

**State of California
Office of Administrative Law**

In re:
California Debt Limit Allocation Committee

Regulatory Action:

Title 04, California Code of Regulations

Adopt sections: 5700, 5710, 5711, 5720,
5721, 5722, 5730, 5731

Amend sections: 5000, 5020, 5100

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2018-0621-01

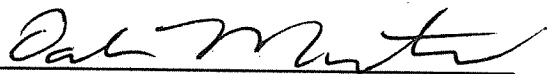
OAL Matter Type: Emergency Readopt (EE)

This is an emergency readoption of regulations that enable the provision of tax-exempt, private activity bond allocations to state and local agencies for the purpose of providing public elementary and secondary schools with financing for the construction or improvement of school facilities.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 7/2/2018 and will expire on 10/2/2018. The Certificate of Compliance for this action is due no later than 10/1/2018.

Date: July 2, 2018



**Dale P. Mentink
Senior Attorney**

For: Debra M. Cornez
Director

Original: John Chiang, State Treasurer
Copy: Felicity Wood

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2018-0621-01EE
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUL 02 2018
1:44 P.M.

AGENCY WITH RULEMAKING AUTHORITY
CA Debt Limit Allocation Committee (CDLAC)

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Regulations Revision for Qualified Public Educational Facility Bonds		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2017-0929-01E, 2018-0330-01EE	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 5700, 5710, 5711, 5720, 5721, 5722, 5730 and 5731	
		AMEND 5000, 5020 and 5100	
TITLE(S) 4		REPEAL None	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <i>RM per agency request 7/2/18</i> <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Felicity Wood		TELEPHONE NUMBER (916) 651-8484	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) fwood@treasurer.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

Laura A. Whittall-Scherfee, Executive Director

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED**JUL 02 2018**

Office of Administrative Law

Chapter 1. General Provisions

Article 1. Definitions

Section 5000. Definitions. In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this division are defined as follows:

....

"Annual Applicant Public Benefits and Ongoing Compliance Self-Certification (Revised 9/20/17)", hereby incorporated by reference, means the document in the online compliance certification system to be completed by the Issuer in which the Issuer certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

....

"Bond Regulatory Agreement" means the agreement between the Issuer, Project Sponsor, and any third party related to the ownership, financing, and management of a proposed Qualified Residential Rental Project or Qualified Public Educational Facility Project that binds the parties to the commitments made in the Application that resulted in the Allocation for the Project and any other requirements mandated by 26 U.S.C. section 142.

....

"Certification of Compliance II for Non-Qualified Residential Rental Projects" (Revised 9/20/17), hereby incorporated by reference, is a form for Applicant/Issuers awarded allocation in 2017 forward. Applicant/Issuers retain the Certification form for a period of three years in place of the Certification of Compliance I (11-16-16) to ensure that the Project Sponsor is reporting all relevant compliance and possible changes to the Project or program to the Applicant.

....

"CSFA" means the California School Finance Authority.

....

"Qualified Public Educational Facility Bond Pool" means the reserve of Qualified Public Educational Facility Bonds established by the Committee for Qualified Public Educational Facilities pursuant to IRC Section 142(k).

....

"State Ceiling" means the amount of Qualified Private Activity Bonds that can be issued in California for each calendar year specified by 26 U.S.C. section 146(d), the amount of Qualified Public Educational Facility Bonds that can be issued in California for each calendar year specified by 26 U.S.C. section 142(k), and the amount reserved to California pursuant to sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 as established by and announced by the Committee in accordance with article 2 of this chapter.

....

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 3. State Ceiling Pools

Section 5020. Determination of State Ceiling Pools. As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee will:

....

(j) Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the Qualified Public Educational Facility Bonds State Ceiling that shall be available for allocation during the year and in each Allocation Round to the Qualified Public Educational Facility Bond Program.

(k) The Committee shall sub-allocate resources to any particular pool in a manner that is consistent with maximizing public benefits associated with the use of allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.82 and 8869.84, Government Code.

....

Article 8. Expiration of Allocations

Section 5100. Program Expiration Dates.

....

(b) Notwithstanding extensions as provided in sections 5101, 5102 or 5103; the limitations prescribed by section 5104; or Allocations awarded on a carry-forward basis as provided in section 5131; the expiration dates for issuing Bonds or converting Bonds to Mortgage Credit Certificate authority shall be:

(1) Ninety (90) days for the issuance of Beginning Farmer Bonds, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, Exempt Facility Bonds, Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, Qualified Public Educational Facility Bonds, Qualified Energy Conservation Bonds and the conversion of Bonds to Mortgage Credit Certificate authority.

....

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e) and 8869.89, Government Code.

....

Chapter 13. Qualified Public Educational Facility Bond (QPEFB) Program

Article 1. Definitions

Section 5700 Definitions. To the extent any of these definitions conflict with definitions set forth in Government Code section 8869.82 and Chapter 1 of these regulations, the definitions contained in this section 5700 shall apply to this Chapter 13:

"Chartering Authority" means a State educational agency, local education agency, or other public entity that has the authority pursuant to State law to authorize or approve a Charter School.

"Public elementary school" means a nonprofit institutional day or residential school, including a public elementary charter school, which provides elementary education, as determined under State law.

"Public secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school, which provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

"Qualified Public Educational Facility" means any school facility which is part of a Public Elementary School or Public Secondary School, and owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local education agency pursuant to Internal Revenue Code § 142(k)(2).

"Qualified Public Educational Facility Bond Application" (hereafter "Application") means the Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Public Educational Facility Bond Project" (QPEFB Revised 03-15-2018), which is hereby incorporated by reference.

"Qualified Public Educational Facility Bonds" (QPEFB's) are tax-exempt private activity bonds issued to finance the construction, rehabilitation, refurbishment, or equipping of a Qualified Public Education Facility.

"Qualified Public Educational Facility Project Sponsor" (hereafter "Project Sponsor") means a private, for-profit corporation that undertakes the financing or refinancing of a qualified public education facility in conjunction with a school district, charter school, county office of education, or community college district in compliance with IRC section 142(k).

"School Facility" means any school building; any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events; and any property to which Internal Revenue Code § 168 applies or would apply but for section 179, for use in such a facility.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Article 2. Applications.

Section 5710. Application Process. Applications for an Allocation of the Qualified Public Educational Facility Bond Pool shall be considered in accordance with the provisions of Chapters 1 and 13 and the submission of an Application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

Section 5711. Allocations.

- (a) The Committee may award a Qualified Public Educational Facility Bond Allocation to the California School Finance Authority ("CSFA") for the purposes of:
 - (1) administering the Qualified Public Educational Facility Bond Pool. In awarding the Allocation to CSFA, the Committee will authorize CSFA to allocate portions of the award to Project Sponsors for purposes of issuing Bonds; or
 - (2) sub-awarding Qualified Public Educational Facility Bond Allocation to Applicants on behalf of the Committee. In awarding the Allocation to CSFA, the Committee will authorize CSFA to transfer portions of the Allocation to Local Issuers and the CIEDB for purposes of issuing bonds under the Qualified Public Educational Facility Bond Program.
- (b) The Committee may also directly award a Qualified Public Educational Facility Bond Allocation to Applicants for purposes of issuing bonds in connection with a specific Project in compliance with this Chapter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84, Government Code.

Article 3. Eligibility.

Section 5720. Project Readiness. The Applicant must provide evidence of Project readiness to the satisfaction of CSFA. The Applicant must provide the following readiness information as applicable:

- (a) A description of the Project(s) that will be financed with the bond proceeds;

- (b) Estimated beginning and ending date of Project construction;
- (c) Evidence of site control as described in section 5190;
- (d) For Projects involving charter schools, a copy of the charter or other evidence that a charter is in place, and evidence that the school is in good standing with its Chartering Authority; and
- (e) Evidence of a public-private partnership agreement for the Project that complies with the requirements of Internal Revenue Code section 142(k)(2).

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

Section 5721. Permits. The Applicant must provide documentation of the applicable discretionary use permits and approvals from local planning agencies, as described in section 5190(b), for the proposed Project at the time of application.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

Section 5722. Eligibility Requirement. Projects financed with an allocation of Qualified Public Education Facilities Bonds shall comply with the Political Reform Act and Government Code section 1090 at the time of application and throughout the life of the bonds.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

Article 4. Reporting and Regulatory Requirements.

Section 5730. Specific Reports. CSFA will report each transfer of Allocation to the Executive Director of the Committee. Applicants receiving Allocation, including CSFA where it serves as the issuer, under the Program shall comply with the reporting requirements contained in article 11 of chapter 1.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Section 5731. Regulatory Compliance. An Applicant that receives an allocation of Qualified Public Educational Facility Bonds must enter into a regulatory agreement with the Project Sponsor that requires the Project to be used for public school purposes for the life of the bonds. At a minimum, the regulatory agreement shall be recorded against the property and include the following:

- (a) Language incorporating by reference the CDLAC allocation resolution and all of its terms and conditions;
- (b) A term consistent with the CDLAC allocation resolution and, at a minimum, be no less than the term of the bonds;
- (c) Include all applicable requirements contained in 26 U.S.C. section 142 and Education Code section 17170, et seq.;
- (d) A requirement that the Project be maintained for public school purposes during the life of the bonds;
- (e) Designate CDLAC to receive notice of changes in ownership, Issuer, school that utilizes the Project, and Project name;
- (f) Designate CDLAC to receive all notices regarding defaults associated with the bonds; and
- (g) Language reflecting that Projects financed with an allocation of Qualified Public Education Facilities Bonds shall comply with the Political Reform Act and Government Code section 1090 throughout the life of the bonds.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Annual Applicant Public Benefits and Ongoing Compliance Self-Certification "Self-Certification"

ACKNOWLEDGMENT: The California Debt Limit Allocation Committee ("CDLAC" or "Committee") does not expect to hold an Applicant (Issuer) responsible for conditions they are not aware of; only for the Applicant to confirm their understanding of the status of the project/program based upon their own post-issuance compliance procedures. CDLAC will not review the Applicant's procedures, and in good faith, will assume that the Applicant has in-place procedures they judge to adequately satisfy their post-issuance responsibilities as defined under the Internal Revenue Code and CDLAC Regulations. An Applicant is free to request project information from the Project Sponsor and rely on that information if they believe it satisfies their own compliance procedures and responsibilities. That information can then serve as the basis for the Applicant's response to the questions within this certification.

INSTRUCTIONS: Per the CDLAC Regulations, all Projects/Programs within an existing bond regulatory period and/or CDLAC compliance period shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant (Issuer). Mortgage Credit Certificate Single Family Housing Programs with outstanding authority shall be monitored for the same requirements. The Applicant shall complete and submit the Annual Applicant Public Benefits and On-going Compliance Self Certification via the CDLAC Online Compliance Certification System. The self-certification must be submitted by the Applicant to CDLAC no later than March 1 of each year (or at such other time as defined in the CDLAC Regulations or requested by the Committee).

ALL APPLICANTS: Applicant/Issuer Certification of Delivery of Public Benefits

(All) Applicant/Issuer Name:

(All) Project Name (N/A for Single Family Housing Programs):

(All) Program Type (QRRP, SFH, EXEMPT, IDB, Etc.):

(All) Application Number(s):

(All) Resolution Number(s):

(All) Property Address (N/A for Single Family Housing Programs):

(All Prior to 2017) Project Completion Date (Enter Placed in Service Date or program completion date):

(QRRP 2017 and BEYOND) Commencement of Qualified Project Period Date (Enter the date of the Qualified Project Period commenced)

(NON-QRRP 2017 and BEYOND) Project Completion Date (Enter Placed in Service Date or program completion date).

(QRRP PRIOR TO 2017) Has the Applicant received the Project Sponsor's complete Compliance Certification for this reporting period? (Applicable to projects awarded allocation after 2000) If no, please explain or indicate "Not Applicable".

Annual Applicant Public Benefits and Ongoing Compliance Self-Certification "Self-Certification"

(All 2017 and BEYOND) Has the Applicant received the Project Sponsor's complete Compliance Certification II for this reporting period?

(All 2017 and BEYOND) If the Project Sponsor/Borrower indicated in the Certification of Compliance II or like form:

- a. A change in project name , please provide the new project name
- b. A change in ownership affecting the CDLAC resolution, please provide contact information for the new owner
- c. A change in Issuer, please provide the new Issuer name
- d. All bonds have been redeemed, please provide the redemption notice
- e. A notice or event of default or of foreclosure has occurred, please explain

(ALL 2017 AND BEYOND) *Please note if any of these circumstances have occurred, request revision to the CDLAC resolution

(QRRP PRIOR TO 2017) Has the project satisfied the following requirements as memorialized in the Exhibit A of the CDLAC Resolution and bond regulatory agreement?

1. QRRP PRIOR TO 2017 ONLY: Has the project satisfied all of the income rent requirements memorialized in the Exhibit A (Applicable to projects awarded allocation after 2000)? If no, please explain or indicate "Not Applicable".
2. ALL QRRP ONLY: Has the project satisfied all of the income rent requirements memorialized in the bond regulatory agreement? If no, please explain.
3. QRRP PRIOR TO 2017 ONLY: Is the Project currently providing service amenities on a regular and ongoing basis? (Note: services must be provided for the minimum committed term beginning after the project has been placed in service) If no, please explain or indicate "Project did not commit to Service amenities; or Project has completed term of commitment".
4. ALL PRIOR TO 2017: Has the project/program satisfied all other requirements as memorialized in the Exhibit A? If no, please explain.
5. QRRP ONLY 2017 and BEYOND: If the Project Sponsor/Borrower indicated in the Certification of Compliance II or like form:
 - a. That the regulatory agreement has been terminated, please explain.
 - b. That the number of Federal Bond Restricted Units and Other Restricted Units are not consistent with the CDLAC resolution, please explain.
 - c. That the 10% at 50% general distribution requirement is not being met in a manner consistent with the CDLAC resolution, please explain.
 - d. That the service amenities are not being provided in a manner consistent with the CDLAC resolution, please explain.

Annual Applicant Public Benefits and Ongoing Compliance Self-Certification "Self-Certification"

6. IDB 2017 and BEYOND ONLY: If the Project Sponsor/Borrow indicated job had been created or retained, please report on how many jobs were created or retained.
7. SINGLE FAMILY 2017 and BEYOND ONLY: Has the single family program met the income and geographical targets identified in the CDLAC resolution? If no please explain.
8. ALL QPEFB ONLY: Has the project satisfied all requirements memorialized in the bond regulatory agreement? If no, please explain.
9. ALL QPEFB ONLY: Has the bond regulatory agreement been terminated? If yes, please explain.

**Certification of Compliance II
for Non-Qualified Residential Rental Projects**

1. Project Name Change: No _____ Yes _____

(If project name has changed since the award of allocation, please note the new project name as well as the original project name.)

New: _____ Original: _____

2. CDLAC Application No.: _____

3. Bond Issuer Change: No _____ Yes _____

(If Bond Issuer has changed since the award as a result of refinancing or refunding of an allocation, please note the new Issuer as well as the original Issuer.)

New: _____ Original: _____

Address: _____

Phone #: _____

Email: _____

4. Change in Borrower: No _____ Yes _____

(If Borrower has changed since the award affecting the CDLAC resolution, please note the new Borrower as well as the original Borrower.)

New: _____ Original: _____

Address: _____

Phone #: _____

Email: _____

5. Has the project been completed and placed in service? No _____ Yes _____

(If yes, please submit Completion Certification (one time only.)

☐ Already submitted certification

6. Has any of the following events occurred associated with the bond allocation: a change in use, a bond default, or a qualified bond default.

No _____ Yes _____ If yes, please describe and explain.

7. (IDB ONLY) If applicable in the CDLAC Exhibit A, provide the following job creation and retention details:

_____ Number of existing jobs actually retained

_____ Number of new jobs anticipated to be created

8. (QPEF ONLY) If applicable in Exhibit A of the CDLAC Resolution, please certify that the project is being maintained for public school purposes during the term of the regulatory agreement.

No _____ Yes _____ If no, please provide an explanation.

"Pursuant to Section 13 of Resolution No. _____ (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on _____, I, _____, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with the terms and conditions set forth in the Resolution as outlined above. I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

Signature of Officer

Date

Printed Name of Officer

Phone Number

Title of Officer

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

**APPLICATION FOR AN ALLOCATION OF THE STATE CEILING ON QUALIFIED
PRIVATE ACTIVITY BONDS FOR A QUALIFIED PUBLIC EDUCATIONAL FACILITY
BOND PROJECT**

APPLICANT: _____

PROJECT SPONSOR (Borrower): _____

PROJECT NAME: _____

We, the undersigned, hereby make Application to The California Debt Limit Allocation Committee ("CDLAC") for the purpose of providing a Qualified Public Educational Facility Bond ("QPEFB"), as described herein.

We agree it is our responsibility to provide CDLAC with a complete Application submitted in .pdf format via e-mail to cdlac@treasurer.ca.gov, accompanied by a check made payable to CDLAC in the amount of \$1,200, and a completed Performance Deposit Certification Form. We understand that succinct answers providing the requested information are required. We understand that if additional space is required, each additional page will be clearly labeled. We agree that it is also our responsibility to provide all information that is deemed by CDLAC to be necessary to evaluate our Application. We understand that CDLAC may verify information provided and analyze materials submitted as well as conduct its own investigation to evaluate the Application. We recognize that we have a duty to inform CDLAC when any information in the Application or supplemental materials is no longer true and to supply CDLAC with accurate information.

We represent that we have read all Government Code sections relevant to the CDLAC Regulations Implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds ("Regulations"). We acknowledge that CDLAC recommends that we seek advice from bond counsel.

We acknowledge that all materials and requirements are subject to change by enactment of federal or state legislation.

In carrying out the development and operation of the proposed Project, we agree to comply with all applicable federal and state laws regarding unlawful discrimination and will abide by all CDLAC program requirements. We acknowledge that our Application will be evaluated based on federal and state statutes and regulations pertaining to Qualified Private Activity Bonds for Qualified Public Educational Facility Projects and the CDLAC Regulations, which identify the minimum requirements, evaluation criteria, priorities and other standards which will be employed to evaluate Applications.

We acknowledge the information submitted to CDLAC in this Application or supplemental thereto may be subject to the Public Records Act or other disclosure. We understand that CDLAC may make such information public. CDLAC will maintain as confidential, certain financial information, but cannot guarantee confidentiality.

The Project Sponsor declares under penalty of perjury that the information contained in the Application, exhibits, attachments, and any further or supplemental documentation is true and correct to the best of its knowledge and belief. The Applicant declares that the information contained in PARTS I and II of the Application is true and correct to the best of its knowledge and belief, and as to information contained in the Application, exhibits, attachments, and further or supplemental documentation provided by the Project Sponsor, the Applicant is not aware of any information that would cause the Applicant to believe that the Application contains any untrue information or omits to state any material information. We understand that misrepresentation may result in the cancellation of an Allocation, and other actions which CDLAC is authorized to take.

The Project Sponsor certifies that the Project can be completed within the development budget and the development timetable set forth in our Application. The Project Sponsor further certifies that the proposed Project can be operated in the manner proposed within the operating budget set forth in the Application.

The Applicant certifies that it is in compliance with all applicable statutes, laws, rules, and regulations necessary for the transaction of its business.

We agree to hold CDLAC, its members, officers, agents, and employees harmless from any matters arising out of or related to the awarded Allocation.

We acknowledge that all Application materials are to be submitted by 4:00 p.m. on the appropriate date.

Signature of Applicant's Senior Official

Signature of Project Sponsor

Print Name

Print Name

Title

Title

Date

Date

Forms, regulations and additional information may be obtained by accessing the Committee's web site at <http://www.treasurer.ca.gov/cdlac.htm> or by calling the Committee at (916) 653-3255

The California Debt Limit Allocation Committee complies with the Americans with Disabilities Act (ADA). If you need additional information or assistance, please contact the Committee at (916)653-3255 or TDD 916/654

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

APPLICATION FOR AN ALLOCATION OF THE STATE CEILING ON QUALIFIED PRIVATE ACTIVITY BONDS FOR A QUALIFIED PUBLIC EDUCATIONAL FACILITY BOND PROJECT

All references to federal statute are cited for information only. Bond Counsel must be consulted as the requirements are subject to change.

PART I – FINANCING TEAM INFORMATION

1. ISSUER (APPLICANT) OF BONDS

Name of Issuing Agency:

Name of Senior Official:

Title of Senior Official:

Mailing Address:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

Issuer's Federal Identification No.:

ISSUER CONTACT (staff person who can answer questions regarding this Application)

Name of Staff Person:

Title of Staff Person:

Name of Agency (if different from #1 above):

Mailing Address:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

FOR QUESTION CONCERNING COMPLIANCE

Name of Staff Person:

Title of Staff Person:

Name of Agency (if different from #1 above):

Mailing Address:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

2. BOND COUNSEL

Name of Firm:

Name of Attorney:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

3. BOND UNDERWRITER

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

4. PRIVATE PLACEMENT AGENT (IF APPLICABLE)

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

5. PRIVATE PLACEMENT BOND PURCHASER (IF APPLICABLE)

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

6. CREDIT ENHANCEMENT PROVIDER

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

7. FINANCIAL ADVISOR/CONSULTANT

Name of Firm:

Name of Contact:

Mailing Address of Firm:

City:

State:

Zip Code:

Telephone: ()

Fax: ()

E-Mail:

PART II – ALLOCATION/BOND ISSUE INFORMATION

1. Amount of allocation requested: \$

2. Proposed date of bond issuance:

3. Date of inducement:

Attach (**Attachment “A”**) a copy of the adopted resolution. (See Section 5033(b)(4) of CDLAC Regulations.)

4. Date of TEFRA hearing:

Submit (**Attachment “B”**) proof of TEFRA (public approval process required by 26 U.S.C. Section 147(f)).
(See Chapter 1, Article 6 of the CDLAC Regulations)

5. Indicate whether bonds will be sold in a public offering or in a private placement:

Indicate whether the bonds will be variable or fixed rate:

If bonds carry a variable rate:

a. Identify the index:

b. How frequently will the bonds be re-marketed and by whom?

c. Is there a feature to allow a conversion to a fixed rate at some time in the future? If so,
under what conditions and when?

6. Indicate by a “YES” or “NO” whether the bond issuance will be used to convert taxable debt to tax-exempt debt:

If “YES”, provide the date, if applicable, on which the proposed Project will lose its ability to use tax-exempt bond financing:

7. Briefly describe credit enhancement structure or private placement transaction (include, at a minimum, the construction or interim financing, if applicable, the amount, closing deadlines, security/collateral provided, guaranties, anticipated closing date, etc.):

Attach (**Attachment "C"**). If more than one commitment, label in sequential order as **C-1, C-2**, etc. the credit enhancement commitment or commitment to purchase privately placed bonds. (See Sections 5061-5064 of the CDLAC Regulations.)

(If there will be no Credit Enhancement for the bonds, CDLAC staff may require that the Project Sponsor submit an engineering or economic feasibility study, or both. In cases where the Project Sponsor has completed such studies, the CDLAC staff may request that a review by an independent consultant, who has been approved by the CDLAC Executive Director, be completed. The Project Sponsor shall pay the fees of such independent consultant.)

8. Anticipated bond rating (see Section 5061 of the CDLAC Regulations):

	<u>Rating</u>	<u>Date Rating Anticipated</u>
Fitch		
Moody's		
Standard & Poor's		
Other		

9. Indicate the amount of taxable bonds and other means of financing, in addition to the cash equity required by the Credit Enhancer, that will be utilized in conjunction with the requested allocation of tax-exempt bonds (See Section 5433 of the CDLAC Regulations). \$

Attach (**Attachment "D"**) documentation demonstrating that the proceeds of the taxable bonds and other means of financing, in addition to the cash equity required by the Credit Enhancer, will be used towards Project expenses that are directly related to the acquisition, construction/rehabilitation, equipment purchase/installment, or operation of the proposed Project.

PART III – PROJECT SPONSOR INFORMATION

1. Please answer the following questions for both the Project Sponsor ("Borrower") and the user of the facility, if different:

A. Official business name, address, telephone number, fax number, e-mail address and contact person:

BORROWER:

USER:

B. Any "Doing Business As" names:

C. Address of Project Sponsor's headquarters, if different from address in "A" above:

D. Other operating locations in California:

E. The legal structure of the Project Sponsor i.e. (corporation, partnership or sole proprietorship):

Complete the appropriate section below:

Corporation

- 1) Officers of the Corporation
- 2) Major Shareholders (10% or more)
- 3) Date and place of incorporation
- 4) For publicly held corporations, stock exchange on which the company is listed. If traded over the counter or on NASDAQ, please indicate the market makers.

Partnership

- 1) Names and addresses of general and limited partners, and share of ownership.

- 2) Date of partnership.

Sole Proprietorship

- 1) Date and place of establishment.

F. Federal Tax Identification Number for Project Sponsor and user, including IRS Office where tax returns are filed:

G. Description of present physical facilities, including size and use of facility:

H. Other tax-exempt financings currently outstanding:

2. If the Project Sponsor or user is an owner, subsidiary or affiliated directly or indirectly with any other business or organization, indicate the relationship.

PART IV – PROJECT INFORMATION

1. Project Name:

2. Project Street Address:

City:

County:

Zip Code:

(The zip code must be included. If the Project site does not yet have a street address, contact the local United States Post Office for an approximate address.)

Federal Congressional District in which the proposed Project is located:

State Senate District in which the proposed Project is located:

State Assembly District in which the proposed Project is located:

Census Tract in which the proposed Project is located:

3. Attach (**Attachment "E"**) a description of current improvements on the site, including age, current use and size; include pictures. If this site is currently vacant, please describe prior use.

4. Description of Proposed Project (**Attachment "F"**). Please include all of the following:

A. Brief narrative describing the purpose of Project, explaining the business rationale and economic benefit to be achieved from the Project.

B. Description of the Project, including whether it constitutes a renovation or new construction, the number of acres to be acquired, the number of square feet to be constructed/renovated, the type of equipment being purchased, and any other pertinent information.

C. Estimated time of construction or renovation, including start date and completion date.

D. The communities to be served by the proposed facility.

E. Any other special feature of the proposed Project (i.e., new technology).

4. **Costs of the Project.** State the total costs associated with the acquisition of the site and construction of the proposed Project, including any utilities and proposed machinery and equipment purchases. Separate the costs based on their financing sources: the left column should total the bond amount; the sum of both columns should equal the total Project costs.

[illegible]

PART V – MINIMUM REQUIREMENTS

Applicants are advised to read Sections 5720-5721 of the CDLAC Regulations regarding Qualified Public Educational Facility Projects before answering the following questions.

1. For Projects involving charter schools, attach (**Attachment “G”**) a copy of a valid charter and evidence that the charter is in place and that the school is in good standing with its Authorized Public Chartering Agency.
2. Attach (**Attachment “H”**), if more than one attachment, label each attachment in sequential order as **“H-1, H-2”** etc.) evidence of all relevant approvals or permits relating to the Project (i.e. conditional use permit, zoning variances, etc.) from federal, state or local planning agencies, other than ministerial approvals, in one or more of the following forms (identify the form of evidence by responding **“YES”** to the appropriate item):
 - A. Copies of local land use approvals which allow the discretion of local elected officials to be applied (General Plan amendments, rezoning, conditional use permits, etc.):
 - B. Documentation by a local agency that clearly demonstrates the agency’s intentions to acquire the Project Site, or a portion of the Project Site, through eminent domain proceedings:
 - C. A copy of the permit certification letter submitted to the California Pollution Control Financing Authority (CPCFA) (if used, the form should be labeled **Attachment “H”**).

PART VI – EVALUATION CRITERIA

Applicants are advised to read Section 5700 of the CDLAC Regulations regarding Qualified Public Educational Facility Projects before answering the following questions.

Section 5700 of the CDLAC Regulations defines a "Qualified Public Educational Facility" as any school facility which is part of a Public Elementary School or Public Secondary School, and owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local education agency pursuant to Internal Revenue Code Section 142(k)(2). "School Facility" means any school building; any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events; and any property to which Internal Revenue Code section 168 applies or would apply but for section 179, for use in such a facility.

1. Past Program Performance

For each allocation round, programs will be evaluated based on the percentage of the previous year's allocation used by each applicant in comparison to the percentage of the previous year's allocation used by the other applicants in the allocation round. Provide the information requested below **and** provide evidence documenting the Program's performance over the past three years. Applicants must demonstrate that Qualified Public Educational Facility Program Allocation from the past year has been used to issue Qualified Public Educational Facility bonds. (Attachment I)

Input the total allocation awarded in the previous calendar year and the total allocation used in the previous calendar year in the chart below.

a. Total allocation awarded in the previous calendar year:	
b. Total allocation used in the previous calendar year:	
c. Percentage of previous year's allocation used (a/b):	0%

2. Proposed interest rate vs. actual interest rate

For each allocation round, programs will be evaluated and ranked based on each applicant's deviation between the currently proposed and previous year's actual average interest rates in comparison to the allocation round's other applicants' proposed and previous year's actual average interest rates.

- a. Proposed interest rate:
- b. Previous actual average interest rate:

PART VII – LEGAL STATUS OF PROJECT SPONSOR

If a separate sheet is used to respond to the following questions, the sheet shall be labeled Attachment J.

Disclosures shall include civil or criminal cases filed in state or federal court; civil or criminal investigations by local, state, or federal law enforcement authorities; and enforcement proceedings or investigations by local, state or federal regulatory agencies. The information provided must include relevant dates, the nature of the allegation(s), charters, complaint or filing, and the outcome. For a publicly-traded company, the relevant sections of the company's 10K, 8K, and 10Q most recently filed with the Securities and Exchange Commission may be attached in response to question #1. With respect to a response for question #2, previous 10K, 8K, and 10Q filings of the company may be attached if applicable.

1. Disclose material information relating to any legal or regulatory proceeding or investigation in which the Project sponsor is or has been a party and which might have a material impact on the financial viability of the Project or the Project sponsor. Such disclosures shall include any parent, subsidiary, or affiliate of the Project sponsor that is involved in the management, operation, or development of the Project.

2. Disclose any civil, criminal, or regulatory action in which the Project sponsor, or any current board members (not including volunteer board members of non-profit entities), partners, limited liability corporation members, senior officers, or senior management personnel has been named a defendant in such action in the past ten years involving fraud or corruption, or matters involving health and safety where there are allegations of serious harm to employees, the public, or the environment.

PART VIII – SELLER OF PROPERTY INFORMATION

PART VIII is to be completed if bond proceeds will finance the acquisition of property.

1. Name of Property Seller:
Business Street Address:
City:
State:
Zip code:
Telephone number: ()
2. Principals, business addresses and telephone numbers of each partner comprising the Seller:
3. When is sale of property expected to close escrow?

PART IX – COMPLIANCE WITH CONFLICT OF INTEREST REQUIREMENTS

Projects financed with an allocation of Qualified Public Education Facilities Bonds shall comply with the Political Reform Act and Government Code section 1090 at the time of application and throughout the life of the bonds. By signing Attachment K, the Sponsor acknowledges compliance with these laws and agrees to include this compliance requirement in the Regulatory Agreement.

APPLICATION DOCUMENTS CHECKLIST

This checklist is provided to assist you in making sure that a completed application package is filed with the Committee. If an attachment does not apply, please write N/A in the space provided.

Your application package must contain the following:

Check Box	Document Description	Attachment Name
	Copy of \$1,200 Initial Filing Fee Made Payable to CDLAC (See Section 5033(b)(2) of CDLAC Regulations)	
	<u>Signed</u> Performance Deposit Certification Form (See Section 5033(b)(1) of CDLAC Regulations)	
	Evidence of Performance Deposit (See Section 5033(b)(1) of CDLAC Regulations)	
	<u>Signed</u> Application Acknowledgment (page 2 of Application)	
	Adopted Inducement Resolution (See Section 5033(b)(5) of CDLAC Regulations.)	A
	Evidence of TEFRA Hearing (either Adopted Resolution or Certification) (See Section 5033(b)(6). of CDLAC Regulations.)	B
	Evidence of Credit Enhancement or Bond Purchase Commitment (See Section 5061 of CDLAC Regulations.)	C
	Evidence of Leveraging (Section 5433 of CDLAC Regulations)	D
	Description of Current Improvements on the Site	E
	Description of Proposed Project CDLAC Form	F
	Valid Charter and Evidence of Good Standing with Chartering Authority	G
	Evidence of Permits and Approvals Documentation (Section 5422 of CDLAC Regulations)	H
	Evidence of Past Program Performance (Section 5346 of CDLAC Regulations)	I
	Legal Status of Applicant and Project Sponsor	J
	Certification of Compliance with Conflict of Interest Requirements	K
	This Application shall be submitted in .pdf format via an e-mail to cdlac@treasurer.ca.gov	

ATTACHMENT F
DESCRIPTION OF THE PROPOSED PROJECT

The description must include:

A. Brief narrative describing the purpose of Project, explaining the business rationale and economic benefit to be achieved from the Project.

B. Description of the Project, including whether it constitutes a renovation or new construction, the number of acres to be acquired, the number of square feet to be constructed/renovated, the type of equipment being purchased, and any other pertinent information.

C. Estimated time of construction or renovation, including start date and completion date.

D. The communities to be served by the proposed facility.

E. Any other special feature of the proposed Project (e.g., new technology)

ATTACHMENT K

The following certification must be included by the Project Sponsor with an Application for an allocation of the state ceiling on Qualified Private Activity Bonds for a Qualified Public Educational Facility Bond (QPEFB) Project

QPEF CERTIFICATION OF COMPLIANCE

Project Name:

(If Project has changed named since the award of allocation, please note the original Project name as well as the new Project name.)

Name of Project Sponsor:

I, _____, an Officer of the Project Sponsor, hereby certify under penalty of perjury that, as of the date of this Certification, the development of this Project is in compliance with the Political Reform Act and Government Code section 1090 at the time of application and throughout the life of the bonds.

Signature of Officer

Date

Printed Name of Officer

Title of Officer

Phone Number