



CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

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DATE: October 29, 2024

TO: California Debt Limit Allocation Committee Stakeholders

FROM: Marina Wiant, Executive Director

RE: Proposed Regulation Changes with Initial Statement of Reasons

On September 10, 2024, the California Debt Limit Allocation Committee (CDLAC) solicited feedback from stakeholders on the regulations through September 27, 2024. CDLAC staff carefully reviewed the feedback received and present the proposed changes to the regulations for public review and comments. Attached to this memorandum are the proposed changes with the initial statement of reasons. CDLAC anticipates the adoption of the regulations changes to take place at a CDLAC meeting scheduled on December 11, 2024. CDLAC staff will conduct a public hearing to explain the proposed changes, answer questions, and solicit comments specific to the changes being proposed. The notice for the public hearing will be sent out separately.

Interested persons wishing to express their views on the proposed regulation changes may submit written comments by email to cdlac@treasurer.ca.gov no later than 5:00 p.m. on Tuesday, November 19, 2024. For comments submitted electronically, it is preferable the comments are in a Microsoft Word document or an electronic format that allows for copying. While CDLAC welcomes public comments, staff encourages commenters to be sparing and brief given the short timeframe for staff to turn around responses. If you agree with some changes and disagree with others, please remember to make both sets of comments so both favorable and unfavorable reactions are recorded. Please limit written comments to only the changes being proposed.

**List of Proposed Regulation Changes with Initial Statement of Reasons
October 29, 2024**

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:

[...]

“Fiscal Agent” means a trust company, a national banking association or state banking corporation with the authority to accept trusts, that performs various administrative and trustee duties in connection with bond, note and other debt issuances, including, without limitation, the maintenance and management of funds and accounts, payments, redemptions, investment of moneys, related tax matters, and other related administrative duties.

[...]

The proposed change adds a definition for “Fiscal Agent” because of the changes made under Section 5130, which refers to the requirement that all projects receiving a bond allocation are required to have a Fiscal Agent or trustee.

Section 5010. Announcement of Application Deadlines, Determination of State Ceiling, Competitiveness, and Minimum Points.

(a) The Committee shall, As soon as practicable, give notice of deadlines to submit Applications for each Allocation Round, and after the beginning of each calendar year, and before any Applications are considered, the Committee shall determine and announce the State Ceiling and the portion of the State Ceiling that will be available for each of the State Ceiling Pools as set forth in article 3 of this chapter.

(b) [...]

The proposed changes add the “Announcement of Application Deadlines” to the title and moves information about dates and deadlines for submitting Applications for each Allocation Round from Section 5030 to Section 5010.

Section 5020. Determination of State Ceiling Pools.

As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee shall:

(a) [...]

(1) [...]

(A) Subsequent to the determination made pursuant to paragraph (1) of this subdivision, determine and announce whether a portion of the New Construction Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Homeless Set Aside to be available for allocation to New Construction Projects in which ~~at least~~ the greater of 15

units or 25% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1)-(4) ~~10302((kk))~~ of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTCAC regulations, and determine what amount, if any, shall be available in each Allocation Round.

(B) [...]

(i) an award of funding from the California Department of Housing and Community Development (HCD), ~~For purposes of this Set Aside, an award of funding from HCD shall include awards made directly by the department pursuant to~~ including from the Multifamily Housing Program, the Affordable Housing and Sustainable Communities Program, the Transit Oriented Development Program, the Joe Serna Jr. Farmworker Housing Grant Program, the No Place Like Home Program, Housing for a Healthy California and the Veterans Housing and Homelessness Prevention Program. The income restrictions shall be at least as restrictive as those for which the applicant received an award from HCD. Awards made directly by the department do not include Alternative County Process awards.

(ii) [...]

(C) [...]

(2) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage ~~(not to exceed ten percent 10%)~~ of the Qualified Residential Rental Project Pool, shall be reserved in a specific pool to be available for allocation to specified projects ~~Rural Project Pool to be available for allocation to Rural Projects~~ and determine what amount, if any, shall be available in each Allocation Round- as follows:

(A) Rural Project Pool to be available for allocation to Rural Projects, not to exceed ten percent (10%) of the total QRRP Pool.

(B) Preservation Pool to be available for allocation to Preservation Projects

(C) Other Rehabilitation Pool to be available for allocation to Other Rehabilitation Projects

(D) BIPOC Pool to be available for allocation to BIPOC Projects

(E) Supplemental Allocation Pool to be available for allocation to Supplemental Allocation Requests

~~(3) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Preservation Pool to be available for allocation to Preservation Projects and determine what amount, if any, shall be available in each Allocation Round.~~

~~(4) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in an Other Rehabilitation Pool to be available for allocation to Other Rehabilitation Projects and determine what amount, if any, shall be available in each Allocation Round.~~

~~(5) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be~~

~~reserved in a BIPOC Pool to be available for allocation to BIPOC Projects and determine what amount, if any, shall be available in each Allocation Round.~~

~~(6) Subsequent to the determination made pursuant to subdivision (a) of this section, determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage of the Qualified Residential Rental Project Pool shall be reserved in a Supplemental Allocation Pool to be available for allocation to Supplemental Allocation requests and determine what amount, if any, shall be available that year.~~

The proposed changes under 5020(a)(1)(A) change the number of units designated for homeless households from at least 25% of the tax credit units to the greater of 15 units or 25% of the tax credit units. "California" was added under 5020(a)(1)(B)(i) to the Department of Housing and Community Development and unnecessary language was removed. Sections 5020(a)(2) through 5020(a)(6) were edited to remove redundancies, as the same language was repeated with the only difference being the type of pool.

Article 4. Application Schedule and Procedures

Section 5030. Announcement of Application Deadlines. [Repealed]

~~Pursuant to article 2 of this chapter, the Committee shall as soon as practical, after the start of the calendar year, give notice of the dates and deadlines to submit Applications for each Allocation Round and whether the Applications will be evaluated pursuant to an Open Application Process or a Competitive Application Process~~

~~NOTE: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.~~

The proposed changes eliminate this section because the application deadline information was moved to Section 5010 and Section 5010 states information regarding the determination and announcement of either an Open or Competitive Application Process.

Section 5031. Eligible Applicants

(a) [...]

(c) To be eligible to receive CDLAC bond allocation, all Applicants must submit written Bond Issuance and Post Issuance Compliance Policies for each State Ceiling Pool they request. ~~For QRRP Applicants,~~ These policies must be reviewed by counsel having expertise with the federal and state laws pertaining to the issuance or conversion and post-closing compliance of private activity conduit bonds for consistency with applicable federal and state laws. Such review will be documented via a letter from the respective counsel indicating the review has occurred. Additionally, for all Applicants, the policies must be accompanied by a resolution signed by the appropriate governing body formally adopting the policies. If the governing body has delegated approval authority on such matters to the organization's Executive Director, Housing Director or Finance Director, approval by the delegated individuals will suffice. To the extent contractors will be providing services on behalf of an Applicant, the policies should clarify the relationship between the contractor and the Applicant and what, if any, rights the contractor has to income and obligations generated from the issuance activity. CDLAC will review these policies to ensure the legal review has occurred, appropriate approval documentation is in place and for consistency with the CDLAC regulations. CDLAC will document their formal approval. ~~This requirement will apply immediately to all Applicants who have not received allocation from CDLAC since January of 2013 and for new Applicants. Applicants having received an allocation of bonds from~~

~~CDLAC after January 2013 will have until December 31st of 2017 to complete and submit policies to CDLAC. If an Applicant has not utilized CDLAC's programs but has a 2017 project pending, a one year waiver to this regulation may be requested. To fulfill this requirement, approval of the policies must be documented in a resolution dated no earlier than 2006. All Applicant policies must be reviewed and re-approved at least every 10 years thereafter.~~

All projects receiving a bond allocation are required to have a Fiscal Agent or trustee. One of the roles of the Fiscal Agent/trustee is to facilitate in the reporting of the Annual Debt Transparency Reports (ADTR) to the California Debt and Investment Advisory Commission.

The proposed changes add "bond" to allocation, to align with other reference to bond allocation throughout the CDLAC regulations. "For QRRP Applicants" was removed, as this section applies to all applicants and "all Applicants" is stated in the first sentence of this section. The reference to specific dates was removed, as those dates have past and are no longer applicable. "Applicant" was added to policies, for clarity. Information was added regarding the requirement for projects receiving a bond allocation to have a Fiscal Agent or trustee and the role of the Fiscal Agent or trustee to facilitate in the reporting of the Annual Debt Transparency Reports.

Section 5035. Preliminary Recommendations List.

~~(a) At least twenty five (25) calendar days p~~Prior to any meeting at which the Committee is to award Allocations, the Executive Director shall publish a preliminary list of Applicants for which the Executive Director expects to recommend an Allocation (and the amount of those Allocations). During competitive rounds, the following procedures shall be followed for the Qualified Residential Rental Program:

(1) [...]

(2) Projects will be evaluated and ranked based on information submitted in the application. Only applications that are substantially complete and self-score high enough to receive an Allocation shall be reviewed. Prior to publishing the preliminary recommendation list on the Committee's website, Applicants and developers/sponsors shall be notified of their preliminary score and the reasons for any modifications from the Applicant's Self-Scoring Worksheet. That notice, or a subsequent notice, may also contain completeness and/or feasibility defects determined during the application evaluation. Notices shall only be sent for projects that self-score high enough to receive an Allocation. ~~Applicants shall have five (5) calendar days to appeal such notice. Appeals shall be addressed to the Executive Director in writing. The Executive Director shall have ten (10) calendar days to issue a final determination. If an Applicant is unsatisfied with the final determination, the Applicant may appeal to the Committee.~~

The proposed changes eliminate having a required number of days of when the preliminary list needs to be posted before an award of allocation and moved the appeal language under the Appeals section.

Section 5036. Appeals to Preliminary Recommendations.

(a) An applicant shall not appeal the Committee staff evaluation of another applicant's application.

(b) Procedure for application appeals. An appeal related to an application must be submitted in writing and received by CDLAC staff no later than five (5) calendar days following the transmittal date of the staff's point or disqualification letter. The appeal shall identify the applicant's grounds for the appeal and be based upon previously submitted application materials.

Staff will respond in writing to the appeal letter within five (5) calendar days after receipt of the appeal letter. If the applicant wishes to appeal the staff response, the applicant may appeal in writing to the Executive Director no later than five (5) calendar days following the transmittal date of the staff response letter. The Executive Director will respond in writing within ten (10) calendar days after receipt of the appeal letter. If the applicant wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than five (5) calendar days following the transmittal date of the Executive Director's letter. An appeal to the Committee must be accompanied by a five hundred dollar (\$500) non-refundable fee payment payable to CDLAC. No Committee appeals will be addressed without this payment. The appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed. Any appeal or response due on a weekend or holiday shall be deemed to be due on the following business day.

~~Any Applicant who wishes to appeal the published preliminary recommendation or ranking as prescribed in section 5035 may file an appeal within five (5) business days of the date on which the preliminary list is posted. The appeal shall set forth in reasonable detail the factual basis for the appeal. New or additional information beyond that provided in the original Application shall not be provided or considered in connection with the appeal. All appeals shall be made in writing and delivered to the Executive Director. The Executive Director shall present the appeal to the Committee at the meeting for which Allocations are awarded, prior to the Allocation approval process. An Applicant may only appeal the recommendation or ranking of its own Application(s).~~

The proposed changes add language similar to CTCAC regarding appeals to have a consistent process between CDLAC and CTCAC and deleted the previous language. The appeal process now refers to appealing the staff's point letter or disqualification letter instead of the preliminary list.

Section 5037. Final Recommendations. [Repealed]

~~(a) At least ten (10) calendar days before the Committee meeting for which Allocations will be awarded, the final list of Applicants for which Allocations will be recommended (and the amounts of those Allocations) will be posted. During competitive rounds, the list will be in ranked order. This list will reflect changes, if any, in ranking resulting from the appeals as provided in section 5035. The list shall be posted on the Committee's website as provided in section 5140.~~

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

The proposed changes delete this section because the appeal process information is under the Appeals section.

Section 5038. Appeals to Final Recommendations. [Repealed]

~~Any Applicant who timely appealed the preliminary determination and is dissatisfied with the final recommendation in connection with the Application or received no preliminary recommendation, may present its case to the Committee at the Allocation meeting at which the Application is considered, provided that the Applicant gives notice, in writing, of its intention to do so at least five (5) business days prior to the Allocation meeting. An Applicant's written notification must be delivered to the Committee, no later than 5:00 p.m. (Pacific Time) on the last day specified for providing notice.~~

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

The proposed changes delete this section because the appeal process information is under the Appeals section.

Section 5052. Forfeiture of Performance Deposit.

(a) ~~For Projects receiving an allocation award on or after March 16, 2016, Except as provided in Section 5101(b) and subdivision (e), expiration date extensions~~an extension of the expiration date for QRRP~~Qualified Residential Rental Bonds granted pursuant to Sections 5101 or 5132 shall~~will result in forfeiture of the Project's performance deposit to the extent that the performance deposit has not previously been forfeited.

(b) [...]

(e) An Applicant may request waiver of a performance deposit forfeiture at the time it makes the extension request by submitting a written request to the Executive Director ~~within 30 days of the date of the Committee's Forfeiture Fee Invoice, at least 15 business days prior to any regularly scheduled Committee meeting.~~ The Committee shall grant a forfeiture extension upon a showing that the request aligns with an extended allocation and waiver upon showing the circumstances prompting the forfeiture were unforeseen and entirely beyond the control of the Project's sponsor and development team. The granting of a waiver pursuant to this subsection will not preclude performance deposit forfeiture for subsequent extensions of the expiration date for QRRP~~Qualified Residential Rental~~ Bonds granted pursuant to Sections 5101 or 5132.

The proposed changes remove the reference to the timing of the allocation and adds references to the sections where the performance deposit would not be forfeited. The proposed changes also clarify that extension requests would be due at least 15 days prior to a Committee meeting and changed "Qualified Residential Rental Projects" to "QRRP".

Section 5054. Filing Fees.

Each Applicant shall submit a filing fee in an amount equal to the product of the amount of Allocation actually used to issue Bonds, or Mortgage Credit Certificates multiplied by .00035. The payment of the fee shall be in two installments as follows:

(a) Initial non-refundable filing fee in the amount of \$1,200 shall accompany the filing of an Application to cover the Committee's costs associated with reviewing Applications. ~~This portion of the filing fee shall not be refundable under any circumstances but shall be credited against the total filing fee.~~

(b) Initial non-refundable filing fee for supplemental awards in the amount of \$600 shall accompany the filing of an Application to cover the Committee's reasonable costs associated with reviewing Applications. ~~This portion of the filing fee shall not be refundable under any circumstances but shall be credited against the total filing fee.~~

(c) [...]

(d) Second installment of Filing Fee. The second installment of the filing fee shall be due within thirty (30) days after Bond issuance or issuance of the first Mortgage Credit Certificate. The Committee shall issue an invoice in conjunction with the Committee Resolution transferring the Allocation to the Applicant. The amount of the second installment of the filing fee is the product of the amount of

Allocation used to issue Bonds or convert to Bond to Mortgage Credit Certificate authority multiplied by .00035, ~~less the fee paid pursuant to subdivision (a) of this section.~~

(e) [...]

The proposed changes remove “The portion of the filing fee shall not be refundable under any circumstances but shall be credited against the total filing fee.” “Non-refundable” was added, due to the deletion of this sentence. The change also removes the reference to the initial filing fee being credited against the second installment of the filing fee. This change was made to reflect that the initial filing fee is a non-fundable application fee.

Section 5101. Extensions to Expiration Dates.

(a) Except as provided in Section 5132, the Executive Director may grant an extension of up to ninety (90) days for all allocations upon demonstration that the circumstances necessitating the extension were entirely outside the Project Sponsor’s control.

(b) Any extension granted by the Executive Director under subdivision (a) shall constitute a waiver of performance deposit forfeiture under Section 5052, as applicable.

(c) A project Sponsor may appeal any extension denial under this provision by submitting a written appeal to the Committee within five (5) calendar days following the transmittal date of the Executive Director’s decision letter. The appeal shall be heard at the next regularly scheduled Committee meeting for which the appeal can be properly noticed.

(d) The Committee may grant aAny additional extensions requests beyond the extension granted under subdivision (a). must be granted by the Committee. Extension requests must demonstrate that the circumstances were entirely outside the control of the owner.

The proposed changes add clarification on the extensions and related performance deposit waiver.

Section 5120. Transfer Requirements.

a) Except for the reversion of unused Allocation pursuant to section 5106, Allocations are not transferable unless expressly authorized in writing by the Committee. The Committee may permit transfers of Allocation as follows:

(1) The Committee may permit transfers of carryforward Allocations to the highest scoring Application on a waiting list or, if a waiting list does not exist, the highest scoring Project in queue in a current Allocation Round, or to a project in a previous Allocation Round for which current year allocation was awarded, to utilize remaining or unused carryforward Allocation.

(2) [...]

(b) [...]

This change was made so that an issuer awarded current year allocation for a project, could instead utilized carryforward, assigned to another project that will not utilize the carryforward, to use carryforward as quickly as possible.

Section 5146. Disqualification.

The Committee may disqualify an Application for a portion of the Pool if any of the following have been documented about the Project Issuer, Project Sponsor or any entity that is a Related Party of the Project Sponsor:

(a) [...]

(c) Providing false or misleading information in connection with an Application or a prequalification request under Section 5231(d); or

(d) Information that leads the Committee to reasonably and in good faith conclude that an allocation would be inimical to, or incompatible with, the purposes of these regulations, the laws regulating the allocation of the State Ceiling on Qualified Private Activity Bonds, ~~or~~ the obligation on the Committee to affirmatively further fair housing pursuant to Government Code section 8899.50(b)(1), or the obligation on the Committee to impose remedial actions under sections 14052 and 14053 of title 2 of the California Code of Regulations. In determining whether an Application is compatible with the Committee's responsibility to affirmatively further fair housing, the Committee shall consider whether the Applicant, Project Issuer, or Project Sponsor has a documented history of violating state or federal fair housing laws.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b) and 8869.86(c), 8899.50, Government Code, Sections 14052 and 14053 of title 2 of the California Code of Regulations.

The proposed changes clarify any misrepresentations made during the prequalification process will result in disqualification from the BIPOC pool or allocation. Also reference to the California Code of Regulations was added. In 2024, the California Civil Rights Department (CRD) finalized rules requiring state agencies to make reasonable cause referrals to CRD and take remedial action when recipients of state support violate California's prohibition on unlawful discrimination and denial of full and equal access. CRD's regulations also permit CDLAC to take permissive remedial action to overcome the effects of discrimination. The proposed amendment clarifies CDLAC's obligation to make referrals and take remedial action, or permissive action, under CRD's regulations.

Section 5170. Definitions.

In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

[...]

"BIPOC Project" means a Qualified Residential Rental Project for which the sponsor is a BIPOC Entity. A BIPOC Project may be a New Construction Project, Rural Project, Preservation Project, or Other Rehabilitation Project. The partnership agreement of a BIPOC Project must allocate at least 51% developer fee, cash flow, and net sale proceeds to the BIPOC Entity and provide the BIPOC Entity an option to purchase the development. A BIPOC Project does not include a project for which any principal, partner, affiliate, parent organization, or member of the sponsor entity is eligible to receive maximum General Partner Experience points pursuant to Section 10325(c)(1)(A) of the CTCAC regulations unless (a) those points are awarded to a principal of the BIPOC Entity who no longer is employed by the developer of, or has an ownership interest in, the project(s) which form the basis of the experience points, or (b) those points are awarded to a nonprofit managing general

partner that is (1) eligible under 501(c)(3) of the Internal Revenue Code and (2) not receiving more than 10% of the economic interests of the Project, which include developer fee, cash flow, and net sale proceeds while utilizing the emerging BIPOC Entity to qualify for General Partner experience points pursuant to Section 10325(c)(1)(A) of the CTCAC regulations. All BIPOC Projects shall be prequalified under Section 5231(d).

[...]

“Community Revitalization Area” means one of the following areas for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to that plan have occurred: 1) a Distressed Community; 2) a Federal Opportunity Zone, Choice Neighborhood, Promise Neighborhoods, Office of the Justice Programs Community Based Violence Intervention and Prevention Program, USDA Rural Community Development Initiative Grant, or HUD-approved Neighborhood Revitalization Strategy Area; or 3) a Disadvantaged Community as identified by the California Environmental Protection Agency's CalEnviroScreen map.

“Community Revitalization Plan” means a plan for contributing to concerted community revitalization efforts as demonstrated by a letter from a local government official or the plan's lead agency. The letter shall explain how the proposed project will contribute to the community's planned revitalization and include, but is not limited to, a description of the following community engagement, investment, and other revitalization efforts:

1. Community enhancement services in the area, including, but not limited to, job training and after-school enrichment programs.
2. Funds, not including funds for the proposed project, that have been expended in the past five (5) years or are being expended or committed to be expended to improve the community infrastructure, including, but not limited to, parks, storm water systems, sewer systems, and streets.
3. Projects, not including the proposed project, that have been completed within the past five (5) years or are underway or committed to be completed that contribute to community revitalization, including, but not limited to, retail, office, and housing projects.

“CTCAC/HCD Opportunity Area Map” shall have the same meaning as in Section 10302(ccc) of the CTCAC regulations. An applicant may choose to utilize the census tract or census block group resource designation, as applicable, from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application. ~~Projects located in map areas designated as “Missing/Insufficient Data” or similar designation shall be considered to be in the resource area that most frequently surrounds the perimeter of the Project's map area.~~

[...]

“Neighborhood Change Map” means the Final 2024 Neighborhood Change Map, and any subsequent updates, developed by HCD to identify neighborhoods that have undergone rapid racial/ethnic change and economic change, which present a risk of exacerbating challenges to Affirmatively Furthering Fair Housing.

[...]

“Preservation Project” means a QRRP Project applying for an allocation of tax-exempt bonds that is not a New Construction project and meets at least one of the following: (1) has a pre-1999 HCD loan

that is being restructured pursuant to Health and Safety Code section 50560 of (AB 1699 projects); (2) is a replacement or rehabilitation project approved by HUD pursuant to a Section 18 or Section 22 Demolition/Disposition authorization; (3) is an At-Risk project that is not subject to a regulatory agreement imposing a rent restriction with a remaining term that is greater than five years from the year in which the application is filed that restricts income and rents on the residential units to an average no greater than 60% of the area median income; ~~or~~ (4) is a project being rehabilitated under the HUD Rental Assistance Demonstration (RAD) Program; (5) has received an award from HCD's Portfolio Reinvestment Program; or (6) is an SRO housing type as defined in Section 10325(g) of the CTCAC regulations and the rehabilitation will add a bathroom and complete kitchen to each unit.

The proposed changes add information regarding the need for BIPOC Projects to be prequalified under Section 5231(d). The changes also allow emerging BIPOC developers to compete in the BIPOC Pool while partnering with an experienced nonprofit general partner. The welfare tax exemption is a critical component of affordable housing development. Finding a nonprofit partner qualified to facilitate the exemption without full experience points is increasingly difficult creating a barrier to entry for emerging developers. Allowing this partnership with restrictions on the experienced nonprofits ownership and rights to profits will reduce this barrier.

The definition for Community Revitalization Area was revised to add additional efforts. The Community Revitalization Plan was revised to include a that a letter demonstrating community revitalization efforts can also come from the plan's lead agency. The definition of CTCAC/HCD Opportunity Area Map was revised to exclude projects located in map areas designated as "Missing/Insufficient Data" or similar designation to align with CTCAC's methodology for reviewing opportunity areas.

A definition for Neighborhood Change Map was added as this term is now used in Section 5231. Changes were made to the Preservation Project definition, including deleting "of" from a previous regulation change and expanding the eligibility criteria to include HCD's Portfolio Reinvestment Program projects and SRO properties converting to individual bathrooms and cooking facilities. This would put these types of projects into a larger pool where they would be more competitive.

Section 5220. Regulatory Compliance

(a) All QRRP allocation recipients are required to execute a Bond Regulatory Agreement (the "Regulatory Agreement"), as a condition to the Committee's making an allocation, which will be recorded against the property for which the allocation is used, and will reflect all commitments outlined in exhibit A of the Committee's resolution. For projects submitted to CDLAC after December 31, 2016, the Regulatory Agreement shall terminate prior to the end of the CDLAC Resolution affordability term only in the event of (i) involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action of a federal agency after the bond issuance which prevents the Issuer, Fiscal Agent and/or the Trustee (as applicable) from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, and/or transfer of title by deed in lieu of foreclosure in connection with a deed of trust directly or indirectly securing the repayment of Standard Permanent Bonds, or repayment of a non-Bond related obligation that provides permanent project financing and meets the requirements of section 5193 or condemnation or a similar event, but only if, in the case of the events described in either clause (i) or (ii) above, the bonds are redeemed within a reasonable period or the proceeds for the event are used to provide a project that meets the requirement of the Regulatory Agreement.

(b) [...]

The proposed change makes Trustee lower-case, as it is not a defined term.

Section 5230. Evaluation Criteria.

(a) [...]

(b) Preservation and Other Rehabilitation Project Priorities (20 points maximum).

(1) [...]

(v) A project that has received an award from HCD's Portfolio Reinvestment Program.

(B) A project that meets at list one of the following shall receive 14 points:

(i) [...]

(iii) A project applying as an SRO housing type, as defined in Section 10325(g) of the CTCAC regulations, and the rehabilitation will add a bathroom and complete kitchen to each unit.

(C) [...]

(2) [...]

(f) General Partner and Management Company Experience (10 points maximum).

(1) [...]

(C) 7 points if the ~~sole~~ sponsor is a BIPOC Entity that

(g) [...]

(i) Readiness to Proceed (10 points maximum). A project shall receive the number of points for which it is eligible pursuant to Section 10325(c)(7) of the CTCAC regulations, except that the applicant shall demonstrate that construction can commence within 180 days of the bond allocation. Projects that receive the maximum number of points pursuant to this subdivision shall have a readiness deadline that aligns with the allocation expiration assigned pursuant to Section 5100(b)(3)(i), and submit within that time period evidence of the issuance of building permits or the applicable tribal documents and notice to proceed delivered to the contractor. Failure to meet the assigned due date shall result in rescission of the bond allocation and. ~~In addition,~~ negative points may be assessed at the discretion of the Committee pursuant to subdivision (n).

(1) [...]

(j) Affirmatively Furthering Fair Housing (10 points maximum).

(1) [...]

~~(2) For purposes of subdivisions (A), a project located in a resource area designated on the CTCAC/HCD Opportunity Area Map as "Missing/Insufficient Data" shall be considered to have the~~

~~designation of the adjacent resource area that shares the longest common boundary with the resource area in which the project is located.~~

(k) [...]

(n) Negative Points (no maximum).

(1) The Committee may 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) [...]

(E) Ten (10) points may be deducted in connection with any extension granted by the Committee for allocations of QRRP Bonds pursuant to Sections 5101 and 5132. This deduction may be assessed against the Project Sponsor for a period of up to two (2) succeeding years (10 points each year) following the year the Allocation was awarded.

(2) [...]

The proposed changes add Preservation Projects that receive an award of HCD's Portfolio Reinvestment Program shall receive 20 points and a project applying as an SRO housing type that will add a bathroom and complete kitchen to each unit shall receive 14 points, in alignment with the change made under 5170 for Preservation Projects. Removes "sole" from 5230(f)(1)(C) to eliminate confusion. Under 5230(i) "in addition" was changed to "and". The proposed changes under 5230(j)(2) remove the option for using adjacent resource area designations for areas with "Missing/Insufficient Data" with the CTCAC/HCD Opportunity Area Map to align with CTCAC's methodology for reviewing opportunity areas. Additionally, the proposed changes add section (E) under 5230(n)(1) to state how many negative points a project may receive for extension requests under Sections 5101 and 5132 and for how long.

Section 5231. Ranking.

After all Applications for Qualified Residential Rental Projects are evaluated pursuant to Section 5230, the Applications shall be ranked and may be awarded an Allocation as follows, except that a project shall not receive a bond allocation if it had requested and is not scheduled to receive an award of State Tax Credits:

(a) [...]

(d) Applications for BIPOC Projects

(1) For any QRRP allocation round, all Applicants intending to qualify as a BIPOC Project to compete in the BIPOC pool shall pre-qualify as a BIPOC Project under this subdivision. Pre-qualification means the Executive Director determined the Applicant is a BIPOC Project under Section 5170.

A. At least 15 business days prior to the QRRP Application due date for an allocation round in which an Applicant intends to compete as a BIPOC Project, the Applicant shall submit a prequalification request to the Executive Director using the prequalification request form available on the CDLAC website.

B. The Executive Director shall issue a decision in response to any requests received under subdivision (d)(1)(A) no later than five (5) business days prior to a QRRP allocation round application due date. The Executive Director may request clarification or additional documentation from the Applicant about the prequalification request.

C. A pre -qualification approval letter is required to be included in any application submitted for a QRRP allocation round where the applicant intends to compete in the BIPOC pool.

D. The Executive Director's decision under subdivision (d)(1)(B) is not appealable to the Committee. Nothing herein limits an Applicant's right to an appeal under Sections 5036 or the Committee's authority to disqualify an application under Section 5146.

E. Applicants with pre-qualification requests not granted by the Executive Director shall not compete in the BIPOC pool but shall be eligible to compete for an Allocation under subdivisions (a), (b), (c), and (e) of this section.

(e2) Applications for BIPOC Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for BIPOC Projects awarded the greatest number of points after factoring in the tiebreaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the BIPOC Pool. Applications for BIPOC Projects not receiving an Allocation pursuant to this subdivision shall be eligible for consideration for an Allocation under subdivisions (a), (b), (c), and (e) of this section.

(e) Applications for Qualified Residential Rental Projects that are New Construction Projects, exclusive of Rural Projects, will then be ranked together. Applications receiving the greatest number of points after factoring in the tiebreaker pursuant to Section 5231(g), as applicable, shall be awarded an Allocation from the New Construction Pool in the following manner.

(1)(A) ~~Set Aside application selection. Beginning with the top ranked application from the Homeless Set Aside, subject to the conditions in Section 5231(e)(1)(B), followed by the Extremely Low/Very Low Income Set Aside, and the Mixed Income Set Aside, the highest scoring applications in each Set Aside shall be awarded an Allocation pursuant to the procedures in Section 5231(f). A project that meets the criteria of both the Homeless Set Aside and the Extremely Low/Very Low Income Set Aside shall be eligible for an allocation from either Set Aside. If the Homeless Set Aside is undersubscribed in a competitive round the remaining funds will transfer to the Extremely/Very Low Income Set Aside. All New Construction Projects, exclusive of Rural Projects, that do not receive an allocation from a Set Aside shall be eligible for an allocation from their respective geographic region pursuant to subdivision (e)(2).~~

~~(B) For purposes of the Homeless Set Aside only, applications for projects in which at least 45% of the tax credit units are designated for homeless households as defined in Section 10315(b)(1) (4) of the CTCAC regulations at affordable rents consistent with Section 10325(g)(3) of the CTCAC regulations shall be awarded an Allocation prior to any other application eligible for the Homeless Set Aside provided that those projects earn at least 95% (rounded down to the nearest whole number) of the maximum available points pursuant to Section 5230.~~

(2) [...]

(g) If two or more Applications are awarded the same total number of points, those Applications shall be ranked according to the highest amount of public benefit per dollar of cost-adjusted Bond and State Credit Allocation requested.

(1) [...]

(B) The project's rent savings benefit, which is as follows:

(i) For all projects not covered in subparagraph (ii), the product of the sum across all tax credit units of each unit's difference between the monthly fair market rent established by HUD for the county in which the project is located and the area median income monthly gross rent limit for that unit at the targeted rent level for the appropriate bedroom size, all calculated according to the methodology for tax credit rents, multiplied by 180. If this calculation results in a negative number for any particular unit, then the rent savings benefit for that unit shall not be lower than zero. Units with federal project-based rental assistance shall be assigned targeted rent levels of 30% AMI regardless of their actual income targeting. If the average affordability of tax credit units, exclusive of units with rental assistance, is less than 40% AMI, then the calculation shall assume a targeted rent level of 40% AMI for each tax credit unit that does not have rental assistance.

(ii) For Preservation Projects whose actual rents are less than the CTCAC rent limits, the sum of the following: (a) for tax credit units without federal project-based rental assistance, the product of the sum across all such units of each unit's difference between the monthly fair market rent established by HUD for the county in which the project is located and the average rent charged for each unit over the last three years, as documented with rent rolls or property audits, multiplied by 180; and (b) for tax credit units with federal project-based rental assistance the product of the sum across all such units of each unit's difference between the monthly fair market rent established by HUD for the county in which the project is located and the targeted rent level at 30% AMI regardless of their actual income targeting.

(C) [...]

(D) The project's location benefit, which is comprised of a Resource Area benefit, a Community Revitalization Area benefit, and a transit/walkability benefit. If a project is eligible for both a Resource Area benefit and a Community Revitalization Area benefit, the applicant shall select only one of these benefits. The Resource Area benefit and Community Revitalization Area benefits shall not be additive.

1. The Resource Area benefit is one of the following:

(i) [...]

(iv) The product of the bedroom-adjusted number of tax credit units in a new construction or acquisition/rehabilitation project located in neighborhoods identified as experiencing neighborhood change as specified on the HCD Neighborhood Change Map multiplied by \$30,000.

(v) A project is ineligible for this benefit if it receives a Community Revitalization Area benefit.

2. The Community Revitalization Area benefit is the product of the bedroom-adjusted number of tax credit units that are located in a Community Revitalization Area and are a component in the Area's Community Revitalization Plan multiplied by \$20,000.

(i) [...]

~~(ii) A project is ineligible for this benefit if it receives a Community Revitalization Area benefit.~~

3. The transit/walkability benefit is the sum of the following:

(i) [...]

(ii) The product of the bedroom-adjusted number of tax credit units within the project, multiplied by the number of non-transit site amenity point categories for which the project is eligible for the maximum points pursuant to Section 5230(m) (see CTCAC regulation Section 10325(c)(4)(A)2. through 9.), multiplied by \$4,000. ~~For purposes of this subdivision, the site amenity distances shall be measured by a walkable path;~~

(iii) [...]

(2) The cost-adjusted Bond and State Credit Allocation shall be calculated by reducing the unadjusted Bond and State Credit Allocation request by the following, as applicable:

(A) [...]

(D) For projects requiring seismic upgrading of existing structures, and/or projects requiring on-site environmental remediation, including cleanup of lead or asbestos, sporic growth, and dry rot due to water intrusion, the lesser of 15% or the percentage of the bond request related to such costs, to the extent that the project architect or seismic engineer certifies in the application to the costs associated with such work.

The proposed changes add Section 5231(d), a BIPOC prequalification process. The proposed changes also remove Section 5231(e)(1)(B), the paragraph related to priorities within the Homeless Set Aside because this incentive has creating operating challenges for many supportive housing developments.

Community Revitalization Area Benefits was changed to Community Revitalization Area Benefit in Section 5231(g)(1)(D) for consistency with references in other areas and adds "Area" to Community Revitalization in section 5231(D)(2) for consistency. Additionally, the proposed changes add a resource area benefit for neighborhoods identified as experiencing neighborhood in the HCD Neighborhood Change Map. The proposed changes also move the reference to receiving only one benefit to the correct areas. The proposed changes remove reference to measuring amenities on a walkable path for consistency with site amenity scoring.

In order to address inequities in the tie breaker for preservation projects with high capital needs, staff proposes two changes. First, the proposed change would allow the rent savings benefit in the numerator to be calculated using actual rents that have been lower than the CTCAC rent limits. For these projects, the rent savings would be the county fair market rent minus the average of actual rents charged over the last three years. Second, the proposed change would allow the denominator would be adjusted by up to 15% for rehabilitation projects involving seismic upgrading or environmental mitigation, consistent with the requirements for a threshold basis limit increase for 9% projects to improve tiebreakers for projects with extraordinary rehab needs.

Section 5232. Competitive Application Process Maximum Allocation Amount.

(a) For projects subject to the Competitive Application Process, the Committee will allocate no more than ~~seventy-five~~ ~~eighty~~ million dollars (\$~~75~~~~80~~,000,000) for any proposed Qualified Residential Rental Project. Where a proposed Qualified Residential Rental Project is located within one-fourth (1/4) mile of another Qualified Residential Rental Project involving the same Project Sponsor or a Related Party

to the Project Sponsor, the Allocation amounts for the Qualified Residential Rental Projects cannot, in the aggregate, exceed ~~seventy-five~~eighty million dollars (~~\$75~~\$80,000,000) within a calendar year.

(b) The Committee may waive this maximum allocation amount if the Committee determines that the demand for allocation for Qualified Residential Rental Projects is such that the maximum allocation amount is not warranted. An Applicant requesting an Allocation in excess of ~~seventy-five~~eighty million dollars (~~\$75~~\$80,000,000) may seek a waiver from the Committee based on the following factors:

(1) The Qualified Residential Rental Project qualifies as an At-Risk Project; or

(2) Documentation is provided in the Application indicating why a Qualified Residential Rental Project cannot be developed in phases at an ~~seventy-five~~eighty million-dollar (~~\$75~~\$80,000,000) level. The documentation must be specific and may include, but is not limited to, a site plan detailing the layout of the subject property, unit mix per stage of the phase, any unique features of the property which inhibits phasing, a description of infrastructure costs, and a cost breakdown by phases.

The proposed changes increase the maximum bond allocation amount to \$80,000,000 in response to the number of waiver requests received to the current \$75,000,000 allocation limit.

Section 5233. Allocation Limits

(a) Limit CDLAC bond allocation on all units in the QRRP Pools as follows:

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

(b) The Committee may waive this maximum per unit allocation amount if total allocation does not exceed eighty million dollars (\$80,000,000) and the Committee determines that the demand for allocation for Qualified Residential Rental Projects is such that the maximum allocation amount is not warranted. An Applicant requesting an Allocation in excess of the per unit maximum must demonstrate the need for a larger allocation is necessary for project feasibility or to meet the 50% aggregate depreciable basis plus land test.

~~(b)~~ Private Activity Bond allocation awards cannot exceed 55% of the aggregated depreciable basis plus land basis. In determining compliance with this test, CDLAC staff may rely on the legal or tax opinion submitted with the application.

The proposed changes add a provision for a waiver of the per unit allocation limit similar to the maximum total allocation limit.