



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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EXECUTIVE DIRECTOR
MARINA WIAANT

DATE: October 9, 2026

TO: Low-Income Housing Tax Credit Stakeholders

FROM: Marina Wiant, Executive Director

RE: Proposed Regulation Changes with Initial Statement of Reasons

The California Tax Credit Allocation Committee (CTCAC) is considering the proposed regulation changes to be adopted at the CTCAC meeting scheduled on December 9, 2026. This memorandum includes the proposed changes with the initial statement of reasons. CTCAC 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.

CTCAC is accepting written public comment on the proposed regulation changes until Monday, November 2, 2026 at 5:00 p.m. Interested persons may submit public comment in writing via the [Microsoft Forms page](#), mail, or hand delivery. For mailed or hand delivered public comment, please mail or deliver to CTCAC at 915 Capitol Mall, Suite 280, Sacramento, CA 95814. CTCAC encourages commenters to be clear and concise with their public comments. Please explicitly indicate your agreement or disagreement with the changes to ensure CTCAC accurately captures your position. CTCAC will only consider public comments relevant to the regulation changes being proposed.

List of Proposed Regulation Changes with Initial Statement of Reasons
October 9, 2026

Chapter 1. Federal and State Low-Income Housing Tax Credit

1. Section 10302. Definitions

The proposed change eliminates subsections to prevent cross-referencing issues and defines and clarifies terms used elsewhere in regulations. (Pages 2-10)

Proposed change:

Acquisition and/or Rehabilitation. Acquisition and/or Rehabilitation means the purchase of an existing building containing residential units and/or the rehabilitation of existing residential units. A project that meets these conditions but is competing in the CDLAC New Construction Pool shall be considered an Acquisition and/or Rehabilitation for the purposes of the CTCAC regulations. A project that contains any combination of Acquisition and/or Rehabilitation, Adaptive Reuse, and New Construction components shall meet the requirements for all applicable construction types.

Adaptive Reuse. Adaptive Reuse means the retrofitting and repurposing of an existing buildings tha
to create new residential rental units,~~and expressly excludes any project that involves Adaptive reuse does not include~~ rehabilitation of any construction affecting existing residential rental building or other construction affecting existing residential rental housing units, as defined by the U.S. Census Bureau. Adaptive Reuse may include the conversion retrofitting and repurposing of an existing hotels,
~~or motels, or other nonresidential building to residential rental housing, provided if the hotel or motel is not occupied as currently a place of residence at the time of application for the occupants, and/or sites that received a Project Homekey allocation.~~

Applicant. Applicant means the named applicant on the CTCAC application for low-income housing tax credits.

CTCAC/HCD Opportunity Area Map. A map or series of maps approved annually by the Committee as the CTCAC/HCD Opportunity Area Map.

Developer Fee. All Funds paid at any time as compensation for developing the proposed project, to include all processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of one year of proposed operating expenses and required debt service payments~~those customarily required by multi-family housing lenders.~~

Housing Development and Finance Committee or HDFC. The multifamily housing finance committee established pursuant to Section 54925 et seq. of the Health and Safety Code.

New Construction. New Construction means the development of one or more new residential rental buildings that are not existing buildings for purposes of IRC Section 42 and creates new residential rental units, even if replacing existing residential units via demolition. A project that contains any combination of Acquisition and/or Rehabilitation, Adaptive Reuse, and New Construction components shall meet the requirements for all applicable construction types.

Project Sponsor. Project Sponsor means the ownership entity for the tax credit project, whether currently existing, proposed, or to-be-formed.

Rehabilitation. Rehabilitation means renovation or improvement of an existing residential rental building that remains in residential use before and after completion of the work.

~~(hhh)~~ Scattered Site Project. A project in which the parcels of land are not contiguous except for the interposition of a road, street, stream or similar interposition and all units are rent-restricted consistent with subdivision (g)(7) of Section 42 of the IRC.

- (1) For acquisition and/or rehabilitation projects with one pre-existing USDA Rental Assistance contract or project-based Section 8 contract in effect for all the sites, there shall be no limit on the number or proximity of sites.
- (2) For acquisition and/or rehabilitation projects with any of the following: (A) existing federal or state rental assistance or operating subsidies, (B) an existing CTCAC Regulatory Agreement, or (C) an existing regulatory agreement with a federal, state, or local public entity, the number of sites shall be limited to five, unless the Executive Director approves a higher number, and all sites shall be either within the boundaries of the same city, within a 10-mile diameter circle in the same county, or within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more.
- (3) For new construction projects and all other acquisition and/or rehabilitation projects, the number of sites shall be limited to five, and all sites shall be within a 1-mile diameter circle within the same county.

Senior Unit. Senior Unit means a Low-Income Unit occupied by a “senior citizen,” as that term is defined in California Civil Code section 51.3.

Single Room Occupancy (SRO)/Studio: An efficiency unit that may or may not include a complete private bath and kitchen but generally does not have a separate bedroom, unless the configuration of an existing building being proposed to be used for an SRO dictates otherwise. A complete private bath consists of a toilet and shower, with a vanity sink that may or may not be in the same room. SRO units in projects with an existing regulatory agreement recorded with CTCAC or another government agency shall be deemed having met the requirements of an SRO/Studio. Projects containing units that do not have complete private baths shall provide at least one bath per eight units and at least one complete bath per floor. Common kitchen facilities shall be provided for units without complete kitchens. CTCAC uses SRO and Studio interchangeably but recognizes some jurisdictions may not, and the project shall comply with all local regulations.

Tax forms. Income tax forms for claiming Tax Credits: for Federal Tax Credits, IRS Form 8609; and, for State Tax Credits, CTCAC~~FTB~~ Form 3521A.

~~(vvv) CTCAC/HCD Opportunity Area Map. A map or series of maps approved annually by the Committee as the CTCAC/HCD Opportunity Area Map.~~

2. Section 10315(c). Rural Set-aside.

The proposed change removes a reference to a point category previously removed. (Page 14)

Proposed change:

(c) Rural Set-aside. [...]

- (2) Native American apportionment. In each reservation cycle starting in 2024 and each year thereafter, ten percent (10%) of the rural set-aside shall be available for applications proposing projects on land to be owned by a Tribe, whether the land is owned in fee or in trust, and in which occupancy will be legally limited to tribal households, except that up to 20% of Low-Income Units may serve non-tribal households if required by the HOME Program. Apportioned dollars shall be awarded to projects sponsored by Tribes using the scoring criteria in Section 10325(c), and achieving the minimum score established by CTCAC under Section 10305(h). In addition, the application shall receive the minimum points available for both general partner and management company experience under Section 10325(c)(1), ~~except that the management company minimum scoring cannot be obtained through the point category for a housing tax credit certification examination.~~

3. Section 10315(h). Housing types.

The proposed change is a conforming change to meet the requirements of California Civil Code Section 51.3.5. (Pages 14-15)

Proposed change:

- (h) Housing types. (1) To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below, exclusive of the Acquisition and/or Rehabilitation and Large Family New Construction located in a Highest or High Resource Area housing types which are listed here solely for purposes of the tiebreaker in Section 10325(c)(9), and must meet the applicable “additional threshold requirements” of Section 10325(g), in addition to the Basic Threshold Requirements in 10325(f). The Committee will employ the tiebreaker at Section 10325(c)(9) in an effort to assure that no single housing type will exceed the following percentage goals where other housing type maximums are not yet reached:

[...]

- (2) For purposes of the Acquisition and/or Rehabilitation Housing Type goal within the

Rural set aside, a project will be considered an acquisition and/or rehabilitation project if at least 50% of the units were previously residential dwelling units.

(3) A large family new construction project that receives a tiebreaker increase in Section 10325(c)(9) for being located in a Highest or High Resource census tract shall count against both that housing type and the general Large Family housing type.

(4) For purposes of the Senior Housing Type goal, a project meeting the requirements of California Civil Code Section 51.3.5 will have the credit request multiplied by the percentage of Senior Units in the Project.

4. Section 10315(j). Credit available for geographic apportionments.

The proposed change allows the annual credit available in a geographic area be made available in the first 9% funding round for geographic areas where 125% of 50% of the annual credit available is less than the maximum annual Federal Tax Credit limit in CTCAC Regulations Section 10325(f)(9)(C). This will allow projects in these smaller geographic areas, where there are insufficient 9% credits available to fund a single project each funding round, to be funded earlier in the year to expedite unit production and provide additional time to meet the required federal placed-in-service deadline. (Page 16)

Proposed change:

(j) Credit available for geographic apportionments. Geographic apportionments, as described in this Section, shall be determined prior to, and made available during each reservation cycle in the approximate percentages of the total Federal and State Credit Ceiling available pursuant to Subsection 10310(b), after CTCAC deducts the federal credits set aside in accordance with Section 10315(a) through (g) from the annual Credit Ceiling. For geographic areas where 125% of the 50% of the annual credit available is less than the maximum annual Federal Tax Credit limit per Section 10325(f)(9)(C), the annual credit available in a geographic area shall be available in the first 9% funding round.

5. Section 10317(c). Limit on Credit amount.

The proposed change removes the point category for credit exchanges and makes this a requirement of all projects requesting state credits. Requests for state credits have grown larger in recent years and forward-commitments have become common due to awards being made in terms of annual adjusted credits. Recognizing that state credits often attain higher pricing than federal credits in the current market, staff propose to allow all projects receiving exchanges to keep at least half of their initial state request. By making these exchanges in the order of largest state credit request per unit, staff hopes to incentivize projects to request the minimum amount of state credits necessary for feasibility, while understanding that larger projects may have larger overall requests.

The proposed change to the state credit limit in Section 10317(j) will help ensure the efficient use of limited state resources. (Page 17)

Proposed change:

(c) Limit on Credit amount.

[...]

- (3) In the event that reservations of state credits to credit ceiling applications exceed the amount of state credits available, CTCAC post-reservation shall designate applications for which there are insufficient state credits as difficult development area (DDA) projects pursuant to Section 10327(d)(3) and exchange state credits for federal credits in an amount that will yield equal equity based solely on the tax credit factors stated in the application and may exceed the maximum annual Federal Tax Credits in Section 10325(f)(9)(C).

Such exchanges shall be made in the order of highest state credit request per number of Tax Credit Units and shall not remove more than 50% of the original state credit request. At the conclusion of each credit ceiling funding round, staff shall evaluate the amount of state credit allocated. If the amount allocated is greater than the proportionate amount based on the number of competitive rounds in that calendar year, staff shall make exchanges until the amount is in balance for each round. All state credit allocations are conditioned on the ability of CTCAC to make these exchanges.

- (4) For projects applying for State Tax Credits in paragraph (j), the maximum request for any one project in any funding round shall not exceed ~~Two~~One Hundred ~~Fifty~~ Thousand ~~dollars~~ (\$~~200~~150,000) ~~dollars~~ per Tax Credit Unit. Farmworker Housing projects are exempt from this requirement.

6. Section 10317(j). State Tax Credit Allocations pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code.

The proposed change is a clarifying change to match the separation of the CDLAC readiness deadline from the bond issuance deadline. (Pages 19-20)

Proposed change:

(j) State Tax Credit Allocations pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code.

[...]

- (2) No later than the CDLAC readiness deadline or, for projects that did not received CDLAC readiness points pursuant to CDLAC Regulation Section 5105(h), the bond issuance deadline), the applicant must submit to CTCAC building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or

county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and notice to proceed delivered to the contractor.

- (3) Failure to submit said documents to CTCAC by the CDLAC readiness or bond issuance deadline, as applicable, shall result in rescission of the Tax Credit Reservation ~~and may result in or~~ assessment of negative points.

7. Section 10317(k). State Credit Elections.

CTCAC is modernizing its process and forms for certifying state tax credits in coordination with the Franchise Tax Board. The proposed changes align the certificated state tax credit process with current provisions of the Revenue and Taxation Code, revise the name of Form 3521A to be "CTCAC Form 3521A," make additional technical clean-up and move the requirement concerning limitations on cash distributions to the Regulatory Agreement provisions of Section 10337. (Page 20)

Proposed change:

- (k) State Credit Elections. ~~All projects that have received state credits shall comply with the limitations on cash distributions required pursuant to Sections 12206(d), 17058(d), and 23610.5(d) of the Revenue and Taxation Code.~~
- (1) ~~An a~~Applicants receiving a preliminary reservation of state credits ~~requesting state credits shall make an election to sell ("certificate") all or any portion of the state credit, as allowed pursuant to Revenue and Taxation Code Sections 12206(o), 17058(q), and 23610.5(r). The applicant for a certificated credit shall be a non-profit entity and the state credit price shall not be less than eighty (80) cents per dollar of credit. The applicant may make the election to sell ("certificate") the state credits at any time before CTCAC issues CTCAC the Form(s) 3521A for the Pproject, at which the point the election shall becomes~~ irrevocable.
- (2) Consistent with applicable provisions of the RTC, An applicants who electings to certificate ~~sell any portion of their~~ state credits and a buyer who later re may sells all or any portion of anythe credit allowed under the RTC to one or more unrelated parties for each taxable year in which the credit is allowed, provided the credit is not sold for less than eighty cents (\$0.80) per dollar of credit. All sales and resales of certificated state credits must beshall reported to CTCAC within 10 days of the sale ~~of the credit.~~ The report must be in a form prescribedspecified by CTCAC and include, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the buyer(s) party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received for the sale of the credit. ~~At the request of the owner, CTCAC shall reissue the~~

~~Form(s) 3521A in the name of the buyer.~~

8. Section 10322(h). Application Requirements.

The proposed change clarifies several existing requirements. Additionally, the proposed change related to appraisals requires appraisals to establish market value in circumstances where general partners are selling the land amongst themselves, since this is not a market-driven transaction. The proposed change related to subsidies requires applicants to disclose all occupancy or targeting requirements in order to assist staff in verifying that no other funding sources have conflicting requirements. (Pages 24-30)

Proposed change:

[...]

(9) Appraisals. Appraisals are required for: 1) all rehabilitation applications except as noted in subsection (A), below, 2) all adaptive reuse applications, 3) all competitive applications, except for new construction projects that are on tribal trust land or that have submitted a third party purchase contract with, or evidence of a purchase from, an unrelated third party, 4) all applications seeking tiebreaker credit for donated or leased land, or land with a soft loan and 5) all new construction applications involving a land sale from a related party. For purposes of this paragraph only, a purchase contract or sale with a related party shall be deemed to be a purchase contract or sale with an unrelated party if the applicant demonstrates that the related party is acting solely as a pass-through entity and the tax credit partnership is only paying the acquisition price from the last arms-length transaction, plus any applicable and reasonable carrying costs. For purposes of this subsection (9), Related Parties shall include co-general partners of the proposed project. Appraisals shall not include the value of favorable financing.

[...]

(17) Eligible basis certification. A certification from a third party certified public accountant or tax attorney that project costs included in applicant's calculation of eligible basis are allowed by IRC Section 42, as amended, and are presented in accordance with standard accounting procedures. This must be delivered on the tax professional's corporate letterhead, in the prescribed CTCAC format and must include a statement that the Sources and Uses Budget was reviewed and that the accountant or attorney discussed the budget with the applicant as needed. The letter shall include a demonstration of any costs not includable in basis under federal law which have not been excluded by the shaded cells in the application sources and uses budget itself.

[...]

(22) Certification of subsidies. The applicant must certify as to the full extent of all Federal, State, and local subsidies which apply (or for which the taxpayer expects to apply) with respect to the proposed project. (IRC Section 42(m)(2)(C)(ii)). The certification shall include a complete disclosure of all occupancy or targeting restrictions required by each subsidy source. If rental

assistance, operating subsidies or annuities are proposed, all related commitments that secure such funds must be provided. Tax-Exempt Bond Projects may receive a reservation of tax credits with the condition to provide the applicable subsidy commitment no later than the CDLAC readiness deadline or, for projects that did not receive CDLAC readiness points pursuant to CDLAC Regulation Section 5105(h), the bond issuance deadline. The source, monthly contract rent, annual amount (if applicable), term, number of units receiving assistance, and expiration date of each subsidy must be included.

(23) Cash flow projection. A 15-year projection of residential project cash flow. If a capitalized operating reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized operating reserve is limited to (1) Special Needs projects where Special Needs Units are at least 25% of the total Low-Income Units, (2) projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and (3) Section 8 project-based projects with an average targeted affordability of 40% of AMI or less.

[...]

(25) Acquisition Tax Credits application. Applicants requesting acquisition Tax Credits under IRC Section 42(d)(2) shall provide:

~~a chain of title report or, for tribal trust land, an attorney's opinion regarding chain of title; and~~

i. ~~if applicable, an applicant statement that the acquisition is exempt from, or a written opinion from an independent third-party tax attorney's opinion stating concluding that the project qualifies for acquisition tax credits under meets the requirements of IRC Section 42(d)(2)(B)(ii) through (iv) or qualifies for any applicable statutory exception as to the 10-year placed-in-service rule; or,~~

ii) ~~if a waiver of the 10-year ownership rule is necessary, a letter from the appropriate Federal official that states that the proposed project qualifies for a waiver under IRC Section 42(d)(6).~~

(26) Capital Needs Assessment.

(A) Rehabilitation application. ~~Applicants proposing rehabilitation of an existing structure shall provide:~~ a CNA performed within 180 days prior to the application deadline (except as provided in Section 10322(h)(35)) that details includes:

(1) The condition and remaining useful life of the building's major structural components;

(2) All necessary work needed to be undertaken, the nature of the work, and its associated costs, as well as the nature of the work, distinguishing between immediate and long-term repairs; and

(3) The CNA shall also include a pre-rehabilitation 15-year reserve study,

indicating anticipated dates and costs of future replacements of all current major building components. Applications for resyndication shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years in the reserve study, unless the Executive Director has waived the CNA requirement under Section 10338(c) or the project has ten years or less remaining on the existing regulatory agreement.

(B) The CNA must be prepared by the project architect with, as long as the project architect has no identity of interest with the developer, or by a qualified independent ~~3rd~~ party who has no identity of interest with any of the members of the Development Team. ~~An adaptive reuse application is not required to submit a CNA.~~

[...]

(34) Mixed housing types. An applicant proposing a project to include age-restricted~~senior~~ housing in combination with non-age-restricted~~senior~~ housing shall provide a third-party legal opinion stating that the project complies with Fair Housing Laws.

(35) Reapplication documents. Notwithstanding the time sensitive document requirements, the Committee may permit the site control title report and the CNA of an unsuccessful application to be submitted, only once, in the reapplication cycle immediately following the unsuccessful application.

~~(35)~~(36) Public Housing Waiting Lists. The applicant shall provide evidence of public housing waiting lists from the local housing authority, by bedroom size and tenant type if available, as required by IRC § 42(m)(1)(C)(vi).

9. Section 10322(i)-(j).

The proposed change is a conforming change consistent with the amendments to Section 10317(k), technical clean-up to clarify the PIS application deadline for projects with multiple buildings, and removal of archaic text. (Pages 30-31)

Proposed change:

- (i) Placed-in-service Applications and issuance of Tax Forms. Prior to CTCAC issuing IRS Form 8609 and/or ~~FTB-CTCAC~~ form 3521A, the project owner shall:
 - (1) Submit a complete placed-in-service application containing all information and documents required by the Executive Director and published on the CTCAC website. The application shall explain any changes in information or documentation between the initial application and placed-in-service application.
 - (A) Complete placed-in-service applications for new construction projects shall be submitted within one year of the final certificate of occupancy date. In projects with multiple buildings, the placed-in-service dateapplication shall be submitted within

one year of the latest final certificate of occupancy date of any building.

[...]

- (j) Revisions to 4% Reservations at Placed in Service. Proposals submitted under Section 10326 of these regulations do not require new applications for changes in costs or Tax Credits alone. Committee staff will adjust the Credit amount when the placed-in-service package is received and reviewed. Approval of the Executive Director is required for any change in unit mix or income targeting after reservation except for changes that result in deeper income targeting. It is the applicant's responsibility to notify CTCAC of any unit mix or income targeting change. Projects at placed-in-service that are requesting additional Tax Credits will be required to submit a fee equal to one percent (1%) of the increase from reservation in the annual federal tax credits allocated. ~~This section shall apply to all projects for which CTCAC issues tax forms after December 31, 2017.~~

10. Section 10325(c)(1). General Partner/Management Company Characteristics.

The proposed change clarifies that the CPA certification must be prepared within 60 days of the application deadline, unless prepared with the financial statements from the preceding calendar year, in which case it may be re-submitted throughout the calendar year. This allows applicants to reuse the same certification between 9% and 4% rounds, and into the third 4% round, reducing costs for applicants. Additionally, the proposed change improves the readability of the regulations by using the same term throughout and clarifies the current language regarding projects previously owned for General Partners in Section 10325(c)(1)(A)(i) also applies to Management Companies applying for points under Section 10325(c)(1)(B). (Pages 33-35)

Proposed change:

(c) Credit Ceiling application competitions. [...]

- (1) General Partner/Management Company Characteristics.

No one general partner, party having any fiduciary responsibilities, or related parties will be awarded more than 15% of the Federal Credit Ceiling, calculated as of February first during any calendar year unless imposing this requirement would prevent allocation of all of the available Credit Ceiling.

- (A) General partner experience. To receive points under this subsection for projects in existence for more than three years, a proposed general partner, or a key person within the proposed general partner organization, must meet the following conditions:
- (i) For projects in operation for more than three years, submit a certification from a third party certified public accountant that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents, rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial

statement has been prepared and have funded reserves in accordance with the partnership agreement and any applicable loan documents. To obtain points for projects previously owned by the proposed general partner, a similar certification must be submitted with respect to the last full year of ownership by the proposed general partner, along with verification of the number of years that the project was owned by that general partner. To obtain points for projects previously owned, the ending date of ownership or participation must be no more than 10 years from the application deadline. This certification must list the specific projects for which the points are being requested. The certification of the third party certified public accountant may be in the form of an agreed upon procedure report that includes funded reserves as of the report date, which shall be dated within 60 days of the application deadline, unless the general partner or key person has no current projects which are eligible for points in which case the report date shall be after the date from which the general partner or key person separated from the last eligible project. If the certification is prepared for a ~~first round application~~ utilizing prepared financial statements of the previous calendar year, the certification may be submitted in a ~~subsequent~~~~second~~ round application, exceeding the 60 day requirement above. Where there is more than one general partner, experience points may not be aggregated; rather, points will be awarded based on the highest points for which 1 general partner is eligible.

[...]

Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. For points to be awarded in subsection (B), an enforceable management agreement executed by both parties for the subject application must be submitted at the time of application. "Projects" as used in subsections (A) and (B) means multifamily rental affordable developments of over 10 affordable units that are subject to a recorded regulatory agreement, or, in the case of housing on tribal lands, where federal HUD funds have been utilized in affordable rental developments. General Partner and Management Company experience points may be given based on the experience of the ~~principals~~ key persons involved, or on the experience of municipalities or other nonprofit entities that have experience but have formed single-asset entities for each project in which they have participated, notwithstanding that the entity itself would not otherwise be eligible for such points. For qualifying experience, "~~key person~~principal" is defined as an individual overseeing the day-to-day operations of affordable rental projects as senior management personnel of the General Partner or property management company. To obtain points for projects previously owned or managed, the ending date of ownership or participation must be no more than 10 years from the application deadline.

11. Section 10325(c)(4)(A). Site Amenities.

The proposed change aligns the point scoring for High and Highest Resource Areas with the

requirements to receive the corresponding tie breaker boost. Additionally, the proposed change allows alternative mobility solutions for senior project, which reflects the transit needs for low-income older adults. (Pages 38-41)

Proposed change:

(c) Credit Ceiling application competitions. [...]

(4) Amenities beyond those required as additional thresholds

(A) Site Amenities [...]

1. Transit Amenities

The project is located where there is a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop within 1/3 mile from the site with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday, and the project's density will exceed 25 units per acre. 7 points

The site is within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 6 points

The site is within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 5 points

The site is located within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. (For Rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided. For senior projects, full points may be awarded where alternative mobility solutions such as on-site shuttle or van service, paratransit, is provided to tenants, if costs of obtaining and maintaining the shuttle or van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided.)

[...]

11. The project is a new construction Large Family housing type project (excluding a

Special Needs project with non-special needs Low-Income Units meeting Large Family housing type requirements, except for an inclusionary project as defined in Section 10325(c)(9)(C), and the site is located in a census tract, or census block group as applicable, designated on the CTCAC/HCD Opportunity Area Map as Highest or High Resource.

12. Section 10325(c)(4)(B). High quality services.

The proposed change creates a service amenity category to support older adults aging in place. (Pages 42-44)

Proposed change:

(c) Credit Ceiling application competitions. [...]

(4) Amenities beyond those required as additional thresholds

[...]

(B) Projects that provide high-quality services designed to improve the quality of life for tenants are eligible to receive points for service amenities. [...]

For Large Family, Senior, and At-Risk Projects or for the non-Special Needs units in a Special Needs Project with less than 75% Special Needs units, amenities may include, but are not limited to:

[...]

4. Health and wellness services and programs. Such services and programs shall provide individualized support to tenants (not group classes) and need not be provided by licensed individuals or organizations. ~~Includes, but is not limited to visiting nurses programs, intergenerational visiting programs, or senior companion programs.~~ The application must describe in detail the services to be provided.

100 hours of services per year for each 100 bedrooms 5 points

60 hours of services per year for each 100 bedrooms 3 points

5. Senior services to support aging in place. Such services and programs shall provide individualized support to tenants (not group classes) and need not be provided by licensed individuals or organizations. Includes, but is not limited to wellness check programs, intergenerational visiting programs, or senior companion programs. The application must describe in detail the services to be provided.

100 hours of services per year for each 100 bedrooms 5 points

60 hours of services per year for each 100 bedrooms 3 points

13. Section 10325(c)(8). Miscellaneous Federal and State Policies.

The proposed change removes the point category for credit exchanges and makes this a requirement of all projects requesting state credits in Section 10317(c)(3), helping ensure the availability of state credits long-term. (Pages 46-47)

Proposed change:

(c) Credit Ceiling application competitions. [...]

(8) Miscellaneous Federal and State Policies

Maximum 2 points

~~(A) Credit Substitution. For applicants who agree to both 1) exchange Federal Tax Credits for State Tax Credits pursuant to Section 10317(e) and 2) exchange State Tax Credits for Federal Tax Credits pursuant to Section 10317(c). 2 points~~

~~Applicants receiving these points agree to make the exchange in a manner that yields equal equity based solely on the tax credit factors stated in the application.~~

14. Section 10325(c)(9). Tie Breakers.

The proposed change adds paragraphs and numbering to improve readability of the regulations. This section has been reorganized so that related items are listed together. Additional clarification has been added regarding USDA loan assumptions and subsidies, general partner loans of third-party grants, CTCAC policy on land sales at a below-market rate relating to tiebreaker credit, in kind services, and Hybrid project requirements. (Pages 48-57)

Proposed change:

(c) Credit Ceiling application competitions. [...]

(9) Tie Breakers.

If, after the credit competition in subdivision (c), multiple applications receive the same score, ~~the following tie breakers shall be employed~~ tie breakers shall be applied.

For applications for projects within single-jurisdiction regional competitions only (the City and County of San Francisco and the City of Los Angeles geographic apportionments), the first tiebreaker shall be the presence within the submitted application of a formal letter

of support for the project from either the San Francisco Mayor's Office of Housing or the Los Angeles Housing Department respectively. Within those cities, and for all other applications statewide, the subsequent tiebreakers shall be as follows:

First, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, then the application will be skipped (unless the application to be skipped is the highest ranked in the set-aside, Native American apportionment, or geographic region) if there is another application with the same score and with a housing type goal that has not been met in the current funding round in the percentages listed in section 10315; and

Second, the highest of the sum of the following:

~~(B)~~—Leveraged soft resources, as described below, defraying residential costs to total residential project development costs. Except where a third-party funding commitment is explicitly defraying non-residential costs only, leveraged soft resources shall be discounted by the proportion of the project that is non-residential. Leveraged soft resources shall be demonstrated through documentation including but not limited to funding award letters, committed land donations, or documented project-specific local fee waivers.

(A) Leveraged soft resources shall include all of the following:

(i) Public funds. ~~There shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land.~~ "Public funds" includes:

~~(l) f~~Federal, tribal, state, or local government funds, ~~including the outstanding principal balances of prior existing public debt or subsidized debt that has been or will be assumed in the course of an acquisition/rehabilitation transaction, except that outstanding principal balances for projects subject to an existing CTCAC regulatory agreement shall not be considered public funds if such loans were funded less than 30 years prior to the application deadline. Outstanding principal balances shall not include any accrued interest on assumed loans even where the original interest has been or is being recast as principal under a new loan agreement. Public funds shall include assumed principal balances only upon documented approval of the loan assumption or other required procedure by the public agency holding the promissory note.~~

~~In addition, public funds include funds already awarded under the Affordable Housing Program of the Federal Home Loan Bank (AHP), waivers resulting in quantifiable cost savings that are not required by federal or state law, local government fee reductions established in~~

~~ordinance and not required by federal or state law that are available only to rental affordable housing for lower income households and affordable ownership housing for moderate income households, or the value of land and improvements donated or leased by a public entity or donated as part of an affordable housing ordinance, development agreement or legally enforceable mandate that is negotiated between a public entity and an unrelated private developer. The value of land leased by a public entity shall be discounted by the sum of up-front lease pre-payments and all mandatory lease payments in excess of \$100 per year over the term of the lease, exclusive of residual receipt payments. For new construction applications, only the vacant land value may be counted for tiebreaker credit. The value of improvements to be demolished does not qualify as a leveraged soft resource.~~

(aa) Private loans that are guaranteed by a public entity (for example, RHS Section 538 guaranteed financing) shall not be counted as public funds, unless the loans have a designated repayment commitment from a public source other than rental or operating subsidies, such as the HUD Title VI Loan Guarantee Program involving Native American Housing Assistance and Self Determination Act (NAHASDA) funds. ~~Land and building values, including for land donated or leased by a public entity or donated as part of an affordable housing ordinance, development agreement or legally enforceable mandate, must be supported by an independent, third party appraisal consistent with the guidelines in Section 10322(h)(9). The appraised value is not to include off-site improvements. For Tribal apportionment applications, donated land value and land purchase funding shall not be eligible. However, unsuccessful Tribal apportionment applicants subsequently competing within the rural set-aside or tribal applicants competing in a geographic region shall have such donated land value and land purchase funding counted competitively as public funding if the land value is established in accordance with the requirements of this paragraph.~~

(bb) Loans must be “soft” loans, having terms (or remaining terms) of at least 15 years, and below market interest rates and interest accruals, and are either fully deferred or require only residual receipts payments for at least the first fifteen years of their terms.

(AA) Qualified soft loans may have annual fees that reasonably defray compliance monitoring and asset management costs associated with the project.

(BB) The maximum below-market interest rate allowed for tiebreaker purposes shall be the greater of four percent (4%)

simple, or the Applicable Federal Rate if compounding. An award of public funds received by the general partner or a Related Party and loaned to the project shall be considered leveraged soft resources only if loaned at zero percent (0%) interest rate with a minimum 55-year term.

(CC) RHS Section 514 or 515 financing shall be considered soft debt in spite of despite a debt service requirement. Further, there shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land. Seller-carryback financing and any portion of a loan from a public seller or related party that is less than or equal to sale proceeds due the seller, except for a public land loan to a new construction project that is not replacing affordable housing within the footprint of the original development, shall be excluded for purposes of the tiebreaker. Projects that include both new construction and rehabilitation or affordable housing replacement shall have the land loan value prorated based on units.

(II) The outstanding principal balances of prior existing public debt or subsidized debt that has been or will be assumed in the course of an acquisition/rehabilitation transaction, except that outstanding principal balances for projects subject to an existing CTCAC regulatory agreement shall not be considered public funds if such loans were funded less than 30 years prior to the application deadline.

(aa) Outstanding principal balances shall not include any accrued interest on assumed loans even where the original interest has been or is being recast as principal under a new loan agreement.

(bb) Public funds shall include assumed principal balances only upon documented approval of the loan assumption or other required procedure by the public agency holding the promissory note.

(AA) Notwithstanding subparagraph (II), assumptions of existing USDA mortgages shall be includable upon provision of a "Tax Credit Support Letter" from USDA. Such projects shall submit documentation to CTCAC within 30 days of the credit reservation

(BB) that a complete transfer application has been submitted to USDA. Failure to submit such documentation to CTCAC by the deadline may result in assessment of negative points.

(III) Funds already awarded under the Affordable Housing Program of the Federal Home Loan Bank (AHP).

(IV) Waivers resulting in quantifiable cost savings that are not required by federal or state law.

(V) Local government fee reductions established in ordinance and not required by federal or state law that are available only to rental affordable housing for lower-income households and affordable ownership housing for moderate income households.

(VI) The value of land and improvements donated or leased by a public entity or donated as part of an affordable housing ordinance, development agreement, or legally enforceable mandate that is negotiated between a public entity and an unrelated private developer.

(aa) Land and building values, including for land donated or leased by a public entity or donated as part of an affordable housing ordinance, development agreement or legally enforceable mandate, must be supported by an independent, third-party appraisal consistent with the guidelines in Section 10322(h)(9). The appraised value is not to include off-site improvements.

(bb) Land donations include land leased for a de minimis annual lease payment and the difference between the sale price and the appraised value of land sold by a public entity at below-market rate.

(cc) The value of land leased by a public entity shall be discounted by the sum of up-front lease pre-payments and all mandatory lease payments in excess of \$100 per year over the term of the lease, exclusive of residual receipt payments.

(dd) For new construction applications, only the vacant land value may be counted for tiebreaker credit. The value of improvements to be demolished does not qualify as a leveraged soft resource.

(ee) For Native American apportionment applications, donated land value and land-purchase funding shall not be eligible. However, unsuccessful Native American apportionment applicants subsequently competing within the rural set-aside or tribal applicants competing in a geographic region shall have such donated land value and land-purchase funding counted competitively as public funding if the land value is established in accordance with the requirements of this paragraph.

(ff) Seller carryback financing and any portion of a loan from a public seller or related party that is less than or equal to sale proceeds due

the seller, except for a public land loan to a new construction project that is not replacing affordable housing within the footprint of the original development, shall be excluded for purposes of the tiebreaker. Projects that include both new construction and rehabilitation or affordable housing replacement shall have the land loan value prorated based on units.

(gg) CTCAC may contract with an appraisal reviewer and, if it does so, shall commission an appraisal review for donated land and improvements if a reduction of 15% to the submitted appraisal value would change an award outcome. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop their own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer for calculating the tiebreaker only.

~~Public contributions of off-site costs shall not be counted competitively, unless (1) documented as a waived fee pursuant to a nexus study and relevant State Government Code provisions regulating such fees or (2) the off-sites must be developed by the sponsor as a condition of local approval and those off-sites consist solely of utility connections, and curbs, gutters, and sidewalks immediately bordering the property. Public funds shall be reduced for tie-breaker scoring purposes by an amount equal to the off-sites not meeting the requirements noted in this paragraph.~~

(VII) Services funded by a federal, state, or local governmental agency that are necessary to support tenant stability. The value of such services shall be documented by the applicant and verified by the funding agency. The committed annual service cost funded by the public entity for year 1 shall be multiplied by the 15 year federal compliance period (or the length of the commitment, whichever is lesser) and the resulting product shall be considered a leveraged soft resource.

(VIII) Except as otherwise provided in subdivision (i)(VII), the capitalized value of rent differentials attributable to public rent or public operating subsidies shall be considered public funds based upon CTCAC underwriting standards. Standards shall include a 15-year loan term; an interest rate established annually by CTCAC based upon a spread over 10-year Treasury Bill rates; a 1.15 to 1 debt service coverage ratio; and a five percent (5%) vacancy rate. In addition,

(aa) The rental income differential for subsidized units shall be established by subtracting tax credit rental income at 40 percent (40%) AMI levels (30% AMI for units subject to the 40% average AMI requirement of Section 10325(g)(3)(A)) from the committed contract

rent income documented by the subsidy source.

~~or, in the case of a USDA rental subsidy only, the higher of 60% AMI rents or the committed contract USDA Basic rents.~~

(AA) The committed contract rent income for units with existing project-based ~~Section 8~~ rental subsidy shall be documented by the current monthly contract rent in place at the time of the application or by contract rent committed to and approved by the subsidy source ~~(HUD)~~; rent from a rent comparable study or post-rehabilitation rent shall not be permitted.

(BB) ~~In the case of a USDA rental subsidy only, the higher of 60% of AMI rents or the committed contract USDA Basic rents may be used.~~

(bb) The rent differential for projects with public operating subsidies shall equal the annual subsidy amount in year 1, provided the subsidy will be of a similar amount in succeeding years, or the aggregate subsidy amount of the contract divided by the number of years in the contract if the contract does not specify an annual subsidy amount.

(IX) ~~Public contributions of off-site costs shall not be counted competitively, unless (1) documented as a waived fee pursuant to a nexus study and relevant State Government Code provisions regulating such fees or (2) the off-sites must be developed by the sponsor as a condition of local approval and those off-sites consist solely of utility connections, and curbs, gutters, and sidewalks immediately bordering the property. Public funds shall be reduced for tie breaker scoring purposes by an amount equal to the off-sites not meeting the requirements noted in this paragraph.~~

(X) ~~If the project's paid purchase price exceeds appraised value, the leveraged soft resources amount shall be discounted by the overage, unless the Executive Director has granted a waiver pursuant to Section 10327(c)(6).~~

(ii) ~~S~~soft loans that meet the criteria described in sub~~section~~paragraph ~~(iA)~~ (except that terms shall be of at least 55 years), or grants, from unrelated non-public parties that are not covered by sub~~section~~paragraph ~~(Ai)~~ ~~and that do not represent financing available through the National Mortgage Settlement Affordable Rental Housing Consumer Relief programs.~~

(I) The party providing the soft loans or grants shall not be a partner or proposed partner in the limited partnership (unless the partner has no ownership interest and only the right to complete construction) and shall not receive any benefit or funds from a related party to the project.

(II) The application shall include both:

~~(aa) -(1)~~ a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that:

(AA) the leveraged soft resource(s) is from an unrelated non-public entity(ies),

~~that~~(BB) the unrelated non-public entity(ies) shall not receive any benefit or funds from a related party to the project, and

(CC) ~~that~~ the leveraged soft resource(s) is available and not committed to any other project or use; ~~and (2)~~

(bb) a narrative from the applicant regarding the nature and source of the leveraged soft resource(s) and the conditions under which it was given.

(III) Seller carryback financing and any portion of a loan from a non-public seller or related party that is less than or equal to sale proceeds due the seller shall be excluded for purposes of the tiebreaker.

(IV) Financing available through the National Mortgage Settlement Affordable Rental Housing Consumer Relief programs shall not qualify as a leveraged soft resource.

(V) Grants from an unrelated third-party being loaned to the project by a general partner shall be considered leveraged soft resources only if loaned at a zero percent (0%) interest rate with a minimum 55-year term and upon documented grant award and inclusion in the certification required under subsection (ii)(2).

(iii) The value of donated land and improvements that are not covered by ~~sub~~section~~paragraph~~ (Ai), that meet the criteria described in ~~sub~~section~~paragraph~~ (Ai), and that are contributed by an unrelated entity (unless otherwise approved by the Executive Director).

(I) ~~, so long as the contributed asset has been held by the entity for at least five years prior to the application due date, except for the value of donated land and improvements - i~~ In the case of a rehabilitation project: (1) subject to an existing regulatory agreement with CTCAC or a federal, state, or local public entity or (2) with greater than 25% of the units receiving project-based rental assistance, the value of donated land and improvements shall be excluded from the tiebreaker unless the land and improvements are wholly donated.

(II) The contributed asset has been held by the entity for at least five years prior to the application due date

(aa) ~~For a case in which the donor is a non-profit organization acting solely as a pass-through entity, the Executive Director may in advance of the application date approve an exception to the five-year hold rule provided that the donor to the non-profit organization held the contributed asset for at least five years and that both the original donor and non-profit donor meet the requirements of, and are included in the certifications required by, this paragraph. If the donor is a non-profit organization acting solely as a pass-through entity, the Executive Director may in advance of the application date approve an exception to the five-year hold rule provided that the donor to the non-profit organization held the contributed asset for at least five years and that both the original donor and non-profit donor meet the requirements of subparagraph (iii)(II)(bb), and are included in the certifications required by subparagraph (iii)(II)(cc).~~

(bb) The party providing the donation shall not be a partner or proposed partner in the limited partnership (unless the partner has no ownership interest and only the right to complete construction) and shall not receive any benefit from a related party to the project. In addition, the land shall not have been owned previously by a related party or a partner or proposed partner (unless the partner has no ownership interest and only the right to complete construction).

(cc) The application shall include a certification from an independent Certified Public Accountant (CPA) or independent tax attorney that the donation is from an unrelated entity and that the unrelated entity shall not receive any benefit from a related party to the project.

(III) For new construction applications, only the vacant land value may be counted for tiebreaker credit. The value of improvements to be demolished does not qualify as a leveraged soft resource.

(iv) For purposes of this section, a related party shall mean a member of the development team or a Related Party, as defined in Section 10302, to a member of the development team.

(v) The numerator of projects of 50 or more newly constructed or adaptive reuse Tax Credit Units shall be multiplied by a size factor equal to seventy five percent plus the total number of newly constructed or adaptively reused Tax Credit Units divided by 200 (75% + (total new construction/adaptive reuse units/200)). The size factor calculation shall be limited to no more than 150 Tax Credit Units.

~~Permanent funding sources for this tiebreaker shall not include equity commitments related to the Low Income Housing Tax Credits. Land donations include land leased for a de minimis annual lease payment. CTCAC may contract with an appraisal reviewer and, if it does so, shall~~

~~commission an appraisal review for donated land and improvements if a reduction of 15% to the submitted appraisal value would change an award outcome. If the appraisal review finds the submitted appraisal to be inappropriate, misleading, or inconsistent with the data reported and with other generally known information, then the reviewer shall develop their own opinion of value and CTCAC shall use the opinion of value established by the appraisal reviewer for calculating the tiebreaker only.~~

~~The numerator of projects of 50 or more newly constructed or adaptive reuse Tax Credit Units shall be multiplied by a size factor equal to seventy five percent plus the total number of newly constructed or adaptively reused Tax Credit Units divided by 200 (75% + (total new construction/adaptive reuse units/200)). The size factor calculation shall be limited to no more than 150 Tax Credit Units.~~

(vi) In the case of a new construction Hybrid 9% and 4% tax credit development which meets all of the following conditions, the calculation of the size factor for the 9% application shall include all of the Tax Credit Units in the 4% application up to the limit described above, the leveraged soft resources ratio calculated pursuant to this sub~~section~~paragraph (1A) shall utilize the combined amount of leveraged soft resources defraying residential costs and the combined total residential project development costs from both the 9% and 4% applications, and the ratio calculated pursuant to subparagraph (2B) shall also utilize the combined total residential project development costs from both the 9% and 4% applications:

(I) the 4% application shall have been recommended for an award by~~submitted to~~ CTCAC and CDLAC by the 9% application deadline;

(II) the 4% and 9% projects consist of a single building, or projects on the same parcel or on parcels within ¼ mile of each other and with construction start dates or completion dates that are within six months of each other~~are simultaneous phases, as defined in Section 10327(c)(2)(C);~~

(III) the 4% application is eligible for maximum points under Sections 10325(c)(3), (4)(B), ~~(5)~~, and (6), except that:

(aa) ~~1)~~ the 4% application may be eligible for maximum points in the lowest income category in combination with the 9% project, and

(bb) ~~2)~~ the 4% application may be eligible for maximum housing type points in combination with the 9% project.

(cc) Under each exception, the 9% project shall also be scored in the corresponding point category in combination with the 4% project; and

(IV) developers shall defer or contribute as equity to the project any amount of combined 4% and 9% developer fees in cost that are in excess of the limit pursuant to Section 10327(c)(2)(A) and, using (a) the combined Tax Credit Units

~~of the 9% and 4% components, (b) the combined eligible basis of the 9% and 4% components, and (c) the high-cost test factor calculated using the eligible basis and threshold basis limits for the 9% component.~~

(V) In the event that the 4% component of a Hybrid project that receives an increase to its size factor pursuant to this paragraph is not placed in service within six months of the 9% component, both applicants may be subject to negative points.

~~If the project's paid purchase price exceeds appraised value, the leveraged soft resources amount shall be discounted by the overage, unless the Executive Director has granted a waiver pursuant to Section 10327(c)(6).~~

(B) One (1) minus the ratio of requested unadjusted eligible basis to total residential project development costs, with the resulting figure divided by two.

(C) Except as provided below, a new construction Large Family housing type project (excluding a Special Needs project with non-special needs Low-Income Units meeting Large Family housing type requirements) shall receive a higher resource area bonus as follows based on the designation of the project's location on the CTCAC/HCD Opportunity Area Map:

The project is non-rural and the project's census tract is a Highest Resource area
20 percentage points

The project is non-rural and the project's census tract is a High Resource area
10 percentage points

The project is rural and project's census tract or census block group as applicable is a Highest Resource area
10 percentage points

The project is rural and the project's census tract or census block group as applicable is a High Resource area
5 percentage points

This bonus shall not apply to projects once the housing type goal for Large Family New Construction receiving the tiebreaker increase has been met in a round or within the Rural set aside in a round as described in Section 10315(h) and Section 10325(c)(9).

This bonus shall not apply to projects competing in the Native American apportionment, unless such projects fall into the Rrural set-aside competition. In addition, this bonus shall not apply to a project supported by affordable housing ordinances, which for purposes of this subparagraph shall mean a project in which any of the Low-Income Units satisfy the obligations of any affordable housing ordinance, development agreement or legally enforceable mandate negotiated between a public entity and private developer, unless the obligations derive solely from the Low-Income Units themselves or unless the project includes at least 40 Low-

Income Units that are not counted towards the obligations of the affordable housing ordinance, development agreement, or legally enforceable mandate. An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units which satisfy the obligations of an affordable housing ordinance, development agreement or legally enforceable mandate and, if so, the number of such units and whether the affordable obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

(D) For Rural set aside projects applying in counties where no tax credit applications have been awarded within five years of the application filing date, the tiebreaker shall be increased by five percentage points.

The resulting tiebreaker score must not have decreased following award or negative points may be awarded.

15. Section 10325(d)(2). Geographic Areas selection.

The proposed change ensures applications with a credit request that exceeds 125% of the available amount in a geographic area that apply directly in a geographic area competition, as opposed to dropping into the geographic area from a set aside, do not prevent a eligible projects from being funded using the skipping rule. While the project may apply, the project will not be eligible for funding and will not be considered a skipped project. (Page 62)

Proposed change:

(d) Application selection for evaluation. [...]

(2) Geographic Areas selection. Tax Credits remaining following reservations to all set-asides shall be reserved to projects within the geographic areas, beginning with the geographic area having the smallest apportionment, and proceeding upward according to size in the first funding round and in reverse order in the second funding round. The funding order shall be followed by funding the highest scoring application, if any, in each of the regions. After each region has had the opportunity to fund one project, CTCAC shall award the second highest scoring project in each region, if any, and continue cycling through the regions, filling each geographic area's apportionment. Projects will be funded in order of their rank so long as the region's aggregate award amount does not exceed 125 percent (125%) of the amount originally available for that region in that funding round. Credits allocated in excess of the Geographic Apportionments by the application of the 125% rule described above will be drawn from the second-round apportionments during the first round, and from the Supplemental Set Aside during the second round. However, all Credits drawn

from the Supplemental Set Aside will be deducted from the Apportionment in the subsequent round.

When the highest-ranking project or next highest-ranking project(s) do not meet the 125% rule then the Committee shall skip over that project to fund a project requesting a smaller credit award that does not exceed the 125% requirement. However, no project may be funded by this skipping process unless it (a) has a point score equal to that of the first project skipped, and (b) has either a final tiebreaker score equal to at least 75% of the first skipped project's final tiebreaker score or a final tiebreaker score equal to at least 75% of the final tiebreaker score of the first skipped project after the last funded project in the geographic region. Projects that apply directly in a geographic region and request more than 125% of the available geographic region amount for a funding round shall not be funded nor considered a skipped project for the purposes of this paragraph.

16. Section 10325(f)(1). Housing need and demand.

The proposed change removes the unit-value ratio test. As all unit size requirements have been moved to minimum construction standards and apply to all projects, this test is no longer needed to ensure units are not being built at excessively small sizes. (Page 63)

Proposed change:

(f) Basic Thresholds. [...]

(1) Housing need and demand. [...] Evidence of housing need and demand shall include, but is not limited to:

- (A) except as provided in Section 10322(h)(10), a market study as described in Section 10322(h)(10) of these regulations, which provides evidence that:
 - (i) The proposed tenant paid rents for each affordable unit type in the proposed development will be at least ten percent (10%) below the weighted average rent for the same unit types in comparable market rate rental properties;
 - ~~(ii) Except for special needs rehabilitation projects in which at least 90% of the total units are SRO units, the proposed unit value ratio stated as dollars per square foot (\$/s.f.) will be no more than the weighted average unit value ratios for comparable market rate units;~~
 - ~~(iii) In rural areas without sufficient three- and four-bedroom market rate rental comparables, the market study must show that in comparison to three- and four-bedroom market rate single family homes, the affordable rents will be at least 20% below the rents for single family homes and the \$/s.f. ratio will not exceed that of the single family homes; and~~
 - ~~(iv)~~(ii) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy – 90% occupancy for Special Needs projects and 95% for all other projects – within six months of being placed in service for

projects of 150 units or less, and within 12 months for projects of more than 150 units and senior projects.

17. Section 10325(f)(4). Local approvals and zoning.

The proposed change is a conforming change to match the updated Attachment 14 forms published in 2022. (Page 65)

Proposed change:

(f) Basic Thresholds. [...]

(4) Local approvals and Zoning.

- (A) Applicants shall provide evidence, at the time the application is filed, that the project as proposed is zoned for the intended use and has obtained all applicable local land use approvals which allow the discretion of local elected officials to be applied, except that an appeal period may run 30 days beyond that application due date.. When the appeal period, if any, is concluded, the applicant must provide proof that either no appeals were filed, or that any appeals filed during that time were resolved within that 30-day period and the project is ready to proceed.
- (B) For purposes of this subdivision, “local land use approvals” includes, but is not limited to, general plan amendments, rezonings, and conditional use permits and does not include design review, initial environmental study assessments, variances, and development agreements.
- (C) ~~Documentation required to meet the evidentiary burden under subdivision (A) must describe the local approval process, the applicable approvals, and whether each required approval is “by right,” ministerial, or discretionary.~~ In lieu of a local land use approval, projects that qualify for “by right” or ministerial approval may submit confirmation of a development’s eligibility for such approval from HCD’s Housing Accountability Unit or a third-party attorney letter that explains how the project complies with the applicable requirements.

18. Section 10325(f)(7). Minimum construction standards.

The proposed change corrects a typographical error, clarifies accessibility requirements related to Adaptive Reuse projects, improves readability, and moves all unit size and unit requirements to minimum construction standards to align with non-targeted projects, and allows for the removal of the unit-value ratio test. (Pages 65-69)

Proposed change:

(f) Basic Thresholds. [...]

(7) Minimum construction standards. [...]

(A) Energy Efficiency. All rehabilitated buildings, both competitive and non-competitive, shall meet one of the following:

- (i) Achieve at least a 10% post-rehabilitation improvement over existing conditions energy efficiency ~~achieved~~ for the project as a whole, except that Scattered Site applications shall also document at least a 5% post-rehabilitation improvement over existing conditions energy efficiency achieved for each site. In the case of projects in which energy efficiency improvements have been completed within five years prior to the application date or since the last tax credit award pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements.

[...]

(K) Accessible Housing Unit(s). All projects shall comply with the Housing and Accessibility Requirements in addition to the following, unless otherwise specified:

- (i) All new construction projects must provide a minimum of fifteen percent (15%) of the Low-Income Units as Housing Units with Mobility Features, and a minimum of ten percent (10%) of the Low-Income Units as Housing Units with Hearing/Vision Features.

(ii) Rehabilitation projects shall provide a minimum of ten percent (10%) of the Low-Income Units as Housing Units with Mobility Features, and four percent (4%) as Housing Units with Hearing/Vision Features. At least one of each common area facility type and amenity, paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing the Housing and Accessibility Requirements and CBC Chapter 11B as a design standard. In all other respects, applicable building code will apply. Projects with other federal, state, or local funding sources may be required to meet additional accessibility requirements.

(iii) Adaptive Reuse projects shall provide a minimum of fifteen percent (15%) of the Low-Income Units as Housing Units with Mobility Features, and a minimum of ten percent (10%) of the Low-Income Units as Housing Units with Hearing/Vision Features.

(ii)(iv) The Executive Director may approve a partial or full waiver to the requirements of subsections (ii) or (iii) for the number of Accessible Housing Units exceeding those required by the ADA, Section 504, and CBC Ch. 11B provided both of the following are met:

- (I) The exemption does not pertain to any accessibility features required by applicable building codes, the CBC Chapter 11B, or federal law. The CBC Ch. 11B and federal law minimums are calculated on all units in the project, not just restricted units, and
- (II) The Applicant and its architect demonstrate that full compliance with subsection (f)(7)(K)(ii) would be impractical or create an undue financial and administrative burden. Accessibility must be provided to the maximum extent feasible and the waiver must be obtained in advance of the application deadline.

~~(iii)~~(v) Accessible Housing Units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities so that an individual with disabilities' choice of living arrangements is comparable to that of other persons eligible for housing assistance under the same project consistent with 24 CFR Section 8.26.

- (L) Waiver. If a rehabilitation applicant does not propose to meet any of the requirements of subdivisions (f)(7)(A) through (I), its CNA must show why the requirements not being met are either unnecessary or excessively expensive. All waivers must be approved in advance by the Executive Director.
- (M) Compliance and Verification. The following are required with an Applicant's placed-in-service application:
 - (i) For compliance with subdivision (f)(7)(A), applicants with rehabilitation projects, with the exception of applicants developing a project in accordance with the minimum requirements of LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating, or GreenPoint Rated Program, must submit a certification of compliance from a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA) or a third-party certified HERS Rater, as applicable.
 - (ii) For compliance with subdivisions (f)(7)(B) through (I) applicants shall submit either:
 - (I) LEED, PHIUS, Passive House, Living Building Challenge, National Green Building Standard ICC / ASRAE – 700 silver or higher rating, or GreenPoint Rated Program certification; or
 - (II) third-party certification confirming compliance from one of the following: a certified HERS Rater, a certified GreenPoint rater, a US Green Building Council certification, or the project architect.
 - (iii) For compliance with subdivision (f)(7)(K), the project architect shall provide third party documentation confirming compliance by a CASp or by an architect with demonstrated experience meeting federal accessibility standards.

(iv) Failure to produce appropriate and acceptable third-party documentation in support of information required in (i) through (iii) may result in negative points.

(N) Unit Sizes.

(i) The minimum size for SRO Low-Income Units (as defined in Section 10302) shall be 200 square feet, and the size shall not exceed 500 square feet.

(ii) One-bedroom Low-Income Units must include at least 450 square feet of living space.

(iii) Two-bedroom Low-Income Units must include at least 700 square feet of living space.

(iv) Three-bedroom Low-Income Units shall include at least 900 square feet of living space.

(v) Four-bedroom and larger Low-Income Units shall include at least 1,100 square feet of living space and a minimum of two full bathrooms.

(vi) These bedroom and size requirements may be waived, prior to the submission application and at the discretion of the Executive Director,:

(I) for rehabilitation projects;

(II) for projects that received entitlements prior to January 1, 2016;

(III) If these restrictions conflict with the requirements of another governmental agency to which the project is subject to approval; or

(IV) Upon demonstration via the third-party market study that there are multiple market-rate projects in the project's Primary Market Area with comparable unit sizes to the proposed project, and which have no more than a 5% vacancy rate.

(vii) These unit size requirements do not apply to projects applying as At-Risk under the CTCAC or CDLAC regulations.

(iv)(O) For projects in which at least twenty-five percent (25%) of the Low-Income Units in the project are three-bedroom or larger units and an additional twenty-five percent (25%) of the Low-Income Units are two-bedroom or larger units, dishwashers shall be provided in all Low-Income Units except for studio and SRO units. A waiver for one- and two-bedroom units in rehabilitation projects may be granted at the sole discretion of the Executive Director due to planning or financial impracticality.

19. Section 10325(f)(11). Applications for resyndication.

The proposed changes improve the readability and organization of requirements for

resyndication applicants. The amendments propose moving rules concerning Capital Needs Assessments (CNA) for resyndication applications to the CNA provisions in Section 10322(h)(26). (Pages 70-72)

Proposed change:

(f) Basic Thresholds. [...]

(11) Applications for resyndication shall comply with the following, as applicable

(A) ~~(A) Existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain t~~The rents and income targeting levels in the existing regulatory ~~contract agreement shall be maintained~~ for the ~~term~~duration of the new regulatory ~~agreement~~contract. If the project has ~~exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, t~~The Executive Director may modify this requirement if one or more of the following circumstances appliesapprove a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided any revisedthat the existing rents orand income targeting are the lowest possible while maintaining project feasibility:~~remain proportional.~~

(i) The Applicant demonstrates to the Executive Director's satisfaction that the existing project has exhibited negative cash flow in each of the three most recent fiscal years.

(ii) A rental or operating subsidy that was relied upon in the initial feasibility analysis is projected to expire within the next five years.

(iii) The project is electing deeper income targeting.

(B) The number of Low-Income Units in the existing regulatory agreement shall be maintained for the term of the new regulatory agreement. Provided the existing rent and income targeting remain proportional, the Executive Director may approve a reduction in the number of Low-Income Units to:

(i) Restore a manager's unit,

(ii) Add or increase service amenity or community space, or

(iii) To add bathrooms and kitchens to SRO units.~~If the regulatory agreement for an existing tax credit project applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) contains a requirement to provide service amenities, even if that requirement has expired, the project shall~~

~~provide a similar or greater level of services for a period of at least 15 years under the new regulatory agreement. A project obtaining maximum CTCAC points for services shall be deemed to have met this requirement. If the project has exhibited cash flow of less than \$20,000 for at least each of the last three years, will have no hard debt and fail to break even in year 15 with services, or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the service expenditures shall be the maximum that project feasibility allows.~~

(C) If the regulatory agreement for an existing tax credit project requires service amenities, whether or not that requirement has expired, the new project shall either (a) provide a similar or greater level of services for a period of 15 years; or (b) receive the maximum CTCAC points for service amenities under Section 10325(c)(4). The Executive Director may modify this requirement if the project commits to expend the maximum feasible amount on service amenities and one or more of the following circumstances apply:

(i) The project has exhibited cash flow of less than \$20,000 in each of the three most recent fiscal years;

(ii) The project has no hard debt and projected operations demonstrate that the proposed project will not breakeven in year 15 accounting for expenditures on required service amenities; or

(iii) A rental or operating subsidy was relied upon in the initial feasibility analysis and is projected to expire within the next five years.

~~(A) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10338(c) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.~~

(D) The eExisting tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall not have any uncorrected compliance violations relating to over-income tenants or rent overcharges and shall not have any unpaid fines assessed pursuant to Section 10337(f).

20. Section 10325(g). Additional Threshold Requirements.

The proposed changes move all unit size requirements to minimum construction standards to align requirements for non-targeted projects and allows for the removal of the unit-value ratio test and ensures that projects proposing unsubsidized SRO units will be available at rents that are consistent with demonstrated incomes of the targeted population. The amendments also revise senior unit requirements to conform more clearly with California law and federal guidance on occupancy restrictions. (Pages 72-78)

Proposed change:

(g) Additional Threshold Requirements. [...]

- (1) Large Family projects. To be considered large family housing, the application shall meet the following additional threshold requirements.
 - (A) At least twenty-five percent (25%) of the Low-Income Units in the project shall be three-bedroom or larger units, and for projects that receive land use entitlements on or after January 1, 2016 at least an additional twenty-five percent (25%) of the Low-Income Units in the project shall be two-bedroom or larger units, except that for projects qualifying for and applying under the At-risk set-aside, the Executive Director may grant a waiver from this requirement if the applicant shows that it would be cost prohibitive to comply;
 - (B) ~~One-bedroom Low-Income Units must include at least 450 square feet and two-bedroom Low-Income Units must include at least 700 square feet of living space. Three-bedroom Low-Income Units shall include at least 900 square feet of living space and four-bedroom Low-Income Units shall include at least 1,100 square feet of living space, unless these restrictions conflict with the requirements of another governmental agency to which the project is subject to approval. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director prior to the application submission.~~ Bedrooms shall be large enough to accommodate two persons each and living areas shall be adequately sized to accommodate families based on two persons per bedroom;
 - ~~(C) Four-bedroom and larger Low-Income Units shall have a minimum of two full bathrooms;~~
 - ~~(D)~~(C) The project shall provide play/recreational facilities suitable and available to all tenants, including children of all ages, except for small developments of 20 units or fewer. Play/recreational area for children ages 2-12 years shall be outdoors, and the minimum square footage is 600 square feet and must include an accessible entrance point. For projects with more than 100 total units this square footage shall be increased by 5 square feet for each additional unit. Outdoor play/recreational space must be equipped with reasonable play equipment for the size of the project, and the surface must be natural or synthetic protective material. The outdoor play area of an onsite day care center may qualify as a play area for children 2-12 years for purposes of this section if it is available to children when the day care center is not open. The application must demonstrate the availability of play or recreational facilities suitable for children ages 13-17. Square footage of a community building cannot be included for the play/recreational area for children ages 13-17 unless that square footage is accessible to minors at all times between 6 a.m. and 10 p.m. except when the area is reserved for service amenities or special events.

Rehabilitation projects with existing outdoor play/recreational facilities may request a waiver of the minimum square footage requirement if outdoor play/recreational facilities of a reasonable size and type currently exist onsite. An existing project without outdoor play/recreational facilities may request a waiver from this requirement if the site is classified as a non-conforming use under its respective current zoning designation and the addition of the new facilities would trigger an entitlement process. The written waiver must be approved prior to the application submission.

This requirement shall be waived if suitable outdoor play/recreational facilities described above are readily accessible and located within ¼ mile of the project as measured by a walkable path;

~~(E)~~(D) For projects exceeding 20 units, the project shall provide an appropriately sized common areas. For purposes of this part, common areas shall include all interior amenity space, such as the rental office, community room, service space, computer labs, and gym, but shall not include laundry rooms or manager living units.

(i) Common areas shall meet the following minimum size requirement:

(I) 600 square feet for projects of 21 to 30 total units.

(II) 1,000 square feet for projects of 31 to 60 total units.

(III) 1,400 square feet for projects of 61 to 100 total units.

(IV) 1,800 square feet for projects over 100 total units

(ii) The Executive Director may waive the requirements of Subsection 10325(g)(1)(E)(i) for rehabilitation projects with existing common area prior to the application submission. An existing project without common area may request a waiver from this requirement if the site is classified as a non-conforming use under its respective current zoning designation and the addition of the new facilities would trigger an entitlement process;

~~(F)~~(E) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

~~(G)~~(F) Adequate laundry facilities shall be available on the project premises, with at least one washing machine and one clothes dryer (washer and dryer) for every 10 units. This requirement shall be reduced by 25% for projects where all units have hook-ups for washers and dryers. If tenants are required to pay to use central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the project's units;

~~(H) Dishwashers shall be provided in all Low Income Units except for studio and SRO~~

~~units. A waiver for one and two bedroom units in rehabilitation projects may be granted at the sole discretion of the Executive Director due to planning or financial impracticality;~~

~~(H)(G)~~ Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).

- (2) Senior projects. To be considered senior housing, the application shall meet the following additional threshold requirements;
- (A) All units shall be restricted to households eligible under applicable provisions of California Civil Code Sections 51.3, ~~and 51.3.5, 51.11~~ and the federal Fair Housing Act, and further be subject to Fair Housing Laws with respect to ~~senior projects housing. Senior As applicable, projects with Senior units~~ receiving project-based Section 8 rental subsidy, or other ~~applicable Federal rental subsidies assistance~~ that specifically prohibits ~~occupancy designations a senior restriction, shall adopt a waiting list preference, admission preference, or similar, may use a senior preference for senior unit leasing,~~ in compliance with ~~U.S. Code Title 42 USC Chapter 8 Subchapter I Section 1437f~~ or other applicable federal standards;
 - (B) All new construction projects must provide a minimum of 50 percent (50%) of all Low-Income Units as Housing Units with Mobility Features. All rehabilitation projects must provide a minimum of 25 percent (25%) of all Low-Income Units as Housing Units with Mobility Features.
 - (C) The Executive Director may approve a partial or full waiver to the requirements for the number of Accessible Housing Units exceeding those requirement by the ADA, Section 504, or CBC Ch. 11B provided:
 - (i) the exemption does not pertain to any accessibility features required by the Housing and Accessibility Requirements, including the required minimum five percent (5%) Units with mobility features. The CBC Ch. 11B and federal law minimums are calculated on all units in the project, not just restricted units, and
 - (ii) Consistent with subsection Section 10325(f)(7)(M)(iii), the Applicant and its architect demonstrate that full compliance with subdivision (g)(2)(B) would be impractical or create an undue financial and administrative burden. Accessibility must be provided to the maximum extent feasible and the waiver must be obtained in advance.
 - (D) Access to all common areas and housing units within each building shall be provided without the required use of stairs, either by means of an elevator or sloped walking ramps, consistent with the senior housing requirements of California Civil Code, sections 51.2-51.4 (Unruh Act) and Government Code, section 12955.9.
 - (E) No more than twenty percent (20%) of the Low-Income Units in the project shall be larger than one-bedroom units, unless waived by the Executive Director, when supported by a full market study;

~~(F)~~ ~~One-bedroom Low-Income Units must include at least 450 square feet and two-bedroom Low-Income Units must include at least 700 square feet of living space. These limits may be waived for rehabilitation projects, at the discretion of the Executive Director, prior to application submission;~~

~~(G)~~(F) Emergency call systems shall only be required in units intended for occupancy by frail elderly populations requiring assistance with activities of daily living. When required, they shall provide 24-hour monitoring, unless an alternative monitoring system is approved by the Executive Director;

~~(H)~~(G) For projects exceeding 20 units, common areas shall be provided on site, or within approximately one-quarter mile of the subject property and shall include all interior amenity space, such as the rental office, community room, service space, computer labs, and gym, but shall not include laundry rooms or manager living units.

(i) Common areas shall meet the following minimum size requirement:

(I) 600 square feet for projects comprised of 21 to 30 total units.

(II) 1,000 square feet for projects of 31 to 60 total units.

(III) 1,400 square feet for projects of 61 to 100 total units.

(IV) 1,800 square feet for projects over 100 total units.

(ii) The Executive Director may waive the requirement of Subsection (g)(2)~~(G)~~(H)(i) for rehabilitation projects with existing common area;

~~(I)~~(H) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;

~~(J)~~(I) Adequate laundry facilities shall be available on the project premises, with at least one washing machine and one clothes dryer (washer and dryer) for every 15 units. This requirement shall be reduced by 25% for projects where all units have hook-ups for washers and dryers. If tenants are required to pay to use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the project's units;

~~(K)~~(J) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land).

(3) Special Needs projects. To be considered Special Needs, the greater of 15 Low-Income Units or 25% of the Low-Income Units in the project shall serve Special Needs Population(s). The 15 Low-Income Unit minimum shall not apply to projects with committed HUD Section 811 funding. For any development with less than 75% of the Low-Income

Units serving Special Needs Population(s), the non-Special Needs units shall either: (i) meet the Large Family, Senior, or SRO housing type requirements; or (ii) consist of at least 20% one-bedroom units and at least 10% larger than one-bedroom units. Special Needs applications shall also meet the following:

- (A) Average targeted income for the Special Needs units of no more than forty percent (40%) of AMI and consistent with points requested in Section 10325(c)(6);
- (B) The units/building configurations (including community space) shall meet the specific needs of the population, including kitchen needs for SRO units without full kitchens;
- (C) If the project does not have a public rental or operating subsidy committed for all Special Needs units, the applicant shall explain, using the market study for support, how rent for tenants living in unsubsidized units will not exceed 30% of the tenants' incomes. If the initial application proposes to use rents below the CTCAC rent limits to meet this requirement, the rents in the Placed-in-Service application shall be set at the same proportion of the rent limit. Thereafter, all rents shall be subject to the Rent Increase Limit of Section 10336(a)(1);
- (D) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development costs;
- (E) Adequate laundry facilities shall be available on the project premises, with at least one washing machine and one clothes dryer (washer and dryer) for every 15 units. This requirement shall be reduced by 25% for projects where all units have hook-ups for washers and dryers. If tenants are required to pay to use central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each of the project's units;
- (F) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);
- ~~(G) One-bedroom Low-Income Units must include at least 450 square feet, and two-bedroom Low-Income Units must include at least 700 square feet of living space. Three-bedroom Low-Income Units shall include at least 900 square feet of living space. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director;~~

~~SRO units (as defined in Section 10302) are efficiency units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The minimum size for SRO Low-Income Units shall~~

~~be 200 square feet, and the size shall not exceed 500 square feet. These bedroom and size requirements may be waived for rehabilitation projects or for projects that received entitlements prior to January 1, 2016 at the discretion of the Executive Director. A project that includes SRO units without complete private baths shall provide at least one bath for every eight SRO units;~~

~~(H)(G)~~ A preliminary supportive service plan addressing the needs of the target Special Needs Population served is required and shall include:

- (i) A description of the specific population to be served;
- (ii) A description of the specific service needs of the population and the specific services to be provided;
- (iii) Identification of the organization(s) that will provide services and a signed contract, memorandum of understanding, or commitment letters from the proposed service provider(s);
- (iv) A description of how the services support resident stability and any other service plan objectives;
- (v) A preliminary budget describing anticipated income (all funding sources) and expenses associated with the services program; and
- (vi) Other information deemed necessary by the Executive Director, whom determines whether the plan is adequate to qualify the project as a special needs project.

~~(H)(H)~~ If the project will be operated as senior housing pursuant to Fair Housing Laws, and the project shall comply with the requirements of Section 10325(g)(2)(B)-(D).

~~(H)(I)~~ Special Needs projects must follow tenant screening, property management, and service delivery practices in accordance with Housing First.

[...]

(5) SRO projects. To be considered Single Room Occupancy (SRO) housing, the application shall meet the following additional threshold requirements:

- (A) Average targeted income is no more than forty percent (40%) of the AMI and consistent with points requested in Section 10325(c)(6);
- (B) At least 90% of all units shall be SRO units ~~(as defined Section 10302). SRO units are efficiency or studio units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The minimum size for SRO units shall be 200 square feet, and the size shall not exceed 500 square feet. These bedroom size requirements may be waived for rehabilitation projects, at the discretion of the Executive Director;~~

- (C) At least one bath shall be provided for every eight units;
- (D) If the project does not have a public rental or operating subsidy committed for all SRO units, the applicant shall explain, using the market study for support, how rent for tenants living in unsubsidized units will not exceed 30% of the tenants' incomes. If the initial application proposes to use rents below the CTCAC rent limits to meet this requirement, the rents in the Placed-in-Service application shall be set at the same proportion of the rent limit. Thereafter, all rents shall be subject to the Rent Increase Limit of Section 10336(a)(1);

21. Section 10326(b). Application Selection Criteria - Tax-Exempt Bond Applications. Applicable criteria.

The proposed change makes a conforming change to proposed CDLAC regulations related to the replacing the BIPOC pool with an Emerging Developer pool, aligns the allocation of enhanced State Tax Credits to 4% projects to the allocation process for 9% credits and allows the highest-ranking project(s) in each geographic region to access the State Tax Credits, and implements changes from budget trailer bill AB 179. Additionally, the proposed change pairs the \$25 million in State Tax Credits available to Farmworker Housing with the Housing Development and Finance Committee's Joe Serna, Jr. Farmworker Housing Grant Program, which will streamline administration of the credits and help ensure that farmworker housing resources are efficiently being allocated and used. (Pages 80-81)

Proposed change:

[...]

- (b) Applicable criteria. Selection criteria for applications reviewed under this Section shall include those required by IRC Section 42(m), this Section 10326, and Sections 10300, 10302, 10305, 10322, 10327, 10328(e), 10330, 10335, 10337, and 10338 of these regulations. Other sections of these regulations shall not apply. The first funding round shall be the first application review period of a calendar year for tax-exempt bond financed projects.
 - (1) Subject to conditions described in these Regulations, reservations of Federal and State Tax Credits shall be made for those applications that receive a bond allocation from CDLAC until the established State Tax Credit allocation amount is exhausted. If the last application requires more State Tax Credits than remain for the calendar year, that application will not be funded, and the remaining credits will be either funded through the Waiting List or carried forward into the next calendar year. If there is not sufficient State Tax Credits to allocate to applications recommended for tax-exempt bonds by CDLAC, the State Tax Credits will be allocated based on ranking within the CDLAC pools and set asides in the following order:
 - (A) ~~Black, Indigenous, or Other People of Color (BIPOC) Project~~ Emerging Developer Pool;
 - (B) Rural Project Pool;
 - (C) New Construction Pool, Homeless Projects Set Aside;
 - (D) New Construction Pool, ELI/VLI Project Set Aside;
 - (E) New Construction Pool, Mixed-Income Project Set Aside; and

(F) ~~All remaining~~ New Construction Pool, Geographic Regions. Projects State Tax Credits shall be reserved for projects within the geographic areas, beginning with the geographic area having the smallest CDLAC allocation, and proceeding upward according to size in the first funding round, and in reserve order in the following funding round, and then alternating thereafter in subsequent funding rounds. The funding order shall be followed by funding the highest scoring application, if any, in each of the regions. After each region has had the opportunity to fund one project, CTCAC shall award the second highest scoring project in each region, if any, and continue cycling through the regions, filling each geographic region until no State Tax Credits remain.

- (2) For State Tax Credits pursuant to Section 10317(j) ~~of these Regulations~~, an amount up to \$200,000,000 in a calendar year may be allocated for housing projects awarded funding financed by the Housing Development and Finance Committee's CalHFA's Mixed-Income Program (MIP) that also receives a bond allocation from CDLAC. ~~Applications with financing by CalHFA (MIP) will be accepted in any funding round.~~ The amount allocated for ~~CalHFA~~ MIP may be reduced upon agreement of the Executive Directors of ~~CalHFA~~ HDFC and CTCAC.

~~At the conclusion of the final funding round of a calendar year, the Committee may establish a Waiting List of pending applications in anticipation of utilizing any State Tax Credits that may be returned to the Committee, and/or that have not been allocated to projects for which they were intended. The Waiting List shall expire on December 31 of the year the list is established.~~

- (3) Beginning in calendar year 2028, State Tax Credits available to Farmworker Housing pursuant to Section 10317(j) may be allocated for projects awarded funding by the Housing Development and Finance Committee's Joe Serna, Jr. Farmworker Housing Grant Program.

- ~~(3)~~(4) Subject to the requirements of paragraph (1) and excluding the \$25,000,000 in State Tax Credits available to Farmworker Housing, State Tax Credits allocated under Section 10317(j) shall not exceed the percentages of the total State Tax Credits amount available in the funding round for the following New Construction Pools and Set Asides.

Black, Indigenous, or Other People of Color (BIPOC)	15%
<u>Project Emerging Developer</u> Pool	
Rural Project Pool	15%
New Construction Pool, Homeless Project Set Aside	25%
New Construction Pool, ELI/VLI Project Set Aside	20%

The 20% limit for the ELI/VLI Project Set Aside may be exceeded by the amount of State Tax Credits remaining in the Homeless Project Set Aside.

22. Section 10326(g). Application Selection Criteria - Tax-Exempt Bond Applications. Basic thresholds.

The proposed change removes a reference to a point category that has been removed, and cross-references the resyndication requirements for 9% projects in Section 10325(f)(11) to 4% projects for

the reasons stated in proposed change #19. (Pages 82-83)

Proposed change:

[...]

- (5) Sponsor characteristics. Applicants shall provide evidence that as a Development Team, proposed project participants possess the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee shall, in its sole discretion, determine if any of the evidence provided shall disqualify the applicant from participating in the Tax Credit Programs, or if additional Development Team members need be added to appropriately perform all program requirements. General partners and management companies lacking documented experience with Section 42 requirements using the minimum scoring standards at Section 10325(c)(1)(A) and (B) shall be required to complete training as prescribed by CTCAC per Section 10325(c)(1) prior to a project's placing in service. ~~The minimum scoring standards referenced herein shall not be obtained through the two (2) point category of "a housing tax credit certification examination of a nationally recognized housing tax credit compliance entity on a list maintained by the Committee to satisfy minimum management company experience requirements for an incoming management agent" established at Section 10325(c)(1).~~ Applicants need not submit the third-party public accountant certification that the projects have maintained a positive operating cash flow.

[...]

- (8) Applications for resyndication shall comply with the requirements of Section 10325(f)(11). ~~(A) Existing tax credit projects applying for additional tax credits for acquisition and/or rehabilitation (i.e., resyndication) shall maintain the rents and income targeting levels in the existing regulatory contract for the duration of the new regulatory contract. If the project has exhibited negative cash flow for at least each of the last three years or within the next five years will lose a rental or operating subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the new rents and income targeting levels shall be as low as possible to maintain project feasibility. In addition, the Executive Director may approve a reduction in the number of units for purposes of unrestricting a manager's unit, adding or increasing service or community space, or for adding bathrooms and kitchens to SRO units, provided that the existing rent and income targeting remain proportional.~~

~~If the regulatory agreement for an existing tax credit project applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication) contains a requirement to provide service amenities, even if that requirement has expired, the project shall provide a similar or greater level of services for a period of at least 15 years under the new regulatory agreement. A project obtaining maximum CDLAG points for services shall be deemed to have met this requirement. If the project has exhibited cash flow of less than \$20,000 for at least each of the last three years, has no hard debt and fails to break even in year 15 with services, or within the next five years will lose a rental or operation subsidy that was factored into the project's initial feasibility, the Executive Director may alter this requirement, provided that the service expenditures shall be the maximum that project feasibility allows.~~

~~For existing tax credit projects applying for a new reservation of tax credits for acquisition-~~

~~and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10338(c) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.~~

23. Section 10327(c)(2). Developer Fee.

The proposed change adds subsections to improve readability and clarifies that the percentage of acquisition basis on non-residential improvements may not exceed the percentage of acquisition basis on residential improvements and removes ambiguous wording and clarifies the existing CTCAC policies that resyndication projects may not receive 15% developer fee on acquisition basis under any circumstances and that commercial acquisition basis is based on the same percentage as residential acquisition basis. Additionally, the proposed change reforms the BIPOC developer fee to be a Joint Venture fee and adds additional requirements to help ensure that the experienced developer is training the emerging developer and the emerging developer is building capacity. (Pages 85-88)

Proposed change:

(2) Developer Fee.

- (A) ~~(i) (I) Except as provided in (II) below, t~~The maximum developer fee that may be included in project costs and eligible basis for 9% competitive credit new construction, rehabilitation only, or adaptive reuse applications ~~applying under Section 10325 of these regulations~~ is the lesser of 15% of the project's unadjusted eligible basis and 15% of the basis for non-residential costs included in the project allocated on a pro rata basis or two million five hundred thousand dollars (\$2,500,000). ~~The maximum developer fee that may be included in project costs and eligible basis for a 9% competitive credit acquisition/rehabilitation application is the lesser of 15% of the project's unadjusted eligible construction related basis plus 5% of the project's unadjusted eligible acquisition basis and 15% for the basis for non-residential costs included in the project allocated on a pro rata basis or two million five hundred thousand dollars (\$2,500,000).~~

~~(II) Notwithstanding the paragraph above, F~~for 9% competitive credit new construction, rehabilitation only, or adaptive reuse applications ~~projects~~ which restrict for Special Needs Population(s) the greater of 1) 15 Low-Income Units or 2) 25% of the Low-Income Units, the maximum developer fee that may be included in project costs and eligible basis ~~for 9% competitive credit new construction, rehabilitation only, or adaptive reuse applications applying under Section 10325 of these regulations~~ is the lesser of 15% of the project's unadjusted eligible basis and 15% of the basis for non-residential costs included in the project allocated on a pro rata basis or two million eight hundred thousand dollars (\$2,800,000).

(ii) (I) Except as provided in (II) below, the maximum developer fee that may be included in project costs and eligible basis for a 9% competitive credit acquisition/rehabilitation application is the lesser of 15% of the project's unadjusted eligible construction related basis plus 5% of the project's unadjusted eligible acquisition basis and 15% for the basis for non-residential costs included in the project allocated on a pro rata basis or two million five hundred thousand dollars (\$2,500,000).

(B)-(II) For 9% competitive credit acquisition/rehabilitation applications which restrict for Special Needs Population(s) the greater of 1) 15 Low-Income Units or 2) 25% of the Low-Income Units, the maximum developer fee that may be included in project costs and eligible basis for a 9% competitive credit acquisition/rehabilitation application is the lesser of: the sum of 15% of the project's unadjusted eligible construction related basis, plus 5% of the project's unadjusted eligible acquisition basis, and 15% offer the basis for non-residential construction costs included in the project allocated on a pro rata basis, and 5% of the non-residential acquisition basis or two million eight hundred thousand dollars (\$2,800,000).

~~(G)~~(B) For 4% credit applications applying under Section 10326 of these regulations, the maximum developer fee that may be included in project costs and eligible basis shall be as follows:

- (i) For new construction, rehabilitation only, or adaptive reuse projects, the maximum developer fee is the sum of 15% of the project's unadjusted eligible basis and 15% of the basis for non-residential costs included in the project allocated on a pro rata basis.

All developer fees in excess of the greater of the following shall be deferred or contributed as equity to the project:

- 15% of the project's unadjusted eligible basis, up to two million five hundred thousand dollars (\$2,500,000); or
- one million dollars (\$1,000,000) plus 5% of the project's unadjusted eligible basis in excess of six million six hundred sixty six thousand six hundred sixty seven dollars (\$6,666,667).

Notwithstanding the paragraph above, for projects which restrict for Special Needs Population(s) the greater of 1) 15 Low-Income Units or 2) 25% of the Low-Income Units, all developer fees in excess of the greater of the following shall be deferred or contributed as equity to the project:

- 15% of eligible basis, up to two million eight hundred thousand dollars (\$2,800,000); or
- one million dollars (\$1,000,000) plus 7% of eligible basis in excess of six million six hundred sixty six thousand six hundred sixty seven dollars (\$6,666,667).

- (ii) For acquisition/rehabilitation projects, the maximum developer fee is the sum

of 15% of the unadjusted eligible construction related basis, and 5% of the unadjusted eligible acquisition basis, and 15% of the basis for non-residential construction costs included in the project allocated on a pro rata basis, and 5% of the non residential acquisition basis (unless eligible for 15% on residential acquisition). Fifteen percent (15%) of the project's unadjusted eligible acquisition basis will be permitted for: (a) at-risk developments meeting the requirements of section 10325(g)(4); or (b) for other acquisition/rehabilitation projects, ~~except for existing tax credit projects applying for a new reservation of tax credits for acquisition (i.e. resyndication),~~ whose hard construction costs per unit in rehabilitation expenditures are at least \$50,000 or where the development will restrict at least 30% of its Low Income Units for those with incomes no greater than 50% of area median and restrict rents concomitantly. Resyndication projects are not eligible for 15% developer fee on acquisition basis.

All developer fees in excess of the greater of the following shall be deferred or contributed as equity to the project:

- 15% of the project's unadjusted eligible construction related basis plus 5% of the project's unadjusted eligible acquisition basis, up to two million five hundred thousand dollars (\$2,500,000); provided however, and subject to the \$2,500,000 limitation in the aggregate, 15% of the project's unadjusted eligible acquisition basis will be permitted for: (a) at-risk developments meeting the requirements of section 10325(g)(4); or (b) for other acquisition/rehabilitation projects, ~~except for existing tax credit projects applying for a new reservation of tax credits for acquisition (i.e. resyndication),~~ whose hard construction costs per unit in rehabilitation expenditures are at least \$50,000 or where the development will restrict at least 30% of its Low Income Units for those with incomes no greater than 50% of area median and restrict rents concomitantly. Resyndication projects are not eligible for 15% developer fee on acquisition basis; or
- one million dollars (\$1,000,000) plus 5% of the project's unadjusted eligible basis in excess of six million six hundred sixty-six thousand six hundred sixty seven dollars (\$6,666,667).

Notwithstanding the paragraph above, for projects which restrict for Special Needs Population(s) the greater of 1) 15 Low-Income Units or 2) 25% of the Low-Income Units, all developer fees in excess of the greater of the following shall be deferred or contributed as equity to the project:

- 15% of the project's unadjusted eligible construction related basis plus 5% of the project's unadjusted eligible acquisition basis, up to two million eight hundred thousand dollars (\$2,800,000); provided however, and subject to the \$2,800,000 limitation in the aggregate, 15% of the project's unadjusted eligible acquisition basis will be permitted for at-risk developments meeting the requirements of section 10325(g)(4) or for other acquisition/rehabilitation projects, except for existing tax credit projects applying for a new reservation of tax credits for acquisition (i.e. resyndication), whose hard construction costs per unit in rehabilitation expenditures are at least \$50,000 or where

the development will restrict at least 30% of its Low Income Units for those with incomes no greater than 50% of area median and restrict rents concomitantly; or

- one million dollars (\$1,000,000) plus 7% of the project's unadjusted eligible basis in excess of six million six hundred sixty-six thousand six hundred sixty seven dollars (\$6,666,667).

(iii) Notwithstanding (i) and (ii), effective through December 31, 2028, any developer fee in excess of \$6,000,000 shall be deferred or contributed as equity to the project. Prior to December 31, 2028, the Committee shall meet to discuss the application of any developer fee in excess of \$6,000,000.

(C) For purposes of this subsection, the unadjusted eligible basis is determined without consideration of the developer fee. With exception of 4% projects with a 2016 or later reservation, the developer fee in cost and in basis shall not be increased once established by a reservation of Tax Credits but may be decreased in the event of a modification in basis. Once established by a reservation of Tax Credits, the developer fee in cost and in basis for a 4% project with a 2016 or later reservation may increase or decrease in the event of modification in basis, and in the cases it is increased, any increase above the maximum developer fee established at reservation shall be additionally deferred or contributed as equity to the project. The maximum developer fees above apply to projects developed as multiple simultaneous phases using the same credit type: (2)(A) applies to all simultaneous phases using all 9% credits and (2)(B) above applies to all simultaneous phases using all 4% credits. Only when the immediately preceding phase of an all 9% credit phased project equals or exceeds 150 units or when any other phased project is using both credit types shall the provision of (2)(A) and (2)(B) apply to each phase independently. For purposes of this limitation, unless waived by the Executive Director, "simultaneous" refers to projects consisting of a single building, or projects on the same parcel or on parcels within ¼ mile of each other and with construction start dates within six months of each other, or completion dates that are within six months of each other.

(D) Deferred developer fee notes and/or agreements must be included in the placed-in-service application and the interest rates of such notes shall not exceed eight percent (8%).

(E) ~~Black, Indigenous, or Other People of Color (BIPOC) Joint Ventures~~. For projects that receive general partner experience pursuant to Section 5105(f)(1)(B) of the CDLAC Regulations, the 15% of project's unadjusted eligible construction related basis stated in Section 10327(c)(2)(B) shall be increased to 20% of the project's unadjusted eligible construction related basis and the two million five hundred thousand (\$2,500,000) dollars in subsection (c)(2)(B) above, is increased to three million (\$3,000,000) dollars, provided all of the following is met:-

(i) The entity that receives maximum general experience points pursuant to Section 10325(c)(1)(A) and the Emerging Developer, as defined by Section 5101 of the CDLAC Regulations, both hold a direct ownership interest in the Project and are providing project guarantees to the investor and construction

lender for loan repayment, project completion, tax credit recapture, and operating deficits;

- (ii) The Emerging Developer, as defined by Section 5101 of the CDLAC Regulations, is providing at least eight (8) of the following twelve (12) project management duties: providing initial feasibility analysis, property acquisition, entitlement and building permit processing, obtaining political/community support, applying for local government financing, vetting and selecting the general contractor, vetting and selecting the property management agent, processing requests for equity installments, processing construction loan draws, overseeing property lease up, converting to permanent financing, evidencing the project is placed-in-service with government agencies;
- (iii) The ownership documents and development agreement allocates at least 40% of the developer fee, payable from development sources, operating cash flow, and net sale proceeds to the Emerging Developer; and,
- (iv) The entity that receives maximum general experience points pursuant to Section 10325(c)(1)(A) shall certify to CDLAC after the project is placed-in-service that all the requirements herein were met, with references to the appropriate agreements that outlined the rights and responsibilities above, or may be subject to negative points and will have the developer fee reduced to the _____ amount _____ allowable _____ under _____ (B).

24. Section 10327(c)(5). Threshold Basis Limits.

The proposed change increases the limit at which the increase is no longer available to adjust for inflation since this figure was last updated in 2017. (Page 91)

Proposed change:

(5) Threshold Basis Limits. [...] Exception to limits. [...]

- (F) In a county that has an unadjusted 9% threshold basis limit for a 2-bedroom unit equal to or less than \$~~85~~00,000, a ten percent (10%) increase to the project's threshold basis limit for a development located in a census tract, or census block group as applicable, designated on the CTCAC/HCD Opportunity Area Map as Highest or High Resource.

25. Section 10327(c)(6). Acquisition costs.

The proposed change clarifies the treatment of leased land, clarifies requirements related to acquisition costs for Adaptive Reuse Projects, and improves readability. (Pages 92-93)

Proposed change:

(6) Acquisition costs. [...]

- (A) New Construction. The cost of land acquired through a third-party transaction with an unrelated party shall be evidenced by a sales agreement, purchase contract, lease agreement, or escrow closing statement. The value of land acquired from a Related Party shall be underwritten using the lesser of: (a) the current purchase or lease price; or (b) the appraised value pursuant to Section 10322(h)(9). If the purchase or lease price exceeds appraised value, the applicant shall, within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing by the overage. For all other purposes, the project cost shall include the overage.

The value of donated land, including land donated as part of an inclusionary housing ordinance, must be evidenced by an appraisal pursuant to Section 10322(h)(9).

- (B) Rehabilitation. Except as noted below, the applicant shall provide a sales agreement, lease agreement, or purchase contract in addition~~al~~ to the appraisal. The value of land and improvements shall be underwritten using the lesser amount of: (a) the purchase or lease price; or (b) the “as is” appraised value of the subject property (as defined in Section 10322(h)(9)) and its existing improvements without consideration of the future use of the property as rent restricted housing except if the property has existing long term rent restrictions that affect the as-is value of the property. The land value shall be based upon an “as if vacant” value as determined by the appraisal methodology described in Section 10322(h)(9) of these regulations. If the purchase or lease price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. If the purchase or lease price exceeds appraised value, the applicant shall (i) limit improvements acquisition basis to the amount supported by the appraisal and (ii) within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing, exclusive of any developer fee that must be deferred or contributed pursuant to Section 10327(c)(2)(B), by the overage. For all other purposes, the project cost shall include the overage.

- (C) Adaptive Reuse. The applicant shall provide a lease agreement, sales agreement, or purchase contract in addition to the appraisal. The value of land and improvements shall be underwritten using the lesser amount of: (a) the purchase price or lease price or (b) the “as is” appraised value of the subject property and its existing improvements. The land value shall be based upon an “as if vacant” value as determined by the appraisal methodology described in Section 10322(h)(9) of these regulations. If the purchase price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. If the purchase price exceeds appraised value, the applicant shall (i) limit improvements acquisition basis to the amount supported by the appraisal and (ii) within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing, exclusive of any

developer fee that must be deferred or contributed pursuant to Section 10327(c)(2)(B), by the overage. For all other purposes, the project cost shall include the overage.

26. Section 10327(c)(7). Reserve accounts.

The proposed change codifies the long-standing CTCAC definition of “industry norms” regarding reserves and aligns the requirements for using capitalized reserves throughout the regulations.
(Pages 93-94)

Proposed change:

- (7) Reserve accounts. All reserve accounts shall be used to maintain the property (which does not include repayment of loans) and/or benefit its residents, and shall remain with the project except as provided in subparagraph (B) below and except when a public lender funds rent subsidy and/or service reserves and requires repayment of unused rent subsidy and/or service reserves. If ownership of a project is transferred, the reserve accounts may be loaned to the project at zero percent (0%) interest and/or purchased by the purchaser(s) or transferee(s) for an amount equal to the reserve account(s) balance(s).
- (A) The minimum replacement reserve deposit for projects shall be three hundred dollars (\$300) per unit per year, or for new construction or senior projects, two hundred fifty dollars (\$250) per unit per year. The on-going funding of the replacement reserve in this amount shall be a requirement of the regulatory agreement during the term of the agreement, and the owner shall maintain these reserves in a segregated account. Funds in the replacement reserve shall only be used for capital improvements or repairs.
- (B) An operating reserve shall be funded in an amount equal to three months of estimated operating expenses and debt service under stabilized occupancy. Additional funding will be required only if withdrawals result in a reduction of the operating reserve account balance to 50% or less of the originally funded amount. At the discretion of the Executive Director, an equal, verified operating reserve requirement of any other debt or equity source, letter of credit, or demand note may be used as a substitute, and may be released following achievement of a minimum annual debt service ratio of 1.15 for three consecutive years following stabilized occupancy only to pay deferred developer fee. The original Sources and Uses budget and the final cost certification shall demonstrate the initial and subsequent funding of the operating reserves.
- (B)(C) The Committee shall allow ~~operating~~-reserve amounts in excess of one year of proposed operating expenses and required debt service payments~~industry norms~~ to be considered “reasonable costs,” for purposes of this ~~sub~~section, only for (1) homeless assistance projects under the Non-Profit Set-Aside, as described in Section 10315(b) or CDLAC homeless set aside projects (CDLAC Regulation 5101(a)(1)(A)). (2); Special Needs~~projects~~ with Special Needs Units totaling at

least 25% of Low-Income Units, HOPE VI projects, or (3) projects with an average targeted affordability of 40% of AMI or less-based Section 8 projects. The original Sources and Uses budget and the final cost certification shall demonstrate the initial and subsequent funding of the operating reserves. The excess reserve shall only be allowed up to the aggregate amount required to maintain financial feasibility for a 15-year term.

27. Section 10327(c)(8). Applicant resources.

The proposed change clarifies the timeliness requirement of a CPA certification for applicant resources, to ensure that projects are financially viable when using their own funds. (Page 94)

Proposed change:

- (8) Applicant resources. If the applicant intends to finance part or all of the project from its own resources or a Related Party's resources (other than deferred fees), the applicant shall be required to prove, to the Executive Director's satisfaction, that such resources are available and committed solely for this purpose, including an audited certification from a third party certified public accountant dated within 90 days or based on the prepared financial statements of the previous calendar year, that applicant has sufficient funds to successfully accomplish the financing. Public entities are exempt from this requirement.

28. Section 10327(c)(9). Self-syndication.

The proposed change ties the minimum rate for self-syndication to the minimum rate for all projects and allows exceptions to the minimum by the Executive Director under certain circumstances. Regulations regarding self-syndication were added in October 2015 at a time when credit pricing was much higher (\$.90 was the minimum federal factor versus \$.75 now). In 2018, the minimum state credit factor for self-syndication was adjusted from \$0.65 to \$0.79 to account for a reduction in the federal corporate tax rate, but the federal factor was not considered. (Page 94)

Proposed change:

- (9) Self-syndication. If the applicant or a Related Party intends to be the sole or primary tax credit investor in a project, the project shall be underwritten using a tax credit factor (i.e., price) of at least \$0.10 more than the minimum factors established pursuant to Sections 10317(k) and 10327(c)(4) of these regulations \$1 for each dollar of federal tax credit and \$.79 dollars for each dollar of State Tax Credit, unless the applicant proposes a higher value. The Executive Director may allow exceptions to this limitation based on the following circumstances: (a) smaller than average project size; (b) complex financing structure due to multiple sources; (c) complex land lease or ownership structure; (d) higher than average investor risk; (e) and/or little to no anticipated project

cash, allowing lower-than-market investor returns. In no case shall the initial proposed credit factor be less than the minimum established for all projects.

29. Section 10327(f). Determination of feasibility.

The proposed change aligns the requirements for using capitalized reserves throughout the regulations. (Page 95)

Proposed change:

- (f) Determination of feasibility. To be considered feasible, a proposed project shall exhibit positive cash flow after debt service for a 15-year minimum term beginning at stabilized occupancy, or in the case of acquisition/rehabilitation projects, at the completion of rehabilitation. "Cash flow after debt service" is defined as gross income (including (1) all rental income generated by proposed initial rent levels contained within the project application and (2) committed federal, state, and local rental subsidies; excluding income generated by tenant-based rental subsidies) minus vacancy, operating expenses, property taxes, service and site amenity expenses, operating and replacement reserves and must pay debt service (not including residual receipts debt payments). Expenses that do not continue through all 15 years of the pro forma shall be excluded from the evaluation of feasibility as well as from the minimum debt service coverage ratio and cash flow parameters pursuant to Section 10327(g)(6). For applications that qualify for a reservation of Tax Credits: (1) from the Nonprofit set-aside homeless assistance apportionment or CDLAC homeless set aside (CDLAC Regulation Section 5101(a)(1)(A)), (2) with special needs units comprising at least 25% of the low-income units, or (3) with an average targeted affordability of 40% of AMI or less, capitalized operating reserves in excess of the 3-month minimum amount may be added to gross income for purposes of determining "cash flow after debt service." In addition, applications with a committed capitalized operating subsidy reserve from HCD, CalHFA, or another public entity approved by the Executive Director may add withdrawals from this reserve to gross income for purposes of determining "cash flow after debt service."

30. Section 10327(g). Underwriting criteria.

The proposed change clarifies existing CTCAC policy that monitoring fees are not an operating expense and do not use an annual inflator in the pro forma cash flow and ensures that projects are meeting their Readiness to Proceed obligations before they are eligible for any extensions. This helps protect against projects requesting credits prematurely, thereby delaying other projects ready to proceed. (Page 95)

Proposed change:

- (g) Underwriting criteria. The following underwriting criteria shall be employed by the Committee in a pro forma analysis of proposed project cash flow to determine the

minimum Tax Credits necessary for financial feasibility and the maximum allowable Tax Credits. The Committee shall allow initial applicants to correct cash flow shortages or overages up to the higher of \$25,000 or 0.5% of gross income at placed in service. In addition, if the operating expenses are below the published amount pursuant to subparagraph (1), the CTCAC Executive Director may correct the error by increasing the operating expenses to the published amount, provided the increase maintains compliance with all other feasibility and underwriting criteria.

- (1) The 15-year pro forma revenue and expense projection calculations shall utilize a two-and-one-half percent (2.5%) increase in gross income, a three-and-one-half percent (3.5%) increase in operating expenses (excluding operating and replacement reserves set at prescribed amounts and monitoring fees, which shall not increase unless documented), and a two percent (2%) increase in property taxes.

31. Section 10328(g). Reservation Exchange.

The proposed change ensures that projects are meeting their Readiness to Proceed obligations before they are eligible for any extensions. This helps protect against projects requesting credits prematurely, thereby delaying other projects ready to proceed. (Page 99)

Proposed change:

[...]

- (6) A project reserved and allocated Federal Credit that returns all of the Federal Credit due to circumstances beyond the applicant's control and subject to the prior written approval of the Executive Director at their sole discretion. Such approval shall only be considered after the Readiness deadline requirements of Section 10325(c)(7) has been met, if applicable.

32. Section 10335. Fees and Performance Deposit.

The proposed change moves the additional fee for scattered sites into a separate section and, recognizing that Scattered Site Projects require a significant amount of additional staff time, both at the Preliminary Reservation and Placed in Service application phases, changes the fee structure for scattered sites, and establishes a fee for projects selecting the Multiple Building Election in IRS Form 8609 to recover additional administrative costs incurred when an owner elects to divide a multi-building development into separate projects. The proposed change also establishes requirements for owners seeking to extend the term of the CTCAC Regulatory Agreement and establishes a monitoring fee for such extensions. (Pages 100-103)

Proposed change:

(a) Application fee. All fees due hereunder shall be paid to the Committee and submitted with the application. Fees are non-refundable.

(1) Every applicant for non-competitive tax credits shall be required to pay an application filing fee of \$1,500, except that ~~Scattered site applications and~~ resyndication applicants ~~tions shall be required to pay an \$1,700 application filing fee. Scattered Site Project applicants shall also pay an additional fee of \$100 for each site, which shall be included in the total application fee. of \$1,700. This fee shall be paid to the Committee and shall be submitted with the application. This fee is not refundable.~~

(2) Every applicant for competitive tax credits shall be required to pay an application filing fee of \$2,500 Competitive applications.

(A) Every applicant for competitive tax credits shall be required to pay an application filing fee of \$2,500.

(B) ~~, except for p~~Projects with sites within the jurisdictions of multiple Local Reviewing Agencies (LRA) ~~for which applicants shall be required to pay an additional \$1,000 application fee for each additional LRA. This fee shall be paid to the Committee and shall be submitted with the application. This fee is not refundable.~~

(C) Scattered Site Project applicants shall also pay an additional fee of \$100 for each site, which shall be included in the total application fee.

(D) Applicants reapplying in the same calendar year for an essentially similar project on the same project site shall be required to pay an additional \$1,500 filing fee to be considered in a subsequent funding round, regardless of whether any amendments are made to the re-filed application.

At the request of the applicant and upon payment of the applicable fee by the application filing deadline, applications remaining on file will be considered as is, or as amended, as of the date of a reservation cycle deadline. It is the sole responsibility of the applicant to amend its application prior to the reservation cycle deadline to meet all application requirements of these regulations, and to submit a "complete" application in accordance with Section 10322.

~~(2)-(E)~~ \$1,000 of the initial application filing fee shall be provided to each official LRA ~~which that~~ completes a project evaluation for the Committee. An LRA may waive its portion of the ~~application filing fee, and~~ ~~Such waiver shall must~~ be evidenced by written confirmation from the LRA and, included with the application.

[...]

(f) Compliance monitoring fee.

(1) The Committee shall charge a \$700 per low-income unit fee to cover the costs associated with compliance monitoring throughout the extended-use period. Generally, payment of the fee shall be made prior to the issuance of Federal and/or State tax forms. Assessment of a lesser fee,

and any alternative timing for payment of the fee, may be approved at the sole discretion of the Executive Director and shall only be considered where convincing proof of financial hardship to the owner is provided. Nothing in this subsection shall preclude the Committee from charging an additional fee to cover the costs of any compliance monitoring required, but an additional fee shall not be required prior to the end of the initial 15 year compliance period.

(2) Extended Term Fee. Projects may request to extend the Regulatory Agreement term, subject to approval by the Executive Director. Projects approved for an extended term shall pay an additional monitoring fee calculated by multiplying the project's original monitoring fee ("base fee") by the ratio of years added to the original regulatory term. The monitoring fee rate and Low-Income Unit count used to establish the base fee shall be those in effect at the project's original allocation year.

[...]

(l) Multiple Building Election Fee. An owner who elects to treat a project as multiple building project for purposes of line 8b of IRS Form 8609 shall be assessed one thousand five hundred dollars (\$1,500) per multiple building project.

33. Section 10337(a). Regulatory Agreement.

The proposed change moves language from Section 10317(k). (Page 108)

Proposed change:

(a) Regulatory Agreement. [...]

(6) Regulatory agreements for projects receiving state credits shall include provisions regarding limitations on cash distributions required by Sections 12206(d), 17058(d), and 23610.5(d) of the Revenue and Taxation Code.

34. Section 10337(c)(7). Compliance monitoring procedure.

The proposed change removes and erroneous reference to the Franchise Tax Board.
(Page 111)

Proposed change:

- (7) IRS ~~and FTB~~-notification. All instances of noncompliance, whether corrected or not, shall be reported by the Committee to the IRS. This shall be done within forty-five (45) days following the termination of a correction period allowed by the Committee, pertaining to IRS Form 8823.