

**Proposed Regulation Changes  
Responses to Comments  
June 30, 2009**

**Original Proposed Change:**

**Section 10323(a)**

Section 10323. American Recovery and Reinvestment Act of 2009

- (a) General. Under the authority granted by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the California Tax Credit Allocation Committee (CTCAC) may subaward Tax Credit Assistance Program (TCAP) funds and federal grants in lieu of housing credit allocations (~~Exchange Section 1602~~ Funds) to projects awarded Low Income Housing Tax Credits. The provisions of this section shall refer to the two federal funding sources collectively as ARRA Funds. While CTCAC may access and subaward these funds in accordance with the provisions of this Section, nothing in this Section shall be construed to imply an obligation by the Committee to award funds to specific projects. Circumstances related to a specific project, such as updated market information, or the sponsor's financial strength, including inadequate net assets or pending litigation or other liabilities, may cause the Committee to deny a subaward, in spite of that project having previously received a reservation or allocation of credits. The Committee shall state in writing reasons for denying a subaward where the standards described below would otherwise have resulted in a subaward. The overriding public interest in sound investments through cash subawards shall be paramount as the Committee makes its funding decisions. Projects shall be evaluated in accordance with the underwriting criteria listed at Section 10327(g), as modified by this Section. CTCAC may defer to underwriting standards and conclusions reached by equity partners in those projects where CTCAC is providing financing only.

All terms and conditions established by federal rule shall hereby be incorporated by reference.

**Comments Received:** None.

**Response:** Go forward with originally proposed changes.

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**Original Proposed Change:**

**Section 10323(b)**

- (b) Eligible Projects

Applicants for cash awards, ~~TCAP or Exchange~~ ARRA Funds, must have a current reservation of federal Low Income Housing Tax Credits for a project awarded credits in federal fiscal year 2007, 2008, or 2009, except as provided in paragraph (b)(2) below, as follows:

- (1) 2007 and 2008 awardees: Projects with current 2007 or 2008 Credit Ceiling allocations are eligible for ~~TCAP or Exchange~~ ARRA Funds. Tax-Exempt Bond Projects with current 2007 or 2008 credit reservations are also eligible for ~~TCAP or Exchange~~ ARRA Funds under the conditions described in paragraph (d)(3)(A) below.
- (2) 2009 awardees: Tax Exempt Bond Projects receiving a 2009 credit reservation and projects receiving 2009 Credit Ceiling reservations by September 30, 2009 are eligible for TCAP funds. Projects receiving Credit Ceiling reservations in calendar year 2009 are eligible for ~~Exchange Section 1602~~ Funds, if exchange authority remains, under the conditions described in paragraph (d) below.
- (3) CTCAC may, as a priority, provide cash awards subject to (b)(1) and (b)(2) above under this Section to projects that also have funding commitments from programs receiving AB 55 loans through the State's Pooled Money Investment Account (PMIA). Assistance shall be provided in a manner and at the minimum amount required to generate adequate construction period financing. Any funds provided ~~shall~~ may be conditioned upon

repayment by the State Department of Housing and Community Development (HCD). These funds shall remedy gaps in construction-period financing, and may be in addition to funds mitigating equity gaps as described below.

CTCAC shall set aside no more than \$100 million in ARRA Funds for projects with HCD funding that have yet to commence construction. Funds shall be committed from this set-aside to generate adequate construction financing, in concert with cash in lieu or gap financing awards. Within the Tax Exempt Bond Project competition described in paragraph (d)(3)(A), applicants may request zero ARRA funds where no equity gap exists, and apply for funds to assist with construction period financing only. Such applications would receive 100 points under the scoring factor listed at (d)(2)(C)(ii).

### **Comments Received:**

On organizational commenter urged clarity in paragraph (2) that 2009 credit ceiling projects could access Section 1602 funds.

Several commenters suggested inserting the phrase “projects with signed HCD financing commitments that have yet to commence construction” into the first sentence of the second paragraph under paragraph (b)(3). The commenters argued that readiness ought to be a competitive factor in deciding who would receive the set-aside ARRA funds for HCD-backfill.

Several commenters urged a portion of the \$100 million be available for each of the ARRA competitions or award processes, rather than on a first-come-first-served basis. A smaller subset of commenters urged a separate scoring system for the HCD-backfill loans.

In contrast to the majority of comments on this subject, one commenter urged TCAC to honor an HCD Loan and Grant Committee recommendation as an award for purposes of this paragraph. That is, a 2008 project approved by HCD’s Loan and Grant Committee may not have received an award letter due to circumstances beyond the applicant’s or HCD’s control. In such cases, an award is inevitable, but simply delayed.

Several commenters urged TCAC to limit the HCD-backfill assistance to MHP, SHP, and Homeless Youth funded projects. Commenters also recommended specifying a shorter loan repayment term by which HCD would pay off the ARRA loan.

Two commenters recommended that TCAC not use ARRA funds to backfill unavailable HCD funding. These commenters argued that a delay in HCD funding parallels similar circumstances with a variety of other funding types, and HCD-funded projects ought not get special consideration in this regard.

TCAC staff has been asked to also accommodate nine percent tax credit projects that have adequate equity but are prevented from going forward due to uncertainty regarding HCD financing.

Finally, commenters urged TCAC to hold out specified amounts of ARRA funds for nine percent and four percent tax credit projects respectively. The comment stems from the concern that ARRA funds could be virtually exhausted by nine percent projects before TCAC awards ARRA funds to four percent competitors this summer. Two commenters urged prioritizing a handful of four percent (4%) tax credit projects at risk of losing their Difficult to Develop Area (DDA) status under federal rules.

### **Response:**

Staff agrees to clarify that 2009 credit ceiling projects may access Section 1602 funds.

TCAC staff believes that HCD’s multifamily funding programs have a tremendous public purpose value, and that helping such projects get underway is good public policy.

Clarifying that projects must have a signed HCD commitment would be helpful. This would clearly inform the public that pending HCD applications would not suffice for accessing ARRA funds. This would also benefit projects that are ready to proceed but for the HCD financing. Rather than establish additional readiness criteria, TCAC staff proposes a general loan closing deadline to assure ARRA fund recipient projects are truly shovel-ready. To facilitate nine percent projects going forward, additional language creates a path to ARRA funds for HCD financing for nine percent projects. The new language parallels the avenue available to four percent projects with adequate equity.

In consultation with HCD, TCAC staff's intention is to help with MHP, SHP, and Homeless Youth projects funded through HCD. HCD programs including the Joe Serna, Jr. program, the Infill Infrastructure Grant program, and the Transit Oriented Development program will not have access to ARRA funds. In part this is because those programs provide construction period financing and HCD intends to hold available funds for those projects upon receiving their initial draw request. New proposed language specifies a shorter loan term than the standard 55 years listed in Section 10323(e)(3).

TCAC staff declines the suggestion to carve out ARRA funding for nine percent and four percent tax credit projects respectively. Instead, staff proposes language stating that nine percent projects are the priority when awarding ARRA funds to backfill HCD financing. This is because nine percent competitors meet a number of critical public policy objectives by virtue of the nine percent competitive process. While HCD-funded projects generally achieve high-value public policy outcomes, those receiving nine percent credit awards meet an array of public objectives. In addition, Supportive Housing Program projects access nine percent credits, and house needy special needs and homeless individuals: a TCAC set-aside priority.

Holding ARRA funds for HCD-backfill for 2009 credit recipients is inconsistent with the objective of getting these federal funds to the most shovel-ready projects. The current scheme also may allow ARRA funds to preserve four percent tax credit projects in jeopardy of losing their DDA status. However, new language specifically establishes such jeopardized DDA projects as a top priority among four percent applicants.

Having a separate HCD-backfill scoring system could lead to the dysfunctional outcome of a project successfully competing for HCD-backfill assistance, but being unsuccessful in competing for equity gap assistance. To the extent TCAC assists an HCD project with equity gap assistance, TCAC must also help with the HCD financing piece to move the project forward.

Finally, in response to comments regarding Section 10323(d)(2)(C) urging readiness consideration in application scoring, TCAC staff instead propose new language establishing a 75-day loan closing deadline for all ARRA awardees.

### **Revised Proposed Change:**

#### **(b) Eligible Projects**

Applicants for cash awards, ~~TCAP or Exchange~~ ARRA Funds, must have a current reservation of federal Low Income Housing Tax Credits for a project awarded credits in federal fiscal year 2007, 2008, or 2009, except as provided in paragraph (b)(2) below. To be eligible for ARRA funds, projects must be expected to be completed by February 16, 2012. In addition, all ARRA fund recipients must be prepared to close all construction period financing and begin construction within 75 days of award. In addition, the project sponsor shall assure adherence to this requirement by entering into a contractual obligation to CTCAC to perform according to a draw schedule, and by providing CTCAC monthly updates as to the project's progress. Eligible projects are as follows:

- (1) 2007 and 2008 awardees: Projects with current 2007 or 2008 Credit Ceiling allocations are eligible for ~~TCAP or Exchange~~ ARRA Funds. Tax-Exempt Bond Projects with current 2007 or 2008 credit reservations are also eligible for ~~TCAP or Exchange~~ ARRA Funds under the conditions described in paragraph (d)(3)(A) below.
- (2) 2009 awardees: Tax Exempt Bond Projects receiving a 2009 credit reservation and projects receiving 2009 Credit Ceiling reservations by September 30, 2009 are eligible for ~~TCAP~~ ARRA funds. Projects receiving Credit Ceiling reservations in calendar year 2009 are eligible for ~~Exchange~~ Section 1602 Funds, if exchange authority remains, under the conditions described in paragraph (d) below.
- (3) CTCAC may, as a priority, provide cash awards subject to (b)(1) and (b)(2) above under this Section to projects that also have funding commitments from programs receiving AB 55 loans through the State's Pooled Money Investment Account (PMIA). Assistance shall be provided in a manner and at the minimum amount required to generate adequate construction period financing. Any funds provided shall may be conditioned upon repayment by the State Department of Housing and Community Development (HCD) at

the earliest opportunity that general obligation bond proceeds or AB 55 loans become available. These funds shall remedy gaps in construction-period financing, and may be in addition to funds mitigating equity gaps as described below.

CTCAC shall set aside no more than \$100 million in ARRA Funds for MHP, SHP, and Homeless Youth projects with signed HCD funding financing commitments that have yet to commence construction. Funds shall be committed from this set-aside to generate adequate construction financing, in concert with cash in lieu or gap financing awards. Within the Tax Exempt Bond Project competition described in paragraph (d)(3)(A), applicants may request zero ARRA funds where no equity gap exists, and apply for funds to assist with construction period financing only. Such applications would receive 100 points under the scoring factor listed at (d)(2)(C)(ii). Similarly, Credit Ceiling projects lacking an equity gap may also apply for ARRA funds solely to assist with gaps in construction period financing due to HCD funding. Credit Ceiling projects shall be of higher priority than Tax Exempt Bond projects in the event ARRA funds are oversubscribed for filling HCD construction financing gaps. However, within the Tax Exempt Bond competition, projects losing their DDA status in 2009 shall have preemptive priority.

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**Original Proposed Change:**

**Section 10323(c)**

(c) Award Amounts.

- (1) Cash in lieu of credits: 2007 and 2008 credit recipients may receive an award equal to the stated equity in the original tax credit application up to 85 cents (\$0.85) for every currently reserved federal tax credit dollar and up to 60 cents (\$0.60) for every California State Credit currently reserved by CTCAC for the project.

2009 credit recipient projects may receive the original tax credit application-estimated equity up to 80 cents (\$0.80) for every currently reserved federal tax credit dollar, and up to 55 cents (\$0.55) for every California State Credit dollar currently reserved for the project. Applicants may request a cash in lieu award for a portion of their reserved credits, retaining the balance of credits for an equity partner. CTCAC shall reduce this award amount if a final cost certification would have resulted in a reduced credit award.

To be eligible for cash in lieu of credits, project applicants must demonstrate that they have made good faith efforts to obtain investment commitments for such credits, and that the project remains the same as originally proposed. An applicant shall provide a narrative describing steps they have taken to secure an equity investment, and describing issues inhibiting investor interest in the project. The narrative must identify potential investors proffering unacceptable offers, and why specific terms and conditions were detrimental to the project's feasibility. CTCAC reserves the right to corroborate presented facts, and may request additional information from the applicant and/or the potential investor or syndicator. CTCAC shall determine whether an applicant has met the federal good faith effort test. Any misrepresentations by an applicant shall draw maximum penalties under program regulations.

Where TCAP funds are awarded as cash in lieu of credits, the project shall retain at least a nominal amount of credits and adhere to Section 42 requirements. "Nominal" shall mean at least \$100 of annual federal Low Income Housing Tax Credits.

- (2) Gap financing: 2007 and 2008 projects may receive the difference between the credit equity stated in the original tax credit application, up to \$0.85 for every currently reserved federal tax credit dollar, and the committed equity up to 15 cents per federal tax credit dollar. 2007 and 2008 applicants may also apply for up to 10 cents (\$0.10) for every

California State Credit dollar, up to the credit equity stated in the original application, not to exceed \$0.65 per California State Credit dollar.

2009 projects may receive up to 12 cents (\$0.12) per currently reserved federal tax credit dollar. Applicants may also apply for up to nine cents (\$0.09) for every California State Credit dollar. For 2009 Credit Ceiling applicants, projects may receive the above amounts in addition to the equity induced by the credits even where the final equity pricing exceeds the application estimate per federal tax credit dollar. CTCAC shall assure the combination of gap financing and equity does not over-subsidize the project.

- (3) If a TCAP award would add costs associated with the application of federal prevailing wage requirements, CTCAC may adjust the project award by up to 15 percent (15%) of the original application development budget's site work and structures line items to account for the higher costs. In such cases, the project sponsor must retain subject matter experts to assist in complying with prevailing wage and other federal requirements.
- (4) No cash award amount shall exceed \$17 million, except to 2009 Credit Ceiling applicants who may receive a maximum of \$20 million, and Special Needs, Homeless Assistance, or SRO projects may receive up to \$25 million.

### **Comments Received:**

One commenter suggested that we forgo using the term “nominal” within the regulation when describing the minimum amount of credits that must remain in a TCAP funded project. In addition, HUD representatives also provided additional language to include within our regulations regarding this same topic.

A commenter requested greater clarity regarding what would be expected of a subject matter expert relative to what services TCAC would be performing regarding federal cross-cutting requirements. In addition, a commenter asked that organizational staff with such expertise be sufficient. Another commenter expressly supported the sponsor requirement to obtain expertise.

One commenter urged TCAC to not require Davis Bacon prevailing wages for Section 1602 awards.

### **Response:**

Revisions now delete the term “nominal” as superfluous, and add specific language required by HUD. In addition, new language clarifies the shorter repayment period for HCD backfill loans.

TCAC staff continues to recommend a subject matter expert requirement, clarifying that this may be met by organizational on-staff personnel. Sponsor subject-matter experts would assure federal requirements are carried out properly. TCAC's contracted experts would help TCAC carry out its review responsibilities as the State's “responsible entity” under federal rules.

Finally, TCAC does not intend to invoke prevailing wage requirements for Section 1602 awardees who would not otherwise pay prevailing wages. Section 10323(d)(1) expressly states TCAC's intention to deliver Section 1602 funds in such a way as to avoid adding new cross-cutting requirements.

### **Revised Proposed Change:**

#### (c) Award Amounts.

- (1) Cash in lieu of credits: 2007 and 2008 credit recipients may receive an award equal to the stated equity in the original tax credit application up to 85 cents (\$0.85) for every currently reserved federal tax credit dollar and up to 60 cents (\$0.60) for every California State Credit currently reserved by CTCAC for the project.

2009 credit recipient projects may receive the original tax credit application-estimated equity up to 80 cents (\$0.80) for every currently reserved federal tax credit dollar, and up to 55 cents (\$0.55) for every California State Credit dollar currently reserved for the project. Applicants may request a cash in lieu award for a portion of their reserved credits, retaining the balance of credits for an equity partner. CTCAC shall reduce this award amount if a final cost certification would have resulted in a reduced credit award.

To be eligible for cash in lieu of credits, project applicants must demonstrate that they have made good faith efforts to obtain investment commitments for such credits, and that the project remains the same as originally proposed. An applicant shall provide a narrative describing steps they have taken to secure an equity investment, and describing issues inhibiting investor interest in the project. The narrative must identify potential investors proffering unacceptable offers, and why specific terms and conditions were detrimental to the project's feasibility. CTCAC reserves the right to corroborate presented facts, and may request additional information from the applicant and/or the potential investor or syndicator. CTCAC shall determine whether an applicant has met the federal good faith effort test. Any misrepresentations by an applicant shall draw maximum penalties under program regulations.

Where TCAP funds are awarded as cash in lieu of credits, the project shall retain at least a nominal amount of credits and adhere to Section 42 requirements. "Nominal" shall mean at least \$100 of annual federal Low Income Housing Tax Credits. In addition, such projects shall also demonstrate a good faith effort has been made to sell as many of the originally awarded credits as circumstances and market conditions allow. However, if a developer cannot use and sell all of the tax credits, a written agreement that requires compliance with Low Income Housing Tax Credit and TCAP requirements for the period required by Section 42 of the Internal Revenue Code must be entered into by the project owner, along with an extended use agreement.

- (2) Gap financing: 2007 and 2008 projects may receive the difference between the credit equity stated in the original tax credit application, up to \$0.85 for every currently reserved federal tax credit dollar, and the committed equity up to 15 cents per federal tax credit dollar. 2007 and 2008 applicants may also apply for up to 10 cents (\$0.10) for every California State Credit dollar, up to the credit equity stated in the original application, not to exceed \$0.65 per California State Credit dollar.

2009 projects may receive up to 12 cents (\$0.12) per currently reserved federal tax credit dollar. Applicants may also apply for up to nine cents (\$0.09) for every California State Credit dollar. For 2009 Credit Ceiling applicants, projects may receive the above amounts in addition to the equity induced by the credits even where the final equity pricing exceeds the application estimate per federal tax credit dollar. CTCAC shall assure the combination of gap financing and equity does not over-subsidize the project.

- (3) If a TCAP award would add costs associated with the application of federal prevailing wage requirements, CTCAC may adjust the project award by up to 15 percent (15%) of the original application development budget's site work and structures line items to account for the higher costs. In such cases, the project sponsor must retain, or have on staff, subject matter experts to assist in complying with prevailing wage and other federal requirements.
- (4) No cash award amount shall exceed \$17 million, except to 2009 Credit Ceiling applicants who may receive a maximum of \$20 million, and Special Needs, Homeless Assistance, or SRO projects may receive up to \$25 million.

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**Original Proposed Change:**

**Section 10323(d)(1)**

(d) Application and Award Processes.

- (1) 2007 and 2008 Credit Ceiling Recipients.

2007 and 2008 Credit Ceiling Reservation awardees may apply to CTCAC for an exchange of a portion or all currently reserved credits for TCAP or Exchange ARRA

Funds by a date publicly announced by CTCAC, and for an amount specified in (c)(1) above.

All other 2007 and 2008 applicants may propose retaining all of their credits and seeking gap financing. A portion of TCAP funding, along with any other non-exchanged 2007 or 2008 credits returned or recaptured on or before April 30, 2009, shall then be available to applicants to compete for gap financing. CTCAC shall use the competitive scoring under paragraph (2)(C) below.

CTCAC may award TCAP rather than ~~Exchange~~ Section 1602 Funds to such projects, at CTCAC's sole discretion. CTCAC shall give priority for awarding TCAP funds to projects already subject to federal requirements, such as paying prevailing wages, or where federal funds are a funding source in the project. CTCAC shall condition all awards of ~~TCAP or Exchange~~ ARRA Funds upon the following:

Project owners seeking cash in lieu of 100% of their credit awards must return their entire current tax credit reservation, including any reserved State Credit to CTCAC.

The ~~TCAP or Exchange~~ ARRA Funds recipient must adhere to the original tax credit required placed-in-service and project completion timelines for the project. The CTCAC Executive Director may adjust interim deadlines, including readiness deadlines, to accommodate loan closing schedules associated with these funds. In addition, the Executive Director, at his or her sole discretion, may exchange a 2008 Credit Ceiling reservation for 2009 Credit Ceiling credits. The Executive Director must find that circumstances beyond the project sponsor's control have delayed the project and warrant the extension of the placed in service date. Finally, the Executive Director may extend placed in service deadlines by up to six (6) months for projects receiving cash in lieu of credit awards.

**Comments Received:** None.

**Response:** Go forward with originally proposed changes.

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**Original Proposed Change:**

**Section 10323(d)(2)**

(2) 2009 Credit Ceiling reservation recipients.

For 2009 only, CTCAC shall conduct a single competition for Credit Ceiling tax credit awards. Notwithstanding Section 10325(c)(8), 2009 applicants may apply for readiness points without documenting committed public funding sources, and without documenting items (B) through (D) within the original submitted application. However, applicants must document all such approvals, and the expiration of associated appeal periods, no later than August 17, 2009 to receive the associated readiness points. Similarly, notwithstanding Sections 10325(c)(1)(C), 10325(c)(10), and 10325(f)(8), 2009 applicants may submit a public financing commitment no later than August 17, 2009 and comply with those scoring and basic threshold requirements. In addition, notwithstanding Section 10328(d), 2009 Credit Ceiling recipients must submit an application for a carryover allocation by November 20, 2009.

Within the initial application for Credit Ceiling credits as described in Section 10325, applicants may elect to assume a CTCAC cash award of 12 cents (\$0.12) for every federal tax credit dollar requested, and 9 cents (\$0.09) for every California State Credit dollar requested. Equity pricing assumptions within the original Credit Ceiling application shall be no less than 70 cents (\$0.70) for every tax credit dollar, and no less than 50 cents (\$0.50) for every California State Credit dollar requested.

- (A) Successful competitors for 2009 Credit Ceiling awards shall have 90 days, consistent with Section 10325(c)(8), to produce a letter of intent (LOI) from an equity partner.
- (B) If, after 45 60 days and a good faith effort as described in paragraph (c)(1) above, successful 2009 Credit Ceiling reservation recipients have failed to identify an equity partner, the project sponsor may apply for a cash in lieu of credits award from CTCAC. All projects applying for cash in lieu of credits shall submit materials requested by CTCAC, including evidence that the project would be financially feasible with the requested amount of cash in lieu of credits. Special Needs, Homeless Assistance, or SRO projects applying for cash in lieu of credits must return their federal and any State credit reservation, and CTCAC shall exchange all such returned federal credit to the Secretary of the Treasury as part of its grant election amount. CTCAC shall award this federal exchange cash to the applicant Special Needs, Homeless Assistance, and SRO projects subject to CTCAC confirming the project's feasibility. However, to qualify for a non-competitive exchange of ARRA funds for credits, the project sponsor must have at least five (5) years' experience providing such housing for the target population. All other cash in lieu of credits applicants shall be placed in a competition and scored as described in subsection (2)(C) below for an award of cash in lieu of credits. Current Credit Ceiling reservation recipients must return their reservation before competing for a cash award in lieu of credits. Beyond these funds, CTCAC shall also award additional funds as gap financing or cash in lieu of equity associated with California State Credits up to the applicable loan maximum stated in paragraph (c)(4) above.
- (C) To be eligible to compete under this scoring system, projects must be expected to be completed by February 16, 2012. Competitors shall be scored and ranked competitively based upon the following criteria alone. All scoring information shall be drawn from the originally scored tax credit application with supplemental information as requested by CTCAC.
- (i) Project type (50 points). Projects shall earn points as no more than one project type as follows:
- Special Needs, Homeless Assistance, and SRO projects meeting the requirements of Section 10325(g)(4) 50 points
  - Rural projects meeting the requirements of Section 10315(c) 30 points
  - At-risk projects meeting the requirements of Section 10325(g)(5) 30 points
  - Family projects meeting the requirements of Section 10325(g)(1) and senior projects meeting the requirements of Section 10325(g)(2) 10 points
  - All others 0 points
- (ii) Cash award requested (100 points). Projects shall earn points based upon the cash requested in inverse relation to total project costs. Lesser cash requests relative to total project costs will garner higher scores. Where "N" equals the percentage the cash request represents relative to total project costs, points = 100-N. (Example: Where the cash request N equals 60% of the project cost, the applicant's score would be 40.) Rehabilitation projects, except for At-Risk projects, may access these points only if the per-unit rehabilitation hard costs equal \$40,000 or greater.

- (iii) Average Affordability (100 points). Projects shall earn 5 points for every one percent (1%) that the project's average affordability would be below 60 percent (60%) of Area Median Income (AMI). While CTCAC's Regulatory Agreement shall regulate specific numbers of units at income levels specified in the application, this scoring factor would be based upon a calculation determining the project's average overall affordability. (Example: A project with an average affordability of 50% of AMI would garner the percentage below 60% (10) times 5 points, or 50 points). An average affordability of 40% of AMI would garner the full 100 points. Units with project-based rental or operating subsidy such as Section 8, HUD Project Rental Assistance Contracts (PRAC), Mental Health Services Act (MHSA), McKinney Act subsidies, or CTCAC-approved locally-funded operating subsidy programs shall be assumed to serve households at 40 percent (40%) of AMI, unless regulated to a lower level.

### **Comments Received:**

One commenter expressly supported the carryover extension proposal for 2009 projects.

One commenter objected to establishing a five-year experience standard for the preferential consideration of Special Needs, Homeless Assistance, or SRO projects. This commenter suggested, instead, allowing the TCAC Executive Director discretion to set-aside the preference on a case-by-case basis. One commenter supported a minimum experience threshold for noncompetitive ARRA awards to these projects, but suggested three years, rather than the proposed five. Other commenters supported the five-year standard, but urged TCAC to acknowledge expertise for five years' experience with any of the population types, rather than the specific target population.

Commenters suggested clarity that the cash amount requested would be compared to the residential project costs, similar to the final tiebreaker at Section 10325(c)(10). This clarification could eliminate a systemic advantage for projects with commercial or other nonresidential space, a feature about which TCAC should remain neutral.

Several commenters recommended factoring in readiness into the scoring system.

HUD requested TCAC clarify how it will monitor and assure project completion by February 16, 2012. One commenter also suggested expressly applying this threshold to all ARRA fund recipients, regardless of the applicability of the Section 10323(d)(2)(C) scoring system.

### **Response:**

TCAC staff continues to recommend five years as a reasonable standard for extremely beneficial treatment under the proposed award system. However, staff proposes additional language broadening the relevant experience to the larger class of population types.

Staff proposes new language clarifying that cash requests will be evaluated relative to residential costs only.

Staff declines the suggestion to devise and implement a readiness scoring system for ARRA funds. In the context of the federal economic stimulus objective, staff instead proposes threshold language that projects be prepared to close their construction loans within 75 days of ARRA award (see revised proposed change to Section 10323(b) above).

TCAC staff proposes moving and elaborating upon the February 16, 2012 completion threshold. New language is now proposed under "Eligible Projects" in Section 10323(b) above.

### **Revised Proposed Change:**

- (2) 2009 Credit Ceiling reservation recipients.

For 2009 only, CTCAC shall conduct a single competition for Credit Ceiling tax credit awards. Notwithstanding Section 10325(c)(8), 2009 applicants may apply for readiness points without documenting committed public funding sources, and without documenting items (B) through (D) within the original submitted application. However, applicants must document all such approvals, and the expiration of associated appeal periods, no later than August 17, 2009 to receive the associated readiness points. Similarly, notwithstanding Sections 10325(c)(1)(C), 10325(c)(10), and 10325(f)(8), 2009 applicants

may submit a public financing commitment no later than August 17, 2009 and comply with those scoring and basic threshold requirements. In addition, notwithstanding Section 10328(d), 2009 Credit Ceiling recipients must submit an application for a carryover allocation by November 20, 2009.

Within the initial application for Credit Ceiling credits as described in Section 10325, applicants may elect to assume a CTCAC cash award of 12 cents (\$0.12) for every federal tax credit dollar requested, and 9 cents (\$0.09) for every California State Credit dollar requested. Equity pricing assumptions within the original Credit Ceiling application shall be no less than 70 cents (\$0.70) for every tax credit dollar, and no less than 50 cents (\$0.50) for every California State Credit dollar requested.

- (A) Successful competitors for 2009 Credit Ceiling awards shall have 90 days, consistent with Section 10325(c)(8), to produce a letter of intent (LOI) from an equity partner.
- (B) If, after 45 ~~60~~ days and a good faith effort as described in paragraph (c)(1) above, successful 2009 Credit Ceiling reservation recipients have failed to identify an equity partner, the project sponsor may apply for a cash in lieu of credits award from CTCAC. All projects applying for cash in lieu of credits shall submit materials requested by CTCAC, including evidence that the project would be financially feasible with the requested amount of cash in lieu of credits. Special Needs, Homeless Assistance, or SRO projects applying for cash in lieu of credits must return their federal and any State credit reservation, and CTCAC shall exchange all such returned federal credit to the Secretary of the Treasury as part of its grant election amount. CTCAC shall award this federal exchange cash to the applicant Special Needs, Homeless Assistance, and SRO projects subject to CTCAC confirming the project's feasibility. However, to qualify for a non-competitive exchange of ARRA funds for credits, the project sponsor must have at least five (5) years' experience providing such housing for the target population, Special Needs, Homeless Assistance, and/or SRO populations. All other cash in lieu of credits applicants shall be placed in a competition and scored as described in subsection (2)(C) below for an award of cash in lieu of credits. Current Credit Ceiling reservation recipients must return their reservation before competing for a cash award in lieu of credits. Beyond these funds, CTCAC shall also award additional funds as gap financing or cash in lieu of equity associated with California State Credits up to the applicable loan maximum stated in paragraph (c)(4) above.
- (C) ~~To be eligible to compete under this scoring system, projects must be expected to be completed by February 16, 2012.~~ Competitors shall be scored and ranked competitively based upon the following criteria alone. All scoring information shall be drawn from the originally scored tax credit application with supplemental information as requested by CTCAC.
- (i) Project type (50 points). Projects shall earn points as no more than one project type as follows:
- Special Needs, Homeless Assistance, and SRO projects meeting the requirements of Section 10325(g)(4) 50 points
  - Rural projects meeting the requirements of Section 10315(c) 30 points
  - At-risk projects meeting the requirements of Section 10325(g)(5) 30 points
  - Family projects meeting the requirements of Section 10325(g)(1) and senior projects meeting the requirements of Section 10325(g)(2) 10 points

- All others 0 points
- (ii) Cash award requested (100 points). Projects shall earn points based upon the cash requested in inverse relation to total residential project costs. Lesser cash requests relative to total project costs will garner higher scores. Where “N” equals the percentage the cash request represents relative to total project costs, points = 100-N. (Example: Where the cash request N equals 60% of the project cost, the applicant’s score would be 40.) Rehabilitation projects, except for At-Risk projects, may access these points only if the per-unit rehabilitation hard costs equal \$40,000 or greater.
- (iii) Average Affordability (100 points). Projects shall earn 5 points for every one percent (1%) that the project’s average affordability would be below 60 percent (60%) of Area Median Income (AMI). While CTCAC’s Regulatory Agreement shall regulate specific numbers of units at income levels specified in the application, this scoring factor would be based upon a calculation determining the project’s average overall affordability. (Example: A project with an average affordability of 50% of AMI would garner the percentage below 60% (10) times 5 points, or 50 points). An average affordability of 40% of AMI would garner the full 100 points. Units with project-based rental or operating subsidy such as Section 8, HUD Project Rental Assistance Contracts (PRAC), Mental Health Services Act (MHSA), McKinney Act subsidies, or CTCAC-approved locally-funded operating subsidy programs shall be assumed to serve households at 40 percent (40%) of AMI, unless regulated to a lower level.

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**Original Proposed Change:**

**Section 10323(d)(3)**

- (3) Recipients of credits for Tax-Exempt Bond Projects.
- (A) Eligible 2007, 2008, and 2009 Tax-Exempt Bond Projects with, as of the application due date to be publicly announced by CTCAC, bond allocations, previously awarded tax-exempt bond allocations that have been returned to CDLAC or tax-exempt bond applications pending (a) with a current credit reservation and (b) lacking an equity partner, may apply and compete for cash in lieu of tax credits under the process described in subsections (d)(2)(B) and (C) above. To be eligible for cash in lieu of credits, project applicants must demonstrate that they have made good faith efforts to obtain investment commitments for such credits as described in paragraph (c)(1) above, and that the project remains the same as originally proposed. Eligible 2007, 2008, and 2009 Tax-Exempt Bond Projects with committed equity partners that still have a funding gap may also compete for ~~TCAP or Exchange~~ ARRA Funds as gap financing within the same competition as those seeking cash in lieu of credits. Those projects must also have a current bond allocation or an application pending, a current tax credit reservation, and an executed LOI with an equity partner for less than estimated in the original tax credit application. Projects may apply for either cash in lieu of credits or gap financing if they have a pending tax credit application accepted and deemed complete by CTCAC by the cash application due date referenced above, but only if they have an award of State HCD or MHSA funding. Successful applicants shall receive either ~~TCAP or Exchange~~ ARRA Funds as determined by CTCAC.
- (B) Eligible 2009 Tax Exempt Bond Projects meeting the conditions of preceding paragraph (A) after the application due date required under (A) above, shall similarly compete among themselves for cash in lieu of credits or gap financing under a separate competition. This competition shall be held in an additional

round during calendar year 2009, and shall also follow the process described in subsections (d)(2)(B) and (C) above.

Projects shall compete based on the information provided in the original awarded tax credit application and any supplemental information related to CTCAC employing the competitive system described in paragraph (d)(2)(C).

**Comments Received:**

Substantive comments received related to the referenced competitive scheme at Section 10323(d)(2)(C). Staff has addressed those comments within that section, with the exception of a concern regarding Special Needs applications. A commenter urged TCAC to waive the condition that Special Needs projects where fewer than 75 percent (75%) of the units are to be occupied by special needs populations meet another housing type requirement for the remaining units.

**Response:** The additional housing type requirement for tax exempt bond projects not meeting the 75% test is counterproductive when awarding ARRA funds. That is, meritorious projects providing large numbers of special needs units could fail this test, since it is not a condition of 4 percent tax credits.

**Revised Proposed Change:**

Except the 75% rule, and go forward with changes as originally proposed.

(3) Recipients of credits for Tax-Exempt Bond Projects.

- (A) Eligible 2007, 2008, and 2009 Tax-Exempt Bond Projects with, as of the application due date to be publicly announced by CTCAC, bond allocations, previously awarded tax-exempt bond allocations that have been returned to CDLAC or tax-exempt bond applications pending (a) with a current credit reservation and (b) lacking an equity partner, may apply and compete for cash in lieu of tax credits under the process described in subsections (d)(2)(B) and (C) above. To be eligible for cash in lieu of credits, project applicants must demonstrate that they have made good faith efforts to obtain investment commitments for such credits as described in paragraph (c)(1) above, and that the project remains the same as originally proposed. Eligible 2007, 2008, and 2009 Tax-Exempt Bond Projects with committed equity partners that still have a funding gap may also compete for ~~TCAP or Exchange~~ ARRA Funds as gap financing within the same competition as those seeking cash in lieu of credits. Those projects must also have a current bond allocation or an application pending, a current tax credit reservation, and an executed LOI with an equity partner for less than estimated in the original tax credit application. Projects may apply for either cash in lieu of credits or gap financing if they have a pending tax credit application accepted and deemed complete by CTCAC by the cash application due date referenced above, but only if they have an award of State HCD or MHSA funding. Successful applicants shall receive either ~~TCAP or Exchange~~ ARRA Funds as determined by CTCAC.
- (B) Eligible 2009 Tax Exempt Bond Projects meeting the conditions of preceding paragraph (A) after the application due date required under (A) above, shall similarly compete among themselves for cash in lieu of credits or gap financing under a separate competition. This competition shall be held in an additional round during calendar year 2009, and shall also follow the process described in subsections (d)(2)(B) and (C) above.

Projects shall compete based on the information provided in the original awarded tax credit application and any supplemental information related to CTCAC employing the competitive system described in paragraph (d)(2)(C) ), except that Special Needs projects need not meet the 75 percent requirement contained in Section 10325(g)(4).

**Original Proposed Change:**

**Section 10323(d)(4)**

(4) Executive Director's discretion to award remaining funds.

If, following the award processes described in paragraphs (d)(1) through (d)(3) above, CTCAC has a surplus of either ARRA funds or Credit Ceiling credits, the Executive Director may take extraordinary measures to assure that all funds and credits are awarded and allocated by year-end. Such extraordinary measures include:

(A) If Credit Ceiling credits remain with insufficient time for a waiting list award pursuant to Section 10325(c)(h), the Executive Director may declare a project possessing a Credit Ceiling reservation a Difficult to Develop Area (DDA) project and deliver additional federal Credit Ceiling credits in lieu of the reserved California State Credits. The Executive Director must attempt to minimize project disruption by first conferring with the project sponsor, and must also report such an action to the Committee at its next convened meeting.

(B) If ARRA funds are recaptured or remain uncommitted at year-end, the Executive Director may offer such funds, first, to the next unfunded applicant competing under Section (d)(2)(B) above. If the requested cash in lieu of credit amount significantly exceeds the requested ARRA funds, the Executive Director may move down the ranked list of unfunded projects to the next ranked project seeking less than or approximately the amount available.

(C) If no remaining projects on the unfunded ranked list described in preceding paragraph (B) requested less than or approximately the amount of ARRA funds remaining, the Executive Director may award remaining ARRA funds to the next ranked project competing under Section (d)(3)(A) above.

**Comments Received:**

One commenter expressed concern that TCAC might depart from the waiting list method of re-reserving available Credit Ceiling credits at year-end.

Another commenter supported the changes proposed within Section 10323(d)(4).

**Response:**

Proposed paragraph (4)(A) expressly states, as a condition, that insufficient time remains to use the waiting list methodology. The commenter accurately notes that, in the past, TCAC has made waiting list awards on very short notice at year-end, and TCAC intends to do so again as necessary. Only in the event insufficient time remains under unforeseen circumstances could the Executive Director exercise the proposed discretion. Staff continues to propose this authority in light of many administrative unknowns in 2009 that could otherwise jeopardize California's ability to access national pool credits in 2010.

Go forward with changes as originally proposed.

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**Original Proposed Change:**

**Section 10323(e)**

(e) Loan Terms.

The project owner receiving any cash award from CTCAC shall agree to the loan terms described below as applicable.

(1) All funds must be expended by February 17, 2012.

- (2) All loans shall be underwritten in advance using the applicable financial feasibility standards listed within Section 10327, except that projects must demonstrate a first year debt service coverage ratio of at least 1.15 to 1.
- (3) Loans shall be originated for a term of 55 years. The project owner must execute a Promissory Note secured by a recorded Deed of Trust as required by CTCAC. In addition, the project owner must execute a recorded Regulatory Agreement provided by CTCAC. The loan term may be extended in 15-year increments, and shall be assignable upon the agreement of CTCAC.
- (4) Under the terms of the Promissory Note and Deed of Trust, ~~loan payments shall be due annually as residual receipts payments~~ the loan shall be deferred for the full term. The CTCAC Deed of Trust shall be recorded in a subordinate position relative to the principal private lender's Deed of Trust, as well as those of public lenders, unless the CTCAC loan amount is more than twice the amount lent by the public lender. ~~Payments shall be due in the amount of 50 percent (50%) of any residual receipts after non-cumulative preferred residential cash flow to the owner of \$500 per unit, increasing by the Consumer Price Index for All Urban Consumers, West Region, All Items, as published annually by the Bureau of Labor Statistics, United States Department of Labor, and after payment of a non-interest bearing deferred developer fee included in basis, consistent with the conditions of Section 10327(c)(2)(A). Payment of required principal and interest to other public funding sources under the terms of executed loan documents shall be payable prior to loan payments described in this paragraph.~~
- (5) Recipients of cash loans in lieu of tax credits shall enter into a binding agreement establishing CTCAC's right of first refusal to purchase the project for its fair market value at the time the owner chooses to sell the project, except for a sale under IRC §42(i)(7). This right is assignable by CTCAC to a third party of its choice, and shall be in effect for the duration of the Regulatory Agreement. This requirement shall not apply to projects receiving gap financing only, as described in paragraph (c)(2) above.
- (6) The interest rate for any loans authorized under this section shall be zero.

#### **Comments Received:**

One commenter urged that the regulations clearly state that HCD-backfill loans shall be of a shorter term than 55 years.

Another commenter suggested that the assumability of loans should be permissible only at TCAC's discretion. These commenters also suggested removing the 15-year specificity associated with loan extensions.

In addition, TCAC expects the U.S. Department of Treasury to provide definitive guidance regarding permissible Section 1602 loan terms.

#### **Response:**

TCAC staff agrees that regulation should clearly state the shorter loan term for HCD backfill loans.

Staff also proposes language clarifying that TCAC may approve the assumption of ARRA loans, and language deferring to awaited Treasury guidance regarding permissible loan terms. TCAP loans will adhere to the terms described herein, regardless of the treatment of Section 1602 funds.

#### **Revised Proposed Change:**

##### (e) Loan Terms.

The project owner receiving any cash award from CTCAC shall agree to the loan terms described below as applicable.

- (1) All funds must be expended by February 17, 2012.

- (2) All loans shall be underwritten in advance using the applicable financial feasibility standards listed within Section 10327, except that projects must demonstrate a first year debt service coverage ratio of at least 1.15 to 1.
- (3) Loans shall be originated for a term of 55 years, except for HCD backfill loans described under paragraph (b)(3) where the loan will be due upon HCD's earliest opportunity to repay. The project owner must execute a Promissory Note secured by a recorded Deed of Trust as required by CTCAC. In addition, the project owner must execute a recorded Regulatory Agreement provided by CTCAC. ~~The loan term may be extended in 15 year increments, and shall be assignable upon the agreement of CTCAC. TCAC may agree to extending the loan term, and may agree to an assumption by a proposed new property owner.~~
- (4) Under the terms of the Promissory Note and Deed of Trust, ~~loan payments shall be due annually as residual receipts payments~~ the loan shall be deferred for the full term. The CTCAC Deed of Trust shall be recorded in a subordinate position relative to the principal private lender's Deed of Trust, as well as those of public lenders, unless the CTCAC loan amount is more than twice the amount lent by the public lender. ~~Payments shall be due in the amount of 50 percent (50%) of any residual receipts after non-cumulative preferred residential cash flow to the owner of \$500 per unit, increasing by the Consumer Price Index for All Urban Consumers, West Region, All Items, as published annually by the Bureau of Labor Statistics, United States Department of Labor, and after payment of a non-interest bearing deferred developer fee included in basis, consistent with the conditions of Section 10327(c)(2)(A). Payment of required principal and interest to other public funding sources under the terms of executed loan documents shall be payable prior to loan payments described in this paragraph.~~
- (5) Recipients of cash loans in lieu of tax credits shall enter into a binding agreement establishing CTCAC's right of first refusal to purchase the project for its fair market value at the time the owner chooses to sell the project, except for a sale under IRC §42(i)(7). This right is assignable by CTCAC to a third party of its choice, and shall be in effect for the duration of the Regulatory Agreement. This requirement shall not apply to projects receiving gap financing only, as described in paragraph (c)(2) above.
- (6) The interest rate for any loans authorized under this section shall be zero.
- (7) In the event the United States Department of Treasury specifies other loan terms for Section 1602 funds, those terms would supersede any provisions contained herein where those funds are the source of ARRA financing.

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**Original Proposed Change:**

**Section 10323(e)(7)**

- (7) CTCAC shall disburse loans provided as gap funding during construction as needed upon receiving evidence that costs have been incurred. CTCAC shall disburse loans provided in lieu of tax credit equity on the following schedule: ~~30 percent (30%)~~ 40 percent (40%) at and following construction loan closing as justified by costs; at least ~~65 percent (65%)~~ 35 percent (35%) at project completion as evidenced by a Certificate of Occupancy for the entire project; and 25 percent (25%) minus a hold-back at 90 percent (90%) occupancy by eligible households as certified by an independent third party. CTCAC shall hold back up to ~~five percent (5%), not to exceed \$500,000~~ \$300,000 to be payable upon CTCAC approval of final cost certification and other placed-in-service materials. CTCAC may accelerate or depart from this described disbursement schedule at the sole discretion of the Executive Director and as expressed under the terms of a tri-party agreement with other lenders and the project sponsor.

Finally, at the sole discretion of the Executive Director, CTCAC may accelerate payment in order to conform with federal expenditure deadlines.

- (8) All executed loan agreements and regulatory agreements shall reflect recapture provisions for defaults on the regulatory agreement. The terms of recapture shall be proportionate to the scale and duration of the uncorrected noncompliance relative to a 15-year initial compliance period. If, following an ARRA application and award, a sponsor syndicates and sells a portion of their ownership interest to a partner seeking tax losses associated with the project, and such syndication was not set forth in the original ARRA application, nine-tenths of the gross proceeds of that sale shall be remitted to CTCAC as recaptured ARRA funds.

#### **Comments Received:**

Commenters endorsed the case-by-case flexibility regarding loan disbursement schedules. One commenter suggested that syndication proceeds may be necessary to defray cost overruns, and that TCAC ought to build in the flexibility to permit a larger percentage of the proceeds to stay with the project.

**Response:** In a cost overrun scenario, TCAC could act to protect the State's interest in such a work-out environment. Staff is loath to encourage post-award syndications for such purposes without recapturing ARRA funds.

TCAC expects the U.S. Department of Treasury to provide definitive guidance regarding permissible recapture events, and now includes language anticipating, and incorporating that guidance.

Finally, in light of new paragraph (7), each subsequent paragraph is re-numbered.

#### **Revised Proposed Change:**

- ~~(7)~~(8) CTCAC shall disburse loans provided as gap funding during construction as needed upon receiving evidence that costs have been incurred. CTCAC shall disburse loans provided in lieu of tax credit equity on the following schedule: ~~30 percent (30%)~~ 40 percent (40%) at and following construction loan closing as justified by costs; at least ~~65 percent (65%)~~ 35 percent (35%) at project completion as evidenced by a Certificate of Occupancy for the entire project; and 25 percent (25%) minus a hold-back at 90 percent (90%) occupancy by eligible households as certified by an independent third party. CTCAC shall hold back up to ~~five percent (5%), not to exceed \$500,000~~ \$300,000 to be payable upon CTCAC approval of final cost certification and other placed-in-service materials. CTCAC may accelerate or depart from this described disbursement schedule at the sole discretion of the Executive Director and as expressed under the terms of a tri-party agreement with other lenders and the project sponsor.

Finally, at the sole discretion of the Executive Director, CTCAC may accelerate payment in order to conform with federal expenditure deadlines.

- ~~(8)~~(9) All executed loan agreements and regulatory agreements shall reflect recapture provisions for defaults on the regulatory agreement. The terms of recapture shall be proportionate to the scale and duration of the uncorrected noncompliance relative to a 15-year initial compliance period. consistent with guidance provided by the U.S. Department of Treasury for Section 1602 financed projects. If, following an ARRA application and award, a sponsor syndicates and sells a portion of their ownership interest to a partner seeking tax losses associated with the project, and such syndication was not set forth in the original ARRA application, nine-tenths of the gross proceeds of that sale shall be remitted to CTCAC as recaptured ARRA funds.

**Original Proposed Change:**

**Section 10323(f)**

(f) Fees.

- (1) CTCAC may charge ARRA fund recipients a loan origination fee of up to \$10,000. Where the California Housing Finance Agency (CalHFA) performs loan-origination services under the terms of an Interagency Agreement with CTCAC, CalHFA may charge a fee based upon a percentage of the ARRA loan amount. CalHFA shall publish its percentage fee structure on their website.
- (2) CTCAC may charge an ARRA funds recipient an asset management fee for such services. This fee may be in the form of an annual charge during the project's regulatory term, or may be charged at or about project completion. In the event CTCAC contracts out for asset management services, the contracted entity may charge the sponsor an asset management fee directly.
- (3) CTCAC may charge a TCAP funds recipient a fee of up to \$1,000 to oversee compliance with federal NEPA requirements, and \$1,000 to oversee compliance with federal Davis Bacon prevailing wage requirements.

**Comments Received:**

Commenters expressed concern about the lack of specificity as to CalHFA-originated loan fees. In addition, commenters expressed concern that the fees could be significantly disparate.

TCAC awaits guidance from HUD and the U.S. Department of Treasury regarding permissible fees.

TCAC staff has received more accurate cost estimates for contracted services performing NEPA and Davis Bacon compliance reviews.

**Response:** TCAC staff has conferred with CalHFA and now proposes additional clarifying language specifying a \$10,000 maximum for gap financing loans, and a \$25,000 maximum for larger cash in lieu of credits loans. In addition, staff now proposes the term “advanced asset management fee” in conformance with federal guidance and practice in other states.

TCAC staff proposes higher limits for a federal compliance review fee structure.

**Revised Proposed Change:**

(f) Fees.

- (1) CTCAC may charge ARRA fund recipients a ~~loan origination~~ advanced asset management fee of up to \$10,000. Where the California Housing Finance Agency (CalHFA) performs ~~loan origination~~ advanced asset management services under the terms of an Interagency Agreement with CTCAC, CalHFA may charge a fee based upon a percentage of the ARRA loan amount. CalHFA shall publish its percentage fee structure on their website. For gap financing loans, CalHFA shall charge no more than \$10,000. For cash in lieu of credit loans, CalHFA shall charge no more than \$25,000.
- (4) CTCAC may charge an ARRA funds recipient an asset management fee for such services. This fee may be in the form of an annual charge during the project's regulatory term, or may be charged at or about project completion. In the event CTCAC contracts out for asset management services, the contracted entity may charge the sponsor an asset management fee directly.
- (5) CTCAC may charge a TCAP funds recipient a fee of up to ~~\$1,000~~ \$3,000 to oversee compliance with federal NEPA requirements, and ~~\$1,000~~ \$3,000 to oversee compliance with federal Davis Bacon prevailing wage requirements.

## List of Commenters

1. Gary Downs, Pillsbury, Winthrop, Shaw, Pittman
2. Karen Flock, Cabrillo Economic Development Corporation
3. Marc Gelman, Enhanced Affordable Housing Company
4. Ginger Hitzke, Hitzke Development Corporation
5. John Lowry, Burbank Housing Development Corporation
6. Richard Mandel, California Housing Partnership Corporation
7. Meg McGraw-Scherer, California Housing Partnership Corporation
8. Kevin Payne, Payne Development, LLC
9. Jeanne Peterson, Reznick Group
10. Marcia Sigal, U.S. Department of Housing and Urban Development
11. Dianne Spaulding, Executive Director
12. Alice Talcott et.al., Community Economics
13. Lydia Tan, BRIDGE Housing Corporation
14. Suzanne Vice, National Affordable Housing Trust
15. Rob Weiner, California Coalition for Rural Housing