

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

915 CAPITOL MALL, ROOM 485
SACRAMENTO, CA 95814
TELEPHONE: (916) 654-6340
FAX: (916) 654-6033



William J. Pavão
Executive Director

MEMBERS:
Bill Lockyer, Chair
State Treasurer

Michael C. Genest, Director
Department of Finance

John Chiang
State Controller

DATE: February 4, 2008
TO: Low Income Housing Tax Credit Stakeholders
FROM: William J. Pavão, Executive Director
SUBJECT: 2008 Final Regulation Changes

Attached are the final regulation changes adopted by the Tax Credit Allocation Committee (TCAC) on January 23, 2008. The adopted regulation changes were those recommended by TCAC staff in its Final Proposed Regulation Changes posted on the TCAC website January 14, 2008 with one exception.

The Committee elected not to adopt the proposed regulation change to Section 10327(c)(2)(B) which would have raised from \$15,000 to \$20,000 the rehabilitation expenditures per unit necessary to permit a 15 percent (15%) developer fee on a project's rehabilitation basis when applying for 4 percent credits. As a result, the previous \$15,000 standard will remain in effect for 2008.

The following list displays those portions of the TCAC regulations that have been changed for 2008. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions, and underlined typeface illustrating new text.

If you have any questions regarding the 2008 regulation changes, please contact the TCAC analyst assigned to the region where you are most involved.

Attachment

**2008 Final Regulation Changes
Adopted January 23, 2008**

Section 10302(nn)

- nn) Threshold Basis Limit. The aggregate limit on amounts of unadjusted eligible basis allowed by the Committee for purposes of calculating Tax Credit amounts. These limits are published by CTCAC in its Application Supplement, by unit size and project location, and are based upon average development costs reported within CTCAC applications and certified development cost reports. CTCAC staff shall use new construction cost data from both 9 percent and 4 percent funded projects, and shall eliminate extreme outliers from the calculation of averages. Staff shall publicly disclose the standard deviation percentage used in establishing the limits, and shall provide a worksheet for applicant use. CTCAC staff shall establish the limits in a manner that seeks to avoid a precipitous reduction in the volume of 9 percent projects awarded credits from year to year. mortgage limits published by the U. S. Department of Housing and Urban Development for the 221(d)(3) program. Local Development Impact Fees as defined in section 10302 of these regulations shall be excluded from this calculation if the fees are documented in the application submission by the entities charging such fee.
-

Sections 10315(b)

Section 10315. Set-asides and Apportionments

- (a) Nonprofit set-aside. Ten percent (10%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects involving, over the entire restricted use period, Qualified Nonprofit Organizations as the only general partners and developers, as defined by these regulations, and in accordance with IRC Section (42)(h)(5).
- (b) Each funding round, credits available in the Homeless assistance apportionment. In each reservation cycle, fifty percent (50%) of the Nonprofit set-aside shall be made available as a first-priority, to projects providing housing to homeless households at affordable rents, consistent with Section 10325(g)(4)(A) and (D) in the following priority order:
- First, projects with McKinney Act, ~~or~~ State Supportive Housing Program Homelessness Initiative funding committed, or Mental Health Services Act (MHSA) funding committed or anticipated.
 - Second, projects with rental or operating assistance funding commitments from federal, state, or local governmental funding sources. The rental assistance must be sponsor-based or project-based and the remaining term of the project-based assistance contract shall be no less than one (1) year and shall apply to no less than fifty percent (50%) of the units in the proposed project. For local

government funding sources, ongoing assistance may be in the form of a letter of intent from the governmental entity.

- Other qualified homeless ~~apportionment~~ assistance projects.

To compete ~~in this apportionment~~ as a homeless assistance project, at least fifty percent (50%) of the units within the project must house households:

- (1) Moving from an emergency shelter; or
- (2) Moving from transitional housing; or
- (3) Currently homeless which means:
 - (A) An individual who lacks a fixed, regular, and adequate nighttime residence; or
 - (B) An individual who has a primary nighttime residence that is:
 - (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and Transitional Housing for the mentally ill); or
 - (ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Any amount of Tax Credits ~~apportioned by this subsection and~~ not reserved for homeless assistance projects during a reservation cycle shall be available for other applications qualified under the Non-profit set-side.

Section 10315(g)

- (g) Special Needs/SRO set-aside. ~~In addition to the homeless assistance apportionment in subsection (b) above, two~~ Two percent (2%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects that qualify as Special Needs or Single Room Occupancy projects pursuant to these regulations. Any proposed homeless assistance project that applies and is eligible under the ~~homeless assistance apportionment~~ Nonprofit Set Aside but is not funded, will be eligible to be considered under this Special Needs/SRO set-aside.

Section 10315(k)

- (k) Credit available for geographic apportionments. Geographic apportionments, as described in this Section, shall be determined prior to, and made available during

each reservation cycle in the approximate percentages of the total Federal and State Credit Ceiling available pursuant to Subsection 10310(b), after the Supplemental Set-Aside has been deducted from the annual Credit Ceiling and the Set-Aside calculations for non-profit ~~homeless assistance~~, rural, and special needs/SRO have been made.

Section 10322(f)

- (f) Application changes. An application may not be changed, nor may any additional information with respect to scoring or meeting the Basic or Additional Threshold Requirements be submitted subsequent to the application filing deadline, except as permitted by Section 10327(a). Any changes made by the Committee pursuant to Section 10327(a) shall never improve the score of the application as submitted, and may reduce the application's score and/or credit amount.
-

Section 10322(h)(2)

- (2) The Application form. Completion of all applicable parts of Committee-provided application forms which shall include, but not be limited to:
- (A) General Application Information
- (i) Credit amounts requested
 - (ii) minimum set-aside election
 - (iii) application stage selection
 - (iv) set-aside selection
 - (v) housing type
- (B) Applicant Information
- (i) applicant role in ownership
 - (ii) applicant legal status
 - (iii) developer type
 - (iv) contact person
- (C) Development Team Information
- (D) Subject Property Information
- (E) Proposed Project Information
- (i) project type
 - (ii) Credit type
 - (iii) building and unit types
- (F) Land Use Approvals
- (G) Development Timetable
- (H) Identification and Commitment Status of Fund Sources
- (I) Identification of Fund Uses
- (J) Calculation of Eligible, Qualified and Requested Basis
- (K) Syndication Cost Description
- ~~(L) Syndicator Contacts~~
- (M) Determination of Credit Need and Maximum Credit Allowable
- (N) Project Income Determination
- (O) Restricted Residential Rent and Income Proposal

- (PO) Subsidy Information
 - (QP) Operating Expense Information
 - (RQ) Projected Cash Flow Calculation
 - (SR) Basic Threshold Compliance Summary
 - (TS) Additional Threshold Selection
 - (UT) Tax-exempt Financing Information
 - (VU) Market Study
-

Section 10322(k)

(k) Unless the proposed project is a Single Room Occupancy development or within ten (10) years of an expiring tax credit regulatory agreement, applicants for nine percent (9%) Low Income Housing Tax Credits to acquire and/or rehabilitate existing tax credit properties still regulated by an extended use agreement shall:

- (1) certify that the property sales price is no more than the current debt balance secured by the property, and
 - (2) be prohibited from receiving any tax credits derived from acquisition basis.
-

Section 10325(c)(5)(B)

(B) Service Amenities: Amenities must be appropriate to the tenant population served and committed for a minimum of 10 years. Physical space for such amenities must be available when the development is placed-in-service, and the amenities must be available within 6 months of the project's placed-in-service date. To receive points in this category, programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be provided on-site except that projects may use off-site services within 1/2 mile of the development provided that they have a written agreement with the service provider enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Referral services will not be eligible for points. Contracts with service providers must be provided in the application, and service provider experience, evidence that physical space will be provided, and a budget reflecting how the services will be paid for must be included in the application. Having a bona fide service coordinator (not the on-site manager, for example) may count for 5 points in this category, provided that the experience of the coordinator, the duties of the coordinator, and a budget to pay for the coordinator are included in the application. No more than 10 points will be awarded in this category. Amenities may include, but are not limited to:

1. High speed internet service provided in each unit (as stated above, free of charge to the tenants) 5 points
2. After school programs of an ongoing nature for school age children 5 points

3. Educational classes (such as ESL, computer training, etc.) but which are not the same as in 2 above. 5 points
 4. Licensed child care providing 20 hours or more per week (Monday through Friday) to residents of the development 5 points
 5. ~~Contracts for~~ Direct client services, such as assistance with activities of daily living, or provision of counseling services, where a contract is in place at the time of application (only for senior, SRO and Special Needs Projects) 5 points
 6. Bona fide service coordinator/social worker available 5 points
-

Section 10325(c)(7)

- (7) Balanced communities. These points will not be available to projects applying under the Rural set-aside.

If a development does not request neighborhood revitalization points, if the local government is providing funds equal to at least 5% of total project costs for the project, and if it meets the other requirements of this subsection, the applicant may request points for balanced communities. For purposes of this scoring factor, land donated as part of an inclusionary housing ordinance which has been in effect for at least one year prior to the application deadline will be the equivalent of a local government providing funds. Points will be awarded, to a maximum of 9, as follows:

Section 10325(c)(8)

- (8) Sustainable building methods. Maximum 8 points

A new construction or adaptive reuse project that exceeds Title 24 energy standards by at least 10%. For a rehabilitation project not subject to Title 24, that reduces energy use on a per square foot basis by 25% as calculated using a methodology approved by the California Energy Commission. (4 points).

For rehabilitation projects not subject to Title 24 requirements, use of fluorescent light fixtures for at least 75% of light fixtures or comparable energy lighting for the project's total lighting (including community rooms and any common space) throughout the compliance period. 2 points

Use of Energy Star rated ceiling fans in all bedrooms and living rooms; or use of a whole house fan; or use of an economizer cycle on mechanically cooled HVAC systems. 2 points

Use of water-saving fixtures or flow restrictors in the kitchen (2gpm or less) and bathrooms (1.5 gpm or less). 1 point

Use of at least one High Efficiency Toilet (1.3 gpf) or dual-flush toilet per unit. 2 points

- Use of material for all cabinets, countertops and shelving that is free of added formaldehyde or fully sealed on all six sides by laminates and/or a low-VOC primer or sealant (150 g/l or less). 1 point
- Use of no-VOC interior paint (5 g/l or less). 1 point
- Use of CRI Green-label, low-VOC carpeting and pad and low-VOC adhesives 25 g/l or less. 1 point
- Use of bathroom fans in all bathrooms that exhaust to the outdoors and are equipped with a humidistat sensor or timer. 2 points
- Use of formaldehyde-free insulation. 1 point
- Use of at least one of the following recycled materials at the designated levels: a) cast-in-place concrete (20% flyash); b) carpet (25%); c) road base, fill or landscape amendments (30%). 1 point
- Design the project to retain, infiltrate and/or treat on-site the first one-half inch of rainfall in a 24-hour period. 1 point
- Include in the project specifications a Construction Indoor Air Quality Management plan that requires the following: a) protection of construction materials from water damage during construction; b) capping of ducts during construction; c) cleaning of ducts upon completion of construction; and d) for rehabilitation projects, implementation of a dust control plan that prevents particulates from migrating into occupied areas. 2 points
- Project design incorporates the principles of Universal Design in at least half of the project's units by including: accessible routs of travel to the dwelling units with accessible 34" minimum clear-opening-width entry and interior doors with lever hardware and 42" minimum width hallways; accessible full bathroom on primary floor with 30" x 60" clearance parallel to the entry to 60" wide accessible showers with grab bars, anti-scald valves and lever faucet/shower handles, and reinforcement applied to walls around toilet for future grab bar installations; accessible kitchen with 30" x 48" clearance parallel to and centered on front of all major fixtures and appliances. 1 point
- The proposed project will contain nonsmoking buildings or sections of buildings. Nonsmoking sections must consist of at least half the units within the building, and those units must be contiguous. 1 point
- To receive these points, the applicant and the project architect or mechanical engineer must certify in the application, which of the items will be included in the project's design and specifications, and further must certify at the project's placed-in-service date that the items have been included and/or that the energy efficiency standard has been met or exceeded. Projects receiving points under this category that fail to meet the requirement will be subject to negative points under Section 10325(c)(3) above.
- Develop and commit to certifying the project with any one of the following programs: Leadership in Energy & Environmental Design (LEED for Homes); Green Communities; or the GreenPoint Rated Multifamily Guidelines. 8 points

Section 10325(c)(12)

(12) Tie Breakers

If multiple applications receive the same score, the following tie breakers shall be employed: first, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, then the application will be skipped if there is another application with the same score and with a housing type goal that has not been met in the current funding round in the percentages listed in section 10315; second, for other than Rural set-aside applications, to fund an application for a project located in a qualified census tract or a federally designated Renewal Community, Empowerment Zone, or Enterprise Community or State Enterprise Zone that has demonstrated that it will contribute to a concerted neighborhood revitalization plan, as evidenced by a score of at least eight (8) points, or a project not located in such an area that has received nine (9) points under section 10325(c)(6) or (7) of these regulations; third, the application with the lowest ratio of requested unadjusted eligible basis to total residential project costs, excluding developer fee, total land cost, general partner/sponsor equity/loans or loans from the equity provider, ~~unless the loan is the permanent loan for the development.~~ This ratio must not have increased when the project is placed-in-service or negative points will be awarded, and the Tax Credit award may be reduced.

Section 10325(d)(1)

- (d) Application selection for evaluation. 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 ~~(including the homeless assistance apportionment)~~, followed by the Rural set-aside (funding the RHS program apportionment first), the Small Development set-aside, the At Risk set-aside, and the Special Needs/SRO set-aside, the highest scoring applications will have Tax Credits reserved. No more than one project in a market area as determined by the Committee will be funded in the Rural set-aside during any calendar year. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315. 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. Tax Credits reserved in ~~the general~~

~~non-profit set-aside (but not in the non-profit homeless assistance portion of that set-aside), in the small development set-aside, and in the at-risk set-aside shall count within the geographic areas in which the projects funded therein are 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.~~

Section 10325(d)(2)

- (2) Geographic Areas selection. Tax Credits remaining following reservations to all set-asides shall be reserved to projects within the geographic areas, beginning with the geographic area having the smallest apportionment, and proceeding upward according to size in the first funding round and in reverse order in the second funding round. The funding order shall be followed by funding the highest scoring application, if any, in each of the ten regions. After each region has had the opportunity to fund one project, TCAC shall award the second highest scoring project in each region, if any, and continue cycling through the regions, filling each geographic area's apportionment. TCAC shall assure and assuring that each geographic area receives funding for at least one project in each funding round to the extent that by funding a project in a geographic area, that area will not have exceeded 125% of the amount available in that funding round for the geographic area. Projects will be funded in order of their rank so long as at least 50% of the Tax Credits to be awarded to any single project are available under the applicable Geographical Apportionment, and the 125% limit for the Apportionment as a whole is not exceeded. Credits allocated in excess of the Geographic Apportionments by the application of the 125% and 50% rules described above will be drawn from the second round apportionments during the first round, and from the Supplemental Set Aside during the second round. However, all Credits drawn from the Supplemental Set Aside will be deducted from the Apportionment in the subsequent round.
-

Section 10325(f)(3)

Substitution of such funds may be permitted only when the source of funding is similar to that of the original funding, for example, use of a bank loan to substitute for another bank loan, or public funds for other public funds. General Partner loans or developer loans must be accompanied by documented proof of funds being available at the time of application. In addition, General Partner or developer loans to the project are unique, and may not be substituted for or foregone if committed to within the application. For projects using FHA-insured debt, the submission of a multifamily accelerated processing invitation letter from the U.S. Department of Housing and Urban Development, together with the submission of a multifamily accelerated processing firm commitment application will suffice to satisfy the requirements of this enforceable financing commitment requirement:

Section 10325(f)(6)

- (6) Sponsor characteristics. Applicants shall provide evidence that proposed project participants, as a Development Team, possess all of the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee may conduct an investigation into an applicant's background that it deems necessary, in its sole discretion, and may determine if any of the evidence provided shall disqualify the applicant from participating in the Credit programs, or if additional Development Team members need be added to appropriately perform all program requirements. The following documentation is required to be submitted at the time of application:
- (A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);
 - ~~(B) for all participants, a description of other Credit and all other affordable, multifamily rental project involvement in California or other states, on forms provided by the Committee together with a release form permitting inquiry into the status of such developments;~~
 - (GB) for each of the following participants, a copy of a contract to provide services related to the proposed project:
 - (i) Attorney(s) and or Tax Professional(s)
 - (ii) Architect
 - (iii) Property Management Agent
 - (iv) Consultant
 - (v) Market Analyst
 - ~~(D) for the applicant and all other members of the Development Team, a description of any circumstances that would require negative points to be assessed by the Committee and any defaults or foreclosures on residential rental properties, or a signed statement affirming that no such defaults or foreclosures occurred.~~
-

Section 10325(f)(8)(F)

- (8) Deferred-payment financing, grants and subsidies. Applicants shall provide evidence that all deferred-payment financing, grants and subsidies shown in the application are "committed" at the time of application, except as permitted in subsection (E) and (F) below.
- (A) Evidence provided shall signify the form of the commitment, the loan, grant or subsidy amount, the length of the commitment, conditions of participation, and express authorization from the governing body, or an official expressly authorized to act on behalf of said governing body, committing the funds, as well as the applicant's acceptance in the case of privately committed loans.
 - (B) Commitments shall be final and not preliminary, and only subject to conditions within the control of the applicant, with one exception, the attainment of other financing sources including an award of Tax Credits.

- (C) Fund commitments shall be from funds within the control of the entity providing the commitment at the time of application.
 - (D) Substantiating evidence of the value of local fee waivers, exemptions or land write-downs is required.
 - (E) Substitution or an increase of such funds may be permitted only when the source of funding is similar to the original funding, for example, private loan to substitute for private loan, public funds for public funds. Funds may be increased only in an amount necessary to achieve project feasibility. This provision shall include projects that have already received a reservation or allocation of Tax Credits in prior years.
 - (F) Funds anticipated but not yet awarded under the following programs shall be exempt from the provisions of this subsection: the Affordable Housing Program (AHP) provided pursuant to a program of the Federal Home Loan Bank; RHS Section 514, 515 or 538 programs; California Housing Finance Agency's Proposition 1A school facility fee reimbursement program; the Department of Housing and Urban Development's Supportive Housing Program (SHP); the California Department of Mental Health's ~~Supportive Housing Initiative Act~~ Mental Health Services Act Program; projects that have received a Reservation of HOME funds from the applicable Participating Jurisdiction, or to projects receiving Housing Tax Credits in 1999 and thereafter and funding under the Department of Housing and Community Development's Multifamily Housing Program.
-

Section 10326(a)

- (a) General. All applications (including reapplications) requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4) for buildings and land, the aggregate basis (including land) of which is financed at least fifty percent (50%) by tax-exempt bonds, shall be eligible to apply under this Section for a reservation and allocation of Federal Tax Credits. However, those projects requesting State Tax Credits will be competitively scored as described in Section 10317(h)(2). ~~The competitive scoring system used shall be that delineated in Section 10325(c)(2) through (5) and (8) through (12), except that the only tie breaker shall be the lowest requested eligible basis per bedroom.~~ The highest scoring applications under this scoring system will be recommended for receipt of State Tax Credit, without regard to any set-asides or geographic areas, provided that they meet the threshold requirements of this section.
-

Section 10326(g)(5)

- (6) Sponsor characteristics. Applicants shall provide evidence that proposed project participants, as a Development Team, possess all of the knowledge, skills, experience and financial capacity to successfully develop, own and operate the proposed project. The Committee may conduct an investigation into an applicant's background that it deems necessary, in its sole discretion, and may determine if any of the evidence provided shall disqualify the applicant from participating in the Credit programs, or if additional Development Team members need be added to appropriately perform all program requirements. The following documentation is required to be submitted at the time of application:
- (A) current financial statement(s) for the general partner(s), principal owner(s), and developer(s);
 - ~~(B) for all participants, a description of other Credit and all other affordable, multifamily rental project involvement in California or other states, on forms provided by the Committee together with a release form permitting inquiry into the status of such developments;~~
 - ~~(C)~~ for each of the following participants, a copy of a contract to provide services related to the proposed project:
 - (i) Attorney(s) and or Tax Professional(s)
 - (ii) Architect
 - (iii) Property Management Agent
 - (iv) Consultant
 - (v) Market Analyst
 - ~~(D) for the applicant and all other members of the Development Team, a description of any circumstances that would require negative points to be assessed by the Committee and any defaults or foreclosures on residential rental properties, or a signed statement affirming that no such defaults or foreclosures occurred.~~
-

Section 10327(c)(5)

Exceptions to limits.

- (A) Increases in the Threshold basis limits shall be permitted as follows for projects applying under Section 10325 or 10326 of these regulations. The maximum increase to the unadjusted eligible basis of a development permitted under this subsection shall not exceed ~~twenty-nine (29%)~~ thirty-nine percent (39%)
- A twenty percent (20%) increase to the unadjusted eligible basis for a development that is required to pay state or federal prevailing wages;
 - A seven percent (7%) increase to the unadjusted eligible basis for a new construction development where parking is required to be provided beneath the residential units (but not "tuck under" parking);
 - A two percent (2%) increase to the unadjusted eligible basis where a day care center is part of the development;
 - A two percent (2%) increase to the unadjusted eligible basis where 100% of the units are for special needs populations

A ten percent (10%) increase to the unadjusted eligible basis for a development wherein at least 95% of the project's upper floor units are serviced by an elevator.

- (B) A further four percent (4%) increase in the Threshold Basis Limits will be permitted for projects applying under Section 10325 or Section 10326 of these regulations that either (a) exceed Title 24 standards by at least 35 percent, or (b) include three of the following energy efficiency/resource conservation/indoor air quality items:

Exceed Title 24 standards by at least 15%.

Use tankless water heaters, a high efficiency condensing boiler (92% AFUE or greater), or a solar thermal domestic hot water pre-heating system.

Use a Minimum Efficiency Report Value (MERV) 8 or higher air-filter for HVAC systems that introduce outside air.

Irrigation system using only reclaimed water and/or captured rainwater.

Recycle at least 75% of construction and demolition waste (measured by either by weight or volume).

Install natural linoleum, natural rubber, or ceramic tile for all kitchens and bathrooms (where no VOC adhesives or backing is also used).

Install bamboo, stained concrete, cork, salvaged or FSC-Certified wood, ceramic tile, or natural linoleum in all living rooms or 50% of all common areas.

Install CRI Green Label Plus Carpet, or no carpet, in all bedrooms.

Vent kitchen range hoods to the exterior of the building in at least 80% of units.

Use at least four recycled products listed in the Construction, Flooring, or Recreation section of the California Integrated Waste Management Boards Recycle Content Products Database www.ciwmb.ca.gov/RCP.

- (C) Additionally, for projects applying under Section 10326 of these regulations, an increase of one percent (1%) in the threshold basis limits shall be available for every 1% of the project's units that will be income and rent restricted below 50 percent (50%) but above thirty-five percent (35%) of Area Median Income (AMI). An increase of two percent (2%) shall be available for every 1% of the project's units that will be restricted at or below 35% of AMI. ~~In addition, up to 100% will be permitted, and where more than 50% of the units will be income and rent restricted to Tax Credit levels, the basis limits can be exceeded by 120% in addition to all other adjustments permitted under these regulations. In order to qualify for either of the aforementioned adjustments to the threshold basis limits, the applicant must agree to maintain the affordability period of the project for 55 years.~~

- ~~(D) Applications under Section 10325 shall be permitted a ten percent (10%) increase in threshold basis limit when proposing a project within a region where development costs frequently exceed the published limit. The increase shall be calculated from the threshold basis limit without adjustments. The Committee staff shall annually establish a list of regions where this increase is available, and shall base the list upon the immediate prior year's application data. Where half or more of the region's prior year's applications have threshold basis exceeding the applicable limit without adjustment, the Committee shall include that region for the 10% limit increase. Any such boosts would be available to projects proposed within the region, including rural set-aside applicants.~~
-

Section 10327(c)(5)(E) and (F)

- (E) Projects requiring seismic upgrading of existing structures, and/or projects requiring toxic or other environmental mitigation may be permitted an increase in basis limit equal to the lesser of the amount of costs associated with the seismic upgrading or environmental mitigation or 15% of the project's unadjusted eligible basis to the extent that the project architect certifies in the application to the costs associated with such work.
- (F) Further, the Executive Director, in his/her sole discretion, may permit a further increase in basis limits to a maximum of 5%, where distributive energy technologies such as microturbines and/or renewable energy sources such as solar will be implemented. To obtain this increase, an applicant must submit evidence of the cost of the system and the operating cost savings to be created through the use of the technology, throughout the time of the compliance period.
-

Section 10327(d)(2)

- (d) ~~Determination of eligible and qualified basis. Eligible and qualified basis shall be as defined by the Internal Revenue Code and these regulations.~~ The Committee shall provide forms to assist applicants in determining basis. The Committee shall rely on certification from an independent, qualified Certified Public Accountant for determination of basis; however, the Committee retains the right to disallow any basis it determines ineligible or inappropriate.
- (1) High Cost Area adjustment to eligible basis. Proposed projects located in a qualified census tract or difficult development area, as defined in IRC Section 42(d)(5)(c)(iii), may qualify for a thirty percent (30%) increase to eligible basis, subject to Section 42, applicable California statutes and these regulations.
- (2) Deferred fees and costs. Deferral of project development costs shall not exceed an amount equal to seven-and-one-half percent (7.5%) of the unadjusted eligible basis of the proposed project prior to addition of the developer fee. Unless expressly required by a State or local public funding source, in no case may the applicant propose deferring project development costs in excess of half (50%) of the proposed developer fee. Tax-exempt bond projects shall not be subject to this limitation.

Section 10327(g)(1)

- (1) Minimum operating expenses shall include expenses of all manager units and market rate units, and must be at least equal to the ~~following~~ minimum operating expense standards published by the Committee staff annually. The published minimums shall be established based upon periodic calculations of operating expense averages annually reported to TCAC by existing tax credit property operators. The minimums shall be displayed by region, and project type (including large family, senior, and SRO/Special Needs), and shall be calculated at the reported average or at some level discounted from the reported average. If the permanent lender(s) and equity investor are in place and present evidence to the Committee that they have agreed to lesser operating expenses, the operating expenses required by this subsection may be reduced by up to 15%. The Executive Director may, in his/her sole discretion, utilize operating expenses up to 15% less than required in this subsection for underwriting applications submitted under Section 10326 of these regulations, when the credit enhancer and the permanent lender provide evidence that they have agreed to such lesser operating expenses. These minimum operating expenses do not include property taxes, replacement reserves, depreciation or amortization expense, or the costs of any service amenities.

	SRO/SPN	FAMILY	SENIOR	AT RISK
High-Density Projects				
50 or Less Units	\$3,500	\$3,400	\$3,000	\$3,200
51 to 100 Units	\$3,500	\$3,200	\$2,800	\$3,000
More Than 100 Units	\$3,400	\$3,000	\$2,600	\$2,800
Other Projects				
50 or Less Units	\$3,400	\$3,000	\$2,600	\$2,800
51 to 100 Units	\$3,400	\$2,800	\$2,400	\$2,600
More Than 100 Units	\$3,300	\$2,600	\$2,200	\$2,400
Rural Projects				
50 or Less Units	\$3,400	\$2,500	\$2,100	\$2,300
51 to 100 Units	\$3,400	\$2,400	\$2,000	\$2,200
More Than 100 Units	\$3,300	\$2,300	\$1,900	\$2,100

- (A) ~~High density projects. High density rural projects must comply with the high density minimums. For purposes of this subsection, "high density projects" shall be those:~~
- ~~(i) located in census tracts wherein fifteen (15) or more persons per acre reside, as determined by the most recent U.S. Census; or, projects designed primarily for families that propose twenty-five (25) or more units per acre, projects designed exclusively for seniors that propose thirty-five (35) or more units per acre, and projects designed primarily for special needs or other populations that propose thirty (30) or more units per acre.~~
- (B) ~~Rural projects. For purposes of this subsection, "rural projects" shall be projects located in rural areas as defined in H & S Code Section 50199.21.~~

- (C) ~~At risk projects that do not meet the criteria of being either family or senior projects shall use the at risk column for operating expenses.~~
- (D) Special needs projects that are less than 100% special needs shall prorate the operating expense minimums, using the special needs operating expenses for the special needs units, and the other applicable operating expense minimums for the remainder of the units.
-

Section 10327(g)(7)

- (7) "Cash flow after debt service," shall be limited to the higher of twenty-five percent (25%) of the anticipated annual debt service payment or eight percent (8%) of gross income, during any one of the first three years of project operation. Pro forma statement utilizing CTCAC underwriting requirements and submitted to CTCAC at placed in service, must demonstrate that ~~these two limits are~~ this limitation is not exceeded during the first three years of the project's operation. Otherwise, the maximum annual Federal Credit will be reduced at the time of the 8609 package is reviewed, by the amounts necessary to meet the limitations. The reduction in maximum annual Federal Credit may not be increased subsequent to any adjustment made under this section.
-