

FAMILY HOUSING DEMONSTRATION PROGRAM  
PROPOSITION 84

Subchapter 16

**Article 1.           General**

Section

8110           Purpose and Scope  
8111           Definitions

**Article 2.           Program Requirements**

Section

8112           Eligible Project  
8113           Eligible Sponsor  
8114           Eligible Uses of Funds  
8115           Type and Term of Loan  
8116           Maximum Loan Amounts  
8117           Interest Rate and Loan Payments  
8118           Appraisal and Market Study Requirements  
8119           Administrative Expenses  
8120           Occupancy Requirements  
8121           Tenancy Standards  
8122           Rent Standards  
8123           Limits on Distributions  
8124           Syndication  
8125           Relocation Requirements  
8126           Construction Requirements  
8127           Supportive Services Requirements  
8128           Job Training and Placement Program Requirements  
8129           Seismic Rehabilitation Improvements

**Article 3.           Application Procedures**

8130           Application Process  
8131           Application Requirements  
8132           Project Selection

**Article 4.**

**Program Operations**

8133	Legal Documents
8134	Disbursement of Loan Funds
8135	Sales, Transfers, and Encumbrances
8136	Defaults and Loan Cancellations
8137	Management and Maintenance
8138	Reporting
8139	Operating Budget
8140	Emergency Reserve Subaccount
8141	Feasibility Subaccount
8142	Approvals

Subchapter 16  
Family Housing Demonstration Program Regulations - Proposition 84

Article 1. General

Section 8110. Purpose and Scope.

- (a) This subchapter establishes the Proposition 84 Family Housing Demonstration Program and implements and interprets Chapter 15 (commencing with section 50880) of Part 2 of Division 31, Health and Safety Code, added by Chapter 30 of the Statutes of 1988, as amended by Chapter 1103 of the Statutes of 1989, Chapter 1311 of the Statutes of 1990, and Chapter 100 of the Statutes of 1991 .
- (b) These regulations establish procedures for the award and disbursement of loans and establish policies and procedures for use of funds allocated to the Family Housing Demonstration Program by section 53130(a)(4) of the Health and Safety Code.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50880, 50881.5, 50882, 50883.5, 50887, 50888.3, 50888.5, 50888.7, 50889.5, 50891, 50891.5, 50893, 50893.3, 50893.5, 50893.7, 50893.9, 50894, 50895, 53130, and 53133, Health and Safety Code. Chapter 16 (commencing with section 7260), division 7, title 1, Government Code.

Section 8111. Definitions.

In addition to the definitions found in Chapter 2 (commencing with section 50050), of Part 1 of Division 31 of the Health and Safety Code and Subchapter 2 (commencing with section 6910) of Chapter 6.5 of this Title, the following definitions shall apply to this subchapter. In the event of a conflict between the following definitions and those recited above, the following definitions prevail for the purposes of this subchapter:

- a. "Account" means the Family Housing Demonstration Account.
- b. "Affordable rent" means rent for an assisted unit, determined pursuant to section 8122.
- c. "Approved eligible costs" are those eligible costs approved by the Department prior to loan closing.
- d. "Article XXXIV approval" means the approval by local electors which must be obtained before a low rent housing project can be developed, constructed, or acquired in any city, town or county in California. This approval is required by section 1 of Article XXXIV of the Constitution of California.

- e. "Assisted unit" means a dwelling unit in a community housing development or the personal living space in a congregate housing development which may include one or more bedrooms depending on family size and characteristics. An "assisted unit" is affordable to an eligible household as a result of a payment made by the department pursuant to this subchapter and is both designated for occupancy by an eligible household and either available on a priority basis to, or occupied by, an eligible household in accordance with a Regulatory Agreement between the department and the sponsor entered into pursuant to section 8133(c).
- f. "Commercial space" means space used for commercial purposes, excluding space used for a child care center operated pursuant to section 8127.
- g. "Community Housing Development" means a development of 20 or more rental or cooperative units on one or more sites which includes the supportive service requirements pursuant to section 8127 and the job training and placement program requirements pursuant to section 8128.
- h. "Congregate Housing Development" means a new or rehabilitated, multi-bedroom structure with common living areas, large enough to accommodate two to ten households who share child care, cleaning, cooking and other household responsibilities pursuant to a resident management agreement as described in section 8137.
- i. "Conversion" means the alteration of nonresidential space within an existing structure to create a rental housing development.
- j. "Debt service coverage ratio" means the ratio of (1) operating income less operating expenses to (2) debt service payments, excluding voluntary prepayments.
- k. "Department" means the Department of Housing and Community Development.
- l. "Development costs" are the costs of planning, funding and constructing the project as approved by the Department prior to loan closing.
- m. "Director" means the Director of the Department of Housing and Community Development.
- n. "Distributions" means the amount of cash received from the operation of a rental housing development and available to be distributed pursuant to section 8123 to the sponsor of that rental housing development, or any party having a beneficial interest in the sponsor entity. Distributions do not include payments for debt service, voluntary loan prepayments, operations, maintenance, payments to required reserve accounts, land lease payments to parties that do not have a beneficial interest in the

sponsor entity, or payments for property management or other services as set forth in the Regulatory Agreement for the rental housing development.

- o. "Elderly" means the same as defined in section 50067 of the Health and Safety Code.
- p. "Eligible households" means very low-income households or other lower-income households.
- q. "FHDP" means Family Housing Demonstration Program.
- r. "Fiscal integrity" means that the total of operating income plus funds released from the operating reserve account pursuant to the Regulatory Agreement is sufficient to: (1) pay all current operating expenses, (2) pay all current debt service (excluding deferred interest), (3) fully fund all reserve accounts established pursuant to the Regulatory Agreement (other than the operating reserve account), (4) maintain a debt service coverage ratio, where specified in the Regulatory Agreement, and (5) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the annual permitted distribution shall not be considered in determining fiscal integrity.
- s. "Handicapped" means the same as defined in section 50072 of the Health and Safety Code.
- t. "Household income" means the same as "gross income" as defined in section 6914 of this Title.
- u. "Housing cooperative" means the same as "stock cooperative" as defined in section 1351(m) of the Civil Code.
- v. "Initial operating year" means the initial period of operation of a rental housing development beginning when the local enforcement agency issues a certificate of occupancy and ending on the last day of the fiscal year of that development.
- w. "Lower-income household" means a person or family as defined in section 50079.5 of the Health and Safety Code.
- x. "Lower-income nonassisted unit" means a dwelling unit other than an assisted unit which is regulated by virtue of participation in the federal tax credit program (section 42, Title 26 U.S.C.) or state tax credit program (Revenue and Taxation Code, sections 17057.5, 17058, 23610.4 and 23610.5), the HUD Section 202 program (section 1701q, Title 12 U.S.C.), the HUD Section 8 program (section 1437f, Title 42 U.S.C.), or other governmental program where the occupancy and rent restrictions and the

term of the occupancy and rent restrictions are equal to or greater than the requirements of the federal tax credit program referenced above.

- y. "Lower-income unit" means an assisted unit both designated for occupancy by a low-income household and either available on a priority basis to, or occupied by, a lower-income household.
- z. "Nonprofit corporation" means the same as defined in section 50091 of the Health and Safety Code.
- aa. "Operating expenses" means the amount annually approved by the department as necessary to pay for the recurring expenses of a rental housing development, such as utilities, maintenance, management, taxes, licenses, supportive services provided pursuant to section 8127, and job training and placement programs provided pursuant to section 8128. Operating expenses does not include debt service, distributions, extraordinary expenses permitted by the Regulatory Agreement or required reserve account deposits.
- bb. "Operating income" means all income generated on an annual basis in connection with operation of a rental housing development including rental income for assisted and nonassisted units; rental income for commercial space, laundry and equipment rental fees; rental subsidy payments; payments associated with supportive services provided pursuant to 8127; payments associated with job training and placement programs provided pursuant to 8128; and interest on any accounts related to the rental housing development, with the exception of reserve accounts. "Operating income" does not include draws from the operating reserve fund, security and equipment deposits; or payments for direct or supportive tenant services, other than those provided pursuant to section 8127(a) and (b), that tenants are not required to pay for as a condition of occupancy.
- cc. "Other lower-income household" means persons or families as defined in subsection 6928(c) of Title 25.
- dd. "Prior to loan closing" is that period of time following the notification of approval for funding pursuant to section 8130(c)(2) and prior to the recording of the legal documents on the project property.
- ee. "Program" means the Family Housing Demonstration Program.
- ff. "Project" means a rental housing development using program funds; the development, new construction or rehabilitation, and operation thereof; and the financing structure and all agreements and documentation approved in connection therewith.

- gg. "Reconstruction" means replacing an existing residential structure with a rental housing development of similar type, amenity level, range of unit sizes, and with not less than an equal number of units.
- hh. "Rehabilitation" means repairs or improvements to a substandard rental housing development necessary to correct defects causing it to be a substandard building pursuant to section 17920.3 of the Health and Safety Code, and to meet rehabilitation standards. Rehabilitation also includes reconstruction or conversion.
- ii. "Rehabilitation Standards" means (a) the applicable state or local building or housing standard adopted pursuant to the State Housing Law, Part 1.5 (commencing with section 17910) of Division 13, or continued in effect pursuant thereto, and (b) room additions necessary to prevent overcrowding of lower-income households.
- jj. "Rent" means all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an assisted unit. For housing cooperatives, "rent" includes, but is not limited to, the carrying charges paid by a member of a housing cooperative.
- kk. "Rent-up costs" means costs incurred in connection with marketing and preparing an assisted unit for occupancy while the unit is on the housing market but not rented to its first tenant.
- ll. "Rental housing development" means a community housing development or a congregate housing development.
- mm. "Residential structure" means a structure or structures used primarily as the place of permanent or customary abode of a person or persons, including a single family dwelling, a multifamily dwelling, a single room occupancy hotel, a condominium or cooperative housing project, or other form of residential occupancy.
- nn. "Rural area" means the same as defined in section 50101 of the Health and Safety Code.
- oo. "Seismic rehabilitation improvements" means the same as defined in section 50668.5 (b)(5).
- pp. "Substandard rental housing development" means a structure or structures used or intended to be used as a rental housing development which is a substandard building pursuant to section 17920.3 of the Health and Safety Code.
- qq. "Unit" means either a dwelling unit in a community housing development or the personal living space in a congregate housing development, which may include one or more bedrooms depending on family size and characteristics.

- rr. "Very low-income household" means a person or family as defined in section 50105 of the Health and Safety Code.
- ss. "Very low-income nonassisted unit" means a dwelling unit other than an assisted unit, which is regulated by virtue of participation in a federal or state tax credit program, the HUD section 202 program, or other governmental programs where the occupancy and rent restrictions and the term of occupancy and rent restrictions are equal to or greater than the requirements for very low-income units contained in the federal tax credit program.
- tt. "Very low-income unit" means an assisted unit both designated for occupancy by a very low-income household and either available on a priority basis to, or occupied by, a very low-income household.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: sections 50880, 50881.5, 50882, 50883.5, 50887, 50888.3, 50888.5, 50888.7, 50889.5, 50891, 50891.5, 50893, 50893.3, 50893.5, 50893.7, 50893.9, 50894, 50895, 53130, and 53133, Health and Safety Code. Chapter 16 (commencing with section 7260), division 7, title 1, Government Code.

## Article 2. Program Requirements

### Section 8112. Eligible Project.

- (a) To be eligible for funding, a proposed project must
  - (1) involve either of the following:
    - (A) the development and construction of a new rental housing development, or
    - (B) the rehabilitation of (which may include seismic improvements to) one or more of the following structures:
      - 1. a substandard rental housing development;
      - 2. a residential structure eligible for seismic rehabilitation improvements pursuant to section 8129;
      - 3. an existing structure that will undergo a conversion; or
      - 4. an existing substandard residential structure that will undergo reconstruction.

- (2) include supportive services pursuant to section 8127 and a job training and placement program pursuant to section 8128.
- (b) Except as specified in subdivision (c), proposed rental housing developments are ineligible if construction work has begun prior to the effective date of the Standard Agreement. For the purposes of this subdivision, construction work shall not include the following:
  - (1) for loans involving new construction, site improvements intended for public dedication; demolition; site preparation; and grading;
  - (2) for loans involving rehabilitation, work required to correct an emergency situation; work done pursuant to an order of the court or agency having jurisdiction over the project; and regular maintenance of the project.
- (c) Where construction work, other than that allowed pursuant to subdivision (b), has begun prior to the effective date of the Standard Agreement, proposed rental housing developments are eligible only under the following circumstances:
  - (1) construction has been halted, and the project property has been foreclosed upon or is in foreclosure;
  - (2) construction has been halted, and the project property has been deeded to a lender in lieu of foreclosure;
  - (3) construction has been halted, and there is a substantial likelihood that a lender will initiate foreclosure due to the inability of the project's developer to complete construction; or
  - (4) construction on a separate distinct phase of the project has been or will be completed without program loan funds; provided that, when completed, either the separate phase or the project as a whole meets all program requirements.
- (d) Proposed projects involving the demolition of residential rental units are eligible only if the sponsor complies with the relocation requirements set forth in section 8125 and only if one of the following circumstances exist:
  - (1) the units to be demolished are substandard, and not economically feasible to rehabilitate; or
  - (2) the number of assisted units in the new project is at least twice the total number of units in the demolished structures.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50881.5 and Health and Safety Code.

Section 8113. Eligible Sponsor.

- (a) A sponsor shall be a nonprofit corporation, housing cooperative, local public entity, or any combination thereof including a limited partnership in which the managing general partner is an eligible nonprofit corporation, which is certified by the department as meeting the requirements of subdivision (b).
- (b) In order to be certified as an eligible sponsor during the application review process, an applicant must be able to:
  - (1) demonstrate ability or experience relevant to owning, developing, constructing or rehabilitating, and operating rental housing through any combination of the following:
    - (A) prior ownership, development, construction or rehabilitation, or operation of rental housing;
    - (B) employing staff with demonstrated ability or experience owning, developing, constructing or rehabilitating, or operating rental housing; or
    - (C) contracting with a consultant or consultants with demonstrated ability or experience assisting with the owning, developing, rehabilitating or constructing, or operating of rental housing; and
  - (2) demonstrate ability or experience relevant to the proposed plans for operating supportive service programs described in section 8127 and job training and placement programs described in section 8128 through any combination of the following:
    - (A) prior operation of such programs;
    - (B) employing staff with demonstrated ability or experience operating such programs; or
    - (C) contracting with a consultant or consultants with demonstrated ability or experience operating such program;
  - (3) have site control of the proposed project property by one of the following:

- (A) fee title;
- (B) a leasehold interest on the project property pursuant to a lease with provisions that enable the lessee to make improvements on and encumber the property and permit compliance with all program requirements;
- (C) an option to purchase or an option to lease pursuant to a lease which meets the requirements of subdivision (B) above;
- (D) a disposition and development agreement with a public agency with provisions that enable the applicant to make improvements on and encumber the property and permit compliance with all program requirements;
- (E) a land sales contract, or other enforceable agreement for the acquisition of the property.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50881.5(h) and 50889.5(b) Health and Safety Code.

#### Section 8114. Eligible Uses of Funds.

- (a) Funds shall be used only for approved eligible costs that are incurred with respect to the planning and executing of the project as set forth in this section. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost consistent with the project's scope and area.
- (b) Eligible categories of costs for projects involving the new construction of a rental housing development include the following:
  - (1) land acquisition;
  - (2) acquisition of projects under construction satisfying the requirements of section 8112(c)(1) through (c)(3);
  - (3) land lease payments;
  - (4) construction work, including demolition costs satisfying the requirements of section 8112(d);
  - (5) offsite improvements, such as sewers, utilities and streets, related to the rental housing development;

- (6) onsite improvements related to the rental housing development;
  - (7) architectural, appraisal, engineering, legal, accounting and other consulting costs and fees, which are directly related to the planning and execution of the project and which are incurred through third-party contracts;
  - (8) administrative expenses pursuant to section 8119;
  - (9) rent-up costs;
  - (10) insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the rental housing development is under construction.
  - (11) building permits and state and local fees;
  - (12) initial operating and replacement reserve balances required pursuant to section 8139;
  - (13) escrow, title insurance, recording and other costs related to the financing of the project;
  - (14) costs required to assure the completion of construction, such as contractor bond premiums; and
  - (15) environmental hazard reports, surveys, and investigations.
- (c) Eligible categories of costs for projects involving the rehabilitation of a rental housing development include the following:
- (1) acquisition of project property, including existing improvements, and costs related to such acquisition;
  - (2) refinancing of that amount of debt existing at the time of application which is necessary to achieve rents for lower- and very low-income households in accordance with program requirements, and costs related thereto;
  - (3) reconstruction costs, when the estimated costs including demolition, construction and related activities are less than the estimated cost of rehabilitation of the rental housing development, and where demolition is consistent with the requirements of section 8112(d);
  - (4) conversion costs when the estimated total rehabilitation cost is less than the new construction cost of comparable units in the area;

- (5) cost of rehabilitation necessary to correct code violations;
- (6) general costs required to correct unsafe, unhealthy and unsanitary conditions, including general property improvements when the sponsor can demonstrate that such improvements are integral to the project;
- (7) work related to protecting physical security;
- (8) work related to reducing long-term maintenance costs;
- (9) onsite and offsite improvements;
- (10) work related to meeting specialized design criteria described in section 8126;
- (11) seismic rehabilitation improvements, and work directly related thereto pursuant to section 8129;
- (12) architectural, appraisal, engineering, legal, accounting and other consulting costs and fees, which are directly related to the planning and execution of the project and which are incurred through third-party contracts;
- (13) administrative expenses pursuant to section 8119;
- (14) rent-up costs;
- (15) insurance, construction financing fees and interest, and taxes, and any other expenses necessary to hold the property while the rental housing development is under construction;
- (16) building permits and state and local fees;
- (17) work lawfully required by a governmental entity which is reasonably required to correct unsafe, unhealthy or unsanitary conditions;
- (18) relocation benefits and assistance to lower-income residential tenants displaced as a result of acquisition and rehabilitation, or rehabilitation only. All other temporary and permanent relocation benefits specified in section 8125 are not eligible uses of program funds;
- (19) escrow, title insurance, recording and other related costs; and
- (20) environmental hazard reports, surveys, and investigations.

- (d) Except where lawfully required to secure local government approvals essential to completion of the project, costs associated with the following items are ineligible for funding with program loan proceeds, and cannot be paid for from syndication proceeds or loans supported by rents from assisted units:
- (1) building and roof shapes, ornamentation, and exterior finish schemes whose costs are in excess of the typical costs of these features in modestly designed rental housing;
  - (2) fireplaces, tennis courts, and similar amenities not typically found in modestly designed rental housing;
  - (3) shake and tile roofs, custom-made windows, ceramic tile floors and counters, hardwood floors, and similar features using materials not typically found in modestly designed rental housing, except where such materials have lower replacement costs over the life of the rental housing development due to lower operating, maintenance and replacement costs.
- (e) No program funds shall be used for costs associated exclusively with nonassisted units or commercial space. If only a portion of the rental housing development consists of assisted units, the program loan amount shall not exceed the sum of the following:
- (1) the costs of all items specified in subdivisions (b) or (c), as applicable, and (d) associated exclusively with the assisted units;
  - (2) a share of the costs of common areas used primarily by residential tenants; this share shall be in direct proportion to the ratio between the gross floor area of the assisted units and the gross floor area of all residential units; and
  - (3) a share of the cost of other items, such as roofs, that cannot specifically be allocated to assisted units, nonassisted units, or commercial space; this share shall be in direct proportion to the ratio between the following:
    - (A) the gross floor area of the assisted units, plus a share of the gross floor area of common areas used primarily by residential tenants in direct proportion to the ratio between the gross floor area of the assisted units and the gross floor area of all units; and
    - (B) the total gross floor area of the structure or structures.
- (f) Notwithstanding subdivision (e)(1), not more than 50 percent of the cost of the child care center may be funded with program funds, except that the cost of all

items specified in subdivision (b) or (c), as applicable, and (d) associated with the development of the child care center are eligible for program funding as specified in section 8127 (c).

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: section 50881.5(f), 50888.3(e), 50893.3(a) and (b), and 53133, Health and Safety Code.

#### Section 8115. Type and Term of Loan.

- (a) Sponsors shall elect to receive program financing as either combination construction and permanent loans or permanent loans only.
- (b) For projects involving new construction, the initial term of the loan shall be not less than 40 years, commencing on the date of initial occupancy of an assisted unit. For projects involving rehabilitation and either acquisition or refinancing, the initial loan term shall be not less than 30 years. For projects involving only rehabilitation, the initial loan term shall be not less than 20 years.
- (c) Upon request by the sponsor, the department shall approve a loan term longer than that set forth in subdivision (b) provided that such longer term does not exceed the useful life of the rental housing development as determined by the department utilizing assessments provided by professionals from the construction and real estate industries, such as the conclusions of an appraiser or a structural engineer.
- (d) Upon receipt of a request from a sponsor for a ten-year extension of the loan term, the department shall determine whether to approve the request based on the following considerations:
  - (1) Whether the sponsor is in compliance with the Regulatory Agreement and agrees to continue to comply during the extended term;
  - (2) Whether the extension is necessary to continue operations consistent with program requirements; and
  - (3) Whether the extended term does not exceed the useful life of the rental housing development, as determined by the department utilizing assessments provided by professionals from the construction and real estate industries, such as the conclusions of an appraiser or a structural engineer.
- (e) The department shall condition the extension on such terms as it deems necessary to ensure compliance with the requirements of this program.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50893, Health and Safety Code.

#### Section 8116. Maximum Loan Amounts.

The loan amount is limited to the total amount of eligible costs required, when considered with other available financing and assistance, in order to achieve all of the following:

- (a) to enable the development and construction of the rental housing development;
- (b) to ensure that rents for assisted units are in accordance with program requirements;
- (c) to operate in compliance with all other program requirements; and
- (d) to allow a debt service coverage ratio in an amount sufficient to satisfy the requirements of other lenders providing financing for the rental housing development, but not to exceed 115 percent, except as otherwise required by law.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50880 and 50893, Health and Safety Code.

#### Section 8117. Interest Rate and Loan Repayments.

- (a) Loans for development costs shall bear simple interest of three percent per annum on the unpaid principal balance. Loans or advances made pursuant to sections 8140 and 8141 shall be the same interest as calculated annually on the Pooled Money Investment Account created under Government Code section 16480. Interest shall accrue from the date that funds are disbursed by the department to or on behalf of the sponsor.
- (b) Accrued interest shall be paid from project cash flow. Such interest, to the extent project cash flow is available, shall be paid to the department commencing on the last day of the initial operating year and continuing on each anniversary thereafter until loan interest and principal is paid full. For purposes of this section, "project cash flow" means operating income remaining after payment of approved operating expenses, regularly scheduled debt service on loans other than the program loan which have been approved by the department and which are to be paid prior to payments on the program loan, deposits into department approved project reserve accounts, and sponsor distributions.

- (c) Upon request by the sponsor, at the time of application or any time thereafter, the department shall approve the deferral of accrued interest, due but unpaid because of insufficient project cash flow, for such periods and subject to such conditions as are necessary to enable the sponsor to maintain affordable rents and the fiscal integrity of the project, and pay distributions.
- (d) Program loan principal shall be payable annually in accordance with all of the following:
  - (1) Such payments will not jeopardize the fiscal integrity of the project or the sponsor's ability to maintain rents in accordance with program requirements.
  - (2) Such payments shall be the lesser of
    - (A) the amount remaining from project cash flow after paying all current and deferred interest pursuant to subdivision (b) and (c); or
    - (B) the amount required to fully amortize the loan according to the scheduled term of the loan.
  - (3) Such payments shall be consistent with a written schedule approved by the department at loan closing or any time thereafter which provides that
    - (A) for loans involving new construction, the first principal payment shall be due on the thirtieth (30th) anniversary of the loan closing; and
    - (B) for loans involving rehabilitation, the first principal payment shall be on that date proposed by the sponsor and approved by the department prior to loan closing.
- (e) In any year that payments of principal and interest are paid in full in accordance with subdivisions (a), (b), (c), and (d), remaining project cash flow shall be used as follows:
  - (1) The sponsor shall first pay regularly scheduled debt service on loans other than the program loan which were used to finance assisted units and which have been approved by the department and which are to be paid following payments of the program loan;
  - (2) Thereafter, the sponsor shall pay project cash flow as either:
    - (A) prepayments on the program loan; or

(B) payments into the Account, to be prorated among the emergency reserve subaccount described in section 8140 and the feasibility subaccount described in section 8141 in a manner which assures that each subaccount is fully funded.

(f) All program loan payments shall be applied first to interest and second to principal.

(g) The total amount of the outstanding principal and interest, including deferred interest, shall be due and payable in full to the department at the end of the loan term or upon the department's termination of the loan.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50893, Health and Safety Code.

## Section 8118. Appraisal and Market Study Requirements

- (a) As a condition of funding, the department shall require an appraisal or market study, or both, where necessary to achieve the following objectives:
  - (1) To establish a market value for land and improvements to be purchased or leased as part of the project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to section 8114 and determining actual investment pursuant to section 8123;
  - (2) To assist with establishing reasonable costs for development cost categories pursuant to section 8114; and
  - (3) To assess fiscal integrity.
- (b) Any appraisal required by the department shall be prepared at the sponsor's expense by an individual who
  - (1) has the knowledge and experience necessary to appraise income property competently;
  - (2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal; and
  - (3) in reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property.
- (c) Any market study required by the department shall be prepared at the sponsor's expense by an individual who:
  - (1) has the knowledge and experience necessary to conduct a market study for rental property competently;
  - (2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study; and
  - (3) in reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50880, 50881.5(f), and 50893.7(d) Health and Safety Code.

Section 8119. Administrative Expenses.

- (a) Administrative expenses are those expenses incurred by the sponsor related to the planning and execution of the project prior to initial occupancy. Such expenses include, but are not limited to the following:
  - (1) salaries, wages, and related costs of the sponsor's staff engaged in the planning and execution of the project, including legal services, accounting and auditing relating to the sponsor's operations and obtaining financing for the project;
  - (2) travel costs and other general overhead costs which are attributable to the project;
  - (3) expenses for administrative services performed for the sponsor and paid for under third-party contracts.
- (b) Administrative expenses do not include those legal, architectural, engineering, or financial fees which are directly related to the planning and execution of the project and which are incurred by the sponsor through third-party contracts not eligible for funding pursuant to section 8114(b)(7) and (c)(12).
- (c) Administrative expenses in amounts equal to or less than the maximum amounts shown in the following schedule shall be deemed reasonable and necessary upon certification by the sponsor that they have been incurred by the sponsor pursuant to this section.

Approved Program Loan Amount	Maximum Administrative Expenses
Up to \$500,000	5% of the approved program loan amount
\$500,000 or more	\$25,000 plus 1% of the approved program loan amount over \$500,000, up to a maximum of \$50,000.

- (d) Sponsors seeking program funds for administrative expenses in excess of the limits described in subdivision (c), shall include in their applications a statement of administrative expenses incurred to date, and a budget for anticipated administrative expenses. The statement and budget shall include sufficient detail and explanation to permit the department to determine eligibility and reasonableness of the expenses.

The department shall include in the loan amount those administrative expenses shown in the statement and anticipated budget, provided it determines that those expenses are reasonable and necessary considering the nature and scope of the project.

- (e) The department shall not fund administrative expenses in excess of 10 percent of the approved loan amount unless the sponsor can demonstrate to the department's satisfaction that costs in excess of this limitation are the result of expenses for architectural, engineering, accounting and legal services, which would otherwise qualify for funding as consultant services pursuant to section 8114(b)(7) or (c)(12), as applicable.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50881.5(f), Health and Safety Code.

#### Section 8120. Occupancy Requirements.

- (a) In each rental housing development assisted by the program, and for the full term of the program loan, the following requirements shall apply:
  - (1) Not less than thirty percent of all units shall be assisted units.
  - (2) Not less than two-thirds of the assisted units shall be very low-income units. The department may approve a lesser percentage as part of the annual budget approval process, if it determines that it is not feasible to achieve fiscal integrity with the required percentage.
- (b) In each community housing development assisted by the program, and for the full term of the program loan, not less than twenty percent nor more than thirty percent of the assisted units shall be occupied by elderly persons or households. The balance of units shall be available on a priority basis, or occupied by, families with children. For purposes of this section, "families with children" means one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individual or individuals; or the designee of such parent or other person having such custody with the written permission of such parent or other person. "Families with children" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.
- (c) In each congregate housing development assisted by the program, and for the full term of the program loan, at least a majority of the units shall be available on a priority basis, or occupied by, families with one or more minor children. The balance

of units shall be available on a priority basis, or occupied by elderly persons or households.

- (d) For projects involving rehabilitation, a unit in a rental housing development may be designated as an assisted unit if at the time of initial application for the program loan:
  - (1) the unit is occupied by an eligible household;
  - (2) the unit is vacant and will be made available to, or occupied by, an eligible household; or
  - (3) a noneligible household residing in the unit has agreed not to return to the unit after rehabilitation as evidenced by a signed written waiver of the tenant's right to return to the unit pursuant to section 7265.3(d) of the Government Code. Any tenant giving such waiver must have been given the notice specified in section 8125.
- (e) For projects involving rehabilitation, the sponsor shall, at a minimum, designate as assisted units the greater of:
  - (1) number of units reasonably known by the sponsor to be occupied by eligible households at the time of initial application for the program loan, or
  - (2) thirty percent of all units in the rental housing development.
- (f) For projects involving rehabilitation of a community housing development, the size, type, and amenity level of assisted units after rehabilitation shall not differ substantially from the size, type, and amenity level of units known to be occupied by eligible households at the time of initial application for the program loan. Units reconfigured or enlarged to alleviate overcrowding shall not be considered a violation of this provision.
- (g) Each community housing development shall include a range of unit sizes, including the provision of three bedroom or larger units.
- (h) Assisted units shall not differ substantially in size or amenity level from nonassisted units with the same number of bedrooms, and lower-income units shall not differ from very low-income units. Assisted units shall not be segregated from nonassisted units, and very low-income units shall not be segregated from other lower-income units. Within these limits, sponsors may change the designation of a particular unit from assisted to nonassisted, or lower-income to very low-income, and vice versa, over time.

- (i) For the full loan term, the number, size, type, and amenity level of lower-income and very low-income units shall not be fewer than the number nor different from the size, type and amenity level described in the Regulatory Agreement.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50888.3, 50891(a), 50893.3, and 50893.7, Health and Safety Code.

Section 8121. Tenancy Standards.

- (a) Sponsors shall select only eligible households as tenants of assisted units, and shall annually verify household income and size to determine continued eligibility and appropriate unit size. As part of the management plan required by section 8137(e), the sponsor shall develop a tenant selection plan for assisted units which shall be subject to the approval of the department prior to loan closing. Any change to the plan shall be subject to the approval of the department. The plan shall include the following:

- (1) an affirmative marketing plan for eligible households which shall include policies and steps to ensure equal access to all housing units in the rental housing development for all persons in any category protected by federal, state or local laws governing discrimination. Where a significant number of persons in the area of the rental housing development have limited fluency in English, the plan shall require that publications implementing the affirmative marketing plan be provided in the native languages of those persons;
- (2) reasonable criteria for selection or rejection of applicants which shall not discriminate in violation of any federal, state or local laws or base tenant selection on any other arbitrary factor. Reasonable criteria shall include:
  - (A) for each rental housing development, a priority to applicants who are employed at nearby facilities or who potentially could be employed at nearby facilities through publicly assisted or other job-training or entry-level employment programs and who are willing to participate in the job training and placement program provided pursuant to section 8128(a); and
  - (B) for each congregate housing development, the willingness and ability of an applicant to enter into a resident management agreement as described in section 8137;
  - (C) for each community housing development, a priority to applicants who are employed in the management and operation of the community housing development or its child care center.

- (3) a prohibition of local residency requirements; and
- (4) tenant selection procedures that include the following requirements:
  - (A) selection of tenants based on order of application, lottery, or other reasonable method;
  - (B) notification to a tenant applicant of either;
    - 1. eligibility to occupy an assisted unit and, based on turnover history, the approximate date when a unit may be available;
    - 2. ineligibility to occupy an assisted unit, the reason for the ineligibility, and the right to appeal this determination pursuant to section 8121(e); and
  - (C) maintenance of a waiting list of eligible households which have applied to occupy assisted units which if applicable, distinguishes between lower- and very low-income applicants, and elderly households and families with children.
- (5) for community housing developments, tenant occupancy standards that shall be used by the sponsor upon both initial occupancy and annual recertification to determine the size of a unit to be occupied by a tenant, as follows:

Unit Size	No. of Persons in Household	
	Minimum	Maximum
0-BR	1	2
1-BR	1	3
2-BR	2	5
3-BR	4	7
4-BR	6	9
5-BR	8	11

- (A) A sponsor may assign a unit other than that specified above if the sponsor reasonably determines that special circumstances warrant a variance and the reasons are documented in the tenant's file.
- (B) If, upon annual recertification, the tenant's household size has changed and no longer meets the occupancy standards of this subdivision, the household shall be required to move to the next available unit which will meet the requirements of this subdivision.

- (6) for congregate housing developments; tenant occupancy standards that require no less than one person and no more than three persons per bedroom, except as approved by the department prior to loan closing subsequent to review of unique design features, such as flexible walls.
- (b) Upon prior written approval by the department, the sponsor may establish income limits for lower-income units at a level below the upper limit for lower-income households.
- (c) In housing cooperatives, share purchase terms for assisted units shall be limited as follows:
  - (1) For each initial member household, the total share purchase price shall not be more than two-and-one-half percent (2.5%) of the prorated development cost of the unit.
  - (2) For each subsequent member household, the total share purchase price shall not be more than the sum of the total share purchase price previously charged to the member household selling the share and any share appreciation due to the member household selling the share. Share appreciation shall be at a simple interest rate approved by the department, not to exceed eight percent (8%) per annum of the portion of the total share purchase price actually paid in by the member household selling the share.
  - (3) Upon occupancy by an initial member household or subsequent member household, the required cash contribution to be applied towards the total share purchase price shall not exceed the lesser of either ten percent (10%) of the member household's income for the calendar year prior to occupancy or the total share purchase price; and in no event shall the cash contribution required upon initial occupancy be less than two times the monthly rent for the unit.
  - (4) The sponsor may loan members of the housing cooperative the difference between the total share purchase price and the member household's cash contribution. The terms and conditions of such loans shall be subject to department approval.
- (d) The sponsor shall submit for department approval the form of the rental or occupancy agreement for assisted units prior to its use. The form shall include the following:
  - (1) provisions requiring good cause for termination of tenancy. One or more of the following constitutes "good cause":
    - (A) failure by the tenant to maintain eligibility under the program;

- (B) noncompliance by the tenant with material provisions of the rental or occupancy agreement, including one or more substantial violations of the rental or occupancy agreement or habitual minor violations of the rental or occupancy agreement which
    - 1. adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities;
    - 2. substantially interfere with the management, maintenance, or operation of the rental housing development;
    - 3. substantially interfere with the supportive service component or the job training and placement component of the project, other than failure to participate, as set forth in section 8127 and 8128, respectively; or
    - 4. result from the failure or refusal to pay, in a timely fashion, rent or other permitted charges when due. Failure or refusal to pay, in a timely fashion, is a minor violation if payment is made during the three-day notice period;
  - (C) substantial failure or repeated minor failure by a tenant to carry out material obligations under state or local law;
  - (D) subletting, by the tenant, of all or any portion of the assisted unit;
  - (E) substantial failure or repeated minor failure by a tenant in a congregate housing development to comply with material provisions of the resident management agreement described in section 8137 or with any rules established by the mutual agreement of the residents of the congregate housing development and the sponsor; or
  - (F) any other action or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant, provided that the sponsor has previously notified the tenant that the conduct or action in question would be considered cause for eviction. Examples of action or conduct in this category include the refusal of a tenant, after written notice, to accept reasonable rules or any reasonable changes in the rental or occupancy agreement or the refusal to recertify income or household size;
- (2) a provision requiring that the facts constituting the grounds for any eviction be set forth in the notice to quit provided to the tenant pursuant to state law;

- (3) notice of the appeal and grievance procedures established by the sponsor pursuant to subdivision (e) and incorporation of the procedure by reference;
  - (4) notice of the right to an informal hearing with the sponsor to review any proposed rent increase pursuant to section 8122;
  - (5) a requirement that the tenant annually recertify household income and size;
  - (6) for congregate housing developments, a requirement that the tenant comply with the resident management agreement described in 8137(c).
- (e) Each sponsor shall adopt an appeal and grievance procedure to resolve grievances filed by tenants and allow appeals of actions taken by the sponsor with respect to tenants' occupancy in the rental housing development and prospective tenants' applications for occupancy.
- (1) the appeal and grievance procedure shall be included in the sponsor's management plan described in section 8137(e) and shall, at a minimum, include the following:
    - (A) a requirement for delivery of a written copy of the appeal and grievance procedure to each tenant and applicant;
    - (B) procedures for informal dispute resolution;
    - (C) a right to a hearing before an impartial body, which shall consist of one or more persons, with the power to render a final decision on the appeal or grievance;
    - (D) procedures for the appointment of the impartial hearing body;
    - (E) procedures for conducting such hearing, including the right to present evidence without regard to formal rules of evidence, the right to be represented by any other person and the right to a written decision from the hearing body which shall be based solely on evidence presented at the hearing; and
    - (F) a requirement that the sponsor extend any time period imposed pursuant to a formal eviction procedure, including any filing in a court of competent jurisdiction, during the pendency of the hearing.
  - (2) Neither utilization of nor participation in any aspect of the appeal and grievance procedure shall constitute a waiver of or affect the rights of the

tenant, prospective tenant, or sponsor to a trial de novo or judicial review in any judicial proceeding which may thereafter be brought in the matter.

(f) If, upon annual recertification, a tenant's household income exceeds the eligibility limit for lower-income households, the tenant's rental or occupancy agreement for the unit as an assisted unit shall terminate six months after the notice of termination, which the sponsor must provide within one month of recertification.

(1) The sponsor may approve one additional six-month extension of the rental or occupancy agreement if the rental housing development is located in a market area where:

(A) the vacancy rate for rental housing is less than five percent; and

(B) the Fair Market Rent exceeds the average of the Fair Market Rents for all metropolitan statistical areas in California. For purposes of this subsection, "Fair Market Rent" means the most current Fair Market Rent for Existing Housing for two-bedroom units, as published annually in the "Federal Register" by the U.S. Department of Housing and Urban Development pursuant to section 8(c)(1) of the United States Housing Act of 1937.

(2) In rental housing developments containing nonassisted units, the tenant shall have the right of first refusal for any available nonassisted unit of a size consistent with the occupancy standards set forth in section 8121(a)(5) and (6). This right shall begin upon recertification and shall expire upon termination of the tenant's rental or occupancy agreement of the assisted unit.

(3) If the tenant provides to the sponsor additional evidence which establishes income eligibility prior to the expiration of the tenant's rental or occupancy agreement, the tenant's lease shall not be terminated.

(4) If the assisted unit is subject to state or federal rules governing low-income housing tax credits as referenced in section 8111(x) or other federal or state housing assistance, those eligibility provisions shall govern continued eligibility for occupancy, if necessary to permit participation in such programs.

(5) If the tenant's income exceeds the limit for lower-income units established by the sponsor pursuant to subdivision (b), that fact alone shall not be cause for termination of the tenant's rental or occupancy agreement or for requiring the tenant to vacate its unit, if the tenant's income remains below the eligibility limit for lower-income households.

- (6) In a limited equity housing cooperative where the household income of a cooperative member occupying an assisted unit exceeds the upper limit for lower-income households, the member shall not be required to vacate the assisted unit.
  - (A) After recertification and determination of ineligibility, the sponsor shall immediately notify the member that the carrying charge will increase to a market rate payment six months after said notification. Market rate payment shall be the carrying charge paid for a comparable nonassisted unit, without an allowance for utilities, or where there are no comparable nonassisted units, the rent charged for comparable units in the area. This market rate payment shall be subject to department approval.
  - (B) The next available membership share for occupancy in a comparable unit shall be sold to an eligible household until the mix between lower and very low-income units required by the Regulatory Agreement is achieved.
- (g) If the income of a household residing in a very low-income unit changes from very low-income to other lower-income at the time of recertification, the following shall apply:
  - (1) The household shall not be required to vacate the unit;
  - (2) The sponsor shall charge rent that does not exceed the current rent allowed for any comparable lower-income unit pursuant to section 8122, or where there are no such units, the maximum rent which would be allowed pursuant to section 8122;
  - (3) The sponsor shall designate the unit as a lower-income unit; and
  - (4) The sponsor shall designate the next available comparable assisted unit as a very low-income unit until the mix between lower-income and very low-income units required by the Regulatory Agreement as provided in section 8133(c) is achieved.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50893.7 and 50894, Health and Safety Code.

Section 8122. Rent Standards.

(a) The department shall establish initial rents for assisted units in each community housing development in accordance with the tables in section 6932 and the following:

- (1) At the time of initial occupancy of a unit, monthly rents for very low-income units in a community housing development shall not exceed 30 percent of 35 percent of area median income, divided by 12, adjusted by unit size pursuant to subdivision (a)(3), and with an allowance for utility costs pursuant to subdivision (c). The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the very low income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).
- (2) At the time of initial occupancy of a unit, monthly rents for lower-income units in a community housing development shall not exceed 30 percent of 60 percent of area median income, divided by 12, adjusted by unit size pursuant to subdivision (a)(3), and with an allowance for utility costs pursuant to subdivision (c). The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the lower-income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).
- (3) Maximum rent calculated pursuant to (a)(1) and (a)(2) above shall be adjusted by unit size as follows:

Unit Size	Applicable Household Size to Determine Rent Limit
0 bedroom	1 person
1 bedroom	2 persons
2 bedrooms	3 persons
3 bedrooms	4 persons
4 bedrooms	6 persons
5 bedrooms	8 persons

(b) The department shall establish initial rents for assisted units in each congregate housing development in accordance with the tables in section 6932 and the following:

- (1) At the time of initial occupancy of a unit, monthly rents for very low-income units in a congregate housing development shall not exceed 30 percent of 35 percent of area median income adjusted by unit size pursuant to subdivision (a)(3), divided by 12 and with an allowance for utility costs pursuant to subdivision (d). For the purpose of determining initial rents, the sponsor shall

configure the congregate housing development into enough units so that two to ten households can be accommodated in accordance with the occupancy requirements contained in subdivision 8121 (a)(6) and as approved by the department. The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the very low-income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(2) At the time of initial occupancy of a unit, monthly rents for lower-income units in a congregate housing development shall not exceed 30 percent of 60 percent of area median income adjusted by unit size pursuant to subdivision (a)(3), divided by 12 and with an allowance for utility costs pursuant to subdivision (d). For the purpose of determining initial rents, the sponsor shall configure the congregate housing development into enough units so that two to ten households can be accommodated in accordance with the occupancy requirements contained in subdivision 8121 (a)(6) and as approved by the department. The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the lower-income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(c) The maximum rent to be charged to tenants in assisted units in community housing developments shall be determined by deducting from the maximum amounts calculated pursuant to (a)(1), (a)(2), and (a)(3) a utility allowance for the appropriate unit size. The utility allowance shall be the allowance for monthly utility costs made or approved by the U.S. Department of Housing and Urban Development pursuant to 24 CFR §813.102. In order to obtain the current utility allowances for cities and unincorporated areas located in the following counties, please contact the Department of Housing and Community Development, Attention: Housing Assistance Program, Post Office Box 952054, Sacramento, CA 94252-2054 or phone (916) 324-7696:

Amador	Calaveras	Colusa	El Dorado
Glenn	Inyo	Lassen	Lake
Mendocino	Modoc	Mono	Nevada
Placer	Sierra	Siskiyou	Trinity
Tuolumne			

Utility allowances for the balance of cities and unincorporated areas in California not located in the above noted counties may be obtained by contacting the Housing Authority established for that county pursuant to section 34240 of the Health and Safety Code.

- (1) Where a tenant does not directly pay for utilities, the utility allowance deduction shall be zero.
  - (2) Upon demonstration by the sponsor that the amount of utility cost per unit anticipated for the proposed project differs from the amount of the utility allowance per unit derived pursuant to subdivision (c), the department shall allow as a utility allowance use of the utility cost per unit demonstrated by the sponsor. The demonstration by the sponsor shall consist of the submittal of actual utility usage cost data per unit for an existing project constructed within the last five years, of the same type of construction as the proposed project, and with the same type of tenant population as the proposed project.
- (d) The maximum rent to be charged to tenants in assisted units in congregate housing developments shall be determined by deducting from the maximum amounts calculated pursuant to (b)(1) and (b)(2), a utility allowance determined according to a methodology approved by the department prior to loan closing and based on the allocation of probable actual cost of utilities to households residing in the congregate housing development. Such methodology shall incorporate actual utility usage cost data per unit for an existing project constructed within the last five years, of the same type of construction as the proposed project, and with the same type of tenant population as the proposed project.
  - (e) For projects involving the rehabilitation of a rental housing development, the after-rehabilitation rent for an assisted unit occupied by an eligible household at the time of initial application to the program may not exceed the greater of the rent charged at the time of initial program application, or twenty-five percent (25%) of the subject tenant household's monthly gross income. In no event is the rent to exceed that which would be charged pursuant to subdivisions (a) and (b), or (c) and (d) above.
  - (f) As used in this section "rent" does not include any payment to a sponsor under section 8 of the United States Housing Act of 1937 or any comparable federal or state rental assistance program.
  - (g) After the initial operating year, rents for assisted units may be adjusted no more often than annually. The amount of adjustment shall be in accordance with the following:
    - (1) Rents may be increased at a rate not to exceed the most recent annual average percentage change in the Western Region for residential rents for all

urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics in the monthly publication, "CPI Detailed Report," multiplied by the ratio of the previous year's budgeted operating expenses attributed to assisted units, plus required reserves attributed to assisted units, to the previous year's budgeted operating income attributed to assisted units.

- (2) In addition to the rent increase allowed pursuant to subdivision (g)(1), rents for assisted units shall be increased by an amount not to exceed the amount necessary to increase the operating income to maintain fiscal integrity and to cover changes in debt service
    - (A) on an adjustable rate loan secured by a mortgage on the rental housing development, which was approved by the department as part of the original project; or
    - (B) resulting from a refinancing of a loan for the project approved by the department pursuant to subsection 8135(c).
  - (3) Notwithstanding the provisions of subsections (g)(1) and (g)(2), rents shall be decreased, or the amount of the otherwise allowable increase reduced, if there is a reduction in the amount of required payments on an adjustable rate loan secured by a mortgage on the rental housing development due to a decrease in the interest rate for that loan or a reduction in operating costs. The aggregate monthly amount of this rent decrease, or reduction in an otherwise allowable increase, shall be equal to the amount of the monthly payment reduction attributable to assisted units.
  - (4) Any rent adjustment at the end of the initial operating year shall be prorated based on the length of the initial operating year.
- (h) The sponsor shall be allowed to implement a greater rent increase for assisted units than that allowed in subdivision (g) if the sponsor can demonstrate, to the department's satisfaction, that the increase is necessary to pay for unusual or unforeseeable increases in costs related to the assisted units and to preserve fiscal integrity. The sponsor shall not receive a greater rent increase on the grounds that fiscal integrity is threatened by a shortfall in income, unanticipated expenses or other financial problems attributable to commercial space, nonassisted units, any supportive service, or the job training and placement program.
  - (i) Any allowable rent increase or portion thereof not implemented in assisted units by the sponsor in any given year shall not be accumulated for implementation in subsequent years.

- (j) Where the assisted units are rent restricted as a condition of receiving low-income housing tax credits or other state or federal rent subsidy programs, the initial rent for assisted units and subsequent rent increases shall be the lower of those permitted under this section or those permitted under the applicable tax credit or other program.
- (k) The sponsor shall submit requests for rent adjustments pursuant to subdivision (g) or (h) above as part of the annual operating budget pursuant to section 8138. If the department doesn't respond within sixty days of receipt of the request, the request is deemed approved.
- (l) Sixty days prior to the time any rent adjustment is effective, the sponsor shall provide written notice to eligible households of the adjustment and the availability of informal meetings with the sponsor to review the proposed rent adjustment. Upon request by any affected tenant, the sponsor shall provide, in a timely manner, the information submitted to the department pursuant to subdivision (g), (h) and (k).

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: sections 50881.5(b) and 50893.7(h), Health and Safety Code.

#### Section 8123. Limits on Distributions.

- (a) Sponsors other than governmental entities shall be allowed to distribute earnings from the assisted portion of the rental housing development in an annual amount no greater than 8 percent of its actual investment in the assisted portion. A sponsor shall not be subject to any limitation on the amount of distribution it receives from the nonassisted portion of the rental housing development. For purposes of this section, the assisted portion includes assisted units; the prorated share of common space, determined pursuant to section 8114(e)(2); and the child care center, if program funds are used to develop all or any portion of the child care center. The nonassisted portion includes units which are not assisted units; the prorated share of common space attributable to those units, determined pursuant to section 8114(e)(2); any commercial space; and the child care center, if no program funds are used to develop the child care center.
- (b) Except as noted in subdivision (c), actual investment, for the purposes of this section, includes cash and the market value of property contributed to the assisted portion of the project by the sponsor. For projects receiving state or federal low-income housing tax credits, the amount of actual investment recognized by the department for the purpose of calculating allowable distributions shall not exceed fifteen percent of the total project development costs of the assisted portion of the project. Actual investment does not include any payments of project funds to the sponsor. In

syndicated projects, actual investment shall be net syndication proceeds as defined in section 8124.

- (c) For a project involving only rehabilitation and no acquisition or refinancing, actual investment is determined as follows: the market value of the rental housing development prior to rehabilitation, as determined in an appraisal, less outstanding debt prior to rehabilitation, plus any cash contributions to the project made by the sponsor, multiplied by the ratio of the assisted portion to the entire rental housing development.
- (d) A sponsor may not accumulate distributions from year to year. A sponsor may deposit all or a portion of the amount permitted for distributions into a project account for distribution in subsequent years. Such future distributions shall not reduce the otherwise permitted distribution in those subsequent years.
- (e) In its initial operating budget, the sponsor shall demonstrate to the department the amount of the sponsor's actual investment on which the allowable distribution will be calculated. The actual investment amount shall be increased in subsequent budgets upon a showing of additional actual investment advanced by the sponsor.
- (f) Distributions shall be permitted only after the sponsor submits a complete annual report and operating budget and the department determines that the report and budget demonstrate compliance with all program requirements for the applicable year. Circumstances under which no distributions shall be made include:
  - (1) when written notice of default has been issued by any entity with an equitable or beneficial interest in the rental housing development;
  - (2) when the department determines that the sponsor has failed to comply with the department's written notice of any reasonable requirement for proper maintenance or operation of the rental housing development;
  - (3) if all currently due and payable debt service and operating expenses have not been paid; and
  - (4) if the replacement reserve account, operating reserve account, or any other reserve accounts are not fully funded pursuant to section 8139 and the Regulatory Agreement.
- (g) Distributions of income attributed to the nonassisted portion of the rental housing development shall not be subject to the requirements of subdivisions (a) through (d).
- (h) When operating income is greater than operating expenses, regularly scheduled debt service, scheduled reserve deposits, approved prepayments, approved annual

distributions, and any other disbursements approved by the department, then the department shall require that such excess be paid into the Account. For purposes of calculating the amount of excess funds pursuant to this subdivision, operating income and expenses shall not include income or expenses from commercial space or the nonassisted portion of the rental housing development.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: section 50893.7, Health and Safety Code.

#### Section 8124. Syndication.

- (a) In the event that the project is syndicated during the term of the program loan, the total amount of syndication proceeds retained by the sponsor, or any affiliates of the sponsor, in the form of fees or payments of any kind, shall not exceed 25 percent of net syndication proceeds. Net syndication proceeds shall be calculated by deducting from gross syndication proceeds all reasonable and ordinary costs of syndication, including accounting, printing, financial consultant fees, legal fees, interest and fees on gap financing used to pay development costs, syndicator fees, and government fees associated with creating a limited partnership and securing tax credit allocations.
- (b) Not less than 75 percent of any available net syndication proceeds shall be applied toward development costs, exclusive of any fees or payments retained by the sponsor or its affiliates, and, then, to the extent that funds are available, toward payment or prepayment, as applicable, of program loan interest and principal.
- (c) Upon demand by local public agencies that have contributed or loaned funds towards project development costs, net syndication proceeds that would otherwise be applied towards program loan payments may be allocated among these agencies and the department in amounts in direct proportion to the ratio between the amount of their contributions or loans and the amount of the program loan.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: section 50893.7(d), Health and Safety Code.

#### Section 8125. Relocation Requirements.

- (a) For projects involving the new construction of a rental housing development, the following shall apply:
  - (1) The sponsor of a project resulting in displacement of residential tenants shall be solely responsible for providing the assistance and benefits set forth in this subdivision (a), and shall agree to indemnify and hold harmless the department from any liabilities or claims for relocation related costs.

- (2) All tenants in occupancy in a property who are temporarily or permanently displaced as a direct result of the development of the project shall be entitled to relocation benefits and assistance as provided in chapter 16 (commencing with section 7260) of Division 7 of Title 1 of the Government Code. Displaced tenants who are not eligible households under this program shall be provided relocation benefits and assistance from funds other than program funds.
  - (3) The sponsor shall prepare a relocation plan in conformance with the provisions of section 6038(b) of this Title based on the scope of the project and the extent of anticipated temporary or permanent displacement. The relocation plan shall be subject to the review and approval of the department prior to the disbursement of program funds.
  - (4) All eligible households who are permanently displaced as a direct result of the development of the project shall be entitled, upon initial occupancy of the rental housing development, to occupy assisted units subject to the tenant occupancy standards set forth in section 8121.
  - (5) All households which are not eligible households who are permanently displaced as a direct result of the development of the project shall be entitled, upon initial occupancy of the rental housing development, to occupy any available nonassisted units.
  - (6) Notwithstanding the preceding paragraphs, tenants who are notified in writing prior to their occupancy of an existing unit that such unit may be demolished as a result of funding provided under the program shall not be eligible for relocation benefits and assistance under this section. The form of any notices used for this purpose shall be subject to department approval.
- (b) For projects involving the rehabilitation of a rental housing development, the following shall apply:
- (1) It shall be the sponsor's responsibility to ensure compliance with the relocation provisions set forth in this subdivision (b). Loan funds may be used for relocation costs attributable to the relocation of lower-income tenants as a result of the rehabilitation activities, including the payment of benefits required by this subdivision. The department may authorize increases in the sponsor's approved loan amount for the purposes of paying eligible relocation costs attributable to lower-income households, which could not be reasonably foreseen by the sponsor at the time of application. Eligibility for relocation benefits and the amount of benefits to be paid shall be determined as set forth in this subdivision, although additional requirements may be imposed by applicable federal, state, or local laws.
  - (2) All tenants in occupancy in a property who are permanently displaced as direct result of an acquisition funded in whole or in part with program funds

shall be entitled to relocation benefits as provided in sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272, and 7272.3 of the Government Code.

- (3) In the case of an acquisition funded in whole or in part with program funds, all existing residential tenants, as well as residential tenants who were in occupancy on the date that the sponsor entered into the binding agreement for the purchase of the property shall be provided with a notice as specified herein no later than the date of application to the department for program funds. The notice shall contain all the following statements:
  - (A) that the sponsor has entered into an agreement to purchase the property;
  - (B) that the sponsor is applying for public funds for the purpose of acquiring and rehabilitating the property;
  - (C) that if the sponsor's application is funded and the rehabilitation work requires temporary relocation, all residential tenants will be entitled to return to their units; will be entitled to temporary relocation benefits; and if low and moderate income as defined in section 50093 of the Health and Safety Code, will not have any rent increases during the period of one year from the completion of the rehabilitation work which result in a rent that is greater than twenty-five percent of their incomes.
  - (D) that all residential tenants who are permanently displaced as a direct result of the acquisition may be entitled to financial benefits, which could include moving expenses and rent differential during the period of displacement as required by law;
  - (E) that if the application is funded, the sponsor will be required as a condition of funding to conduct a tenant survey including a verification of tenant's incomes and that a tenant's failure to provide complete and accurate information may result in the loss of some of the financial benefits described above; and
  - (F) whom to contact for further information or to make a claim.
- (4) Any residential tenant who was in occupancy at the time of application to the department for funds and who is displaced to accommodate rehabilitation work shall be provided with temporary housing benefits for a period of up to 90 days, and shall be given the option of returning after rehabilitation to the unit from which he or she was displaced.
- (5) Any residential tenant whose household income is low or moderate as defined in section 50093 of the Health and Safety Code shall be entitled to the following benefits and shall be subject to the following additional provisions:

- (A) After-rehabilitation rents may not be raised to a level which exceeds twenty-five percent of that household's income for 12 months subsequent to the completion of rehabilitation. A tenant whose income is low or moderate, but refuses to provide the income information necessary to establish rents pursuant to this subparagraph, shall not be eligible for relocation benefits due to an increase in rent in excess of that permitted by this subparagraph. Income surveys to ensure compliance with the requirements of this paragraph and applicable relocation laws shall be completed prior to disbursement of program funds.
  - (B) A residential tenant or household whose income is low or moderate as defined in section 50093 of the Health and Safety Code shall be entitled to all relocation benefits provided pursuant to sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272, and 7272.3 of the Government Code if such tenant or household is permanently displaced as a direct result of the rehabilitation work.
  - (C) A residential tenant or household whose income is low or moderate as defined in section 50093 of the Health and Safety Code and whose temporary displacement exceeds 90 days shall be deemed permanently displaced and may elect to receive benefits on a monthly basis while retaining the right to reoccupy the previously occupied unit. When a tenant elects to receive his or her permanent relocation benefits pursuant to this subparagraph on a lump sum basis, the tenant shall be presumed to have waived his or her right to return to the unit upon completion of the rehabilitation.
- (6) All residential tenants shall be given a notice which specifies their rights pursuant to this subdivision no later than the time of application to the department for program funds. Any tenant's waiver of a right set forth in this subdivision (b) must be in writing and must specify in detail the relocation rights being waived.
  - (7) Any business tenant or farm operation tenant at the time of application by the sponsor to the department for program funds shall be entitled to relocation assistance and benefits to the extent required by applicable law from funds other than program funds.
  - (8) The sponsor shall prepare a relocation plan in conformance with the provisions of section 6038(b) of this Title based on the scope of the project and the extent of anticipated displacement. The relocation plan shall be subject to the review and approval of the department prior to the disbursement of program funds.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: chapter 16 (commencing with section 7260), division 7, title 1, Government Code; section 50880, Health and Safety Code.

Section 8126. Construction Requirements.

- (a) The department shall review and underwrite project plans and specifications to ensure the following objectives:
- (1) The rental housing development shall have a minimum useful life at least equal to the term of the loan;
  - (2) Maintenance, repair, and replacement costs shall be minimized during the useful life of the rental housing development through use of durable, low maintenance material and equipment and design features that minimize wear and tear.
  - (3) Operating costs shall be minimized during the useful life of the rental housing development.
  - (4) Tenant security shall be facilitated through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.
  - (5) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the project, and unit density shall not be substantially less than the average for new developments with such units.
  - (6) The ability of households to care for their children shall be facilitated by unit and site design, such as siting or windows to facilitate watching children, and the use of appliances, such as intercom systems.
  - (7) Elderly and handicapped accessibility shall be facilitated by features and designs which at a minimum, meet the standards of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601-3619 as amended by Pub. L. 100-430, approved September 13, 1988), and the regulations promulgated thereunder, regardless of whether the rental housing development is "for first occupancy after March 13, 1991" as provided in those regulations.
- (b) The sponsor shall ensure that the construction work for the project shall be performed in a competent, professional manner at the lowest reasonable cost consistent with the project's scope, design and locality and at an aggregate cost not in excess of the total funds available. The sponsor may demonstrate the reasonableness of the proposed cost by soliciting written bids based on a bid package

distributed to potential contractors located in the general area of the rental housing development or by the use of other methods which adequately demonstrate to the department's satisfaction that the costs are reasonable. Such bid package or other method shall include at a minimum:

- (1) complete plans and specifications for the work; and
  - (2) a full description of the program requirements for construction, including the required provisions of the construction contract.
- (c) The sponsor shall enter into a written contract with the selected contractor. The contract shall be subject to the approval of the department prior to loan closing to determine compliance with program requirements.
- (d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions and representations between the parties and, at a minimum, contain provisions which:
- (1) require that the contractor complete the work in accordance with the plans and specifications approved by the department prior to loan closing, and applicable local, state and federal laws, regulations and building codes and standards;
  - (2) require the contractor to proceed with and complete the work in accordance with the schedule for work approved by the department prior to loan closing;
  - (3) specify a total contract price consistent with the project budget approved by the department prior to loan closing;
  - (4) provide for a method of payment to the contractor consistent with program requirements which shall include progress payments and retentions;
  - (5) require that the contractor provide a payment bond securing payment to persons providing goods or services to the project and a performance bond securing faithful completion of the work. Each bond shall be in an amount equal to 100 percent of the total contract price and include the department as a dual obligee. The department shall waive the payment and performance bond requirements, or reduce their scope, upon the sponsor's either:
    - (A) providing alternative security for payment and performance under the construction contract which is substantially equivalent to the bond requirements; or
    - (B) demonstrating that the bonds, or the full amount thereof, are not necessary to protect the interests of the department and ensure completion of the work;

- (6) permit the sponsor and the department and their designated agents and employees the right to inspect the project site and all books, records and documents maintained by the contractor in connection with the project;
- (7) require the contractor to provide insurance coverage consistent with the program requirements and other applicable law;
- (8) obligate the contractor to warrant the work for a period of not less than one year;
- (9) require that the contractor pay all amounts when due for labor, work performed under a subcontract, and materials, supplies and equipment provided to the project;
- (10) provide for the assignment of the construction contract to the department upon sponsor's breach of the Development Agreement;
- (11) when program funds are provided as new construction financing, require that the contractor comply with state prevailing wage law, as set forth in Labor Code section 1720 et seq.; and
- (12) include such special conditions applicable to the construction contract as may have been imposed in connection with the department's approval of the project for funding.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50888.3, 50893, 50893.5, and 50893.7, Health and Safety Code.

#### Section 8127. Supportive Services Requirements.

- (a) Each community housing development shall include the following features:
  - (1) a child care center which
    - (A) shall be built in accordance with state law as provided in Chapters 3.4 and 3.5 (commencing with sections 1596.70 and 1596.90 respectively) of Division 2, Health and Safety Code;
    - (B) shall be operated in compliance with state law as specified in Chapters 3.4 and 3.5 (commencing with sections 1596.70 and 1596.90 respectively) of Division 2, Health and Safety Code), and may be operated either directly by the sponsor or by a separate entity contracting with the sponsor, provided that all contracts or lease agreements for the operation of the child care center shall be subject to department approval; — — —

- (C) shall be licensed to care for at least the number of children expected to reside in the rental housing development; this number shall be calculated according to the following:

Unit size	# of Children
1 bedroom	0
2 bedroom	1
3 bedroom	2
4 bedroom	3

The sponsor may propose another reasonable method for calculating this number, such as the number of children on an existing waiting list;

- (D) provides care at a rate which is affordable to households residing in assisted units based on the household's gross monthly income and family size, as approved by the department prior to loan closing. For purpose of this section, a rate shall be considered affordable if the fee charged to the household does not exceed the amount published in the most recent Family Fee Schedule CD-2600 or such other fee schedule utilized by an agency which provides subsidies to the child care center or to households using the child care center to care for their children; The Family Fee Schedule CD-2600 is established pursuant to section 8263(f), Education Code and is available by written request to the California Department of Education, Child Development Division, P.O. Box 944272, Sacramento CA 94244-2720, or by phone (916)322-6233.

- (E) gives priority for space in the child care center as follows:

1. first to residents with children in assisted units who require child care because of current or impending employment or to participate in the job training and placement program described in section 8128; and
  2. secondly to other residents with children who require child care because of current or impending employments;
- (2) a children's play area which can accommodate at least the estimated number of children residing in the rental housing development calculated pursuant to (a)(1)(C) above in accordance with chapter 3.5 (commencing with section 1596.90), division 2, Health and Safety Code;
- (3) a common facility which is available on a reasonable basis to all residents of the community housing development for community purposes, such as shared meals, job training programs, or social functions. The common facility may also be used as the child care center.

- (4) At least one washer and dryer accessible for every ten units in the community housing development.
- (b) A sponsor of a congregate housing development shall implement supportive services through a plan which provides for supportive services at a maximum feasible level consistent with the size, design and purpose of the proposed congregate housing development. Prior to loan closing, the plan must be approved by the department. At a minimum, the plan shall:
    - (1) assist each household which requires child care because of employment or to attend employment training programs to find affordable child care;
    - (2) provide adequate common space to accommodate community purposes such as sharing of meals or child care;
    - (3) provide at least one washer and dryer in a common space; and
    - (4) demonstrate that the project provides an outside play area for households with children, or is located in close proximity to a playground, park, or similar facility.
  - (c) Upon demonstration by a sponsor that a reasonable attempt was made to obtain other funds for the construction of the child care center, the department shall allow program funds to pay for eligible costs associated with the child care center not funded by other sources. A sponsor may demonstrate that a reasonable attempt was made by making application to and receiving responses from three sources, who provide construction financing for child care centers, other than the department.
  - (d) For projects that include an on-site child care center, the sponsor shall develop a management plan for the center, subject to department approval, prior to loan closing. The plan shall be consistent with this subchapter and shall include the following:
    - (1) a description of the role and responsibility of the sponsor in managing a child care center;
    - (2) a description of the role and responsibility of either the management agent or lessor, if a separate entity will be either managing the child care center or leasing the child care center from the sponsor in order to meet the requirements of (a)(1) above on behalf of the sponsor;
    - (3) the proposed child care center management agreement or lease, if any;
    - (4) a description of the age groups, and numbers of children within each age group, for which care will be provided at the center;
    - (5) a description of the hours of operation at the child care center;

- (6) personnel policy and staffing arrangements for the sponsor, any management agent of the child care center, and any leaseholder of the child care center;
  - (7) plans and procedures for publicizing and achieving early and continued use of the child care spaces;
  - (8) a description of the placement preferences for children in the child care center, pursuant to (a)(1)(E) above;
  - (9) child care fee collection policies and procedures, including procedures for annually determining the appropriate child care fee for each household residing in an assisted unit, pursuant to (a)(1)(D) above;
  - (10) a description of a program for maintaining adequate accounting records and handling necessary forms and vouchers;
  - (11) complaint procedures;
  - (12) equal opportunity provisions that apply to hiring staff and placement of children in the child care center;
  - (13) plans for carrying out an effective maintenance and repair program for the child care center; and
  - (14) provisions for periodic update of the child care center management plan.
- (e) The department shall allow a sponsor to include additional supportive services which are appropriate to the needs of the residents. These may include, but are not limited to the following:
- (1) a supportive services needs assessment for each household;
  - (2) health care;
  - (3) mental health counseling;
  - (4) parent education;
  - (5) classes on living skills, budgeting and money management;
  - (6) conflict resolution;
  - (7) recreational programs; and
  - (8) services appropriate for elderly or handicapped residents.
- (f) Participation by tenant in any supportive service program described in this section shall not be a condition of occupancy for residents in rental housing developments.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: sections 50888.7, 50891.5, and 50893.9(a).

Section 8128. Job Training and Placement Program Requirements.

- (a) The sponsor shall submit for department approval, as part of the application and again prior to loan closing, a job training and placement program available to eligible households which shall include the following components:
  - (1) an ongoing effort to assess employment opportunities in the area;
  - (2) an individual vocational assessment program which will assist a resident in evaluating the types of employment that are available, the types of employment that the resident is interested in pursuing, and the education and skills training appropriate to the employment goals;
  - (3) training that provides remedial education in English, reading, writing, mathematics, and science, as well as skills development in the types of employment opportunities that are generally available in the area;
  - (4) training to develop job interview skills, such as resume writing, personal appearance and presentation skills;
  - (5) a job placement component; and
  - (6) a detailed timeline indicating full implementation of the program within 18 months of initial occupancy of the first assisted unit in the rental housing development.
- (b) The sponsor shall implement the job training and placement program described in subdivision (a) either directly or through a consultant or consultants pursuant to a contract, which is subject to the approval of the department. Implementation of the program may involve a system of referrals to other agencies that will provide the services set forth in subsection (a) to the eligible households. Prior to loan closing, the sponsor shall submit evidence of commitments for funding or services necessary to implement the job training and placement program described in subsection (a).
- (c) The sponsor of a rental housing development shall propose and implement a program of job training and placement within the rental housing development. Such a program shall include:
  - (1) an identification of positions available in the management and operation of the rental housing development, including the child care center, the job training and placement program, and the on-site resident manager, if any; and

- (2) a program to provide training opportunities to eligible households for the positions identified in (c)(1);
  - (3) a hiring preference in the positions identified in (c)(1) for eligible households of the rental housing development; and
  - (4) a detailed timeline indicating full implementation of the program within 18 months of initial occupancy of the first assisted unit in the rental housing development.
- (d) Failure to participate in job training and placement programs described in subsections (a) and (c) shall not constitute "good cause" for termination of the tenancy of a resident in a rental housing development.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50888.5 and 50891.5, Health and Safety Code.

#### Section 8129. Seismic Rehabilitation Improvement.

To be eligible to receive program funds for seismic rehabilitation improvements, a project must either:

- (a) involve a structure which is identified as a potentially hazardous building by the local agency in which it is located, pursuant to section 8875.1 of the Government Code; or
- (b) involve a structure identified as hazardous in accordance with a previously adopted city or county seismic safety ordinance adopted pursuant to section 19163 of the Health and Safety Code.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50881.5(f).

#### Section 8130. Application Process.

- (a) The department shall issue a Notice of Funding Availability (NOFA) which specifies the schedule for rating and ranking applications, and awarding funds at least once every three months; the amount of funds available in each award cycle; application requirements; the allocation of rating points; and the general terms and conditions of funding commitments. Applications in response to each NOFA will be accepted on a continuous basis.
- (b) Within 45 days of the receipt of an application, the department shall provide the applicant with written notice indicating whether the application is complete pursuant to section 8131(c) and eligible for rating and ranking pursuant to section 8132(a).

- (1) If the application is not complete, but has not been determined to be ineligible for rating and ranking, the notice shall specify the information or documentation necessary to complete the application. Within 15 days of the receipt of any additional information or documentation from the applicant, the department shall provide the applicant with written notice indicating whether the additional information or documentation is sufficient to determine that the application is complete.
  - (2) If the application is not eligible for rating and ranking, the notice shall provide an explanation of the reasons for this determination.
- (c) Funding decisions shall be based on a rating and ranking of applications determined to be complete and eligible for rating and ranking pursuant to subdivision (b).
- (1) An application must be received by the department and determined to be complete and eligible for rating and ranking at least 45 days prior to the completion of the next scheduled period of rating and ranking to be assured of consideration in that rating and ranking.
  - (2) Within 15 days following the completion of each rating and ranking, the department shall provide each applicant with a written notice indicating whether its application has been approved for funding. If an application is not approved, the notice shall include an explanation of the rating and ranking and the reasons for the disapproval.
- (d) A project selected for funding shall be approved for a loan in the amount, for the term, and subject to the conditions specified by the department.
- (e) At least 20 percent of all program funds loaned by the department shall be allocated to rural areas, to the extent that applications are made from sponsors with projects located in rural areas and such applications receive at least 60 percent of the total possible priority points during rating and ranking.
- (f) The department shall award approximately one-half of the available funds to projects located in the southern portion of the state and the balance to projects located in the northern portion of the state.
- (1) The southern portion of the state includes the counties Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.
  - (2) The northern portion of the state includes the remaining counties of the state.
- (g) The department shall award not less than 25 percent, nor more than 35 percent, of the funds to develop congregate housing developments.

- (h) If necessary to satisfy the distribution requirements specified in subdivisions (e), (f) and (g), the department shall do one or more of the following:
- (1) issue a special NOFA for rural projects, for projects located in the southern or northern portion of the state, or for congregate housing development or for community housing developments;
  - (2) award bonus points to rural projects, for projects located in the southern or northern portion of the state, or for congregate housing development or for congregate housing developments;
  - (3) reserve a portion of funds specified in the NOFA for rural projects, for projects located in the southern or northern portion of the state, or for congregate housing development or for community housing developments.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50882(c), 50887, 50889.5 and 50891, Health and Safety Code.

#### Section 8131. Application Requirements.

- (a) Application shall be made on form HCD 793, dated 6/91, Family Housing Demonstration Program Loan Application as set forth in subsection (b). This form is provided by the department.
- (b) Form HCD 793, dated 6/91, Family Housing Demonstration Program Loan Application:

**PAGES 50 TO 82 INTENTIONALLY DELETED**

(APPLICATION FORM)

- (c) An application shall be deemed complete when the department is able to determine from the information provided whether the project is eligible for rating and ranking pursuant to the requirements of section 8132.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: sections 50888, 50888.3, 5088.5, 5088.7, 50889, 50891.5, and 50893.9, Health and Safety Code.

#### Section 8132. Project Selection.

- (a) Projects shall not be eligible for rating and ranking unless the application demonstrates that all of the following conditions exist:
  - (1) The applicant is an eligible sponsor pursuant to section 8113;
  - (2) The project involves an eligible project pursuant to section 8112;
  - (3) All proposed uses of program funds are eligible pursuant to section 8114;
  - (4) The application is complete pursuant to section 8131;
  - (5) The project will maintain fiscal integrity consistent with meeting the requirements of the program.
  - (6) The project site is free from severe adverse environmental conditions that cannot be mitigated - such as the presence of toxic waste that is economically infeasible to remove - and is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the project tenants.
- (b) Projects shall not be denied funding solely because projected operating income is insufficient to make payments on the program loan.
- (c) Where the application meets the requirements of subdivision (a), the proposed project will be rated to determine its compliance with the following priority requirements. The application must receive a minimum of 60 percent of the total possible points in order to qualify for funding. Applications receiving 60 percent or more of the total possible points shall be ranked based on their point scores, with applications scoring higher receiving a higher ranking. Applications shall be eligible to receive commitments of available funds in a priority order based on their ranking consistent with the standards of subdivisions (e), (f) and (g) of section 8130. The maximum score for each of the following seven criteria is 15:

- (1) The extent to which the project serves the greater number of eligible households with the lowest incomes for the greatest period of time as evidenced by the following:
  - (A) The sum of the number of very low-income units and the number of very low-income nonassisted units, divided by the total number of units.
  - (B) The proposed length of term of the regulatory agreement, in excess of the program's minimum requirement as described in section 8115(b).
  
- (2) Need in the area of the proposed project for the type of housing provided by the proposed project. The department shall issue an evaluation of need for market areas within California based on the criteria listed below. The sponsor in its application may submit other or additional information and data to rebut or supplement the department's evaluation with respect to the need within the individual project's area. Where the department determines that the sponsor's data provides a more accurate evaluation of need, it shall base its rating on such data.
  - (A) Low vacancy rate for rental housing.
  - (B) Typical local market-rate rents that are a high percentage of the income limit for very low-income households. The income limit for very low-income households is provided in section 6932 pursuant to Health and Safety Code section 50105. For example, in Sacramento County the typical market-rate rent for a three-bedroom rental is \$750., while the monthly income for a very low-income family of four is \$1,562.50. Such a family will pay 48% of their income to rent such a dwelling unit. Since affordable rent is set at 25% of income pursuant to section 6922 of Title 25, 48% of income is high.
  - (C) Length of wait for units in comparable subsidized housing developments.
  - (D) High rental housing development costs, in comparison to costs in other areas of the state.
  
- (3) The extent to which the proposed project complements the implementation of an existing housing program in the local agency in which the proposed project is located. "Local agency" means the same as defined in section 50077 of the Health and Safety Code. Points shall be allocated based upon the following criteria:
  - (A) The extent to which the local agency has an existing housing program, such as a housing element, in compliance with the requirements of Article 10.6, commencing with section 65580 of Chapter 3 Division 1 of Title 7 of the Government Code, or a similar plan or policy formally considered by the local city council or board of supervisors. A plan or

policy shall ordinarily be deemed to be similar based upon the extent to which it addresses affordable housing issues such as the following: an assessment of need in the area and an inventory of resources and any constraints on those resources; a statement of the community's goals, objectives and policies relative to the maintenance, preservation, improvement and development of housing; a program which sets forth a schedule of actions which the local government has undertaken, is undertaking and intends to undertake to implement these goals; and a program for preserving existing assisted housing developments. Examples of actions which a local government may have taken, is taking or may intend to take in implementing the community's goals, objectives and policies include demonstrated performance in support of the development of affordable housing utilization of federal, state and local financing and subsidy programs; land use development controls; and regulatory provisions, concessions and incentives.

- (B) The extent to which the local agency is providing, or could provide, financial or nonfinancial assistance to the applicant's project. Financial assistance is defined as assistance that is equal to at least five percent of the project's development cost, excluding any costs of syndication, or \$250,000, whichever is less. Nonfinancial assistance includes forms of assistance such as the granting of density bonuses, the modification of development standards, and the fast tracking of local approvals, but does not include simply the provision of technical assistance, consultation or advice.
- (4) The extent of sponsor participation or participation of other funding sources, as determined by the product of the program loan amount divided by the sum of the total development cost of all assisted units and lower-income nonassisted units in the project. Total development cost does not include any costs of syndication.
- (5) The extent to which the proposed project maximizes the use of other private and public sources of funding and other services to assist in providing supportive services and job training and placement services as evidenced by the following:
  - (A) the sum of all operating subsidy funds for supportive services and job training and placement services and the estimated value of in-kind services, committed to the project for the project's first year of operation divided by the number of assisted units; and
  - (B) the feasibility of the plans for supportive services and job training and placement services considering the size, nature, and location of the proposed project.

- (6) The capacity of the applicant, including its board, staff and any consultants to own, construct or rehabilitate, and manage the rental housing development, as evidenced by:
  - (A) the applicant's current financial, operational and organizational stability;
  - (B) the applicant's previous development and ownership experience with residential projects; and
  - (C) the applicant's previous experience at operating similar supportive services and job training and placement programs.
- (7) The degree of the project's economic feasibility demonstrated by the readiness of the project to start construction, evidenced by the following:
  - (A) the status of local development approvals; and
  - (B) the status of all project financing commitments.

Maximum possible points 105

Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: sections 50889.5 and 50891(a), Health and Safety Code.

#### Section 8133. Legal Documents.

- (a) The department shall enter into a Standard Agreement with each sponsor which shall encumber monies from the Account in an amount sufficient to fund the approved loan amount. The Standard Agreement shall contain the following:
  - (1) a description of the approved project and the permitted uses of program funds;
  - (2) provisions governing the amount and terms of the loan;
  - (3) provisions regarding the regulatory restrictions to be applied to the project through the Regulatory Agreement;
  - (4) provisions governing the construction or rehabilitation work and, as applicable, the acquisition or refinancing of the project site, and the disbursement of loan proceeds;
  - (5) provisions governing the implementation of the job training and placement program pursuant to the requirements of section 8128 and as approved by the department during the initial application process;

- (6) provisions governing the implementation of the supportive services requirements of section 8127 and as approved by the department during the initial application process;
  - (7) special conditions imposed as part of department approval of the project;
  - (8) requirements for the execution and, the recordation of the agreements and documents required under the program;
  - (9) the approved schedule of the project, including land or building acquisition, if any, commencement and completion of construction or rehabilitation work, and occupancy by eligible households;
  - (10) provisions relating to acquisition or refinancing agreements, bidding and awards to contractors;
  - (11) provisions regarding tenant relocation;
  - (12) bonding and insurance requirements consistent with the requirements of this subchapter;
  - (13) provisions related to a management plan pursuant to section 8137;
  - (14) terms and conditions required by federal or state law;
  - (15) requirements regarding the processing of loan proceeds and requests for funds, and payments thereof;
  - (16) remedies available to the department in the event of a violation, breach, or default of the Standard Agreement, including repayment of all costs of enforcement;
  - (17) other provisions necessary to ensure compliance with the requirements of this program.
- (b) The department shall enter into a Development Agreement with each sponsor to govern the construction or rehabilitation work of the project and the acquisition or refinancing of the project site, if applicable. The Development Agreement shall be executed prior to the disbursement of funds to the sponsor. The Development Agreement shall contain the following:
- (1) the approved schedule of the construction or rehabilitation of the project;
  - (2) provisions ensuring that the construction contract is consistent with section 8126 and other program requirements and that all financing agreements are consistent with program requirements;

- (3) the approved budget for construction or rehabilitation work, land or building acquisition and other project costs, if applicable;
  - (4) provisions relating to the timing, amount, and terms of funds disbursement including any special conditions to funds disbursement imposed by the department;
  - (5) provisions relating to construction or rehabilitation specifications, and disbursement of funds to contractors or others;
  - (6) requirements for reporting to the department;
  - (7) terms and conditions for the inspection and monitoring of the project in order to verify compliance with the Standard Agreement and the Development Agreement;
  - (8) conditions constituting breach of the Development Agreement and remedies available to the parties thereto, including repayment of costs of enforcement;
  - (9) a requirement that the contractor comply with state prevailing wage law, as set forth in Labor Code section 1720 et seq., where program funds are provided as new construction financing; and
  - (10) other provisions necessary to ensure compliance with the requirements of this program.
- (c) The department shall enter into a Regulatory Agreement with each sponsor for not less than the original term of the loan which shall be recorded against the project property prior to the disbursement of funds. The Regulatory Agreement shall include the following:
- (1) a description of the rental housing development, including a designation of the number and type of assisted units pursuant to section 8120;
  - (2) standards for tenant selection pursuant to section 8121(a) and provisions regarding recertification of tenant income and the consequences of such recertification pursuant to sections 8121(f) and (g);
  - (3) provisions regulating the terms of the rental agreement pursuant to section 8121(d);
  - (4) provisions related to an annual budget approved by the department pursuant to section 8139;
  - (5) provisions related to a rent schedule, including initial rent levels for assisted units pursuant to section 8122(a) or (b), and nonassisted units;

- (6) conditions and procedures for permitting rent increases pursuant to section 8122(g) and (h);
- (7) provisions for limitations on distributions pursuant to section 8123;
- (8) for community housing developments, provisions regulating the operation of the child care center pursuant to section 8127 (a)(1);
- (9) provisions regarding the implementation of the job training and placement program pursuant to section 8128(a) and a job training program within the rental housing development pursuant to section 8128(c);
- (10) for congregate housing developments, provisions regulating the implementation of supportive services pursuant to section 8127(b);
- (11) for congregate housing developments, provisions requiring the execution of a resident management agreement as described in section 8137(c);
- (12) provision requiring annual reports, inspections and audits pursuant to section 8138;
- (13) provisions regarding the withdrawal of funds from project reserve accounts;
- (14) assurances that sponsor will maintain the rental housing development in a safe and sanitary condition in compliance with state and local housing codes and the management plan pursuant to section 8137;
- (15) acts or omissions constituting breach of the Regulatory Agreement, including, among others, a breach of the Development Agreement or failure to operate the housing development in accordance with the Regulatory Agreement, and remedies available to the parties thereto;
- (16) provisions governing use and operation of nonassisted units, common areas, and commercial space to the extent necessary to ensure compliance with program requirements;
- (17) provisions authorizing enforcement of program requirements by the department and by tenants;
- (18) special conditions of project operation imposed by the department as conditions of the department's approval of the loan;
- (19) provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the sponsor and that all sales, transfers, and encumbrances of the rental housing development or interests therein shall be subject to section 8135;

- (20) provisions providing for the continuance of the provisions of the Standard Agreement regarding program compliance for the full term of the Regulatory Agreement;
  - (21) provisions governing the use of operating income pursuant to sections 8117, 8123 and 8139; and
  - (22) other provisions necessary to assure compliance with the requirements of the program.
- (d) All loans shall be evidenced by a promissory note payable to the department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the program. The note shall be secured by a deed of trust on the project property naming the department as beneficiary or by other security acceptable to the department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the department prior to loan closing and shall secure the department's financial interest in the project.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: sections 50893 and 50893.7, Health and Safety Code.

#### Section 8134. Disbursement of Loan Funds.

- (a) A sponsor shall request funds from the department for actual expenditures in accordance with the schedule and the authorized amounts in the approved project budget in the Development Agreement. The information on any request for funds shall be subject to verification by the department. Requests for funds shall be made on form HCD 794, dated 12/90, Family Housing Demonstration Program "Request for Funds" as set forth in subsection (b). This form is provided by the department.
- (b) Form HCD 794, dated 12/90, Family Housing Demonstration Program "Request for Funds":

FAMILY HOUSING DEMONSTRATION PROGRAM  
REQUEST FOR FUNDS #

- 1. BORROWER (Payee):
- 2. ADDRESS:

3. CONTRACT NUMBER:

4.	APPROVED LOAN AMOUNT	AMOUNT PER THIS REQUEST	PREVIOUSLY APPROVED	TOTAL AMOUNT BALANCE
----	-------------------------	----------------------------	------------------------	----------------------------

5.	\$	\$	\$	\$
----	----	----	----	----

USE OF FUNDS REQUESTED: (Specify line items per Development Agreement Budget.)

6. DRAW CHECK IN TOTAL AMOUNT OF: \$

7. SEND CHECK TO: Department of Housing and Community Development  
Accounting Office  
P.O. Box 952050  
Sacramento, CA 94252-2050

8. CERTIFICATION: I, the undersigned, do hereby certify that (1) the funds requested above will be used only in accordance with the above numbered State Standard Agreement and the Development Agreement entered into pursuant to this Standard Agreement, and only for eligible costs, as specified in the FHDP regulations; and (2) the Borrower and the project are in full compliance with the Standard Agreement, the Development Agreement, and all other agreements by and between the Borrower and the Department of Housing and Community Development entered into pursuant to the Standard Agreement.

Signed:  
Title:

Date:

-----DO NOT WRITE BELOW THIS LINE-----

The work performed for which this request for disbursement is presented is in accordance with all provisions of Contract Number \_\_\_\_\_ between \_\_\_\_\_ and the Department of Housing and Community Development, and is hereby approved for payment.

Program Manager:

Date:

- (c) Prior to the disbursement of funds, the sponsor shall provide or execute all required documents which the department determines are necessary to verify the claimed expenditure.
- (d) The department may enter into agreements with other lenders or public or private entities to disburse funds and monitor construction and may make direct payments to such third-party contractors on behalf of sponsors.
- (e) (1) For a sponsor that is a nonprofit corporation or a government entity, the department may disburse an initial advance payment subject to the following conditions:
  - (A) any required documents are executed by the sponsor;
  - (B) the sponsor is in compliance with all applicable conditions for the advance of funds;
  - (C) the sponsor submits a form 794, dated 12/90, Family Housing Demonstration Program "Request for Funds"; and
  - (D) the sponsor certifies that it does not have adequate funds to commence the project.
- (2) The advance payment shall not exceed 25 percent of the approved administrative costs.
- (3) All disbursements subject to the initial advance shall be made only to pay for actual eligible costs incurred.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: section 50881.5(f), Health and Safety Code.

#### Section 8135. Sales, Transfers, and Encumbrances.

- (a) A sponsor shall not sell, assign, transfer, or convey a rental housing development, or any interest therein or portion thereof, without the express prior written approval of the department. A sale, transfer, or conveyance shall be approved only if all of the following requirements are met:
  - (1) the existing sponsor is in compliance with the Regulatory Agreement or the sale, transfer, or conveyance will result in the cure of any existing violations;
  - (2) the successor-in-interest to the sponsor agrees to assume all obligations of the existing sponsor pursuant to the Regulatory Agreement and this program;

- (3) the successor-in-interest is an eligible sponsor pursuant to section 8113 and demonstrates to the department's satisfaction that it can successfully own and operate the rental housing development and comply with all program requirements; and
  - (4) no terms of the sale, transfer, or conveyance jeopardize either the department's security or the successor's ability to comply with all program requirements.
- (b) The department's approval of a sale, assignment, transfer, or conveyance shall be subject to such terms and conditions as may be necessary to preserve or establish the fiscal integrity of the project. Such conditions shall include:
- (1) the deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;
  - (2) the recapture of syndication proceeds or other funds in accordance with special conditions included in the Standard Agreement or any other agreement executed by the sponsor; and
  - (3) such conditions as may be necessary to ensure compliance with the program requirements.
- (c) The sponsor shall not encumber, pledge, or hypothecate the rental housing development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the rental housing development without the prior written approval of the department. The department may permit refinancing of existing liens or additional financing secured by the rental housing development to the extent necessary to maintain or improve the fiscal integrity of the project, to maintain affordable rents, or to decrease rents.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50881.5 and 50893, Health and Safety Code.

#### Section 8136. Defaults and Loan Cancellations.

- (a) In the event of a breach or violation by the sponsor of any of the provisions of the Regulatory Agreement, the Standard Agreement, the Development Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the project, the department may give written notice to the sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the department within the specified time period, the department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:

- (1) The department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.
  - (2) The department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the project or operate the rental housing development in accordance with program requirements.
  - (3) The department may at its option seek such other remedies as may be available under the relevant agreement or any law.
- (b) In the event that the breach or violation involves charging tenants rent or other charges in excess of those permitted under the Regulatory Agreement, the department may demand the return of such excess rents or other charges to the affected households. In any action to enforce the provisions of the Regulatory Agreement, the department may seek as additional remedy the repayment of such overcharges.
- (c) Loan commitments may be canceled by the department under any of the following conditions:
- (1) the objectives and requirements of the program cannot be met;
  - (2) the sponsor cannot meet the department's requirements for entering into the Regulatory Agreement, Development Agreement, promissory note, deed of trust or other agreement pertaining to the department in a timely fashion in accordance with the approved plans and schedules;
  - (3) special conditions for the disbursement of funds have not been fulfilled within required time periods;
  - (4) the construction or rehabilitation work has not commenced within one year of the date of loan approval;
  - (5) there has been a material change in the principals or management of the sponsor or project which was not approved by the department.
  - (6) a valid state or federal law or regulation precludes the department from fulfilling its obligations under the commitment;

Upon demonstration by the sponsor of good cause, the department may extend the date for compliance with any of the conditions in this subdivision.

- (d) Upon receipt of a notice of intent to cancel the loan commitment from the department, the sponsor shall have the right to appeal to the Director.
- (e) The department may use amounts available in the Account pursuant to section 8140(b) for the purpose of curing or avoiding a sponsor's default under the terms of any loan or other obligation if the department believes such default will jeopardize the completion of construction or rehabilitation, the fiscal integrity of such sponsor's project or the department's security in the project. Such default may include a failure or impending failure in payment due on a loan secured by a mortgage on the rental housing development, failure to pay taxes, or failure to maintain insurance or required reserves. The payment or advance of funds by the department pursuant to this subdivision shall be solely within the discretion of the department, and no sponsor shall be entitled to or have any right to payment of these funds. All funds so advanced shall be part of the program loan to the sponsor and subject to the same terms of repayment. Where it becomes necessary to use the Account for the purpose of assisting a project to avoid a threatened default or foreclosure, the department shall take those actions necessary including, but not limited to, foreclosures or forced sale of the rental housing development to prevent similar occurrences and insure compliance with the terms of the applicable agreements.

NOTE: Authority cited: section 50406(n), 50884 and 50895, Health and Safety Code. Reference: section 50883.5(b), Health and Safety Code.

#### Section 8137. Management and Maintenance.

- (a) The sponsor shall be responsible for all management functions of the rental housing development including selection of the tenants, annual recertification of household income and size, evictions, and collection of rent.
- (b) The sponsor is responsible for all repair and maintenance functions of the rental housing development, including ordinary maintenance and replacement of capital items. The sponsor shall maintain the residential units; the commercial space, if any; the child care center, if any; children's play area, if any; the community room, if any; and other common areas; in accordance with the Regulatory Agreement; local health, building, and housing codes and the management plan.
- (c) For each congregate housing development, the sponsor shall require tenants to share responsibility for maintaining and cleaning the common areas. The sponsor shall enter into a resident management agreement with residents, subject to the approval of the department prior to execution, which shall:
  - (1) specify tenant and sponsor maintenance responsibilities and shall provide that the tenant shall not be financially responsible for any repair or replacement costs associated with maintaining the property;
  - (2) specify procedures for amending the agreement; and

- (3) specify enforcement procedures for noncompliance.
- (d) The sponsor, with the prior approval of the department, may contract with a management agent for the performance of the services or duties required in subdivision (a) or (b), or both, and to supplement the tenants' responsibilities set forth in subdivision (c). However, such an arrangement does not relieve the sponsor of responsibility for proper performance of these duties. Such contract shall be subject to department approval and contain a provision allowing the sponsor to terminate the contract upon thirty days' notice. The sponsor shall terminate said contract if directed by the department upon determination that management of the rental housing development does not comply with program requirements.
- (e) The sponsor shall develop a management plan, subject to department approval prior to loan closing. The plan shall be consistent with this subchapter and shall include the following:
  - (1) a description of the role and responsibility of the sponsor and its delegation of authority, if any, to a managing agent;
  - (2) personnel policy and staffing arrangements of both the sponsor and any managing agent;
  - (3) plans and procedures for publicizing and achieving early and continued occupancy;
  - (4) the tenant selection plan as described in section 8121(a);
  - (5) procedures for determining tenant eligibility and for certifying and annually recertifying household income and size;
  - (6) plans for carrying out an effective maintenance and repair program, including the terms of the resident management agreement, if the rental housing development is a congregate housing development;
  - (7) rent collection policies and procedures;
  - (8) a description of a program for maintaining adequate accounting records and handling necessary forms and vouchers;
  - (9) plans for enhancing tenant-management relations;
  - (10) the management agreement, if any;
  - (11) a description of supportive service programs or job training and placement programs operated by the management agent, if any;
  - (12) provisions for periodic update of the management plan;

- (13) for limited equity housing cooperatives, plans for board and member training and education;
- (14) appeal and grievance procedures;
- (15) plans for collection of payments for tenant-caused damages;
- (16) plans for processing evictions and terminations; and
- (17) equal opportunity provisions that apply to hiring and renting.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50893.9, Health and Safety Code.

#### Section 8138. Reporting.

- (a) No later than 90 days after the end of each fiscal year of a rental housing development, the sponsor shall report to the department on form HCD 795, dated 6/91, Family Housing Demonstration Program "Annual Sponsor Certification", as set forth in subsection (c). This form is provided by the department.
- (b) As part of the form HCD 795, dated 6/91, Family Housing Demonstration Program "Annual Sponsor Certification," the sponsor shall submit an audit of the rental housing development prepared in accordance with generally accepted auditing standards by an independent certified public accountant. Upon a determination by the department that the cost of meeting this requirement exceeds the potential benefits to the department and the tenants of the rental housing development, the department shall:
  - (1) reduce the required frequency of the audit;
  - (2) accept an audited financial statement of the sponsor in lieu of the audit; or
  - (3) waive this requirement completely.
- (c) Form HCD 795, dated 6/91, Family Housing Demonstration Program "Annual Sponsor Certification":

FAMILY HOUSING DEMONSTRATION PROGRAM  
ANNUAL SPONSOR CERTIFICATION  
FISCAL YEAR

Contract Number:  
Development Name:  
Development Address:

Sponsor: Phone #: Fax # (if available):

The sponsor must send the Audit and Sponsor Certification to HCD within ninety (90) days after the fiscal year ends. Send one copy of the Audit and Sponsor Certification with original signatures, plus an additional copy of the Sponsor Certification.

Check here for forms included:

I.	FHDP Annual Sponsor Certification (all projects)	Page 1
II.	Occupancy and Rent Schedule (all projects)	Page 2
III.	Report of Actual Income (all projects)	Page 3
IV.	Report of Actual Expenses (all projects)	Page 4 & 5
V.	Calculation of Assisted Unit Expenses (all projects)	Page 6 & 7
VI.	Calculation of Nonassisted Unit Expenses (for projects w/nonassisted units)	Page 8 & 9
VII.	Calculation of Commercial Space Expenses (for projects w/commercial space)	Page 10 & 11
VIII.	Calculation of Child Care Center Expenses (for sponsor-operated centers)	Page 12 & 13
IX.	Child Care Income & Expenses (for contracted operators)	Page 14
X.	Uses of Net Operating Income (all projects)	Page 15
XI.	Report of FHDP Loan Payment Balances (all projects)	Page 16
XII.	Report of Vacancy Loss, Uncollectible Rents, and Service Payments (all projects)	Page 17
XIII.	Report of Replacement Reserve Account (all projects)	Page 18
XIV.	Report of Operating Reserve Account (all projects)	Page 19
XV.	Management Report (all projects)	Page 20
XVI.	Child Care Report (all projects)	Page 21 & 22
XVII.	Other Supportive Services Report (for projects offering other supportive services)	Page 23 & 24
XIIX.	Job Training and Employment Report (all projects)	Page 24 & 25
XIX.	Copy of Current Hazard Insurance Policy (all projects)	Page 26

Sponsor Certification -----

It is hereby certified that all of the representations made by the Sponsor in the Regulatory Agreement and the financial disclosures and information contained in this report are true and correct, and that there is not any condition, event, or act which would constitute an event or default thereunder, or which with notice, passage of time, or both, would constitute such an event of default.

Sponsor

Signature

Date

Title



**PAGES 100 TO 123 INTENTIONALLY DELETED**

(ANNUAL REPORT FORMS)

Section 8139. Operating Budget.

- (a) Prior to loan closing, the sponsor shall provide the department an initial operating budget for its approval. Such budget shall show all anticipated income, expenses for management, operations, and maintenance, debt service and reserve deposits for the initial operating year.
- (b) Sixty days prior to the end of each fiscal year of each project the sponsor shall submit to the department for its approval a proposed operating budget, including an accounting of the housing component, supportive service component, and job training and placement program.
  - (1) The proposed operating budget shall set forth the sponsor's estimate of the operating income, operating expenses, and debt service for the upcoming year associated with the housing component, and any proposed rent increases pursuant to section 8122.
  - (2) The proposed operating budget for the supportive service component shall set forth the sponsor's estimate of the operating income and expenses for the upcoming year associated with the provision of supportive services.
  - (3) The proposed operating budget for job training and placement programs shall set forth the sponsor's estimate of the operating income and expenses for the upcoming year associated with the provision of such programs.
- (c) The Department's approval of the initial and subsequent proposed operating budgets shall be based on its determination that the budget line items are reasonable and necessary in light of costs for comparable rental housing developments and prior operating budgets for the rental housing development. Actual expenditures or withdrawals from reserve funds in excess of the approved budget amount shall be subject to prior written approval of the department.
- (d) The initial operating budget and subsequent proposed operating budgets shall include periodic deposits, on no less than an annual basis, to:
  - (1) a replacement reserve account for capital improvements, such as replacing structural elements, furniture, fixtures, or equipment of the rental housing development, which are reasonably required to preserve the project; and
  - (2) an operating reserve account in an amount sufficient to offset potential shortfalls in operating the housing component and the required supportive services and the job training and placement programs.

- (e) Upon initial occupancy, the amount in the operating reserve account shall be at least 2 percent of total project development costs and the replacement reserve shall be at least one percent of the total project development costs.
- (f) For projects with a child care center, nonassisted units, or commercial space, all budgets submitted pursuant to this section shall show income and uses of income allocated among assisted units, nonassisted units, the child care center, and commercial space. The allocation method used for each budget line item shall be subject to department approval and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the project.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50893.7(i); Health and Safety Code.

#### Section 8140. Emergency Reserve Subaccount.

- (a) The department shall establish an emergency reserve subaccount in the Account. Three (3) percent of any allocation made to the Account pursuant to Health and Safety Code section 53130(a) shall be deposited into the emergency reserve subaccount. Excess funds returned to the department pursuant to section 8123(h) and 8117(e)(2)(B) shall be deposited into the emergency reserve subaccount to first, replace the allocated funds in the subaccount on a dollar-for-dollar basis and then to replenish the emergency reserve subaccount. Excess funds received which cause the emergency reserve subaccount to exceed three percent of all allocations to the Account shall transfer to the Account and become available for loans pursuant to this subchapter.
- (b) The department shall maintain a default reserve subaccount, as a portion of the emergency reserve subaccount, in an amount equal to 2 percent of all allocations to the Account pursuant to Health and Safety Code section 53130(a) for the purpose of avoiding or curing defaults pursuant to section 8136(e).
- (c) When funds in the emergency reserve subaccount exceed the 2 percent required to be maintained pursuant to subdivision (b), the department shall be authorized to advance funds from the emergency reserve subaccount to defray unanticipated cost increases or revenue shortfalls to the extent necessary to preserve fiscal integrity of any project and to maintain rents in accordance with program requirements. All funds so advanced shall be part of the program loan to the sponsor and subject to the same interest rate and terms of repayment.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: section 50883.5(b) and 53130, Health and Safety Code.

Section 8141. Feasibility Subaccount.

- (a) The department shall establish a feasibility subaccount in the Account. Four (4) percent of any allocation made to the Account pursuant to Health and Safety Code section 53130(a) shall be deposited into the feasibility subaccount. Excess funds returned to the department pursuant to section 8123(h) and 8117(e)(2)(B) shall be deposited into the feasibility subaccount to first replace the allocated funds in the subaccount on a dollar-for-dollar basis and then to replenish the feasibility subaccount. Excess funds received which cause the subaccount to exceed four percent of all allocations to the Account shall transfer to the Account and become available for loans pursuant to this subchapter.
- (b) To the extent necessary to assure or preserve fiscal integrity and to establish or maintain rents in accordance with program requirements, the department shall be authorized to advance funds from the feasibility subaccount when necessary:
  - (1) to defray unforeseeable construction cost increases prior to the completion of construction; or
  - (2) to defray unforeseeable capital expenses at any time during the term of the loan.
- (c) All funds advanced pursuant to subdivision (b) shall be part of the program loan to the sponsor and subject to the same interest rate and terms of repayment.
- (d) Upon determination that another percentage is more appropriate based on the actual demand on the subaccount by program sponsors, the department shall alter the percentage of the allocation that is required to be maintained in the subaccount in order to meet the actual demand.
  - (1) Such a determination will occur either at the time of a new allocation to the Account or during the annual review of the subaccount.
  - (2) The percentage of all allocations to the Account that shall be maintained in this subaccount shall not be adjusted to exceed ten percent.

NOTE: Authority cited: sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: section 50883.5(a) and 53130, Health and Safety Code.

Section 8142. Approvals

Except during the application process set forth in section 8130, where the department's approval is required throughout this subchapter the following process shall apply.

- (a) The sponsor shall apply for the approval by providing the department with a written request mailed to the Family Housing Demonstration Program, Division of Community Affairs, Department of Housing and Community Development, P.O. Box 952054, Sacramento, CA 94252-2054 or panafax to (916)323-6625. All documentation or information necessary for the approval shall accompany the request.
- (b) Within 30 working days of the receipt of the request for approval, the department shall notify the sponsor in writing if the required documentation and information are not complete. If the documentation and information are not complete, the department will specify what additional documentation and information are needed.
- (c) Within 30 working days of the notification to the sponsor of whether the request for approval is complete, the department shall notify the sponsor in writing whether approval is provided. If approval is not provided, the department shall provide the reasons for denying approval.
- (d) A complete request for approval is one which provides all documentation and information necessary for the department to make a determination as to whether approval can be provided.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code.  
Reference: Section 15376, Government Code and section 50884, Health and Safety Code.