

Comment Number	Guidelines Section	Comment	Response
1	<p>1) Sections 2, 4, 5, 7, 11</p> <p>2) Section 7</p> <p>3) Section 9</p>	<p>HCD should adopt several components of the newest MHP Guidelines including the following:</p> <p>1) <u>Enhanced accessibility standards</u>: “HCD recently adopted minimum accessibility standards in its MHP Guidelines (amended May 5, 2022) that go beyond the federal requirements to address one of the disability community’s biggest barriers to housing access: a critical shortage of rental housing that is both affordable and accessible. Like the NHTF Guidelines, the MHP Guidelines require compliance with the federal standards; but, the MHP Guidelines also require compliance with state standards like enhanced accessibility requirements. HCD should adopt MHP’s accessibility standards into its NHTF Guidelines so that there are consistent standards across all of HCD’s rental housing programs. Adopting the same set of accessibility standards across all programs maximizes the public benefit of state housing programs by making the housing produced by those programs available to segments of the population in dire need of affordable, accessible housing.”</p> <p>2) <u>Fair housing and tenants’ rights protections</u>: “HCD should also adopt MHP’s fair housing and tenants’ rights protections into the NHTF Guidelines to the extent the MHP Guidelines provide a higher level of protection. The NHTF Guidelines already include some fair housing and tenants’ rights provisions (those that derive from HUD requirements), but they fail to include state protections covered by the MHP Guidelines. For example, the MHP Guidelines expressly require compliance with the Unruh Civil Rights Act, Government Code 11135, and the Fair Employment and Housing Act—none of which are mentioned in the NHTF Guidelines.”</p> <p>3) <u>Relocation requirements</u>: “The MHP Guidelines require compliance with federal, state, and local relocation laws, whereas the NHTF Guidelines only discuss federal relocation. As noted in the MHP Guidelines at section 7315(b), the NHTF Guidelines should specifically state, in regard to relocation, that “To the extent of any variation in the applicable relocation laws, the stricter standard shall apply.” Other specific relocation provisions from the MHP Guidelines should also be included, such as rights for relocation during</p>	<p>Summary of Public Comment: NHTF program should adopt language from MHP guidelines to expand accessibility standards, fair housing and tenants’ rights protection, relocation requirements, and supportive services plans.</p> <p>1) <u>Enhanced Accessibility Standards</u></p> <p>Response: The Department agrees with the suggestion to adopt language from MHP Guidelines Round 2 and added the following language: “Where a Native American Entity Recipient Project is located on Native American Lands it may be exempt from specific accessibility requirements where otherwise exempted by the Native American Housing and Self Determination Act or other federal or tribal laws as set forth at 24 C.F.R. § 1000.12.” in the NHTF Guidelines Section 4 and Guidelines Sections 2, 5, 7 and 11 were amended.</p> <p>2) <u>Fair Housing and Tenants’ Rights Protection</u></p> <p>Response: The Department agrees with the suggestion to adopt language from MHP Guidelines Round 2. NHTF Guidelines Section 7 was amended.</p> <p>3) <u>Relocation Requirements</u></p> <p>Response: Relocation language includes the most restrictive laws as seen in Subsection 9(c)(11)(F)(i): “The Applicant of any project resulting in displacement of tenants must be solely responsible for providing the assistance and benefits set forth in this subsection, and in applicable federal, state, and local law, whichever is more stringent.”</p>

National Housing Trust Fund Comments and HCD Responses October 2023

Comment Number	Guidelines Section	Comment	Response
	4) Section 9	<p>temporary displacements.”</p> <p>4) <u>Supportive Services Plans</u>: “The MHP Guidelines also include more detailed requirements for Supportive Services Plans than the NHTF Guidelines.”</p> <p>As with the accessibility requirements, aligning tenants’ rights and fair housing protections across all of HCD’s programs provides consistency and magnifies the public benefits of subsidized housing. HCD has the authority to use its program guidelines to provide greater levels of protection than what federal law requires. HCD should exercise that power here because California’s state laws are often more protective than federal anti-discrimination laws. (Even the definition of “disability” itself is broader under California law than under federal law, which we discuss further below.) Where there is overlap or ambiguity between different sets of standards, the more protective standard should apply.</p> <p>Disability Rights California</p>	<p>4) <u>Supportive Services Plans</u></p> <p>Response: Supportive services are not a requirement unless there is a Homeless component to the Project. NHTF Guidelines Section 9 was amended to provide more clarity.</p>
2	Section 1	<p>The Overview provides a mostly clear explanation of the NHTF program and how it operates in California. However, the Guidelines should clearly state the income level targeted for this round of funding. We understand that the applicable income level changes depending on the amount of funding allocated. But it is our understanding that the funding amount has already been announced (less than \$1 billion nationwide), so the Guidelines should state that 100% of the funds in this cycle must benefit Extremely Low Income (ELI) families.</p> <p>Disability Rights California</p>	<p>Summary of Public Comment: The NHTF Guidelines should state the 100% of the funds in this cycle must benefit Extremely Low Income (ELI) families.</p> <p>Response: HCD respectfully declines any edits to this section. HCD will define the income targeting requirements in the Notice of Funding Availability (NOFA).</p>

<p>3</p>	<p>Section 2 – Definitions; “Family”</p>	<p>1) The Guidelines adopt HUD’s definition of “Family,” which is good in some ways but also inappropriately excludes some households. On the positive side, HUD’s definition at 24 C.F.R. 5.403 covers a wide range of household compositions, including those that deviate from so-called “traditional” family structures. Public and private actors alike have used restrictive definitions of “family” as a tool for discriminatory housing policies. We thank HCD for opposing that practice and adopting a definition of “Family” that is inclusive and respectful of the many different ways Californians choose to live.</p> <p>However, HUD’s definition of “family” is too narrow when it comes to its treatment of people with disabilities. HUD’s definition includes “a disabled person” and “a disabled family,” but it relies on the federal definition of “disability” for each of those terms. The federal definition of “disability” is narrower than the definition used in California for purposes of state nondiscrimination statutes. HCD’s definition of “family” should reflect California’s definition of “disability” so that it is consistent with state law, which is the more protective standard. Another problem with HUD’s definition is that it defines “disabled family” to only include “a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.” (24 C.F.R. 5.403.) HUD’s definition of “disabled family” excludes households with disabled children and any household where the person with a disability is someone other than a head of household or spouse. This omission is particularly troubling when considering eligibility for accessible housing units.</p> <p>To address these problems, we urge HCD to use HUD’s definition of “family” as a baseline, but to revise the terms “disabled family” and “person with disabilities” to reflect California’s broader definition of “Disability.” HCD should use the definition of “Disability” from the MHP Guidelines because that definition encompasses both state and federal definitions of “disability” and would create consistency across HCD’s housing programs. The revised definition would read as follows:</p> <p>(n) “Family” includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:</p> <p>(1) A single person, who may be an elderly person, displaced person, person with a</p>	<p>1) <u>Definition of “Family” and “Disability”</u></p> <p>Summary of Public Comment: NHTF guidelines should revise the terms “disabled family and person with disability” to reflect California’s broader definition of “Disability”. NHTF should also adopt MHP Guidelines Round 2, which encompasses both State and Federal definitions of “Disability.”</p> <p>Response: HCD agrees to revise the definitions and incorporate language from the MHP Guidelines Round 2. NHTF Guidelines Section 2 was amended to expand the definitions of “Family” and “Disability.”</p>
----------	--	---	--

	<p>Disability [defined below], near-elderly person, or any other single person; or (2) A group of persons residing together, and such group includes, but is not limited to: (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family); (ii) An elderly family; (iii) A near-elderly family; (iv) A Disabled Family; (v) A displaced family; and (vi) The remaining member of a tenant family.</p> <p>For purposes of this proposed definition and elsewhere, “Disability” would have the same definition that appears in Appendix A of the MHP Final Guidelines. Please see our comments below on why HCD should add “Disability” as a defined term and use the definition from the MHP Guidelines.</p> <p>If HCD elects to use our suggested definition of “Family,” it will also need to add “Disabled Family” to the Definitions section of the NHTF Guidelines. We propose the following definition:</p> <p>“Disabled family” means a family in which at least one member, or the sole member, has a Disability [as defined in the MHP Guidelines]. It may include two or more persons with a Disability living together, or one or more persons with a Disability living with one or more live-in aides.</p> <p>2) Lastly, we encourage HCD to ensure that its definition of “Family” under the NHTF program also includes “mixed families” as defined by HUD in 24 C.F.R. 5.504. California has a large population of families whose members have different immigration statuses, which impacts the families’ eligibility for subsidized housing programs. HCD should include “mixed families” in the definition of “Family” in these Guidelines so that a family member’s immigration status does not create a barrier to housing access for the family.</p> <p>Disability Rights California</p>	<p>2) <u>Mixed Families</u></p> <p>Summary of Public Comment: NHTF should define “mixed families” to consider California’s population of families that have different immigration statuses.</p> <p>Response: HCD respectfully declines this edit, because NHTF program is not subject to 24 C.F.R § 5.504 and it may conflict with NHTF federal regulations.</p>
--	---	--

National Housing Trust Fund Comments and HCD Responses October 2023

4	Section 2	<p>“For consistency and alignment across HCD’s housing programs, these Guidelines should amend the definition of “Chronic Homelessness” to match the definition used in the MHP Final Guidelines. Both sets of guidelines rely on the federal definition from the McKinney-Vento regulations at 24 C.F.R. 578.3, but the MHP definition includes additional language to encompass target populations that may otherwise be excluded from coverage.”</p> <p>Disability Rights California</p>	<p>Summary of Public Comment: NHTF Guidelines should adopt MHP Guidelines Round 2 definition of “Chronic Homelessness,” which expands beyond the federal definition.</p> <p>Response: HCD agrees to revise the definition and incorporate language from the MHP Guidelines Round 2. NHTF Guidelines Section 2 was amended to expand the definition of “Chronic Homelessness,” with the exception of including MHP Section 7303 (f) regarding Special Needs project requirements.</p>
5	Section 2	<p>“We support HCD’s inclusion of “At Risk of Homelessness” in the definition of “Homeless” in these Guidelines. The definition of “At Risk of Homelessness” includes several groups of disabled people who, despite living in precarious housing conditions, are frequently overlooked by homelessness programs. These groups include people exiting institutional settings who do not meet the criteria for “Chronically homeless” and people living with family members or friends due to economic hardship. Including these groups in the definition of “Homeless” under these Guidelines helps close the gap in service that people with disabilities face when seeking housing and homelessness prevention services.”</p> <p>Disability Rights California</p>	<p>Summary of Public Comment: In support of including those At-Risk of Homelessness.</p> <p>Response: Thank you for comment.</p>
6	Section 2	<p>We support HCD’s adoption of Housing First principles into these Guidelines and defining “Housing First” in accordance with W.I.C. Section 8255. That statute’s definition of “Core components of Housing First” reflects current best practices in the delivery of services to the unhoused and unstably housed. The Housing First model recognizes the primacy of stable housing in individual and public health, and it supports the right of all people to self-determination. We thank HCD for adopting the Housing First model into its housing programs.</p> <p>Disability Rights California</p>	<p>Summary of Public Comment: In support of including Housing First definitions and requirements.</p> <p>Response: Thank you for comment.</p>

<p>7</p>	<p>Section 2</p>	<p>We understand from recent conversations with HCD staff that the SRI form used for the MHP program captures data on the occupancy of Accessible Housing Units (i.e., housing units with mobility or sensory features that make the units accessible to people with mobility or sensory disabilities). We were pleased to learn that HCD is using the SRI form in this way, and we suggested changes to the form that would allow HCD to more easily monitor for compliance with state and federal accessibility requirements.</p> <p>We hope that HCD will use a similar SRI form for the NHFT program, especially since HUD’s NHFT regulations explicitly require compliance with the accessibility standards of Section 504 of the Rehabilitation Act, Titles II and III of the Americans with Disabilities Act, and the design and construction requirements of the Fair Housing Act (24 C.F.R. 93.301(a)(2)(i), (b)(1)(iv).)</p> <p>In our experience, housing providers frequently overlook state and federal accessibility requirements. The SRI form is a good way to remind housing providers of these requirements and capture compliance data. Accordingly, we recommend revising the definition of “SRI” in these Guidelines to include accessibility so that housing providers are on notice to take these requirements seriously. We recommend the following change:</p> <p>“Schedule of Rental Income” (“SRI”) is submitted to and approved by the Department prior to permanent financing closing and as required by the Regulatory Agreement. The SRI sets forth the rent roll, which identifies each tenant household in a form and manner that is reasonably acceptable to the Department; includes information requested by the Department (e.g., tenant household size, income, current rent, proposed rent adjustments, distribution and occupancy of accessible units in accordance with 24 C.F.R. 8.26 and 8.27); and provides estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.</p> <p>Disability Rights California</p>	<p>Summary of Public Comments: The NHTF Schedule of Rental Income (SRI) report should identify the distribution of accessible units within a project.</p> <p>Response: The Department will use current version of the SRI report, which includes the field for Recipient Representative or Management Agent to indicate the unit accessibility features. NHTF Guidelines Section 2 were amended to include suggested language in blue font.</p>
<p>8</p>	<p>Section 2</p>	<p>We recommend that HCD add “Accessible Housing Unit(s),” defined below, to the Definitions section of the Guidelines. As discussed throughout this comment letter, HUD regulations expressly require that housing built or rehabilitated with NHTF funds must meet federal accessibility standards. (See 24 CFR 301(2)(i).) Additionally, California has its own state accessibility requirements that apply independent of federal requirements. HCD has a legal duty to monitor for compliance with these</p>	<p>Summary of Public Comment: NHTF Guidelines should adopt language from MHP Guidelines Round 2 definition of “Accessible Housing Unit(s)”.</p> <p>Response: The Department agrees to revise the guidelines and incorporate language from MHP Guidelines Round 2. NHTF Guidelines Section 2 were amended to include the suggested definition in blue font.</p>

		<p>requirements. Defining the term “Accessible Housing Unit” in these Guidelines is a necessary step in the compliance process because it provides clarity on the specific legal standards a unit must meet to be accessible to people with disabilities. Providing clear standards for accessibility is important as developers increasingly embrace the principle of “universal design.” Though we support the spirit of universal design, we are concerned that it currently lacks clear, legally enforceable standards. In other words, “universal design” means different things to different people, which can lead to inconsistency in the production of housing units for people with disabilities. Requiring compliance with specific accessibility standards avoids inconsistency and maximizes access, while still leaving room for developers to provide enhanced accessibility features should they choose to do so.</p> <p>We suggest HCD adopt into these Guidelines the definition of “Accessible Housing Unit(s)” used in the MHP Final Guidelines (amended May 5, 2022):</p> <p>“Accessible Housing Unit(s)” means, collectively, “Housing Units with Mobility Features” and “Housing Units with Hearing/Vision Features” as defined below:</p> <p>(1) A “Housing Unit with Mobility Features” means and refers to a housing unit that is located on an accessible route and complies with the requirements of 24 C.F.R. Section 8.22 and all applicable provisions of Uniform Federal Accessibility Standards (UFAS) or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Sections 809.2 through 809.4 of the 2010 Standards for Accessible Design. A Housing Unit with Mobility Features can be approached, entered, and used by persons with mobility disabilities, including individuals who use wheelchairs. Such units must also comply with California Building Code Chapter 11B.</p> <p>(2) A “Housing Unit with Hearing/Vision Features” means and refers to a housing unit that complies with 24 CFR Section 8.22, and all applicable provisions of UFAS or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Section 809.5 of the 2010 Standards for Accessible Design. Such units must also comply with California Building Code Chapter 11B.</p> <p>Disability Rights California</p>	
--	--	--	--

<p>9</p>	<p>Section 2</p>	<p>Proposed addition: “Alternative Accessibility Standard”</p> <p>In addition to “Accessible Housing Unit(s),” HCD should also add “Alternative Accessibility Standard” to the Definitions section of these Guidelines because it is a term of art used in the definition of “Accessible Housing Unit(s)” shown above. HCD should use the same definition that it uses for this term in the MHP Guidelines:</p> <p>“Alternative Accessibility Standard,” also referred to as the HUD Deeming Notice (HUD-2014- 0042-0001), means the alternative accessibility standard for accessibility set out in HUD’s notice at 79 Fed. Reg. 29671 (May 23, 2014), when used in conjunction with the requirements of 24 CFR pt. 8, 24 CFR Section 8.22, and the requirements of 28 CFR pt. 35, including 28 CFR Section 35.151 and the 2010 Standards for Accessible Design as defined in 28 CFR Section 35.104.</p> <p>Disability Rights California</p>	<p>Summary of Public Comment: NHTF Guidelines should adopt language from MHP Guidelines Round 2 definition of “Alternative Accessibility Standard”.</p> <p>Response: The Department agrees to include the proposed definition and incorporate language from MHP Guidelines Round 2. NHTF Guidelines Section 2 was amended to include the new definition in blue font.</p>
<p>10</p>	<p>Section 2</p>	<p>Proposed addition: “Disability”</p> <p>We urge HCD to add “Disability” as a defined term in these Guidelines and to use the same definition that appears in the MHP Guidelines, Appendix A. As discussed above, HUD’s NHTF regulations rely on the federal definition of disability, which is narrow than the definition California uses for purposes of its nondiscrimination statutes. California’s nondiscrimination statutes apply to HCD’s NHTF program; therefore, the NHTF Guidelines should use the California definition of disability to maximize protection against discrimination in state-assisted housing programs.</p> <p>The MHP Guidelines define “Disability” as follows:</p> <p>Disability - meeting the definitions of disability in the Americans with Disabilities Act (42 U.S.C. Section 12102) or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) and shall be broadly construed to include:</p> <p>(1) individuals with a mental or physical disability that limits a major life activity;</p> <p>(2) individuals regarded or perceived as having a mental or physical disability that limits a major life activity. This includes being perceived as having or having had a disorder or condition that has no present disabling effect but may become a mental</p>	<p>Summary of Public Comment: NHTF Guidelines should adopt language from MHP Guidelines Round 2 definition of “Disability.”</p> <p>Response: The Department agrees to include the definition to incorporate language from MHP Guidelines Round 2. NHTF Guidelines Section 2 was amended to include the definition in blue font.</p>

		<p>or physical disability;</p> <p>(3) individuals having a record of a mental or physical disability that limits a major life activity. A “record” of mental or physical disability includes previously having, or being misclassified as having, a record or history of a mental or physical disability; and/or</p> <p>(4) individuals who are, or are perceived as, associated with a person who has, or is perceived to have, a mental or physical disability.</p> <p>(5) For purposes of this definition:</p> <p>“Mental disability” includes, but is not limited to, having any mental or psychological disorder or condition, intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, and chronic or episodic conditions that limits a major life activity. This includes disabilities such as autism spectrum disorders, schizophrenia, clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive compulsive disorder.</p> <p>“Physical disability” includes, but is not limited to, having any physiological disease, disorder, condition, cosmetic disfigurement, anatomical loss that affects one or more of the following body systems or the operation of an individual organ within a body system: neurological; immunological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; circulatory; skin; endocrine; brain; and normal cell growth; and that limits a major life activity.</p> <p>“Major life activity” shall be construed broadly and includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and social activities.</p> <p>“Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A mental or physical disability “limits” a major life activity if it makes the achievement of the major life activity difficult.</p>	
--	--	---	--

		<p>Disabilities also include Intellectual/Developmental Disabilities as defined in Designated Program Guidelines and acquired brain injuries (which have both a physical and mental disability component); chronic and recurring disabilities, and medical conditions as defined in Government Code Section 12926(i), such as cancer.</p> <p>Disability Rights California</p>	
11	Section 2	<p>Proposed addition: “Intellectual/Developmental Disability”</p> <p>HCD should add “Intellectual/Developmental Disability” as a defined term to these Guidelines and define it using the definition that appears for that term in the MHP Guidelines, Appendix A. “Intellectual/Developmental Disability” is a term of art used in the definition of “Disability” proposed above. People with Intellectual/Developmental Disabilities face unique barriers to housing access, and it is difficult to address those barriers without a clear understanding of what an Intellectual/Developmental Disability is. We recommend using the definition from the MHP Guidelines because that definition encompasses both the federal and the state definitions, resulting in an inclusive definition that maximizes coverage.</p> <p>The MHP Guidelines define “Intellectual/Developmental Disability” as follows: Intellectual/Developmental Disability - a Disability that is covered under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 USC Sections 15001 and 15002(8) and implementing regulations at 45 CFR section 1325.3) or WIC 4512(a), and Disabilities that make a person eligible for services from the California Regional Center System. It includes a severe, chronic Disability that:</p> <p>(1) is attributable to a mental or physical impairment or combination of mental and physical impairments; (2) manifests before the age of 22; (3) is likely to continue indefinitely; (4) results in substantial functional limitations in three or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility,</p>	<p>Summary of Public Comment: NHTF Guidelines should adopt language from MHP Guidelines Round 2 to include the definition of “Intellectual/Developmental Disability.”</p> <p>Response: The Department agrees to revise the definition and incorporate language from the MHP Guidelines Round 2. NHTF Guidelines Section 2 was amended to expand the definition of “Intellectual/Developmental Disability” in blue font.</p>

		<p>(E) self-direction, (F) capacity for independent living, or (G) economic self-sufficiency; and (5) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and Coordinated,</p> <p>The definition includes Intellectual Disabilities, cerebral palsy, epilepsy, and autism spectrum disorder. It also includes conditions that are closely related to Intellectual Disability or that require similar treatment (WIC Section 4512(a)).</p> <p>Intellectual Disability - is a condition characterized by either significant limitations in intellectual functioning (reasoning, learning, problem-solving) or adaptive behavior (everyday social and practical skills).</p> <p>Disability Rights California</p>	
12	Section 9	Does a City/County need to have a compliant Housing Element in order to qualify for this grant?	Response: Housing Element language was added to NHTF Guidelines Section 9.
13	N/A	<p>Tailor all Tribal Outreach Listening Sessions, Webinars, etc. to tribal audience</p> <p>Tribes are fairly new to HCD programs, terms and acronyms For example, consider slide #15 from the Guidelines webinar. As tribes are sovereign nations, are there things that don’t apply to tribes; requiring them to list out officials of local jurisdictions, local public authorities, senators, etc.? State in the presentation that the presentation is for Native American Entities only. That way the general applicants will know this is a targeted presentation with a tribal focus. For webinars, consider differentiating requirements for Projects on Tribal Lands vs. Fee land (outside reservation boundary): Some examples: Housing First State Relocation law (vs. tribal) Occupancy Standards Asbestos/Mold reports (does Fed/HUD have this requirement?)</p>	<p>Summary of Public Comments: When presenting to Tribal Entities, HCD should tailor information that applies to Tribal and Sovereign Lands.</p> <p>Response: HCD will continue to work with Tribal Affairs and Legal Affairs Division for Tribal Entities when preparing presentations.</p>

		<p>Minimum Application Requirements Site Control Legal Documents: Suggest you start with Slide 95-97, then go to Slide 92-94 with Fee land requirements [This parts speaks what tribes want to hear: Page 30 Guidelines, Section 11 -- Legal Documents (b)(6) Projects on Native American Lands Leasehold interest and (b)(7) Limited Waiver of Sovereign Immunity and (b)(13) Restrictive Covenant] Point out the: Target Population and AMI requirements</p>	
<p>14</p>	<p>Section 4</p>	<p>1) Section 4(a), the eligible use is as permanent loan. This is inconsistent with the references to monthly construction draws and loan retention in Section 12(b)(3) and (4). Currently the funding is only available as a permanent source, HCD should clarify if these funds will be available for construction uses.</p> <p>2) Section 4(a)(5) allows the Department to authorize capitalized operating subsidy reserves (COSR). However, Federal regulations limits NHTF to a very specific and short list of operating expenses, which makes using the funds impractical. HCD could allow for a broader use of COSRs consistent with its other programs by providing additional capital subsidy beyond the maximum per-unit formula to developments that use another source of funding to capitalize a COSR. We are not aware of any federal limit on the per-unit award, and this money could backfill subsidy in a COSR.</p> <p>Abode Communities</p> <hr/> <p>1) Section 4(a) refers to permanent loans. This is inconsistent with the references to monthly construction draws and loan retention in Section 12(b)(3) and (4). If HCD plans to make these funds available during construction (which would speed up your expenditure rate and save significant interest expense), the word “permanent” should be removed here. Even if HCD is not immediately planning to make these funds available during construction, given that staff is working towards this goal across department programs, we recommend that HCD leave the door open to this future change by likewise removing “permanent.”</p> <p>2) Section 4(a)(5) allows the Department to authorize capitalized operating</p>	<p>1) <u>Loans</u></p> <p>Summary of Public Comments: NHTF Guidelines should clarify the use of NHTF funds are not limited to permanent loans.</p> <p>Response: NHTF Guidelines Section 4 was amended to clarify the use of NHTF funds.</p> <p>2) <u>Operating Expenses/COSR</u></p> <p>Summary of Public Comment: NHTF Guidelines should allow for broader operating expenses than allowed in federal regulations.</p> <p>Response: HCD respectfully declines to make these edits. HCD is limited to federal regulations (24 C.F.R. § 93.201(e)(1)) regarding the operating expenses; and 24 C.F.R. § 93.300(a) regarding the maximum per-unit development subsidy. The NHTF NOFA will further detail any COSR availability and requirements.</p>

		<p>subsidy reserves (COSR). We are supportive of this especially because housing authorities are approaching their statutory project-based voucher limit and COSRs are another valuable tool to subsidize permanent supportive housing units. Federal regulation, however, limits NHTF to a very specific and short list of operating expenses, which makes using the funds impractical.</p> <p>HCD could allow for a broader use of COSRs consistent with its other programs by providing additional capital subsidy beyond the maximum per-unit formula to developments that use another source of funding to capitalize a COSR. We are not aware of any federal limit on the per-unit award, and this money could backfill subsidy in a COSR.</p> <p>“if we end up offering a COSR, look HUD max limits and HHC nofa pg6, COSR award limit (1/3 of loan) CFR 93.200a1” The May 13, 2019, HHC Guidelines Section 109 (a) Award states that “The maximum loan limit per Applicant is \$20 Million. The limit on the amount that can be used for the COSR will be one third of the total loan amount, in accordance with 24 CFR 93.200(a)(1).” CFR Section 93.200(a)(1) states that “Not more than one third of each annual grant may be used for operating cost assistance and operating cost assistance reserves.”</p> <p>California Housing Partnership</p>	<p>3) <u>Accessibility</u></p> <p>Summary of Public Comment: NHTF Guidelines should be amended to include property standards and accessibility requirements in the eligible uses.</p> <p>Response: HCD agrees to incorporate the suggested language. NHTF Guidelines Section 4 was amended to provide clarity on property standards and accessibility requirements.</p>
		<p>3) To promote the development of housing that is accessible to people with disabilities, HCD should use these Guidelines to highlight that the removal of architectural barriers and installation of accessibility features are eligible uses of NHTF funds under the HUD regulations. As noted above, HUD explicitly requires projects funded with NHTF dollars to meet federal accessibility standards. To make that requirement achievable, Subpart E includes as eligible development hard costs: “For new construction projects, costs to meet the new construction standards of the grantee in §93.301,” and: “For rehabilitation, costs to meet the property standards for rehabilitation projects in § 93.301(b).” (24 C.F.R. 93.201(a)(1), (2).) In fact, Subpart E states that the costs and activities listed in the regulations “are eligible only if the housing meets the property standards in § 93.301,</p>	

		<p>as applicable, upon project completion.” (24 C.F.R. 93.200(a)(1).) In other words, no expenditure is eligible unless the end result is a housing project that complies with federal accessibility standards.</p> <p>As HCD is well aware, people with disabilities often struggle to find housing that is both affordable and accessible. Housing providers often overlook state and federal accessibility requirements in the construction or rehabilitation phase, leading to the development of housing projects that could have been made accessible but are not feasible to fix after construction is complete. HCD can help prevent this problem by using the Guidelines to draw attention to the availability of NHTF funds to make housing accessible. We recommend the following change:</p> <p>A Recipient’s use of NHTF funds is subject to 24 C.F.R. Part 93, Subpart E. Pursuant to 24 C.F.R. 93.200(a)(1), activities and costs are eligible only if the housing, upon project completion, meets the property standards in 24 C.F.R. 93.301, including compliance with accessibility requirements. A Recipient’s use of NHTF funds is also subject to and the requirements below:</p> <p>(a) Permanent loans for the acquisition...</p> <p>Disability Rights California</p>	
15	Section 9	<p>Just following up on yesterday’s discussion on tribal proximity to amenities and how the current 1.5-2 miles scoring criteria would be a barrier for many tribes, particularly those in very remote areas. As Amy mentioned, there isn’t much accurate data collected on tribes, so as far as I can tell there aren’t a lot of data points on this specific topic, but I found a few that could be helpful for determining a tribal-specific proximity-to-amenities threshold for NHTF:</p> <ul style="list-style-type: none"> tribal reservation centers are, on average, 12.2 miles to the nearest bank (compared to a four-mile national average) – 2022 Tribal Economic Resiliency Report Reservations were often intentionally located by the government far from markets/cities/resources to be secluded from resources that could build the community - https://silotips.com/download/american-indian-entrepreneurship-a-case-for-sustainability A research paper found that reservation area “remoteness” (distance between center of tribal area and the nearest census location with a 	<p>Summary of Public Comment: Increase the off-site amenities to be located at least 12-13 miles within the Project applying for Tribal Entity Target funds.</p> <p>Response: NHTF Guidelines Section 9 was amended to reflect off-site amenities within 15 miles of the Native American Entity Projects.</p>

		<p>population of 100k+) was associated with a higher rate of overcrowded housing, and was negatively associated with proximity to economic development (specifically access to gaming) https://www.huduser.gov/portal/sites/default/files/pdf/HNAIHousingNeeds.pdf</p> <ul style="list-style-type: none"> • Only 25.6% of all tribal area populations were 1 mile or less from a supermarket, compared to 58.8% of the US population. At the 80th percentile, tribal area individuals were 13.2 miles from a supermarket, compared to 2.2 miles for the US population (https://www.ers.usda.gov/webdocs/publications/43905/49690_eib131_errata.pdf) <p>Some of these data points are more related to justification for a tribal-specific distance threshold than an actual number, but I'd recommend expanding the range to at least 12 miles (given the first and last data points about supermarkets and banks).</p> <p>Internal, Tribal Affairs (HPD)</p>	
<p>16</p>	<p>Section 5</p>	<p>1) HCD should revise these Guidelines to expressly require compliance with 24 C.F.R. 93 Subpart H, as well as the tenants' rights, fair housing, and accessibility protections from the MHP Guidelines that go beyond HUD's NHTF regulations. As discussed above, HCD should align the accessibility, fair housing, and tenants' rights provisions of its housing programs to provide consistent protections to tenants that maximize the benefits of its housing programs. The NHTF Guidelines' general requirement in subsection (9) to "comply with any [sic] applicable state and federal law" is insufficient because it provides no direction about which laws apply and, moreover, is ineffective at promoting compliance. Using the Guidelines to highlight fair housing, accessibility, and tenants' rights laws helps create a culture of compliance by reminding housing providers of their obligations and HCD's role in enforcing those laws.</p> <p>To that end, we urge HCD to revise this section to require compliance with 24 C.F.R. 93 Subpart H. We also suggest that HCD specifically incorporate into the NHTF guidelines all of the accessibility, fair housing, and tenants' rights protections in the MHP Guidelines. While a few of the MHP provisions may overlap with the requirements of 24 C.F.R. Part 93, there are important protections in the MHP Guidelines that are not covered by 24 C.F.R. Part 93. Among these protections are the minimum accessibility standards in MHP Guidelines Sections 7314(b) and 7316(g), the broad nondiscrimination requirements of Section 7314(a), the relocation requirements in Section</p>	<p>1) Please reference Comment # 1 for responses that address enhanced accessibility standards, fair housing and tenants' rights protections, relocation requirements, and supportive services plans.</p>

		<p>7315, and the Supportive Services Plans requirements of Section 7310. All of these protections are critical for ensuring the rental housing produced by the NHTF program is accessible and nondiscriminatory. Without these protections, tenants will not receive the full housing benefits they are entitled to under law. All of these sections from the MHP Guidelines should be specifically incorporated in full into these NHTF Guidelines.</p> <p>2) With respect to subsection (b)(8)'s allowance of floating units, we wish to flag for HCD that floating units can be a problem for Accessible Housing Units (AHUs). As discussed above, there is a critical shortage of rental units that are both affordable and accessible to low-income people with disabilities. To maximize the utilization of AHUs by people at the lowest income levels (i.e., those who face the greatest barriers to finding suitable housing), AHUs should be fixed NHTF units. This ensures that AHUs remain deeply affordable for as long as possible. If AHUs are floating units, it could result in those AHUs becoming unaffordable in the future. We urge HCD to revise these Guidelines to mandate that the AHUs required under state and federal law must be fixed NHTF units only. Lastly, we reiterate our support for and appreciation of HCD's decision to require compliance with W.I.C. Section 8255(b)'s "Core components of Housing First" in subsection (5).</p> <p>Disability Rights California</p>	<p>2) <u>Floating Units</u></p> <p>Summary of Public Comment: HCD should allow for fixed units only, to ensure Accessible Housing Units remain affordable and available to those with disabilities.</p> <p>Response: HCD respectfully declines this edit and prefers to allow flexibility for Recipients to float NHTF units if necessary and pursuant to 24 C.F.R. § 93.302(g).</p>
17	Section 6	<p>Ensure the NOFA Application is aligned with tribes during Threshold and Scoring</p> <p>1) So that tribes don't get taken out/knocked out of the running for a requirement that isn't applicable to them.</p> <p>2) Consider testing the application for tribal applicants.</p> <p>3) Will you give tribes the option of correcting documentation during the Threshold period?</p> <p>4) Scoring for amenities on tribal land: As amenities and services on reservations can be sparse will you adjust for scoring?</p> <p>Internal, Tribal Affairs (HPD)</p>	<p>Summary of Public Comments: HCD should consider several suggestions for tribal applicants.</p> <p>Response:</p> <p>1) Yes, HCD will endeavor to align the application for Native American Entities by working with HCD's Tribal Affairs Unit, keeping in mind many of the requirements are federally regulated.</p> <p>2) We are currently working with HCD's Tribal Affairs Unit on the application development.</p> <p>3) Tribes may be allowed to schedule technical assistance appointments with program staff to seek guidance prior to and during application submission. The NHTF NOFA provides more information on when the Department will allow clarifying and/or corrective information for all applicants.</p> <p>4) As addressed above, we will increase the distance of off-site amenities to</p>

			Native American Entity Projects given the data provided. NHTF Guidelines Section 9 was amended to expand the distance between projects and amenities.
18	Section 6 (a)	<p>Section 6(a) requires underwriting to demonstrate feasibility for 30 years. Many if not most permanent supportive housing developments will not meet this requirement. Rental assistance contracts are not that long, and HCD’s own COSRs are only sized for 15 years, meaning all such developments will fail the test. Moreover, this requirement is inconsistent with the 15-year requirement of Section 8310(i) of the Uniform Multifamily Guidelines, which is used for SuperNOFA programs, as well as TCAC and CDLAC standards. We recommend requiring feasibility for 15 years.</p> <p>California Housing Partnership</p> <hr/> <p>The 30-year feasibility requirement for underwriting will be unworkable for most permanent supportive housing developments. This requirement does not match how long most rental assistance contracts are, or the sizes of most Capitalized Operating Subsidy Reserves. HCD’s SuperNOFA, TCAC, and CDLAC use 15-year requirements, which seem more suitable for this program as well.</p> <p>Southern California Association of Nonprofit Housing</p> <hr/> <p>Section 6(a)(2) requires underwriting to demonstrate feasibility for 30 years. Many if not most permanent supportive housing developments will not meet this requirement. Rental assistance contracts are not that long, and HCD’s own COSRs are only sized for 15 years, meaning all such developments will fail the test. Moreover, this requirement is inconsistent with the 15-year requirement of Section 8310(i) of the Uniform Multifamily Guidelines, which is used for SuperNOFA programs, as well as TCAC and CDLAC standards. We recommend requiring feasibility for 15 years.</p> <p>Abode Communities</p>	<p>Summary of Public Comments: HCD should amend the NHTF Guidelines to require 15 years of demonstrated feasibility, rather than the current required 30 years.</p> <p>Response: HCD respectfully declines any edits to this section. Pursuant to 24 C.F.R. § 93.300(b), the Project must be underwritten to ensure financial viability at a minimum of 30 years, the period of affordability as required in 24 C.F.R. § 93.302(d).</p>
19	Section 7	<p>Overall, the requirements for management plans are thoughtful and consistent with the promotion of long-term housing stability for residents. We especially appreciate the language in subsection (c) that confirms the Recipient’s duty to provide, maintain, and repair accessibility features and reasonable modifications. Many housing</p>	<p>Summary of Public Comment: HCD should add language to clarify management plans to help ensure tenant protections.</p> <p>Response: HCD agrees to add the suggested language in blue font to the NHTF</p>

		<p>providers ignore their obligation under Section 504 of the Rehab Act to cover the cost of reasonable modifications, forcing tenants to forgo changes they need because they cannot afford to pay for them. HCD’s requirement for housing providers to cover the cost of modifications is consistent with the requirements of Section 504 and directly addresses a major housing barrier for people with disabilities.</p> <p>We have some suggested additions to subsection (d) that will remind housing providers of their fair housing obligations to residents with disabilities and ensure they incorporate those obligations into their management plans:</p> <p>(4) The Recipient’s management plan must include a policy for marketing and leasing NHTF Assisted Units, including an affirmative marketing plan, that complies with 24 C.F.R. § 93.350 and 24 C.F.R. Part 8, and that ensures outreach to people with disabilities in order to maximize the utilization of accessible housing by people who need the accessibility features of those units (24 C.F.R. § 8.27);</p> <p>(6) The Recipient’s tenant protections and selection policy must comply with 24 C.F.R. § 93.303 and 25 C.C.R. § 8305, as well as HUD’s regulations on the marketing, matching, and occupancy of accessible dwelling units at 24 C.F.R. § 8.27;</p> <p>(18) Procedures for providing reasonable accommodations, reasonable modifications, and auxiliary aids and services for people with disabilities. These procedures must comply with Article 18 of the Fair Employment and Housing Act regulations (2 C.C.R Sections 12176-12185) and the ADA regulations on effective communications (35 C.F.R. 25.160 and 28 C.F.R. 36.303).</p> <p>Disability Rights California</p>	<p>Guidelines. NHTF Guidelines Section 7 was amended to provide clarity on tenant protections.</p>
20	Section 8 (e)	<p>We support HCD’s requirement to maintain affordability for 55 years and worry that this goal may be undermined by the language of subsection (e)(5). That subsection requires the Project to “have and maintain Fiscal Integrity for 30 years” and “be feasible under 25 C.C.R. § 8310 for 30 years.” (Section 8(e)(5)(A), (B).) HCD should consider increasing these requirements to match the 55-year affordability restriction.</p> <p>Disability Rights California</p>	<p>Summary of Public Comment: NHTF should increase the Fiscal Integrity 30-year requirement to match the state 55-year affordability restriction.</p> <p>Response: HCD respectfully declines to make these edits to the Guidelines. Pursuant to 24 C.F.R. § 93.300(b), the Project must be underwritten to ensure financial viability at a minimum of 30 years, the period of affordability as required in 24 C.F.R. § 93.302(d). The 55-year state affordability period is required by Section 50676(b) of the Health and Safety Code.</p>

<p>21</p>	<p>Section 8 (d)</p>	<p>Section 8(d) allows only one application per applicant. While some limit is reasonable, one application is unnecessarily narrow. This will exclude high-priority properties from applying.</p> <p>This requirement may also inadvertently create inequitable outcomes because owners might prioritize similarly situated properties, leading to certain areas or populations being left out. In addition, developers would have no backup if an application were disqualified for any reason.</p> <p>We recommend that HCD limit awards, not applications, to three per applicant.</p> <p>California Housing Partnership</p> <hr/> <p>Section 8(d) allows only one application per applicant. One application is unnecessarily narrow. We recommend that HCD limit awards to a minimum of three per applicant.</p> <p>Abode Communities</p> <hr/> <p>This section should be revised to limit awards, not applications, perhaps to three per applicant. Developers need to be able to submit multiple applications to ensure they have a diversity of options in case they are rejected.</p> <p>Southern California Association of NonProfit Housing</p>	<p>Summary of Public Comment: HCD should not limit one application per applicant, but rather allow three awards per applicant.</p> <p>Response: NHTF Guidelines Section 8 was amended to remove the limitation of one application per applicant. The requirements will further be outlined in the NOFA.</p>
<p>22</p>	<p>Section 9</p>	<p>Section 9 discusses application requirements, and we have a few recommendations.</p> <ol style="list-style-type: none"> 1) First, consistent with Section 7318(c) of the SuperNOFA guidelines, we recommend allowing applicants to submit authorizing resolutions prior to issuance of a standard agreement, as opposed to requiring them at application in Section (c)(2)(K). 2) Second, limited Partnership Agreements (LPA) should only be required in Section (c)(2)(M) “if applicable,” since some developments do not have an LPA. 3) Third, whereas, readiness is both a scoring and tiebreaker factor, making CEQA and NEPA clearance a threshold is counterproductive. Moreover, NEPA clearance relates to the release of funds and does not affect a project’s ability to proceed to construction. For these reasons, HCD should not require environmental clearance as a threshold in Section (c)(9). 	<p>Response:</p> <ol style="list-style-type: none"> 1) <u>Authorizing Resolutions</u> - HCD respectfully declines this edit, due to the need to meet federal commitment and expenditure deadlines pursuant to 24 C.F.R. § 93.400(d). 2) <u>Limited Partnership Agreements</u> - NHTF Guidelines Section 9 was amended to provide clarity on LPA requirements. 3) <u>CEQA/NEPA Threshold</u> - HCD respectfully declines this edit, due to the need to meet federal commitment and expenditure deadlines pursuant to 24 C.F.R. § 93.400(d).

		<p>4) Lastly, we are not aware that HCD requires asbestos, mold, and lead-based paint reports for its other programs and recommend consistency here.</p> <p>California Housing Partnership</p> <hr/> <p>1) Here, we also recommend more consistency with the SuperNOFA, which does not ask applicants to submit authorizing resolutions at the time of application. It will be more feasible if these are required prior to the issuance of a standard agreement instead. Additionally, because environmental clearances are time consuming to obtain and move on timelines often out of a developer’s hands, these should not be included as threshold requirements.</p> <p>Southern California Association of NonProfit Housing</p>	<p>4) <u>Asbestos, Mold, and Lead-Based Paint</u> - HCD respectfully declines this edit, due to federal environmental regulations (24 C.F.R. § 93.301(b) and (f); 24 C.F.R. Part 35; Notice: CPD-16-14).</p>
<p>23</p>	<p>Section 9,c,1,h</p>	<p>1) For the requirement to have construction cost supported by third party cost estimates, how recent does the cost estimate needs to be?</p> <hr/> <p>2) We suggest some modest, but potentially impactful, additions to the list of application requirements in subsection (c):</p> <p>(1) Project Narrative/Details, Construction Scope of Work and Financing. [...] (H) Construction Scope of Work: i. Type of construction: new construction or rehabilitation. ii. Design and architectural features of the buildings, including any accessibility features beyond the minimum required by law and these guidelines. [...]</p> <p>3) ix. Number of Units, and their size (# of bedrooms, # of bathrooms, and Unit square footage), and a calculation of the number of Housing Units with Mobility features and the number of Housing Units with Hearing/Vision features and their size (# of bedrooms, # of bathrooms, and Unit square footage).</p> <p>Requiring Applicants to provide information on Accessible Housing Units during the Application phase promotes a culture of compliance by ensuring Applicants</p>	<p>Response:</p> <p>1) NHTF Guidelines Section 9 was amended to allow cost estimates to be completed within 180 days of application submission.</p> <p>2) Summary of Public Comment: NHTF Guidelines should add the suggested language, requiring the design and architectural features of the buildings to include accessibility features.</p> <p>Response: NHTF Guidelines Section 9 was amended to include additional language regarding accessibility features in blue font.</p> <p>3) Summary of Public Comment: NHTF Guidelines should include a calculation of the number of accessible units with mobility features and hearing /vision features.</p> <p>Response: NHTF Guidelines Section 9 was amended to include a calculation for the number of accessible units with mobility features and hearing /vision features.</p>

		<p>consider accessibility standards early in the process. Additionally, requiring Applicants to disclose the number of Accessible Housing Units they plan to provide helps HCD determine whether the Applicant has done the calculation correctly. The calculation can be tricky when multiple funding sources are involved because HUD's minimum accessibility standard is different from the minimum accessibility standard used by CTCAC in the LIHTC program and HCD in its MHP program. Ensuring the calculations are done correctly in the application phase should reduce the risk of under-production of Accessible Housing Units later in the process.</p> <p>Disability Rights California</p>	
24	Section 9,c,7&8(a-c)	<p>Does the Resident Services Plan need to be a third-party commitment? Or can an owner/applicant employed resident services coordinator provide these services? Will you have a description of the scope of Resident Services as well as Supportive Services?</p>	<p>Summary of Public Comment: Clarification requested on Resident Services Plan requirements.</p> <p>Response: The owner/applicant employed resident services provider may provide the resident services plan on the resident services tab of the Excel application form and provide the resident services for the residents of the Project, as long as the services provider satisfies the requirements in Section 9 of the NHTF Guidelines.</p>
25	Section 9,c,10	<p>1) Would the department consider changing the requirement of the appraisal so that it can be dated within 120 days of the purchase and sale agreement? 1) this is consistent with TCAC regs and 2) currently the NHTF guidelines require the appraisal be dated within 1 year of the application. But if the site was purchased by the sponsor more than 1 year ago then the project would have to pay for another appraisal.</p> <p>Section 9 discusses application requirements, and we have a few recommendations:</p> <p>2) Section 9(c)(2)(K) consistent with Section 7318(c) of the SuperNOFA guidelines for Section 9, we recommend allowing applicants to submit authorizing resolutions prior to issuance of a standard agreement, as opposed to requiring them at application in Section (c)(2)(K).</p> <p>3) Section 9(c)(2)(M) limited Partnership Agreements (LPA) should only be required "if applicable," since some developments do not have an LPA.</p> <p>4) Section 9(3) whereas, readiness is both a scoring and tiebreaker factor, making</p>	<p>Summary of Public Comment: NHTF Guidelines should be revised to allow an appraisal dated within 120 days of the purchase and sale agreement may be submitted at the time of application.</p> <p>Response:</p> <p>1) The Final NHTF Guidelines indicate the appraisal must be dated within 120 days of the site control document.</p> <p><u>Authorizing Resolutions:</u></p> <p>Response:</p> <p>2) We respectfully decline this edit, due to the need to meet federal commitment and expenditure deadlines pursuant to 24 C.F.R. § 93.400(d).</p> <p><u>LPAs:</u></p> <p>Response:</p> <p>3) Response: NHTF Guidelines Section 9 was amended to provide clarity on LPA requirements.</p> <p><u>CEQA/NEPA:</u></p> <p>Response:</p>

		<p>CEQA and NEPA clearance a threshold is counterproductive. Section 9(c)(9)(B)(ii) NEPA clearance relates to the release of funds and does not affect a project’s ability to proceed to construction. For these reasons, HCD should not require environmental clearance as a threshold.</p> <p>5) Lastly, we are not aware that HCD requires asbestos, mold, and lead-based paint reports for its other programs and recommend consistency on this program.</p> <p>Abode Communities</p>	<p>4) We respectfully decline this edit, due to the need to meet federal commitment and expenditure deadlines pursuant to 24 C.F.R. § 93.400(d).</p> <p><u>Lead, Asbestos, Mold:</u></p> <p>Response:</p> <p>5) We respectfully decline this edit, due to federal environmental regulations (24 C.F.R. § 93.301(b)(1)(iii); 24 C.F.R. Part 35; 24 C.F.R. § 93.301(f)(1)(ix)).</p>
26	Section 10 (c)	<p>Section 10(c) describes the parameters of a tie-breaker. While it is difficult to comment given the lack of specificity, we nonetheless recommend additional clarity on two phrases that are used. First, the section assigns a higher rank to applications that have secured “more firm written financial commitments.” It is not clear if this refers to the number of commitments or the percentage of project costs covered. It should be the latter. Second, the section refers to “greater affordability” for ELI households. It is not clear if this refers to targeting below 30% AMI, the number of ELI units, or the percentage of ELI units. The latter is preferable.</p> <p>California Housing Partnership</p> <hr/> <p>We would appreciate some clearer language in the tiebreaker section. Language providing an advantage to developments with “more firm written financial commitments” should be tightened to state whether it is the number of commitments or their size that will be more important. Additionally, “greater affordability” for ELI households is prioritized, but it is unclear if this refers to the number of ELI units in a given project or their percentage in the overall unit makeup.</p> <p>Southern California Association of NonProfit Housing</p> <hr/> <p>Section 10(c) describes a tie-breaker. We recommend clarity on the phrase used “more firm written financial commitments.” It is not clear if this refers to the number of commitments or the percentage of project costs covered. It should be the latter. Second, the section refers to “greater affordability” for ELI households. It is</p>	<p>Summary of Public Comment: HCD should amend the NHTF Guidelines to provide more specificity on the tiebreaker.</p> <p>Response: NHTF Guidelines Section 10 was amended to provide clarity on tiebreaker. Tiebreaker and rating/ranking will be further outlined in the NOFA.</p>

		not clear if this refers to targeting below 30% AMI, the number of ELI units, or the percentage of ELI units. The latter is preferable. Abode Communities	
27	Section 11	With respect to subsection (c), we urge HCD to include as a necessary term in the Regulatory Agreement: (20) The number of Accessible Housing Units, identified by unit number; whether each unit is Assisted or non-Assisted; the unit size; and whether the unit is a Housing Unit with Mobility Features or a Housing Unit with Hearing/Vision Features. Including this term in the Regulatory Agreement is necessary for monitoring compliance with and enforcing accessibility standards. Disability Rights California	Response: NHTF Guidelines Section 11 was amended to clarify the items in the Regulatory Agreement to include Accessible Housing Units details.
28	Section 12 (b)	Section 12(b)(4) requires a 10% loan retention if the loan is used as a construction source. Developments that do not use LIHTC need as much assistance as they can get during construction. We recommend having the ability to waive this requirement for non-LIHTC developments. California Housing Partnership Section 12(b)(4) references a 10% loan retention requirement if the loan is used as a construction source. This is inconsistent as the funds are only available during permanent phase. Abode Communities	Response: NHTF Guidelines Section 12 was amended for clarity to ensure compliance with federal commitment and expenditure deadlines.
29	Section 13,a,4	Can the property audits be due 120 days after each fiscal year? Most property audits cannot be completed within 90 days.	Response: HCD respectfully declines this edit. 90 days is a department-wide requirement from the Asset Management and Compliance (AMC) Branch. If a Recipient has concerns about meeting a specific Project deadline, please reach out to the AMC Branch at HCD via email at AMCBranch@hcd.ca.gov .
30	Section 9,c,8	Environmental Documentation (proposed edits in green) See Property Standards at 24 C.F.R. § 93.301(f)(1) and (2) and HUD-Notice: CPD-16-14 and the Department issued HTF Environmental Provisions Checklists for more information. All projects require submittal of an Environmental Site Assessment Phase I (Phase I). The Phase I environmental site assessment documentation will be in	Response: NHTF Guidelines Section 9 was amended to incorporate clarifying environmental requirements in blue font.

		<p>the ASTM standard format. There may be additional required environmental conditions added to the report as needed. made available by the Department as specified in the NOFA.</p> <p>If the Phase I environmental site assessment identifies any potential onsite toxic or Recognized Environmental Conditions, a Phase II environmental site assessment, additional studies, and a Corrective Action Plan are required.</p> <p>Environmental Provision compliance documentation must be submitted using the Department HTF Environmental Provisions Checklist(s) issued during the NOFA.</p> <p>National Environmental Policy Act (NEPA) documentation (e.g., clearance or Notice of Exemption) is required in the event there is another federal funding source to finance the Project. NEPA documents will <u>not</u> be accepted by the Department to satisfy HTF Environmental Provisions. However, the NEPA sections that are the same as HTF Environmental Provision requirements may submit NEPA analysis and back up documentation as evidence of compliance with those parts.</p> <p>Internal, Kirsten Larson</p>	
31	Section 11, b, 11	<p>If the Department is disbursing funds during construction, the Department will record a senior regulatory agreement that is superior to all other liens associated with the Project’s debt. The senior regulatory agreement will include affordability restrictions consistent with 25 C.C.R. § 8310(f) and Supportive Services, when required as a condition of the NHTF award.</p> <p>Anonymous</p>	Response: That is correct.
32	Section 11	<p>Standard Agreement</p> <ul style="list-style-type: none"> • Please include Tribal LAD, Lisa / Ross to give input on the tribal SA boilerplate • Tribes have asked to review the SA boilerplate ahead of time. Will a tribal boilerplate be available for tribes before NOFA is due? <p>Internal, Tribal Affairs (HPD)</p>	<p>Response: NHTF Program continues to work closely with Legal Affairs Division for Tribal Entities and Tribal Affairs unit to understand the unique needs of Native American Entity Applicants as applied to the Department’s Standard Agreements to create special conditions to be inserted into its Exhibit E.</p> <p>The draft boilerplate standard agreement templates are used to encapsulate all NHTF and HCD state financing requirements that apply to all applicants. We will endeavor to provide a draft boilerplate standard agreement before the application is due.</p>
33	Section 15 (a)	<p>Section 15(a)(1) requires that construction start within one year of executed standard agreement unless an extension is granted. While we appreciate the ability to obtain an extension, the one-year standard is inherently too strict for developments that must seek commitments in competitive TCAC or CDLAC rounds. In the best of circumstances, they must wait to apply and receive an award. Many will need to apply a few times to win. HCD should defer to its general disencumbrance policy rather than set a different standard for this program. If that</p>	<p>Response: HCD respectfully declines to make these edits, in order to comply with federal commitment and expenditure deadlines pursuant to 24 C.F.R. § 93.404(c)(1)(ii) and 24 C.F.R. § 93.400(d), the definition of “commitment” at 24 C.F.R. § 93.2, and federal underwriting requirements at 24 C.F.R. § 93.300(b)(2).</p>

		<p>is not compatible with federal rules. HCD should at least give applicants time to compete in two or three LIHTC rounds and align its standard with TCAC and CDLAC's construction start deadlines. In addition, paragraph (b) says awardees must secure all permanent financing before a standard agreement is executed. This should exclude bonds and credits obtained through competitive CDLAC and TCAC rounds, which necessarily come later.</p> <p>California Housing Partnership</p> <hr/> <p>Section 15(a)(1) requires that construction start within one year of executed standard agreement unless an extension is granted. The one-year standard is too strict for developments that must seek commitments in competitive TCAC or CDLAC rounds. HCD should defer to its general disencumbrance policy rather than set a different standard for this program. In addition, paragraph (b) says awardees must secure all permanent financing before a standard agreement is executed. Bonds and credits should be excluded as these are obtained through competitive CDLAC and TCAC rounds, which come later.</p> <p>Abode Communities</p> <hr/> <p>SCANPH believes that the one-year deadline for construction starts is too restrictive, even with the option to apply for extensions. Developers will need ample time to apply for at least two or three rounds of funding through TCAC and CDLAC. If possible, the HCD disencumbrance policy would be more favorable to use here.</p> <p>Southern California Association of NonProfit Housing</p>	
34	Section 16	<p>Section 16(e) allows future additional financing on a development only under some circumstances. While this is consistent with current HCD policy, we understand that HCD intends to release a new policy on additional financing imminently. We recommend, the consistency among programs to match the new proposed policy.</p> <p>Abode Communities</p>	<p>Response: HCD respectfully declines this edit. The NHTF Guidelines are consistent with current policies and practices of other HCD programs, any refinancing is reviewed on a case-by-case basis.</p>

		<p>Section 16(e) allows future additional financing on a development only under very narrow circumstances. While this is consistent with current HCD policy generally, we understand that HCD intends to release a new policy on additional financing imminently. As a result, HCD should leave the door open to accommodate such a change.</p> <p>California Housing Partnership</p> <hr/> <p>If HCD is continuing to revise its policies around additional financing, it might consider using less restrictive language in this section to ensure applicants to the NHTF will still benefit from future changes made by the agency.</p> <p>SCANPH deeply appreciates its relationship with HCD and is thankful for the opportunity to comment on guidelines such as these. We look forward to further collaboration in the near future.</p> <p>Southern California Association of NonProfit Housing</p>	
--	--	---	--