

**Proposed  
Regulation Changes with Reasons  
September 29, 2010**

**Proposed Change:**

**Section 10322(h)(5):**

- (5) Identification of project participants. For purposes of this Section all of the following project participants, if applicable will be considered to be members of the Development Team. The application must contain the company name and contact person, address, telephone number, and fax number of each:
- (A) developer;
  - (B) general contractor;
  - (C) architect;
  - (D) attorney;
  - (E) tax professional;
  - (F) property management company;
  - (G) consultant;
  - (H) market analyst and/or appraiser; and
  - (I) CNA consultant.

If any members of the Development Team have not yet been selected at the application filing deadline, each must be named and materials required above must be submitted at the ~~450~~ 180 day deadline described in Section 10325(c)(8).

**Proposed Change:**

**Section 10325(c)(3)(B):**

- (3) Negative points. Negative points, up to a total of 10 for each project and/or each violation, may be given at the Executive Director's discretion for general partners, co-developers, management agents, consultants, guarantors, or any member or agent of the Development Team as described in Section 10322(h)(5) for items including, but not limited to:
- (A) failure to utilize committed public subsidies identified in an application, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;
  - (B) failure to utilize Tax Credits within program time guidelines, including failure to meet the ~~450~~ 180 day readiness requirements, unless it can be demonstrated to the satisfaction of the Executive Director that the circumstances were entirely outside of the applicant's control;

**Proposed Change:**

**Section 10325(c)(8):**

- (8) Readiness to Proceed. 20 points will be available to projects that meet ALL of the following, and are able to begin construction within ~~450~~ 180 days of the Credit Reservation, as evidenced by submission, within that

time, of recorded deeds of trust for all construction financing, a limited partnership agreement executed by the general partner and the investor providing the equity, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement) and notice to proceed delivered to the contractor. If no construction lender is involved, evidence must be submitted within ~~150~~ 180 days after the Reservation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred.

In addition to the above, all applicants receiving any readiness points under this subsection must provide an executed Letter of Intent (LOI) from the project's equity partner within 90 days of the Credit Reservation. The LOI must include those features called for in the CTCAC application. Failure to meet ~~this~~ these two timelines ~~will~~ shall result in rescission of the Tax Credit Reservation. The following must be delivered:

- (A) enforceable commitment for all construction financing, as evidenced by executed commitment(s) and payment of commitment fee(s);
- (B) evidence, as verified by the appropriate officials, of site plan approval and that all local land use environmental review clearances (CEQA and NEPA) necessary to begin construction are either finally approved or unnecessary;
- (B) evidence of all necessary public approvals except building permits; and
- (C) evidence of design review approval.

For paragraphs (B), (C), and (D) an appeal period may run up to 30 days beyond the application due date. The applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved within that 30-day period to garner local approval readiness points.

In the event that one or more of the above criteria have not been met, 5 points may be awarded for each one that has been met, up to a maximum of 15 points. The ~~150-day~~ 180-day requirements shall not apply to projects that do not obtain the maximum points in this category, for any items for which points are not awarded.

~~The Executive Director, at his or her sole discretion, may make a finding that a market-wide lack of investor equity or systemic credit market illiquidity warrants a general extension to the 150-day readiness deadline for projects that still have 2008 reservations. That Executive Director may extend the deadline for no more than an additional 90 days beyond the original deadline.~~

**Reason:** Proposed changes would lengthen the time period by which a reservation recipient must meet the listed readiness criteria from 150 days to 180 days. In part, TCAC is responding to a request from the U.S. Department of Housing and Urban Development (HUD) to extend the loan closing period to 180 days for projects seeking FHA insured financing. However, TCAC staff is aware of several circumstances that may delay loan closing for the highest quality projects. Therefore, rather than create an

exception for FHA-insured financing, staff proposes extending the 180 days to all projects.

Extending the readiness requirement to 180 days would continue to assure timeliness, and would continue to push projects to commence construction well as early as possible. Having closed construction financing and issued permits within 180 days would continue to assure completion in advanced of the federal placed-in-service deadline. The proposed change would also permit projects to forgo incurring some costs, such as those associated with detailed architectural plans, until after securing a tax credit reservation.

The 180-day standard would go into effect immediately upon adoption by the Committee. This would also provide 2010 reservation recipients with another 30 days to meet their readiness requirements. This is appropriate in light of the ongoing fluidity in the financial and equity markets.

Staff is not proposing to provide the Executive Director with case-by-case authority to grant extensions to the readiness timing standard. The current absolute deadline is fair and should not be subject to individual petitions in light of the competitive advantage derived by earning readiness points.

Clarifying edits state that missing either the 90-day or 180-day performance deadlines shall result in loss of the credits.

Finally, deleting the final paragraph of Section 10325(c)(8) would clean up archaic language adopted in 2009 to address 2008 projects experiencing delays.

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