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DATE: June 1, 2012

TO: Low Income Housing Tax Credit Stakeholders

FROM: William J. Pavão, Executive Director

SUBJECT: 2012 Second Round Guidance

With this memorandum, the California Tax Credit Allocation Committee (TCAC or the Committee) is providing additional clarifying guidance for prospective second round applicants.

Advisory Guidance to Second Round Applicants

During first round reviews of nine percent (9%) and four percent (4%)-plus-State credit applications, TCAC staff has identified areas to clarify for second round applicants. The following notes clarify TCAC’s expectations for application content and award decision-making.

Environmental clearance for readiness scoring

Section 10325(c)(8)(B) awards points for:

- (B) evidence, as verified by the appropriate officials, of site plan approval and that all local land use environmental review clearances (CEQA and NEPA) necessary to begin construction are either finally approved or unnecessary.

A project with federal funding invoking the National Environmental Protection Act (NEPA) must demonstrate that “clearances necessary to begin construction are either finally approved or unnecessary.” This includes projects with federal rental subsidies and any rehabilitation projects requiring NEPA review as a condition of the federal subsidy award or renewal. Instructions within TCAC application Attachment 26 require that “the expiration dates of all required appeal periods for each item are listed and have expired, or will expire no later than 30 days beyond the application deadline date” (emphasis contained in original application text).

In order to avoid confusion on this point, the TCAC application must contain direct documentary evidence that federally funded projects have cleared NEPA.

Readiness points will be awarded to federally-funded applications that have either (a) received a HUD Authorization to Use Grant Funds (Form 7015.16) from HUD or HCD; (b) received a final approval and NEPA clearance document from USDA’s Rural Housing Service or HUD where funding comes directly from the federal agency to the project; or (c) received a participating jurisdiction documentation of exemption.

Consistent with Section 10325(c)(8), TCAC will accept evidence within the application that the final stage of federal or state review and public comment has started by the application deadline, so long as the final public comment period concludes without delay within 30 days of the application deadline as published by TCAC. This means that, if necessary, a Request for Release of Funds (RROF) must be submitted to the appropriate federal or state agency by the application deadline to begin the final public comment period.

Projects receiving assistance from multiple federal funding sources must document that all environmental clearances for each program have been received. For federally-funded rehabilitation projects, the application should include documentation supporting that NEPA has been completed. This includes documentation showing that the project converted to exempt status (if applicable). For categorically excluded projects, include the Statutory Worksheet in Tab 26.

If any applicants have circumstances regarding NEPA clearance not addressed in the above guidance, please contact your regional TCAC analyst immediately.

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Site amenity point category

Please document clearly all requirements for each site amenity category. Transit points with service time requirements must include transit schedules and the application should clearly document the location of the site in relation to the transit stops listed on the schedule. If multiple documents are included to support a point category, a brief narrative may be necessary to explain what is being documented.

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Schools as site amenities for housing types other than large family

Section 10325(c)(5)(A)(5) makes points available “For a Large Family development” that is close to a neighborhood public school. The clearest reading of the existing regulation is that school proximity points are only available for Large Family housing type projects. However, some projects house predominantly families with children, and the regulation intends to acknowledge the benefit of a nearby school on such a project’s school aged population. For example, an at-risk housing type project could also be housing large families. Or, a special needs housing type project could be housing large families escaping a violent environment. In such cases, proximity to a nearby school would be beneficial to such a project’s school-aged population.

At a minimum, at least 30 percent (30%) of the project’s units need to contain three bedrooms to be eligible for school points. This is consistent with the service amenity scoring for licensed

childcare on-site (Section 10325(c)(5)(B)(5)) and after-school programs for school-aged children (Section 10325(c)(5)(B)(6)).

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Service amenity point category

Section 10325(c)(5)(B) awards points for various proposed service amenities for project residents. Applications should include a service plan description specific to the project, not a statement generally listing the service provider’s programs and classes. If the application includes multiple services and/or service providers, be sure that it is clear which TCAC requirement each document supports. While an application may include multiple documents supporting high quality services and the service providers’ experience, without clear documentation of a service plan for the project, a commitment from the service provider to the project, the location of the services, the number of hours committed to, and the expected fee or value of service, points may not be awarded.

Applications will receive points for services only if the proposed services budget adequately accounts for the level of service. The budgeted amount must be reasonably expected to cover the costs of the proposed level of service. The application must also document the value of any volunteered services.

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Financing plan in Tab 2

The financing plan should be more than a simple list reiterating the funding sources and amounts listed in the Excel application. For projects with multiple funding sources, lengthy financing documents, and Disposition and Development Agreements (DDAs), information summarizing the project’s financing package should be included Tab 2. Please include within the summary all page references to relevant information found in lengthy documents.

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Eligible basis certification in Tab 19

Please include with all eligible basis certifications language addressing budget line items for which basis is less than cost. Provide an explanation of the basis amount and confirmation that the tax professional has reviewed documentation for these line items. Beginning in the second round, applicants will be **required** to provide detailed calculations for budget line items for which basis is less than cost. For example, the construction interest line item must provide the calculation for the amount included in basis, listing the assumptions of the construction period loan term, estimated placed-in-service date, interest rate, etc. For line items that are reduced or excluded from basis (except for those not allowed by the Excel application), an explanation of each reduction or is required. This is required for both cost efficiency points and for determining whether a project is “high cost” as defined by TCAC Regulation Section 10325(d). TCAC staff refers to Attachment 19 when reviewing a project’s eligible basis for cost efficiency points and projects with eligible basis at or near 130% of the adjusted threshold basis limit.

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Waivers must be requested prior to the application deadline

Several regulation provisions permit the TCAC Executive Director to waive specific requirements. Waivers for required project features shall only be granted if requested well in advance of the application due date. Applications without prior-approved waivers will be considered under the generally applicable rules, and reviewed and scored accordingly. TCAC may disqualify projects containing features that do not comport with un-waived program thresholds.

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If you have any questions regarding the above guidance items, please contact your regional analyst.