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City of Los Angeles  
Housing + Community Investment Department

Affordable Housing Bond  
Policies & Procedures

Private Activity Bonds for Multifamily Residential Rental Properties

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Exhibit A	Outside Issuer Guidelines
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# Affordable Housing Bond Policies and Procedures

## Introduction

The City of Los Angeles (City) has updated its 2005 Multifamily Bond policies and procedures to restate and incorporate new guidelines and requirements; and to ensure compliance with federal, state, and local laws and policies. The Affordable Housing Bond Policies and Procedures apply to all Private Activity Bond issuances for multifamily residential properties.

## Program Description

The City, through the Los Angeles Housing + Community Investment Department (HCIDLA), acts as the primary issuer of tax-exempt and taxable private activity bonds for qualified multifamily residential developments located in the City. The City maintains the role of primary issuer in view of the potentially substantial impact of affordable housing development projects to the neighborhoods and citizens of Los Angeles. The City's Affordable Housing Bond Policies and Procedures adhere to the Financial Policy for the City, which is available at the City Administrative Officer (CAO) website at [http://cao.lacity.org/debt/fin\\_policies.htm](http://cao.lacity.org/debt/fin_policies.htm).

Qualified private activity bonds are tax-exempt bonds issued by a governmental entity (Private Activity Bonds), the proceeds of which are used by an entity other than the government issuing the bonds (conduit issuer) for a defined qualified purpose, such as low-income multi-family housing. Such Tax-exempt private activity bonds (non-refunding) require an allocation of bond authority from the California Debt Limit Allocation Committee (CDLAC). The following procedures outline HCIDLA's program requirements for issuing multi-family housing bonds.

### 1. Eligible Projects

#### 1.1. Location

Projects must be located in the City of Los Angeles.

#### 1.2. Minimum Transaction Size

There is no maximum bond size, however the minimum transaction amount is determined by the overall cost effectiveness of the financing. The bond issuance amount is based on project costs, interest rates, and revenues available to pay debt service. Federal Tax law limits the use of bond proceeds to pay costs of issuance to 2% of the bond proceeds. For smaller projects, the cost of issuance may substantially exceed the 2% restriction and the developer will need to secure other sources of financing. HCIDLA will consider financing multiple properties as part of a single bond issuance on a case-by-case basis.

#### 1.3. Priority Projects

The City supports the use of Private Activity Bonds for multifamily affordable housing projects that contribute to community revitalization and provide long-term affordable housing for Los Angeles. HCIDLA will prioritize project financing based on readiness to proceed. However, if

warranted, HCIDLA will prioritize the scheduling of bond financings with the following characteristics: housing for the homeless; projects with existing or new subordinate debt financing provided by the City; projects that preserve affordability for housing at risk of converting to market rate; and/or projects that leverage affordable housing resources from non-City sources.

*1.4. Use of Funds*

Bond proceeds may be used for costs of property acquisition (as allowed pursuant to federal requirements); construction and/or rehabilitation; improvements; and soft costs such as architectural and engineering services, loan interest, and fees and other costs of the project incurred within the time period allowed from the inducement date.

*1.5. Application Requirement*

All multi-family projects seeking bond financing in the City must apply to HCIDLA, except as otherwise provided for under Section 4.3 below. This includes affordable housing projects where the City will act as issuer, and where HCIDLA will sponsor or hold the public hearing required under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA hearing). This requirement includes all new money issuances requiring an allocation of bond authority from the CDLAC, new 501 (c)(3) issuances, and all refunding transactions of existing bonds. This requirement also applies to projects located within the City that will be financed with bonds issued by an issuer other than the City.

**2. Types of Bonds**

HCIDLA may issue either tax-exempt or taxable bonds. In general, taxable bonds will only be issued in combination with tax-exempt bonds.

*2.1. Tax-Exempt Private Activity Bonds (Non Refunding)*

*2.1.1. Non-501(c)(3) private activity bonds*

Non-501(c)(3) private activity bonds require an allocation of bond authority from CDLAC. To obtain the allocation, HCIDLA must submit an application to CDLAC on behalf of the developer. Even though submittal of the application is at the discretion of HCIDLA, HCIDLA will endeavor to meet the agreed-upon project timelines. The developer must pay all required CDLAC fees and post any CDLAC required deposits in advance of application submittal.

*2.1.2. 501(c)(3) private activity bonds*

HCIDLA may issue 501(c)(3) bonds on behalf of qualified non-profit organizations. These bonds are tax-exempt but do not require an allocation from CDLAC. In addition, these bonds cannot be used in conjunction with the Low Income Housing Tax Credit (LIHTC) Program.

*2.2. Taxable Bonds*

Taxable bond issues must meet all applicable requirements of the policies and procedures listed herein; certain State law and rating requirements regarding bond issuance; and any additional

regulations adopted by the Mayor and City Council subsequent to this policy. The interest on taxable bonds is not exempt from federal or state income taxation. Taxable bonds do not require an allocation from CDLAC, and can be used in combination with certain LIHTC.

### 2.3. *Bond Refunding & Debt Restructuring*

Refunding transactions involve issuing new debt in order to refund the old debt. HCIDLA will allow refunding of bond issuances that meet the following conditions:

#### 2.3.1. *Transaction Fees*

The project borrower agrees to cover all costs of HCIDLA including the Fees and Expenses set forth in Section 11.

#### 2.3.2. *Extended Affordability*

The affordability and tenant income restrictions of the existing bond regulatory agreement are subject to extension for the term of the new bond or such longer period as required by applicable state and/ or federal law. Additional public benefit in the form of deeper income targeting, additional rent restrictions, extension of the term of restrictions, additional number of restricted units, or any combination thereof, will be negotiated in connection with refunding or debt restructuring of existing bond issues.

#### 2.3.3. *Default Refunding Analysis*

If the refunding is due to a refinancing initiated by the defaulting project owner or sponsor, the default refunding application will require a default refunding analysis. A qualified firm shall prepare the analysis, and costs shall be borne by the sponsor/ owner. In general, a default refunding analysis determines whether circumstances beyond the control of the project owner – such as poor market conditions or other extraordinary circumstances – caused the default.

#### 2.3.4. *Credit substitutions*

Credit substitutions are the functional equivalent of a refunding and will be treated by HCIDLA in the same manner as refunding transactions for purposes of these policies and procedures.

## 3. **Bond Sale Transaction Types**

HCIDLA allows bonds to be sold in a public sale transaction or through private placement.

### 3.1. *Public Sale - Negotiated Bid*

In this structure, the Issuer “negotiates” the terms of the sale of the bonds with the underwriting team and the developer to structure the sale of the bond. Upon pricing of the bonds, the issuer and underwriter execute a bond purchase agreement obligating the underwriter to purchase the bond. After purchasing the bonds, the underwriter resells them to its investors.

### 3.2. *Public Sale - Competitive Bid*

In this structure, the issuer structures the bonds with the assistance of its finance team, including the Municipal Advisor. Underwriters or underwriter syndicates then bid on the bonds. The bid

that results in the lowest cost to the issuer wins the competitive bid. The winning underwriter or underwriter syndicate then executes a bond purchase contract obligating the winning entity to purchase the bonds. Upon purchasing the bonds, the underwriter generally re-sells the bonds to other investors.

### 3.3. *Private Placement*

A private placement usually means the bond is sold to a single institutional buyer. These transactions often occur without the use of an underwriter (although a placement agent may be occasionally used). Because an underwriter is not involved, transaction costs may be significantly less, allowing for smaller feasible transaction sizes. HCIDLA reserves the right to require project sponsors to include certain HCIDLA selected consultants to take part in any private placement financing, as it deems necessary.

## 4. **Other Bond Issuers**

On a predetermined basis, the City may elect to have multifamily housing bonds issued by other city agencies, other agencies, the California Housing Finance Agency, or those Joint Powers Authorities of which the City is a member.

### 4.1. *Other City Agencies*

Other City agencies and authorities with statutory authority to issue bonds may issue housing bonds for their financed or facilitated projects in the City. For example, the Housing Authority of the City of Los Angeles (HACLA) may issue bonds for projects in which it has a substantial interest (e.g., as owner or land lessor) or for which it provides a substantial subsidy.

### 4.2. *Other Agencies*

Under special circumstances and in accordance with the terms and conditions of Outside Issuer Guidelines (Exhibit A), HCIDLA may allow other agencies to issue housing bonds for projects located in the City of Los Angeles.

### 4.3. *California Housing Finance Agency*

California Housing Finance Agency (CalHFA) may issue housing bonds in accordance with terms and provisions outlined in the Memorandum of Understanding (MOU) between CalHFA and HCIDLA. Notwithstanding the MOU, HCIDLA acknowledges that CalHFA has statewide authority to approve and issue tax exempt private activity bonds, including conduit bonds, and CalHFA reserves the right to approve and issue private activity bonds, including conduit bonds, throughout the State of California for any project, under this statewide authority.

### 4.4. *Joint Powers Authorities*

In certain circumstances, the HCIDLA may consent to the use of Joint Power Authorities of which the City is a member, for private activity bonds (including 501(c)(3) bonds) to finance projects located in the City. The following are conditions where Joint Powers Authority financings will be considered for affordable housing projects in the City of Los Angeles:

#### 4.4.1. *Common Plan Financings*

When affordable housing projects are part of a common plan of finance with one or more projects that are not located in the City and when the City has authorized such issuances by joining the Joint Powers Authority. Necessary elements of a common plan of finance shall include: 1) common credit structure and/or credit enhancement; 2) common indenture (that may include multiple series of bonds) or separate but identical or parity indentures; and 3) common financing schedule (including common pricing and closing dates)

*4.4.2. No City Participation*

Projects without any City financial participation (including land contributions), and which are considered "by right" under the City's zoning code, may request HCIDLA to waive its role as issuer in favor of a Joint Powers Authority. Such waivers are at the discretion of the General Manager, and subject to the approval of the Mayor and City Council. HCIDLA or the City Council may hold the TEFRA hearing for these bonds. If HCIDLA or the City Council hold the TEFRA hearing, the project sponsor will be required to execute a City "Americans with Disabilities Act (ADA) Bond Regulatory Agreement" prior to the TEFRA hearing (see Section 6.4 "Compliance with Federal ADA Requirements" below).

*4.5. Subject to City Requirements*

Regardless of whether a City agency or a joint powers authority acts as issuer, all housing bonds are subject to the City requirements outlined in Section 6.2 – 6.7 as follows including the payment of associated processing and monitoring fees:

- 6.2 City New Business Policy
- 6.3 Borrower Background Check
- 6.4 Compliance with American's with Disability Act (ADA) Requirements
- 6.5 Compliance with Wage Requirements
- 6.6 Tenant Relocation
- 6.7 Rent Stabilization Ordinance and Tenant Habitability Ordinance

**5. Bond Requirements**

*5.1. Bond Security*

HCIDLA issues bonds solely on a conduit basis. The repayment of principal or interest on bonds issued by HCIDLA will not be secured by assets of the City or HCIDLA.

*5.2. Bond Rating*

HCIDLA requires that bonds for which it acts as issuer must (i) have a minimum rating in the "A" category by a credit rating agency experienced in issuing ratings for housing bonds (equivalent from another bona fide agency rating acceptable to HCIDLA), or (ii) be privately placed, as provided below. HCIDLA acknowledges that this requirement differs from the City of Los Angeles' Financial Policy, Debt Management. HCIDLA reserves the right to impose these minimum requirements on bond issues for which the City holds a TEFRA hearing. Bonds having a minimum rating of "A" as described above shall be issued in minimum denominations of \$5,000.

*5.3. Credit Enhancement*

Subject to City approval, Credit enhancement may take any form, including a letter of credit (LOC), credit enhancement guaranty, bond insurance, collateral pledge or other security sufficient to secure the minimum rating described above. The form of credit enhancement must be sufficient to meet the minimum rating criteria. The bond rating must be obtained before the closing of the bond issue.

5.4. *Privately Placed Bonds*

Bonds that do not meet the minimum rating requirements shall be privately placed and subject to the following: (Could delete)

- 5.4.1. There may not be more than one bond owner at any one time, or at HCIDLA's discretion, with minimum denominations of \$250,000.
- 5.4.2. An institutional "accredited investor" or "qualified institutional buyer", as defined in the Securities Act of 1933, must purchase the bonds.
- 5.4.3. All initial and subsequent purchasers must provide an investor letter in a form acceptable to HCIDLA wherein the investor acknowledges having sufficient knowledge and experience to evaluate the bond investment and wherein the investor waives any due diligence obligation on the part of the City.
- 5.4.4. Any changes to the CDLAC Resolution regarding bond ownership, including transfers, must be approved by HCIDLA and CDLAC.
- 5.4.5. The developer/owner must indemnify HCIDLA against any costs incurred by the City, including any lawsuit initiated by the bondholder or any other party, regardless of whether the City is negligent.
- 5.4.6. Unrated bonds may not be issued to finance any portion of a continuing care retirement facility.
- 5.4.7. The substantial user prohibition on municipal bonds does not allow a person who is a substantial user of a facility financed with qualified private activity bonds, or any person related to such a user, to receive tax-exempt interest income as a holder of those bonds. For projects with HCIDLA subordinate financing, the HCIDLA reserves the right to approve bond issuance where the proposed bond purchaser is the same entity or a related entity as the project owner.

5.5. *Redemption provisions for Privately Placed Bonds*

A default under the loan agreement would not be defined as a bond default, even though full payments were not being made on the bonds. Redemption provisions would apply as follows:

- 5.5.1. Bondholder would be free to work out a loan default situation with the current project owner or through foreclosure of the project and its sale to a new owner, while keeping the bonds and regulatory agreement outstanding.
- 5.5.2. In the event a workout cannot be achieved, the documents would allow the bondholder to cause a mandatory redemption of the bonds through a deemed redemption mechanism.
- 5.5.3. If the interest on the bonds ever were determined to be taxable, the Bondholder would have the right to cause a mandatory redemption.



5.6. *Bond Transfers of Privately Placed Bonds*

Bond transfers may be allowed, with prior written approval from HCIDLA, and the subsequent purchaser must provide an investor letter, described in Section 5.4.3, above.

5.7. *Alternative Bond Structures*

The General Manager of HCIDLA may, at his or her sole discretion, waive the Bond Requirements outlined herein. Alternative bond structure proposals will be reviewed and analyzed on a project-by-project basis and must meet the HCIDLA's public benefit requirements without added risk to the City. The HCIDLA will consider alternative bond structures if provided to HCIDLA for review in writing no less than 60 days prior to submitting the CDLAC application.

5.8. *Affordability Requirements and Number of Affordable Units*

To be eligible for tax-exempt bond financing, projects must meet the income and rent restrictions required by CDLAC, currently requiring that a minimum of 10% of the units must have gross rents that are restricted at 30% to 50% of the area median income. In addition, federal law requires that the project meet one of the following: (i) at least 20% of the units in each project must be rented to or held available for rent to very low-income tenants (50% of median income, adjusted for household size) or (ii) 40% of the units in each project must be rented to or held available for rent to tenants at or below 60% of median income. Project rents must be structured to maximize competitiveness under the CDLAC affordability matrix. The City reserves the right to impose additional restrictions. Restricted units must meet the CDLAC requirements regarding unit size and comparability.

5.9. *Term*

The term of the affordability requirement is the longer of: (a) 15 years from the date of 50% occupancy as included in the definition of the Qualified Project Period contained in the Internal Revenue Code of 1986, (b) as long as the bonds, or any refunding bonds, remain outstanding, (c) the date on which the project no longer receives assistance under Section 8 of the National Housing Act of 1937, (d) such period as may be required in the opinion of bond counsel to meet federal or state law, or (e) such period as may be required by CDLAC. The rent of "in-place" tenants at the conclusion of the required affordability period will continue to be governed by the applicable affordability restriction, to the extent required by state or federal law.

5.10. *Income Limits*

Total household income for income-restricted units may not exceed 50% or 60% of the Area Median Income, as applicable, adjusted by household size, as set by the U.S. Department of Housing and Urban Development (HUD). These limits will be adjusted periodically when HUD adjusts the median-income standards it imposes.

5.11. *Rent Limits*

The maximum rents for all the affordable units are adjusted based on the percentage increase in the HUD-determined median-income for Los Angeles County. These rents are based on a

formula using 1/12 of 30% of the appropriate income limits, assuming one person in a studio, two persons in a one-bedroom, three persons in a two-bedroom and four persons in a three-bedroom unit. These assumptions differ for projects using LIHTC. In the event tax-exempt bonds are used with LIHTCs, the more restrictive rents shall apply.

5.12. *Annual Certification of Tenant Income*

The project owner must certify tenant eligibility annually. If at the annual certification a tenant's income exceeds 1.4 times the current income limit for initial occupancy, the owner must rent the next available unit of comparable or smaller size to a new, income-eligible tenant. In projects that include market rate units, the owner may raise the rent of a unit occupied by an over-income tenant to market rents after the next available unit is occupied by a low-income or very low income household, as applicable, and be counted toward meeting the project's affordable unit requirements. The Borrower shall provide to HCIDLA and CDLAC as applicable: (i) a certificate of completion of Project construction or rehabilitation in form acceptable to HCIDLA; (ii) a certificate of continuing program compliance in form acceptable to HCIDLA based upon tenant initial income certifications and annual recertification in forms acceptable to HCIDLA; (iii) a certificate of CDLAC program compliance in a form acceptable to CDLAC; and (iv) a Borrower self-certification certificate in form acceptable to CDLAC. For additional information also see Exhibit A, Affordable Housing Post-Issuance Compliance Policies and Procedures.

5.13. Enforcement of Bond Regulatory Agreements

HCIDLA shall have the authority under each bond regulatory agreement to enforce the terms thereof through actions for mandamus or other suit in law or in equity or such other actions as may be necessary to enforce the obligations of the borrower thereunder. Such enforcement may be subject to the requirements of federal lending programs administered by HUD. Such enforcement shall be at the sole expense of the borrower. CDLAC, as a third-party beneficiary of each bond regulatory agreement, shall have the right to enforce the CDLAC Requirements.

5.14. Compliance with CDLAC Requirements

The resolution of CDLAC granting private activity volume cap to finance a Project (the "CDLAC Resolution") shall be attached to and fully incorporated by reference to each bond regulatory agreement in connection with the issuance of the City's bonds. CDLAC shall be an express third-party beneficiary of each bond regulatory agreement with the full power to enforce all requirements of the CDLAC Resolution (the "CDLAC Requirements"). HCIDLA shall have the obligation to monitor compliance with the CDLAC Requirements for the term thereof and shall submit to CDLAC a certificate of program compliance and Borrower self-certification certificate, as required by CDLAC. Each bond regulatory agreement shall require the Borrower to make such reports to CDLAC as shall be set forth in the CDLAC Resolution and other rules, regulations, and policies of CDLAC as they may be adopted and amended from time to time.

## 6. City Requirements

### 6.1 *Compliance with Federal, State, and Local Laws*

Any tax-exempt bond financed project located in the City – including projects funded by tax-exempt bonds issued by any statewide issuer or Joint Powers Authority – must comply with all applicable laws and regulations of the United States of America, the State of California, and the City, including but not limited to, laws, regulations, and policies regarding health, safety, labor and employment, wage, hours, and licensing laws that affect employees.

### 6.2 *City New Business Policy*

Prior to the TEFRA hearing, the developer must comply with the City's New Business policy adopted by City Council on April 16, 2003 (CF99-1272). Per the City's New Business policy HCIDLA is authorized to prevent borrowers, their related entities, and other partnerships that have common general partners, from seeking a tax-exempt housing bond in the City of Los Angeles if the borrower is non-compliant with current City loan obligations. Noncompliance may include, but is not limited to, nonpayment of loan amount due, failure to complete a project on time, failure to abide by current regulatory and land use covenant agreements, having a City loan written off as uncollectible, and failing to correct any building deficiency noted by any governmental agency in a timely manner. An application is deemed ineligible to compete for funding if any member of the applicant's ownership entity has an interest in a current project or projects that is in monetary or non-monetary default.

### 6.3 *Borrower Background Check*

HCIDLA will conduct a background check review upon receiving a completed background check information from the project sponsor.

### 6.4 *Compliance with Federal American's with Disability Act (ADA) Requirements*

All residential projects financed with private activity bonds through the City or through any other program, service, or activity of the City shall be developed and the properties shall be maintained to comply with all applicable federal, state, and local requirements for access to individuals with disabilities. The bond regulatory agreement will contain language requiring compliance with Title II of the Americans with Disabilities Act.

### 6.5 *Compliance with Wage Requirements*

Projects developed with conduit bonds located in the City of Los Angeles must be developed in accordance with the City's Administrative Code Sec. 377, which requires use of prevailing wages on Public Works (Public Works) projects in accordance with California Labor Code §1770 et. Seq. The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Current wage rate information can be found at the California State Department of Industrial Relations web site, [http://www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html).

#### 6.5.1 *Projects with City Financial Participation*

Bond-funded housing projects that receive financial assistance from the City, including, but not limited to, cash assistance from the Affordable Housing Managed Pipeline (AHMP), Proposition HHH funds, City General Fund, and city land assets provided at

below market value meet the definition of Public Works projects and are subject to prevailing wage construction requirements in accordance with the California Labor Code. Projects funded with funds from the Community Redevelopment Agency of Los Angeles (CRA/LA) Low and Moderate Income Housing Fund (LMIHF) are subject to prevailing wages in accordance with the CRA/LA prevailing wage policy. Projects developed with City General Funds are subject to the City's Living Wage Ordinance (Ord#172336) and minimum wage requirements (Ord#183612).

*6.5.2 Projects without City Financial Participation*

Department of Industrial Relations determinations have found that conduit bond financing in which the City does not provide financial assistance to the housing developer does not meet the definition of Public Works and are not subject to prevailing wage construction requirements.

*6.5.3 Projects assisted with Federal Funds*

Projects assisted with Federal funds (including but not limited to the HOME program, CDBG program, and FHA programs) are required to comply with the federal labor standards of the Davis Bacon Act (DBA).

*6.6 Tenant Relocation*

Any developer requesting multi-family housing bonds for a project that may result in the temporary or permanent displacement of tenants or businesses will be required to comply with applicable local, state, and federal relocation laws and accompanying regulations.

*6.7 Rent Stabilization Ordinance and Tenant Habitability Ordinance*

If applicable, all residential projects must comply with the City's Rent Stabilization Ordinance (see LAMC 151.00, etc seq.), and the Tenant Habitability Ordinance (see LAMC 152.00, et seq.).

*6.8 Occupancy Monitoring*

HCIDLA will monitor compliance with the affordability requirements as set forth in the bond documents and HCIDLA Post-issuance Compliance Policies and Procedures (Exhibit B).

*6.9 HCIDLA Review of Construction Expenditures*

HCIDLA, at its sole discretion, will enter into an intercreditor agreement or otherwise provide in the financing documents, provisions for disbursement of bond proceeds for construction costs. The documents will ensure that the HCIDLA construction compliance unit will review all construction costs prior to disbursement, for compliance with City requirements. HCIDLA has prepared a standard form of agreement that will be used in all projects; any deviations from the form will require the approval of HCIDLA staff and the City Attorney. HCIDLA may elect to use an outside consulting firm to monitor wage compliance. The fees shall be borne by the sponsor/owner.

*At the time of Intake Application, applicants must submit the following:*

- 6.9.1 A relocation summary, which includes a description of the intended relocation activities and an estimated relocation budget.
- 6.9.1.1 A tenant rent roll (residential and/or commercial), which includes the unit number, name, unit type and size, rent (including any Section 8 subsidies), and utilities paid by each tenant, including the total number of occupants in each unit, and tenant income.

*At the time of the submittal of the CDLAC application, the following must be submitted:*

- 6.9.2 A relocation plan prepared by a qualified third-party consultant. The relocation plan must reference all financing sources and the requirements for each, along with a relocation budget, which should be included in the total development costs. NOTE: No over-income tenants shall be required to move, even though the result may impact the loss of tax-credits.

**6.10. *Trustee/ Fiscal Agent Requirement***

HCIDLA will require the use of a Trustee or Fiscal Agent to disburse all bond proceeds. For each bond issuance, the trustee/fiscal agent selection will be made through a request for proposal solicited from a list of corporate trustees previously selected through a request for qualifications. Bond disbursements shall be outlined in an indenture of trust or similar agreement to be entered into by the selected trustee, the City and bond purchaser, if applicable.

**6.11. *Pricing Requirements for Projects Receiving HCIDLA Subordinate Financing***

The permanent period interest rate for privately placed bonds on projects receiving HCIDLA subordinate financing shall be within an acceptable market range compared with bonds in like amount, terms and conditions if such similar bonds were to be purchased directly by Fannie Mae or Freddie Mac (including forward delivery premium, if any).

**6.12. *Guaranty of Annual Issuer Fee and Consent, Approval, Transfer, Amendment, and Waiver Fee***

As a condition to issuance of bonds, the City shall require a guaranty of the City's Annual Issuer Fee and Consent, Approval, Transfer, Amendment and Waiver Fee, described in Sections 11.4 and 11.7 below pursuant to a guaranty agreement and executed by a guarantor, each acceptable to the City.

**7. *Closing Requirements***

The Department requires delivery of the following items prior to the issuance of the Bonds:

- 7.1. HCIDLA will accept a Ready-to-Issue letter in-lieu of building permit as a condition of closing. The letter shall be issued by the City of Los Angeles Department of Building and Safety (LADBS).

- 7.2. An executed construction or rehabilitation contract that encompasses all major components of the construction or rehabilitation of the project.
- 7.3. All financing for the acquisition, rehabilitation, and construction of the project shall be in place and available; all necessary documentation shall have been entered into; and there shall be no contingencies for funding other than the normal and standard requirements relating to dutiful progress of the project. So-called “dry closings” will not be allowed.
- 7.4. Deposit and Commitment to Pay Fees: Acknowledgement wherein the applicant agrees to pay all the issuer’s costs related to the financing, including all third party costs and costs of issuance, in addition to any deposit amounts.
- 7.5. The developer shall indemnify HCIDLA for all costs or liabilities related to the proposed bond transaction, including an indemnification for hazardous materials on the project site. Under no circumstances will fees be refundable if the developer decides not to proceed with the transaction.

## **8. Special Financing**

HCIDLA may, from time to time, develop special programs to meet particular housing needs (e.g., pooled financings for earthquake recovery, etc.). At such time as these programs are developed, HCIDLA may promulgate regulations to govern the implementation of the special programs and if applicable subject to Council and Mayor for approval.

## **9. Recapitalization of Existing Affordable Housing**

Projects proposing to apply for tax-exempt bonds that include existing subordinate financing from the City (i.e., HCIDLA, CRA) must comply with the HCIDLA’s Recapitalization Policies (CF# 16-0085 Adopted Feb 3, 2016). These policies outline the underwriting parameters to be followed when proposing to recapitalize an existing affordable housing development.

## **10. Transfers of Ownership**

HCIDLA reserves the right to approve any voluntary change in ownership (i) that results in a transfer of 50% or more of the total equity interests in a borrower or (ii) that results in a transfer of any general partner or managing member interest in the borrower. Such approval to transfer ownership shall be at the discretion of HCIDLA and, lacking any specific requirement or directive to the contrary, shall not require the approval of the Mayor and City Council. Transfers made by a limited partner tax credit investor to its affiliates are exempted from this requirement.

In addition, the current borrower must not be in default under the bond documents; the purchaser must also not be in default according to the City’s Business policy; and satisfactory evidence must be presented to the City that the purchaser has at least three years’ experience in the ownership, operation, and management of affordable rental housing.

### **10.1. Managerial Review**

HCIDLA shall review management practices of the applicant’s current and previously-owned properties. Any applicant (including individuals within an ownership group) whose currently-

owned properties have been found by City inspection to have deficiencies that have not been resolved within the time frame prescribed by the Systematic Code Enforcement Program (SCEP) or other governmental housing inspection programs, including but not limited to the City of Los Angeles Department of Building and Safety (LADBS), Office of the City Attorney, the Housing Authority of the City of Los Angeles (HACLA), the City of Los Angeles Fire Department (LAFD), or the Los Angeles County Health Department. HCIDLA may initiate additional inspections as needed to verify the findings.

10.2. *Non Approved Ownership*

Any applicant (including individuals within an ownership group) involved in previously or currently-owned properties that indicate a pattern of deficiencies may not assume ownership of any bond financed project.

HCIDLA shall review financial statements and credit histories of the proposed owner or all individuals within an ownership entity. Applicants whose financial statements do not meet with the City's satisfaction may not assume ownership of a bond-financed project.

## **11. Fees and Expenses**

11.1. *Borrower's Agreement*

At initial approval of the application and notification to the applicant, the applicant must agree, in writing, to pay all costs of issuing the bonds, including all fees of the issuer in the amounts and at the times indicated below. Such costs, to the extent incurred, must be paid whether or not the bond issue closes. For pooled issues, borrowers shall pay their equitably distributed pro rata share of all costs.

11.2. *Costs of Issuance*

Borrowers shall pay all costs of issuance at bond closing, including, but not limited to, fees of bond counsel, underwriter, trustee and financial advisor, as well as rating fees. Only 2% of the proceeds of a tax-exempt bond issue may be used to pay costs of issuance. Costs in excess of 2% must be paid from other sources secured by the developer including, potentially, the proceeds of taxable bonds.

11.3. *Initial Issuer Fee*

Borrowers shall pay an initial issuer fee of 25 basis points (0.25%) of the bond amount. This fee is paid at the bond closing and covers HCIDLA's administrative costs as Issuer.

11.4. *Annual Issuer Fee*

During the construction period, the Borrower shall pay an annual issuer fee in arrears of 12.5 basis points (0.125%) of the original principal amount of the Bonds. Upon completion of construction, and conversion of financing to permanent, the Borrower shall pay in arrears an issuer fee that is the greater of 12.5 basis points (0.125%) of the permanent principal amount of the bonds as of the conversion date, or \$2,500 annually. The fee must be paid so long as the bonds remain outstanding.

11.5. *Application Processing Fee*

A non-refundable fee of \$3,000 must accompany each application. This fee shall apply for all applications, irrespective of the issuer.

11.6. *TEFRA Hearing Fee*

The applicant shall pay a minimum \$3,000 per project for the TEFRA notice publication and hearing.

11.7. *Consent, Approval, Transfer, Amendment, and Waiver Fee*

HCIDLA will charge a processing fee equal to the greater of \$5,000 or .125% of the permanent principal amount of the relevant bond issue for any consent, approval, transfer, amendment, or waiver requested of the City.

**12. The Bond Finance Team**

The City selects, at its sole and absolute discretion, the bond financing team (Bond Team) to be utilized by HCIDLA through a Request for Qualifications (RFQ) process, including bond counsel, co-bond counsel (if any), disclosure counsel (if any), issuer's counsel, Municipal Advisor, trustee, and investment banker. The City, through HCIDLA, from time to time, shall promulgate policies regarding the selection of its finance team. The project sponsor may, at its own expense, add additional members to the finance team to represent its interests. The City requires the use of a trustee for all bond financings. Bond counsel, co-bond counsel, independent municipal advisor, trustee, and investment banker are chosen through an RFQ process approved by the Mayor and City Council. The Office of the City Attorney conducts a separate RFQ process for the selection of the bond counsel and co-bond counsel, if necessary.

**13. Departmental Review and Procedures/Timetable**

All projects seeking bond financing or significant modifications to existing bond financings are subject to departmental review. Projects must submit an application for review. Upon successful review and initial approval of the application, financing of the project will be contingent upon, as required, payment of fees and expenses, adoption of an inducement resolution by HCIDLA's General Manager, TEFRA hearing, adoption of a bond resolution by City Council with the Mayor's concurrence, submittal of an application to CDLAC, and award of a bond allocation from CDLAC. The following outlines the procedural steps from application to closing for a bond-financed transaction. Applications may be received on an ongoing basis at the discretion of HCIDLA according to the criteria below. Applicants shall submit a separate application for each project.

13.1. *Intake Application*

HCIDLA requires the intake application and all required documents be submitted 60 days prior to the CDLAC application deadline. During this review period, HCIDLA has no obligation to initiate or conclude any discretionary action regarding the bonds, including project inducement



or TEFRA hearings. Upon completion of its review, HCIDLA will notify the applicant of its initial approval and intent to proceed with the financing; or of its disapproval of the application.

13.2. *Background Review*

During the Intake review period, the HCIDLA will conduct a background check based on the information provided to determine if there are any outstanding violations with each compliance program. The background check includes a review of compliance with City loan repayments, regulatory agreement compliance, Rent Registration or SCEP fees due, financial statements, unpaid property taxes, lapsed insurance or outstanding cited habitability violations, and/or if the property is in any of the City's compliance programs due to unabated habitability violations (i.e., REAP). Failure to disclose all applicable properties may result in disqualification of the application.

13.3. *Meetings of the Staff, Finance Team and Development Team*

HCIDLA may require that the applicant and relevant members of the development team meet with Department staff and/or the finance team to review the application.

13.4. *Inducement Letter*

The Inducement letter demonstrates the City's intent to issue bonds for the project. After the initial approval, staff recommends approval by the HCIDLA's General Manager. The Inducement letter allows for the reimbursement of eligible costs, incurred no earlier than 60 days prior to the date of the inducement, to be paid or reimbursed with the proceeds of tax-exempt bonds. The final and executed Inducement Letter is delivered to the applicant.

13.5. *TEFRA Hearing*

After initial approval, the TEFRA hearing shall be noticed and scheduled. A notice of the TEFRA hearing must be published 14 days (or such other time period as shall be required by applicable federal tax law) prior to the scheduled hearing date. The TEFRA hearing may occur concurrently with the adoption of the bond resolution. HCIDLA staff may prepare the TEFRA notice for publication, but the notice shall be reviewed by HCIDLA counsel and bond counsel. The TEFRA approval will be processed by HCIDLA with the assistance of the respective City Council Office.

13.6. *CDLAC Application Review and Evaluation*

HCIDLA requires submittal of the CDLAC application(s) 30 days prior to the CDLAC submission deadline. Applications should be submitted in substantially final form so that HCIDLA staff may begin to review. Applications should be finalized no later than 10 days prior to submittal to CDLAC, in order to complete the process of inducement approval by the General Manager of HCIDLA, and obtaining Mayor and City Council authorization to adopt the TEFRA resolution and TEFRA hearing minutes. Applications not requiring CDLAC approval must be submitted at least 120 days prior to the desired bond closing date.

13.7. *Additional Time for Refunding*

The default analysis that is required of default refunding applications will add an additional 20 days to the application review period. No such time periods are guaranteed. The above periods are minimums subject to change.

#### 13.8. *Deposit and Commitment to Pay Fees*

Upon notification to applicant of HCIDLA's initial approval, the applicant will be required to acknowledge and agree to pay all the issuer's costs related to the financing, including all third party costs and costs of issuance, in addition to any deposit amounts. The developer shall further indemnify HCIDLA for all costs or liabilities related to the proposed bond transaction. Under no circumstances will fees be refundable if the developer decides not to proceed with the transaction.

#### **14. Preparation and Submittal of the CDLAC Application**

New-money tax-exempt private activity bond issues (except 501(c)(3) issues) require application to, and allocation from, CDLAC. The application to CDLAC is from HCIDLA, not the applicant or the project sponsor. Therefore, while the developer may prepare the draft application, it must be completed to the satisfaction of and reviewed by HCIDLA before submittal. In order to submit the application, the following must be completed:

14.1. A completed CDLAC application (plus required copies) must be submitted to HCIDLA at least 30 days prior to the relevant CDLAC application deadline.

14.2. The CDLAC application must be reviewed and approved by HCIDLA.

14.3. All previously required fees must have been paid and submitted, including:

14.3.1. A deposit amount required by CDLAC, currently in the amount of one-half of one percent (0.5%) of the allocation amount requested. The deposit shall be delivered to HCIDLA as a cashier's check payable to the City of Los Angeles.

14.3.2. The CDLAC filing fee (currently in the amount of \$1,200) made payable to CDLAC.

14.3.3. Where applicable, an initial filing fee for supplemental awards (currently in the amount of \$600) made payable to CDLAC.

#### **15. Document preparation and approval (including bond resolution)**

Bond counsel and HCIDLA may begin work on bond documents after the bond allocation has been approved and received from CDLAC. If approval from CDLAC is not required, bond counsel and HCIDLA may begin work on the bond documents, at the sole and absolute discretion of HCIDLA, after initial approval of the application and after the agreement to proceed (including any required fee) has been received from the developer. No deemed consent is given for any document amendment. Subsequent amendments may require Mayor and City Council approval (as determined by the issuer's counsel) and consistent with Article 6.4 Section 11.27.40.1 of the Administrative Code.

#### **16. Scheduling and Approval of the Bond Resolution**

The transaction may not close without the adoption of the bond resolution by the City Council and concurrence of the Council action by the Mayor consistent with Article 6.4 Section 11.27.40.1 of the Administrative Code. Bond counsel prepares the bond resolution with review by issuer counsel. The

bond resolution is adopted, and the bond documents are approved concurrently by the City Council with the concurrence of the Mayor. The CAO will review any disclosure documents involved in a public or private offering. In order for any resolution to be approved by City Council, the following must occur:

16.1. Resolutions must be submitted by the respective Council Office to the Housing Committee of the City prior to consideration by the full City Council. If the resolution under consideration is the final bond resolution, commitments from credit enhancers or bond purchasers and substantially final bond documents must be provided to HCIDLA prior to this date. The process will not begin until HCIDLA receives the allocation.

16.2. Upon approval by the Housing Committee, the resolution will be forwarded to the City Council and Mayor for consideration and approval. Approvals by the Housing Committee, City Council, and Mayor may, depending on their schedules, require approximately eight to ten weeks, subject to the approval of the final bond documents by the City Attorney's office before the issuance of the bonds. If the financial structure is substantially modified, HCIDLA shall seek Mayor and Council approval for the modification.

16.3. *Expedited Bond Closing.*

Upon HCIDLA approval, HCIDLA may expedite the preparation of bond documents and bond resolution approval process. After submittal of the CDLAC application and after the proof of TEFRA deadline, HCIDLA may begin the preparation of bond documents and bond resolution transmittal process simultaneously with the CDLAC review process and pending a CDLAC allocation. HCIDLA will require an upfront payment of the Initial Issuer Fee ("deposit"). If the resolution under consideration is the final bond resolution, commitments from credit enhancers or bond purchasers and substantially final bond documents must be provided to HCIDLA prior to this date. The Sponsor shall agree to accept the terms outlined in the application and in the draft bond documents to be true and correct, and shall agree that if the terms that have been presented to the Mayor and City Council are materially modified, the expedited request is forfeited, and changes may cause a delay in closing. Nullification of the expedited process will result in a loss of the deposit.

16.4. *Bond Sale and Closing*

Except as provided below, the following may occur, in the approximate order presented, only after the City Council adopts the bond resolution and approves the bond documents and the Mayor concurs with the Council action:

- Mail the Preliminary Official Statement (POS)
- Bond Pricing
- Pricing call with the underwriter, HCIDLA staff, independent municipal advisor, and borrower. Final pricing occurs with the concurrence of HCIDLA.
- Bond Purchase Agreement (BPA)

- Following pricing, the BPA is executed by HCIDLA, the borrower, and the underwriter.
- Pre-closing
- The parties should allow approximately five business days to obtain the required City approvals and signatures.

*16.4.1 Closing*

In order to effect a closing of an issue of bonds, HCIDLA requires: (i) funding of the bonds in an amount sufficient to constitute an issuance of the bonds for federal tax purposes; (ii) expenditure of such funds for capital costs; (iii) recordation of a regulatory agreement consistent with the program requirements stated herein; and (iv) payment of all costs of issuance of the bonds, from a source other than bond proceeds.

## EXHIBIT A

### HCIDLA OUTSIDE ISSUER GUIDELINES

The City of Los Angeles (City) generally requires that all Qualified Residential Rental Projects (QRRP) in the City issue bonds through the Los Angeles Housing + Community Investment Department (HCIDLA). However, under the special circumstances and subject to the conditions described below, HCIDLA may allow outside issuers to issue tax-exempt multifamily bonds for projects located in the City of Los Angeles.

#### I. Special Circumstances

Projects for which HCIDLA has already committed to providing gap financing (e.g., certain projects that are on City land or for which the City has issued a Request for Proposals or Request for Qualifications seeking developers), may request their QRRP debt to be issued through an outside issuer if, after accounting for lost program revenue, doing so will result in significant savings for the City. In such cases, the borrower is responsible for presenting these savings to HCIDLA, in the form of proforma models and cash flow projections, as requested. These projections must demonstrate that, after a diligent search, there are no financing options involving the City as issuer that offer comparable cost savings for the City. The City's vetting process for any proposal proposing to use an outside issuer is rigorous, and HCIDLA will err on the side of City issuance when the overall benefit to the City of using an outside issuer is in doubt.

As a matter of policy, independent projects are not eligible to pursue QRRP financing from an outside issuer.

Notwithstanding the foregoing, under other extraordinary circumstances (e.g., the City's capacity to issue conduit bonds on behalf of projects is somehow impaired), HCIDLA may allow outside issuers to issue tax-exempt multifamily bonds in the City of Los Angeles, subject to the HCIDLA General Manager's written consent.

#### II. Conditions of Consent

The following special conditions are applicable to all prospective outside issues:

- A. Execute the City's accessibility covenant and attach it to each conduit bond regulatory agreement (the "Conduit Bond Regulatory Agreement");
- B. Pay the annual monitoring fee to the City for monitoring the initial production and ongoing occupancy of the accessible housing units and the accessible housing development;
- C. Monitor and ensure compliance with the project's affordability, conditions of the development, and other local, state (including CDLAC), and federal requirements, consistent with obligations as a conduit bond issuer, by encumbering each property with a conduit bond regulatory agreement;
- D. The outside issuer and borrower must agree to incorporate HCIDLA's key regulatory restrictions (including Area Median Income, Long-Term Affordability, Accessible Housing Program

## EXHIBIT A

### HCIDLA OUTSIDE ISSUER GUIDELINES

requirements, and anything else HCIDLA, or the City Council and Mayor, deems necessary) into any HCIDLA financing agreement or ground lease associated with the project. In addition, the borrower must agree to execute a separate accessibility covenant and attach it to each Conduit Bond Regulatory Agreement;

- E. The outside issuer and borrower must agree to comply with all requirements of the City's Affordable Housing Bond Policies and Procedures (Bond Policies), including (without limitation):

Abiding by the City's mandatory contracting requirements;

Protecting existing tenants from eviction due to the financing based solely on any such tenant's failure to meet a financing-related income standard at the time of the issuance or during the Qualified Project Period;

Limiting annual rent increases for existing tenants as of the issuance date to the percentage change in City median income for such year;

Reimbursing the City, as applicable, for staff time, including any fees and costs, relating to the process, as described in the City's Bond Policies; and

Issuing tenant TEFRA notices, where applicable.

- F. The borrower must submit a complete City application and applicable fees to HCIDLA;
- G. The Borrower must agree to reimburse HCIDLA's reasonable lending and issuance related costs at the bond closing; and
- H. In addition to submitting the accessibility compliance monitoring information required by the City's accessibility covenant to HCIDLA, the borrower, for the City-required affordability period, must agree to pay the City \$2,500 annually to conduct such monitoring.



**HOUSING+COMMUNITY**  
Investment Department

**Housing Development Bureau**

1200 West 7th Street, Los Angeles, CA 90017

tel 213.808.8638 | fax 213.808.8610

[hcidla.lacity.org](http://hcidla.lacity.org)



Eric Garcetti, Mayor  
Rushmore D. Cervantes, General Manager

City of Los Angeles

Housing + Community Investment Department

Affordable Housing Bond

Post-Issuance Compliance Policies and Procedures

Private Activity Bonds for Multifamily Residential Rental Properties

August 2019

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## 1. Introduction and Purpose

The City of Los Angeles (City), through the Los Angeles Housing + Community Investment Department (HCIDLA), acts as the primary issuer of tax-exempt and taxable private activity bonds for qualified multifamily residential developments located in the City. The City maintains the role of primary issuer in view of the potentially substantial impact of affordable housing development projects to the neighborhoods and citizens of Los Angeles.

The California Debt Limit Allocation Committee (CDLAC) adopted regulations that require issuers to adopt post-issuance compliance policies and procedures (Policies). The following policies outline HCIDLA's program requirements following the issuance of tax-exempt bonds for multifamily residential rental properties. When referring to the multifamily residential developments, the policies reference communication with the "Project", which is to say communication from the owner or the agent of the owner.

## 2. Compliance

The HCIDLA's Occupancy Monitoring/Compliance Unit (OM) and Bond Team, with the assistance of a third party consultant, are responsible for enforcing occupancy, rent, and income limits for properties financed with tax-exempt bond issued by the City of Los Angeles.

### 2.1. *Third-Party Occupancy Monitoring Contractor*

Urban Futures Bond Administration, Inc. (UFBA) is the third-party consultant directed by HCIDLA, with regards to reporting parameters for each project.

Urban Futures Bond Administration, Inc. (UFBA)  
3111 N. Tustin, Ste. 110  
Orange, CA 92865  
(714) 332-1000

## 3. Responsibilities for Compliance Verification and Reporting

### 3.1. *Los Angeles Housing + Community Investment Department (HCIDLA)*

HCIDLA's OM unit will monitor compliance with the affordability requirements, as set forth in the bond documents and the HCIDLA post-issuance compliance policies and procedures. HCIDLA is responsible for:

- Conducting an initial orientation to the project's identified property management agents
- Approving the Property Management Plan
- Collecting Project Sponsor self-certifications of Compliance
- Collecting proof of services (if applicable)
- Submitting annual CDLAC reports
- Resolving non-compliance and enforcement issues

### 3.2. *Urban Futures Bond Administration, Inc. (UFBA)*

As a third party contractor, UFBA is responsible for:

- Issuing Bond rent and income limits
- Obtaining Bond compliance reports from Project operations staff

- Communications between the Projects and HCIDLA
- Annual verification of rent and income compliance

#### **4. Qualified Project Period (QPP)**

##### **4.1. Commencement of Qualified Project Period**

HCIDLA uses the date reported in IRS Form 8703 to establish the date start of the Qualified Project Period.

#### **5. Occupancy and Monitoring Requirements**

##### **5.1. Orientation**

Property management agents must attend an orientation hosted by HCIDLA. HCIDLA will provide information as to when the orientations are scheduled.

##### **5.2. Property Management Plan**

Projects will submit a Property Management Plan (Plan) in the format prescribed by HCIDLA. The Plan includes owner contact information, management company information, project information, tenant selection requirements, the waiting list process, and affirmative marketing strategies.

#### **6. Reporting Requirements and Procedures**

The following outlines the procedural steps and requirements to commence monitoring:

6.1. The Project is forwarded by HCIDLA to UFBA to commence monitoring after Certificate of Occupancy issued.

6.2. UFBA notifies the Project to provide information regarding annual reporting requirements, rent and income limits, and due dates.

6.3. The Project is required to report, on an annual basis, providing the following data/documentation:

- a. Occupancy Summary Report containing the following information (equivalent to the Project Status Report (PSR))
  - i. Project name and address
  - ii. Unit number, household size, number of bedrooms
  - iii. Tenant move-in date, head-of-household name, income certification date, AMI level, household annual gross income
  - iv. Monthly total rent, monthly tenant paid rent, monthly utility allowance rental subsidies (if applicable)
  - v. Total property units, total restricted units, vacant units
- b. Certificate of Continuing Program Compliance (annual certification of program compliance)

- c. Rent Roll
- d. Tenant Income and Rent Certification (equivalent to the TCAC Tenant Income Certification)
  - i. Project name and address, owner name, owner mailing and e-mail address, property manager name, mailing and e-mail address, phone number, and fax number
  - ii. Unit number, household size, number of bedrooms
  - iii. Tenant household composition, race and ethnicity, tenant/occupant name(s), relationship to head-of-household, gender, age, income/assets, move-in date, income certification date, AMI level, household annual gross income
  - iv. Monthly total rent, monthly tenant paid rent, monthly utility allowance rental subsidies (if applicable)
- e. Annual Certification of a Residential Rental Project (IRS Form 8703)
- f. Full income and asset support documentation

## 7. Compliance Forms

The following certifications must be submitted by the projects (on project sponsor letterhead) to UFBA, who will then report to CDLAC annually, as required. The following compliance forms are required:

*7.1. Bond Issues prior to December 31, 2016 – Certification of Compliance I*

*7.2. Bond Issues after December 31, 2016 – Certification of Compliance II*

## 8. Compliance Verification, Reporting and Auditing Procedures

### *8.1. Frequency of Compliance Verification*

All projects are required to report annually. Due dates vary throughout the year, but will follow CDLAC guidelines. UFBA performs the full 100% desktop file review annually to verify income, assets, support documentation, rents and set-asides, as required for the federally-restricted Bond units.

### *8.2. Reporting*

Projects are required to submit annual reports via UFBA's on-line Compliance Monitoring System (CMS) providing the following data/documentation:

- a. Affordability (i.e.:# of units at 50% AMI and 60% AMI) (Qualified Residential Rental Project (QRRP) Program (QRRP) only)
  - Tenant/unit information
  - Income/asset support documentation (pre 12/31/16 as defined in Bond Regulatory Agreement; post 12/31/16 per HUD Handbook 4350.3)
  - Data/documentation reviewed by UFBA to verify income, assets, and income calculations

- b. Rent limits (QRRP only)
  - Tenant paid rent
  - Total unit rent
  - Tenant paid rent verified against annual AMI limits as required by the Bond Regulatory Agreement.
- c. Income limits (QRRP only)
  - Household income for all adult members
  - Household income verified against annual AMI limits as required by the Bond Regulatory Agreement
- d. Utility allowances (if applicable, QRRP only)
  - Utility allowance applied to unit
  - UFBA verifying against project utility schedule based on applicable utilities paid by tenants
- e. Service Amenities and other public benefits required by CDLAC resolution
- f. Arbitrage Rebate - HCIDLA requires that the borrower/owner engage expert advisors to assist in the calculation of the arbitrage rebate.
- g. Post- Issuance Compliance: Each borrower/owner agrees in the Tax Certificate, executed in connection with each financing, that it will comply with HCIDLA's post-issuance tax law compliance procedures.

8.3. Auditing – see Section 8.1, above

## 9. Document Retention Procedures and Time Limits

### 9.1. HCIDLA

For compliance and auditing purposes, HCIDLA will retain the following documentation:

- Bond Issues prior to December 31, 2016: All project data/documentation for the full term of the bond, plus an additional 3 years.
- Bond Issues after December 31, 2016: All project data/documentation for the full term of the bond, plus an additional 10 years.

### 9.2. Project (site-based)

For compliance and auditing purposes, the project will retain the following documentation:

- Bond Issues prior to December 31, 2016: Project is required to obtain, complete and maintain Income Certifications on file for the full term of the bond.
- Bond Issues after December 31, 2016: Project is required to retain all documentation during the Qualified Project Period, plus three years.

**10. Revisions to Resolutions and/or Regulatory Agreements**

Any changes to the CDLAC Resolution and/or regulatory agreements must be approved by HCIDLA and CDLAC. All requests must be submitted to HCIDLA's Bond Unit in writing and shall include supporting documentation.

*10.1. CDLAC Resolutions*

The Bond Unit will review the request and submit to CDLAC for approval. HCIDLA will notify the project of the final decision.

*10.2. Regulatory Agreements*

The Bond Unit will review the request and make a determination based on the supporting documentation and policy requirements.

**11. Non-compliance, Correction, Reporting Procedures and Penalties**

*11.1. Third Party Contractor*

UFBA and the project will handle and resolve all non-compliance issues. Any unresolved non-compliance issues will be referred to HCIDLA's OM Unit.

*11.2. HCIDLA*

HCIDLA OM unit will work with the project to cure any non-compliance issues. If the issues remain unresolved, it will be referred to the City Attorney and will notify CDLAC of the project's failure to comply.

*11.3. New Business Policy*

HCIDLA's New Business Policy prohibits owners of non-compliant projects from conducting any new transactions.

*11.4. Penalties*

HCIDLA does not impose monetary penalties. See Section 11.3 above.