



California Housing Finance Agency

**Agenda Item 11**  
**Board Governance**  
**March 7, 2013**

## 1. Structure of CalHFA

- A. State Agency created to operate in the commercial market to meet housing needs of persons and families with low and moderate incomes.
- B. Administered by a Board of Directors- 14 members, 11 of whom vote
  - i. Voting members (6 year term): 6-Governor (1 Chair), 1-Senate, 1-Assembly
  - ii. 3 Ex Officio Voting members: BTH, Treasure, HCD
  - iii. 3 Ex Officio non-voting: ED, Finance, OPR
  - iv. Two advisory committees- created by full board
    - a) Audit – makes recommendations for selection and retention of auditors; review audit findings and reports to board
    - b) Compensation – review performance of Executive Director; management succession; compensation of senior executives

## 1. Structure of CalHFA (cont.)

- C. Executive Director – administers and directs day to day operations of agency
- D. Four Lines of Business
  - i. Single Family Lending
  - ii. Multifamily Lending
  - iii. Contract Administered Programs
  - iv. Mortgage Insurance (new business on pause - administering claims).
- E. Financially independent from the State of California
- F. Not subject to the supervision or control of other government officers or agencies

## 1. Structure of CalHFA (cont.)

- G. Has its own general obligation credit rating.
  - i. State does not pledge its full faith and credit for repayment
  
- H. Does not participate in Legislative Budget Process – funds continuously appropriated to Housing Fund and Insurance Fund
  
- I. CalHFA MAC – Formed as nonprofit – to administer KYHC program

## 2. Role of CalHFA Board / Relationship with Executive Director

- A. Overall supervision and control over Agency's operation – set policy
  - i. Approve all bond indentures (“sales of debt obligations”)
  - ii. Authorize all major contractual obligations (expenditure above \$1M in FY)
  - iii. Approve all final commitments on multifamily project loans above \$4M
  - iv. Approve Agency Operation Budget and set salaries of key exempt managers (ED, Chief Deputy, Directors of Finance, Multifamily, Homeownership, Insurance, Financial Risk Mgr, and General Counsel)
  
- B. Supervise the Executive Director (5 year term)
  - i. Board's point contact with Agency
  - ii. Executes matters delegated by Board
  - iii. Recommends to Board new/different financing strategies, loan products – Board must approve
  - iv. Evaluated annually

### **3. Overview of Board's obligations, rights, and responsibilities**

#### **A. Board Action and Open Meeting Requirements**

- i. acts as a single body through consensus (discussion, deliberation and voting)
- ii. 6 votes needed to take action ("majority of those then in office")
- iii. majority of board cannot communicate with each other or through an intermediary on matters under CalHFA's jurisdiction except in an open meeting
- iv. can only vote on matters properly noticed and on agenda
- v. meetings conducted in public with 10 days advance notice
- vi. closed sessions – authorized by law and on agenda (attorney advice on pending litigation; evaluation of direct report of the Board)
- vii. Advisory Committees: Audit and Compensation – limited authority; 10 day notice/agenda required

### 3. Overview of Board's obligations, rights, and responsibilities (cont.)

- B. Fiduciary Duty – act for the benefit of CalHFA
  - i. Duty of Care – you must exercise *ordinary* and *reasonable* care
    - a) be informed, prudent and exercise independent judgment
    - b) it is reasonable to act in reliance on information and reports from trustworthy sources (staff and retained professionals)
  - ii. Duty of Loyalty – met by acting in good faith, in the best interest of the Agency and by avoiding conflicts of interest

### 3. Overview of Board's obligations, rights, and responsibilities (cont.)

- C. Duty of Disclosure – duty to disclose material information (reasonable investor would consider important to decide whether to invest)
  - i. Board is not directly involved in preparation or issuance of Official Statements
  - ii. May rely on Agency's disclosure process which included use of professional staff (attorney and consultants) and through review by internal staff
  - iii. Reporting obligation if *actually knew or should have known*
  - iv. If a member becomes aware of material information it should be disclosed to Agency staff

### 3. Overview of Board's obligations, rights, and responsibilities (cont.)

#### D. Conflicts of Interest

- i. You may not make or participate in making a decision when:
  - a) the decision may have a foreseeably material financial effect on you or an immediate family member
  - b) distinguishable from its effect on the public generally
  
- ii. You may not hold legal title to or have financial interest in real property:
  - a) purchase by CalHFA
  - b) sold to a housing sponsor to be financed by CalHFA
  
- iii. Other than sale of realty, a financial interest in a matter before the Board does not disqualify board membership (diverse interest in industry essential to development of policy) – **but you must:**
  - a) disclose the existence of interest on the public record
  - b) not participate or attempt to influence deliberations or vote

### **3. Overview of Board's obligations, rights, and responsibilities (cont.)**

#### **D. Conflicts of Interest (cont.)**

- iv. Prohibited from representing others before CalHFA for compensation:
  - a) to influence awards of loans/contracts (while on the board)
  - b) for one year after membership on board terminates
  - c) When you participated as a Board Member on the specific loan project
  
- v. Prohibited from influencing CalHFA decisions for person/entity with whom you engaged in a business transaction valued at \$1,000.00 for preceding 12 months

### **3. Overview of Board's obligations, rights, and responsibilities (cont.)**

#### **E. Defense Against Liability**

##### **i. Government Claims Act**

- a) mandatory duty to defend and indemnify members of the board in any civil proceeding for acts or omissions arising out of the performance of Board responsibilities
- b) coverage may be denied for acts involving actual fraud, corruption or malice or in disciplinary, administrative or criminal proceedings

##### **ii. Business Judgment Rule**

- a) Decisions made on an informed basis in good faith and in the honest belief the action taken was in the best interest of the Agency insulate the member from personal liability