Talcott expressed agreement with Mr. Stivers' comments regarding a cap on the state tax credits. In Round 1 last year, the average state tax credit award for 119-point projects was $80,000 per unit, whereas it was $148,000 per unit for 120-point projects in high resource areas. Having a reasonable cap on the credits would be a good way to ensure that outliers could not take a disproportionate amount of those credits.

Courtney Pal, Policy Manager at Resources for Community Development (RCD), echoed the comments made by Ms. Talcott and Mr. Wilcox. RCD is in favor of spreading the state tax credits between the two rounds because it is important for the projects that will not be ready to apply until Round 2 to receive the same fair chance at obtaining state credits as projects that are ready to move forward now in Round 1, especially considering the uncertainties concerning state tax credit availability in 2025. If there are no credits available in Round 2, it will substantially slow down projects that are counting on the state tax credits but are not ready to apply yet. It would better serve the state's priorities to distribute the credits equally between the two rounds. Additionally, with such variety in the amount of state tax credits requested, RCD strongly supports the implementation of a reasonable per-unit limit on the credits. This would be a good way to establish more parity among the different projects, especially as the state tax credits become a resource in even shorter supply.

Alexis Laing from Laing Companies expressed support for splitting the state tax credits between the two rounds, but she does not agree with implementing a cap on the amount of state tax credits available per project. Many of the projects taking state tax credits in the high and highest resource areas do so because they are not using soft subsidies. The state tax credits allow projects in those areas to be built faster because they receive the extra point for CDLAC and CTCAC, versus having to wait for HCD or other local sources to fill in gaps. If the goal is to build more quality affordable housing in different areas, there should be an incentive rather than a cap on the projects in high or highest resource areas that are trying to just use federal and state tax credits without additional subsidies to build their projects. As a BIPOC developer, Laing Companies would not be in favor of changing how the credits are allocated by ranking.

Jimmy Silverwood, President of Affirmed Housing, expressed support for allowing the state tax credits to be available all in Round 1. Affirmed Housing has projects in each of the set asides as well as in the geographic regions. Developers have set up projects assuming that they could compete in the geographic regions for the state credits, and splitting the credits between the two rounds and eliminating the chance for those developers to successfully apply for credits does not seem like an equitable and fair approach. Affirmed Housing competes often in the Homeless and ELI/VLI set asides and has plenty of those projects. However, making all the state tax credits available in Round 1 would be the fairest approach. In terms of predictability, the credits were all available Round 1 last year, so most developers have made that assumption for this year and have structured deals to ensure they had their entitlements in time to apply in April. That has been the status quo. Additionally, during a time when state tax credits might not be available in the future, the state has to show quick progress. If all the state tax credits were made available in Round 1, it would show quick progress with projects starting construction 4-6 months earlier than they would otherwise if the credits were split between the two rounds.

Additionally, Mr. Silverwood urged the Committee not to implement a per-unit cap on the state tax credits lower than $175,000. Each project is different; for example, a project not in a Difficult Development Areas (DDA) or Qualified Census Tract (QCT) might need an extra boost. No two projects are exactly the same, so an arbitrary per-unit cap on state tax credits might not be fair. He urged the Committee to consider that when making a decision on a potential per-unit cap.

Darren Bobrowsky from USA Properties Fund agreed with Mr. Silverwood that all the state tax credits should be allocated in the first round. While the Committee prioritizes ELI/VLI and Homeless projects for the receipt of tax credits and bonds first, 40% of the bond allocation is allocated to the geographic regions. By allocating the credits between two rounds, the Committee would effectively rule out credits being allocated to the geographic regions.

Kasey Burke from Meta Housing expressed support for all the state tax credits being made available in Round 1, as they have been in prior years. The state tax credits are a necessary gap filler for projects that do not have other resources available, and a lot of those projects compete in the geographic regions. If the credits were split between the two rounds, they would be used within the pools and set asides, making many projects in the geographic regions infeasible. Additionally, the bonds would be heavily underutilized in Round 1. The pools and set asides would still be prioritized and would still have the first opportunity to receive state tax credits, but it is important for the credits to be made available to all projects. In general, Meta Housing does not agree with a cap on the state tax credits but could support a cap of $175,000 per unit.

Caleb Smith from the City of Oakland Department of Housing and Community Development supported implementing a measure to create greater equity between 119 and 120-point projects, especially in terms of prioritizing resources for ELI/VLI projects, which are a key priority for Oakland. It is important for local governments to step up and provide funding for affordable housing in their communities, and it is particularly important that these resources be prioritized for ELI/VLI projects because local resources, such as the Permanent Local Housing Allocation Program (PLHA), are often used for operating subsidies. This means that there is a continued need for resources on the capital side. The disparity between 119 and 120-point projects is sobering, and it is good that the Committee continues to look at whether additional methods can be used to try to pursue more targeting of these resources toward projects that most address the statewide priories around homelessness.

Jack Burlison from CRP Affordable Housing and Community Development expressed support for the allocation of all the state tax credits in Round 1 this year. While CRP understands that Homeless and ELI/VLI projects are the state's priorities, those set asides were completely dominated by the Los Angeles and Bay Area regions last year. An unintended consequence of separating the credits into two different rounds would be only funding projects in those areas. Additionally, CRP does not support a cap on state tax credits, but if a cap were implemented, it should be based on the greater of a per-project cap or a per-unit cap in order to not prevent smaller projects from obtaining the necessary state credits.

Caleb Roope from The Pacific Companies stressed the importance of making all the state tax credits available in Round 1. The California Housing Consortium (CHC) has worked hard to create a balanced system, and unfortunately the allocation system is sequential, with the set asides receiving first priority. There has been enough disruption in the market that there is now a high demand for the state tax credits in Round 1, and the priority funding order creates a situation where all the credits will be exhausted early on. As a rural developer, Mr. Roope benefits from this system, but it severely disadvantages the geographic regions. This is not the type of system developers want, where a project applying in the geographic regions cannot compete in this round or any other round because the credits will not last that long. This is what happened last year; there was a heavy demand in Round 1, and the state tax credits were barely allocated to the geographic regions. The more the credits are divided between rounds, the less chance the projects in the geographic regions have of getting funded. Mr. Roope strongly advised the Committee to make all the credits available in Round 1. HCD has done a great job of increasing their funding limits and eliminating the need for developers to seek state tax credits as an additional subsidy. If The Pacific Companies' Super NOFA applications are successful, they will not need state tax credits because HCD has increased its limits and made the system work without the need for state tax credits. Developers have been relying on the system of having all the state tax credits available in the first round, and if the Committee spreads the credits between the rounds, there should be a different system so that the geographic regions get a chance to compete for those resources since many of those areas do not have gap funding available.

J.T. Harechmak from the Non-Profit Housing Association of Northern California (NPH) echoed the previous comments supporting splitting the state tax credits between the two rounds. He said that no state tax credits were allocated to the geographic regions when they were all made available in Round 1 last year anyway, and it is important for the credits to fund the state's priorities of the ELI/VLI and Homeless set asides. This is an important state resource, especially in a time when housing funding is dwindling and facing budgetary issues at the state level. He encouraged the Committee to spread the state tax credits between the rounds.

Chairperson Henning closed public comments.

Ms. Wiant clarified that in Round 1 last year, 12 projects in the geographic regions received state tax credits.

Ms. Miller asked how much was allocated to the geographic regions.

Anthony Zeto, Deputy Executive Director, clarified that $134 million was allocated to the pools and set asides, and $181 million was allocated to the geographic regions in the first round.

Ms. Miller asked if those figures include the $200 million allocated for MIP projects.

Mr. Zeto said that does not include the MIP projects. There were 13 projects allocated in the pools and set asides and 12 in the geographic regions.

Ms. Miller asked if there were credits allocated to BIPOC developers, rural projects, and farmworker housing last year.

Mr. Zeto said there was no allocation for farmworker housing last year, but the figures he cited include BIPOC and rural projects. MIP projects were awarded entirely in the second round, so they were not considered in the first round. No MIP projects received state credits in Round 1; only BIPOC, rural, homeless, and ELI/VLI were awarded, totaling $134 million. The projects in the geographic regions totaled $181 million.

Ms. Miller asked if MIP was awarded less than $200 million last year.

Mr. Zeto responded affirmatively.

Ms. Wiant said MIP took $181.8 million last year. CalHFA was able to predict the need for MIP at the beginning of the year and give an extra bit of state tax credits back for general allocation.

Ms. Miller said there seems to be a consensus on implementing a cap on state tax credits. She asked if staff has any data on the outliers that may be affected by a cap, and how many projects received more than

$175,000 per unit in state tax credits last year. Since the state tax credits are a limited resource, a cap makes sense.

Mr. Zeto said that information is not available right now, but the average allocation in 2023 was $107,000 per unit.

MOTION: Ms. Miller motioned to implement a per-unit cap on state tax credits.

Mr. Zeto said the cap could be included in the proposed regulations package, and that it would be released for public comment.

Ms. Wiant said staff could do the research on the outliers as part of the proposal next week. She does not believe a motion is needed regarding the cap since staff will consider that in the regulations package.

Mr. Johnson asked if the cap could go into effect for the upcoming rounds.

Ms. Wiant responded affirmatively.

Mr. Velasquez said it sounds like the staff is saying that a motion is not necessary, and they can provide a recommendation for a cap that can be included the proposed regulations that the Committee will be able to vote on at the next meeting.

The motion was withdrawn by Ms. Miller.

Mr. Velasquez said a motion is still needed on the allocation of the state tax credits, and he is ready to make a motion on that issue, but first he wants to give the Committee an opportunity to continue the discussion.

Mr. Johnson asked staff if there is more information available to inform the Committee's decision between the two options for allocating the state tax credits. Specifically, he would like to know the potential outcome for the projects in the geographic regions.

Ms. Wiant said the challenge with this discussion is that it is speculative, and staff does not necessarily know which projects the developers will submit in each round. Staff analyzed what happened during the past two years when all the credits were frontloaded in the first round, and what would therefore be the expected outcome this year. One thing that does not exactly line up is that there are only two rounds this year, as opposed to three rounds in the previous years. That means that this year, there will be more bond allocation available in each of the two rounds than in previous years when there were three rounds. That means that more projects will be awarded in the set asides and pools because of the bond allocation available, and then the geographic regions will follow. Last year, 12 projects were awarded from the geographic regions, but if the credits were frontloaded this year, there would not be as many reachable projects in the geographic regions due to the combination of more bond allocation being available in each set aside and pool and fewer state tax credits. That would be the case even if the credits were all made available in Round 1. If the credits had been split among the rounds last year, projects in the ELI/VLI pool would have likely been awarded in each round. This year, with the amount of bonds and credits available in each round, the credits may not go that deep in the second round.

Mr. Johnson said another concern is the geographic diversity of the projects in the pipeline. If the credits are split between two rounds, certain projects will be prioritized. He asked if that is corroborated by the projects in the pipeline.

Ms. Wiant said staff has not done that level of analysis.

Mr. Zeto said the credits are allocated to projects according to the funding order. With $138 million in allocation split between two rounds, there is a possibility that the allocation will be used up before the ELI/VLI pool is reached.

Ms. Miller said that there are two application deadlines on the calendar that have been noticed to the public, so in terms of the public's knowledge, there is no reason to assume that the credits would run out in the first round. She asked how anyone would know that they had to apply in the first round.

Ms. Wiant said that in the past two years, the credits have mostly run out in the first round. There has been a pattern of the Committee making all the state credits available in the first round in the past three years.

Ms. Miller said this is a difficult issue. The voters will vote on Proposition 1 in a few weeks, and the state's priority is ELI/VLI projects. The allocation for the MIP is taken off the top, and that is a regional program in and of itself because of the way it is administered by CalHFA, so there is almost $200 million in funding for projects in the geographic regions. There are also the BIPOC and farmworker housing projects. The Committee and the state have been clear in terms of their priorities. Ms. Miller believes efficiencies are needed in the ELI/VLI programs, and hopefully the Committee will also look at that issue. However, because the ELI/VLI projects have been clearly prioritized, it makes sense to focus on ELI/VLI in this round, both because the geographic regions are taken care of through the MIP and because the CTCAC and CDLAC priorities are aligned with the state's priorities. Ms. Miller supports dividing the state tax credits between the two rounds so that the Committee has an opportunity to focus on ELI/VLI projects because they are the highest priority of the state. Whether or not $500 million in state tax credits is available in 2024-2025 is up to the negotiations with the legislature, but the Governor's budget does not include that right now, so it is important to be cognizant of how to prioritize projects. She expressed that this is not a simple answer and thanked the stakeholders for providing their input on this issue.

Mr. Johnson said the scoring structure and pools were set up carefully and with a lot of consideration, so it makes sense to honor that, even if the outcome is not ideal in the sense that it would be good to see the full fulfillment of the pools with the credits trickling down into the geographic regions, in order to ensure geographic diversity. However, the pools were carefully set up and it makes sense to honor that along with the priorities of the state, on which those pools are based.

MOTION: Mr. Velasquez motioned to divide the state tax credits equally between both rounds this year. Ms. Miller seconded the motion.

The motion passed unanimously via roll call vote.

5. *Agenda Item:* **Public Comment**

Alexis Laing from Laing Companies asked if the motion passed for Agenda Item 4, splitting the state tax credits between the two rounds, means that the regulations have already been changed or if they will be changed in April. She also asked when the Committee will decide whether to implement a per-unit cap on the state tax credits.

Chairperson Henning said that this is not a question-and-answer session.

Ms. Laing said she would email her questions. She asked if she could make another general public comment.

Chairperson Henning said she could make a comment regarding a topic that was not already discussed.

Ms. Laing expressed that she would like the CTCAC and CDLAC staff to talk to bond issuers about how BIPOC experience should be counted, since CDLAC counts experience within the last five years, whereas CTCAC counts experience within the last ten years. She expressed that CTCAC staff should consider how developers who have more than five years but less than 10 years of experience are impacted.

6. *Agenda Item:* **Adjournment**

The meeting was adjourned at 12:23 p.m.