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**MAY 31, 2002**

**DRAFT PROCEDURES OF**

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**

**IMPLEMENTING THE ALLOCATION OF THE STATE CEILING**

**ON QUALIFIED PRIVATE ACTIVITY BONDS**

EFFECTIVE JANUARY 24, 2000 AS AMENDED ON APRIL 26, 2000,

MAY 8, 2001 AND AUGUST 22, 2001

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EXHIBIT A. AFFORDABILITY MATRIX

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# THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

## PROCEDURES IMPLEMENTING THE STATE CEILING ON QUALIFIED PRIVATE ACTIVITY BONDS

### Section 1. Purpose

- I. These procedures implement the Federal Tax Reform Act of 1986, 26 U.S.C. Sections 141, et seq., as amended, which establishes a unified volume ceiling on the aggregate amount of Qualified Private Activity Bonds which can be issued in each state.
- II. These procedures set forth the priorities and the allocation system of the California Debt Limit Allocation Committee in managing the allocation of California's annual State Ceiling on Qualified Private Activity Bonds as provided in Sections 8869.80, et seq. of the California Government Code, as amended.
- III. These procedures establish the process by which potential issuers of Qualified Private Activity Bonds may apply for, and be awarded, an allocation of the annual State Ceiling in accordance with the provisions and requirements of 26 U.S.C. Sections 141, et seq., as amended, and California Government Code Sections 8869.80, et seq., as amended.

### Section 2. Definitions

"Academic Performance Index" means the index created by the Public Schools Accountability Act of 1999 to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socio-economically disadvantaged subgroups within schools. (Education Code 52052)

"Allocation" means the amount of the State Ceiling awarded by the Committee to an Applicant.

"Allocation Round" means a meeting or series of meetings of the Committee during which a predetermined portion of the State Ceiling is made available for allocation by the Committee to one or more Applicants selected by the Committee during that meeting or series of meetings.

"Applicable Median Family Income" means the applicable median family income defined by 26 U.S.C. Section 143(f)(4) except that the definition of income contained in subsection B of 26 U.S.C. Section 143(f)(4) shall not apply to Applicants for a Single-Family Housing Program.

"Applicant" means any state or local governmental agency, joint powers authority (JPA), special district, non-profit public benefit corporation that issues only student loan bonds, or any other public agency that is empowered to issue debt.

"Application" means the request by an Applicant to the Committee for an Allocation of the State Ceiling.

"Area Median Income" means the median family income of a county as set by the U.S. Department of Housing and Urban Development.

"Bond Regulatory Agreement" means the agreement between the Issuer, Project Sponsor, and any other third party related to the ownership, financing, and management of a proposed Qualified Residential Rental Project that binds the parties to the commitments made in the Application that resulted in the Allocation for the project and any other requirements mandated by 26 U.S.C. Section 142.

"California Environmental Quality Act Review Process" means a process of environmental review as defined by California Public Resources Code Sections 21000, et seq.

"Census Designated Place" means a place designated as a census designated place by the Bureau of the Census.

“CHFA” means the California Housing Finance Agency.

“CIDFAC” means the California Industrial Development Financing Advisory Commission.

“CIEDB” means the California Infrastructure and Economic Development Bank.

“Committee” means The California Debt Limit Allocation Committee established by California Government Code Sections 8869.80, et seq.

“Committee Resolution” means, for any Allocation, the resolution duly adopted by the Committee that among other things, memorializes the grant of the Allocation by the Committee to the Applicant as contemplated by Section 10 of these Procedures.

“Community Revitalization Area” means a Distressed Community for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to the plan have occurred.

“Community Revitalization Plan” means a comprehensive plan adopted by a public entity that details specific efforts being undertaken in a neighborhood or a community, that will result in the improvement of the economic conditions and the quality of life in that area.

“Credit Enhancement” means the additional assurance provided by a third party pursuant to a payment guaranty, letter of credit, bond insurance or other similar vehicle with a marketable investment grade credit rating.

“Credit Enhancer” means the party providing Credit Enhancement. Applicants, other than CHFA, who provide assets, guaranties or revenues for a transaction are not Credit Enhancers for the purpose of these Procedures.

“CTCAC” means the California Tax Credit Allocation Committee.

“CTCAC Extended Low-Income Housing Commitment Agreement” means the agreement between the taxpayer and the housing credit agency binding the parties to the commitments made in the application to the CTCAC that resulted in the allocation of low income housing tax credits for the project and any other requirements mandated by 26 U.S.C. Section 42.

“CTCAC Regulations” means the regulations adopted by CTCAC and set forth at Title 4, California Code of Regulations Sections 10300, et seq., as amended.

“Debt Service Coverage Ratio” means the ratio of the net operating income from the project divided by the required debt service on the debt associated with the project.

“Deferred-Payment Financing” means any financing from a public entity in the form of grants, subsidies or loans where the repayment of the financing is deferred into the future or based on residual receipts from the project’s cash flow.

“Distressed Community” means a community that the Applicant demonstrates to the satisfaction of the Executive Director is any one or more of the following:

1. A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department’s most recent annual average for sub-county areas.
2. A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)
3. A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or

Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place such as a census tract or tracts, smaller geographic areas will be used.)

4. A state designated Enterprise Zone (including a ~~Local Agency Military Base Recovery Area, Manufacturing Enhancement Area or Targeted Tax Area~~).
5. A federally designated Empowerment Zone, ~~or Enterprise Community or Renewal Community~~.
6. A redevelopment project area adopted pursuant to California Health and Safety Code Sections 33000 et seq., where the Committee determines that the project area meets the definition of blighted area contained in California Health and Safety Code Section 33030.
7. ~~A city or county with a military base designated for closure pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent closure approved by the President of the United States without objection by the Congress. This provision will apply to proposed projects within two miles of a military base closure in an urban setting and to proposed projects within five miles of a military base closure in a rural setting.~~

“Eligible Principal” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing and who is currently employed full-time as a principal, vice principal or assistant principal in a Low Performing School:

- |   |   |
|---|---|
| Administrative Services Credential                  | Administrative Services Credential (Examination)  |
| Standard Supervision Credential                     | Standard Administration Credential                |
| General Elementary School Administration Credential | General Elementary School Supervision Credential  |
| General Secondary School Administration Credential  | General Secondary School Supervision Credential   |
| General Administration Credential                   | General Supervision Credential                    |
| The Supervision Credential                          | General School Principal or Supervisor Credential |

“Eligible School District” means a California K-12 school district or County Office of Education whose jurisdiction contains one or more Low Performing Schools.

“Eligible Teacher” means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing, and who is currently employed full-time in a Low Performing School in the subject and grade level as authorized by his or her credential:

- |  |   |
|--|---|
| Single Subject Teaching Credential   | Multiple Subject Teaching Credential                            |
| Specialist Instruction Credential in Special Education                       | Education Specialist Instruction Credential                     |
| Standard Elementary Teaching Credential                                      | Standard Secondary Teaching Credential                          |
| Standard Early Childhood Education Teaching Credential                       | Standard Restricted Special Education Teaching Credential       |
| General Kindergarten-Primary Teaching Credential                             | General Elementary Teaching Credential                          |
| General Junior High Teaching Credential                                      | General Secondary Teaching Credential                           |
| Special Secondary Teaching Credential in Art                                 | Special Credential for Teaching Exceptional Children            |
| Special Secondary Teaching Credential in Business Ed                         | Special Secondary Credential for Teaching the Blind             |
| Special Secondary Teaching Credential in Homemaking                          | Special Secondary Teaching Credential in Industrial Arts        |
| Special Secondary Credential for Teaching Lip Reading                        | Special Secondary Teaching Credential in Music                  |
| Special Secondary Limited Teaching Credential in Music                       | Special Secondary Teaching Credential Limited in Agric.         |
| Special Secondary Credential for Teaching the <u>Partially Sighted Child</u> | Special Secondary Teaching Credential in Physical Ed.           |
| <del>Partially Sighted Child</del>   | Special Secondary Teaching Credential in Speech Arts            |
| Special Secondary Teaching Credential in Correction of Speech Defects        | Special Secondary Credential for Teaching the Mentally Retarded |

“Empowerment Zone” means any area that meets the standards for designation as an empowerment zone under 26 U.S.C. Section 1392.

“Energy Financing Program” means a program that meets the requirements for eligibility for a qualified small-issue industrial development bond as described under 26 U.S.C. Section 144 and the requirements

of the energy financing program established and administered by the Power Authority or by such other entity approved by the Committee in its sole discretion to administer an energy financing program.

“Energy Financing Program Pool” means the portion of the Small-Issue Industrial Development Bond Project Pool, established by the Committee pursuant to Section 4 of these Procedures, that may be set aside for the Energy Financing Program in accordance with Section 4 of these Procedures.

“Enterprise Community” means any area that meets the standards for designation as an enterprise community under 26 U.S.C. Section 1392.

“Enterprise Zone” means any area within a city, county, or a city and county that is designated as an enterprise zone by the Trade and Commerce Agency in accordance with the provisions of Section 7073 of the California Government Code.

“Enterprise Zone Facility Bond Project” means a project defined by 26 U.S.C. Section 1394.

“Equipment Only Purchase Program” means a program that meets the requirements for eligibility for a qualified small-issue bond as described under 26 U.S.C. Section 144 and the requirements of the tax exempt equipment only purchase program established and administered by the California Statewide Communities Development Authority.

“Equipment Only Purchase Program Pool” means the portion of the Small-Issue Industrial Development Bond Project Pool, established by the Committee pursuant to Section 4 of these Procedures, that may be set aside for the Equipment Only Purchase Program in accordance with Section 4 of these Procedures.

“Executive Director” means the Executive Director of the Committee.

“Exempt Facility” means a facility satisfying the requirements of 26 U.S.C. Section 142, except that airports, docks and wharves, governmentally owned solid waste disposal facilities, and Qualified Residential Rental Projects shall not be considered exempt facilities for purposes of these Procedures.

“Exempt Facility Project Pool” means the reserve of the State Ceiling established by the Committee in accordance with Section 4 of these Procedures.

“Extra Credit Teacher Home Purchase Program” means a program offering Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds to Eligible Teachers and Principals for the purpose of assisting teachers, principals and assistant principals in becoming homeowners.

“Extra Credit Teacher Home Purchase Program Eligibility Certificate” means a certificate, in a form to be provided by the Committee, to be completed and submitted by the employing school district or County Office of Education and certifying to all of the following:

1. The teacher or principal meets the definition of Eligible Teacher or Principal;
2. The teacher or principal is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or dismissal of the teacher or principal;
3. The employing school district or County Office of Education has verified with the California Commission on Teacher Credentialing that the credential of the teacher or principal is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or revocation of the credential of the teacher or principal;
4. The personnel file of the teacher or principal reflects that he or she has not been dismissed from a teaching or principal position for any reason, and that he or she has not been the subject of a disciplinary suspension which has been upheld.

“Extra Credit Teacher Home Purchase Program Pool” means the reserve of the State Ceiling that may be established by the Committee in accordance with Section 4 of these Procedures.

“Family Medical Leave Act” means a sanctioned leave of absence in accordance with the provisions of 29 U.S.C. 2601, et seq.

“Federally Assisted At Risk Project” means a property that is at risk of conversion as defined by California Revenue and Taxation Code Section 17058 (c)(4) and by CTCAC Regulation, Section 10325 (g)(5)(B)(i)-(v).

“First Tier Business” means (1) a business that (a) is primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste, (b) is a privately-held or employee-owned entity whose ownership interests are not available to members of the public, and (c) has fewer than 3,000 employees (together with affiliates), based on the average employees per pay period during the most recent twelve (12) months before submittal of an Application; or (2) a business which is not primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste that is classified as a small business under regulations of the California Pollution Control Financing Authority (Title 4, California Code of Regulations, Sections 8001-8083).

“Gross Rent” means gross rent as defined by Section 42(g)(2)(B) of the Internal Revenue Code. Utility allowances, as provided by Section 42(g)(2)(B)(ii) of the Internal Revenue Code, will be included for purposes of this calculation. Projects that are Federally Assisted At Risk Projects or projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

“Homeownership Assistance” means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must:

1. Be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and
2. Include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the five (5) year commitment to serve in a Low Performing School.

Applicants will not be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition.

“HOPE VI Project” means a project funded by a grant from the Urban Revitalization Program created by Public Law 102-389 and administered by the Department of Housing and Urban Development under Section 24 of the United States Housing Act of 1937 (42 U.S.C. Section 1437(v)).

~~“Local Agency Military Base Recovery Area” means any military base or former military base or portion thereof which is designated as a local agency military base recovery area under the Local Agency Military Base Recovery Area Act (Cal. Gov. C. §§ 7105, et seq.).~~

“Local Issuer” means a local government entity that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single-Family Housing Programs. For purposes of Section 20 of these Procedures, specifically subsection IV and the Equipment Only Purchase Program, subsection V and the Small Business Program, and subsection VI and the Energy Financing Program, “Local Issuer” means a local government entity that issues small-issue industrial development bonds or a joint powers authority that issues small-issue industrial development bonds on behalf of a local government entity.

“Low Performing School” means a California K-12 public school ranked in the bottom 30% of all schools based on the most recent Academic Performance Index (API), i.e. schools receiving an API Statewide Ranking of 1, 2 or 3.

“Manufacturing Enhancement Area” means an area designated as a manufacturing enhancement area by the Trade and Commerce Agency in accordance with the provisions of California Government Code Section 7073.8.

"Mixed Income Pool" means the reserve of the Qualified Residential Rental Project Pool that may be established by the Committee in accordance with Section 4 of these Procedures.

"Mixed Income Project" means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units.

"Mortgage Credit Certificate" means a mortgage credit certificate as defined by 26 U.S.C. Section 25(c)(1).

"Mortgage Credit Certificate Program" means a program defined by 26 U.S.C. Section 25(c)(2).

"Mortgage Revenue Bond" means a mortgage revenue bond as defined by 26 U.S.C. Section 143(A).

"New Construction Projects" means a Qualified Residential Rental Project with 100% of its units constituting new units to the market, and expressly excluding any project that involves rehabilitation or any construction affecting existing residential rental units.

"Power Authority" means the California Consumer Power and Conservation Financing Authority or such other entity receiving an Allocation from the Committee under Section 20.VI. of these Procedures.

"Program Participant" means an Eligible Teacher or Principal who receives a Mortgage Credit Certificate or a loan funded by Mortgage Revenue Bonds through the Extra Credit Teacher Home Purchase Program.

"Project Sponsor" means the entity or an affiliate thereof, using the proceeds of a bond issue to complete the project described in the Application.

"Public Transit Corridor" means that area within one-quarter mile of a route on which there is regular service provided by a transit system or within one-quarter mile of an existing or planned public mass transit guideway or busway station, or within one-quarter mile of a multimodal transportation terminal serving public mass transit operations.

"Qualified Census Tract" means any census tract that is designated by the Secretary of Housing and Urban Development and in which, for the most recent year for which census data is available on household income in such tract, 50% or more of the households have an income which is less than 60% of the Area Median Income for such year.

"Qualified Private Activity Bond" means a bond that satisfies the requirements of 26 U.S.C. Sections 141, et seq.

"Qualified Residential Rental Project" means a qualified residential rental project as defined by 26 U.S.C. Section 142(d)(1).

"Qualified Residential Rental Project Pool" means the reserve of the State Ceiling established by the Committee in accordance with Section 4 of these Procedures.

"Redevelopment Project Area" means an urbanized area of a community which is a blighted area as defined in Sections 33030-33039 of the California Health and Safety Code, the redevelopment of which is necessary to effectuate the public purposes declared in Sections 33000, et seq. of the California Health and Safety Code.

"Regulatory Mandate" means a local, state or federal government mandate such as California Public Resources Code, Section 40000 et seq. ("AB 939"), a local public health department notice and order, a Regional Water Quality Control Board issued cease and desist order, or similar directive.

"Related Party" means a related party as defined by CTCAC Regulations, Section 10302(x).

“Renewal Community” means an area designated as a renewal community by the Secretary of Housing and Urban Development in accordance with the provisions of Section 1400E of the Community Renewal Tax Relief Act of 2000 (26 U.S.C. Section 1400E).

“Restricted Rental Units” mean those units within a Qualified Residential Rental Project that are restricted to households earning 60% or less of the Applicable Median Family Income pursuant to a Bond Regulatory Agreement or a CTCAC Extended Low-Income Housing Commitment Agreement for a minimum of thirty (30) years.

“Rural Project” means a Qualified Residential Rental Project located in a rural area as defined by California Health and Safety Code Section 50199.21 but shall not include a Mixed Income Project.

“Rural Project Pool” means the reserve of the Qualified Residential Rental Project Pool that may be established by the Committee in accordance with Section 4 of these Procedures.

“Single-Family Housing Program” means a program satisfying the requirements of 26 U.S.C. Section 25 and 26 U.S.C. Section 143.

“Single-Family Housing Program Pool” means the reserve of the State Ceiling established by the Committee in accordance with Section 4 of these Procedures.

“Single-Family Housing Program Bonus Pool” means the reserve of the Single-Family Housing Program Pool that may be established by the Committee in accordance with Section 4 of these Procedures.

“Small Business Program” means a program that meets the requirements for eligibility established and administered by CIDFAC.

“Small Business Program Pool” means the portion of the Small-Issue Industrial Development Project Pool, established by the Committee pursuant to Section 4 of these Procedures, that may be set aside for the Small Business Program in accordance with Section 4 of these Procedures.

“Small-Issue Industrial Development Bond Project” means a project that meets the requirements for a qualified small-issue bond as described under 26 U.S.C. Section 144.

“Small-Issue Industrial Development Project Bond Pool” means the reserve of the State Ceiling established by the Committee in accordance with Section 4 of these Procedures.

“Special Designation Area” means a community that the Applicant demonstrates to the satisfaction of the Executive Director is any one or more of the following:

1. A state designated Enterprise Zone (including a Manufacturing Enhancement Area or Targeted Tax Area).
2. A federally designated Empowerment Zone, Enterprise Community or Renewal Community.
3. A redevelopment project area adopted pursuant to California Health and Safety Code Sections 33000 et seq., where the Committee determines that the project area meets the definition of blighted area contained in California Health and Safety Code Section 33030.

“State Ceiling” means the aggregate amount of Qualified Private Activity Bonds that can be issued in California each calendar year as established by 26 U.S.C. Section 146 and as determined and announced by the Committee in accordance with Section 3 of these Procedures.

“State Ceiling Pools” means the state ceiling pools created by the Committee pursuant to Section 4 of these Procedures, including (1) the Qualified Residential Rental Project Pool, and the Mixed Income Pool, if any, and the Rural Project Pool, if any, within the Qualified Residential Rental Project Pool; (2) the Single-Family Housing Program Pool, and the Single-Family Housing Program Bonus Pool, if any, within the Single-Family Housing Program Pool; (3) the Extra Credit Teacher Home Purchase Program Pool, if any; (4) the Small-Issue Industrial Development Bond Project Pool, and the Equipment Only Purchase Program Pool, if any, within the Small-Issue Industrial Development Bond Project Pool; (5) the Exempt Facility Project Pool; and (6) the Student Loan Program Pool.

“Student Loan Program” means a program that meets the requirements for a qualified student loan bond under 26 U.S.C. Section 144(b).

“Student Loan Program Pool” means the reserve of the State Ceiling established by the Committee in accordance with Section 4 of these Procedures.

“Sustainable Building Methods” means any materials utilized in the development or rehabilitation of a qualified residential rental project that will increase energy efficiency by at least 15% above the energy standards set forth by the California Energy Commission Title 24, Part 6 of the California Code of Regulations as amended from time to time.

“Targeted Tax Area” means an area designated as a targeted tax area by the Trade and Commerce Agency in accordance with the provisions of California Government Code Section 7097.

“Taxable Debt” means taxable bonds or conventional financing from a major financial institution.

“Welfare To Work Plan” means a plan as described by Sections 10531, et seq. of the California Welfare and Institutions Code.

### **Section 3. Determination of the State Ceiling**

The Committee shall, as soon as is practicable after the start of each calendar year, determine and announce the State Ceiling for the calendar year in accordance with 26 U.S.C. Sections 141, et seq. and Section 8869.84(a) of the California Government Code.

### **Section 4. Allocation of the State Ceiling**

#### **I. Allocation Rounds**

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

- A. Establish the number and the tentative respective dates of the Allocation Rounds to be held during the year for the purpose of the Committee’s allocation of the State Ceiling Pools created pursuant to these Procedures. There will be a minimum of two Allocation Rounds each calendar year.
- B. Determine and announce the portion of the State Ceiling that will be available in each of the Allocation Rounds for each of the State Ceiling Pools that is created by the Committee pursuant to subsection II of this Section 4.
- C. Determine and announce the deadlines for Applicants to submit Applications for consideration during each of the Allocation Rounds established in subsection A, above.

The Committee reserves the right during any calendar year to alter the number of Allocation Rounds, the portion of the State Ceiling that will be available to each type of State Ceiling Pool in each of the Allocation Rounds, the schedule of the Allocation Rounds and the deadlines for Applicants to submit Applications for consideration based on its finding that it is appropriate to do so.

#### **II. Creation of State Ceiling Pools**

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

- A. The Qualified Residential Rental Project Pool. Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Qualified Residential Rental

Projects in accordance with Section 17 of these Procedures, and create a Qualified Residential Rental Project Pool for these purposes.

- B. The Mixed Income Pool. Determine and announce whether, in the Committee's sole discretion, a portion of the Qualified Residential Rental Project Pool shall be reserved in a Mixed Income Pool to be established within the Qualified Residential Rental Project Pool and to be available for allocation to Mixed Income Projects in accordance with Section 17 of these Procedures, and determine and announce what amount, if any, (expressed both as a percentage and as a dollar amount) not to exceed twenty-five percent (25%) of the Qualified Residential Rental Project Pool shall be so reserved during the year and available in each Allocation Round.
- C. The Rural Project Pool. Determine and announce whether, in the Committee's sole discretion, a portion of the Qualified Residential Rental Project Pool shall be reserved in a Rural Project Pool to be established within the Qualified Residential Rental Project Pool and to be available for allocation to Rural Projects in accordance with Section 17 of these Procedures, and determine and announce what amount, if any, (expressed both as a percentage and as a dollar amount) not to exceed ten percent (10%) of the Qualified Residential Rental Project Pool shall be so reserved during the year and available in each Allocation Round for Rural Projects.
- D. The Single-Family Housing Program Pool. Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Single-Family Housing Programs in accordance with Section 18 of these Procedures, and create a Single-Family Housing Program Pool for these purposes. The Committee will determine what portion of the Single-Family Housing Program Pool will be reserved and allocated to the California Housing Finance Agency. The balance of the Single-Family Housing Program Pool will be made available to Local Issuers in accordance with Section 18.
- E. The Single-Family Housing Program Bonus Pool. Determine and announce whether, in the Committee's sole discretion, a portion of the Single-Family Housing Program Pool shall be reserved in a separate Single-Family Housing Program Bonus Pool to be established and made available for allocation by the Committee during the year and in each Allocation Round in accordance with subsection II.B. of Section 18 of these Procedures, and determine and announce what amount, if any, expressed both as a percentage and as a dollar amount, of the Single-Family Housing Program Pool shall be so reserved. The portion reserved for the Single-Family Housing Program Bonus Pool shall not exceed twenty percent (20%) of the amount reserved for the Single-Family Housing Program Pool. The Single-Family Housing Program Bonus Pool may be made available for allocation at any Allocation Round subsequent to the first Allocation Round in a given calendar year.
- F. The Extra Credit Teacher Home Purchase Program Pool. Determine and announce whether, in the Committee's sole discretion, a portion of the State Ceiling shall be available for allocation during the year to Extra Credit Teacher Home Purchase Programs in accordance with Section 19 of these Procedures, and determine and announce what amount, if any, (expressed as a percentage and as a dollar amount) of the State Ceiling, shall be available during the year and in each Allocation Round, and create a Extra Credit Teacher Home Purchase Program Pool for these purposes.
- G. The Small-Issue Industrial Development Bond Project Pool. Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Small-Issue Industrial Development Projects in accordance with Section 20 of these Procedures, and create a Small-Issue Industrial Development Bond Project Pool for these purposes.
  - 1. A portion of the Small-Issue Industrial Development Bond Project Pool may, in the Committee's sole discretion, be set aside by the Committee for the Equipment Only Purchase Program.

2. A portion of the Small-Issue Industrial Development Bond Project Pool may, in the Committee's sole discretion, be set aside by the Committee for the Small Business program.
  3. A portion of the Small-Issue Industrial Development Bond Project Pool may, in the Committee's sole discretion, be set aside by the Committee for the Energy Financing Program.
- H. The Exempt Facility Project Pool. Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Exempt Facility Projects in accordance with Section 21 of these Procedures and create an Exempt Facility Project Pool for these purposes.
  - I. The Student Loan Program Pool. Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Student Loan Programs in accordance with Section 22 of these Procedures and create a Student Loan Program Pool for these purposes.
- III. Denied Applications. An Applicant whose Application is denied or that is otherwise unable to obtain an Allocation in one Allocation Round may request in writing that its Application be considered in a future Allocation Round. The Applicant will not receive any priority or preference as a result of having been previously denied an Allocation. An Applicant whose Application is denied may carryover its deposit and filing fees to the next Allocation Round.
  - IV. Redistribution of State Ceiling. At any time after the Committee establishes the State Ceiling Pools under subsection II of this Section 4, the Committee shall have sole discretion to redistribute the State Ceiling among the State Ceiling Pools as warranted. This redistribution may result in certain types of the State Ceiling Pools obtaining a greater or smaller portion of the State Ceiling than originally reserved or set aside for the particular State Ceiling Pools when the State Ceiling Pools were originally established by the Committee under subsection II of this Section 4.

#### **Section 5. Meetings of the California Debt Limit Allocation Committee**

- I. Legislative Mandate. The Committee shall hold public meetings throughout the year to carry out the duties contained in California Government Code Sections 8860.80, et seq. The Committee shall meet as necessary to approve Allocations of the annual State Ceiling.
- II. Agenda. The Executive Director shall publish an agenda giving at least 10 days' notice of all meetings of the Committee. The agenda shall be mailed to all persons and organizations on the Committee's mailing list and posted on the Committee's web site.
- III. Attendance of Applicants. While attendance at the Committee's public meetings is not mandatory, the Committee recommends that Applicants be present when their Applications are considered. On occasion, the Committee members may ask unforeseen questions which can only be satisfactorily answered by the Applicant or other members of the financing team.

#### **Section 6. Process for Filing Applications**

- I. Who May File an Application
  - A. Any state or local governmental agency, joint powers authority (JPA), special district, non-profit public benefit corporation that issues only student loan bonds or any other public agency that is empowered to issue debt may file an Application. The issuer of the Qualified Private Activity Bonds or Mortgage Credit Certificates must be the Applicant.
  - B. Where the Applicant is administering a Single-Family Housing Program on behalf of one or more jurisdictions, the Applicant must submit the Application to the Committee. The Applicant must also obtain publicly adopted documents from each jurisdiction participating in the

Applicant's program that explicitly grant authority to the Applicant to conduct the program in the participant's jurisdiction. Documentation must consist of a resolution or a cooperative agreement.

II. Where to File an Application. Applications for an Allocation of the State Ceiling shall be submitted to the Committee at its offices located in Sacramento, California.

III. What to File

A. Application forms for each of the various categories of Qualified Private Activity Bonds are available from the Committee. An Applicant must use the appropriate Application form depending upon the type of Qualified Private Activity Bond for which the Applicant requests an Allocation. The Applicant shall submit a completed Application form and supplemental material in a manner prescribed by the Committee for each project or program for which the Applicant is requesting an Allocation. All questions set forth in the applicable Application must be answered completely and accurately. Each Application must be accompanied by the required documentation outlined in the Application and these Procedures. Only complete Applications bearing the original signatures of an officer of the Applicant and the Project Sponsor, if applicable, will be accepted.

B. The following items must accompany the Application:

1. The Deposit Certification Form required by Section 7 of these Procedures;
2. The non-refundable first installment of the filing fee described in Section 8 of these Procedures;
3. The proof of Credit Enhancement required by Section 9 of these Procedures, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program);
4. A resolution adopted by the governing body of the Applicant approving a project or a program to be bond financed;
5. A resolution adopted by the governing body of the Applicant authorizing a senior officer of a state or local agency or, in the case of a Student Loan Program, an officer of the sponsor of the Student Loan Program, to file the Application with the Committee, pay any fees required by the Committee, and certifying the posting of the required performance deposit. The resolution may be combined with the resolution required by subsection 4, above;
6. For all Applications other than Applications relating to a Mortgage Credit Certificate Program, a resolution adopted by the governing body of the jurisdiction in which the proposed project or proposed program will be located, or in the case of a Student Loan Program, a resolution adopted by the sponsor of the Student Loan Program, memorializing the public approval process as required by 26 U.S.C. Section 147(f). The resolution shall clearly indicate that a public hearing was properly noticed and held with respect to the proposed issuance of bonds; such resolution shall be accompanied by the approval of the bonds for the specific project or program by the applicable elected representative as such term is defined in 26 U.S.C. Section 147(f)(2)(E). **A copy of the adopted resolution with the approval of the bond issue must be provided to the Committee no later than 30 calendar days following the application deadline.**

In the event that a copy of an adopted resolution cannot be provided within this timeframe, the Applicant shall certify as to the date, time, location, and outcome of the public hearing, the approval of the issuance of bonds by the applicable elected representative, and that such actions comply with the provisions of 26 U.S.C. Section 147(f); such certification

shall be accompanied by a copy of the notice announcing the public hearing. **If this required documentation is not received within the timeframe specified herein, the Application will not be considered for an Allocation;**

In the event that a TEFRA resolution for a proposed project or program is to be signed by a member of the Committee, the Applicant shall submit the minutes of the required TEFRA public hearing and proof of publication of the notice announcing the public hearing no later than 30 calendar days following the application deadline. Applicants of such projects or programs shall submit signed TEFRA resolutions no later than the date on which they submit their Report of Action Taken, as required by Section 14 of these Procedures.

7. The publicly-adopted documents required by subsection I.B., above. An Applicant requesting Allocation to implement a new Mortgage Credit Certificate Program must include copies of these documents with its Application. Applicants of existing Mortgage Credit Certificate Programs must either certify on the Application form that the previously publicly-adopted documents are valid and remain in force or provide copies of newly publicly-adopted documents;
8. For all Applications relating to a new Mortgage Credit Certificate Program, a program or operational manual. Applicants of existing programs do not need to include a program or operational manual unless substantive changes have been made; and
- ~~9. For Applications relating to a Qualified Residential Rental Project or a Single Family Housing Program other than an Application relating to a Mortgage Credit Certificate Program or Applications submitted by CHFA, the certificate issued by the California Debt and Investment Advisory Commission stating that the Applicant is in compliance with the reporting requirements contained in California Government Code Section 8855.5. A copy of the certificate must accompany the Application if available. Otherwise, a copy of the Applicant's request to the California Debt and Investment Advisory Commission for the certificate must be provided with the Application and the actual certificate provided when it becomes available. The certificate must be obtained prior to bonds being issued, as required by California Government Code Section 8855.5.~~

## **Section 7. Performance Deposit**

- I. Applicants must post a performance deposit equal to one-half of one percent (.5%) of the Allocation requested, not to exceed \$100,000. Each Applicant shall certify to the Committee, using the Committee's Performance Deposit Certification form, that the required deposit has been made.
- II. An Applicant must maintain the performance deposit until a written release is received from the Committee. In the case of Qualified Private Activity Bonds, the full release of a deposit will not be authorized unless 80% of the Allocation is used to issue Qualified Private Activity Bonds for the purposes approved by the Committee. If less than 80% of the Allocation is used to issue Qualified Private Activity Bonds, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the amount of awarded Allocation. For example, a project received a \$10,000,000 Allocation award. The Applicant uses \$7,900,000 of the Allocation to issue bonds. The unused portion of Allocation is \$2,100,000, or 21% of the \$10,000,000 awarded. Therefore, 21% of the performance deposit will be forfeited to the Committee. In the case of Mortgage Credit Certificates, the full release of a deposit will not be authorized unless the Allocation has been converted to Mortgage Credit Certificate authority and at least one certificate issued by the date specified in the Committee Resolution. If the Allocation is converted by the specified date but at least one certificate is not issued by the specified date, 20% of the performance deposit will be forfeited by the Applicant. For example, if an Applicant receives a \$3,000,000 Allocation, timely converts the Allocation to Mortgage Credit Certificates, but fails to issue at least one certificate by the specified date, 20% of the performance deposit would be forfeited to the Committee.

- III. The written authorization releasing a performance deposit will occur upon the Committee's receipt of a properly completed Report of Action Taken form as required by Section 14 reporting the use of Allocation to issue bonds or Mortgage Credit Certificates. The Committee Resolution shall provide the timeframe for using the Allocation and filing the required Report of Action Taken form.
- IV. If either the Applicant or the Project Sponsor withdraws an Application prior to the Application being considered by the Committee, the performance deposit shall be automatically released and no written authorization from the Committee shall be necessary.
- V. Project Sponsors bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the Committee Resolution.

### **Section 8. Filing Fee**

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

- I. **Initial Filing Fee.** A check in the amount of \$300 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.
- II. **Second Installment of Filing Fee.** The second installment of the filing fee will be due upon the use of the Allocation to issue Qualified Private Activity Bonds or the first Mortgage Credit Certificate. The Committee will issue an invoice for the remaining fee upon receipt of the Report of Action Taken form required by Section 14. The amount of the second installment of the filing fee is the product of the amount of Allocation used to issue Qualified Private Activity Bonds or Mortgage Credit Certificates multiplied by .00035, less the fee paid pursuant to subsection I, above.

### **Section 9. Credit Enhancement**

#### **I. General Policy**

Applicants other than Applicants for a Mortgage Credit Certificate Program, shall provide at least one of the following:

- A. Credit Enhancement; or
- B. Evidence of a commitment to purchase the Qualified Private Activity Bonds.

#### **II. Acceptable Proof and Rating of Credit Enhancement**

- A. Acceptable proof of Credit Enhancement shall consist of signed documentation from the Credit Enhancer to the Project Sponsor, the Applicant, or to the Committee stating that the Credit Enhancer has approved the Credit Enhancement. The documentation must, at a minimum, include all of the following:
  1. Clear identification of the Project Sponsor, the project or program, the amount of the Credit Enhancement, the instrument conveying the Credit Enhancement and the salient terms and conditions specific to the bond transaction, including at a minimum, the amount and the term of the Credit Enhancement, the fees to be charged, the proposed financial underwriting of the project and the requirements for the issuance of the Credit Enhancement;
  2. Acceptance of the terms and conditions of the Credit Enhancement by the Project Sponsor;

3. Terms and conditions that are established by the Credit Enhancer and are achievable by the Project Sponsor within the allotted time frame for closing the bonds;
  4. Confirmation that the proposed project has received approval from the individuals within the organization providing the Credit Enhancement who have the authority to approve the Credit Enhancement;
  5. A binding commitment to close the transaction and to provide the Credit Enhancement;
  6. If the bonds are to be variable rate bonds, the short term rating must be no less than "A1" by Standard & Poor's, "VMIG1" by Moody's, or "F-1" by Fitch IBCA, Inc. or the equivalent, as determined by the Executive Director. If the bonds are to be fixed rate bonds, the recommended rating shall be within the "A" category. If the rating on the fixed rate bonds is below an "A" category rating, the Application will be evaluated per subsection III. below. At the beginning of each calendar year, the Committee may adjust these ratings as economic conditions dictate.
  7. A minimum Debt Service Coverage Ratio of 1.1 to 1 in the case of Qualified Residential Rental Projects. Applications submitted by CHFA are exempt from this requirement.
- B. If Fannie Mae is providing the Credit Enhancement, the commitment issued by a qualified lender under the Delegated Underwriting and Servicing (DUS) program of Fannie Mae will constitute acceptable proof of Credit Enhancement.
  - C. If CHFA is providing the Credit Enhancement, evidence of its investment grade rating shall be provided with the Application.
- III. Rated or Non-Rated Bonds Without Credit Enhancement
- A. If an Application does not include Credit Enhancement, the following factors will be considered in evaluating the feasibility of the sale of the bonds:
    1. Rating;
    2. Marketability of the bonds;
    3. Experience level and the track record of the entity selling or privately placing the bonds on behalf of the Applicant;
    4. Financial strength of the project and the Project Sponsor;
    5. Additional sources of repayment other than the project;
    6. The rights, capability and resources of parties to the transaction other than the Project Sponsor to complete and operate the project in the event of default;
    7. The level of commitment of any proposed bond purchaser to privately place or purchase the bonds.
  - B. In addition, if the bonds are not rated, the Committee may require that the bonds either be sold to institutional investors or be privately placed and that the Applicant provide convincing proof that there is a purchaser or purchasers for the bonds.
  - C. The commitment to purchase the bonds must, at a minimum, clearly identify the Project Sponsor, the project or program, the amount of bonds to be sold, the salient terms and conditions of the bond sale including the financial underwriting of the proposed project required to complete the purchase. The terms and conditions that are established by the bond purchaser must be achievable by the Project Sponsor within the allotted timeframe for closing the bonds.

## Section 10. Committee Resolution; Use of the State Ceiling Allocations

- I. The granting of an Allocation by the Committee shall be memorialized in a written resolution adopted by the Committee, as authorized by California Government Code Sections 8869.85 and 8869.86. The Committee Resolution shall specify among other things, the Applicant, the amount of the Allocation, the project or program name for which the Allocation has been provided, the Project Sponsor using the bond proceeds where applicable, the location of the project or program and any conditions or restrictions imposed on the Allocation by the Committee.
- II. Use of an Allocation shall be limited by the provisions of the Committee Resolution. Any changes to the specifications contained in the Committee Resolution prior to the issuance of Qualified Private Activity Bonds, including, but not limited to, changes to the structure of any Credit Enhancement, the provider of any Credit Enhancement, the direct purchaser of the bonds if a private placement of bonds is indicated, or the identity of the Applicant, must be approved by the Committee prior to the bond issuance. The Committee may delegate the authority to approve these changes to the Committee Chair or to the Executive Director.
- III. Where the Allocation is for Mortgage Revenue Bonds or Mortgage Credit Certificates, the Executive Director may administratively approve routine and nonsubstantive changes that do not require additional Allocation.

## Section 11. Expiration of Allocations and Extensions

- I. The expiration date of the Allocation will be specified in the Committee Resolution. The expiration date shall be no more than 110 days and no less than 90 days, for the issuance of Qualified Private Activity Bonds for Qualified Residential Rental Projects, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds and Exempt Facilities, and no more than 120 days, for the issuance of Mortgage Credit Certificates and Student Loan Bonds, from the date on which the Committee grants the Allocation. At the discretion of the Executive Director, and solely for the purpose of coordination of low income housing tax credits for projects that have received Allocation, the expiration date may be extended to a date that is no more than 130 days from the date on which the Committee grants the Allocation. Allocations of Qualified Private Activity Bonds for Qualified Residential Rental Projects and Small-Issue Industrial Development Bonds may, in the Committee's discretion, be assigned an expiration date that is either 90 days, 100 days or 110 days from the date of the Allocation. In this event, the expiration dates will be assigned randomly by a lottery drawing conducted by the Executive Director within five (5) business days following each Allocation Round. Upon expiration of an Allocation, any amount of the Allocation that has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate authority will automatically revert to the Committee.
- II. The Committee may grant an extension of the expiration date of the Allocation of up to five (5) business days for extreme hardship cases. The Committee may delegate its authority to grant extensions to the Executive Director.
- III. Applicants that receive an Allocation after October 15 must sell and close the Qualified Private Activity Bonds or convert the Allocation to Mortgage Credit Certificate authority no later than December 31 of the same calendar year in order to comply with federal law, unless the Committee authorizes a carry forward of the Allocation under Section 13 of these Procedures. Further, the Committee may impose a shorter time frame for closing bonds or converting the Allocation to Mortgage Credit Certificate ~~Authority~~authority to insure full use of the State Ceiling.

## Section 12. Transfers of Allocation

- I. Allocations (including carryforward Allocations) are not transferable unless expressly authorized in writing by the Committee. The Committee will permit transfers of Allocation (including carryforward Allocations) to the highest scoring Application on a waiting list or, if a waiting list does not exist, the highest scoring project in queue in a current Allocation Round.

- II. If an Applicant is administering a Single-Family Housing Program for itself and other participating jurisdictions, the use of Allocation within the participating jurisdictions is not considered a transfer.

### **Section 13. Carryforward Elections**

- I. An Applicant receiving an Allocation may not carry forward the Allocation to a subsequent calendar year unless expressly authorized in writing by the Committee.
- II. At the end of a calendar year or at the end of the Allocation Rounds, the Committee may make carryforward Allocations available. In that event, the Committee will announce the conditions for applying and for receiving a carryforward Allocation.

The Committee will establish an expiration date for the carryforward Allocation and the expiration date will be specified in the Committee Resolution. If any amount of the carryforward Allocation has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate Authority on or before the expiration date, the Performance Deposit will be forfeited to the Committee, and the expiration date for use of the carryforward Allocation will be automatically extended, without further action by the Committee, to the deadline for submitting applications to the Committee for the final Allocation Round for the calendar year following the year in which the carryforward Allocation was awarded (the "Extended Expiration Date").

If any amount of the carryforward Allocation has still not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate Authority on or before the Extended Expiration Date, the Committee may, in its sole discretion, require the issuer to transfer, in accordance with Section 12 of these Procedures, the carryforward Allocation to another approved project by the same issuer. If the Committee does not require a transfer of the carryforward Allocation, the Extended Expiration Date shall be extended from year to year (until the Allocation expires for purposes of federal law) to each subsequent deadline for submitting applications to the Committee, at which such times, the Committee may, in its sole discretion, require the issuer to transfer the carryforward Allocation to another approved project by the same issuer.

### **Section 14. Reporting**

- I. Within twenty-four (24) hours of using the Allocation to issue Qualified Private Activity Bonds or to convert bond authority to Mortgage Credit Certificate authority, an Applicant or its counsel shall notify the Committee of such use of the Allocation by a facsimile communication to the fax number listed in Section 24 of these Procedures. The facsimile communication shall identify the Applicant, the project or program, the date the Allocation was used, and the amount of the Allocation used.
- II. Within fifteen (15) calendar days of a bond closing, an Applicant or its counsel shall formally transmit to the Committee information regarding the issuance of bonds by submitting a completed Report of Action Taken in a form prescribed by and available from the Committee.
- III. Within fifteen (15) calendar days of issuing the first Mortgage Credit Certificate, an Applicant or its counsel shall formally transmit to the Committee, to the address listed in Section 24 of these Procedures, information regarding the conversion of bond authority to Mortgage Credit Certificate authority and the issuance of at least one certificate by submitting a completed Report of Action Taken form.

### **Section 15. Certifications**

Following the Committee's receipt of the Report of Action Taken form required by Section 14 of these Procedures and as authorized by California Government Code Section 8869.93, the State Treasurer or his or her designee shall provide the Applicant with a letter certifying that a bond issue meets the requirements of 26 U.S.C. Section 146. This certification letter shall be provided to an Applicant of Mortgage Credit Certificates at the time that the Committee Resolution is transmitted.

### **Section 16. Evaluation Criteria Applicable to All Applications**

The following general principles apply to all Applications:

- I. **Minimum Requirements.** Wherever these Procedures require that an Applicant demonstrate a certain condition or characteristic or satisfy certain minimum requirements, each such condition or characteristic or minimum requirement must be demonstrated by the Applicant, at the time of Application, by clear and convincing evidence to the satisfaction of the Executive Director. The Executive Director shall have sole discretion, as delegated by the Committee, to determine whether each minimum requirement has been demonstrated by clear and convincing evidence, and the Executive Director shall have sole discretion, as delegated by the Committee, to not consider any Application that has not demonstrated every minimum requirement to the Executive Director's satisfaction.
- II. **Accurate and Complete Information.** It is the responsibility of each Applicant and each Project Sponsor to provide the Committee with complete and accurate information at the time the Application is filed which will enable the Executive Director to apply its criteria fairly and correctly to the Application. If the Applicant/Project Sponsor (or their attorneys, agents, employees, or other representatives) provides information that is incomplete, erroneous, inaccurate, misleading or false as to a fact material to the Executive Director's decision-making process, the Application may be rejected. If such incomplete, erroneous, inaccurate, misleading or false information is discovered after an Allocation is made, the Allocation may be rescinded, if bonds have not been sold or an election to convert bond authority to Mortgage Credit Certificates has not been filed with the Internal Revenue Service. If bonds have been sold or converted to Mortgage Credit Certificates, the Committee may take action as it deems appropriate.
- III. **Awarding of Points.** Wherever these Procedures contemplate the awarding of points to an Application, in order for an Application to qualify for such points, the Applicant must demonstrate by clear and convincing evidence to the sole satisfaction of the Executive Director that the related criterion has been satisfied. The Executive Director shall have sole discretion to determine whether the criterion has been satisfied by clear and convincing evidence. If the Executive Director, in its sole discretion, determines that the Applicant has not demonstrated by clear and convincing evidence that a particular criterion has been satisfied, the Executive Director shall be free to not award the related points.
- IV. **Readiness.** The Applicant must demonstrate that it can use the Allocation within the time frame required by these Procedures to issue Qualified Private Activity Bonds or Mortgage Credit Certificates.
- V. **Measurements.** Wherever these Procedures award points based on a measurement of distance, that distance shall be from the perimeter of the proposed project to the perimeter of the amenity referenced. Applicants must provide a detailed map in the Application from which the Committee can reasonably determine that the measurement criteria has been met.
- VI. **Disqualification.** The Committee reserves the right to disqualify an Application, an Applicant or a Project Sponsor based upon substantial evidence of multiple or repeated failure to use committed public subsidies, to use private activity bond allocations within applicable deadlines, or to provide physical amenities or services; upon substantial evidence that false information was provided in connection with an Application; or upon substantial evidence that leads the Committee to reasonably and in good faith conclude that an allocation will be inimical to, or incompatible with, the purposes of these Procedures or the laws regulating the allocation of the State Ceiling on Qualified Private Activity Bonds.
- VII. **Committee Discretion to Not Allocate.** The Committee reserves the right to establish the minimum number of points an Application must receive in order to receive an Allocation and regardless of whether the Committee has established such minimum points, the Committee reserves the right to not make an Allocation to any Application which the Committee determines, in its sole discretion, has not been awarded a sufficient number of points under these Procedures in order to be deserving of an Allocation.

## Section 17. Allocation System for Qualified Residential Rental Projects

### I. Minimum Requirements

An Applicant requesting an Allocation for a Qualified Residential Rental Project must meet the following minimum requirements.

#### A. Readiness

The Project Sponsor must demonstrate its readiness to use the Allocation. At a minimum, the Project Sponsor shall provide evidence (1) of demonstrated site control and (2) that the project, as proposed, is zoned for the intended use and the Project Sponsor has obtained all applicable local land use approvals.

~~1. The Applicant must demonstrate its readiness to use the Allocation. A satisfactory showing of readiness must include, at a minimum, site control as defined by CTCAG Regulation, Section 10326 (g)(2) or a title report showing that the Project Sponsor holds fee title, and evidence of all discretionary local approvals as defined by CTCAG Regulation, Section 10326 (g)(3).~~ Demonstrated site control. The Project Sponsor shall provide evidence that the subject property is from the time of application submission, and will remain, within the control of the Applicant or Project Sponsor.

a. Site control must be evidenced by at least one of the following:

- i. A current title report issued within 90 days of Application showing the Applicant or Project Sponsor holds fee title;
- ii. An executed lease agreement or lease option for the length of time the Project will be regulated under this program between the Applicant or Project Sponsor and the owner of the subject property;
- iii. An executed disposition and development agreement between the Project Sponsor and a public agency; or
- iv. A valid, current, enforceable contingent purchase and sale agreement or option agreement between the Applicant or Project Sponsor and the owner of the subject property, including evidence that all extensions necessary to keep agreement current through the application filing deadline have been executed.

b. The Executive Director may determine, in her/his sole discretion, that site control has been demonstrated where a local agency has documented its intention to acquire the site, or portion of the site, through eminent domain proceedings.

2. Local Approvals and Zoning. The Project Sponsor 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 that are subject to the discretion of local elected officials.

a. Examples of local approvals include, but are not limited to, the following:

- i. Adopted general plan amendments;
- ii. Approved rezonings; and
- iii. Approved conditional use permits.

b. Notwithstanding the first sentence of Section 17.1.A.2., local land use approvals, such as design review and variances, are not required at the time of application.

~~2. The Executive Director may determine, in her/his sole discretion, that site control has been demonstrated where a local agency has documented its intention to acquire the site, or portion of the site, through eminent domain proceedings.~~

~~3-c.~~ The Executive Director may require, as evidence of local approval, a certification by an appropriate local government-planning official of the applicable local jurisdiction on a form provided by the Committee.

B. Income and Rent Restrictions.

All Qualified Residential Rental Projects must meet the following minimum income and rent restrictions, which will be included in the Committee Resolution.

1. Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the Area Median Income. To justify utility allowances, the Project Sponsor must provide current utility allowance estimates from the local public housing authority signifying that the proposed project is located in its jurisdiction and that the utility allowance schedule provided is current (ref: IRS Final Regulations T.D. 8520). The Project Sponsor must indicate which components of the utility allowance schedule apply to the project.

If a project is to be substantially retrofitted for energy conservation and/or it will be newly constructed with substantial energy conservation, the Application may submit utility allowances based upon the lower utility allowances projected after construction or retrofit. Such lower utility allowances must be validated by a public utility letter or public housing authority letter, which provides estimates that are adjusted for significant energy conservation sources.

2. Minimum Rent Restrictions. The weighted average rental rate of each Restricted Rental Unit type must be at least ten percent (10%) below the weighted average rental rate of the same unit type in each of three comparable market rental properties as demonstrated by a market study meeting the requirements of Section 17.1.C.

3. Minimum Term of Restrictions. Income and rent restrictions must be maintained for a qualified project period that is at a minimum thirty (30) years. For the purposes of this section, the qualified project period is that period which begins on the date when ten percent (10%) occupancy is achieved and ends on the later of:

a. Thirty (30) years following the date on which fifty percent (50%) occupancy is achieved, or

b. The date on which bonds are no longer outstanding.

C. Market Study

A full market study, prepared within 180 days of the application filing deadline, by an independent third party, having no identity of interest with the development's partners, intended partners, or general contractor, must be submitted with the Application. The market study must comport with the Committee's market study guidelines, which are available from the Committee and through the Committee's internet site, "<http://www.treasurer.ca.gov/cdlac.htm>".

The market study must demonstrate that the project meets the minimum requirement that the proposed weighted average rental rate of each Restricted Rental Unit type is at least ten percent (10%) below the weighted average rental rate of the same unit type in each of three comparable market rental properties. If the project does not meet this minimum requirement, then the Application will be considered ineligible to receive Allocation. The Executive Director may waive this requirement in unusual circumstances, such as where the market is primarily comprised of tax credit rental units and the need for the project is otherwise demonstrated.

If the Project Sponsor requests points under Section 17.II.C., then the market study shall be used to determine those points.

- ~~B. Applications Submitted to CTCAC. Applicants requesting an Allocation for a Qualified Residential Rental Project who concurrently have an application for the same project filed with CTCAC for CTCAC's consideration under its nine percent (9%) program will not be permitted to apply to the Committee unless the application to CTCAC is withdrawn prior to the Application deadline.~~
- ~~C. Income & Rent Restriction Term. Each Applicant must commit to a minimum 30-year income and rental restriction on the Qualified Residential Rental Project. This requirement will be included in the Committee Resolution.~~
- ~~D. Minimum Affordability Criteria. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must be income and rent restricted to serve households with incomes no greater than fifty percent (50%) or below Area Median Income. This requirement will be included in the Committee Resolution.~~

#### E.D. Acquisition & Rehabilitation Projects

1. Qualified Residential Rental Projects involving the rehabilitation of existing buildings, except for Federally Assisted At Risk Projects, must complete a minimum of \$7,500 in hard construction costs per unit. Hard construction costs means the amount of the construction contract not including contractor profit or overhead. A Federally Assisted At Risk Project may spend the minimum amount required by 26 U.S. C. Section 147(d)(2).
2. Applicants may be requested by the Executive Director to provide a capital needs assessment that details the work to be undertaken, the associated costs, levels of reserves and the remaining useful life of the building's major structural components.

#### F. Housing Need and Demand

~~Any Joint Powers Authority Applicant shall provide evidence that local housing officials have been noticed of the time and the date of the local TEFRA hearing for any Qualified Residential Rental Project TEFRA hearing scheduled after February 15, 2000.~~

#### E. Applications Submitted to CTCAC.

1. Concurrent Application to CTCAC.

Applicants requesting an Allocation for a Qualified Residential Rental Project who concurrently have an application for the same project filed with CTCAC for CTCAC's consideration under its nine percent (9%) program will not be permitted to apply to the Committee unless the application to CTCAC is withdrawn prior to the Application deadline.

2. Subsequent Application to CTCAC.

Applicants that receive an Allocation for a Qualified Residential Rental Project are prohibited from subsequently requesting an allocation of 9% low income housing tax credits from CTCAC for the same project, except where the Executive Director grants a

waiver based on extraordinary circumstances, including but not limited to, the passage of significant time or circumstances outside the Applicant's control, and makes a determination that the waiver is consistent with the provision of affordable housing.

#### G. Rent Comparables

All Applicants must provide a description of the proposed market area for the Qualified Residential Rental Project and provide detailed descriptions of at least three comparable rental properties within one mile of the proposed project with similar market rate units submitted in a format prescribed by the Committee, or in the case of Rural Projects where comparables do not exist within one mile, the surrounding market area. Market rate units must be unrestricted, unsubsidized market rentals similar in size, age and amenities to the proposed Restricted Rental Units. The Applicant must demonstrate that the rental rates of the Restricted Rental Units of each unit type within the project will be at least ten percent (10%) below the same unit type in each of the three comparable rental properties. Should comparable rental properties of a similar unit mix be unavailable, sufficient rental data shall be obtained to allow comparison of at least three comparable rents for each unit size. Comparable units shall have the same number of bathrooms in the unit. Should four bedroom units be unavailable in the market area, single family residences located within a ½ mile radius may be substituted. The proposed rents of the project's four bedroom units shall be at least twenty percent (20%) below the three comparable four bedroom single family homes. This minimum requirement that rents be at least ten percent (10%) below market rents may be waived by the Executive Director in unusual circumstances, such as where the market is primarily comprised of tax credit rental units and the need for the project is otherwise demonstrated.

## II. Evaluation Criteria

Once the Executive Director has determined that an Application meets the minimum requirements listed above, the following criteria will be used to evaluate, award points to, and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Each of the items in this Section 17.II. will be memorialized in the Committee Resolution.

#### A. Federally Assisted At-Risk Projects and HOPE VI Projects – (20 points maximum)

1. Projects that are Federally Assisted At Risk Projects or HOPE VI Projects will receive 10 points.
2. Projects that are Federally Assisted At Risk Projects or HOPE VI Projects and have restricted rents (the weighted average rental rate of each Restricted Rental Unit type ~~all of the units to by~~ which the project will be regulated ~~by~~ under the CTCAC Extended Low-Income Housing Commitment Agreement or other regulatory agreement if the Section 8 contract is discontinued) at least twenty percent (20%) below the weighted average rental rate of the same unit types in the comparable market rental properties will receive 10 points.

#### B. Exceeding the Minimum ~~Affordability Requirements~~ Income Restrictions – (35 points maximum for Qualified Residential Rental Projects other than Mixed Income Projects, 15 points maximum for Mixed Income Projects)

Qualified Residential Rental Projects will be awarded points for the percentage of units that are Restricted Rental Units (see attached Affordability Matrix). ~~All projects are required to have a minimum of ten percent (10%) of the units at fifty percent (50%) of Area Median Income. The Gross Rent definition will apply to the rents calculated in this Section 17.II.B. and Section 17.I.B.1. See attached Affordability Matrix.~~

1. For each ten percent (10%) increment of units restricted at fifty percent (50%) of Area Median Income or below, Qualified Residential Rental Projects other than Mixed Income

Projects will receive seven (7) points, and Mixed Income Projects will receive three (3) points.

2. For each ten percent (10%) increment of units restricted at greater than fifty percent (50%) of Area Median Income and up to sixty percent (60%) of Area Median Income, Qualified Residential Rental Projects other than Mixed Income Projects will receive two (2) points, and Mixed Income Projects will receive one-half (½) point.

C. Gross Rents (5 points)

1. Five (5) points will be awarded to Federally Assisted At Risk Projects and tax credit projects, which are required to utilize the Gross Rent definition. (See definition of Gross Rent in Section 2)
2. Five (5) points will be awarded to projects that are not Federally Assisted At Risk Projects or tax credit projects that utilize the Gross Rent definition.
3. No points will be awarded to projects that do not utilize the Gross Rent definition.

D. Comparison of Restricted and Market Rents Exceeding the Minimum Rent Restrictions (10 points maximum)

One (1) point will be awarded for each percentage point that the weighted average rental rate of ~~the each~~ Restricted Rental Units type is more than twenty percent (20%) below the weighted average market rental rate of the same unit type in the comparable market rental properties as demonstrated in the market study required by Section 17.I.C., above.

Applications receiving points under ~~subsection Section 17.II.A., above,~~ shall be ineligible to receive points under this ~~subsection Section 17.II.D.C.~~ Evidence of comparable rental rates meeting the requirements of ~~subsection I.C., above,~~ shall be provided by the Applicant.

~~The Executive Director may require a complete market study, prepared by an independent third party that has been approved by the Executive Director, in circumstances where the information submitted does not demonstrate, in the Executive Director's sole determination, that the rents are more than twenty percent (20%) below market rents. In such cases, the Project Sponsor shall bear the sole financial responsibility for the market study.~~

C.E. Term of Affordability Exceeding the Minimum Term of Restrictions (10 points maximum)

Qualified Residential Rental Projects that ~~meet the Minimum Affordability criteria maintain the Income and Rent Restrictions of subsection I.D. Section 17.I.B., or the income and rent restrictions committed to in Section 17.II.B., above,~~ whichever is more restrictive, for longer than thirty (30) years will be awarded two (2) points for every five (5) years of affordability beyond thirty (30) years.

E. High Job Growth Area (10 points)

~~Ten (10) points will be awarded to those projects that are (1) located within an employment center; and (2) located within a sub-county area having a three-year average employment growth rate of at least one hundred ten percent (110%) of the statewide three-year average employment growth rate based on Employment Development Department data. For purposes of this provision, an employment center is defined as the area within a one (1) mile radius of the Qualified Residential Rental Project in which the existing uses or zoning consist substantially of employment related uses of office, research and development, manufacturing and assembly, medical facilities, civic uses, distribution and warehousing, and retail.~~

F. Large Family Units (5 points)

Five (5) points will be awarded to those projects where at least thirty percent (30%) of the Restricted Rental Units are three-bedroom or larger units.

G. Leveraging (10 points maximum)

1. The Committee will consider the amount of direct or indirect committed **public** funds (other than any Allocation) the project has received in relation to the project's total development costs (excluding developer fees). These sources must be part of the permanent sources for the development. Public funds means direct grants, below market rate loans, or direct funds including, but not limited to, waiver of fees or the value of donated or leased land by a public agency (substantiated either by the actual purchase price of the land or by an appraisal whichever is lower) but not including property tax exemption. All deferred payment financing grants and subsidies must be committed at the time of Application.

Applications will be awarded one (1) point for every one-percent of leveraged public funds of the total development costs (minus developer fees).

2. Applications for Qualified Residential Rental Projects that will use ~~taxable bond financing~~ Taxable Debt, in addition to tax-exempt bond financing, will be awarded points based on the degree that the ~~taxable bond financing~~ Taxable Debt supplants the use of tax-exempt bond financing. The requirement for using ~~taxable bond financing~~ Taxable Debt will be included in the Committee Resolution. ~~Taxable debt~~ Debt may only be utilized for project-related expenses, not for the cost of issuance, for which the Applicant could otherwise have used tax-exempt financing in order to receive points under this category.

Applications will be awarded one-half (1/2) of a point for every one-percent of ~~taxable bond financing~~ Taxable Debt ~~on~~ of the total development costs (minus developer fees).

3. All Deferred-Payment Financing, grants and subsidies must be committed by a public entity at the time of Application. Evidence provided shall signify the form of the commitment, the amount of the loan, grant or subsidy amount, the length of the term of the commitment, conditions of participation, and express authorization from the governing body, or an official expressly authorized to act on behalf of said governing body, committing the funds, as well as the Project Sponsor's acceptance. Commitments shall be final, not preliminary, and only subject to conditions within the control of the Project Sponsor. Fund commitments shall be from funds within the control of the committed entity at the time of the Application.

H. Sustainable Development Criteria (25 points maximum)

The Committee will award points to Applications demonstrating the following criteria:

1. Projects located in a Community Revitalization Area: (15 points maximum)

Projects located in a Community Revitalization Area, as demonstrated by a map evidencing this, will be awarded the following points provided that the Applicant provides a letter from the municipality, redevelopment agency or other agency responsible for affordable housing production in the area confirming the activities listed below:

- a. Five (5) points will be awarded to those projects where specific and significant on-going community partnerships and programs have been created, are operational, and are providing community enhancement services in the neighborhood (e.g. job training programs, after-school enrichment programs, etc.).
- b. Five (5) points will be awarded to those projects where substantial funds (not including the funds in the proposed project) have been expended in the last three

years, are being expended or are committed to be expended to improve the community infrastructure (e.g. parks, street improvements) of the overall area.

- c. Five (5) points will be awarded to those projects where other projects (such as retail, office and housing) that contribute to community revitalization have been completed in the last three years, are underway or are committed to be completed.

2. Site Amenities (10 points maximum)

The Committee will award points to Applications with existing site amenities, provided the site amenities are appropriate for the population served, and a scaled-for-distance map showing the location of the project and the site amenities is provided in the Application, as follows:

- a. Two and one-half (2 ½) points will be awarded to projects located within a Public Transit Corridor or for Rural Projects where there is no public transportation system, to projects using a van or dial-a-ride service.
- b. Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of a park or recreational facility.
- c. Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of groceries and other essential shopping needs.
- d. Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of public schools. Projects with all units restricted to households having all members 55 years or older shall not be eligible for points in this category.
- e. Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of a medical facility serving seniors or a senior center. Only projects with all units restricted to households having members 55 years or older (with the exception of caregivers and others who are exempt by state law from the age restrictions) shall be eligible for points in this category.

I. Sustainable Building Methods (7 points maximum)

A project Application that utilizes any materials that will increase energy efficiency by at least 15% above the Title 24 energy standards will receive five (5) points.

Projects that incorporate items from the following list will receive one (1) point for each item used in the Project, up to a maximum of two (2) points:

1. Utilizing energy efficient appliances with the Energy Star rating for refrigerators, dishwashers, furnaces, air conditioners, and windows;
2. Use of natural gas for cooking and space heating;
- ~~3. No use of Volatile Organic Compound (VOC) paints or stains on interiors;~~
- ~~4.3.~~ Use of occupancy sensors to turn off lights for all bathrooms, garages, and storage spaces;
- ~~5.4.~~ Use of fluorescent light fixtures for at least 75% of light fixtures.

To receive these points the Project Sponsor and the licensed project architect or mechanical engineer shall certify that the proposed Project will meet or exceed this standard. A Project Sponsor may be subject to monitoring for compliance with this standard. A Project Sponsor receiving points under this category who fails to meet this requirement will be subject to negative points under Section 17.II.L.

J. Service Amenities (10 points maximum)

The Committee will award points to Applications with service amenities, provided that the service amenities are appropriate to the population served and are committed for a minimum of ten (10) years, as follows:

1. Five (5) points to projects with after school programs of an ongoing nature.
2. Five (5) points to projects with licensed childcare.
3. Five (5) points to projects with educational classes (such as English as a Second Language classes, computer training, etc.) pursuant to a written agreement with a third party provider.
4. Five (5) points to projects with contracts for services, such as assistance with daily living activities.
5. Five (5) points to projects with substantially similar service amenities, based upon the determination of the Executive Director.

The Applicant-Project Sponsor must certify that the services proposed are free of charge (with the exception of licensed child care) and either that there is space available on the project site for the service amenity or that the service amenity is located within one-quarter (¼) mile of the project.

K. New Construction Projects (10 points)

Ten (10) points will be awarded to new construction projects with Restricted Rental Units.

L. Negative Points – (No maximum negative points)

If an Application involves a Project Sponsor (general partner) that has been affiliated (i.e. in the ownership structure) on or after January 1, 2000 with a project for which an Allocation was previously awarded and that has the following characteristics, points will be deducted as indicated from any new Application involving the same Project Sponsor:

1. Ten (10) points will be deducted for each failure to fully utilize the committed public subsidies or ~~taxable debt~~ Taxable Debt for which points were awarded in connection with the prior Allocation, unless it can be demonstrated to the satisfaction of the Executive Director that such failure was entirely outside of the Project Sponsor's control or the amount not utilized is de minimus. This deduction will be assessed against the Project Sponsor for a period of two calendar years (10 points each year) from the date on which the prior Allocation was awarded.
2. Ten (10) points will be deducted for each failure to issue bonds that results in the full amount of the Allocation reverting back to the Committee ~~utilize a prior Allocation to complete the related project (i.e. reversion of Allocation),~~ unless it can be demonstrated to the satisfaction of the Executive Director that such failure was entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two calendar years (10 points each year) from the date on which Allocation was awarded.
3. Ten (10) points will be deducted for each failure to spend the proceeds of bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated to the satisfaction of the Executive Director that such failure was entirely outside of the Project Sponsor's control, the amount not spent is de minimus, or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will be assessed against the Project Sponsor for

a period of three calendar years (10 points each year) from the deadline under federal law to spend such bond proceeds.

4. Ten (10) points will be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated to the satisfaction of the Executive Director that such failure was entirely outside of the Project Sponsor's control. This deduction will be assessed for a period of three calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.

~~The negative points in subsection K above, will not be assessed until the Allocation Rounds in 2001, and after. Negative points given to a Project Sponsor will remain in effect for two calendar years beginning with the year in which the negative points are assessed. Additionally, multiple-Multiple or repeated violations as described above may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation at the recommendation of the Executive Director.~~

### III. Ranking Applications

After all of the Applications for Qualified Residential Rental Projects are awarded points under the evaluation criteria listed in subsection II, above, the Applications will be ranked and awarded an Allocation as follows:

- A. Applications for Mixed Income Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects that are not Mixed Income Projects. Applications for Mixed Income Projects awarded the greatest number of points shall be awarded an Allocation from the Mixed Income Pool. Applications for Mixed Income Projects not receiving an Allocation under this subsection A **will not** be eligible for consideration for an Allocation under subsections B or C, below.
- B. Applications for Rural Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects that are not Rural Projects. Applications for Rural Projects awarded the greatest number of points shall be awarded an Allocation from the Rural Project Pool. Applications for Rural Projects not receiving an Allocation under this subsection B **will** be eligible for consideration for an Allocation under subsection C, below.
- C. Applications for Qualified Residential Projects that are not Mixed Income Projects, and any Applications for Rural Projects not receiving an Allocation under subsection B, above, will then be ranked together. Applications receiving the greatest number of points shall be awarded an Allocation from the Qualified Residential Rental Project Pool.
- D. If two or more Applications are awarded the same total number of points, these Applications will be ranked according to the lowest amount of requested Allocation per Restricted Rental Unit (Allocation amount requested divided by number of Restricted Rental Units).

### IV. Maximum Allocation Amount

The Committee will allocate no more than \$30 million for any proposed Qualified Residential Rental Project. Where an Application is received for a proposed Qualified Residential Rental Project that is located within one-fourth (1/4) mile of another Qualified Residential Rental Project involving the same Project Sponsor or a Related Party to the Project Sponsor, the Allocation amounts for every such Qualified Residential Rental Project cannot, in the aggregate, exceed \$30 million within a calendar year. Annually, the Committee may adjust or waive this maximum allocation amount if the Committee determines that the demand for allocation for Qualified Residential Rental Projects is such that the maximum allocation amount is not warranted. In addition, an Applicant requesting an Allocation over \$30 million may request an exception based on the following factors:

- A. The Qualified Residential Rental Project qualifies as a Federally Assisted At-Risk Project; or

- B. Documentation is provided in the Application indicating why a Qualified Residential Rental Project cannot be developed in phases at a \$30 million level. Development of a project in phases means the completion of a project in stages as opposed to a single on-going development. The information must be specific and may include, but is not limited to, a site plan detailing the layout of the subject property, unit mix per stage of the phase, any unique features of the property which inhibits phasing, a description of infrastructure costs, and a cost breakdown by phases. If the documentation is satisfactory, the Executive Director may recommend that an exception be granted to the maximum allocation limit.

## **Section 18. Allocation System for Single-Family Housing Programs**

### **I. Minimum Requirements**

An Applicant requesting an Allocation for a Single-Family Housing Program must meet the following requirements:

- A. A minimum of ~~thirty-five~~ forty percent (~~35~~40%) of the participants in the Single-Family Housing Program must be households: (1) earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; or (2) located in a Qualified Census Tract. Applicants may use the high-cost area adjustment specifically set forth in 26 U.S.C. Section 143 (f)(5) to meet this minimum requirement. Beginning in the Allocation Rounds in ~~2004-2004~~ and after, the minimum requirement will increase to forty-five percent (45%), and in 2005, the minimum requirement shall increase to fifty percent (50%) by five percent (5%) each year up to a fifty percent (50%) maximum to be reached in the Year 2003.
- B. The proposed Single-Family Housing Program must be consistent with the adopted housing element(s) for the jurisdiction(s) in which the program is to be operated.

The Committee may consider exceptions to the minimum requirements based upon detailed information submitted by the Applicant that meeting these requirements presents an undue financial burden or economic hardship for the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director.

### **II. Evaluation and Distribution Criteria**

Once the Executive Director has determined that an Application meets the minimum requirements listed above, the Executive Director will use the following criteria to evaluate the Applications and distribute the Single-Family Housing Program Pool.

- A. Fair Share Allocation. After the Committee determines under Section 4 of these Procedures the portion of the Single-Family Housing reservation that will be allocated to CHFA, the remainder of the Single-Family Housing Program Pool will be reserved, by county, for Local Issuers. Each county shall receive a proportionate share of the amount reserved for Local Issuers based on the population of the county relative to the State's total population. Populations will be based on data published by the California State Department of Finance Demographics Unit. Where there is more than one Local Issuer in a county, each Local Issuer shall receive a proportionate share of the county's reservation based on the population of the jurisdictions served by an issuer relative to the county's total population, or as agreed upon by the participating Local Issuers.
- B. Allocation of the Bonus Pool Reserve
  - 1. If the Committee has established a Single-Family Housing Program Bonus Pool in accordance with Section 4 of these Procedures, the Committee may consider the following factors in awarding an Allocation from the Single-Family Housing Program Bonus Pool. All issuers of single-family housing bonds, including CHFA, will be eligible for

consideration by the Committee for an Allocation from the Single-Family Housing Program Bonus Pool.

- a. Five (5) points will be awarded where a minimum of twenty-five percent (25%) of program participants are households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located;
  - b. Five (5) points will be awarded where the program has exceeded its prior year's program performance (based on the most recent yearly data that is available) by ten percent (10%) in assisting households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located;
  - c. Five (5) points will be awarded where the program will address a demonstrable imbalance between jobs and housing in the community or neighborhood based on sufficient evidence provided to the Committee;
  - d. Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in a Community Revitalization Area.
  - e. Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in rural locations to assist units that will be developed under a low-income self-help ownership program or be restricted for sale to low-income households engaged in agricultural employment as described in Section 7202 of the California Health and Safety Code.
  - f. Five (5) points will be awarded where the program is augmented with a down-payment assistance program provided by the Applicant or by the other participating jurisdictions.
2. All Applicants, including CHFA, meeting a minimum score of fifteen (15) points will be awarded an Allocation of the Single-Family Housing Program Bonus Pool. If CHFA is awarded fifteen (15) points, CHFA will be awarded an Allocation of the Single-Family Housing Program Bonus Pool in the same proportion as CHFA's fair share allocation. The remaining amount of the Single-Family Housing Program Bonus Pool will be awarded to Local Issuers. The amount awarded to a Local Issuer winner will be based on each Applicant's pro-rata population relative to the total population of all the winning Applicants in the same manner as the fair share allocation described in II.A. above.

### III. Performance Monitoring of Single-Family Housing Programs

- A. An Applicant receiving an Allocation for a Single-Family Housing Program will be held accountable for achieving the minimum requirements that were considered by the Committee in awarding the Allocation. The Committee will monitor, on an annual basis, the programs awarded an Allocation. A Single-Family Housing Program that has not achieved the participation requirements set forth in ~~subsection~~ Section 18.I.A., above, will have its next year's Allocation, if any, reduced in accordance with the following schedule:

<u>Performance Achievement</u>	<u>Fair Share Allocation Amount</u>
91% - 100%	100%
81% - 90%	90%
71% - 80%	80%
61% - 70%	70%
0% - 60%	60%

- B. The Committee may consider exceptions to the above schedule of reduced Allocation where the Applicant provides full written documentation of the reasons for the underachievement and how the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair or to the Executive Director.