



## *California's Housing Agencies*

The State Must Overhaul Its Approach to Affordable Housing Development to Help Relieve Millions of Californians' Burdensome Housing Costs

*November 2020*

**REPORT 2020-108**





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November 17, 2020  
**2020-108**

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of the State's efforts to support affordable housing projects throughout California. Our assessment focused on financing provided for affordable housing projects from four key state agencies—the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee (Debt Limit Committee). The following report details our conclusion that the State must overhaul its approach to affordable housing development to help relieve millions of Californians' burdensome housing costs.

California is failing to build enough affordable homes for lower income residents in part because the State lacks an effective approach to planning and financing development of affordable housing at both the state and local levels. For example, the State does not have a clear plan describing how or where its billions of dollars for housing will have the most impact. In fact, the absence of a comprehensive and coordinated plan allowed the Debt Limit Committee to mismanage and ultimately to lose \$2.7 billion in bond resources with little scrutiny, a loss that the committee failed to publicly disclose and struggled to explain. These bond resources could have helped support the construction of more affordable housing.

The State's lack of a coordinated housing plan is also evident in the four agencies' misaligned and inconsistent requirements for the affordable housing programs they administer. The resulting approval process for the programs' financial resources is cumbersome for developers who need state resources to support their projects. Because these developers must often use multiple sources of funding for their developments to be financially feasible, the misaligned requirements can slow development and increase project costs—another factor that can interfere with the State better meeting its goals for affordable housing.

At the local level, state law and state oversight are not strong enough to ensure that cities and counties are doing their part to facilitate the construction of affordable housing. Therefore, the State needs to improve its statewide housing plan, harmonize its funding programs, and strengthen its oversight of cities and counties.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA  
California State Auditor

## Selected Abbreviations Used in This Report

CalHFA	California Housing Finance Agency
HCD	California Department of Housing and Community Development
HUD	U.S. Department of Housing and Urban Development
IRS	Internal Revenue Service

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## Summary

### Results in Brief

California’s ongoing affordable housing shortage has contributed to the homelessness crisis and has left more than three million renter households with burdensome housing costs. This shortage in part stems from the State’s ineffective approach to planning and financing development of affordable housing at both the state and local levels. Specifically, the State requires a far more effective statewide plan as well as sufficient oversight over the billions of dollars available for construction. In addition, the State’s processes for awarding its financial resources for housing development are unnecessarily cumbersome. At the local level, state law and state oversight are not strong enough to ensure that cities and counties (local jurisdictions) are doing their part to facilitate the construction of affordable housing. Therefore, the State needs to improve its statewide housing plan (state housing plan), harmonize its funding programs, and strengthen its oversight of local jurisdictions.

The State plays a critical role in supporting affordable housing development and the Legislature has declared that private investment alone cannot achieve the needed amount of housing construction at costs that are affordable to people of all income levels—including households earning 80 percent or less of their area’s median income (lower-income households). We refer to housing affordable to lower-income households as *affordable housing*. Four key state agencies contribute to the State’s basic housing efforts and its goal of providing a home for every Californian: the California Department of Housing and Community Development (HCD), the California Housing Finance Agency, the California Tax Credit Allocation Committee (Tax Committee), and the California Debt Limit Allocation Committee (Debt Limit Committee). These four agencies provide financial resources in the form of loans, tax credits, and tax-exempt bonds (financial resources) to housing developers who build and rehabilitate affordable housing (developers) for lower-income households. This is in accordance with state law, which gives the State and local jurisdictions the responsibility to facilitate the improvement and development of housing to meet the needs of all state residents.

However, the State does not currently have a sound, well-coordinated strategy or plan for how to most effectively use its financial resources to support affordable housing. For example, state law requires HCD to develop a state housing plan every four years, but its most recent state housing plan from 2018 lacks key attributes, such as explaining how state financial resources will contribute to meeting current and future housing need and identifying where those resources will have the most impact.

### Audit Highlights . . .

*Our audit of the State’s efforts to support affordable housing projects highlighted the following:*

» *The State’s approach to planning and financing the development of affordable housing at both the state and local levels is ineffective.*

- *Four key state agencies contribute to the State’s basic housing efforts, but there is no sound, well-coordinated strategy or plan to most effectively use their financial resources to support affordable housing.*
- *The lack of a comprehensive plan allowed one agency to mismanage and ultimately lose \$2.7 billion in bond resources.*
- *The four agencies’ requirements are misaligned and inconsistent, which results in an unnecessarily cumbersome process for awarding their financial resources.*
- *Local jurisdictions have created local barriers such as restrictions on the number of units developers can build and lengthy project approval processes.*

» *State law and oversight are not strong enough to ensure that cities and counties are doing their part to facilitate the construction of affordable housing.*

- *We reviewed cases in which local jurisdictions acted inconsistently with state law and/or delayed projects, yet the State lacks authority to ensure affordable housing is built in a timely manner.*

Although state law does not expressly require this information in the plan, without it, the State cannot demonstrate how it will build enough affordable housing and ensure that its financial resources are put to best use. In one important example, the absence of a comprehensive and coordinated plan allowed the Debt Limit Committee to mismanage and ultimately to lose \$2.7 billion in bond resources with little scrutiny, a loss the committee failed to publicly disclose and struggled to explain. These lost bond resources could have helped support the construction of more affordable housing.

The State's lack of a coordinated housing plan is also evident in the four agencies' misaligned and inconsistent requirements for the affordable housing programs they administer. The resulting approval process for the programs' financial resources is cumbersome for developers who need state resources to support their projects. Because these developers must often use multiple sources of funding for their developments to be financially feasible, the misaligned requirements can slow development and increase project costs. In addition, the Tax Committee's and Debt Limit Committee's review processes for projects are redundant in several respects because the committees review most of the same projects, contributing to our recommendation to streamline the funding process and consolidate these two committees.

The State's shortage of affordable homes is also attributable to barriers local jurisdictions have created. These local barriers—such as restrictions on the number of units developers can build or lengthy processes for approving developers' projects—make it more challenging to build needed affordable homes. Each local jurisdiction is responsible for planning to accommodate a designated portion of the State's needed affordable housing units; state law requires jurisdictions to adopt what are called *housing elements* (local housing plans) that identify sites suitable to accommodate these units, and also requires them to include actions to mitigate potential barriers to development. However, state law does not currently ensure that local jurisdictions actually mitigate such barriers. For example, although state law requires local jurisdictions to conduct streamlined reviews of affordable housing projects in certain cases, it does not guarantee streamlined reviews for all potential sites that jurisdictions have identified in their housing plans—meaning that jurisdictions can still undermine affordable housing development by using lengthy and uncertain approval processes. We found that, as of June 2019, local jurisdictions had collectively reported issuing building permits for only 11 percent of the affordable housing units in their current housing plans. Underdevelopment of affordable housing statewide and in certain areas is especially problematic because nearly every area in the State needs more affordable housing: for

example, in 523 of 539 local jurisdictions, at least 20 percent of lower-income renter households spend half or more of their incomes on housing—a severe cost burden.

Even if the Legislature strengthens state law to ensure that local jurisdictions mitigate key barriers to building affordable housing, HCD's current limited oversight is insufficient and its lack of authority does not permit it to ensure that all jurisdictions follow through with mitigating those barriers. Although HCD is responsible for overseeing local jurisdictions' housing efforts, it lacks adequate enforcement authority—short of initiating time-intensive litigation—to ultimately ensure that jurisdictions comply with state law when they review affordable housing projects. In one case, HCD indicated that a city had acted inconsistently with state law by delaying a project on a site the city had identified for affordable housing and that the developer had subsequently withdrawn its application for the proposed development. Yet HCD simply encouraged the city to work with the developer and indicated that failure to comply with state law could result in litigation. The State needs a timely enforcement mechanism—such as an appeals process developers can use—for situations when local jurisdictions fail to approve eligible affordable housing projects. Without substantial changes to address these issues, the State will continue to face a patchwork of local housing efforts that limit Californians' access to affordable homes.

## **Summary of Recommendations**

### ***Legislature***

The Legislature should amend state law to do the following:

- Require HCD to prepare an annual addendum to the State's housing plan that identifies all of the financial resources the State possesses for the development of affordable housing, the number of affordable units those resources are expected to help build, the amount the State will need to obtain from other sources, where the State's resources will have the most impact, and outcomes to measure the success of its investments.
- Create an interagency workgroup to develop consistent program requirements for awarding financing resources to multifamily housing projects to maximize affordable housing built and remove administrative barriers.

- Strengthen existing standards for mitigating barriers on potential affordable housing sites to ensure that local jurisdictions conduct streamlined reviews and do not unduly restrict the number of units developers can build on each site.
- Create an appeals process for developers to resolve disputes over eligible affordable housing projects in a timely and fair manner.
- Eliminate the Debt Limit Committee and transfer its authority to the Tax Committee to manage tax-exempt bonds, including its responsibilities for reviewing applications and allocating bond resources.

**Agency Comments**

The State Treasurer's Office and HCD generally agreed with our recommendations.

## Introduction

### Background

The Legislature has identified housing as an essential motivating force in helping people achieve self-fulfillment in a free and democratic society. To that end, the Legislature has declared that the State's basic housing goal is to provide a home and suitable living environment for every Californian. However, the Legislature has also declared that in California, private investment alone cannot achieve the needed construction of housing at costs that are affordable to people of all income levels, including to those households earning 80 percent or less of their area's median income (lower-income households). We refer to housing affordable to lower-income households—which comprise more than 40 percent of all California households, according to U.S. Census Bureau data—as *affordable housing*. California's shortage of affordable housing has created a substantial need for new housing and the rehabilitation of existing housing. Research demonstrates that in addition to improving the well-being of residents, affordable housing development also increases spending and employment in the surrounding economy and provides an important source of revenue to cities and counties (local jurisdictions) from sales taxes on building materials and building permit fees.

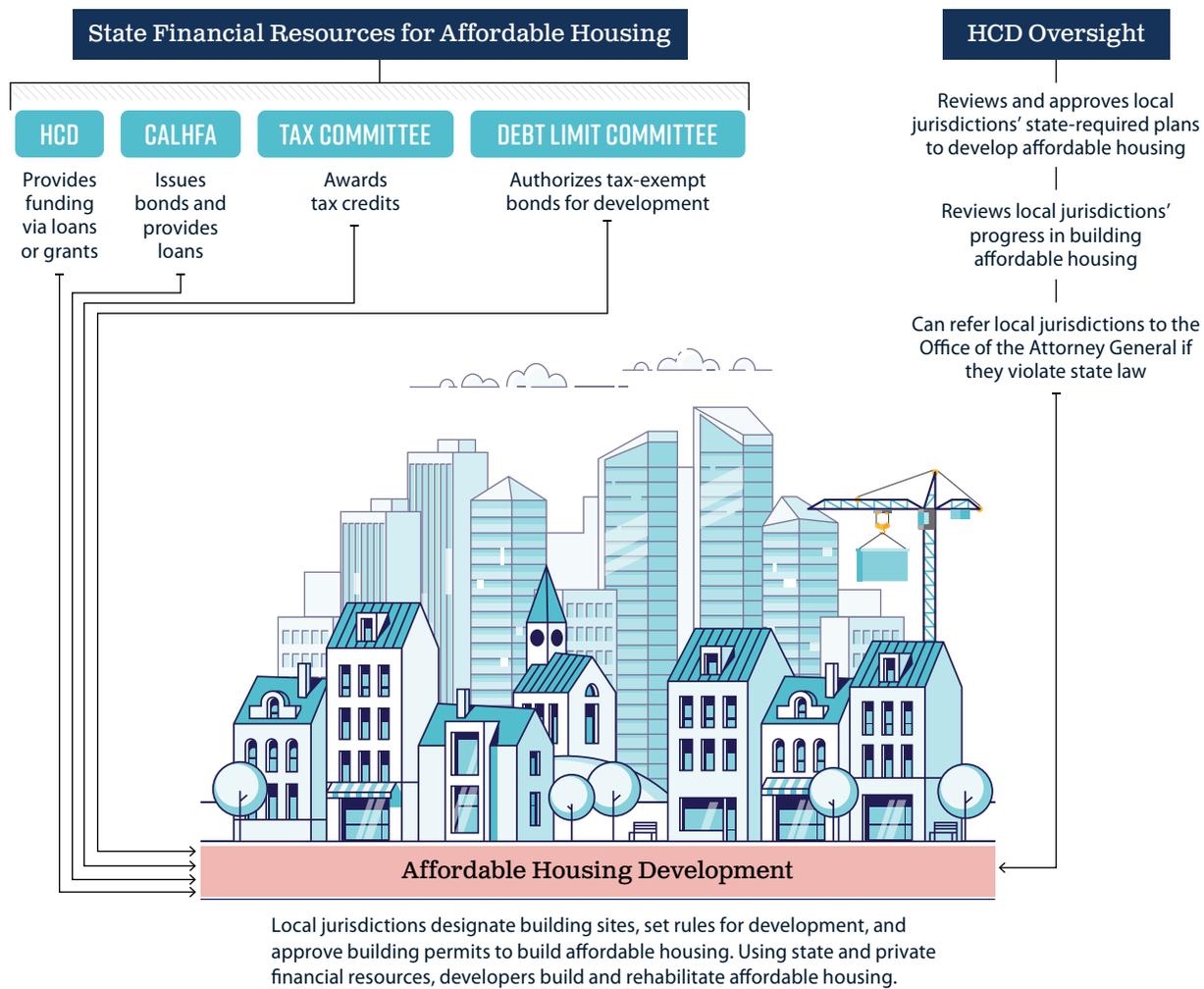
State law has given the State and local jurisdictions the responsibility for facilitating the improvement and development of housing to meet the needs of all economic segments of the community. Four key state agencies contribute to the State's mission to provide suitable housing for all Californians: the California Department of Housing and Community Development (HCD), the California Housing Finance Agency (CalHFA), the California Tax Credit Allocation Committee (Tax Committee), and the California Debt Limit Allocation Committee (Debt Limit Committee). As we show in Figure 1, these four agencies offer financial support for the development of affordable housing. Further, HCD is responsible for overseeing local jurisdictions that plan and approve the construction of affordable housing, in part, by reviewing and approving their state-required plans to build such housing.

### The State's Shortage of Affordable Housing Affects Millions of Californians

California's lack of affordable housing has contributed to the homelessness crisis and has left more than three million renter households with burdensome housing costs. HCD determined in 2018 that California needs to add about 180,000 units of housing

annually through 2025 to keep up with housing demand, which amounts to more than 70,000 units of affordable housing needed annually.<sup>1</sup> This lack of supply affects the affordability of housing, according to HCD, which reports that the State has fallen short of the needed units by tens of thousands compared to the annual projected need. At the same time, each year that the State does not meet its projected need for affordable housing, the number of needed housing units grows, making it even more difficult to keep pace with housing demand.

**Figure 1**  
The State Provides Financial Assistance and Is Responsible for Ensuring That Local Jurisdictions Support Sufficient Affordable Housing



Source: Various state laws.

<sup>1</sup> A unit of housing can include a single-family house or an apartment.

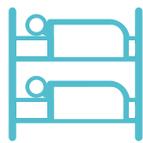
Because of this shortage of affordable homes, residents of California are experiencing widespread consequences, as we show in Figure 2. For example, California represents 12 percent of the nation’s population, but 27 percent of the nation’s population who are experiencing homelessness—more than 151,000 people—live in California. Since at least 2018, the State has made additional investments to boost construction of housing and to help those experiencing homelessness. However, the U.S. Department of Housing and Urban Development (HUD) reported in January 2020 that California’s population experiencing homelessness increased by more than 21,000 people from 2018 to 2019, or about 16 percent. Moreover, the Governor emphasized the urgency of the State’s homelessness crisis in his February 2020 State of the State address.

**Figure 2**  
California’s Shortage of Affordable Homes Has Widespread Consequences



**1.6 million** renter households are severely cost-burdened, meaning they spend more than half of their income on housing costs.

Of these, **more than 98 percent are lower-income households.\***



California ranks **worst in the nation** in renter overcrowding with **13 percent** of renter households having more than one person per room, including all people and rooms (living rooms and bedrooms) in each household.



California is home to **27 percent of the nation’s homeless population**, despite containing only 12 percent of the nation’s overall population.

Source: 2012 to 2016 and 2018 U.S. Census Bureau data from the American Community Survey, U.S. Census Bureau 2019 population estimates, and HUD’s 2019 *Annual Homeless Assessment Report to Congress*.

\* Households earning incomes that are 80 percent or less of their area’s median income.

Further, high housing costs and the lack of access to affordable housing affect health, education, and quality of life for lower-income households. HUD data from 2012 through 2016 indicates that 1.6 million renter households in the State are severely cost-burdened; that is, they spend more than half of their monthly income on housing costs. Of these, more than 98 percent are lower-income households. Figure 3 illustrates the burdensome housing costs for a lower-income household. According to HCD, when Californians are forced to pay a higher percentage of income toward housing costs, it can have a broad impact on the overall quality of their lives and the lives of their families, such as health consequences and a negative impact on children's academic performance. For lower-income households, California's housing agencies have reported that high housing costs can lead to frequent moves or force families to live in unhealthy substandard housing. According to the Turner Center for Housing Innovation at the University of California, Berkeley, as of June 2020, nearly one million renter households in California experienced a job loss as a result of the economic impact of COVID-19, placing households at risk of housing insecurity and eviction. Further, according to HCD, housing costs and supply issues particularly affect certain vulnerable populations, such as persons experiencing homelessness, people with disabilities, seniors, and farmworker households.

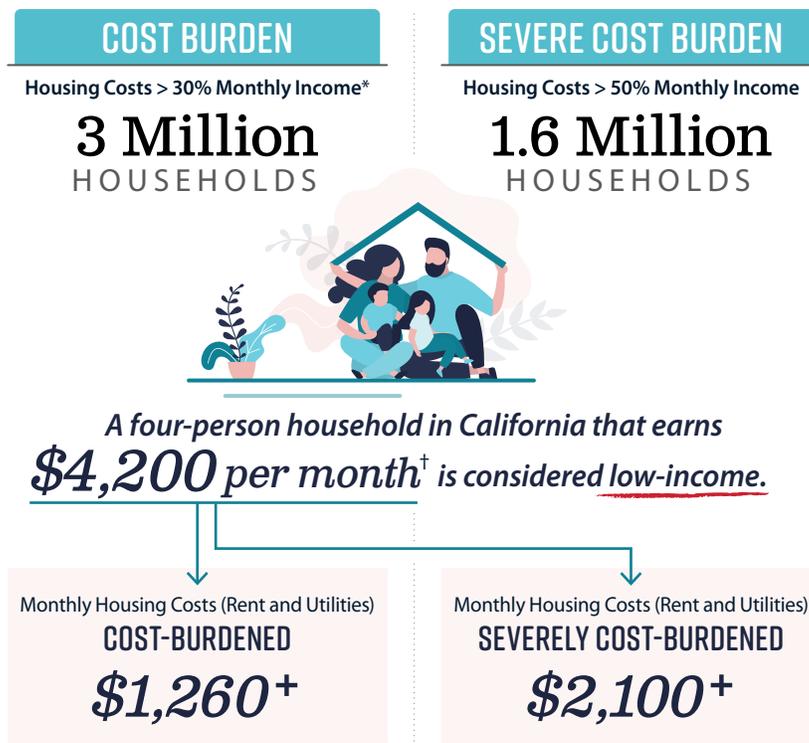
Lastly, more affordable housing benefits everyone. Research suggests that the potential social and economic benefits of affordable housing, beyond simple cost savings to residents, include increased economic activity in the community and reductions in homelessness, in greenhouse gas emissions, and in costs for medical care and social services.

### **State Agencies Play a Significant Role in Supporting Affordable Housing Development**

Developing affordable housing in California is complex and costly, and it typically requires those who build and rehabilitate it (developers) to secure funding from more than one source in order to finance a single project. According to a September 2018 report by the U.S. Government Accountability Office, the median cost of building a unit of affordable housing for certain projects completed between 2011 and 2015 in California was \$326,000, whereas the median cost was \$264,000 in New York and \$126,000 in Texas. Project developers secure funding for their projects by applying to several—often more than four—different organizations, including private, local, state, and federal entities. In fact, for a selection of affordable housing projects we reviewed, developers used a variety of these organizations for financing. Even after securing local and private funding assistance for a housing project, project applicants

often fall short of their financing needs. For example, a developer may have plans to build an affordable housing project with 112 units, for a total cost of nearly \$44 million. Private investors may provide \$6 million in loans and local governments may provide an additional \$13 million in funds; however, the developer must still cover the remaining \$25 million in expenses, in this case, turning to the State for additional financing to close the gap. Affordable housing often requires significant financial support from the State in order for these projects to be financially feasible for developers, who must agree to maintain these developments at affordable rents for lower-income households for years after they are built.

**Figure 3**  
Millions of Renter Households in California Have Significant Housing Costs



Source: 2012 to 2016 U.S. Census Bureau data from the American Community Survey and HUD 2020 state income limits.

\* Includes the 1.6 million households that are severely cost-burdened.

† This monthly income is based on HUD's median family income for a low-income family of four (earning between 80 percent and 50 percent of California's median family income).

The State's four key housing agencies—HCD, CalHFA, the Tax Committee, and the Debt Limit Committee—provide financing to developers and other housing organizations, such as the California Municipal Finance Authority, for the construction of affordable

housing through tax credits, tax-exempt bonds, and loans, which we refer to collectively here as *financial resources*. These state agencies award significant support for affordable housing through the development of multifamily housing, such as rental apartment buildings. Multifamily housing can be a cost-effective way to create a higher number of affordable housing units in a smaller space. The State also invests in single-family programs, which typically assist first-time homebuyers when they purchase a home, but they are not exclusive to lower-income households. Because the four agencies award significant financial resources to support multifamily rental housing for lower-income households, we have focused our analyses on the programs that emphasize this type of housing development.

Residing within the State Treasurer's Office, the Tax Committee and the Debt Limit Committee provide the majority of state financial resources for affordable multifamily housing projects by awarding tax credits and tax-exempt bond allocations. State law designates the Tax Committee to award federal tax credits and the Debt Limit Committee to allocate the State's tax-exempt bond resources. Significantly, because the majority of tax credits are paired with bond allocations, the two committees make awards to most of the same projects. For example, if an applicant receives approval to fund at least half of its multifamily housing project with tax-exempt bonds, the applicant often also applies for and receives federal tax credits. The Tax Committee administers the State's low-income housing tax credit program, which encourages the construction and rehabilitation of affordable multifamily rental housing. In 2019 the Tax Committee awarded \$353 million in federal tax credits, which equates to \$3.53 billion because project owners can take the annual credit each year for 10 years. The Tax Committee awards these federal housing tax credits to developers of qualified rental projects through an application process. Developers typically sell their tax credits to outside investors in exchange for investment in a project, as selling tax credits reduces the debt developers would otherwise incur. The Tax Committee also awards state tax credits to supplement financial resources for projects that have generally already qualified for federal tax credits yet still fall short of their total financing needs. In 2019 the Tax Committee awarded \$100 million in state tax credits; however, state law authorized an additional \$500 million in state tax credits in 2020 to support affordable housing. Unlike the federal tax credits, state tax credits are one-time awards taken over four years and are not claimed each year for 10 years.

The Debt Limit Committee allocates the State's tax-exempt bond resources that help developers of multifamily rental units to acquire land and construct new units or purchase and rehabilitate existing units; these resources also support other purposes such as recycling facilities, landfills, and wastewater treatment facilities. The Debt

Limit Committee grants successful applicants for the bond resources, usually state and local governmental housing agencies (known as *bond issuers*), the authority to issue tax-exempt bonds for the purpose of financing affordable housing projects, up to a certain monetary limit. These bonds generally are used to fund loans to developers to build the projects. In 2019 the Debt Limit Committee awarded \$4.6 billion in bond resources for affordable multifamily housing development projects, which was nearly 90 percent of the total tax-exempt bonds it awarded.<sup>2</sup> Investors purchase these bonds and do not pay federal income tax on the interest they earn from their investment.

HCD and CalHFA also provide financial support for multifamily development. HCD administers a variety of affordable housing programs including the Multifamily Housing Program, which assists housing developers by providing deferred payment loans for the construction of rental housing for lower-income households. A deferred payment loan enables the developers to obtain the money they need for development, with most repayment postponed until the completion of the loan's term. In fiscal year 2018–19, HCD reported awarding \$1.2 billion in grants and loans to increase the supply of affordable housing throughout the State. CalHFA serves as the State's affordable housing lender, offering financing to developers for affordable multifamily rental housing projects by providing long-term loans and facilitating their access to tax-exempt and taxable bonds. CalHFA issues these bonds and uses the proceeds to make loans to developers to fund their projects. In fiscal year 2018–19, CalHFA reported issuing \$619 million in multifamily financing. Unlike the other three housing agencies, CalHFA is self-supporting and receives the majority of its revenues from its investments and loan interest payments from borrowers.

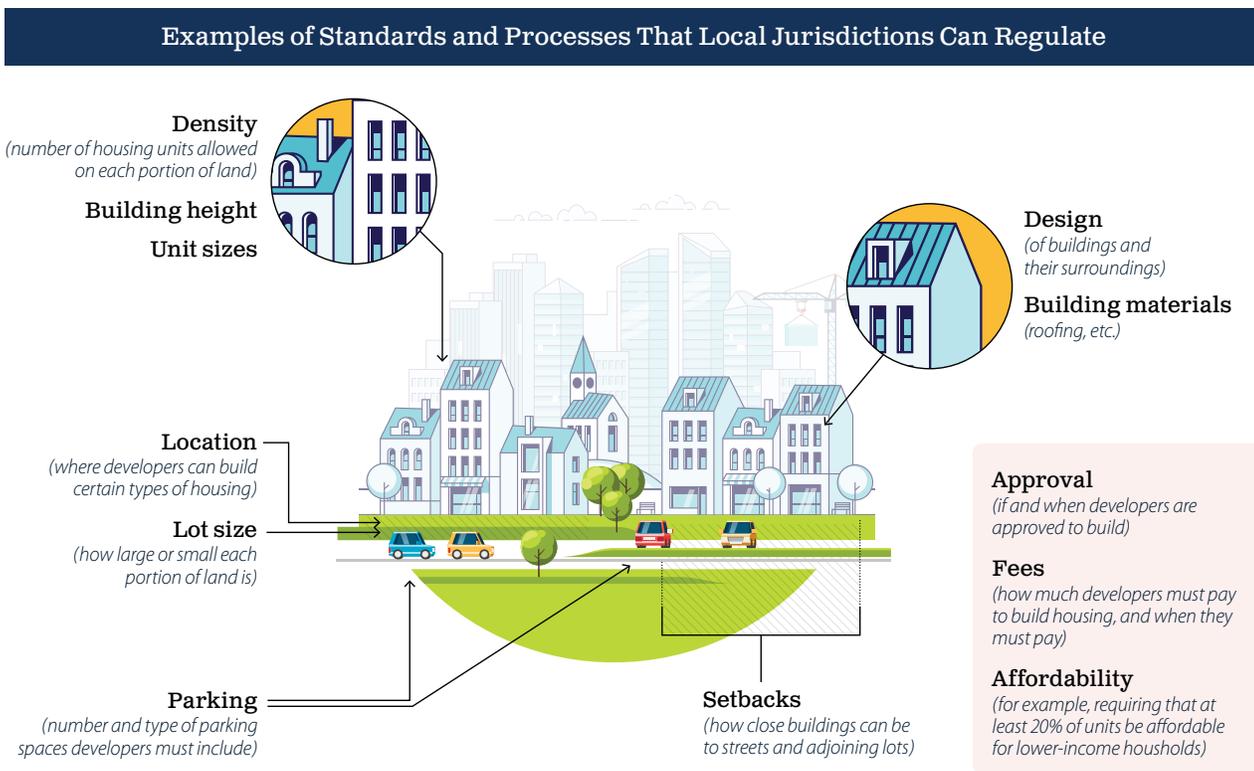
### **Affordable Housing Development Depends Largely on Local Jurisdictions**

The State's ability to meet its affordable housing goals depends largely on the cooperation of local jurisdictions because they control key aspects of housing development, such as where developers can build. Most of California's 539 local jurisdictions are cities, and 84 percent of the State's population lives in cities. Cities generally oversee housing development within their jurisdictions while counties have control over the land that is outside of the cities, termed *unincorporated areas*. We highlight in Figure 4 the aspects of housing development that local jurisdictions typically control. However, developers actually build the housing,

<sup>2</sup> Table A in Appendix A presents the Debt Limit Committee's total bond resources awarded for multifamily affordable housing, single-family housing, and nonhousing projects from 2015 through 2019.

and some aspects of development—such as the condition of the housing market—are beyond local jurisdictions’ control. The State recognizes this limitation but still intends local jurisdictions to undertake all necessary actions, including actions to address nongovernmental constraints such as land and construction costs, to facilitate the development of needed affordable housing. In other words, state law does not explicitly require local jurisdictions to build homes, but it does effectively require that jurisdictions make every effort to accommodate needed housing—and given the amount of control jurisdictions exercise over the development process, these efforts are essential for building affordable housing.

**Figure 4**  
Local Jurisdictions Control Many Key Aspects of Housing Development

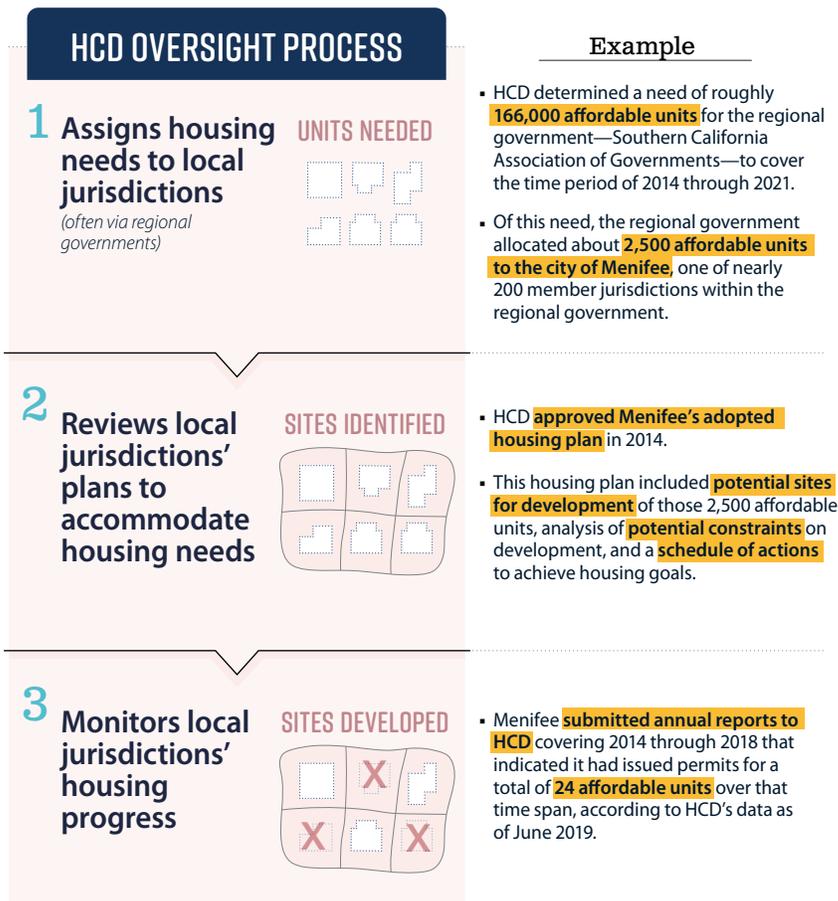


Source: Analysis of state law, local jurisdictions’ municipal codes, and documents from HCD’s website.

HCD oversees local jurisdictions’ efforts to plan for needed housing in three general stages, which we depict in Figure 5. The first step is to establish each local jurisdiction’s housing needs, which define the number of housing units they must plan to accommodate. Based on population projections and other indicators such as the percentage of households that are cost-burdened, HCD determines the total

number of housing units needed for each of the State’s regional governments or, in areas where no regional government exists, for each local jurisdiction itself.<sup>3</sup> The needed units are categorized by affordability: from “very low income” and “low income” units (affordable housing) to “moderate income” and “above moderate income” units. In areas where regional governments exist, they subsequently allocate specific numbers of their needed housing units to the local jurisdictions within their regions.

**Figure 5**  
The State Oversees Local Efforts to Accommodate Affordable Housing in Three Key Stages



Source: Analysis of state law, documents from HCD's website, and the city of Menifee's housing plan.

<sup>3</sup> Regional governments are associations that represent member jurisdictions; they cover areas ranging from single counties like San Diego to broader regions like the Bay Area, and they can carry out tasks such as developing regional transportation plans. Areas without regional governments tend to be lower-population areas.

The allocated units that regional governments or HCD assign to local jurisdictions must satisfy key objectives in state law. For example, the allocations must increase the housing supply in all local jurisdictions in an equitable manner, which should result in each jurisdiction receiving an allocation of units for lower-income households. These allocations must also direct fewer lower-income housing units to a jurisdiction if that jurisdiction already has a disproportionately large share of existing lower-income households—meaning that jurisdictions with a larger share of *higher*-income households should generally plan to provide more affordable housing than jurisdictions with a larger share of lower-income households. Another key objective is that the allocations further “fair housing,” which in part means addressing disparities in access to opportunity—opportunity for things like educational attainment and economic mobility that can support positive life outcomes for low-income families. Overall, the needs allocation process in state law establishes that each local jurisdiction must plan to accommodate its “fair share” of affordable housing.

Housing researchers and others have raised concerns that the needs allocation process had potential flaws because the process has not always resulted in each local jurisdiction planning for a fair share of affordable housing. For instance, in the last needs allocation cycle that covered 2014 through 2021, Newport Beach was allocated to accommodate just two units of affordable housing while Lake Forest, a city in the same county and with a similar population size, was allocated almost 1,100 units of affordable housing. HCD recently gained more authority to review regional governments’ allocations of housing need to local jurisdictions to determine whether the allocations further the objectives in state law. HCD’s new authority could help the State better ensure that each local jurisdiction plans for a fair share of affordable housing, but the allocation cycle the State is entering is in the early stages. As a result of the potential flaws in the previous cycle, we use *indicators of need*, such as severe cost burden for lower-income renters, in this report to characterize jurisdiction-level need instead of relying on the unit-specific totals that regional governments allocated.

Once local jurisdictions have received notification of their allocation of needed housing units, they must make a plan to facilitate the production of those units. The Legislature intends that local jurisdictions accommodate their share of needed units and ensure that housing development provides, at a minimum, the number of units allocated to each jurisdiction. To do this, every five or eight years local jurisdictions must adopt *housing elements* (local housing plans), which are essentially roadmaps for housing development. Local jurisdictions must include in these housing

plans key information that we describe in the text box, including specific sites that are suitable to accommodate all of a jurisdiction's needed units. State law requires HCD to review each local housing plan to determine whether it complies with statutory requirements.

Finally, local jurisdictions must submit annual progress reports that describe their progress in meeting housing needs. HCD receives these reports and publishes certain data from them, including the number of affordable units for which each local jurisdiction has issued building permits. These annual progress reports also include updates about whether local jurisdictions have implemented other aspects of their housing plans, such as efforts to mitigate barriers to development and to update local housing ordinances. State law recently expanded HCD's oversight and enforcement authority: in January 2018, HCD received authority to monitor local jurisdictions for compliance with their housing plans and with certain housing laws, and to notify the Office of the Attorney General (Attorney General) about noncompliant jurisdictions.

### Local Jurisdictions' Housing Plans Must Describe in Detail Their Efforts to Facilitate Housing Development

Local housing plans must contain the following:

- An inventory of land suitable for residential development to meet housing needs for each designated income level, including lower-income (affordable) housing needs.
- An analysis of potential and actual constraints upon housing development, including land use controls, fees, local processing and permit procedures, and any locally adopted ordinances that directly affect the cost and supply of residential development.
- A schedule of actions that address and, where appropriate and legally possible, remove constraints to the development of housing for all income levels, including lower-income (affordable) housing development.

Source: State law.

### The State Recently Enacted Statutes to Better Promote the Development of Affordable Housing

The State enacted several statutes in and after 2017 that focus on increasing affordable housing development. For example, new statutes have sought to streamline the process for local jurisdictions to approve certain projects, to increase the number of housing units developers can request to build for certain projects, and to expand requirements for local jurisdictions to identify in their housing plans sites with a realistic potential for development.

While these statutes could have a significant impact on affordable housing development in California, the State has not yet realized many of their potential benefits because they have not been effective for long enough. More importantly, we identified remaining gaps in state law, which we discuss further in the report, that if amended, could provide for more affordable housing development and help address the State's housing crisis.

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# Chapter 1

## THE STATE LACKS AN EFFECTIVE APPROACH TO BUILDING ENOUGH AFFORDABLE HOMES

### Chapter Summary

California is failing to build enough affordable housing in part because the State lacks an effective plan for how it will meet the statewide need for affordable housing. For example, the State does not have a clear plan describing how or where its billions of dollars for housing will have the most impact. In fact, the absence of a comprehensive and coordinated plan allowed the mismanagement and ultimate waste of \$2.7 billion in bond resources to occur with little scrutiny. These bond resources could have helped support the construction of more affordable housing. Presently, the State does not possess the data it needs to determine how much affordable housing it has supported with its financial resources. The State's lack of a coordinated housing plan is also evident in the four state housing agencies' misaligned and inconsistent program requirements, which we found can slow development and increase project costs. In addition, the Tax Committee's and Debt Limit Committee's review processes are redundant, contributing to the need to merge these two committees.

### The State Lacks an Effective Plan for Using and Overseeing the Billions of Dollars Available for Affordable Housing

California is falling significantly short of providing enough affordable homes to lower-income residents, in part because the State does not have an effective plan for building that housing. Collectively, the four key state housing agencies reported awarding billions of dollars each year in financial resources to support affordable housing; however, without a comprehensive and coordinated plan between those agencies, the State cannot ensure that it is maximizing its resources and directing those resources to areas where they will have the most impact. Based on population projections and estimates of persons per household, HCD determined in 2018 that the State needs to add about 180,000 homes each year through 2025, which amounts to more than 70,000 new units of affordable housing annually. However, from 2015 through 2019, the State supported the development of an average of only 19,000 affordable housing units each year.<sup>4</sup> Based on

<sup>4</sup> Because of the State's data limitations, we rely on the Tax Committee's tax credit award data to represent the amount of state-supported housing units funded from 2015 through 2019. According to the four housing agencies, the Tax Committee's data are the most complete and accessible set of data to use for this purpose because most affordable housing projects receive tax credits.

***If the State does not immediately take action to remedy the significant shortfall in affordable housing units, the number of housing units needed annually will continue to grow and could exacerbate the State's homelessness crisis.***

changes to state law, HCD has developed an updated methodology for calculating need that now includes factors such as the number of cost-burdened and overcrowded households. Using this methodology and more recent federal data, we estimate that the need for affordable housing is now 125,000 units annually through 2029. If the State does not immediately take action to remedy the significant shortfall in affordable housing units, the number of housing units needed annually will continue to grow and could exacerbate the State's homelessness crisis and increase the number of Californians who pay burdensome housing costs.

The State's current statewide housing plan (state housing plan) does not clearly demonstrate how the State will build enough affordable housing. HCD develops and is responsible for implementing that housing plan, and state law requires HCD to update it every four years. HCD's current state housing plan generally meets the existing requirements in state law. For example, it includes an evaluation of the housing conditions throughout the State and strategies and recommendations for addressing the State's housing challenges, such as providing options for how the State could further invest in affordable housing development. However, the current state housing plan—which HCD last updated in 2018—lacks key attributes, such as identifying where state resources will make the most impact and defining outcomes for measuring success, as Figure 6 shows. Although state law does not expressly require this information, it is essential for the State to effectively plan how it will meet the statewide need for affordable housing.

In addition, the State's current housing plan does not identify all financial resources available for each housing agency and the amount of additional resources necessary to support the construction of the remaining affordable housing units needed. For example, the current housing plan does not quantify how much affordable housing the State can support with existing state resources and how much the State will need to obtain from other sources, such as federal, local, and private sources. Further, while the State's housing plan describes the policy issues relevant to the housing needs of vulnerable populations, such as people experiencing homelessness, seniors, individuals with disabilities, and farmworkers, it does not specifically identify the units needed for these populations and how the State will fill this need. As HCD illustrates in the state housing plan, these vulnerable populations are affected even more significantly by high housing costs and limited housing availability, and they sometimes encounter barriers to accessing housing, such as poor credit history or the need for supportive services. Further, the current state housing plan does not mention the award activities or capacity of the Debt Limit Committee, which awards billions of dollars of bond resources annually, primarily for affordable housing.

**Figure 6**  
The State’s Housing Plan to Build Affordable Housing Does Not Include Some Necessary Information



Source: Analysis of HCD’s Statewide Housing Assessment.

If the State is to improve its housing plan, it needs to redefine the plan’s purpose. The deputy director of housing policy development indicated that HCD’s state housing plan is primarily a communication and education tool, not an instrument for guiding and measuring how state housing agencies award financial resources for affordable housing. Therefore, the State needs to expand the purpose of its housing plan and require HCD to provide a roadmap for how the State is going to build enough affordable housing to address the severe shortage. The gaps in the current plan may well have allowed the State to mismanage its financial resources and not effectively monitor where its resources have been used.

***The Debt Limit Committee did not disclose the \$2.7 billion loss in its public meeting minutes and corresponding documents, and during our audit, committee staff struggled to identify and explain the extent and cause of the loss.***

### ***The State Mismanaged \$2.7 Billion in State Housing Resources That Could Have Contributed to More Affordable Housing***

The State's lack of an effective plan has allowed at least one instance of mismanagement of available resources to occur with little scrutiny. We found that the Debt Limit Committee let roughly \$2.7 billion in bond resources expire from 2015 through 2017. These bond resources could have helped finance thousands of units of affordable housing and potentially made an additional \$1 billion in total tax credits available for that purpose, since those tax credits are contingent on a bond allocation. Despite the magnitude of this mismanagement, the Debt Limit Committee did not disclose the \$2.7 billion loss in its public meeting minutes and corresponding documents, and during our audit, committee staff struggled to identify and explain the extent and cause of the loss. The loss itself, the lack of transparency, and the staff's inability to account for the loss of resources we observed at the Debt Limit Committee indicate that a holistic strategy to maximize and measure the impact of affordable housing resources is sorely needed in the State's housing plan.

Over several years, the Debt Limit Committee made questionable allocation decisions that led to the waste of the \$2.7 billion. Federal law makes a certain amount of tax-exempt bonds available to each state annually to use for affordable housing and some other purposes for a limited time. The Debt Limit Committee's mission is to ensure that these bonds are fully and efficiently used to finance projects and programs that provide maximum public benefit and contribute to the economic vitality of the State. According to the Debt Limit Committee's estimated public benefits summaries from 2012 to 2014, it allocated bonds in a lump sum to the California Pollution Control Financing Authority (Pollution Control) in December of those years in an attempt to preserve bonds that would be unused at the end of the calendar year (totaling \$3.5 billion) and that, per federal law, would have expired if not transferred to a bond issuer for future use. We refer to these unused bonds as *remaining resources*. Bond issuers then have up to three years to put remaining resources to use before they expire. The expired \$2.7 billion was part of the \$3.5 billion the Debt Limit Committee allocated as lump sums to Pollution Control from 2012 through 2014 (expiring in 2015 through 2017, respectively). Because Pollution Control used only \$800 million of the \$3.5 billion within three years, the remaining resources expired and were no longer available for any purpose.

The Debt Limit Committee made decisions that contradicted its legislative priorities as documented in committee staff reports, the ongoing demand for bonds, and the past use of bonds. Attention to these factors would have helped ensure that the Debt Limit Committee was allocating the finite resources where they were most needed and most likely to be used. However, the Debt Limit

Committee had information at the time that the usage of some of the bonds the committee allocated for nonhousing purposes was low for the types of projects that Pollution Control finances due to industry changes. In fact, staff reports from the 2012, 2013, and 2014 committee meetings indicated that staff recommended against providing Pollution Control with additional financial resources in those years because it already had billions in unused resources allocated to it from prior years. At the same time, the Debt Limit Committee noted in its staff reports from January 2011 through January 2014 that promoting affordable housing was a legislative priority and noted in its 2011 through 2013 public benefits summaries that demand for bonds for affordable multifamily housing was robust during the years of its questionable allocations to Pollution Control. The Debt Limit Committee also provided some of its remaining resources to housing at the end of each year from 2012 through 2014, and unlike Pollution Control, the housing issuers used the majority of the resources allocated to them during this period. If the committee had allocated bond resources based on demand and past use of bonds and assigned more of the remaining bonds for affordable housing purposes, it might have avoided substantial waste. In 2015 and 2016, the Debt Limit Committee allocated all remaining bond resources to housing and nearly all of those resources were used.

Although the Debt Limit Committee developed a new policy intended to prevent the waste of available bond resources in the future, it does not include adequate reporting provisions. During our audit, the Debt Limit Committee staff could not explain why management made the decisions that led to the \$2.7 billion loss of bond resources. The committee did not document the reasoning behind the decisions, and the management who made them have left the committee. The current executive director said that she became aware that the Debt Limit Committee lacked an adequate process for tracking remaining resources when she started her position in February 2020, and has developed a policy to prevent this type of waste from happening again. However, while the Debt Limit Committee's current policy includes a process for tracking remaining resources and reporting it on its website each month, it lacks reporting provisions to disclose them in its public meetings, where it makes decisions to allocate these resources. Further, the Debt Limit Committee should develop a methodology for basing its decisions on demand for bond resources, use of previously allocated bonds, documented legislative priorities, and risk of allocated bonds being lost.

Even with these changes, the State's housing plan still needs to identify all financial resources available for supporting affordable housing, including bonds allocated by the Debt Limit Committee. As long as the State's housing plan lacks information about the

***If the committee had allocated bond resources based on demand and past use of bonds and assigned more of the remaining bonds for affordable housing purposes, it might have avoided substantial waste.***

extent of available affordable housing resources, a strategy for their optimal use, and an assessment of their impact, the State will lack assurance that all of its housing agencies are effectively using their financial resources to increase the supply of affordable housing. Further, including this information in the plan can help inform local jurisdictions and developers about the available financial resources.

### ***The State Needs to Determine Where Its Resources Will Make the Biggest Impact***

The State's current housing plan does not identify where the State's financial resources can have the most impact, and we found disparities in awards among certain counties. By not identifying in its housing plan where state resources will have the most impact and thereby lead to more affordable housing, the State may have allowed certain counties with the highest indications of need for affordable housing to receive disproportionately lower amounts of available state resources. The State has established that affordable housing is needed in all its geographic areas. Using federal data on severe cost burden, rental overcrowding, and rental housing availability (indicators of need), we identified counties with the highest need for affordable housing. For example, residents in San Bernardino County had among the highest indicators of need for affordable housing; nearly 47 percent of its lower-income renter households are spending more than half of their income on housing—a severe cost burden. We then explored the distribution of awards from the Tax Committee from 2015 through 2019 because tax credit projects make up the majority of affordable housing supported by the State. To provide a uniform measure of the distribution of tax credit awards, we used tax credit-supported units compared to total population.<sup>5</sup> Our analysis found that tax credit awards in San Bernardino County were disproportionately low during this period: the county's share of the total tax credit-supported affordable units statewide was only half as great as its share of the state population. We found examples of similar situations in several other counties—Butte, Kern, Marin, Riverside, Santa Cruz, and Stanislaus; these counties also had high indications of need yet fewer tax credit-supported units compared to their share of the State's population.

Seven other counties—Amador, Calaveras, Inyo, Modoc, Mono, Tehama, and Trinity—had no tax credit awards or applications at all from 2015 through 2019. Although these are smaller, more rural

***Nearly 47 percent of San Bernardino County's lower-income renter households are spending more than half of their income on housing—a severe cost burden.***

<sup>5</sup> Table B in Appendix B presents the Tax Committee's tax credit awards—including federal and state tax credits—and units supported by those awards by county from 2015 through 2019.

counties, their indicators of need were significant, with between 18 percent and 43 percent of their lower-income renter households paying more than half of their income on housing. State law requires that a certain portion of tax credits must be reserved for rural areas, but the Tax Committee has not attempted to recruit developers to apply in counties with few to no tax credit awards. While the Tax Committee has conducted application workshops and participated in housing conferences throughout the State, these workshops were typically held in larger cities, such as Los Angeles, Sacramento, and San Diego.

The distribution of tax credits in some counties is disproportionate to their share of the State's population partly because the Tax Committee does not actively solicit applications from those areas that are not applying. Although the Tax Committee maintains data on the number of applications it receives, the tax credits it awards, and the affordable housing units it supports, it has not used this information to identify disparities by geographic region, which is essential for ensuring that affordable housing is being built in all areas of the State. The Tax Committee considers geographic distribution when awarding some of its tax credit projects, but it has not done so for the majority of tax credit projects. Using these data and other factors, such as indicators of need, would enable the Tax Committee to identify areas of inequitable distribution. The executive director of the Tax Committee stated that not all areas of the State are receptive to affordable housing and this could be a reason for low application and award activity. However, she agreed that tracking applications and awards by geographic areas would be helpful to the committee, and it could use that information to encourage more applications and provide more awards to underrepresented areas.

Although the Tax Committee is open to tracking its geographic impact, the state housing plan should also identify all available resources and their distribution statewide. If HCD identified in the state housing plan where state resources would make the most impact, the Tax Committee and the other state housing agencies would possess valuable information about underrepresented areas statewide, and they could set goals for focusing on those areas.

***The State Currently Lacks the Data Necessary to Develop a Comprehensive and Coordinated Plan***

The State does not have the data to determine how much affordable housing it has supported with its financial resources. For example, the State lacks a unified data system across state housing agencies that tracks applications, type and amount of funding awarded, number of units created, and project location for all housing

***The distribution of tax credits in some counties is disproportionate to their share of the State's population.***

awards. HCD indicated it could be beneficial to include this information in the state housing plan, but that it would be difficult to accomplish without these data. However, HCD needs to collect this information to identify how state resources are contributing to meeting the State's housing need and to measure how well the State has maximized the impact of its financial resources.

The deputy director of housing policy development explained that existing data do not show the total amount of funding the four state housing agencies have contributed to a particular affordable housing project. The agencies often award financing for the same projects, but they do not use a common method for identifying the projects they fund, such as a common identifier. As a result, if HCD reports funding 100 affordable housing units and the Tax Committee reports funding 100 affordable housing units, it is unclear how many homes the State has actually added to its supply—100, 200, or some number in between. We found the same problem when we analyzed data obtained from these agencies. One consequence of these data limitations is that HCD cannot fully assess progress toward meeting goals established in the state housing plan and the amount and types of housing the State should support using a particular level of funding.

***HCD has an opportunity to improve the State's limited housing data.***

HCD has an opportunity to improve the State's limited housing data. Effective January 2020, state law now requires the state housing plan to include a housing data strategy that identifies the data useful for enforcing existing housing laws and informing state housing policymaking and an evaluation of data priorities. By passing this law, the State recognized a need for more consistent housing data statewide, data that also provide a better understanding of the involvement of all state agencies in the development of affordable housing. The State's new data strategy could include a common method for identifying every state-funded affordable housing project and thus understanding their different funding sources. The law requires HCD to include representatives from the California Department of Technology, metropolitan planning organizations, local governments, and relevant academic institutions and nonprofit organizations with relevant expertise in the workgroup that will develop the data strategy. While the law does not require HCD to include the other state housing agencies in this workgroup, the deputy director of housing policy development at HCD indicated that it intends to include them. However, state law also does not specifically require that data on the State's financial resources for affordable housing be a component of the data strategy. Without data on the real impact of affordable housing resources, the State will continue to struggle to gauge how successfully its housing agencies are meeting Californians' needs and continue to leave millions with burdensome housing costs.

### **The State's Cumbersome Processes Can Unnecessarily Slow Down Affordable Housing Development**

The State's lack of a coordinated housing plan is also evident in the four housing agencies' misaligned and inconsistent program requirements, which create unnecessary obstacles for developer applicants. These unnecessary inconsistencies can slow down development as well as drive up costs, another factor that can interfere with the State's efforts to better meet its goals for affordable housing. Although all of these agencies have programs with the same goal—to support multifamily housing for lower-income households—many of the State's requirements are misaligned among the housing agencies because each agency generally developed its requirements without coordinating with the others. State law clearly states the need to maximize the amount of state resources available for affordable housing and to minimize the administrative costs and simplify the financing systems for developing such housing, yet the agencies have not attended to this guidance. We also found that the redundancy of the Tax Committee and Debt Limit Committee reviewing and approving applicants' financial resources separately for the same project is unnecessary.

Building affordable housing is complex and costly, and developers often must secure funding from multiple financing sources to cover the costs of a single project, including a combination of public and private financial resources. As we noted in the Introduction, at the state level, currently four separate agencies provide project applicants with financing to help develop affordable housing. Further, applicants can obtain resources from multiple agencies for a single project. However, project applicants must meet each different set of application deadlines and requirements to qualify for those financial resources, and they often apply to at least two of these agencies for financial resources to cover the cost of a single project. We found that when they established their requirements, the agencies did not coordinate with one another. As Table 1 shows, the multifamily housing programs at each of the four agencies have different eligibility requirements for the same types of projects. For example, although every agency requires applicants to provide evidence of prior experience with affordable housing development, the amounts and types of experience required of applicants differ across all four agencies. This lack of standardization is inefficient for developers and generally unwarranted given that these are all multifamily programs with similar goals.

In addition, HCD has not coordinated its deadlines with the other agencies, which can prolong the application process and delay housing development. We found that the Tax Committee and Debt Limit Committee generally had similar deadlines for reviewing

*Building affordable housing is complex and costly, and developers often must secure funding from multiple financing sources to cover the costs of a single project.*

applications and making awards. Further, CalHEFA has aligned many of its deadlines with those of the Debt Limit Committee, which met six times to allocate bond resources for affordable housing in 2019. In contrast, HCD currently only awards funds semiannually for its multifamily housing program. Thus, if an applicant does not submit the application by one of these deadlines or does not receive approval in the current cycle, the project may be delayed by at least six months. Although data limitations at these agencies do not allow us to determine how often these delays happen, such inconsistencies are unnecessary and can delay the development of needed affordable housing. According to HCD’s deputy director of financial assistance, HCD’s deadlines are sensitive to the Tax Committee’s application deadlines for certain tax credits, which have historically occurred twice a year. However, the majority of the Tax Committee’s tax credits are awarded more frequently throughout the year. HCD’s failure to align its deadlines with those of the other housing agencies creates additional administrative barriers for applicants and the resulting delays can drive up costs and slow down affordable housing development.

**Table 1**  
The State’s Housing Agencies Require Developers to Adhere to Varying Eligibility Requirements When Applying for Financing for a Single Multifamily Project

EXAMPLES OF PROGRAM REQUIREMENTS	CALHFA MULTIFAMILY HOUSING PROGRAM LOANS	HCD MULTIFAMILY HOUSING PROGRAM	TAX COMMITTEE TAX CREDITS PAIRED WITH BONDS (MULTIFAMILY HOUSING)	DEBT LIMIT COMMITTEE BOND RESOURCES FOR RENTAL PROJECTS (MULTIFAMILY HOUSING)
<i>Evidence of housing need and demand</i>	X	X	X	X
<i>Evidence of local approval</i>	✓	X	X	✓
<i>Evidence of financial feasibility</i>	X	X	X	X
<i>Evidence of prior project experience</i>	X	X	X	X
<i>Evidence of compliance with construction standards</i>	X	X	X	X

Source: Analysis of state laws and agency documentation.

- X = The requirement is inconsistent with all other state agency requirements.
- ✓ = The requirement is consistent with at least one other state agency standard.

Project applicants can incur additional expenses during the time it takes to secure the multiple sources of funding. For example, developers must acquire rights to the land for housing development before beginning the state application process, and according to

housing studies, delays could carry high land-holding costs such as property taxes and insurance fees. In addition, a study published by the Turner Center for Housing Innovation at the University of California, Berkeley noted that sometimes developers also enter into contractual agreements with major investors who require a guaranteed annual return in exchange for investing in the housing project; therefore, the longer it takes developers to navigate these approval processes, the higher the amount eventually owed to these investors. Lastly, project applicants may also have to bear additional costs related to the process of reapplying to an agency if their initial application is denied, such as the costs of obtaining updated market studies to meet program requirements, staff time for preparing a new application, and application fees. Ultimately, these additional costs may discourage developers from building more affordable housing.

Nevertheless, despite the requirements in state law to do so, HCD has failed to coordinate with other housing agencies and eliminate inconsistencies in the requirements of their multifamily housing programs. State law specifically requires HCD to coordinate its multifamily housing requirements with other major housing funding sources, including the Tax Committee. HCD's deputy director of financial assistance noted that the department set out to align its requirements with the other committees, but over time HCD and the Tax Committee independently refined their program requirements to address policy priorities. However, HCD's failure to align its requirements with those of the other agencies as state law requires creates additional obstacles for developers who build affordable housing, making it more difficult for the State to meet housing needs. Further, the State enacted a law in September 2020 to require HCD to align its multifamily housing program with five of its similar programs, including aligning funding cycles and application rating and ranking, by January 2022. We believe HCD should also align these requirements and funding cycles with those of the other agencies.

Although state law does not require CalHFA to align its requirements with those of the other housing agencies, CalHFA requires applicants to use the same application as the Tax Committee and Debt Limit Committee. According to CalHFA's chief deputy director, some of its requirements are inherently more stringent than the other state housing agencies because its loans must generally be paid back before other debt holders. Further, it must uphold its obligations to bond holders, maintain its credit ratings, and ensure that it can recover loan payments to stay self-funded. However, he indicated that CalHFA participates in monthly coordination meetings with HCD, but is open to working with the other agencies to align their requirements to the extent feasible.

*Ultimately, the additional costs related to reapplying for financial resources if initially denied, may discourage developers from building more affordable housing.*

***Although applicants generally do reapply and may eventually be awarded the financial resources for their projects, these delays can increase their costs and set back construction.***

Moreover, because the Tax Committee and Debt Limit Committee approve financing for the same projects—the majority of tax credits are paired with bond allocations—the differences in their multifamily program requirements are unnecessary. We expected the two committees to coordinate eligibility requirements and reduce unnecessary administrative burden on project applicants. We find this lack of coordination of particular concern because the differences increase the possibility that the two committees will unnecessarily come to different conclusions when approving financial resources for the same project. Although limited data at both committees again prevent us from determining how often this happens, we found a few recent instances that illustrate this problem. Because of differences in the way each committee prioritized the list of project applications they reviewed, in January 2020 the Tax Committee approved at least six projects that a month later the Debt Limit Committee did not approve. Because certain tax credits from the Tax Committee are contingent upon a bond allocation award from the Debt Limit Committee, these projects did not receive any financing from either committee at that time. Although applicants can and generally do reapply and may eventually be awarded the financial resources for their projects, these delays can increase costs to applicants and set back the construction of affordable housing.

We found that the committees' explanation for inconsistent requirements is unreasonable. Debt Limit Committee staff indicated that the differences in requirements were caused by the Debt Limit Committee's inability to update its regulations in a timely manner to stay consistent with the Tax Committee. However, we found that the Debt Limit Committee did not make changes even when it had the authority to do so. The Tax Committee and the Debt Limit Committee each adopt their own program regulations and are each responsible for making amendments to these regulations to align with changes to law and to respond to the changing nature of the affordable housing market. While the Tax Committee is exempt from the standard regulation-setting process that most state agencies must follow, the Debt Limit Committee does not share this exemption but instead has special authority to issue regulations as emergency regulations without complying with emergency procedures and thereby bypass the lengthier standard process. This authority for setting emergency regulations exceeds the standard authority granted to other state departments in that the committee need not justify the use of emergency regulations. Although the Debt Limit Committee used this emergency regulation-setting process, for example to clarify definitions, it generally did not use this process to align its requirements with the Tax Committee in recent years. Debt Limit Committee staff indicated that they were not aware that they could use their authority to issue emergency regulations to update requirements. The current executive director, who was appointed

to her position in February 2020, is now aware of the authority to do so. Even without knowing of and using this authority, the Debt Limit Committee could have used the standard regulation-setting process to align the program requirements, but it generally did not use this process to align its requirements either. As a result, the Debt Limit Committee did not make recent efforts to remove unnecessary inconsistencies with its requirements and the Tax Committee. This is unacceptable and may have resulted in slowed production of affordable housing in California.

Consequently, it is not surprising that developers we interviewed reported challenges with obtaining state funding and expressed a need for a system that consolidates and coordinates multiple housing resources into one centralized process. For example, one developer noted that a significant barrier with multiple sources of funding is that every awarding entity has a different application process with different deadlines and different rules. For each of these processes, there are additional costs associated with meeting the different requirements. Further, many developers acknowledged that it would be much easier if the requirements aligned with one another. The State could thus benefit from having a standard set of requirements, consistent deadlines, and a single application process for its multifamily housing programs, which not only would reduce the likelihood of delays for applicants but also could increase the State's supply of affordable housing.

*A significant barrier with multiple sources of funding is that every awarding entity has a different application process with different deadlines and different rules.*

### ***The Debt Limit Committee and Tax Committee Should Be Consolidated***

The process wherein two agencies review applications for the same housing projects and separately determine eligibility when the financing is integrally linked is, in several respects, redundant and thus may contribute to inefficiencies. The two committees make awards to most of the same projects because the majority of affordable housing tax credits are paired with bond allocations. Additionally, the Tax Committee and the Debt Limit Committee have similar membership, such as the State Treasurer and representatives from HCD, CalHFA, and the State Controller's Office. These committee members often discuss the same projects in consecutive meetings in what amounts to a duplication of effort.

Further, the two committees' redundant application approval processes do not add value, and their review of applications varied in thoroughness. The Tax Committee and the Debt Limit Committee review the same general project information and require similar, if not identical, documentation—such as market studies—from applicants for the majority of project application components. While the Tax Committee's current review processes are generally more thorough, those of the Debt Limit Committee

are not. For example, the Tax Committee generally conducts two levels of review of competitive applications and consistently tracks appeals from applicants. In contrast, the Debt Limit Committee's review of applications was not well documented. In fact, according to a program manager at the Debt Limit Committee, the committee performed two levels of review in the past but has lacked staff to continue this practice. In the end, we found no need for two separate committees to review the same project applications and approve or reject that financing. Therefore, the Legislature should consolidate these committees into one by eliminating the Debt Limit Committee and delegating its authority for allocating bonds to the Tax Committee. The two committees have the same executive director, and she agreed that there should be only one committee.

## **Recommendations**

### ***Legislature***

To ensure that the State can identify the extent to which its financial resources are supporting its mission to provide a home for all Californians, the Legislature should require HCD to prepare an annual addendum to the State's housing plan and report to the Legislature, beginning January 2022. The addendum should include up-to-date information and identify the following:

- All financial resources for each housing agency for the development of affordable housing.
- The number of affordable units those resources are expected to build annually compared to the annual units needed, including units for individuals experiencing homelessness, those with special needs, seniors, and farmworkers.
- The amount of financial resources the State will need to obtain from other sources, such as federal, local, and private sources, to meet the remaining gap in needed units.
- Where the State's financial resources will have the most impact based on geographic distribution, population, and indicators of need.
- Outcomes to measure how well the State is maximizing the impact of its financial resources to meet the annual units needed, including measuring whether it has reduced cost burden and overcrowding, and increased housing availability.

To ensure that the State has sufficient data to determine how much affordable housing it has supported and to maximize the impact of its funds, the Legislature should require HCD to develop the housing data strategy component of its housing plan with input from the Tax Committee and CalHFA. At a minimum, the housing data strategy should include the following:

- A strategy for assigning a unique identifier to state-funded affordable housing projects so that multiple funding sources can be tracked for each project, such as all agencies using a single application process for multifamily housing programs.
- An evaluation of data priorities to measure the distribution and impact of state-awarded funds for affordable housing, such as number of applications, type and amount of funding awarded, number of units created, and project location.

To ensure that the State awards financial resources for housing in a more timely and efficient manner, the Legislature should create a workgroup including the Tax Committee, HCD, CalHFA, and other industry representatives such as private lenders and developers, and require it to do the following:

- Develop consistent program requirements for determining eligibility for awarding financial resources to multifamily housing projects, to the extent feasible.
- Align application deadlines for multifamily housing programs.
- Design the requirements and deadlines to best accomplish the goals outlined in the state housing plan and addendum, with the intent to maximize affordable housing built and to remove administrative barriers.
- Update their respective regulations to reference the new program requirements and deadlines.

To reduce administrative redundancy and streamline a portion of the funding process, the Legislature should eliminate the Debt Limit Committee and transfer its responsibilities to the Tax Committee, including reviewing applications and allocating bond resources. To ensure a thorough application review process, the Legislature should also require the Tax Committee to develop a sufficient quality control process for reviewing applications for bond resources, including multiple levels of review.

***Tax Committee***

To ensure that the allocation of bonds aligns with the State's housing priorities and that its awards process is sufficiently transparent, the Tax Committee should, by May 2021, establish regulations to do the following:

- Consistently allocate bonds based on factors including demand for bond resources, use of previously allocated bonds, documented legislative priorities, and risk of allocated bonds being lost.
- Document and disclose annually in its public meetings and on its website the extent of any bonds lost, the purpose for which the bonds were allocated, and the rationale for the allocation.

To ensure that tax credit awards are targeted to areas that require the most support from the State to finance affordable housing, the Tax Committee should immediately identify areas from which it has not received applications or areas with fewer awards per population and use that information to inform regulatory changes to attract more affordable housing developers to those areas.

## Chapter 2

### THE STATE HAS NOT ENSURED THAT LOCAL JURISDICTIONS ACCOMMODATE NEEDED AFFORDABLE HOUSING

#### Chapter Summary

The State is facing a severe shortage of affordable homes in part because local jurisdictions can create barriers that make it harder to build those homes. Local barriers to affordable housing development—such as restrictions on the number of units developers can build on a portion of land or lengthy processes for approving developers' projects—are one reason that local jurisdictions reported issuing building permits (permits) for only about 11 percent of their needed affordable housing units as of June 2019. As we describe in the Introduction, each of the State's 539 local jurisdictions is responsible for planning to accommodate a portion of the State's needed affordable housing units, and state law requires jurisdictions to adopt local housing plans that include sites that accommodate needed units and actions to address barriers to development.

However, state law is not strong enough to ensure that local jurisdictions actually mitigate these barriers—even on the sites they identify for affordable housing. In addition, HCD's limited oversight is insufficient and its authority does not permit it to ensure that all local jurisdictions follow through with their plans to accommodate affordable housing. An effective appeals process for developers—such as through the creation of a state appeals board—could help ensure that local jurisdictions approve eligible affordable housing projects in a timely manner and provide the units for which they plan. More broadly, the State needs a comprehensive approach to facilitating more affordable housing development that does not rely on significant state financial resources if it wants to meet affordable housing goals. Without substantial actions to address these issues, the State will continue to face a patchwork of local housing policies and efforts that ultimately limit Californians' access to affordable housing.

#### Local Jurisdictions Can Create Barriers to Affordable Housing

Local jurisdictions can create significant barriers to affordable housing development, as we show in Figure 7, given the degree of control they exercise over development. These barriers influence the availability of affordable housing. Local jurisdictions in general have not developed enough affordable housing and certain local jurisdictions have developed far fewer affordable homes than others have. This underdevelopment is especially problematic because nearly every area in the State needs more affordable housing: for example, in 523 of 539 local jurisdictions, at least 20 percent of lower-income renter households

spend more than half of their incomes on housing costs—a severe cost burden. Yet local jurisdictions statewide reported issuing permits for only about 11 percent of their needed affordable housing units as of June 2019, even though they reported having issued permits for 81 percent of the units needed for households in the highest income category, as we show in Table 2. Given the time covered in this planning period, generally from 2013 through 2024, we would expect local jurisdictions statewide to have met at least half of the affordable housing need. Although other factors may contribute to local jurisdictions’ underdevelopment of affordable housing, ensuring that jurisdictions mitigate barriers to affordable development is essential for making that development financially feasible and for encouraging developers to build affordable homes where California critically needs them.

**Figure 7**  
**Local Jurisdictions Can Create Barriers That Limit Affordable Housing Development**

#### POTENTIAL LOCAL BARRIERS TO AFFORDABLE HOUSING DEVELOPMENT



##### Approval Process Standards

Local jurisdictions may have approval processes that delay or prevent approval of affordable housing projects.



##### Density Standards

Local jurisdictions may limit the number of affordable housing units that developers can build per acre. Restrictions on building height and other standards can also limit density.



##### Fees

Local jurisdictions may impose significant fees that add costs to affordable housing projects.



##### Parking Standards

Local jurisdictions may require developers to provide more parking spaces and to build parking garages, all of which can drive up costs and limit the land available for housing.



##### Zoning Standards

Local jurisdictions may limit the amount and quality of land designated for affordable housing.

Source: Analysis of state law, documents from HCD’s website, and a variety of research from sources such as the Legislative Analyst’s Office and the Terner Center for Housing Innovation at the University of California, Berkeley.

**Table 2**  
**Local Jurisdictions Have Not Met Housing Needs, Especially for Lower-Income Households**

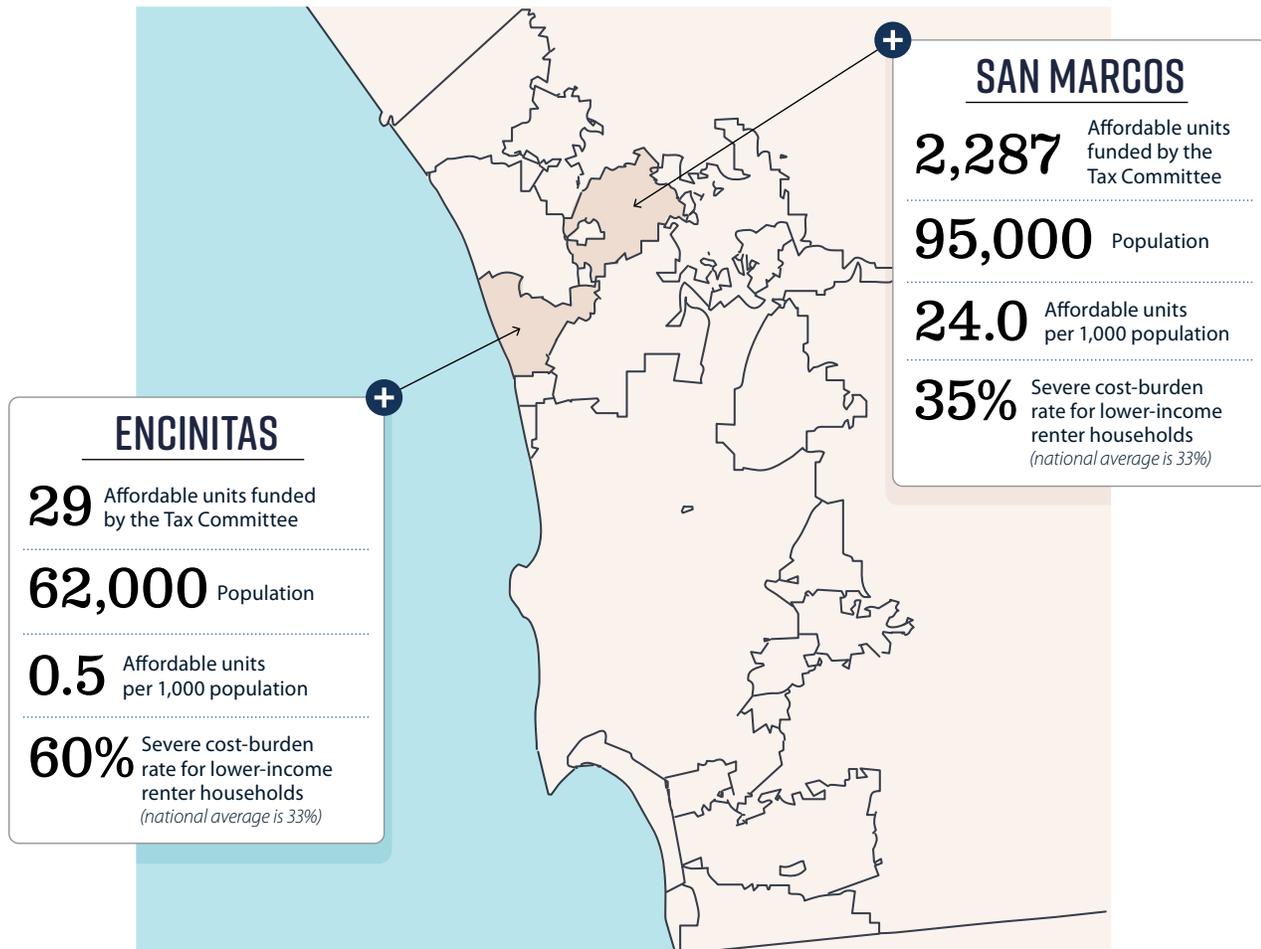
	<b>VERY LOW Income Units</b> <i>(Units affordable to households earning 50 percent of area's median income or below, which likely includes about 26 percent of all households statewide)</i>	<b>LOW Income Units</b> <i>(Units affordable to households earning 51 percent to 80 percent of area's median income, which likely includes about 15 percent of all households statewide)</i>	<b>MODERATE Income Units</b> <i>(Units affordable to households earning 81 percent to 120 percent of area's median income, which likely includes about 16 percent of all households statewide)</i>	<b>ABOVE MODERATE Income Units</b> <i>(Units affordable to households earning 121 percent of area's median income or above, which likely includes about 43 percent of all households statewide)</i>
<b>Statewide need (in units) allocated to local jurisdictions*</b>	278,500	185,500	205,000	488,000
<b>Total units reported in building permits (as of June 2019)</b>	26,000	25,500	66,000	395,000
<b>Percentage of need met (as of June 2019)</b>	<b>9%</b>	<b>14%</b>	<b>32%</b>	<b>81%</b>
<b>Combined percentage of need met (as of June 2019)</b>	<b>11%</b>			

Source: Analysis of HCD's *Annual Progress Report* permit summary data as of June 2019, federal income distribution data, and state law.

\* This statewide need represents HCD's sum of all units assigned to local jurisdictions, which covers different time periods based on each region but generally covers years between 2013 and 2024. For example, the Southern California Association of Governments's portion of this need—which applies to all of the local jurisdictions in that region—covers the time period of 2014 through 2021. As a whole, the State was more than halfway through the time covered for this need as of June 2019—meaning we would expect local jurisdictions statewide to have met at least 50 percent of the need in each category above.

The supply of affordable homes varies depending on where Californians live even though indications of high need exist in almost every area of the State. As we describe in the Introduction, state law generally establishes that each local jurisdiction must plan to accommodate its “fair share” of affordable housing. Nevertheless, local jurisdictions across the State have developed vastly different amounts of affordable units funded by the Tax Committee, which supports most state-financed affordable housing. For example, as we show in Figure 8, San Marcos has received Tax Committee funding for more than 2,200 affordable units. In contrast, the adjacent city of Encinitas—with a population almost two-thirds as large as San Marcos’s—has received funding for just 29 such units. The difference between these cities is especially significant considering that in Encinitas about 60 percent of lower-income renter households spend at least half of their incomes on rent, which is much higher than San Marcos’s rate of 35 percent.

**Figure 8**  
Two Neighboring Cities in San Diego County Have Developed Significantly Different Amounts of Affordable Housing Despite High Indicators of Need



Source: Analysis of active projects data from the Tax Committee from 1987 through October 2019, 2020 household population data from the Department of Finance, and 2012 to 2016 cost-burden data from the U.S. Census Bureau.

Note: We present an interactive dashboard for viewing additional detail about local jurisdictions' state-supported affordable housing development and indicators of housing need at <http://www.auditor.ca.gov/reports/2020-108/supplemental.html>.

Some local jurisdictions may develop insufficient amounts of affordable housing because they or their constituents are opposed to it. Local opposition to housing development has long been a major obstacle in California's efforts to provide affordable housing. People may be opposed to housing development generally or affordable housing in particular for a variety of reasons, such as perceptions that development will increase traffic or that it will change the residential character of a city. This opposition can take different forms, including citywide referendums: for instance, according to HCD, residents in Palo Alto placed a measure on the local ballot in 2013 that overturned a unanimous city council decision

to allow for a 60-unit affordable housing development for seniors. However, local jurisdictions that are not openly resistant to affordable housing can also limit development, wittingly or unwittingly, through the many aspects of the development process they control.

In fact, local jurisdictions can create a number of different barriers to affordable housing development that contribute to the State's overall shortage of affordable homes as well as its shortage of affordable housing in particular jurisdictions. For example, local jurisdictions may limit the number of units developers can build, they may require that developers pay large fees, or they may have processes that delay or prevent approval of affordable housing projects. These barriers can ultimately make affordable housing development infeasible, such as by imposing costs that may discourage developers from building or by directly limiting the number and affordability of the units that developers do build. Barriers that add costs are especially problematic for affordable projects because these projects are often more difficult to make financially feasible in the first place.

We observed concrete examples of these potential barriers in some of the cities we reviewed. In analyzing primarily publicly available information from four pairs of cities of similar populations and locations—Aliso Viejo and Cypress, Norwalk and Santa Monica, Huron and Taft, Brentwood and Pittsburg—we found significant differences in some of their housing policies that may have contributed to their varying levels of affordable development. For example, Santa Monica's default density standards—the number of units allowed per acre—allow developers to build more housing units per acre than Norwalk's standards do in each of their multifamily residential zones. In their high-density residential zones, for instance, Santa Monica generally allows up to 48 units per acre for affordable housing projects compared to Norwalk's maximum of 30 units per acre. Norwalk also requires an additional building permit—a "conditional use permit"—for certain multifamily housing such as buildings that exceed the city's height limit of 35 feet. This type of requirement allows local jurisdictions more discretion in approving housing projects and can be a constraint on development. In contrast, Santa Monica does not appear to require that type of permit for multifamily buildings in its multifamily residential zones, where it allows up to 45 feet in height for affordable projects. Further, Norwalk's default parking standards require developers to provide parking spaces in a garage and to include as much as eight times the number of parking spaces that Santa Monica's default standards require for certain projects, potentially increasing costs for developers. Ultimately, differences like these may be one reason Santa Monica has facilitated much more affordable housing development than Norwalk has: HCD's data indicate that from 2014 to 2018, Santa Monica reported

*Local jurisdictions that are not openly resistant to affordable housing can also limit development, wittingly or unwittingly, through the many aspects of the development process they control.*

permits for nearly 500 total affordable units whereas Norwalk reported permits for just four affordable units—even though Norwalk has a larger population than Santa Monica does and both cities have indications of high need.

***Barriers to Affordable Housing Persist in Part Because State Law Is Not Strong Enough to Ensure That Local Jurisdictions Mitigate These Barriers***

The State has recently enacted several statutes that could have a significant impact on affordable housing development, as we note in the Introduction. However, local jurisdictions can still create barriers to affordable housing—such as barriers related to density and to approval processes—because state law is not yet strong enough to ensure that local jurisdictions mitigate these barriers. As we describe in the Introduction, local housing plans are jurisdictions’ roadmaps for housing development, and HCD is responsible for reviewing each of these plans when jurisdictions adopt them every five or eight years. The plans must include sites suitable for affordable development and actions to remove potential barriers to development where possible. However, the requirements in state law contain gaps that allow these barriers to persist, even for the sites local jurisdictions identify for affordable housing. Because HCD’s review process for local housing plans largely focuses on whether jurisdictions have included appropriate analyses or met minimum requirements in state law, its approval of these plans does not necessarily mean that local jurisdictions have done everything possible to mitigate barriers to needed affordable housing. For example, HCD’s status report from September 2020 indicates that all eight of the cities we reviewed have had compliant housing plans since at least 2016, even though we identified potential barriers in some of the cities that may have contributed to their low amounts of affordable housing development.

***State law’s default standards for allowable density are likely too low even though increasing density could provide more affordable homes.***

Perhaps most critically, state law’s default standards for allowable density are likely too low even though increasing density could provide more affordable homes. Density determines how many housing units can exist on a given amount of land, and higher-density housing can both provide more homes and make affordable housing more financially feasible for the developer. State law establishes default densities of at least 10 to 30 housing units per acre, generally based on a local jurisdiction’s proximity to urban areas, which local jurisdictions can adopt for potential affordable housing sites without including further justifications in their housing plans. These default standards likely affect densities in many local jurisdictions; the median maximum density standard among local jurisdictions statewide was 24 units per acre for multifamily housing according to a survey of more than 270 jurisdictions that the Turner Center for Housing Innovation at

the University of California, Berkeley, published in 2018. Indeed, two cities we reviewed clearly aligned their densities with the State's default standards. But cities we reviewed with more affordable housing development tended to allow higher densities and go beyond the minimum requirements in state law. For instance, Aliso Viejo allowed up to 50 units per acre on its main potential affordable housing sites and subsequently developed almost 400 units of Tax Committee-funded affordable housing at 50 units per acre on those sites. However, that amount of affordable housing would have exceeded the standards in nearby Cypress, which only allowed up to 30 units per acre on its potential affordable housing sites. Cypress reported issuing permits for fewer than 20 total units of affordable housing from 2014 through 2019.

Increasing the default densities in state law has little downside. Although several local jurisdictions have opposed state-mandated density increases in the past because of concerns around local control, community character, and other issues, the default densities of 10 to 30 units per acre that we describe above are not mandates. If local jurisdictions provide justifications in their housing plans that HCD approves, such as compelling evidence that lower densities can accommodate housing needs based on past development experience, they can still adopt lower densities for the sites they identify for affordable housing. Therefore, increasing these default densities would not unduly restrict local control. More importantly, the existing default densities—which became effective in January 2005—may compromise the State's efforts to increase affordable housing development. In fact, the densities of particular projects can sometimes be several times higher than the State's default standards; for example, we identified Tax Committee project applications that specified densities such as 82 units per acre for a Santa Ana development, 90 units per acre for a Fresno project, and 117 units per acre for a project in Mountain View. Despite recent changes to state law that expanded developers' ability to apply for increases above local jurisdictions' maximum allowable densities, jurisdictions can still create a barrier to affordable development by maintaining low maximum densities. Raising the default densities in state law, even modestly, is an efficient way to encourage more critically needed affordable development on each portion of land that local jurisdictions identify for affordable housing.

We found that state law is not strong enough to prevent local jurisdictions from undermining affordable housing projects with lengthy and uncertain approval processes. For instance, although state law has multiple statutes that streamline local approval processes for certain affordable housing projects—limiting local jurisdictions' time and discretion in approving the projects—these statutes do not necessarily apply to all potential affordable housing sites that local jurisdictions identify in their housing plans.

*The existing statewide default housing densities—which became effective in January 2005—may compromise the State's efforts to increase affordable housing development.*

Specifically, one statute contains several eligibility requirements that may exclude some affordable developments from streamlined approval—for example, that qualifying projects cannot be located in a coastal zone, which can cover significant portions of some cities and include sites local jurisdictions select for affordable housing. Another statute requires streamlined approval only for certain sites, such as sites that jurisdictions have included in consecutive housing plans without attracting development. If it expanded these eligibility criteria to guarantee timely and nondiscretionary approval of affordable projects on all sites that local jurisdictions identify in their housing plans for affordable housing, the State could mitigate a potential barrier that sometimes significantly delays or prevents affordable development. For instance, according to HCD, the city of Simi Valley has taken at least three years and several hearings to review a project that would provide 84 affordable homes on a site the city has identified to accommodate affordable housing, despite the fact that the city has identified no adverse impacts of the project on public health or safety during that review. These are delays that a streamlined review might have prevented.

Concerns about expanding streamlined approval processes do not outweigh the benefits of providing timely development of needed affordable housing. According to the deputy director of housing policy development at HCD, local jurisdictions have argued to HCD that streamlined approval requirements reduce a local community's ability to provide input for new housing developments and that reducing local input is problematic because the State lacks insight into local conditions. However, projects with streamlined approvals typically must be consistent with local jurisdictions' objective standards, such as design review standards, meaning that jurisdictions can still set basic requirements for these projects. Further, local jurisdictions already select their own potential affordable housing sites, describe in their housing plans overall environmental constraints to development, and have the option to perform formal environmental reviews of areas before projects seek approval. Therefore, local jurisdictions could choose and plan sites in a way that alleviates issues with streamlined approvals. Several housing studies have acknowledged that streamlined review processes facilitate housing development. In addition, we spoke with representatives of a housing nonprofit organization and a homebuilder association who both indicated that streamlining reviews at the local level could improve affordable housing efforts.

*Representatives of a housing nonprofit organization and a homebuilder association indicated that streamlining reviews at the local level could improve affordable housing efforts.*

The Legislature should require that local jurisdictions mitigate key barriers in the near term, and it should require that HCD undertake a more holistic evaluation of potential barriers in the long term. Specifically, as we describe in this section, the Legislature could begin by increasing the default densities in state law and expanding current streamlined approval processes. These are the most

significant barriers we identified where clear gaps in state law exist despite recent legislation. However, other potential barriers—such as the amount and quality of land that local jurisdictions designate for affordable housing, the parking requirements they impose, and the fees they charge developers—may still persist because of other gaps in state law. In the long term, the State could evaluate the effectiveness of recent legislation and require that local jurisdictions adopt a set of default housing standards that mitigate all potential barriers on sites they identify for affordable development unless the local jurisdictions include an adequate plan to accommodate needed affordable units using different standards. Encouraging more development on sites that local jurisdictions identify for affordable housing is critical to achieving the State’s housing goals; without ensuring that jurisdictions have policies that encourage necessary development on those sites—sites that are the basis for how jurisdictions plan for needed housing—there is little reason to expect the State can provide enough affordable homes for Californians.

*Encouraging more development on sites that local jurisdictions identify for affordable housing is critical to achieving the State’s housing goals.*

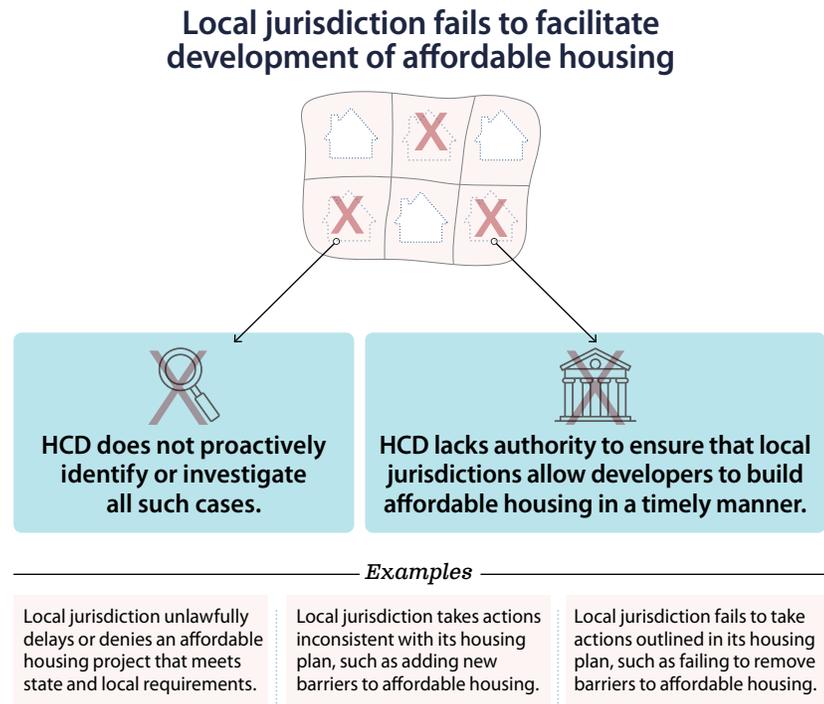
HCD has expressed some concerns about developing default standards to mitigate potential barriers to affordable housing, but doing so is possible and could encourage the development of needed affordable homes. The deputy director of housing policy development at HCD indicated that developing useful default standards would be difficult given the diversity and nuances of local jurisdictions. However, HCD has already published several specific best practices for local jurisdictions, such as requiring no more than one parking space per unit for certain projects, allowing building heights of at least three stories for multifamily housing, and considering factors such as proximity to transit and competitiveness for Tax Committee funds when selecting potential affordable housing sites. Further, the current default densities in state law show that it is possible to identify specific, flexible default standards. Because addressing all potential barriers to development would likely require further research, and because HCD has already identified best practices for mitigating many barriers, we believe the Legislature should task HCD with determining appropriate default standards that would help ensure that local jurisdictions are facilitating the development of necessary affordable housing.

### **The State Has Not Ensured That Local Jurisdictions Follow Through With Their Plans to Accommodate Affordable Housing**

Even if local jurisdictions developed effective plans to remove affordable housing barriers, HCD’s limited oversight is insufficient and its lack of authority does not permit it to ensure that all local jurisdictions are following through with those plans, which we depict in Figure 9. As we note in the Introduction, HCD received authority in January 2018 to monitor local jurisdictions for

compliance with their local housing plans and with certain housing laws. This monitoring can result in HCD issuing written findings and revoking its approval of local jurisdictions' housing plans; that penalty makes them ineligible or less competitive for certain state housing and infrastructure funds and may encourage some local jurisdictions to address HCD's findings, although the penalty could well be less effective in areas already resistant to developing affordable housing. Ultimately, HCD has only one current option to fully enforce its findings when local jurisdictions are persistently noncompliant: it can notify the Attorney General for possible litigation. To improve its oversight, the State needs an adequate and timely enforcement mechanism—such as an appeals process for developers—for situations in which local jurisdictions fail to approve eligible affordable housing projects.

**Figure 9**  
**The State Does Not Ensure That Local Jurisdictions Follow Through With Their Housing Plans**



Source: Analysis of state law and HCD documents pertaining to its oversight of local jurisdictions.

Despite the importance of its oversight, HCD has scrutinized only a portion of the local jurisdictions that have not provided the affordable housing described in their housing plans. Although HCD's progress report data as of 2019 suggest that at least 470—or

87 percent—of the State’s local jurisdictions were not on track to provide needed affordable homes, HCD’s public lists of enforcement actions indicated it had followed up with fewer than 110—or about 20 percent of all local jurisdictions—as of July 2020. We identified several local jurisdictions HCD had not yet reviewed even though they reported especially low affordable housing development; the city of Lathrop, for example, reported zero permits for affordable units from 2016 to 2018 even though it reported permits for 850 units of more expensive housing and has some of the highest indicators of need in the State. By failing to review some local jurisdictions with especially low affordable housing development, HCD has allowed those jurisdictions to continue to provide minimal affordable housing without state investigation or enforcement actions. That lack of review also limits HCD’s ability to identify specific causes of underdevelopment and to provide technical assistance to local jurisdictions that may need it.

*HCD’s public lists of enforcement actions indicated it had followed up with fewer than 110—or about 20 percent of all local jurisdictions—as of July 2020.*

HCD’s oversight of local jurisdictions has been limited in part because it does not proactively and comprehensively identify local jurisdictions to review. HCD’s current review process is largely complaint-driven; it is based mainly on inquiries HCD receives rather than on information it collects each year from local jurisdictions about their progress in meeting housing needs—including permits they have issued for affordable housing. When we asked HCD about its approach to this oversight, its deputy director of housing policy development indicated that its current process is complaint-based primarily because of a lack of time and resources. However, HCD could take a targeted approach to this oversight by identifying and following up with the local jurisdictions that have the most severe lack of affordable housing development and the highest needs. Further, the deputy director stated that HCD wants to be more proactive about identifying local jurisdictions to review, and that using information local jurisdictions report about their affordable housing development—if coupled with other metrics such as indications of highest need for affordable housing—is a viable option for developing a targeted and proactive approach to this oversight.

However, even when HCD’s reviews identify local violations that require state enforcement, its two primary enforcement options—revoking its approval of local housing plans and referring cases for potential litigation—do not always ensure that local jurisdictions allow developers to build affordable housing in a timely manner. When local jurisdictions are persistently noncompliant, HCD’s only real enforcement option is to notify the Attorney General for possible litigation. Since 2018, when HCD received authority to do that, we identified only one such case it had referred to the Attorney General as of August 2020—a case that resulted in litigation against the city of Huntington Beach. In that instance, HCD alleged that

***HCD lacks enforcement authority—  
for example, it has been monitoring  
an affordable housing project  
in Simi Valley that the city has  
been reviewing for more than  
three years.***

Huntington Beach had adopted barriers, such as reduced densities, that were inconsistent with its previously approved housing plan; as a result, the legal complaint indicates that HCD sent Huntington Beach a letter in 2015 informing the city that these changes nullified HCD's prior approval of the housing plan, and that the city also faced a related lawsuit that year brought by affordable housing advocates. Yet according to the complaint it took another letter from HCD in November 2018, which found that the city's housing plan remained out of compliance, followed by litigation from the State in 2019 before HCD finally found the city's housing plan in compliance with state law in early 2020, nearly five years after the city's purported initial violation. This litigation approach can be time-intensive and ultimately inadequate for ensuring local jurisdictions' timely compliance with their housing plans and with state housing laws—especially regarding approval of specific affordable housing projects.

We found cases of specific project delays that also demonstrate the consequences of HCD's lack of enforcement authority. For example, HCD has been monitoring an affordable housing project in Simi Valley—which we mention in the previous section—that the city has been reviewing for more than three years; HCD indicates that during this review, the city identified no adverse impacts. According to a July 2020 letter that HCD sent to Simi Valley, the city had held four hearings in 2020 alone to consider approving the project and had postponed a potential fifth hearing multiple times. HCD noted that at the most recent hearing, the city's attorney indicated that the city could not, in any legally defensible manner, disapprove the project, yet the city council seemed disinclined to approve the project based on aesthetic concerns and ambiguous safety concerns. However, HCD's oversight over the course of three letters from December 2019 through July 2020 to Simi Valley essentially amounted to encouraging approval of the project and warning the city that denying the project risks violating state law, which could result in a referral to the Attorney General. Requiring streamlined reviews for projects on all sites that local jurisdictions have selected for affordable housing, as we discuss in the previous section, could have helped resolve this issue—the project was proposed on a site Simi Valley had identified in its housing plan for affordable housing.

We also found cases in which local jurisdictions appear to be holding up affordable projects that qualify for streamlined reviews under state law. For instance, the city of Encinitas appears to have at least delayed—and perhaps prevented—development of a project that HCD indicates was eligible for streamlined review and was located on a site the city had identified in its housing plan for affordable housing. HCD noted in a February 2020 letter to Encinitas that the city had acted inconsistently with state law by requiring extensive additional information—such as a traffic study—from a developer who proposed an apartment complex on a site Encinitas had designated for affordable housing. According to HCD, Encinitas was required by law to grant streamlined reviews for projects that included affordable

units on that particular site—meaning that it could review the apartment complex for compliance with objective standards, such as design standards available to the developer before submittal of the application, but it could not conduct a discretionary review. Although we do not question the value of local jurisdictions’ input into the housing development process, Encinitas had already selected the site in question to accommodate affordable housing and HCD’s letter indicates that Encinitas’s extensive requests for additional information were inconsistent with the streamlined review process state law requires. Further, HCD stated in the February letter that the developer subsequently withdrew its application for the project. In its letter, HCD encouraged the city to work with the developer and indicated that failure to come into compliance with state law might result in a referral to the Attorney General. However, litigating such cases after the fact is unlikely to provide as much benefit as a more timely enforcement process would.

Establishing a timely and fair appeals process for affordable housing developers could help provide more timely development in areas that are unreasonably delaying or preventing it, as we detail in Figure 10. One potential approach is to allow developers of eligible affordable housing projects to appeal to a state appeals board within HCD when local jurisdictions have not approved their projects in a timely manner, and to grant that appeals board the authority to approve such projects when they have met state and local standards. An appeals board could expedite development of needed affordable housing and add more certainty to the development process.

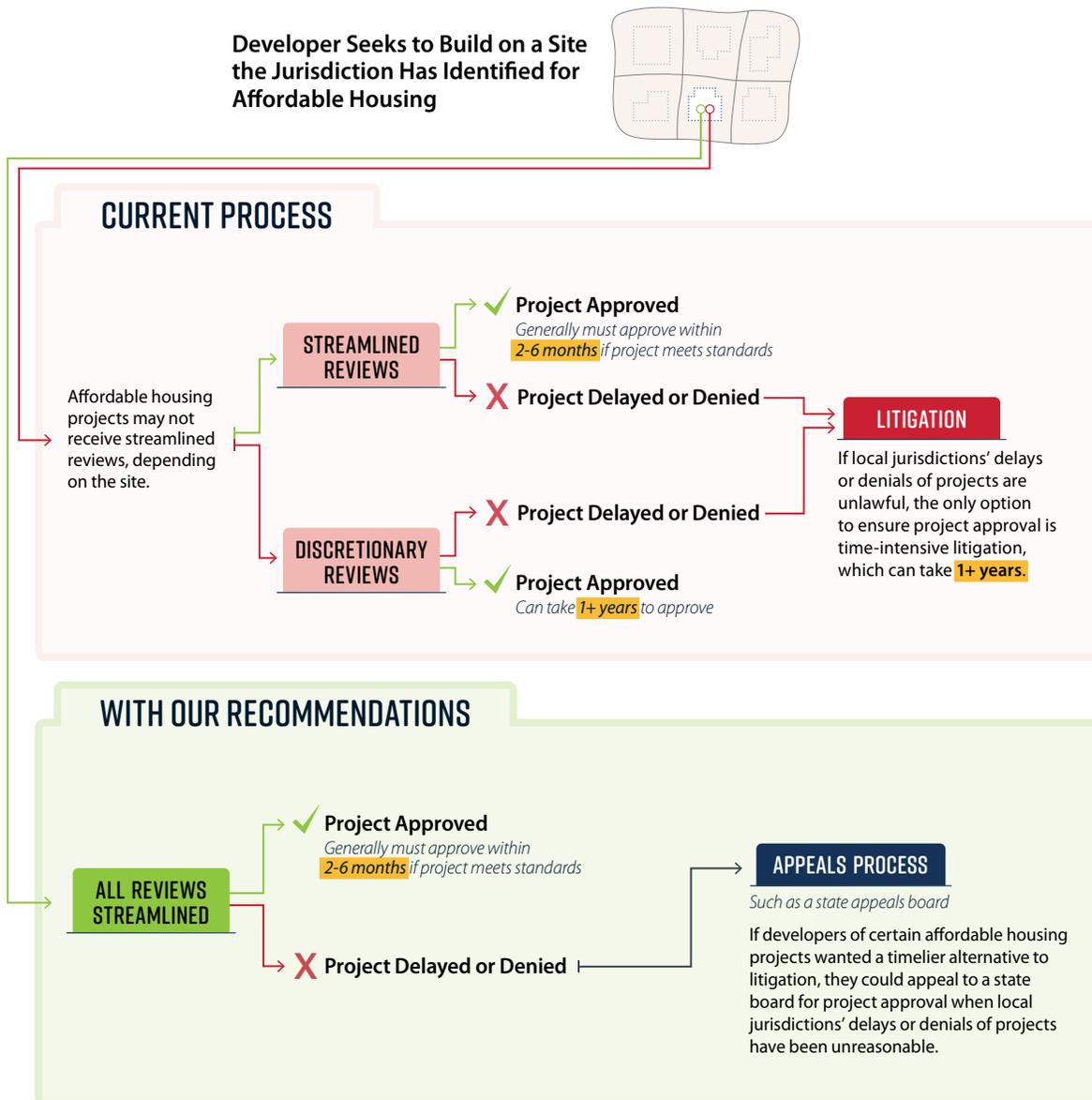
Several states have already adopted statewide appeals boards to rule on local housing decisions, and California has considered a similar bill in the past. Massachusetts allows affordable housing developers to appeal local decisions to a state housing appeals committee under certain conditions, and it requires the committee to hear an appeal within 20 days of receiving the applicant’s statement. California considered legislation in 2003 that would have created a five-member committee within HCD, including at least one local representative, to hear appeals from developers of affordable housing and potentially overrule local denials of their projects. Ultimately the bill prompted concerns about jurisdictions’ local control and whether such a committee would be constitutional, and the bill did not become law.

To be effective, a state appeals board would need to address such concerns over local control while also providing timely and enforceable decisions. To acknowledge local control and help ensure that an appeals board would be constitutional, the Legislature could—in addition to requiring local representation on the appeals board—limit the scope of the appeals process, such as by allowing developers to appeal only if their projects are located in local jurisdictions that have the most severe lack of affordable development relative to need or in jurisdictions

*Several states have already adopted statewide appeals boards to rule on local housing decisions, and California has considered a similar bill in the past.*

that have a history of noncompliance. However, an appeals board would also need to render timely decisions that allowed developers of qualifying, beneficial projects to build affordable homes as soon as feasible. That would likely require the Legislature to place time limits on the board’s reviews and on any subsequent legal challenges, and to ensure that the board’s decisions are enforceable.

**Figure 10**  
An Effective Appeals Process Could Help Ensure That Local Jurisdictions Approve Eligible Affordable Housing Projects in a Timely Manner



Source: Analysis of state law, court decisions, and information from HCD.

Most importantly, an effective appeals process could help fill a critical gap in the State’s oversight of individual affordable housing projects. Currently, litigation is an inadequate process for ensuring that all local jurisdictions approve eligible affordable housing projects, especially when developers may abandon projects because of the time required for such litigation. An appeals process could be a timelier, more uniform option to ensure project approval when local jurisdictions have denied or delayed certain projects that clearly meet reasonable standards and that would benefit lower-income households. California now faces an extreme, statewide affordable housing crisis along with local barriers to addressing that crisis, and this necessitates further action. An appeals process to overturn local jurisdictions’ unreasonable delays or denials of affordable housing projects could help provide Californians with critically needed affordable homes.

*California now faces an extreme, statewide affordable housing crisis along with local barriers to addressing that crisis, and this necessitates further action, such as an appeals process.*

### **The State Needs to Better Leverage Local and Private Resources to Build Affordable Housing**

The State needs a comprehensive approach to facilitating more affordable housing development that does not rely on significant state financial resources if it wants to provide enough affordable homes for Californians. In addition to the limits of state funding that we discuss in Chapter 1, several of the cities we reviewed indicated in their most recent housing plans that they had limited funding with which to assist affordable housing development. If it wants to address these issues and meet its affordable housing goals, the State must take ambitious actions to spur local and private investment in affordable housing development.

We identified potential strategies for leveraging private investment in affordable housing that the State could explore on a broader level. For instance, HCD notes in its guidance to local jurisdictions that one strategy for encouraging more housing development is to promote “mixed-use” development—in which housing units can coexist with commercial uses in the same project, such as apartments existing above ground-floor stores or restaurants. According to HCD, mixed-use development allows commercial revenue to act as an internal project subsidy: in other words, mixed-use development can leverage private investment to make housing more financially feasible to build. For example, Santa Monica included many mixed-use sites among the potential affordable housing sites it identified in its local housing plan, and it subsequently reported approving multiple mixed-use projects with affordable units that did not appear to be receiving Tax Committee funding. Although state law requires local jurisdictions to analyze in their housing plans whether their potential sites can provide for a variety of types of housing, it does not explicitly require that

**Requiring some affordable homes in more expensive developments could help address this disparity and subsidize affordable housing without necessarily using state resources.**

jurisdictions encourage mixed-use, affordable housing development on their selected sites. However, this strategy may encourage more development of affordable housing without significant state subsidies, and it could be part of HCD's plan for meeting affordable housing needs beyond the limits of state funding.

Similarly, *inclusionary* policies, which generally require developers of more expensive housing to include a certain percentage of affordable homes within their projects, is a potential strategy for local jurisdictions although not a state requirement. As we show in Table 2, development of above-moderate-income housing vastly exceeds affordable housing development. Requiring some affordable homes in more expensive developments could help address this disparity and subsidize affordable housing without necessarily using state resources. In fact, many local jurisdictions have already adopted such policies: about 30 percent of jurisdictions had inclusionary requirements in place according to the Turner Center for Housing Innovation survey published in 2018. The eight cities we reviewed varied in the degree to which they required or did not require inclusionary housing, but we found an example of an inclusionary policy that likely facilitated affordable housing development. Santa Monica, which generally requires that between 5 percent and 20 percent of multifamily rental housing units in a project be affordable, depending on level of affordability, appears to have approved a significant number of affordable units that developers paired with more expensive units in the same project. However, inclusionary policies can be controversial because they place restrictions on developers, and some researchers have argued that these policies may reduce overall housing development. Nevertheless, if it pursued a statewide inclusionary requirement, the State could reduce potential drawbacks of such a policy by requiring it only when a local jurisdiction had already met its goal for housing in the above-moderate-income category but had not yet met its affordable housing goals. HCD could assess these policies and consider including a broader inclusionary housing strategy in its housing plan.

Regardless of these and other strategies, local jurisdictions ultimately have significant knowledge of and control over development in their localities—and incentivizing them to do everything possible to facilitate development of affordable housing may be an effective approach to achieving state goals. However, the State's current housing-related incentives for local jurisdictions are limited. For example, the State has conditioned certain funds, such as housing and infrastructure grants, on whether local jurisdictions adopt HCD-approved housing plans; but as we note earlier in this chapter, that compliance does not necessarily mean that local jurisdictions have mitigated all barriers to development or have actually accommodated needed affordable housing. Further, a new statute will give a competitive advantage to local jurisdictions

that HCD designates as *prohousing* based on their adoption of various local policies—such as zoning more sites for housing development than state law requires—when these jurisdictions apply for funding from specific housing and infrastructure programs. However, neither state law nor HCD’s framework paper from October 2019 indicate that these incentives will be based directly on quantity of affordable housing development, such as the number of affordable units for which local jurisdictions have issued permits. Moreover, the current funding programs that could be affected by a local jurisdiction’s *prohousing* status are substantially housing-focused and offer only small scoring boosts for *prohousing* policies—meaning that the incentives may not be appealing to local jurisdictions that are opposed to housing development in the first place.

In fact, we did not identify any significant nonhousing financial incentives for local jurisdictions that the State currently conditions on the amount of affordable housing that jurisdictions approve. However, the Legislative Analyst’s Office and housing researchers have explored the possibility of the State offering flexible or nonhousing funds to local jurisdictions based on the housing units they develop. For instance, the Legislative Analyst’s Office discussed in a report for the fiscal year 2019–20 Governor’s Budget that the State could allocate certain transportation funds—which it noted are the largest funding stream to cities over which the State has control—based on jurisdictions’ progress in meeting housing goals. HCD even wrote in its state housing plan that the State should make a portion of funding available, proportional to a local jurisdiction’s affordable housing permits, in the form of flexible funding for projects that serve a community benefit, such as libraries and parks. Further, at least two regional governments—in San Diego and the Bay Area—have used housing development as a factor in award processes for some regional transportation and community funds they disburse to local jurisdictions. These regional governments, by linking nonhousing projects like local street maintenance or transportation planning to housing criteria, may incentivize housing development in local jurisdictions that are reluctant to accommodate affordable housing. Conditioning nonhousing funding on local housing development does present challenges; for example, the Legislative Analyst’s Office noted that some factors—such as landowners’ decisions and the health of the economy—are outside of local jurisdictions’ control but significantly affect home building. Nevertheless, we believe the Legislature should consider approaches like these at the state level, which could complement increased state oversight and help address the widespread underdevelopment of affordable housing that results in part from insufficient efforts by local jurisdictions to accommodate that housing.

*Housing researchers have explored the possibility of the State offering flexible or nonhousing funds to local jurisdictions based on the housing units they develop.*

## Recommendations

### *Legislature*

To help ensure that all local jurisdictions mitigate key barriers to affordable housing in the near term, the Legislature should amend state law to do the following:

- Increase the existing default densities for affordable housing, currently set at up to 30 units per acre, to a level that ensures that local jurisdictions make every reasonable effort to accommodate needed affordable housing units on sites they identify in their housing plans. Because other standards, such as maximum building height, can also limit density, the Legislature should also require that local jurisdictions' development standards allow developers to build the densities that jurisdictions specify for each potential affordable housing site in their housing plans.
- Require that local jurisdictions allow a streamlined review process with limited discretionary action for affordable housing projects on a site that a local jurisdiction has identified in its housing plan to accommodate affordable housing units.

To ensure that local jurisdictions make sufficient efforts to facilitate the development of needed affordable housing in the long term, the Legislature should require HCD to develop and submit to the Legislature specific and objective standards—for example, a maximum number of parking spaces required per housing unit—for how local jurisdictions can mitigate barriers to lower-income housing development across all the potential barriers they control, such as zoning and parking. HCD should tailor these standards to ensure that local jurisdictions implementing them have made it feasible for developers to build the housing necessary to meet lower-income housing goals. The Legislature should also require that HCD consult with local jurisdictions; regional governments; and affordable housing developers, advocates, and researchers in determining these standards. The Legislature should consider this information when developing legislation to mitigate additional affordable housing barriers: for instance, it could require local jurisdictions to adopt the standards for all potential affordable housing sites in their housing plans unless they provide reasonable justifications for using different standards.

To facilitate timely and needed affordable housing development in local jurisdictions that are not approving it, the Legislature should amend state law and consider the constitutionality of establishing an effective appeals process for developers of affordable housing projects. For example, it could consider doing the following:

- Create an appeals board within HCD to resolve disputes over affordable housing projects in a timely and fair manner. The Legislature should specify that the appeals board include at least one representative from local jurisdictions.
- Allow a developer of an affordable housing project to appeal to the appeals board if the local jurisdiction in which the developer has proposed the project is not on track to provide its needed lower-income units, if the project would contribute significantly to the local jurisdiction meeting that need, and if the local jurisdiction has unreasonably denied or delayed the project.
- Require the appeals board to render decisions on appeals in a timely manner and to approve an appeal for a project if it meets the criteria above and is consistent with state and local standards.
- Specify parameters for any subsequent litigation that challenges or enforces the state appeals board's decisions so that these decisions are enforceable and developers of affordable projects meeting reasonable standards can build as soon as is feasible.

To better leverage local and private resources and develop more affordable housing, the Legislature should consider amending state law to award a significant amount of nonhousing or flexible funds, such as existing transportation funds, to local jurisdictions based on the number of lower-income housing units they have approved relative to their needs allocation.

### **HCD**

To ensure that all local jurisdictions make sufficient efforts to provide affordable housing, HCD should, by June 2021, develop and implement procedures for actively monitoring local jurisdictions that are not on track to provide the needed lower-income housing units included in their housing plans. Specifically, HCD should identify local jurisdictions with severe underdevelopment of affordable housing and indications of high need for that housing, and it should initiate reviews of those local jurisdictions that include steps to identify why they are not developing needed affordable housing. HCD should then provide technical assistance or take enforcement actions as necessary to help resolve any issues it identifies.

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## Other Issues We Reviewed

To address the audit objectives approved by the Joint Legislative Audit Committee (Audit Committee), we reviewed the Tax Committee's monitoring process for ensuring that affordable housing projects have met program requirements and that these projects will remain affordable and habitable.

### Tax Committee Monitoring of Affordable Housing Projects

To ensure that properties remain affordable and habitable, federal law and regulatory agreements with project owners require the Tax Committee (committee) to perform on-site inspections of properties that received tax credits. Based on our review of a selection of 42 monitoring inspections of inhabited housing projects, although the committee generally follows the process outlined in regulations and in its internal policies when conducting monitoring, it has not used its enforcement authority to ensure that housing remains affordable and habitable, even when the properties show patterns of noncompliance. The committee rarely imposes penalties for applicants applying for future projects who have previous noncompliant projects, and it has neither used its authority to issue fines nor has it developed clear guidance to do so, despite approving a schedule of fines in 2017. For example, one project we reviewed exhibited repeated issues with missing verifications of tenant income, inoperable smoke detectors, damaged fixtures and walls, mildew, and fire hazards in numerous units in the last four inspections the committee conducted. However, the committee did not take any substantial action against this project, beyond reporting it to the Internal Revenue Service (IRS) as federal regulations require. The executive director of the committee agreed that its enforcement process could benefit from a more holistic approach that considers historical noncompliance and the type and significance of the violation. She indicated that the committee will review and reassess its current procedures. We believe that the committee needs to act immediately to ensure that properties in its purview remain affordable and habitable.

Additionally, while federal regulations direct the Tax Committee to report all noncompliance to the IRS, the committee notably does not report all violations of federal uniform physical condition standards, which can range in seriousness from a broken door to inoperable stoves or infestations of cockroaches. The IRS conducted a review of the Tax Committee in 2019 and recommended that the committee report all physical violations it observes in the units it monitors, regardless of whether the project owners have corrected them. Tax Committee staff indicated to the IRS that the volume of work that is necessary to fully comply with this recommendation would be too burdensome at current staffing levels. However, because of the timing of receiving

its audit results from the IRS and constraints caused by COVID-19, a compliance senior program manager from the committee indicated that it will not be able to request additional staff to increase reporting to the IRS until 2021 for fiscal year 2022–23. Although the committee has developed guidance for its staff for reporting all egregious issues and other issues when they meet a certain prevalence threshold, these procedures are likely not sufficient to meet the IRS's requirements or recommendations.

### Recommendations

To ensure stronger enforcement that encourages project owners to keep housing affordable and habitable, the Tax Committee should amend its regulations to take more meaningful disciplinary action against housing project owners that show patterns of noncompliance across multiple inspections. These changes may include but are not limited to the following actions:

- Develop clearer guidance for penalizing project owners who have a history of noncompliance when applying for tax credits for future projects; the guidance should establish the specific conditions that would warrant imposing penalties on a housing project.
- Include in its regulations procedures for imposing fines and change guidance to permit the committee to impose fines if a housing project shows a pattern of certain types of noncompliance, regardless of whether the noncompliance is corrected during the correction period.

To ensure that it complies with federal law, the Tax Committee should report all instances of noncompliance to the IRS unless federal law or guidance provides an exception.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
California State Auditor

November 17, 2020

## Appendix A

### DEBT LIMIT COMMITTEE-AWARDED BOND RESOURCES

The Audit Committee directed the California State Auditor (State Auditor) to determine the amount of bond funds the Debt Limit Committee has allocated to affordable housing over the last five years. Table A presents the Debt Limit Committee’s total bond resources awarded for multifamily affordable housing, single-family housing, and nonhousing projects from 2015 through 2019.

**Table A**  
**Debt Limit Committee-Awarded Bond Resources From 2015 Through 2019**  
 (In Millions)

TOTAL BOND AWARDS	<i>Multifamily</i>	<i>Single-Family</i>	NONHOUSING*
	HOUSING		
2015	\$2,861	\$1,711	\$73
2016	4,821	1,335	220
2017	3,350	322	644
2018	4,067	286	185
2019	4,593	348	219

Source: 2015 to 2019 Debt Limit Committee Estimated Public Benefits summaries.

\* Nonhousing includes bond resources that support other purposes such as recycling facilities, landfills, and wastewater treatment facilities.

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## Appendix B

### TAX COMMITTEE DISTRIBUTION OF TAX CREDITS AWARDED

The Audit Committee directed the State Auditor to determine the geographic distribution of tax credits awarded by the Tax Committee for affordable housing in the last five years. Table B presents the Tax Committee’s tax credit awards—including federal and state tax credits—and units supported by those awards by county from 2015 through 2019.

**Table B**  
Tax Committee-Awarded Tax Credits by County From 2015 Through 2019

COUNTY	HOUSEHOLD POPULATION	TAX COMMITTEE SUPPORTED LOWER-INCOME UNITS	TAX COMMITTEE TAX CREDITS IN DOLLARS—FEDERAL	TAX COMMITTEE TAX CREDITS IN DOLLARS—STATE	TAX COMMITTEE TAX CREDITS IN DOLLARS—TOTAL	UNITS PER 1,000 HOUSEHOLD POPULATION
Alameda	1,624,962	5,723	\$113,385,054	\$12,495,728	\$125,880,782	3.5
Alpine	1,125	24	558,093	1,717,620	2,275,713	21.3
Amador	33,458	0	0	0	0	0.0
Butte	216,551	111	1,409,956	3,652,957	5,062,913	0.5
Calaveras	44,578	0	0	0	0	0.0
Colusa	21,739	97	2,644,709	1,983,518	4,628,227	4.5
Contra Costa	1,140,146	4,683	54,921,166	1,739,142	56,660,308	4.1
Del Norte	24,143	20	1,033,111	0	1,033,111	0.8
El Dorado	188,313	216	1,237,523	0	1,237,523	1.1
Fresno	997,567	3,187	39,410,114	47,831,024	87,241,138	3.2
Glenn	28,368	23	403,107	0	403,107	0.8
Humboldt	128,469	279	7,448,114	0	7,448,114	2.2
Imperial	180,208	812	10,394,856	12,593,638	22,988,494	4.5
Inyo	18,168	0	0	0	0	0.0
Kern	875,991	1,157	11,185,641	9,346,007	20,531,648	1.3
Kings	136,791	221	1,573,507	1,363,863	2,937,370	1.6
Lake	63,136	123	4,577,684	1,119,889	5,697,573	1.9
Lassen	21,577	53	216,302	0	216,302	2.5
Los Angeles	10,000,528	20,096	317,446,662	173,078,869	490,525,531	2.0
Madera	150,812	146	1,475,740	0	1,475,740	1.0
Marin	253,957	221	4,693,114	0	4,693,114	0.9
Mariposa	17,350	23	494,810	0	494,810	1.3
Mendocino	86,424	308	8,306,291	744,016	9,050,307	3.6
Merced	273,643	235	2,331,268	5,280,611	7,611,879	0.9

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COUNTY	HOUSEHOLD POPULATION	TAX COMMITTEE SUPPORTED LOWER-INCOME UNITS	TAX COMMITTEE TAX CREDITS IN DOLLARS—FEDERAL	TAX COMMITTEE TAX CREDITS IN DOLLARS—STATE	TAX COMMITTEE TAX CREDITS IN DOLLARS—TOTAL	UNITS PER 1,000 HOUSEHOLD POPULATION
Modoc	9,287	0	0	0	0	0.0
Mono	13,181	0	0	0	0	0.0
Monterey	420,834	1,648	\$20,934,277	\$18,384,783	\$39,319,060	3.9
Napa	135,109	635	9,779,758	0	9,779,758	4.7
Nevada	96,625	339	6,239,885	0	6,239,885	3.5
Orange	3,141,552	6,400	87,303,983	4,246,537	91,550,520	2.0
Placer	391,992	972	11,056,381	14,681,643	25,738,024	2.5
Plumas	17,945	94	1,272,795	2,085,783	3,358,578	5.2
Riverside	2,389,015	3,449	34,127,941	13,358,940	47,486,881	1.4
Sacramento	1,518,290	3,538	35,503,366	3,229,352	38,732,718	2.3
San Benito	61,077	238	4,140,466	10,219,740	14,360,206	3.9
San Bernardino	2,131,951	2,549	31,920,394	4,959,964	36,880,358	1.2
San Diego	3,230,523	9,826	128,299,978	18,688,621	146,988,599	3.0
San Francisco	865,218	8,505	203,958,957	2,077,872	206,036,829	9.8
San Joaquin	749,729	1,604	18,765,352	10,564,116	29,329,468	2.1
San Luis Obispo	262,169	897	15,282,547	24,617,853	39,900,400	3.4
San Mateo	764,823	1,361	28,926,679	6,141,804	35,068,483	1.8
Santa Barbara	430,553	1,256	18,012,458	3,912,219	21,924,677	2.9
Santa Clara	1,924,619	6,487	105,793,709	29,522,502	135,316,211	3.4
Santa Cruz	257,838	253	7,007,703	0	7,007,703	1.0
Shasta	175,002	397	5,381,554	0	5,381,554	2.3
Sierra	3,177	49	816,128	0	816,128	15.4
Siskiyou	43,988	29	874,302	3,409,157	4,283,459	0.7
Solano	427,370	1,052	9,345,077	0	9,345,077	2.5
Sonoma	486,798	1,386	22,474,990	7,934,925	30,409,915	2.8
Stanislaus	547,377	431	8,346,014	5,361,257	13,707,271	0.8
Sutter	102,154	215	3,706,376	9,578,815	13,285,191	2.1
Tehama	63,789	0	0	0	0	0.0
Trinity	13,246	0	0	0	0	0.0
Tulare	471,923	678	9,598,156	11,100,217	20,698,373	1.4
Tuolumne	51,044	96	1,574,513	0	1,574,513	1.9
Ventura	834,844	1,995	25,034,264	0	25,034,264	2.4
Yolo	207,693	769	9,715,635	15,771,525	25,487,160	3.7
Yuba	76,223	90	1,275,510	2,506,823	3,782,333	1.2
<b>Totals</b>	<b>38,844,962</b>	<b>94,996</b>	<b>\$1,451,615,970</b>	<b>\$495,301,330</b>	<b>\$1,946,917,300</b>	<b>2.4</b>

Source: Tax Committee tax credit award data from 2015 through 2019 and 2019 household population data from the Department of Finance.

# Appendix C

## SCOPE AND METHODOLOGY

The Audit Committee directed the State Auditor to conduct an audit of the Tax Committee and the Debt Limit Committee to assess their efforts to provide tax credits and financing for affordable housing projects throughout California. Table C below lists the objectives that the Audit Committee approved and the methods we used to address them.

**Table C**  
**Audit Objectives and the Methods Used to Address Them**

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<p>Reviewed and evaluated relevant federal and state laws, rules, regulations, and other relevant information related to affordable housing development.</p>
<p>2 Identify and evaluate the following:</p> <ul style="list-style-type: none"> <li>a. The Tax Committee’s and Debt Limit Committee’s efforts to fulfill their missions related to increasing the supply of affordable housing for low-income Californians.</li> <li>b. Any challenges they face in fulfilling their missions, leveraging local and private investments, and ensuring that the State serves its most vulnerable populations, such as people experiencing homelessness.</li> <li>c. Any opportunities for the Legislature to assist the Tax Committee and the Debt Limit Committee in fulfilling their missions.</li> </ul>	<ul style="list-style-type: none"> <li>• Analyzed the missions, responsibilities, and efforts of the State’s four housing agencies—the Tax Committee, the Debt Limit Committee, HCD, and CalHFA—to increase the supply of affordable housing.</li> <li>• Using information from HCD and other housing experts, quantified the State’s current and future needs for affordable housing units.</li> <li>• Obtained data from the Tax Committee and Debt Limit Committee and determined the amount of financial resources each awarded and the number of affordable housing units those funds supported over the last five years (2015 to 2019).</li> <li>• Interviewed key staff and reviewed funding processes from the four housing agencies to identify challenges with fulfilling their missions and leveraging local and private investments.</li> <li>• Evaluated the State’s plan for ensuring that the State is serving its most vulnerable populations, such as people experiencing homelessness, seniors, individuals with disabilities, and farmworkers.</li> <li>• Identified recommendations for the Legislature to assist state agencies in fulfilling their missions.</li> </ul>
<p>3 Review the Tax Committee’s and the Debt Limit Committee’s management and operation practices, management structure, and internal controls to ensure that they are operating effectively and efficiently.</p>	<ul style="list-style-type: none"> <li>• Interviewed relevant staff at the Tax Committee and the Debt Limit Committee.</li> <li>• Evaluated the management structure and practices of each committee by reviewing their organizational charts, regulations, regulation-setting processes, and other documents.</li> <li>• Reviewed each committee’s internal controls for its processes to award tax credits and bond resources and identified any inefficiencies.</li> </ul>
<p>4 Analyze the transparency of the Tax Committee’s and Debt Limit Committee’s processes and governance, such as whether the rules and processes are sufficiently clear for developers, and whether topics discussed at meetings are properly placed on the agenda.</p>	<ul style="list-style-type: none"> <li>• Determined whether the committees’ processes and governance were transparent by reviewing the committees’ public meeting agendas and minutes from 2015 through 2020. We found that topics discussed at meetings were generally present on the agenda.</li> <li>• Assessed the clarity of the committees’ information for developers by interviewing a selection of 10 developers and reviewing state agencies’ processes.</li> </ul>

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AUDIT OBJECTIVE	METHOD
<p>5 Determine and analyze the geographical distribution of funds awarded by the Tax Committee for affordable housing in the last five years, including the following:</p> <p>a. Where additional affordable housing is needed most.</p> <p>b. Whether rural and infill projects are adequately represented.</p> <p>c. Whether farmworker projects are adequately represented.</p>	<ul style="list-style-type: none"> <li>• Obtained data from the Tax Committee for all active projects to which it awarded funds from 1987 through October 2019 and determined the number of housing units that received funding in each local jurisdiction.</li> <li>• Analyzed HCD's housing needs and building permit data for each local jurisdiction to determine the extent to which local jurisdictions were meeting housing needs.</li> <li>• Using data from the Tax Committee, the Department of Finance, and the U.S. Census Bureau, created a map that displays each local jurisdiction's Tax Committee-funded units per 1,000 population and indicators of housing needs.</li> <li>• Performed additional analysis of Tax Committee awards at the county level from 2015 through 2019 to determine whether it distributed funds equitably, such as to those areas of high need.</li> <li>• Evaluated HCD's process for overseeing local jurisdictions' housing development by reviewing state law and HCD documents and by interviewing HCD staff.</li> <li>• Selected eight cities—based on information such as their locations, demographics, housing needs, and housing development—and analyzed publicly available documents, such as their municipal codes and housing elements (local housing plans) to determine potential causes for their different levels of affordable housing development.</li> <li>• Reviewed HCD's 2018 state housing plan to determine whether housing for people experiencing homelessness, seniors, individuals with disabilities, and farmworkers were adequately represented.</li> <li>• Identified that infill projects are supported by HCD's infill infrastructure grant program, which recently made nearly \$280 million in total awards for fiscal year 2019–20; amounts were awarded for both large and small jurisdictions. The State had invested lower amounts in previous years—HCD awarded \$42 million in fiscal year 2014–15 and \$50 million in fiscal year 2017–18, according to HCD's award lists.</li> </ul>
<p>6 Review the Tax Committee's and Debt Limit Committee's competitive and noncompetitive processes for deciding which projects to fund.</p>	<ul style="list-style-type: none"> <li>• Interviewed key staff at the Tax Committee and Debt Limit Committee and reviewed regulations and other documents to obtain an overview of the committees' processes for awarding competitive and noncompetitive funding.</li> <li>• Selected 14 applications for tax credits and bond resources and evaluated the two committees' processes for making competitive and noncompetitive awards.</li> <li>• Compared the Tax Committee's and Debt Limit Committee's program requirements and deadlines to other housing agencies.</li> </ul>
<p>7 Review the Tax Committee's efforts to recruit applicants that would provide affordable housing throughout the entire State, including the San Joaquin Valley and rural areas.</p>	<p>Interviewed Tax Committee staff and reviewed conference and workshop documentation to evaluate Tax Committee developer recruitment efforts between 2015 and 2019.</p>
<p>8 Determine the amount of bond funds the Debt Limit Committee has allocated to affordable housing over the last five years. Evaluate the Debt Limit Committee's methodology for allocating tax-exempt debt to housing and other purposes.</p>	<ul style="list-style-type: none"> <li>• Using the Debt Limit Committee's awards information, determined the number of bond resources it allocated for affordable housing and other purposes from 2015 to 2019.</li> <li>• Evaluated the Debt Limit Committee's methodology for allocating bond resources to housing and other purposes to determine whether the allocations aligned with past use, demand, and legislative priorities.</li> <li>• Interviewed Debt Limit Committee staff and reviewed existing data and documentation to determine—to the extent possible—the amount of bond resources that expired from 2015 to 2019 and the reasons they expired.</li> </ul>

AUDIT OBJECTIVE	METHOD
<p>9 Review the Tax Committee’s process for ensuring that developers have met all program requirements and continue the affordability and habitability of their developments into the future.</p>	<ul style="list-style-type: none"> <li>Established an overview of the Tax Committee’s monitoring process by interviewing staff and by reviewing its <i>Compliance Monitoring Manual</i> and other documentation.</li> <li>Using lists of projects the Tax Committee monitored between 2015 and 2019—which we determined were sufficiently reliable for our purposes—selected 10 projects and evaluated whether the Tax Committee followed its monitoring process to ensure that developers have met all program requirements and that projects remain affordable and habitable.</li> <li>Identified 10 projects that the Tax Committee reported to the IRS for noncompliance both in 2016 and 2019—and obtained all available inspections for those projects—to evaluate the Tax Committee’s disciplinary actions against projects that show patterns of noncompliance.</li> </ul>
<p>10 Analyze the Debt Limit Committee’s and Tax Committee’s efforts to work together to prioritize projects to ensure that there is enough private equity bond funding for projects approved by the Tax Committee. Further, analyze the Debt Limit Committee and Tax Committee housing priorities, how they may conflict, and how this conflict is resolved.</p>	<p>Interviewed staff at the Tax Committee and the Debt Limit Committee and reviewed documentation of their processes—including regulations that establish housing priorities—to identify conflicts.</p>
<p>11 Identify the sources and amount of funds developers typically used on a selection of Tax Committee projects, including ways to incentivize non-state resources.</p>	<ul style="list-style-type: none"> <li>Using the Tax Committee and Debt Limit Committee applications selected for Objective 6, identified the sources and amounts of funds used for those projects.</li> <li>Reviewed housing studies and other reports to identify types of sources developers typically used for financing affordable housing projects.</li> <li>Reviewed housing studies and local organizations’ practices, such as incentives to increase housing development, to identify strategies for leveraging non-state resources.</li> </ul>
<p>12 Identify any best practices that encourage the creation of additional affordable housing throughout the State, including balancing the needs of high-cost and rural areas.</p>	<ul style="list-style-type: none"> <li>Interviewed a selection of stakeholders—including a housing advocate, building association, and local government association—and reviewed an existing survey of local governments to understand statewide affordable housing problems and best practices.</li> <li>Reviewed existing affordable housing research from governmental and academic sources to compile a list of the main barriers to and solutions for increasing affordable housing development.</li> <li>Reviewed recent housing-related legislation to identify remaining gaps in state law that, if amended, could provide for more affordable housing development.</li> </ul>
<p>13 Review and assess any other issues that are significant to the audit.</p>	<p>We did not identify any additional issues that are significant to the audit.</p>

Source: Analysis of the Audit Committee’s audit request number 2020-108, as well as information and documentation identified in the column titled Method.

### Assessment of Data Reliability

The U.S. Government Accountability Office, whose standards we are statutorily obligated to follow, requires us to assess the sufficiency and appropriateness of computer-processed information we use to support our findings, conclusions, or recommendations. In performing this audit, we obtained electronic data from the Tax Committee and Debt Limit Committee related to awarded

tax credits and bond allocations. To evaluate the Tax Committee's data, we reviewed existing information about the data; interviewed staff knowledgeable about the data; and performed electronic, completeness, and accuracy testing. We found these data to be sufficiently reliable for our purposes. Further, the State lacks a single source of data to show all affordable housing units created with state financial resources. Because the four housing agencies indicated that most affordable housing projects receive tax credits and our analysis verified that the Tax Committee's data contained many of the projects from the other housing agencies, we determined that the Tax Committee's data were reasonable to represent state-supported housing. To evaluate the Debt Limit Committee's data, we reviewed existing information about the data, interviewed staff knowledgeable about the data, and performed electronic and completeness testing. We found them to be sufficiently reliable for our purposes.

Moreover, we obtained publicly available federal data related to cost burden, overcrowding, and vacancy rates to identify cities and counties with indications of affordable housing need. We performed general completeness testing of the data and found them to be sufficiently reliable for our purposes. We also obtained a list of HCD's enforcement actions and performed electronic testing and interviewed key staff knowledgeable about the data. We found these data to be sufficiently reliable for our purposes.

Lastly, we obtained annual progress report data from HCD to help identify local jurisdictions that were not meeting their affordable housing goals. We performed limited testing of the data and found them to be of undetermined reliability because they are self-reported data from local jurisdictions. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendations.

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

GAVIN NEWSOM, Governor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

**OFFICE OF THE DIRECTOR**

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[www.hcd.ca.gov](http://www.hcd.ca.gov)



October 27, 2020

Elaine M. Howle  
California State Auditor,  
621 Capitol Mall, Suite 1200  
Sacramento, California 95814

RE: California's Housing Agencies: The State Must Overhaul Its Approach to Affordable Housing Development to Help Relieve Millions of Californians' Burdensome Housing Costs

Dear Ms. Howle:

The Department of Housing and Community Development (HCD) appreciates the California State Auditor's examination of Tax Credits and Financing for Affordable Housing Projects in its draft report titled "The State Must Overhaul Its Approach to Affordable Housing Development to Help Relieve Millions of Californians' Burdensome Housing Costs."

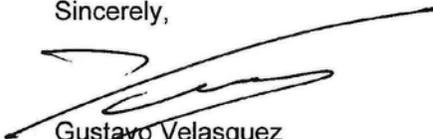
HCD's mission is to promote safe, affordable homes and strong vibrant communities throughout California, and we appreciate the focus and recommendations on how delivering on this mission can be improved and enhanced. Recognizing that the COVID pandemic has made responses to affordable housing goals more challenging, the pandemic has also brought to light why addressing housing affordability and supply is critically important.

We concur with the recommendations to increase collaboration amongst our partners and are encouraged with the progress that has been occurring throughout 2020 as the state has sought to display a set of values and goals to improve initially the competitive delivery of California Debt Limit Allocation Committee (CDLAC) resources. Of additional note is the Governor's recent signature of AB 434, which will provide an opportunity to continue to better align HCD's own programs and will necessitate working with governmental and non-governmental stakeholders to maximize the use of the state's limited affordable housing resources.

Additionally, HCD stands ready to work with the Legislature on opportunities to strengthen existing law to enable HCD to more effectively enforce state law and better promote the development of affordable housing.

Thank you for this opportunity to respond to this draft report. Should you have any questions, please contact HCD's Chief Internal Auditor, Mathew Raute at (916) 247-6375 or [Mathew.raute@hcd.ca.gov](mailto:Mathew.raute@hcd.ca.gov).

Sincerely,



Gustavo Velasquez  
Director

cc: Lourdes M. Castro Ramírez, Secretary, Business, Consumer Services and Housing Agency  
Patti Ochoa, Administrative Process Manager, Business, Consumer Services and Housing Agency

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FIONA MA, CPA  
TREASURER  
STATE OF CALIFORNIA

October 27, 2020

Elaine Howle, CPA\*  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Dear Ms. Howle,

The State Treasurer's Office (STO) appreciates the opportunity to respond to the draft report titled "California's Housing Agencies: The State Must Overhaul Its Approach to Affordable Housing Developments to Help Relieve Millions of Californians' Burdensome Housing Costs". Please reference the enclosed attachment for a detailed response.

Thank you again for this opportunity. Should you have any questions or require additional information, please do not hesitate to contact me at (916) 653-2995, or by email at [fiona.ma@treasurer.ca.gov](mailto:fiona.ma@treasurer.ca.gov)

In Peace and Friendship,

A handwritten signature in black ink, appearing to be "Fiona Ma", is written over a horizontal line. The signature is stylized and extends across the line.

Enclosure

cc: Genevieve Jopanda, Chief of Staff  
Spencer Walker, General Counsel  
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\* California State Auditor's comments begin on page 71.

- ① Thank you for the opportunity to respond to the draft report titled “California’s Housing Agencies: The State Must Overhaul Its Approach to Affordable Housing Developments to Help Relieve Millions of Californians’ Burdensome Housing Costs”. Below you will find a detailed response to the draft report addressed by section title.

The State Mismanaged \$2.7 Billion of State Housing Resources That Could Have Contributed to More Affordable Housing

We are limited to our response to this section as the Executive Director of the California Debt Limit Allocation Committee (CDLAC) and the California Pollution Control Financing Agency (CPCFA) at the time frame of which this section is referencing are no longer with the agency. Additionally, Treasurer Ma and her administration took office in January 2019.

To add some background, the 4% tax credits, which are issued by the California Tax Credit Allocation Committee (CTCAC), also require private activity bonds, which is where CDLAC governs the private activity bonds issuance. CDLAC has not faced competition for bonds in recent history.

- ② Under the current leadership of the interim CDLAC Executive Director, CDLAC has developed a new carryforward policy. In an effort to utilize all volume cap authorized for the program year, if there is a balance of unallocated private activity tax-exempt bond allocation available, CDLAC will make lump sum carryforward allocation available to certain highly active issuers.

If selected, the issuer would receive a lump sum carryforward award of allocation at the December CDLAC committee meeting. The issuer will have three years to utilize this allocation for their future projects.

To keep track of this carryforward allocation, CDLAC created a tracking sheet that includes the name of the issuer, the amount of lump sum carryforward awarded, the year in which the allocation was awarded and columns for the future projects and the amount of allocation being used for the specific project. The sheet also includes a running balance column to keep track of the available lump sum carryforward allocation remaining after each award.

Issuers are required to also report usage a week after every allocation meeting and provide CDLAC with the remaining balance for comparison and reconciliation with CDLAC’s tracking sheet. Issuers are also required to report any and all allocation not issued for a project utilizing the carryforward allocation on a weekly basis.

The CDLAC analyst uses this information to report the status of the lump sum carryforward allocation to the Executive Director on a bi-weekly basis. Carry forwards will also be posted and updated on CDLAC’s website on a monthly basis.

The State Needs to Determine Where Its Resources Will Make the Biggest Impact

Historically, the 4% program has been non-competitive and therefore the tax credits have been available to all developers who apply given they meet the minimum CTCAC requirements. These applications are not competitively scored and therefore the funding of one project in a given geographic area has no effect on another project funded in another geographic area. If no applications are received in a program where the 4% credits are non-competitive, there are reasons why some projects are not feasible in a given geographic area.

While some geographic areas may show a need for affordable housing, there may be barriers preventing projects from applying. Some communities have little or no funding to pair with the tax credits to make the project feasible, especially given the limitations associated with the tax credits pursuant to federal law. Given the allocation of tax credits is a public and private partnership, there may be a lack of interest to build in certain areas due to risks to the investor ownership, which could affect the credit pricing in those deals resulting in lower equity. Some communities experience opposition from advocates who are against affordable housing projects in their area. ③

The CTCAC Executive Director and interim CDLAC Executive Director and executive team participates in panels at housing conferences throughout the state, including the Rural Housing Summit where stakeholders developing in rural areas attend and participate. Starting in 2012, CTCAC staff also began meeting with California Native American tribal representatives and since then have attended various housing conferences in cities such as Ukiah, Tuolumne, and Cabazon regarding the availability of tax credits. ④

The housing conferences, available to housing developers, allow us to promote the Tax Committee and the credit availability. In addition, the California State Treasurer embarked on a 5-city listening tour in January 2019 and then another 10-city tour in June 2019 to encourage affordable housing throughout the state and seek feedback. The tours included cities of Los Angeles, San Diego, Sacramento, San Francisco, Fresno, Riverside, Buena Park, Bakersfield, Port of Hueneme, Redding, and San Jose. ④

As with the 4% program, the 9% program is subject to the same barriers noted above with regard to some geographic areas where no applications are received. The 9% program is a competitive program and is oversubscribed at least 2 to 1 and sometimes 3-4 to 1. Twenty percent (20%) of the 9% federal credits are set aside for rural projects, which includes 7 counties noted not to have an application or award of tax credits through 2015 and 2019. While there is currently no county apportionment within the rural set aside, CTCAC could benefit with further review of the various counties within the rural set aside. As stated above, CTCAC staff attend and present at rural conferences (Rural Housing Summit, Native American conferences, etc.) where stakeholders developing in rural areas throughout the state attend and participate, which again include rural cities Ukiah, Cabazon, and in Tuolumne County. CTCAC participation provides prospective rural applicants information on CTCAC and credits available. ④

The State's Cumbersome Processes Can Unnecessarily Slow Down Affordable Housing Development

- ⑤ The Multifamily Housing Project in the California Housing Financing Agency (CalHFA) is now well coordinated with CTCAC. CalHFA and CTCAC had a number of internal meetings to review CTCAC's guidelines as well as a number of meetings with the Debt Limit Committee to make recommendations to CDLAC on emergency regulations and proposed longer term regulations. Among other things we:
- CalHFA Adopted CDLAC/CTCAC Application for our Application
  - CalHFA Tracked and co-managed the allocation of State Tax Credits related to MIP with the CTCAC team.
  - CalHFA Worked Directly with CTCAC team to review individual deal underwriting.

As a result, our 4% program now has a percentage of state tax credits that is set aside every year, beginning in 2020, in order to coordinate with the CalHFA program with regard to our state tax program. This amount is set aside every year so that CalHFA can pre-approve their mixed income program without also going through the California Debt Limit Committee process. We have also begun conversations with the Executive Director of California Housing and Community Development regarding a similar program. In fact, on October 27, 2020, CalHFA received an award from the National Council of State Housing Agencies for its Mixed Income Program for producing more housing in less time and with less public Subsidy as a result of its partnership with the STO.

- ⑥ In response to the issue of redundant scoring of applications, only the 4% applications had redundant scoring and this occurred only in year 2020. The applications were reviewed by CDLAC for all aspects of the application except for the efficient use of tax credits. The efficient use of tax credits was determined by CTCAC. This created confusion among the applicants because in certain cases although the applicant won on the CDLAC side, it would still not get a credit because it lost on the CTCAC side. This situation occurred one time in February of 2020.

This situation will now be eliminated because we have developed new CDLAC regulations which will be voted on in December in which the efficient use of tax credits will now be included in the CDLAC side only.

- ⑦ In response to the statement "Even so, the Debt Limit Committee could have used the standard regulation-setting process to align the program requirements, but it did not initiate this process either."  
⑧ CDLAC has utilized the Emergency Regulation process to develop regulation alignment in the past:

Oct 2019

- Modified "Mixed-Income Project" definition (Section 5000)
- Modified & Deleted language under Qualified Residential Rental Project Bonds (Section 5100)
- Added "Eligible Basis" (aggregate depreciable basis) language (Section 5233)

#### January 2020

- Deleted and modified language under “Competitive Application Process” (Section 5000)
- Added “QRRP Self Scoring Worksheet” language (Section 5035)
- Added language about CDLAC staff giving applicants 1 business day to cure application deficiencies (Section 5180)

#### May 2020

- Added language about giving applicants an option to return allocation within 90 days without forfeiture (Section 5052)
- Added language about bond preservation and recycling program as permitted by 26 U.S.C. 146(i)(6) (Section 5060)
- Added language about Notification of Bond Issue (Section 5141)
- Removed incorrect citation to US Tax Code. Added definition for New Construction, Other Affordable Pool, Preservation Pool (Section 5170)
- Removed incorrect information referring to TCAC Certificate of Previous Participation and Schedule A (Section 5190)
- Removed incorrect citation to US Tax Code (Section 5230)
- Increased Allocations Limits (Section 5233)

In addition we are currently reviewing the entire set of regulations for the Debt Limit Committee and plan to present them to the Board in December of this year.

#### Tax Committee Monitoring of Affordable Housing Projects

CTCAC follows the non-compliance protocols when conducting the compliance monitoring as stated. While CTCAC has not used its enforcement authority for repeated noncompliance, any repeated noncompliance is reported in conformance with CTCAC procedures. Assessing negative points or levying fines was implemented to address projects outside of the 15-year federal compliance period where noncompliance could be reported to the Internal Revenue Service (IRS) or in the cases outlined in the CTCAC regulations. As stated, it is true enforcement process could benefit from a more holistic approach that considers historical noncompliance and the type and significance of the violation. CTCAC is in the process of reviewing and reassessing its current procedures.

Prior to the IRS audit, the Compliance Section staff only reported Health & Safety violations (H&S) and Level 3 violations using similar standards. CTCAC determined that staff would begin reporting physical non-compliance issues in an effort to transition to the reporting of more items. Due to staffing constraints, the Tax Committee determined that Level 1 and Level 2 violations would be using the 25% calculation always used for specific Level 3 violations. This change significantly increased the amount of non-compliance (Form 8823) filed monthly, compounded with the insufficient staffing available to

report every single violation. Of the 1,000-1,200 projects inspected, approximately 95% of projects have some type of physical violation, which equates to 950-1140 projects being reported for non-compliance annually. While the Compliance Section staff was increased recently, some of those staff were added to address the increased inspection monitoring workload associated with the additional \$500 million in state tax credits. The other additional staff was to address the additional unit inspections of approximately 3000 more units annually resulting from a change by the Internal Revenue Service (IRS).

In summary, the Treasurer, the interim Executive Director of California Debt Limit Allocation Committee and Executive Director of California Tax Credit Allocation Committee agree with the State Auditor in transferring CDLAC's authority to CTCAC to manage tax-exempt bonds and its responsibilities for reviewing applications and allocating bond resources. Understanding that housing is a priority for California, the State Treasurer chaired many of CDLAC's and CTCAC's board meetings since taking office and has been actively engaged in updating policies for these committees.

The STO also agrees with the State Auditor that access to data on the State's financial resources for affordable housing is important in monitoring and meeting California's housing needs. Additionally, the concept of a housing working group in the Legislature is welcomed as it may be able to ensure the State awards financial resources for housing is addressed in a more timely and efficient manner. We have witnessed that this process is effective through our experience with our CTCAC/CDLAC housing working group comprised of various stakeholders and advocates representing diverse backgrounds and geographic areas.

The Treasurer and CDLAC and CTCAC leadership have demonstrated commitment towards working collaboratively to streamline processes and align with other housing agencies as reflected in some of our work such as the inclusive process by hosting 15 housing tours across the state, developing the CTCAC/CDLAC working group to solicit input towards improving processes to make the it less cumbersome and more efficient for housing developers, and strong working relationship with CalHFA on the Mixed Income Pool process.

We are committed and look forward to working towards the improvement and development of housing to meet California's housing goals.

## COMMENTS

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE STATE TREASURER'S OFFICE

To provide clarity and perspective, we are commenting on the State Treasurer's Office's response to the audit. The numbers below correspond to the numbers we have placed in the margin of its response.

Throughout its response, the State Treasurer's Office includes technical details and terminology that we describe more generally in the report. None of these details impact the content or conclusions in our report. We provide further comments on the State Treasurer's Office's response below.

①

As we state on page 21, while the Debt Limit Committee's current policy includes a process for tracking carryforward, which we refer to as *remaining resources*, and reporting it on its website each month, it lacks reporting provisions to disclose them in its public meetings. Further, when the Debt Limit Committee allocates these remaining resources, it should also consider demand for bond resources, use of previously allocated bonds, documented legislative priorities, and risk of allocated bonds being lost, which it has not done, as we explain on page 20.

②

We acknowledge the barriers to affordable housing development at the local level in Chapter 2 starting on page 33. Notwithstanding some of the barriers that the State Treasurer's Office cites, the Tax Committee does not actively solicit applications from those areas that are not applying for tax credits. As we state on page 23, the distribution of tax credits in some counties is disproportionate to their share of the State's population. Therefore, we recommend that the Tax Committee should immediately identify areas from which it has not received applications or areas with fewer awards per population and use that information to inform regulatory changes to attract more affordable housing developers to those areas.

③

We acknowledge on page 23 that the Tax Committee has participated in housing conferences throughout the State. However, we found disparities in tax credit awards among certain counties, including seven rural counties that had no tax credits or applications at all from 2015 through 2019 despite having significant indicators of need. Although the Tax Committee maintains data on the number of applications it receives, the tax credits it awards, and the affordable housing units it supports, it has not used this information to identify disparities by geographic region, which is essential for ensuring that affordable housing is being built in all areas of the State, as we state on page 23.

④

- ⑤ We acknowledge that CalHFA requires applicants to use the same application as the Tax Committee and Debt Limit Committee on page 27. However, as we depict in Table 1 on page 26, these agencies have varying eligibility requirements for applicants applying for financing for a single multifamily project, which can create unnecessary obstacles for developer applicants.
- ⑥ The State Treasurer's Office's assertion is misleading. The two committees' application approval processes are redundant in multiple ways. As we state on page 29 and page 30, the process wherein two agencies review applications for the same housing projects and separately determine eligibility when the financing is integrally linked is, in several respects, redundant and thus may contribute to inefficiencies. In addition to making awards to most of the same projects, the Tax Committee and the Debt Limit Committee have similar membership and these committee members often discuss the same projects in consecutive meetings in what amounts to a duplication of effort. Further, The Tax Committee and the Debt Limit Committee review the same general project information and require similar, if not identical, documentation—such as market studies—from applicants for the majority of project application components.
- ⑦ Although the Debt Limit Committee has made some changes to its regulations, for example to clarify definitions, these changes do not align its eligibility requirements with the Tax Committee. As we state on page 28, the Debt Limit Committee did not use its emergency regulation-setting process to align its requirements with the Tax Committee's requirements in recent years. As a result, the Debt Limit Committee did not remove unnecessary inconsistencies with its requirements and the Tax Committee's requirements, which may have resulted in slowed production of affordable housing in California.
- ⑧ In completing our quality control process, we revised this sentence in our report for clarity.