



STATE OF CALIFORNIA

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

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**CDLAC Proposed Procedure Revisions -
American Recovery and Reinvestment Act (ARRA)
Recovery Zone Bonds and Qualified Energy Conservation Bonds**

Notice of 30-Day Public Comment Period

Staff of the California Debt Limit Allocation Committee (CDLAC) is now accepting public comment on the attached proposed revisions to the Committee's Procedures. The 30-day public comment period begins Wednesday July, 22, 2009.

Information regarding the proposed revisions can also be obtained from the Committee's website at www.treasurer.ca.gov/cdlac. **Public comment should be submitted to CDLAC staff no later than Friday, August 21, 2009** via email (cdlac@treasurer.ca.gov), fax (916) 653-6827, or by writing to:

The California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, CA 95814

FOR ADDITIONAL INFORMATION:

Joanie Jones Kelly, Executive Director
California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
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This Notice is also available on our website: <http://www.treasurer.ca.gov/cdlac>

The California Debt Limit Allocation Committee complies with the Americans With Disabilities Act (ADA) by ensuring that the facilities are accessible to persons with disabilities, and providing this notice and information given to the members of the California Debt Limit Allocation Committee in appropriate alternative formats when requested. If you need further assistance, including disability-related modifications or accommodations, you may contact the California Debt Limit Allocation Committee no later than five calendar days before the hearing at (916) 653-3255 or TDD (916) 654-9922.

The following sections on Recovery Zone Bonds and Qualified Energy Conservation Bonds are proposed additions to the existing CDLAC Procedures:

RECOVERY ZONE FACILITY BONDS (RZFB)

DEFINITIONS:

“Recovery Zone Facility Bonds”- The American Recovery and Reinvestment Act (AARA) of 2009 created a new category of bonds that will be treated as exempt facility bonds for the purpose of code section 142, these bonds are limited to issuance in 2009 and 2010

“Local Issuer” – Eligible counties and municipalities (populations greater than 100,000) with predetermined awards based on population

“Recovery Zone” – An area designated by the local issuing entity per section 1400U-1(b) defined as meeting one of the following criteria:

- 1) Significant poverty, unemployment, rate of home foreclosures or general distress
- 2) Economically distressed because of military base closure or realignment
- 3) An area which has been designation as an empowerment zone or a renewal community

“Allocation Waiver” – An affirmative election by a county or municipality to return all, or a portion of its allocation to CDLAC for reallocation. The waiver may be made at anytime, however, a county or municipality planning to waive its allocation is encouraged to do so at the earliest possible time to allow reallocation of the RZFBs. In addition, CDLAC strongly urges counties and municipalities to include waivers in their Plans of Issuance for any allocation not covered by the plan.

“Plan of Issuance” – A report due to CDLAC not later than January 31, 2010 from a county or municipality receiving allocation including a recovery zone resolution or proposed resolution and a description of the projects to be funded within the recovery zone. In addition, counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

“Notice of Intent to Issue” – A report due to CDLAC not later than July 1, 2010 from a county or municipality receiving allocation, including a recovery zone resolution or proposed resolution, a description of the project to be funded within the recovery zone and project issuance timeline. Any allocation received by a county or municipality not included in the notice of intent to issue will be deemed waived.

“Deemed Waiver” – Allocation that after July 1, 2010 has not been issued or included in a notice of intent to issue is automatically deemed returned to CDLAC for reallocation. Allocation included in a Notice of Intent to Issue may be deemed waived if not issued by September 30, 2010, or other date set forth in the timeline included in the Notice of Intent to Issue. In determining whether allocation included in a Notice of Intent to Issue is

deemed waived, the Executive Director will look to the progress the county or municipality has made toward issuance, and the demand for waived allocation.

“Report of Action Taken” – A report due to CDLAC from any county or municipality not more than three days following the issuance of RZFBs providing notice of the date and amount the issuance and the designated recovery zone in which the proceeds will be used.

“Recovery Zone Property” – Depreciable property subject to code section 168 or section 179:

Recovery zone property must be depreciable property if:

- a) The property was constructed, reconstructed, renovated or acquired by purchase (as defined in section 179 (d)(2)) by the taxpayer after the date on which the “recovery zone” took effect.
- b) The original use of which in the recovery zone commences with the taxpayer; and
- c) Substantially all of the use of the property is in the recovery zone and is in the active conduct of a “qualified business” by the taxpayer

“Net Proceeds” - A minimum of 95% of net proceeds (as defined in section 150(a) (3)) are to be used for “recovery zone property” per section 1400-U-3(b)(1)(A). ARRA Bonds can not be used to purchase land.

“Qualified Business”- any trade or business except as defined in section 168 (e)(2) and section 144(c)(6)(B):

- a) The rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not a residential rental property (as defined in section 168 (e)(2))
- b) Such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B)

“Sunset Date” –All bonds must be issued by January 1, 2011

PROGRAM REQUIREMENTS:

CDLAC will have no immediate role in the administering of the Recovery Zone Bond allocation to counties and large municipalities. Interested parties should contact localities directly for program assistance.

An entity utilizing Recovery Zone Facility Bond Program (RZFB) must meet the following requirements:

1. A. The local issuing entity must be a county or municipality (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and municipalities that have been excluded by The American Recovery and Reinvestments Act of 2009 are: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities have been excluded:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno,

Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

B. The local issuing entity must designate the area that bonds will be utilized in, as a Recovery Zone to include the basis for the designation per ARRA section 1400-1 (b).

REPORTING REQUIREMENTS

1. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of RZFBs and RZEDBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.
2. Counties and large municipalities receiving RZFB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a recovery zone bond resolution and a description of the projects to be funded. In addition counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

Allocations that after July 1, 2010, have not been issued or included in a notice of intent to issue are automatically deemed waived and returned to CDLAC for reallocation.

RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS (RZEDB)

DEFINITIONS:

“Recovery Zone Economic Development Bonds”- Is a Build America Bond issued before January 1, 2011 the Issuer shall receive a credit from the Treasury Department equal to 45% of the interest payment.

“Qualified Economic Development Purpose” – Expenditures for purposes of promoting development or other economic activity in a recovery zone: including public infrastructure and construction of public facilities, and expenditures for job training and educational programs.

“Local Issuers” – Eligible counties and municipalities (populations greater than 100,000), with predetermined awards based on population.

“Recovery Zone” – An area designated by the local issuing entity per section 1400U-1(b) defined as meeting one of the following criteria:

- 1) Significant poverty, unemployment, rate of home foreclosures or general distress
- 2) Economically distressed because of military base closure or realignment
- 3) An area which has been designation as an empowerment zone or a renewal community

“Allocation Waiver” – An affirmative election by a county or municipality to return all, or a portion of its allocation to CDLAC for reallocation. The waiver may be made at anytime; however, a county or municipality planning to waive its allocation is encouraged to do so at the earliest possible time to allow reallocation of the RZEDBs. In addition, CDLAC strongly urges counties and municipalities to include waivers in their Plans of Issuance for any allocation not covered by the plan.

“Plan of Issuance” – A report due to CDLAC not later than January 31, 2010 from a county or municipality receiving allocation including a recovery zone resolution or proposed resolution and a description of the projects to be funded within the recovery zone. In addition, counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

“Notice of Intent to Issue” – A report due to CDLAC not later than July 1, 2010 from a county or municipality receiving allocation, including a recovery zone resolution or proposed resolution, a description of the project to be funded within the recovery zone and project issuance timeline. Any allocation received by a county or municipality not included in the notice of intent to issue will be deemed waived.

“Deemed Waiver” – Allocation that after July 1, 2010 has not been issued or included in a notice of intent to issue and is automatically deemed returned to CDLAC for reallocation. Allocation included in a Notice of Intent to Issue may be deemed waived if not issued by September 30, 2010, or other date set forth in the timeline included in the Notice of Intent to Issue. In determining whether allocation included in a Notice of Intent to Issue is deemed waived, the Executive Director will look to the progress the county or municipality has made toward issuance, and the demand for waived allocation.

“Report of Action Taken” – A report due to CDLAC from any county or municipality not more than three days following the issuance of RZEDBs providing notice of the date and amount the issuance and the designated recovery zone in which the proceeds will be used.

“Sunset Date” – All bonds must be issued by January 1, 2011.

PROGRAM REQUIREMENTS:

CDLAC will have no immediate role in the administering of the Recovery Zone Bond allocation to counties and large municipalities. Interested parties should contact localities directly for program assistance.

An entity utilizing Recovery Zone Economic Development Bond Program (RZEDB) must meet the following requirements:

2. A. The local issuing entity must be a county or municipality (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and municipalities that have been excluded by The American Recovery and Reinvestments Act of 2009 are: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following*

cities have been excluded: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

- B. The local issuing entity must designate the area that bonds will be utilized in, as a Recovery Zone to include the bases for the designation per ARRA section 1400-1 (b).
3. The maximum face amount of bonds which may be designated by an issuer shall not exceed the amount of the recovery zone economic development bond limitation awarded to such issuer under section 1400U-1.
 4. The proposed use of bond proceeds must meet the following requirements per section 1400U-2 (b)(1):
 - 1) 100% percent of the available project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one of more following qualified economic development:
 - a) Capital expenditures paid with respect to property located in such zone,
 - b) Expenditures for public infrastructure and construction of public facilities, and
 - c) Expenditures for job training and education programs

REPORTING REQUIREMENTS

3. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of RZEDBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.
4. Counties and large municipalities receiving RZFB and RZEDB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a recovery zone bond resolution and a description of the projects to be funded. In addition counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

Allocations that after July 1, 2010, have not been issued or included in a notice of intent to issue are automatically deemed waived and returned to CDLAC for reallocation.

QUALIFIED ENERGY CONSERVATION BONDS (QECB)

DEFINITIONS

“Qualified Energy Conservation Bond”- means any qualified tax credit bond issued as part of an issue if: (1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes, (2) the bond issued by a State or

local government, and (3) the issuer designates such bonds for purposes of Section 54D(f) of the Internal Revenue Code.

“Qualified Tax Credit Bonds”-for the purposes of the Qualified Energy Conservation Bond Program, means a bond for which the borrower only pays back the principal on the bond, and the bondholder receives federal tax credits in lieu of traditional bond interest.

“Qualified Energy Conservation Bond Governmental Minimum Usage”-means any Qualified Energy Conservation Bond allocation to the State shall be allocated in turn by the State to issuers within the State in a manner that results in the use of not less than 70 percent of the allocation to such issuers to designate bonds that are not private activity bonds as stated in Section 54D(e)(3) of the Internal Revenue Code. (potential usage)

“Qualified Energy Conservation Bond Private Activity Maximum Usage”- means that no more than 30 percent of the Qualified Energy Bond allocation to the State that is allocated to issuers within the State may be used to issue private activity bonds.

“Large Local Government”- for the purposes of the Qualified Energy Conservation Bond Program, means a county or municipality with a population of 100,000 or more as defined in Section 54D(e)(2)(C) of the Internal Revenue Code, or an Indian tribal government as defined in Section 54D(h) of the Internal Revenue Code.

“Sinking Fund”-for the purposes of the Qualified Energy Conservation Bond Program, means a fund that the issuer may pay into for the express purpose of using such a fund to pay back interest on the bond issue.

“Sinking Fund Yield Restrictions”- means the federal restrictions on a sinking fund that insure that it is funded in a manner reasonably expected to result in an amount necessary to repay the issue as defined in Sections 54A(d)(4)(C) and 54A(d)(5)(B) of the Internal Revenue Code.

“Qualified Conservation Purpose”-for the purposes of the Qualified Energy Conservation Bond Program, means the uses of the bond proceeds for certain conservation purposes that are permitted under Section 54D(f) of the Internal Revenue Code.

“Allocation Waiver” - Election by the county or municipality that they are unable to utilize a portion or the entire designated award thereby; allowing CDLAC to reallocate the waived allocation.

“Automatic Forfeiture of Award” - Counties and large municipalities receiving QECB allocation must provide CDLAC with a notice of intent to issue or a plan of issuance by January 1, 2010. Any allocation not issued or the subject of intent to issue by July 1, 2010 will be deemed waived and made available for reallocation by CDLAC.

I. MINIMUM REQUIREMENTS

CDLAC will administer the State’s portion of the QECB allocation only. CDLAC will have no immediate role in the administering of the QECB allocation to municipalities, counties

and Indian Tribal Governments. However, all recipients of QECCB allocation shall meet the following minimum requirements of the American Recovery and Reinvestment Act:

- A. Applicant must be a large local government: a county or municipality with a population of 100,000 or more; or an Indian tribal government. An Indian tribal government shall be treated as a large government, except that (1) an Indian tribal government shall be treated as located within a State to the extent of so much of the population of such government as resides within the State, and (2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which Section 103(a) of the IRS Code applies; or, Applicant must be a State Entity.
- B. Applicants must use at least 70% of their designated allocation for governmental purpose bonds and 30% can be used for private activity bonds. However, if an applicant has used all of its allocation and has issued more than 70% of their designated allocation for governmental purpose bonds, then applicants may be able to use more than 30% of their allocation to issue private activity bonds. Nonetheless, of the allocation for the entire state, only 30% can be used to issue private activity bonds.
- C. The proposed use of bond proceeds must meet the following requirements: 100 percent of the proceeds of such issue are to be used for one or more the following “qualified conservation purposes”:
 - 1) Capital expenditures incurred for purposes of (i) reducing energy consumption in publicly-owned buildings by at least 20 percent, (ii) implementing green community programs (including the use of loans, grants, or other repayment mechanisms to implement such programs), (iii) rural development involving the production of electricity from renewable energy resources, or (iv) any qualified facility eligible for the production tax credit under Section 45 of the IRS Code.
 - 2) Expenditures with respect to research facilities, and research grants, to support research in (i) development of cellulosic ethanol or other non-fossil fuels, (ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels, (iii) increasing the efficiency of existing technologies for producing non-fossil fuels, (iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or (v) technologies to reduce energy use in buildings.
 - 3) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles uses for mass commuting.
 - 4) Demonstration projects designed to promote the commercialization of (i) green building technology, (ii) conversion of agricultural waste for use in the production of fuel or otherwise, (iii) advanced battery manufacturing technologies, (iv) technologies to reduce peak use of electricity, or (v) technologies for the capture and sequestration of carbon dioxide emitted from combining fossil fuels in order to produce electricity.
 - 5) Public education campaigns to promote energy efficiency.
 - 6) If the bond issue is a private activity bond, the term “qualified conservation purposes” shall not include any expenditure that is not a capital expenditure. However, bonds issued for the purposes of providing loans, grants, or other

repayment mechanisms for capital expenditures to implement green community programs are not treated as private activity bonds for purposes of Section 54D(e)(3) of the IRS Code.

- D. The Project Sponsor and/or Governmental Entity must provide a description of the proposed use of the bond proceeds with a description of the project.
- E. The Issuer must describe the financing plan. Specifying whether the bonds will be issued as a public offering or a private placement.

REPORTING REQUIREMENTS

- A. CDLAC will administer the State's portion of the QECB allocation only. CDLAC will have no immediate role in the administering of the QECB allocation to municipalities, counties and Indian Tribal Governments. However, the following shall apply to all recipients of QECB allocation:
 - 1. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of QECBs. This report should include the date and amount of the issuance and the designated locality in which proceeds will be used.
 - 2. Counties and large municipalities receiving QECB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a description of the projects to be funded. In addition, counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

Allocations that after July 1, 2010, have not been issued or included in a notice of intent to issue are automatically deemed waived and returned to CDLAC for reallocation.