CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: June 4, 2021

TO: Low Income Housing Tax Credit Stakeholders

FROM: Nancee Robles, Executive Director

RE: Final Proposed Regulation Changes and Responses to Comments

On May 7, 2021, the California Tax Credit Allocation Committee ("CTCAC" or the "Committee") released proposed regulation changes. CTCAC staff subsequently held a public hearing in Sacramento and through the public participation conference line on May 19, 2021.

CTCAC accepted written comments on these initial proposed regulation changes through Monday, May 31, 2021. Numerous individuals, organizations, and groups formally commented on the proposed regulation changes in both oral and written form. CTCAC staff carefully considered all comments received and has finalized the recommendations to the Committee for consideration and adoption on Wednesday, June 16, 2021.

This memo includes the final proposed regulation changes, staff's responses to comments including explanations to any proposed revisions to the initially proposed changes, which are highlighted in yellow. CTCAC will publish a matrix summarizing the public comments in a subsequent document.

Proposed Regulation Changes, Comments Received, and Responses to Comments
June 4, 2021

Section 10310(b)

Initial Proposed Change:

(b) Credit Ceiling available. The approximate amount of Tax Credits available in each reservation cycle may be established by the Committee at a public meeting designated for that purpose as of February first of the calendar year, in accordance with the following provisions:

(1) Amount of Federal Tax Credits. The amount of Federal Tax Credits available for reservation in a reservation cycle shall be equal to the sum of:

(A) the per capita amount authorized by law for the year, plus or minus the unused, Federal Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;

(B) the amount allocated, and available, under IRC Section 42(h)(3)(D) as of the date that is thirty days following the application deadline for said cycle;

(C) the amount of Federal Credit Ceiling returned, and available, as of the date that is thirty days following the application deadline for said cycle; and,

(D) additional amounts of Federal Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations.

For calendar year 2020, and 2021 if applicable, the amount of the Federal Credit Ceiling established by the Further Consolidated Appropriations Act, 2020 ("FCAA") shall be allocated pursuant to Section 10325(d)(1). For calendar year 2021, and 2022 if applicable, the amount of the Federal Credit Ceiling established by the Consolidated Appropriations Act, 2021 ("CAA") shall be allocated pursuant to Section 10325(d)(1).

Comments Received: None

Final Proposed Change: Proceed with changes as initially proposed.

Section 10317(c) and (d)

Initial Proposed Change:

(c) Limit on Credit amount. Except for applications described in paragraph (d) below, all credit ceiling applications may request State credits provided the project application is not requesting the federal 130% basis adjustment for purposes of calculating the federal credit award amount. Projects are eligible for State credits regardless of their location within a federal Qualified Census Tract (QCT) or a Difficult Development Area (DDA). Notwithstanding paragraph (d) below, applications for the Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 are not eligible for State Tax Credits.

An applicant requesting state credits shall not reduce basis related to federal tax credits except to reduce requested basis to the project's threshold basis limit or the credit request to the amount available in the project's geographic region or the limits described in Section 10325(f)(9)(C). CTCAC shall revise the basis and credit request if the applicant fails to meet this requirement.

In the event that reservations of state credits to credit ceiling applications exceed the amount of state credits available, CTCAC post-reservation shall designate applications for which there are insufficient state credits as difficult development area (DDA) projects pursuant to Section 10327(d)(3) and exchange state credits for federal credits in an amount that will yield equal equity based solely on the tax credit factors stated in the application.

(d) (1) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(ii), 17058(b)(2)(E)(ii), and 23610.5(b)(2)(E)(ii), applications for Special Needs projects with at least 50% special needs units and within a QCT or DDA may request the federal 130% basis boost and may also request State credits, provided that the applicant does not reduce basis related to federal tax credits except to reduce requested basis to the project's threshold basis limit or the credit request to the amount available in the project's geographic region or the limits described in Section 10325(f)(9)(C). CTCAC shall revise the basis and credit request if the application fails to meet this requirement. Under authority granted by Internal Revenue Code Section 42(d)(5)(B)(v), CTCAC designates Special Needs housing type applicants for credit ceiling credits as Difficult Development Area projects, regardless of their location within a federally-designated QCT or DDA.

(2) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(iii),17058(b)(2)(E)(iii), and 23610.5(b)(2)(E)(iii), applications for 4% federal tax credits plus State Farmworker Credits within a QCT or DDA may request the federal 130% basis boost and may also request State credits

(3) Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(iii), 17058(b)(2)(E)(iii), and 23610.5(b)(2)(E)(iii), new construction applications for 4% federal tax credits plus State Credits pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code within a QCT or DDA may request the federal 130% basis boost and may also request State credits.

Applications for the Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021, including Special Needs projects described in this section (d), are not eligible for State Tax Credits.

Comments Received: All comments received supported the proposed change.

Final Proposed Change: Proceed with changes as initially proposed.

Section 10317(j)

Initial Proposed Change:

(j) State Tax Credit Allocations pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code. For calendar years beginning in 2021, an amount up to five hundred million dollars ($500,000,000) in total State Tax Credit authority will be available (if authorized in the California Budget Act or related legislation) for new construction Tax Exempt Bond Projects subject to the requirements of the California Debt Limit Allocation Committee regulations and the requirements of Section 10326 of these regulations, for projects that can begin construction within 180 days from award. Failure to begin construction within 180 days of award shall result in rescission of the Tax Credit Reservation and may result in assessment of negative points.

Readiness to begin construction within 180 days from award shall be evidenced in the application as set forth in Sections 10325(c)(7)~~(A) and (B)~~ of these regulations. Within 180 days of the award the applicant must submit to CTCAC building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and notice to proceed delivered to the contractor.

Failure to begin construction within 180 days of award shall result in rescission of the Tax Credit Reservation and may result in assessment of negative points.

Comments Received: None

Final Proposed Change: Proceed with changes as initially proposed.

Section 10325(c)(9)(A)(iv)

Initial Proposed Change:

(iv) developers shall defer or contribute as equity to the project any amount of combined 4% and 9% developer fees in cost that are in excess of the limit pursuant to Section 10327(c)(2)(A) plus $~~10,000~~20,000 per unit for each Tax Credit Unit in excess of 100, using (a) the combined Tax Credit Units of the 9% and 4% components, (b) the combined eligible basis of the 9% and 4% components, and (c) the high-cost test factor calculated using the eligible basis and threshold basis limits for the 9% component.

Comments Received: None

Final Proposed Change: Proceed with changes as initially proposed.

Section 10325(d)

Initial Proposed Change:

(d) Application selection for evaluation. Except where CTCAC staff determines a project to be high cost, staff shall score and rank projects as described below. Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits. CTCAC shall calculate total eligible basis by using all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the shaded cells in the application sources and uses budget itself or by a letter from the development team's third party tax professional. A project will be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limit by 30%. Staff shall not recommend such project for credits. Any project that receives a reservation on or after January 1, 2016 may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limit by 40%. For purposes of calculating the high cost test at placed in service, TCAC shall use the higher of the unadjusted threshold basis limit from application or the year the project places in services.

Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

(1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside, followed by the Rural set-aside (funding the RHS and HOME program apportionment first, and the Tribal pilot apportionment second), the At Risk set-aside, and the Special Needs set-aside, the highest scoring applications will have Tax Credits reserved. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315, with the exception of the Federal Credit amount established by the Further Consolidated Appropriations Act, 2020 ~~("FCAA")~~ and the Consolidated Appropriations Act, 2021. If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second funding round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the geographic area in which the project is located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.

(A) For an application to receive a reservation within a set-aside, or within a rural set-aside apportionment, there shall be at least one dollar of Credit not yet reserved in the set-aside or apportionment.

(B) Set-aside applications requesting State tax credits shall be funded, even when State credits for that year have been exhausted. The necessary State credits shall be reserved from the subsequent year's aggregate annual State credit allotment.

(C) Except for projects competing in the rural set-aside, which shall not be eligible to compete in geographic area, unless the projects are located within a Geographic Region and no other projects have been funded within the Project's region during the year in question, after a set-aside is reserved all remaining applications competing within the set-aside shall compete in the Geographic Region.

Federal Credit established by the FCAA application selection. Applications for projects located in the counties designated as qualified 2017 and 2018 California disaster areas by the FCAA, FCAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/, and directly damaged by the fire, and that apply for the FCAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba.

Applications for projects applying for FCAA Federal Credit shall be competitively scored within the county apportionment under the system delineated in Sections 10325(c)(1) through (3), (4)(B), and (6). In the cases where applications receive the same score, the following tiebreakers shall be employed: First, a formal letter of support for the specific project from the Local Reviewing Agency (LRA) outlining how the project will contribute to the community's recovery efforts submitted in the application or received by TCAC no later than 14 days following the application filing deadline; Second, the application with the greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested; and Third, the application with the greatest number of proposed bedrooms within the proposed Tax Credit Units.

For projects located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/, applying for FCAA Federal Credit in the 2020 funding round, local approvals and zoning requirements of Section 10325(f)(4) must be evidenced to CTCAC no later than June 1, 2021. Failure to do so shall result in rescission of the Tax Credit Reservation on June 2, 2021. The deadline in this paragraph may be extended if the Executive Director finds, in his or her sole discretion, a project merits additional time due to delays directly caused by fire, war, or act of God. In considering a request, the Executive Director may consider, among other things, the length of the delay and the circumstances relating to the delay.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for FCAA Federal Credit applications with 2017 and 2018 HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction's HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide TCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the TCAC placed-in service application deadline.

FCAA Federal Credit shall be made available starting in the 2020 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY
$40,087,453	Butte
$16,365,940	Sonoma
$5,630,499	Los Angeles
$5,421,263	Shasta
$4,975,965	Ventura
$4,109,511	Napa
$3,342,311	Mendocino
$3,259,153	Lake
$2,886,283	Yuba
$2,816,537	San Diego
$2,583,158	Santa Barbara
$2,580,476	Nevada
$2,561,698	Orange
$2,000,000	Supplemental
$98,620,247	**TOTAL**

The funding order shall be followed by funding the highest scoring application, if any, in each of the 13 counties. After each county has had the opportunity to fund one project, TCAC shall award the second highest scoring project in each county, if any, and continue cycling through the counties, filling each county's apportionment.

For an application to receive a FCAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county allocation so long as the county's last award does not cause the county's aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county. FCAA Federal Credit allocated in excess of the county's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application requires credits in excess of 105% of the county's allocation, that application will not be funded. If all FCAA Federal Credit in a funding round has been awarded, all remaining FCAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total FCAA Federal Credit remains, all unallocated FCAA Federal Credit within the county allocations will be combined and available to remaining projects requesting FCAA Federal Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in the order listed above. Within each county, the award selection will start with the highest ranking project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/ first and continue within that county in rank order until no eligible applications remain. Subsequent to the above selection ranking, any unused FCAA Federal Credit shall be designated for projects where at least fifty percent (50%) of the Low-Income Units within the project are designated for homeless households as described in Sections 10315(b)(1) through (4) starting with the highest ranking project pursuant to Section 10325(c) without regard to the set aside or geographic region for which the application applied.

All projects awarded FCAA Federal Credit in 2020 may return their allocation to the Committee without assessment of negative points if the formal written notification from the applicant of the return is received by the Committee no later than September 1, 2021. Any returned credits following September 1, 2021 will be made available to projects from the FCAA Federal Credit waiting list as previously stated. Any new application received for a project on the waiting list shall result in that project's removal from the waiting list.

The FCAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for FCAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for FCAA Federal Credit shall not exceed Five Million Dollars ($5,000,000). Applications for FCAA Federal Credit are not eligible for State Tax Credits.

Federal Credit established by the CAA application selection. Applications for projects located in the counties designated as qualified 2020 California disaster areas by the CAA, CAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a CAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/, and directly damaged by the fire, and that apply for the CAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Fresno, Lake, Lassen, Los Angeles, Madera, Mendocino, Monterey, Napa, San Bernardino, San Diego, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Trinity, Tulare, and Yolo.

Applications for projects applying for CAA Federal Credit shall be competitively scored within the county/regional apportionment under the system delineated in Sections 10325(c)(1) through (8). In the cases where applications receive the same score, the following tiebreakers shall be employed: First, projects located within a CAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/ and not opposed or strongly opposed by the Local Reviewing Agency (LRA); Second, the presence of an enforceable financing commitment to the specific project of at least $1,000,000 from the State of California Department of Housing and Community Development ("HCD") and assuming a 4% tax credit financing structure such that the Federal Tax Credit request divided by the total eligible basis does not exceed 5%; and Third, the application with the greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for CAA Federal Credit applications with HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction's HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide TCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the TCAC placed-in service application deadline.

CAA Federal Credit shall be made available starting in the 2021 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	**COUNTY/ REGION**
$17,261,698	Butte County
$12,058,293	Santa Cruz County
$9,395,477	Napa County
$8,714,494	North Region (San Mateo, Santa Clara, Shasta, Solano, Stanislaus, and Yolo Counties)
$8,609,728	Fresno County
$8,408,925	Sonoma County
$7,553,332	South Region (Madera, Monterey, Los Angeles, San Bernardino, San Diego, and Tulare Counties)
$6,741,391	Rural (Lake, Lassen, Mendocino, Siskiyou, and Trinity Counties)
$2,000,000	Supplemental
$80,743,338	**TOTAL**

The funding order shall start with applications selected in rank order within each county/region in the order above. For an application to receive a CAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county/region allocation so long as the county/region's last award does not cause the county/region aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county/region. CAA Federal Credit allocated in excess of the county/region's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application selected requires credits in excess of 105% of the county/region's allocation, that application will not be funded. Any CAA Federal Credit remaining in a county/region apportionment at the end a funding round will be available in the subsequent round. For the final funding round of 2022 for CAA Federal Credits, if the aggregate amount of Federal Credit requested does not exceed the amount available, the 105% county limit above shall not apply. If all CAA Federal Credit in a funding round has been awarded, all remaining CAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total CAA Federal Credit remains, all unallocated CAA Federal Credit within the county/region allocations will be combined and available to remaining projects requesting CAA Federal Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in order number of lost homes highest to lowest. Within each county, the award selection will start with the highest ranking project located within a CAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/ first and continue within that county in rank order until no eligible applications remain.

The CAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for CAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for CAA Federal Credit shall not exceed the lesser of Four Million Dollars ($4,000,000) and $40,000 per Tax Credit Unit. Applications for CAA Federal Credit are not eligible for State Tax Credits.

Comments Received: Most commenters were in support of the use of the full 9% point system including the Readiness to Proceed category. However, some of those commenters suggested providing authority to the Executive Director the ability to grant an extension (90-110 days) to the 180/194 readiness deadline for projects under certain circumstances given the challenges of achieving building permits within the required deadline. One commenter suggested a 240 day readiness deadline due to the additional workload for the planning and building departments at the local agencies most impacted.

Most commenters supported the proposed first tie breaker to projects located in the CAA disaster area fire perimeter. In addition, those commenters suggested to provide the same tie breaker to those projects located in the FCAA disaster area fire perimeter to recognize the fire perimeters from both periods provided those projects are located in the 22 counties eligible for the CAA Federal Credit. One commenter suggested expanding the tie breaker to include projects adjacent to or in close proximity to the disaster area fire perimeter. One commenter opposed the first tie breaker stating it perpetuates places likely to burn in the future.

Multiple commenters supported the proposed second tie breaker to projects with HCD financing. Some commenters recommended the 5% be either eliminated or raised to either 7.5% to account for projects previously structured with the 130% basis increase, state tax credits and/or a higher developer fee. If the 5% is eliminated, some commenters suggested prioritizing HCD projects previously structured as 4% projects over HCD projects structured as 9% projects. Some commenters recommended excluding Infill Infrastructure Grants (IIG) funds and including HCD financing allocated to a local agency such as No Place Like Home (NPLH) funds awarded to an Alternative Process County (APC). Some commenters shared concerns over the HCD loan limits where a project previously structured as a 4% is now applying as a 9% is allowed to use the higher HCD loan limit in the regular 9% competition and receive a competitive advantage.

A few commenters were in opposition of the second tie breaker and stated it was more important to emphasize credit efficiency, cost containment, and unit production through the proposed third tiebreaker. Some of the commenters stated the Governor's budget is providing \$1.75B to address the backlog of the HCD projects and thus these should not be provided any priority over another project. If proposed second tie breaker is maintained, the commenters suggested removing the 5% requirement. One commenter suggested including other local funding commitments along with HCD in the proposed second tie breaker. Alternatively, the commenter suggested switching the proposed second tie breaker with the proposed third tie breaker emphasizing credit efficiency.

Most commenters were opposed to the proposed third tie breaker measuring credit efficiency and suggested the use of CTCAC's existing 9% tie breaker. Some commenters stated the existing 9% tie breaker also measures credit efficiency as well as incentivizes public funding contributions. One commenter stated credit efficiency should not be prioritized at the expense of other public benefits such as deep affordability. Some commenters suggested, if the proposed third tie breaker is maintained, at a minimum it should adjust the unit count for the number of bedrooms to prevent projects with smaller units from having a competitive advantage over projects with larger units.

One commenter supported the proposed change providing an exemption to the commitment requirements for the HCD CDBG-DR funds in CAA Federal Credit applications. The commenter also suggested a similar provision for the HCD Joe Serna Farmworker Program funds.

Most commenters were in support of the county/regional allocation of the CAA Federal Credit. The commenters stated the proposed allocations appropriately addresses where the needs are greatest, while still allowing access for each of the 22 counties. Two commenters suggested establishing a separate allocation for Native American projects as they are not able to compete with other 9% projects due to the challenges of scoring the full points in the Site Amenities point category. One commenter recommended allowing projects that would result in 105% of a county/region's allocation to be exceeded to be skipped in favor of the next highest ranked project. The commenter stated this would ensure the county/region would receive their allocation rather than the credits going to a waiting list.

One commenter supported the establishment of a waiting list when less than 10% of the total CAA Federal Credit remains at the conclusion of a funding round as proposed. Another commenter suggested removing the 10% requirement and establish a waiting list at the conclusion of the funding round rather than allow the credits go to a subsequent round. The commenter stated there is no shortage of shovel ready projects that would be able to utilize any remaining credit. One commenter recommended the continuation of the credits as a rolling allocation to the county/region into Round 1 of 2022 as the credits were originally intended.

All comments received were in opposition of waiving the four (4) award limit of CAA Federal Credit to developers. Three of those commenters recommended maintaining the 4 award limit per developer per round for the combined 9% credits. The commenters stated the 4 award limit supports a diversity of affordable housing developers, and disperses the use of public funds to meet a variety of public policy needs reducing overreliance on any one developer. Another commenter recommended a six (6) award limit per developer per round for the combined 9% credits.

Most commenters supported the $4,000,000 maximum per project award of the CAA Federal Credit, but most were in opposition of the $40,000 per Tax Credit Unit maximum. One commenter suggested reducing the $4,000,000 maximum to $3,000,000 to spread the credits among more projects. Another commenter recommended raising the $4,000,000 maximum due to the lack of other local funding available in certain areas. Multiple commenters opposed the $40,000 per Tax Credit Unit limit and noted it was not feasible for projects located in high cost counties and areas with less local funding thereby more reliance on more tax credits. The commenters explained the threshold basis limits and credit efficiency mechanisms already in place incentivize lower credit requests. Some commenters suggested that should a per Tax Credit Unit maximum be employed, the amount should be increased to $50,000 per unit.

Response to Comments: Given the housing need in the state and the urgency to provide housing units due to the wildfires, staff recognizes the importance of shovel ready projects to start construction within 180/194 days of credit award. However, staff is also cognizant of the delays and challenges faced at the local level. Staff proposes to provide the Executive Director, in his or her sole discretion, the authority to provide an extension of up to 90 days to the 180/194 day readiness deadline for those projects awarded points in the Readiness to Proceed point category.

Staff concurs that projects impacted by the wildfires in 2017 and 2018 that are rebuilding their communities should also be considered in the first tie breaker provided the county for which they are located in one of the 22 CAA counties. Staff proposes to add FCAA disaster area fire perimeter to the first tie breaker to recognize the fire perimeters from both periods provided they are located in one of the 22 counties and eligible for the CAA Federal Credit. With concern surrounding areas within the disaster area fire perimeter as a place likely to burn again, staff maintains that the first tie breaker is conditioned on no opposition to the project from the LRA to ensure the local government does not oppose rebuilding in that area.

For the second tie breaker, staff maintains recognition of the importance of projects with HCD financing given these projects are some of the most affordable multifamily housing options for households heavily impacted by the wildfire disasters. These projects are shovel ready and, with the requirement to utilize less credit per eligible basis, enable the construction of more units with the CAA Federal Credit. Staff also maintains that the 5% limit will allow for the CAA Federal Credit to be spread across more projects. While staff recognize projects with HCD funds awarded to Alternative Process County (APC) have merit, the proposed second tie breaker aims to capture those projects previously structured as 4% projects with HCD commitments.

While some comments recommended the existing 9% tie breaker be used in favor of the credit efficiency for the third tie breaker, staff supports the proposed change as an effective way to incentivize credit efficiency as well as unit production which is needed in the impacted areas. The most impacted areas are likely to be at a disadvantage to those larger areas with more local funding. Staff understands the concern with the competitiveness of smaller units and agrees that adjusting the units might advantage smaller units over larger units. Staff proposes to utilize adjusted units similar to the calculation used at the California Debt Limit Allocation Committee (CDLAC).

Staff appreciates the comment supporting the proposed change providing an exemption to the commitment requirements for the HCD CDBG-DR funds in CAA Federal Credit applications as with the FCAA Federal Credit in 2020. While other funding sources have merit for an exception, staff maintains limiting the exception to support HCD CDBG-DR funds, specifically for disaster relief, to be paired with CAA Federal Credit.

With the overwhelming support of the county/regional allocation of the CAA Federal Credit, staff will move forward with the proposed county/regional allocation. Staff recognizes the challenges Native American projects face including the ability to score maximum points in the Site Amenity point category. However, with the limited amount of CAA Federal Credit to be spread among projects in the various counties/regions, staff is not proposing a separate allocation for the Native American projects at this time. In response to the comment received with regard to the skipping of a project due to the 105% test, staff maintains that the highest ranking project(s) should be selected in a given county/region. Should sufficient credits remain in a given round, the highest ranking project in the county/region in the subsequent round would be selected rather than selecting a less meritorious project.

Given the demand for CAA Federal Credit is unknown, staff is proposing that if less than 10% of the total CAA Federal Credit remains following a funding round, staff will forgo another round in favor of a waiting list. Staff believes holding an additional funding round for a minimal amount of credit is not efficient and the credits will go to a waiting list to fund additional projects in the most impacted areas.

Staff supports a diversity of affordable housing developers, though given the immediate need for housing units in the impacted areas and the timeframe to allocate the CAA Federal Credit, staff maintains that employing the four award limit with the CAA Federal Credits could impede projects from moving forward. Staff would not want to prevent worthy projects from procuring tax credit awards due to the four award limit.

Staff appreciates comments received for the proposed change establishing a per project award to the lesser of $4,000,000 and $40,000 per Tax Credit Unit. Staff agrees that program requirements such as the threshold basis limits and credit efficiency mechanisms already in place incentivize lower credit requests and thus the per unit maximum is not necessary. Staff proposes to withdraw the $40,000 per Tax Credit Unit maximum, yet still limit the per project award to $4,000,000.

Final Proposed Change: Proceed with changes as initially proposed with the highlighted changes.

(d) Application selection for evaluation. Except where CTCAC staff determines a project to be high cost, staff shall score and rank projects as described below. Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits. CTCAC shall calculate total eligible basis by using all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the shaded cells in the application sources and uses budget itself or by a letter from the development team's third party tax professional. A project will be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limit by 30%. Staff shall not recommend such project for credits. Any project that receives a reservation on or after January 1, 2016 may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limit by 40%. For purposes of calculating the high cost test at placed in service, CTCAC shall use the higher of the unadjusted threshold basis limit from application or the year the project places in services.

Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

(1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside, followed by the Rural set-aside (funding the RHS and HOME program apportionment first, and the Tribal pilot apportionment second), the At Risk set-aside, and the Special Needs set-aside, the highest scoring applications will have Tax Credits reserved. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315, with the exception of the Federal Credit amount established by the Further Consolidated Appropriations Act, 2020 ~~("FCAA")~~ and the Consolidated Appropriations Act, 2021. If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second funding round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the geographic area in which the project is located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.

(A) For an application to receive a reservation within a set-aside, or within a rural set-aside apportionment, there shall be at least one dollar of Credit not yet reserved in the set-aside or apportionment.

(B) Set-aside applications requesting State tax credits shall be funded, even when State credits for that year have been exhausted. The necessary State credits shall be reserved from the subsequent year's aggregate annual State credit allotment.

(C) Except for projects competing in the rural set-aside, which shall not be eligible to compete in geographic area, unless the projects are located within a Geographic Region and no other projects have been funded within the Project's region during the year in question, after a set-aside is reserved all remaining applications competing within the set-aside shall compete in the Geographic Region.

Federal Credit established by the FCAA application selection. Applications for projects located in the counties designated as qualified 2017 and 2018 California disaster areas by the FCAA, FCAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/, and directly damaged by the fire, and that apply for the FCAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba.

Applications for projects applying for FCAA Federal Credit shall be competitively scored within the county apportionment under the system delineated in Sections 10325(c)(1) through (3), (4)(B), and (6). In the cases where applications receive the same score, the following tiebreakers shall be employed: First, a formal letter of support for the specific project from the Local Reviewing Agency (LRA) outlining how the project will contribute to the community's recovery efforts submitted in the application or received by CTCAC no later than 14 days following the application filing deadline; Second, the application with the greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested; and Third, the application with the greatest number of proposed bedrooms within the proposed Tax Credit Units.

For projects located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/, applying for FCAA Federal Credit in the 2020 funding round, local approvals and zoning requirements of Section 10325(f)(4) must be evidenced to CTCAC no later than June 1, 2021. Failure to do so shall result in rescission of the Tax Credit Reservation on June 2, 2021. The deadline in this paragraph may be extended if the Executive Director finds, in his or her sole discretion, a project merits additional time due to delays directly caused by fire, war, or act of God. In considering a request, the Executive Director may consider, among other things, the length of the delay and the circumstances relating to the delay.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for FCAA Federal Credit applications with 2017 and 2018 HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction's HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide CTCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the TCAC placed-in service application deadline.

FCAA Federal Credit shall be made available starting in the 2020 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY
$40,087,453	Butte
$16,365,940	Sonoma
$5,630,499	Los Angeles
$5,421,263	Shasta
$4,975,965	Ventura
$4,109,511	Napa
$3,342,311	Mendocino
$3,259,153	Lake
$2,886,283	Yuba
$2,816,537	San Diego
$2,583,158	Santa Barbara
$2,580,476	Nevada
$2,561,698	Orange
$2,000,000	Supplemental
$98,620,247	**TOTAL**

The funding order shall be followed by funding the highest scoring application, if any, in each of the 13 counties. After each county has had the opportunity to fund one project, CTCAC shall award the second highest scoring project in each county, if any, and continue cycling through the counties, filling each county's apportionment.

For an application to receive a FCAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county allocation so long as the county's last award does not cause the county's aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county. FCAA Federal Credit allocated in excess of the county's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application requires credits in excess of 105% of the county's allocation, that application will not be funded. If all FCAA Federal Credit in a funding round has been awarded, all remaining FCAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total FCAA Federal Credit remains, all unallocated FCAA Federal Credit within the county allocations will be combined and available to remaining projects requesting FCAA Federal

Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in the order listed above. Within each county, the award selection will start with the highest ranking project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/ first and continue within that county in rank order until no eligible applications remain. Subsequent to the above selection ranking, any unused FCAA Federal Credit shall be designated for projects where at least fifty percent (50%) of the Low-Income Units within the project are designated for homeless households as described in Sections 10315(b)(1) through (4) starting with the highest ranking project pursuant to Section 10325(c) without regard to the set aside or geographic region for which the application applied.

All projects awarded FCAA Federal Credit in 2020 may return their allocation to the Committee without assessment of negative points if the formal written notification from the applicant of the return is received by the Committee no later than September 1, 2021. Any returned credits following September 1, 2021 will be made available to projects from the FCAA Federal Credit waiting list as previously stated. Any new application received for a project on the waiting list shall result in that project's removal from the waiting list.

The FCAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for FCAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for FCAA Federal Credit shall not exceed Five Million Dollars ($5,000,000). Applications for FCAA Federal Credit are not eligible for State Tax Credits.

Federal Credit established by the CAA application selection. Applications for projects located in the counties designated as qualified 2020 California disaster areas by the CAA, CAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a CAA or FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/, and directly damaged by the fire, and that apply for the CAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Fresno, Lake, Lassen, Los Angeles, Madera, Mendocino, Monterey, Napa, San Bernardino, San Diego, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Trinity, Tulare, and Yolo.

Applications for projects applying for CAA Federal Credit shall be competitively scored within the county/regional apportionment under the system delineated in Sections 10325(c)(1) through (8). At the sole discretion of the Executive Director, an extension of up to 90 days may be granted to the 180/194 day readiness deadline. In the cases where applications receive the same score, the following tiebreakers shall be employed: First, projects located within a CAA or FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/, and not opposed or strongly opposed by the Local Reviewing Agency (LRA); Second, the presence of an enforceable financing commitment to the specific project of at least $1,000,000 from the State of California Department of Housing and Community Development ("HCD") and assuming a 4% tax credit financing structure such that the Federal Tax Credit request divided by the total eligible basis does not exceed 5%; and Third, the application with the greatest number of proposed bedroom-adjusted Tax Credit Units per annual Federal Tax Credit amount requested. To calculate the bedroom-adjusted units, each Tax Credit Unit will be multiplied by the adjustment factor for units of that bedroom count. A project's adjusted units shall be the sum of each of these products. The adjustment factors shall be:

- .9 for a studio unit.
- 1 for a one-bedroom unit.
- 1.25 for a two-bedroom unit.
- 1.5 for a three-bedroom unit up to no more than 30% of the total units, then such additional units shall be counted as 2-bedroom units.
- 1.75 for a four-bedroom or larger unit up to no more than 10% of the total units, then such additional units shall be counted as 2-bedroom units.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for CAA Federal Credit applications with HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction's HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide CTCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the CTCAC placed-in service application deadline.

CAA Federal Credit shall be made available starting in the 2021 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY/ REGION
$17,261,698	Butte County
$12,058,293	Santa Cruz County
$9,395,477	Napa County
$8,714,494	North Region (San Mateo, Santa Clara, Shasta, Solano, Stanislaus, and Yolo Counties)
$8,609,728	Fresno County
$8,408,925	Sonoma County
$7,553,332	South Region (Madera, Monterey, Los Angeles, San Bernardino, San Diego, and Tulare Counties)

$6,741,391	Rural (Lake, Lassen, Mendocino, Siskiyou, and Trinity Counties)
$2,000,000	Supplemental
$80,743,338	**TOTAL**

The funding order shall start with applications selected in rank order within each county/region in the order above. For an application to receive a CAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county/region allocation so long as the county/region's last award does not cause the county/region aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county/region. CAA Federal Credit allocated in excess of the county/region's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application selected requires credits in excess of 105% of the county/region's allocation, that application will not be funded. Any CAA Federal Credit remaining in a county/region apportionment at the end of a funding round will be available in the subsequent round. For the final funding round of 2022 for CAA Federal Credits, if the aggregate amount of Federal Credit requested does not exceed the amount available, the 105% county limit above shall not apply. If all CAA Federal Credit in a funding round has been awarded, all remaining CAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total CAA Federal Credit remains, all unallocated CAA Federal Credit within the county/region allocations will be combined and available to remaining projects requesting CAA Federal Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in order number of lost homes highest to lowest. Within each county, the award selection will start with the highest ranking project located within a CAA or FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/ first and continue within that county in rank order until no eligible applications remain.

The CAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for CAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for CAA Federal Credit shall not exceed ~~the lesser of~~ Four Million Dollars ($4,000,000) ~~and $40,000 per Tax Credit Unit~~. Applications for CAA Federal Credit are not eligible for State Tax Credits.

Section 10325(g)(3)(K)

Initial Proposed Change:

(K) If the project will be operated as senior housing ~~for persons 62 years of age and older~~ pursuant to fair housing laws, then the project shall have an elevator for any building over two stories and shall meet the accessibility requirements of Section 10325(g)(2)(B).

Comments Received: None

Final Proposed Change: Proceed with changes as initially proposed.

Section 10327(d)(4)

Initial Proposed Change:

(4) Pursuant to authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications for Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 as a difficult development area (DDA).

Comments Received: All comments received supported the proposed change.

Final Proposed Change: Proceed with changes as initially proposed.

Section 10328(g)

Initial Proposed Change:

(g) Reservation Exchange. A project with a reservation of Federal Credit pursuant to Section 10325 and a carryover allocation pursuant to Section 10328(d) and IRC Code § 42(h)(1)(E) that meets either of the following criteria may elect to return all of the Federal Credit in exchange for a new reservation and allocation of Federal Credits ~~from the year immediately following the year in which the initial reservation and carryover allocation were made~~. The reservation and carryover allocation of the Federal Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant specifying the returned credit amount and the effective date on which the credits are deemed returned. The Committee shall concurrently issue a new reservation of Federal Credits to the project in the amount of the Federal Credits returned by the project to the Committee.

(1) A High-Rise Project that returns all of the Federal Credit only during January of the year immediately following the year in which the initial reservation and carryover allocation were made.

(2) A project which prior to the placed in service deadline the Executive Director finds, in his or her sole discretion, merits additional time to place in service because development was significantly delayed due to damage directly cause by fire, war, or act of God. In considering a request the Executive Director may consider,

among other things, the extent of the damage, the length of the delay, the time remaining until the project's placed in service deadline, and the circumstances causing the damage.

(3) A project reserved Federal credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 ~~in 2020~~ that returns all of the Federal Credit only during January of the year immediately following the year in which the initial reservation and carryover allocation were made~~in January 2021~~.

Comments Received: None

Final Proposed Change: Proceed with changes as initially proposed.
