

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: December 5, 2005
TO: 2005 Tax Credit Recipients
FROM: William J. Pavão, Executive Director
RE: Prevailing Wage Estimates Included in Eligible Basis

Background:

As many of you know, during the 2005 program year tax credit applicants have experienced a great deal of uncertainty regarding the applicability of State prevailing wage requirements to tax credit projects. During 2005 the Tax Credit Allocation Committee (TCAC) staff initially advised applicants to provide development budgets both with and without prevailing wage assumptions; and later advised applicants to use their own judgment when building in wage assumptions.

The State Department of Industrial Relations' (DIR's) determination last summer that federal tax credits do not invoke State prevailing wage requirements still stands as the most recent guidance regarding the matter. Therefore, project sponsors who are no longer anticipating paying prevailing wages are uncertain as to how TCAC would consider credits awarded to those projects.

On November 2, 2005 I advised program users that we were planning to make any credit adjustments at the completion of the carryover allocation next spring. My November 2nd memo advised stakeholders that staff would perform additional financial analyses, make the adjustments, and provide revised documentation for those projects. Since November 2nd, DIR has determined that, in a specific case before it, State Low Income Housing Tax Credits did not by themselves invoke state prevailing wages. Therefore, the pool of projects potentially not required to pay State prevailing wages may have grown.

Clarification:

Since releasing my November 2, 2005 advisory memorandum, tax credit awardees have advised me that determining if credits should be recaptured in the spring is not feasible. Investors are committing to projects at this time and project loans are being originated. All parties to these deals must know with some certainty how much federal and state tax credit

would be available to the projects. The prospect of TCAC reducing the credits is disrupting the process of investors committing to projects, and loans closing.

Therefore, I am hereby clarifying that TCAC staff will await final cost certifications to determine if projects have adequate basis to justify the tax credits awarded to them. In the event that certified costs come in under what is necessary as basis for the awarded credits, then a credit reduction would occur at that time. In essence, staff will be carrying out the same analysis it does routinely at project completion.

I hope this eliminates any uncertainty as to how TCAC staff will proceed with 2005 credit awardees. If you have any further questions in this regard, please call the TCAC office at (916) 654-6340.