



## **GOLDEN STATE FINANCE AUTHORITY MULTI-FAMILY HOUSING BOND PROGRAM**

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### **Section 5 – POST-ISSUANCE COMPLIANCE PROCEDURES FOR TAX-EXEMPT BONDS (MULTI-FAMILY HOUSING)**

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These Post-Issuance Compliance Procedures include Post-Issuance Tax Compliance Procedures and Post-Issuance Monitoring Procedures. The purpose of the Post-Issuance Tax Compliance Procedures set forth herein is to establish policies and procedures in connection with tax-exempt bonds (the “Bonds”) issued by the Golden State Finance Authority (the “Authority”) so as to maximize the likelihood that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds (including Housing Bonds as defined below) are met. The purpose of the Post-Issuance Monitoring Procedures set forth herein is to set forth certain obligations of the Authority and borrowers that own and/or operate qualified residential rental projects (each, a “Borrower”) in connection with tax-exempt multifamily housing bonds (the “Housing Bonds”) issued by the Authority and to summarize requirements of the California Debt Limit Allocation Committee (CDLAC) which must be satisfied for all allocations of private activity bond allocation for the Housing Bonds and each “Qualified Residential Rental Project (QRRP)”, as set out the regulations published by CDLAC from time to time (the “Regulations”).

The Authority and the Borrower must comply with all applicable requirements of the Regulations relating to Housing Bonds and all applicable requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds, whether or not summarized in these Post-Issuance Procedures. Terms used and not defined in these Post-Issuance Procedures have the meanings set forth in the Regulations.

The Authority reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as circumstances warrant. The Authority also reserves the right to change these policies and procedures from time to time.

#### **POST-ISSUANCE TAX-COMPLIANCE PROCEDURES**

##### **General**

Inasmuch as the Authority is a responsible conduit issuer authorizing the issuance of Bonds for Borrowers that own and/or operate qualified residential rental projects, the Authority identifies post-issuance tax compliance procedures for all Bonds authorized by the Authority, as well as the Authority’s expectations of all Bond borrowers and of the Authority concerning these procedures.

**POST-ISSUANCE COMPLIANCE REQUIREMENTS**

External Advisors/Documentation

The Authority and the Borrower shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for tax-exempt status. Those requirements and procedures shall be documented in the tax certificate and agreement (“Tax Certificate”) and/or other documents finalized at or before issuance of the Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and certain other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The Authority and the Borrower also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with any potential changes in use of Bond-financed or refinanced assets.

The Authority shall encourage or require the Borrower to engage expert advisors (each a “Rebate Service Provider”) to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds, unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of Bonds.

Unless otherwise provided by the indenture relating to the Bonds, unexpended Bond proceeds shall be held by a trustee or other financial institution, and the investment of Bond proceeds shall be managed by the Borrower. The Borrower shall prepare (or cause the trustee to prepare) regular, periodic statements regarding the investments and transactions involving Bond proceeds and such statements shall be delivered to the Authority.

Arbitrage Rebate and Yield

Unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of Bonds, it is the Authority’s policy that the Borrower shall be responsible for:

- either (a) engaging the services of a Rebate Service Provider and, prior to each rebate calculation date, causing the trustee or other financial institution to deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider, or (b) undertaking rebate calculations itself and retaining or obtaining periodic statements concerning the investment of Bond proceeds;
- providing to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- monitoring efforts of the Rebate Service Provider;
- assuring payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed;

**GOLDEN STATE FINANCE AUTHORITY  
MULTI-FAMILY HOUSING BOND PROGRAM**

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- during the construction period of each capital project financed in whole or in part by Bonds, monitoring the investment and expenditure of Bond proceeds and consulting with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each six-month spending period up to six months or 18 months, as applicable, following the issue date of the Bonds; and
- retaining copies of all arbitrage reports, investment records and trustee statements as described below under “Record Keeping Requirements” and, upon request, providing such copies to the Authority.

The Borrower, in the Tax Certificate relating to the Bonds and/or other documents finalized at or before the issuance of the Bonds, shall agree to undertake the tasks listed above (unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of Bonds).

Use of Bond Proceeds and Bond-Financed or Refinanced Assets

It is the Authority’s policy that the Borrower shall be responsible for carrying out the following requirements, in consultation with the Authority and the bond trustee as applicable, and for providing ongoing certifications and reports to the Authority as to the satisfaction of each such requirement and providing information necessary for the Authority to complete any certifications and reports for which the Authority is responsible:

- monitoring the use of Bond proceeds (including investment earnings and including reimbursement of expenditures made before bond issuance) and the use of the Project throughout the term of the Bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate and/or the Regulatory Agreement relating to the Bonds;
- maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Bonds (including investment earnings and including reimbursement of expenditures made before bond issuance), including a final allocation of Bond proceeds as described below under “Record Keeping Requirements”;
- consulting with bond counsel and other legal counsel and advisers in the review of any change in use or transfer of Bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate and/or the Regulatory Agreement relating to the Bonds;
- at least annually reviewing the income certifications of project tenants to confirm that the low-income set-aside requirements are satisfied; and
- to the extent that the Borrower discovers that any applicable tax restrictions regarding use of Bond proceeds and Bond-financed or refinanced assets will or may be violated, consulting promptly with bond counsel and other legal counsel and advisers to determine a course of action to preserve the tax-exempt status of the Bonds.

**GOLDEN STATE FINANCE AUTHORITY  
MULTI-FAMILY HOUSING BOND PROGRAM**

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The Borrower, in the Tax Certificate or the Regulatory Agreement relating to the Bonds and/or other documents finalized at or before the issuance of the Bonds, shall agree to undertake the tasks listed above.

In addition, the Authority shall be responsible for monitoring the compliance of the Borrower with such requirements and for providing certain certifications and reports as to the compliance of the Borrower with such requirements, as described in the Tax Certificate and the Regulatory Agreement, as applicable, and as described herein under the caption “**Post-Issuance Monitoring Procedures.**”

All relevant records and contracts shall be maintained as described below.

Record Keeping Requirements

Each of the Authority and the Borrower shall be responsible for maintaining the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years:

- a copy of the Bond closing transcript(s) and other relevant documentation delivered to the Borrower at or in connection with closing of the issue of Bonds;
- Documentation evidencing that the low-income set-aside requirements set forth in the Regulatory Agreement have been continuously satisfied; and
- Information provided by the trustee and the Borrower relating to capital expenditures financed or refinanced by Bond proceeds, including without limitation the final allocation of Bond proceeds prepared by the Borrower.

Furthermore, the Borrower shall be responsible for maintaining the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years, and for providing such information to the Authority:

- a copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds, including a final allocation of Bond proceeds; and
- a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements, in connection with any investment agreements, and copies of all bidding documents, if any.

Each of the Authority and the Borrower, as applicable, in the Tax Certificate relating to the Bonds and/or other documents finalized at or before the issuance of the Bonds, shall agree to retain the records listed above. The Borrower shall further agree to provide the applicable documents to the Authority relating to capital expenditures financed or refinanced with Bond proceeds.

**GOLDEN STATE FINANCE AUTHORITY  
MULTI-FAMILY HOUSING BOND PROGRAM**

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Each of the Authority and the Borrower shall also be responsible for maintaining the documents described below under the caption “**Post-Issuance Monitoring Procedures**” for the applicable periods of time required by the Regulations.

**POST-ISSUANCE MONITORING PROCEDURES**

General

Inasmuch as the Authority is a responsible conduit issuer that obtains private activity bond allocation for the issuance of Bonds for the benefit of Borrowers that own and/or operate qualified residential rental projects, and inasmuch the Authority and the Borrowers have ongoing obligations under the Regulations for ongoing monitoring, reporting and certification requirements, the Authority identifies post-issuance monitoring procedures for all Housing Bonds authorized by the Authority, as well as the Authority’s expectations of all Bond borrowers and of the Authority concerning these procedures.

**Post-Issuance Monitoring Requirements**

Authority Obligations

The Authority will provide all reports and certifications required by CDLAC and the Regulations, including but not limited to the following:

- For Projects receiving an Allocation prior to December 31, 2016, the Authority will complete and submit the Annual Authority Public Benefits and On-going Compliance Self Certification, via the online compliance certification system annually for the longer of the period the Housing Bonds remain outstanding or the period of restriction for QRRP projects outlined in Section 5192 of the Regulations, by March 1 of each year.
- For Projects receiving allocation after December 31, 2016, the Authority shall complete and submit the Annual Authority Public Benefits and On-going Compliance Self Certification via the online compliance certification system by March 1 every year until the completion of the project and then if the project is subject to a Regulatory Period and/or Compliance Period by March 1 every three years thereafter or sooner upon a termination of the Regulatory Period and/or Compliance Period.
- For all QRRP projects receiving allocation after December 31, 2016, the Authority will conduct an initial review of 20% of all management files associated with the Federally Bond-Restricted units and will subsequently review every three years 20% of all management files associated with the Federally Bond-Restricted units, after the Qualified Project Period has commenced. Federally Bond-Restricted units will include a distribution of unit locations, sizes and income levels (if applicable) and must be identified in the TCAC Project Status Report (PSR). For this 20% of files, the Authority will review each initial or subsequent occupant/s and their associated TIC in conjunction with the supporting income verification documentation of each occupant’s initial occupancy and make a determination if the project is complying with the income and affordability standards. Additionally,

**GOLDEN STATE FINANCE AUTHORITY  
MULTI-FAMILY HOUSING BOND PROGRAM**

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the Authority will ensure a lease is in place and executed. This review may be performed on-site or may be performed through an electronic file audit. Information pertaining to the income verification process will be kept on file for 10 years. The Authority will retain documentation memorializing review and determination of income eligibility for 10 years. Source income documentation must be retained for 1 year.

Borrower Obligations

The Borrower will provide all reports and certifications required by CDLAC, the Regulations and the Authority, including but not limited to the following:

- For all QRRP projects receiving allocations after December 31, 2016, Borrowers will be required to utilize TCAC's Compliance Manual specifically Section VI: Qualify Tenants for Low Income Housing Tax Credit Units, to verify tenant income in conjunction with initial occupancy.
- No less than every three years after the project is completed, the Borrower must collect and retain the following income and verification documentation related to all the Federally Bond-Restricted units identified in the Committee Resolution or Restricted Rental Units as defined in Section 5000 of the Regulations: TCAC Tax Income Calculation (TIC) or equivalent documentation, all associated source income documentation, and evidence of the verifying income computation.
- Additionally Project Borrowers will be required to prepare and forward a TCAC PSR or equivalent documentation to the Authority annually in conjunction with the Annual Authority Public Benefits and On-going Compliance Self Certification.
- Borrowers must retain information pertaining to the income verification process for 10 years.
- The Borrower will prepare and submit to the Authority's Administrator, on behalf of the Authority, not less than quarterly, commencing not less than three months after the Closing Date, a Certificate of Continuing Program Compliance executed by the Borrower in substantially the form attached to the Regulatory Agreement and a Project Status Report in substantially the form attached to the Regulatory Agreement.
- During the Compliance Period, the Borrower shall submit a completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, to the Secretary of the Treasury on or before March 31 of each year (or such other date as may be required by the Code).

The Borrower will comply with all obligations set forth in the Regulatory Agreement, including but not limited to the following:

- The Borrower shall comply with the conditions and duties of the "Project Sponsor" set forth in Exhibit A to the CDLAC Resolution (the "CDLAC Conditions"), as they may be modified or amended from time to time.

**GOLDEN STATE FINANCE AUTHORITY  
MULTI-FAMILY HOUSING BOND PROGRAM**

---

- For Projects receiving allocation before December 31, 2016, the Borrower will prepare and submit a Certification of Compliance I in substantially the form attached to the CDLAC Resolution, annually by March 1 of each year.
- For Projects receiving allocation after December 31, 2016, the Borrower will prepare and submit to the Authority a Certification of Compliance II in substantially the form promulgated by CDLAC, executed by an authorized representative of the Borrower, (i) not later than February 15 of each year until the Certificate of Completion in substantially the form promulgated by CDLAC has been submitted to the Authority, and (ii) following the submission of the Certificate of Completion to the Authority not later than February 15 every three years thereafter until the end of the Compliance Period. (Note: The Regulations indicated that such certification is to be submitted by the Authority's specified deadline but no later than March 1; February 15 is the Authority's specified deadline.)
- The Borrower acknowledges that the Authority will monitor the Borrower's compliance with the CDLAC Conditions as provided in the Regulatory Agreement, other bond documents and in the regulations promulgated by the CDLAC. The Borrower will cooperate fully with the Authority and the Authority's Administrator in connection with such monitoring and reporting requirements as provided herein and therein.
- Compliance with the terms of the CDLAC Conditions not contained within the Regulatory Agreement but referred to in the CDLAC Conditions are the responsibility of the Borrower to report to the Authority.
- The Borrower will provide notices to CDLAC as to any change in the name of the Project, change of name or address for the Borrower or the Agent or limited partner of Borrower, specified defaults, initiation of foreclosure proceedings against the Project, termination of the Regulatory Agreement or prepayment of the Housing Bonds.
- In the event of any conflict between the Regulatory Agreement and the CDLAC Conditions, the most restrictive requirement shall govern.

Contents of Regulatory Agreement

As required by the Regulations, for Projects receiving allocation after December 31, 2016, the Regulatory Agreement will:

- Incorporate the CDLAC Resolution by reference and as an attachment.
- Have a term consistent with the income and rental restrictions established in the Resolution. As indicated in the Regulations, the Regulatory Agreement will terminate in an Open Application process 55 years, and in a Competitive Application Process 30 years, from the date 50% occupancy is achieved or the commencement of the CDLAC Qualified Project Period, whichever date is earlier.
- Include all applicable income and affordability requirements outlined in 26 U.S.C.

**GOLDEN STATE FINANCE AUTHORITY  
MULTI-FAMILY HOUSING BOND PROGRAM**

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§ 142, Cal. H&S Code § 34312.3(c)(1) & (2), Cal. H&S Code § 51335(a), and Cal. H&S Code § 52080(a)(1).

- Clarify that compliance with items not contained within the body of the Bond Regulatory Agreement but referred to in the CDLAC Resolution are the responsibility of the Sponsor to report to the Authority.
- Designate CDLAC to receive notice of changes in ownership, issuer, project name and management company.
- Designate CDLAC to receive all notices regarding defaults associated with the rents and income requirements, Bond Default, Qualified Bond Default, and regulatory termination.