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**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**

915 CAPITOL MALL, ROOM 485  
SACRAMENTO, CA 95814  
TELEPHONE: (916) 654-6340  
FAX: (916) 654-6033

*Lynn Wehrli*  
Executive Director

**MEMBERS**

*Philip Angelides, Chair*  
State Treasurer

*Tom Campbell,*  
Director, Department of Finance

*Steve Westly*  
State Controller

**Memorandum To: 2005 Second Round Applicants**

**From: Lynn Wehrli, Executive Director**

**Date: July 1, 2005**

**Re: Prevailing Wage Requirements**

The Department of Industrial Relations has confirmed that federal tax credits and tax exempt bond financing are not subject to prevailing wage requirements, in response to an appeal of their previous determination. In the first round we required project costs calculated with and without prevailing wages, so that we could manage the return of credits that would not be needed if prevailing wages were not ultimately paid, while maintaining an even playing field for tie breaker purposes. Because there is now more certainty that prevailing wages will not be required, TCAC will not require estimates for prevailing wage costs. However, applicants who do not submit prevailing wage cost estimates will be asked to take responsibility for any additional costs ultimately imposed in case the DIR decision should ever be overturned in court. Applicants have three options as follow:

*Alternative I: Provide Cost Estimates With and Without Prevailing Wages*

All development budgets and all other documentation are to include the estimated costs of prevailing wages. This option will work just as it did in the first round. Part VIII of the application form, "*Basis, Credit Amounts, Operating Expenses & Income*" has lines for "Prevailing Wages" in both the Rehabilitation and New Construction sections. Estimated prevailing wage costs and data for all other relevant columns must be entered in the appropriate one of these two lines, and no prevailing wage costs may be included in any other lines. Each application must also include a *Contractor's Certification of Cost Reasonableness* (attached). Staff will test for feasibility and calculate basis and tax credits using prevailing wage costs. This option will allow for greater flexibility, since the applicant may drop back to non-prevailing wage costs at a later date. TCAC will use the non prevailing wage costs submitted for this adjustment. However, the higher costs used for underwriting may result in worse third tie breaker performance.

*Alternative II: Provide Prevailing Wage Costs Only*

For projects that will be subject to prevailing wage costs regardless of the DIR process outcome, only prevailing wage costs need to be submitted. Costs attributable to prevailing wages should be separately identified in Part VIII of the application form as in alternative I above, however, since that enables TCAC to refine its data base for cost analysis purposes.

Alternative III: Provide Non-Prevailing Wage Costs Only

At the request of some applicants, and because of the increased certainty with respect to prevailing wage requirements, TCAC will also accept applications without any prevailing wage cost estimates. However, this approach provides an advantage in third tie breaker performance, does not give TCAC a basis for subsequent cost and tax credit adjustments, and could create cost issues later if prevailing wage rates should ever be imposed retroactively. Consequently applicants selecting this approach will be required to submit a certification that they will not request any prevailing wage based cost increase or tax credit increase in the future, and assume full responsibility for funding any financing gap that might appear. (Applicant Certification attached.)

**CONTRACTOR'S CERTIFICATION OF COST REASONABLENESS**

**PROJECT IDENTIFICATION**

NAME OF PROPOSED PROJECT \_\_\_\_\_  
PROPOSED LOCATION \_\_\_\_\_  
SPONSOR/DEVELOPER \_\_\_\_\_

**CERTIFICATION**

I hereby certify that I have reviewed or prepared the estimated construction cost budgets for the above cited project. I have determined that the numbers below reflect reasonable estimates based on my knowledge of the construction costs for multifamily dwellings in the location proposed, at this point in time. These estimates do not represent any contract or commitment on my part to undertake construction of the project, nor do they represent any commitment on the part of the project owner to use my services as a contractor.

Total Costs With Prevailing Wages                    \$ \_\_\_\_\_  
Total Costs Without Prevailing Wages                \$ \_\_\_\_\_  
Difference Attributable to Prevailing Wages\*      \$ \_\_\_\_\_

\*This amount must match the amount entered in the Applicant's application on the "Prevailing Wage" line item in Part VIII, and Total Cost figures must both tie out to totals on the forms.

SIGNED \_\_\_\_\_

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
pany Name and Address) (Com

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Phone Number)

Date \_\_\_\_\_

**APPLICANT'S CERTIFICATION OF RESPONSIBILITY  
FOR USE OF NON PREVAILING WAGE COST ESTIMATES**

**PROJECT IDENTIFICATION**

NAME OF PROPOSED PROJECT \_\_\_\_\_  
PROPOSED LOCATION \_\_\_\_\_  
APPLICANT \_\_\_\_\_

**CERTIFICATION**

I hereby certify that I am authorized to represent the Applicant, and that the Applicant accepts full responsibility for funding any additional costs of developing the above cited project that are attributable to the payment of prevailing wages but that have not been included in the construction budget submitted with the application for the July 14, 2005 deadline. Accordingly the Applicant will not request additional Tax Credits for this purpose from the Tax Credit Allocation Committee, and will obtain other funding acceptable to the Tax Credit Allocation Committee for this purpose if it should become necessary.

SIGNED \_\_\_\_\_

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

Date \_\_\_\_\_

Rev.  
7/1/05