MARCH 26, 2018 EMERGENCY REGULATION CHANGE PROPOSALS
PUBLIC COMMENTS RECEIVED DURING COMMENT PERIOD
CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

TCAC staff proposed emergency regulations changes on March 26, 2018. Written public comments were received during the 25-day Public Comment Period, March 27 through April 20, 2018. The written comments received during the Public Comment Period are set forth below with TCAC's responses.

Name	Public Comments	Staff Comments/Recommendations
Elissa Dennis, Community Economics	Projects that applied as 100% low income without realizing there were a couple of over income households should not have to relocate the tenants or lose the credits for those units. The regulations should allow such projects to utilize the flexibility of the 80% ami level to accommodate the over-income tenants in low-income units that receive credits. This would allow households that the IRS now considers "low income" to remain in their homes.	Staff concurs that it is appropriate to allow projects that have not yet entered into regulatory agreements to utilize income averaging in order to accommodate over-income tenants, whether or not the project was reserved credits as a 100% affordable project. It would be unfair to treat projects differently just because they were a bit more aggressive or conservative in their projection of whether over-income tenants would remain at placed in service. Staff proposes amendments to both sections accordingly. Given the newness of the income averaging concept and the unforeseen scenarios that may arise, staff also proposes to require Executive Director approval for revisions to the income targeting of a project that has already received a reservation or been submitted.
Veronica Zimmerman Garcia, Housing Authority of the City of San Buenaventura	We would like to request for you to consider extending the proposed regulation changes to projects that have received reservations but have not yet submitted Place-In-Service Applications. This would be particularly helpful in RAD conversions where current residents may have incomes in the 60-80% AMI range at initial lease up.	The original proposed changes allowed certain projects that had already received a reservation but not yet recorded a regulatory agreement (which occurs soon after the project submits its placed in service package) to utilize the income averaging provisions. As stated above in the response to Elissa Dennis, staff now proposes to expand the universe of eligible projects.

Andrew Buhrman, Hunters View Associates	We write to comment on the proposed regulation changes with respect to the unique situation of public housing redevelopment sites (specifically Hunters View, which is located in San Francisco – though we are aware of at least one other public housing revitalization project – Alice Griffith - with similar conditions). We propose and request that the new TCAC rule change provide an exception with regards to public housing redevelopments. These projects often have a legal obligation to re-house relocated residents, and it can be many years post project inception when the Project Sponsor must accept these residents back, at whatever income they have at the time of lease-up. The timing makes it incredibly challenging to perfectly anticipate the income restrictions for all of the units. Such is the case for our project at Hunters View Phase IIA. While best efforts to account for these residents were made at project inception, we could not have anticipated that a total of 3 "over-income" households would return to Phase IIA (as opposed to the 1 accounted for at application). Request: Allow an exception to your proposed regulations for public housing projects that have a legal obligation to offer residents a right-to-return, and that have not yet recorded a regulatory agreement, to utilize the income averaging rule to accommodate returnee households, whether stated at application as a reduced applicable fraction or not. Background: Hunters View is a multi-phased public housing redevelopment project where all original 267 public housing units will be replaced, along with more than 100 additional affordable units and new	Staff believes that the amendments described in the response to Elissa Dennis accommodate the commenter's comment. The proposed amendments apply to any already approved or applied for project that has over-income tenants, not just public housing conversion projects.

	moderate and market rate units to diversify the neighborhood. In both Phase IA and Phase IIA of Hunters View, we held one unit as a non-tax credit unit (capped at 80% AMI as prescribed by Section 8) and the over-income returnee was able to resettle into that home, as we held a less than 100% applicable fraction at application to TCAC. However, in Phase IIA, three total households ultimately returned at above 60% AMI (where we only held one for this purpose). By their very nature, public housing projects tend to provide deeply affordable units that house some of the state's hardest to house. Additionally, because of the relocation requirements, a public housing redevelopment project is more akin to an occupied rehab project. With regards to the new rules, the conditions at Hunters View are: - One returning over 60% household, which was originally held outside the tax credit count/applicable fraction - Two additional households, which were originally tax credit units at application, are now no longer tax credit qualifying - All three qualify under 80% AMI - Including these units, overall averaging at Hunters View is 38% AMI - The City of San Francisco also covenants the units to a 50% AMI restriction, with exception provided only to re-house over-income returning residents – so once the "over-income" units are vacated, the next households must qualify at 50% AMI, for a term of 55 years.	

	The income targeting to accommodate these residents is not designed to change the overall affordability but rather to help ensure the units that are occupied by public housing residents receive the tax credit equity they need to be successful. Lastly, all 3 of these units would then be included in the tax credit restrictive covenant from TCAC for a 55 year term. We appreciate your consideration of this request.	
Andy Madeira, Eden Housing	We strongly support the proposed changes and look forward to working with TCAC to expand how we preserve and provide affordable housing with income averaging. We have the following specific comments: Section 10326(g)(9): For non-competitive applications, we request a change to match the federal language for average targeting from "not exceed 59% AMI" to "not be greater than 60% AMI." Multi-property and Multi-housing type Projects: There is not yet clarity on if TCAC will require income averaging for each property's unit matrix within a multi-property project (applying as either a single-site or scattered-site project) or if income averaging will apply to the unit matrix in totality. We request the latter. Otherwise, existing projects with existing tenants may not be able to take full advantage of the benefits of this rule change. For a multi-site project that has multiple project types (for example, family and senior housing), please clarify if units of each housing type must average 60% AMI or if the income averaging will apply to the project in totality. Again, we request the latter.	Similar to the deeper targeting rules that it currently enforces, TCAC intends, unless it receives IRS guidance to the contrary, to verify compliance with the income averaging requirements at the project level, not at the site or building level, regardless of housing type. Project that have already received a reservation or submitted an application and that meet the criteria for revising the income targeting as described in the response to Elissa Dennis, will request the revision when they submit the project's placed in service package. The applicant should email the request to the Executive Director, and the revision request should state how the project meets the criteria to be eligible for a revision. The recordation of the regulatory agreement with the revised targeting will constitute the Executive Director's approval. With respect to the comment related to the average income requirement for non-competitive applications, please see the response to Patrick Sabelhaus.

	Election Process: Please clarify the process to apply income averaging to projects that have already applied for tax credits or have been awarded but have not yet filed Form 8609.	
Richard Mandel, California Housing Partnership Corporation	We applaud the regulation revisions that allow projects with a reservation or submitted application as of March 26, 2018 to revise their income targeting to include units between 60% and 80% AMI as tax credit eligible households. However, we believe the proposed regulations too narrowly limit the types of projects that are able to benefit from the new income averaging federal law. Typically, rehabilitation projects with existing “over-income” tenants will either: (A) keep the over-income tenants and commit to a less-than-100% applicable fraction at application and thus generate less tax credit equity; or (B) plan to relocate the over-income tenants and commit to a 100% applicable fraction at application in order to generate more tax credit equity. The emergency regulation changes as proposed will allow type (A) projects to revise income targeting and generate more equity, but they will not allow type (B) projects to do the same. Allowing type (B) projects to revise their income targeting will avoid relocation of existing tenants, which not only saves costs but also provides stability to those tenants. We believe that type (B) projects should not be penalized with denial of their right to revise income targeting as they are faced with the same situation as type (A) projects. Further, please note that many 4% acquisition/rehabilitation applications were submitted assuming 100% applicable fraction, even if the existing tenant population was less than 100% qualified, to allow applicants the ability to reserve the maximum potential credits in the event that the applicable fraction is higher at placement in service, a strategy	Staff believes that the amendments described in the response to Elissa Dennis accommodate the commenter’s first comment relating to project with over-income tenants that received a reservation with a 100% applicable fraction. Staff does not concur with the second comment to allow revisions to the income targeting for any project that has not yet recorded its regulatory agreement. TCAC funded 440 projects in 2016 and 2017, very few of which have yet recorded their regulatory agreement. In addition, there are dozens of the 221 2015 projects that have not yet recorded their regulatory agreement. TCAC does not have the staff to accommodate a large number of revisions and complete its other work approving applications and reviewing placed in service packages. Staff’s initial inclination was to prohibit revisions for all projects that had already received an award or submitted an application. Staff realized the benefit of accommodating over-income tenants because it protects them from eviction and ensures the affordability of these extra units for 55 years at the same time the project receives additional equity. Accommodating the commenter’s request to allow projects to simply rearrange the targeting mix while maintaining the average affordability would greatly expand the number of requests and associated TCAC workload while providing none of these benefits. Staff appreciates the suggestions relating to the Lowest Income scoring table and will consider them

	that has been explicitly recognized and approved by TCAC staff. Therefore, in order to appropriately address the concern for rehabilitation projects with existing 60% - 80% AMI tenants, we strongly recommend changing the language in both Section 10325(f)(13) and Section 10326(g)(9) to allow rehabilitation projects with existing 60% - 80% AMI tenants that committed to a 100% applicable fraction at application prior to March 26, 2018 to revise their income targeting. In addition, we believe that all other types of projects (new construction, rehabilitation without previously "over-income" tenants) that have received an allocation or submitted an application prior to March 26, 2018 should be allowed to revise their income targeting while maintaining the average income restriction at the level committed to at application, as long as they have not filed a Form 8609, i.e., "made an election" of set-aside, as the federal law provides that the income averaging set-aside option is available for elections made after the law's enactment on March 23, 2018. The State of California, especially coastal areas, struggles to affordably house not only extremely low-income households, but also those households earning 60% - 80% AMI. Households above 60% AMI were previously rarely covered by any type of below-market housing (LIHTC or otherwise) and still cannot afford the high market rents. The new federal provision of income averaging expands the portion of the population served by LIHTC projects in both directions, and is a public benefit that should be extended to as many projects and as early as possible, especially those projects with a reservation or submitted application, as they are soon to add	when proposing fall regulation changes.

	new housing stock or preserve existing housing stock. We recommend that the right to revise income targeting be extended to all projects with a reservation dated or an application submitted prior to March 26, 2018, provided they do not exceed the average income affordability of 50% AMI for competitive projects and 59% AMI for non-competitive projects. Finally, although it is not part of the emergency regulations and will be more appropriate to address in annual TCAC regulations revision later in the year, we propose that the affordability scoring matrix in Section 10325(c)(6) of the current regulations be re-evaluated in light of the income averaging provision. Projects that elect the income averaging set-aside option may be able to support even deeper targeting than the lowest income level of 30% AMI in the current TCAC affordability scoring matrix, and should be incentivized to do so to encourage serving a larger portion of the population. Furthermore, it should be noted that the income averaging set-aside option designates income limits by 10 percent increments, while the current TCAC affordability scoring matrix covers 5 percent increments as well. We recommend that in the annual regulations revision, the affordability scoring matrix in Section 10325(c)(6) of the current TCAC regulations be re-evaluated, or a separate affordability scoring matrix be contemplated for projects electing the income averaging set-aside.	
Jessica Sheldon, Resources for Community Development	RCD supports CTCAC's on-going efforts to encourage the deep targeting of affordable units to those most in need of housing. The following comments are provided in an attempt to continue those efforts while simultaneously avoiding	Staff believes that the amendments described in the response to Elissa Dennis accommodate the commenter's comment.

	displacement of existing households. RCD has no comments on language proposed for applications submitted on or after March 26, 2018. For applications submitted previously, however, where a Regulatory Agreement has not yet been recorded, RCD urges CTCAC to expand the applicability of these changes to include projects with applicable fractions of 100%. RCD makes this comment in consideration of occupied properties undergoing renovation, where a change in targeting could allow the property to continue providing housing to households in the 60% to 80% AMI range. It is not uncommon for developers to submit applications showing an applicable fraction of 100%, assuming any households with incomes over 60% AMI would be permanently relocated in accordance with state and federal relocation benefits. Even with such benefits, however, relocation is disruptive and costly to both the property and the impacted residents. It is much better public policy to avoid displacing these families – who, though they have incomes over 60% AMI, are still below 80% AMI and likely experiencing financial stresses themselves. Relocation has impacts on schooling, commutes, jobs, and communities, that go beyond looking just at the cost of housing. If CTCAC is uncomfortable with opening up this change to all projects, there are also options to narrow the range of projects eligible to take advantage of these changes, while still avoiding displacement. For example, the regulation could be modified to include projects with applications submitted prior to March 26, 2018, only in cases where: • It is an acquisition/renovation or renovation	

	• The project is already income restricted by local or other government entities • The project applied for or received an award of non-competitive credits only	
Alice Talcott, MidPen Housing	We are very supportive of the change to allow projects to include units between 60% and 80% AMI as tax credit eligible households. We also support instituting this change in such a way that doesn't increase the current averaging targeting requirements by requiring an average income of 50% for competitive projects and 59% for non-competitive projects. We do think, however, that the proposed regulations are too narrow in their inclusion of projects with current reservations or with applications pending. As written, only projects that had originally applied with non-tax credit units would be allowed to switch to allow 80% units and use the income targeting rules. However, many applicants with existing over-income tenants commit to a 100% tax credit project at the time of application, thus maximizing the credit reservation, with the intention of permanently relocating any over-income tenants that still exist prior to 8609s. By allowing these projects to switch to the income averaging methodology, it greatly increases the chance that displacement of the household can be avoided, both decreasing project costs and minimizing disruption to the household. We currently have an application pending that is in exactly this circumstance (Eight Trees Apartments) and broadening the regulations to allow it to use the income averaging method will allow us to retain an existing household that is currently at 70% AMI. If you want to keep the exception narrow, it could be	Staff appreciates the support for maintaining TCAC's current average income requirements. Staff believes that the amendments described in the response to Elissa Dennis accommodate the commenter's second comment relating to project with over-income tenants that received a reservation with a 100% applicable fraction.

	limited to projects with current reservations or an application pending where switching to the income averaging method would prevent the displacement of a household that would otherwise need to be permanent relocated.	
Stephen Russell and Laura Nunn, San Diego Housing Federation	We offer the following suggestions: Allow all projects to revise income targeting. We believe that only allowing projects with a reservation or application by a certain date limits the ability of existing projects to utilize new income targeting between 60% and 80% AMI. This removes the ability of a project with 60% to 80% AMI or over-income tenants to adjust for those tenants. We recommend that all projects be allowed to revise income targeting as allowed by federal law so long as the project is meeting the income averaging required by TCAC. Allowing for more flexibility in income averaging can help to meet affordable housing goals in high opportunity areas. By allowing income targeting up to 80% AMI with an average of 60% AMI, the new federal regulations can help to make projects in high-cost, high opportunity areas more feasible. TCAC should take into account the impact of income averaging as it relates to the feasibility of projects in high opportunity areas. If it is a goal and a priority for TCAC to ensure tax credit projects can be built in these areas, the new income targeting and income averaging allowed by federal law could be a tool to make these projects possible. Flexibility in income averaging can help to relieve pressure and allow the tax credit to support deeper targeted units. As is the case with most coastal California areas, San Diego is a high cost region,	The proposed regulations only limit the eligibility of already reserved or submitted projects to utilize income averaging. Staff opposes opening eligibility to even more already reserved or submitted projects for the reasons stated in response to Richard Mandel's second comment. The proposed regulations embrace income averaging generally by allowing all future projects to include low-income units at 70% and 80% AMI, provided they maintain TCAC's current income average requirements. In fact, California is the first state proposing to allow applicants to utilize the new federal law.

	which results in nearly all households being affected by rent burdens, including households between 60% and 80% AMI. The new regulations allow the tax credit program to provide affordable housing opportunities for families who were previously unable to receive housing support from the tax credit program. An additional benefit is that by increasing opportunity for families in need of affordable housing within the 60% to 80% AMI range, tax credits can be used to support deeper targeted units for very low and extremely low income households. We understand the concern you are working to address with the proposed regulation changes that the new federal income averaging allowances could create a new "missing middle" for the tax credit program and we applaud your efforts to address that. However, we believe this approach may be too simplistic and result in lost opportunities that could be an advantage and an asset to the tax credit program. We urge TCAC to take a more nuanced approach to ensure that all low-income households are served by the tax credit program.	
Margaret Miller, John Stewart Company	In 2014, the John Stewart Company (JSCo) was asked by the Richmond Housing Authority (RHA) to partner on a public housing revitalization project that they had been working on for some time. The project, named Friendship Manor/Triangle Court, is located in Richmond, California, and includes 155 units of family and senior public housing units on two sites. The plan included the conversion of the existing Annual Contributions Contract (ACC) units to Rental Assistance Demonstration (RAD) units in order to leverage financing to undertake the long overdue and badly needed rehabilitation. In order to take the transaction forward, RHA's lender and	Staff believes that the amendments described in the response to Elissa Dennis accommodate the commenter's comment. The proposed amendments apply to any already approved or applied for project that has over-income tenants, not just public housing conversion projects.

	investor required RHA to bring on a partner that could bring experience and capacity. JSCo formally entered into the partnership as a junior partner when the transaction closed late in 2015. The project has been incredibly challenging from the beginning, both because of the constrained resources that were available to undertake the needed rehabilitation work, and because of some assumptions RHA made prior to JSCo's involvement. One of the assumptions was that they would be able to convince the three identified over income households at the project to move from the site. Thus, they submitted their 4% tax credit application to TCAC with 100% of their units at 50% AMI (and thus an applicable fraction of 100%). In hindsight, this was unrealistic as the provision of the RAD program did not allow any households to be forced from their unit, and the housing market in the Bay Area meant that even when offered financial payments, most households had no interest in giving up their public housing unit. The project rehabilitation work has completed, and we are now working towards the final equity pay-ins and permanent loan conversion for the project. As we have established qualified occupancy, we have learned that 7 of the original households are over 50% AMI. Of those 7 households, one is under 60% AMI, 5 are under 80% AMI, and 1 is slightly over 80% AMI. RHA has been unsuccessful in moving any of these households off-site. The implication on the project is real. The applicable fraction would fall from 100% to 95% and result in a significantly lower equity pay-in and further burden a	

	project that did not have deep financial resources to begin with. Like most public housing projects, Friendship Manor/Triangle Court provides deeply affordable housing for those most at risk of being homeless. Even in the best of circumstances, these projects are challenging. Furthermore, the households who live there require stable and restricted housing that serves and protects them. At application, RHA voluntarily restricted all of the units at Friendship Manor/Triangle Court to 50% AMI, which is well below the average AMI of 59% that TCAC requires. By allowing the project to take advantage of the federal changes to Section 42 of the Internal Revenue Code, the project would still have 148 units at 50% AMI. 6 units would be 80% AMI and the overall average AMI of all of the units would be 51%, which is still very low, and well below the pre-established TCAC threshold of 59%. It should also be noted that in reality, the majority of households at Friendship Manor/Triangle Court have AMIs that are well below 50%. While we understand that TCAC is likely concerned that allowing projects to raise the AMI restricted levels of their units will result in fewer deeply affordable units, we believe that public housing projects have some inherent differences from other affordable housing projects. When public housing revitalization projects are undertaken, there are often right to return provisions that do not allow the housing authority or project sponsors to force any household to permanently relocated off-site (not that we would advocate for that anyways), and thus the financing options are more limited than they are for	

	other affordable housing projects (or new construction projects). They also by their very nature serve a very low-income population that very much needs the protections offered from living in rent restricted units. If we remove the rent restrictions from 7 of the 155 units at Friendship Manor/Triangle Court, not only is the project losing badly needed equity that will ensure the project has the financial resources it needs to be sustained over time, but it will mean that 7 households will live in unrestricted units and will not be afforded the same protections from which they currently benefit. Additionally, should one of those households move out, the unit would not be restricted and would not serve another family in need of restricted affordable housing. Because of the differences inherent to public housing, we are requesting that TCAC allow public housing projects that went in with a 100% applicable fraction on any non-competitive tax credit application (and therefore received a reservation letter with that applicable fraction) to be allowed to benefit from the new changes to Section 42 of the Internal Revenue Code that enables projects to incorporate tax credit eligible units up to 80% AMI. We ask that all public housing projects that have not yet recorded a TCAC regulatory agreement be eligible and suggest that TCAC maintain its' previous requirement of average affordability of 59% AMI or lower on the project's tax credit units.	
Keith Bloom, Mutual Housing California	Our comments relate to the proposed revision to Section 10326(g)(9), and are based on our experience on a recent acquisition/rehab project.	Staff believes that the amendments described in the response to Elissa Dennis accommodate the commenter's comment.

	On that project, we received a 4% allocation in 2016. Our application included an applicable fraction of 100% (all 44 units). The average affordability was 41% (based on a pre-existing MHP Regulatory Agreement that will have the same 55 year term as the TCAC Regulatory Agreement to be recorded in late 2018/early 2019). We used a tax credit factor of 100% even though we knew at that time of application there were 7 residents with incomes above 60%. We also understood that to the extent these non-LIHTC eligible residents did not move out during the rehab we would have to return a portion of our original allocation. Alternatively, we could have used in the application a tax credit factor of 84% (37 of 44 units). Then, to the extent the non-LIHTC residents moved out during the rehab, we would have included a request for additional credits in our Placed-In-Service submission. Under either of the above two application approaches, upon completion the project would have achieved the same level of affordability and utilized the same amount of tax credits. However, per TCAC's proposed regulation, only the project whose original application assumed less than a 100% applicable fraction can realize the benefit of "income averaging". Mutual Housing believes the TCAC regulation should be ambivalent toward these two approaches, and as such recommends that non-competitive projects that assumed a 100% applicable fraction in their original application also be allowed to incorporate "income averaging" provided that the projects' average targeting does not exceed 59% AMI.	
Karen Flock, Housing Authority	This is to request consideration for older projects. When residents whose income originally met the tax	The income averaging option in the new federal law is only available to projects making their minimum set-

of the City of San Buenaventura	credit requirements increases over the tax credit limits, this can cause cash flow issues for the project. If the resident's income increases to over 80% AMI, that apartment no longer receives a property tax exemption. Particularly affected are projects with project based rental assistance. Financial projections are based on the project receiving Fair Market Rent. However, when the income of a resident receiving a rent subsidy increases such that the tenant portion is higher than the tax credit rent, the rent is capped at the tax credit rent, the resident no longer receives a rent subsidy, and the project no longer receives Fair Market Rent for the apartment. Allowing rents to increase up to 80% AMI would partially mitigate the impact. This is a request for consideration that rents for such residents be allowed to increase up to 80% AMI rents, as long as the average rents are 50% AMI for 9% tax credit projects; and 59% AMI for 4% tax credit projects. If the resident vacates the apartment, the new resident would meet the original limit. This could be done on a case by case basis, with TCAC allowed to grant waivers.	aside election after March 23, 2018. As a result, TCAC has no authority to allow older projects that have already received and completed their 8609 tax forms to utilize the new set-aside option. Staff is proposing to allow projects that have not yet entered into a regulatory agreement to use income averaging to accommodate over-income tenants.
Michael Hopkins, Peoples' Self-Help Housing	We strongly support the proposed changes, which ensure that income targeting continues to average 50% AMI, instead of the 60% AMI as allowable per new federal law. Serving low-income households at all levels of income – and especially targeting deeper income levels – is essential to meet the housing needs of our state. We commend staff for maintaining California's LIHTC income average.	Staff is appreciate of the supportive comment.
Patrick Sabelhaus, California Council for Affordable Housing	We respectfully object to the proposed revisions. First, your proposal unwinds much of what Sen. Cantwell's legislation intended to accomplish in the way of permitting more flexibility relative to the income levels of the households being served and	Staff opposes the recommendation to abandon TCAC's long-standing requirements to achieve deeper targeting than the federal minimum. While TCAC could sacrifice affordability to get more units (quantity and affordability are diametrically opposed to

	more leeway in the financial structuring of 9% and 4% tax credit projects. Affordable housing groups throughout the U.S. worked closely with Senators Cantwell and Hatch for some three years in the drafting of this legislation to provide more flexibility, broaden the income levels eligible to be served and allow for greater flexibility in how tax credit projects are structured financially. Second, your proposal to restrict 9% projects to an average rent of 50% is not necessary and will result in les affordable housing production than could otherwise be achieved by allowing an average rent at 60% AMI. At 60% AMI, projects are still serving households at 30%, 40%, and 50% AMI but would have an increased NOI which would allow more conventional debt and less dependence on soft loans and 9% credits. Given the decrease in 9% production of affordable housing units in California over the past several years, we submit that TCAC regulations should maximize the advantages permitted by income averaging rather than minimizing the advantages. Third, with regard to your proposal on 4% projects to require an average rent of 59% as opposed to Sen. Cantwell's 60% average rent is simply overreaching by TCAC, serves no purpose, and complicates the process unnecessarily. Fourth, the proposal to bar projects which already have received a reservation of 4% credits or will receive such a reservation of credits on March 26 from fully utilizing the income averaging provision is again overreaching by TCAC and unnecessary. There are projects that received 4% reservations in	each other in this context), the Low-Income Housing Tax Credit Program is at heart an *affordable* housing program. In addition, while allowing lesser affordability would make some additional projects feasible, it would also reduce affordability in all the projects that are already feasible. Moreover, staff does not believe that now is an appropriate time to relax affordability standards. CDLAC started the year with only $1 billion in carryforward, which is a relatively small reserve, and staff expects an increase in bond applications as new public resources come online and large 80/20 projects increase. A competitive bond allocation process is possible if not likely in the foreseeable future. As a result, staff believes it is appropriate to use these resources only for the projects that can meet the 59% average affordability target. The new federal law was largely billed as a way to reach even lower-income households by subsidizing their units with rents from 70% and 80% AMI households. Whereas the federal law previously allowed all units to be targeted at 60% AMI, requiring an average of 60% AMI under income averaging maintained the federal status quo. States have always had the authority to set stricter requirements, and the new law does not require states to allow income averaging at all. Staff does not believe it was the intent of the federal law to undermine stricter state requirements. The commenter and others have long opposed TCAC's deeper targeting requirements, particularly the 10% at 50% AMI requirement for 4% projects. TCAC had this discussion as recently as 2015 and

	late 2017 and early 2018 that are now suffering financing gaps due to the impact of tax reform on tax credit pricing and interest rate spikes. Many such projects can be assisted by utilizing income averaging to increase the NOI and debt amount to cover the gap/shortfall or reduce the tax credits for feasibility and still comply with the requirement that average rents be at 60% AMI. We respectfully recommend that the proposed regulations be revised to reflect the maximum flexibility provided by income averaging.	maintained its current deeper targeting standards. Staff is embracing income averaging but does not find it appropriate to use this opportunity as a back door way to undermine California's affordability requirements generally. Under the commenter's proposal, the 10% at 50% AMI rule would still apply, but owners could offset these units by increasing another 10% of units from the now required 60% AMI to 70% AMI. In essence, TCAC would lose 10% affordability on 10% of the units. Staff believes that projects utilizing income averaging should have to provide the same public benefit (i.e., maintain the current 59% average AMI for 4% non-competitive projects) as any other project. With respect to the fourth comment relating to already reserved or submitted projects, staff opposes opening eligibility to even more already reserved or submitted projects for the reasons stated in response to Richard Mandel's second comment. In addition, income averaging can only benefit a project's financing to the extent the project increases its average AMI from 59% to 60%, which staff opposes for the reasons stated above. Moreover, staff does not support allowing applicants to retract the commitments they made at application.
Caleb Roope, Pacific West Communities	While we can support CTCAC staff's proposed implementation plan for competitive projects, we strongly oppose the regulations for non-competitive 4% projects for the following reasons: • Impairment to Financial Feasibility – As you know, California is facing an unprecedented demand for affordable housing; however, almost all of the other forces are moving against us right now: 1) interest rates are rising, 2) annual increases in	Staff appreciates the recognition of the efforts it has taken to reduce costs but continues to believe that lessening current affordability requirements would undermine the goal of the program which is *affordable* housing. Please also see the response to Patrick Sabelhaus.

	construction costs are at historic highs, 3) tax credit equity pricing is significantly down, 4) immigration policies and market demand are reducing the labor supply, and 5) tariffs are driving up the price of materials. This is all on the heels of almost losing the tax-exempt bond program and a failed effort to obtain a 4% floor. During these times, we should be doing everything we know how to do to help projects obtain financial feasibility. • Underutilization of a New Tool – Income averaging could be a great tool to help offset the loss of private borrowing power for 4% projects that results from having to unnecessarily target 10% of the units at 50% AMI by adding a new targeting category of 10% at 70% AMI. By requiring deeper income averaging at 59%, CTCAC is blunting any positive effect from the legislation by preventing an increase in each project's borrowing capacity. While a difference of 1% may not seem like a lot, for large projects this can be substantial. We assessed one of our projects in Orange County and found that the loss of private debt was over $1.3 million due to this proposed policy. I have worked to produce affordable housing in California for over 25 years. I have watched policy after policy drive up the cost of producing housing to the point where a home is becoming a luxury item. On the other end of the spectrum, I have watched what resources we do have for affordable housing be watered down in their effectiveness by trying to cater to many other, sometimes unrelated, goals. This cycle of rising costs coupled with the underutilization of resources has to change if we are going to build enough housing for the future. It simply can't	

	continue. CTCAC and its staff have done a great job in dialing back some of the costly regulations of years past. After that success, please don't miss an opportunity to take advantage of what limited federal help we do get.	
Ginger Hitzke, Hitzke Development Corporation	While I appreciate the desire to address the lowest income households, I offer three counterpoints to the argument in favor of setting income averaging below 60% AMI. 1. Rents for households earning between 60 - 80% of AMI are still far from affordable in the market. The average rent in San Diego is $2,059 per month with one bedrooms averaging $1,788 and two bedrooms averaging $2,2021. TCAC's published incomes for 1 - 2 person households and 3 - 4 person households at 80% AMI is $50,960 - $58,240 and $65,520 - $72,720, respectively. Thirty percent (30) of those incomes would result in rents ranging from $1,274 - $1,818. These rents represent gross housing costs which include utilities, trash, water, etc. and most published market rents to do not include utilities, trash and water. All of those costs are handled by market rate renters separately – above and beyond the published "rent". The rent disparity in high cost markets (most of the State) is one reason to maintain 60% income and rent averaging. 2. Projects which include rents at 80% AMI can support more debt and thereby cause more new units to be created through the 4% / bond program. Projects on the shelf that have an additional small gap to bridge in order to be financially feasible under the 4% credit program can be brought to market	Please see the response to Patrick Sabelhaus.

	sooner than later. In the long and short term, it would be better to have a handful of 50% units to not be created (in a single project) in exchange for dozens of new housing units ranging from 50% - 80% AMI to be created (in a single project). 3. Households with Section 8 vouchers are increasingly priced out of the market and have to rely on tax credit properties in order to use their vouchers. San Diego's Section 8 payment standards range from $1,074 - $1,340 for a 1-bedroom and $1,304 - $1,740 for a 2-bedroom. The units at 80% AMI would allow households at or below 50% AMI with a Housing Choice Voucher to find an affordable rent. If more units are created (even those averaging 60% instead of 50%), those units will be available for Section 8 households at or below 50% who are priced out of high cost housing markets. I appreciate your consideration. We desperately need to produce as many housing units as we can and we need every tool that we can get. Please do not continue to recommend income averaging below the new allowable federal level.	
Ray Pearl, California Housing Consortium	We must oppose the proposed emergency regulation changes in Section 10326(g)(9) because they do not adequately implement income averaging in California. While the proposed regulations would allow a project to include units targeted up to 80% of AMI, they do not allow a non-competitive 4% tax credit project to achieve an average targeting of 60% AMI, as allowed by federal law. Section 10326(j)(3) of the existing TCAC regulations requires that all 4% tax credit projects target at least 10% of the total low-income units at or below 50% AMI. This effectively	Please see the response to Patrick Sabelhaus.

	ensures that all non-competitive projects are limited to an average targeting of 59% AMI. Increasing the averaging targeting to 60% AMI would allow more developers to utilize the program by providing homes to households at 60 to 80% AMI, who have difficulty affording any kind of rental housing in many markets. We understand the policy goal of keeping the average targeting in competitive 9% projects at 50% AMI. However, we respectfully request that you revise the proposed regulation changes in Section 10326(g)(9) to better reflect the intent of the law and allow non-competitive 4% tax credit projects to achieve an average targeting of 60% AMI, as opposed to 59% AMI.	