



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: January 10, 2013
TO: Low Income Housing Tax Credit Stakeholders
FROM: William J. Pavão, Executive Director
SUBJECT: Minor Adjustments to Final Proposed Regulation Changes

Two matters have come to the California Tax Credit Allocation Committee (TCAC) staff's attention since the January 3, 2013 posting of the Final 2013 Proposed Regulation Changes requiring minor additions to the proposed changes. The two adjustments are now incorporated into the posted changes that TCAC staff intends to recommend to the Committee on January 23, 2013.

The following summarizes the two proposed additions to the existing proposed text:

The first line of Section 10322(i)(2)(B) addressing CPA final cost certifications now contains the phrase "an independent" before the term "Certified Public Accountant." The response to comments on the Final Statement of Reasons page 13 indicated that the regulation would include the term "independent" (second paragraph of response), but TCAC staff neglected to insert the term in the proposed text. The corrected portion of the change now reads:

Section 10322(i)(2)(B)

- (B) an audited certification, prepared by ~~a~~ an independent Certified Public Accountant under generally accepted auditing standards, with all disclosures and notes. ~~The Certified Public Accountant or accounting firm shall not have acted in an advisory or consulting capacity as a project participant under Section 10322(h)(5).~~ In order to perform audits of final cost certifications, the auditor must have a peer review of its accounting and auditing practice once every three years consistent with the AICPA Peer Review Program as required by the California Board of Accountancy for California licensed public accounting firms (including proprietors); and make the peer review report publicly available and submit a copy to CTCAC along with the final cost certification. If a peer review reflects systems deficiencies, CTCAC may require another CPA provide the final cost certification. This certification shall:

The second addition is to the third paragraph of proposed changes to regulation Section 10325(c)(1)(C). The additional phrase "or the Applicable Federal Rate if compounding" has been added to account for circumstances where a public loan must be at the AFR for tax purposes. TCAC staff did not intend to exclude such legitimate public loan terms from competitive scoring.

Section 10325(c)(1)(C) – third paragraph

To receive points under this subsection for loans, those loans must be “soft” loans, having terms (or remaining terms) in excess of 15 years, and below market interest rates, and interest accruals, or residual receipts payments ~~or other preferred terms~~ for at least the first fifteen years of their terms. The maximum below-market interest rate allowed for scoring purposes shall be four percent (4%) simple, or the Applicable Federal Rate if compounding. RHS Section 514 or 515 financing shall be considered soft debt for scoring purposes in spite of a debt service requirement. Further, for points to be awarded under this subsection, there shall be conclusive evidence presented that any new public funds have been firmly committed to the proposed project and require no further approvals, and that there has been no consideration other than the proposed housing given by anyone connected to the project, for the funds or the donated or leased land.