

**Department of Housing and Community Development
Emergency Solutions Grants Program
Text of Proposed Regulations**

Amend Section 8400. Purpose and Scope

- (a) These regulations establish procedures for the State of California (“State”) administration of federal funds from the Emergency ~~Shelter~~Solutions Grants Program (the “~~ESG~~” or “ESG program”) and establish policies and procedures for use of these funds to meet the purposes contained in Title IV of the ~~Stewart-B. McKinney – Vento~~ Homeless Assistance Act (42 U.S.C. sections 11371-11378) as amended by S.896 The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 (sections 103-105 and 401-418) (the “Act”).
- (b) The Act, and any amendments thereto, provide for State administration of the ESG program. These regulations set forth policies and procedures governing the administration of these funds ~~as the Federal Emergency Shelter Grants Program (the “FESG program”)~~ within the California Department of Housing and Community Development (the Department”). In addition to these regulations, ~~FESG~~ESG program participants ~~shall~~ will comply with the regulations applicable to the ~~FESG~~ESG program as indicated below and as set forth in 24 C.F.R. Part 58, and 24 C.F.R. Part 576. Additionally, nonprofit organizations funded by the ~~FESG~~ESG program shall comply with the requirements of 24 C.F.R. Part 84 as though they were ~~S~~subrecipients pursuant to 24 C.F.R. Part 84. Also, Units of general local government funded by the ~~FESG~~ESG program shall comply with the requirements of 24 C.F.R. Part 85. In the event that any federal or state laws or regulations, including without limitation regulations by Congress, the California Legislature, or the Department of Housing and Urban Development (“HUD”) add, delete, modify, or otherwise ~~or~~ change any statutory or regulatory requirements concerning the use or administration of these funds, ~~FESG~~ESG program participants shall comply with such requirements, as amended.
- (c) References to section numbers in the 8400 series in the following sections are references to these ~~Federal~~ Emergency ~~Shelter~~Solutions Grants Program Regulations beginning at 24 Cal Code Regulations, title 25, section 8400 et seq.
- (d) In the event of a conflict between the State ~~FESG~~ESG Regulations and 24 C.F.R. Part 58, 24 C.F.R. Part 84, 24 C.F.R. Part 85, or the ESG regulations at 24 C.F.R. Part 576, the federal regulations shall prevail.

Authority: section 50406(n), Health and Safety Code

Reference: 42 U.S.C. sections 11371-11378, (sections 103-105 and 401-418) 24 C.F.R. Part 58, 24 C.F.R. Part 84, 24 C.F.R. Part 85, 24 C.F.R. Part 576.

Amend Section 8401. Definitions

In addition to the definitions found in 42 U.S.C. section 11371(section 411), and 24 C.F.R. section 576.2, the following definitions shall apply to this subchapter

“Action Plan” means the annual plan required by HUD pursuant to 24 CFR Part 91 governing the distribution and use of ESG funds allocated by HUD to states and local governments.

“Administrative activities” is defined at 24 CFR 576.108.

“Administrative Entity” means a Unit of general purpose local government approved by the Department pursuant to section 8403 to administer State ESG funds.

“Balance of State Allocation” means funds allocated pursuant to the requirements of sections 8404 through 8407.

~~“Area-Median Income” means the most recent applicable county median family income published by the Department in accordance with the U.S. Census Bureau standard.~~

~~“Available annual State FESG allocation” means the annual State FESG allocation from HUD less 4% for State Administration.~~

~~“CDBG” means Community Development Block Grant program~~

~~“Capital Development” means a Renovation, Major rehabilitation and/or Conversion project.~~

~~“Capital Development Contract” means a written agreement for a forgivable deferred loan, up to an amount specified in the applicable NOFA, made to defray costs of Renovation, Major rehabilitation, and Conversion for Emergency shelter or Transitional housing.~~

“City” is defined at 42 U.S.C. section 5302 (a) (5).

~~“Client” is the person or household provided Client housing funded by an FESG Grant.~~

~~“Client housing” is the general term used in these regulations to describe Emergency shelter, Transitional housing, and other Eligible activities provided to the Client, including programs providing only Essential Services.~~

~~“Conversion” means a change in the use of a building to Emergency shelter or Transitional housing for the homeless, where the cost of Conversion and any Rehabilitation costs exceed 75 percent of the value of the building after Conversion.~~

“Continuum of Care” is defined at 24 CFR 576.2.

“Continuum of Care Allocation” means the ESG funds pursuant to the requirements of section 8403.

“Continuum of Care Service Area” means the entire geographic area within the boundaries of an Eligible Continuum of Care.

“Coordinated Entry” means the system of program access, needs assessment and prioritization developed by a Continuum of Care pursuant to 24 CFR 576.400 (d), and associated HUD requirements and guidance. This term is also known as “Coordinated Entry System”, “Coordinated Assessment” or “Centralized Assessment”.

“Core Practices” means the practices and protocols of delivering ESG Eligible activities as specified in section 8409.

~~“Day” means calendar day.~~

~~“Day Center” means a Facility or program whose primary purpose is to provide homeless persons temporary shelter during the day, as well as to offer a wide range of services to large numbers of homeless persons on any given day that may include, but is not limited to, food services, clothing services, employment services, case management services, and addiction recovery support services. Day Centers do not regularly provide overnight shelter accommodations. Day Centers do not include child care centers or outpatient medical treatment or recovery centers~~

~~“Department” means the California Department of Housing and Community Development.~~

~~“Director” means the Director of the Department of Housing and Community Development.~~

~~“EHAP” is the acronym for the “Emergency Housing and Assistance program” established by Health and Safety Code section 50800, et seq.~~

~~“ESG” is the acronym for the Emergency Shelter Solutions Grants program administered by HUD.~~

~~“Eligible activities” mean those activities upon which ~~FESG~~ESG funds may be expended as described in section ~~8406~~8408.~~

“Eligible Continuum of Care” means a Continuum of Care in the State that has within its Service Area at least one Nonentitlement area. These entities must also meet the requirements of sections 8403 (d) or 8404 (a).

~~“Eligible City” means a City that within the current federal fiscal year meets one of the following conditions: it is located within a county that is a Nonentitlement area pursuant to 42 U.S.C. 5302; it is a Metropolitan City that receives no federal ESG funds directly from HUD pursuant to 42 U.S.C. 11373; it is a City that is located within an Eligible county and that is not a Metropolitan City; or it is a City that is not a Metropolitan City and that is also not part of an agreement pursuant to 42 U.S.C. 5302 to receive Federal ESG, CDBG and HOME funds as part of the Urban County within which it is located.~~

~~“Eligible County” means a county that within the current federal fiscal year meets one of the following conditions: the county is not an Urban County pursuant to 42 U.S.C. 5302 (a) (6), or the county is an Urban County that is receiving no federal ESG funds directly from HUD pursuant to 42 U.S.C. 11373.~~

~~“Eligible organization” means a private nonprofit organization or a Unit of general purpose local government, (Unit of general local government is defined at 24 C.F.R. section 576.32), located in or serving an Eligible City or County in the state of California that provides, or contracts with communityPrivate nonprofit organizations to provide, Emergency shelter, Transitional housing, and other Eligible activities.~~

~~“Emergency shelter” is defined under 24 CFR 576.2any facility, including but not limited to Day Centers and overnight shelter, whose primary purpose is to provide temporary shelter with support services for the homeless in general or for specific populations of the homeless. Emergency overnight shelter is limited to occupancy of six months or less by a homeless person and is not withheld due to a Client’s inability to pay.~~

~~“ESG Entitlement” means a Unit of general purpose local government that meets one of the following: (1) is a Metropolitan City or Urban County as defined under 42 USC 5302 that receives an allocation of ESG funds directly from HUD; (2) is a Nonentitlement area that has entered into an agreement with a Urban County as to participate in that locality’s ESG program, or (3) is a Metropolitan City or Urban County that have entered into a joint agreement with one another to receive and administer a combined direct allocation of ESG funds from HUD.~~

~~“ESG Entitlement Area” or “Entitlement Area” means the geography within an ESG Entitlement’s boundaries.~~

~~“ESG Nonentitlement” means a Unit of general purpose local government that does not receive ESG funding directly from HUD and is not participating as an ESG Entitlement.~~

~~“ESG Nonentitlement Area” means the geography within an ESG Nonentitlement’s boundaries.~~

~~“Essential services” is defined under 24 C.F.R. section 576.3.~~

~~“FESG” means the Federal Emergency Shelter Grants Program, the ESG program administered at the State level by the Department of Housing and Community Development.~~

~~“Facility” means the physical location in which the program is being carried out. For purposes of this definition, a physical location includes the offices at which Homeless prevention activities are being carried out. See also the definition of Homeless prevention activities.~~

~~“Federal Emergency Shelter Grants Regulations” means those regulations at Cal Codes Regs., title 24, section 8400 et seq.~~

~~“Grant” means a grant of monies from the FESG program.~~

~~“Grant Administrative Expenses” means expenses necessary to administer the Grant,~~

~~including costs to prepare ESG reports, communicate with Department staff, and pay the ESG share of a required audit. See Section 8406. Grant Administrative Expenses do not include the cost of carrying out Eligible activities under 24 C.F.R. section 576.21(a).~~

~~“Governing Board” - for nonprofit applicants this term includes board of directors; for county local government applicants this term includes county board of supervisors; for City local government applicants this term includes City council.~~

~~“HMIS” means Homeless Management Information System as defined under 24 CFR 576.2. Use of the term “HMIS” within these regulations shall also include use of a comparable database, as permitted by HUD under 24 CFR Part 576.~~

~~“HOME” means Home Investment Partnership program.~~

~~“Homeless” is defined at under 42 U.S.C. 11302-2 24 CFR 576.2.~~

~~“Homelessness prevention activities” means activities or programs described in 24 CFR 576.103 designed to prevent homelessness including short-term rental assistance, payment for utility assistance; mediation programs for landlord-tenant disputes, and other innovative programs designed to prevent homelessness. See Section 8407.~~

~~“HUD” means the United States Department of Housing and Urban Development.~~

~~“Major rehabilitation” means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.~~

~~“Manufactured Housing” means mobile homes, trailers, and factory-built homes.~~

~~“Metropolitan City” is defined at 42 U.S.C. 5302 (a) (4).~~

~~“New Programs” means programs that have been operating for less than two years from the date of the applicable NOFA, and that have not received either FESG or EHAP funds in the previous two funding rounds.~~

~~“NOFA” is the acronym for a “Notice of Funding Availability” described in Section 84038405.~~

~~“Nonentitlement area” is defined at 42 U.S.C. 5302.~~

~~“Northern California Allocation Region” means all counties in the state north of San Luis Obispo, Kern, and San Bernardino counties with an individual county population of 200,000 or more, and that have within their individual county boundaries one or more Eligible cities.~~

~~“Obligated Funds” means that the entity awarded FESG funds has placed orders, awarded contracts, received services, or entered into similar transactions that require payment from the Grant. Obligated Funds include Grant amounts that a City or county awards to a nonprofit organization by an award letter if the award letter requires payment from the Grant amount.~~

~~“Private nonprofit organization” is defined at 24 CFR 576.2.~~

~~“Rapid Re-housing” means the activities set forth in 24 CFR 576.104.~~

"Rank" means the order of eligible applications for funding based only on the rating established pursuant to the applicable ~~G~~grant selection criteria.

"Rating" means the process by which eligible applications are evaluated and given an overall numerical or relative value based on the numerical or relative value(s) assigned to each of the identified selection criteria described in the NOFA to which the applicant is responding.

~~"Renovation" means rehabilitation that involves costs of 75 percent or less of the value of the building before Rehabilitation.~~

~~"Residential Rental Assistance" means the payment of rent required at move-in, or rent in arrears under the terms and conditions set forth under section 8407.~~

~~"Rural County Allocation Region" means a group of counties with an individual county population of less than 200,000 and that have within their individual county boundaries one or more Eligible cities.~~

"Service Area" has the same meaning as the term "Continuum of Care Service Area".

~~"Site" for purposes of Capital Development activities means a given parcel or contiguous parcel(s) of land developed, or to be developed, with Emergency shelter and/or Transitional housing. "Site" for purposes of activities that are not Capital Development activities means one or more F~~facilities~~ where the program(s) is being carried out.~~

"Site Control" means the legal right to occupy and use the Site, as evidenced by such things as:

- (1) a deed demonstrating ownership in fee title;
- (2) a lease demonstrating a leasehold interest in the Site and its improvements for at least the term of the ~~FESG~~ESGG grant or forgivable deferred interest loan,
- (3) a purchase/lease agreement an enforceable option to purchase or lease a site, provided that such option is acceptable to Department, and provided that such option, if acceptable to the Department, will be for at least the term of the ESG grant or
- (4) ~~Where FESG funds will be used for Capital Development activities, an enforceable option contract to purchase or lease which shall extend at least through the anticipated closing date of the FESG Capital Development loan.~~
- (5) For rotating shelter programs, site control may include other evidence provided by the applicant granting permission to use the site (s). Such evidence must be acceptable to, and submitted by the applicant and approved by the Department in writing prior to the deadline for submission of the State ~~FESG~~ESGG application stated in the applicable NOFA.

~~“Southern California Allocation Region” means the counties of San Luis Obispo, Kern, and San Bernardino as well as each county in the State to the south of San Luis Obispo, Kern and San Bernardino counties with an individual county population of 200,000 or more, and that have within their individual county boundaries one or more Eligible cities.~~

~~“State recipient” is the recipient of a Grant that enters into a Standard Agreement with the Department to provide specified Eligible activities.~~

~~“Subgrantee” means a Private nonprofit organization or Unit of general local government located in or serving an Eligible City or county that receives FESG funds through a subcontract it has with a Unit of general local government or other Private nonprofit organization that receives FESG funds from the Department.~~

~~“Standard Agreement” means the contract entered into by the Department and the FESG awardee Subrecipient setting forth the basic terms and conditions governing the award and use of FESG ESG funds.~~

~~“Subrecipient” is defined at 24 C.F.R. section 84.2. means an entity that enters into a Standard Agreement with the Department for ESG funds.~~

~~“Subrecipient of the Administrative Entity” means an entity that enters into a written agreement with the Administrative Entity to implement Eligible activities with ESG funds.~~

~~“Temporary Housing” see section 8408 concerning vouchers.~~

~~“Transitional housing” means housing with supportive services that is limited to occupancy of up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible. Transitional housing can include housing that becomes permanent housing with supportive services at the end of the Standard Agreement.~~

~~“Urban County” is defined at 42 U.S.C. 5302 (a) (6).~~

~~“Very low income” means a combined household income not to exceed 50% of the Area Median Income, adjusted for household size.~~

~~“Unit of general purpose local government” is defined at 24 CFR section 576.2.~~

~~“Written Standards” means the standards, policies, and procedures adopted by a Continuum of Care for providing ESG-eligible activities pursuant to the requirements of 24 CFR 576.400 (e).~~

Authority: section 50406(n), Health and Safety Code

Reference: 42 U.S.C. 5302, 42 U.S.C. 11302, 42 U.S.C. 11371, 42 U.S.C. 11373, 24 C.F.R. 576.3, 24 C.F.R. 576.400.

Amend Section 8402. Allocation of Funds

- (a) The Department shall take 4% of the State's annual allocation of FESG funds for Grant administration. The Department will accept and use an amount of the State's annual allocation of ESG funds for Administrative activities not to exceed the amount permitted under 24 CFR 576.100(c). Pursuant to 24 CFR 576.108 (b), a portion of this amount will be shared with ESG Subrecipients that are Units of general purpose local government. The amounts available for Administrative activities will be announced in the Action Plan and annual NOFA.
- (b) After deducting for State Administrative activities, the remaining ESG funds will be made available for Eligible activities through two allocations according to the formula set forth in subsection (c):
- (1) the Continuum of Care Allocation to be administered in accordance with section 8403; and
 - (2) the Balance of State Allocation to be administered in accordance with sections 8404 through 8407.
- (c) The amount of funds available to Service Areas within the Continuum of Care Allocation and the Balance of State Allocation will be based on the amount of ESG funds available in any given year using the following formula factors adjusted biannually using the most recent data available.
- (1) The point-in-time count published by HUD which includes both sheltered and unsheltered homeless persons prorated to reflect the total population of the ESG Nonentitlement Areas within each Continuum of Care Service Area as published by the Census Bureau;
 - (2) The number of extremely low-income renter households within the ESG Nonentitlement Areas of each Continuum of Care Service Area that are paying more than 50 percent of their income for rent using HUD's Comprehensive Housing Affordability Strategy dataset;
 - (3) The number of persons below the federal poverty line within the ESG Nonentitlement Areas of each Continuum of Care Service Area divided by the total population within the ESG Nonentitlement Areas of each Continuum of Care Service Area. This factor will be double-weighted. Data for these factors will be obtained from the Census Bureau.
 - (4) Notwithstanding subsections (1) through (3) above, the Department may occasionally adjust the weighting of these factors and sources of information to reflect changes in the availability of data sources and to use the best information available. Any changes to the factors or weighting of the formula will be proposed in the Action Plan.
- (d) The amount of funds available to a Service Area under the formula may be capped in order to achieve a greater geographic balance of the funds among all eligible Continuums of Care of the State. Any cap on amounts available under the formula will be proposed in the Action Plan.

- (e) In any year where the Department is issuing a NOFA, by January 31st, the Department will notify Eligible Continuums of Care and ESG Entitlement Areas within an Eligible Continuum of Care of the following:
- (1) Service Areas and preliminary funding amounts within the Continuum of Care Allocation and the Balance of State Allocation
 - (2) In determining the Continuum of Care Allocation, the Department will issue the following:
 - (A) A solicitation of interest for Administrative Entities which includes timeframes for applications and approval pursuant to section 8403; and
 - (B) Where there is no intent to apply to be an Administrative Entity, a solicitation of interest to apply for Rapid Re-housing activities pursuant to 8403(a) (2).
 - (3) In determining the Balance of State Allocation, the Department will issue the following:
 - (A) A solicitation of interest from Continuums of Care to participate in Balance of State Allocation regional competition pursuant to section 8404(a(4)), and
 - (B) A solicitation of interest in applying for Rapid Rehousing activities pursuant to 8404(a) (2).

Authority: section 50406 (n), Health and Safety Code

Reference: 24 C.F.R. section 576.10025, 24 CFR 576.108.

- ~~(b) — Depending on the applications received, up to 5% of the annual FESG allocation shall be available to New Programs in Eligible cities and counties operated by Private nonprofit organizations and Units of general local government.~~
- ~~(1) — To receive an award of FESG funds for a New Program, FESG funds must be used for an FESG-eligible housing or service activity that has been operating for less than two years from the date of the applicable NOFA and;~~
 - ~~(2) — The organization applying for the FESG funds must not have received either state FESG or EHAP funds in the previous two funding rounds.~~
- ~~(c) — The remaining (91%) of the annual FESG allocation shall be divided between three regional and one general allocation on a competitive basis in accordance with the following.~~
- ~~(1) — Programs in the Northern California Allocation Region shall receive approximately 33% of the annual FESG allocation. The product derived by applying the 33% multiplier shall be rounded to a dollar amount.~~
 - ~~(2) — Programs in the Southern California Allocation Region shall receive approximately 24% of the annual FESG allocation. The product derived by applying the 24% multiplier shall be rounded to a dollar amount.~~
 - ~~(3) — Programs in the Rural County Allocation Region shall receive approximately 19% of the annual FESG allocation. The product derived by applying the 19% multiplier shall be rounded to a dollar amount.~~

- ~~(4) The remaining 15% as well as any unawarded FESG funds from the above regional and New Program set-asides shall be considered the general allocation, and shall be awarded on a competitive basis to any remaining unfunded Eligible applications for Eligible activities in the order of their competitive statewide ranking until all FESG funds have been awarded subject to the requirements of section 8402. subdivisions (d) and (e) below and section 8411 subdivisions (f), (g) and (h) below.~~
- ~~(d) The Department shall specify in annual NOFAs, whether it will be accepting applications for one or two-year Grants or both.~~
- ~~(e) The Department shall specify in annual NOFAs the minimum and maximum Grant amounts per application. For one-year grants, the maximum grant amount per application shall not exceed 2% of the available annual State FESG allocation and shall be rounded to the nearest thousandth dollar. For two-year grants, the maximum grant amount per application shall not exceed 4% of the available annual State FESG allocation and shall be rounded to the nearest thousandth dollar.~~

Authority: ~~Section 50406 (n), Health and Safety Code~~

Reference: ~~24 C.F.R. section 576.25~~

Amend Section 8403. Notices of Funding AvailabilityContinuum of Care Allocation

- (a) Funding for a Service Area in the Continuum of Care Allocation shall be administered by an approved Administrative Entity in the Service Area in which it is located pursuant to the requirements of this subdivision.
- (1) Notwithstanding the location requirement in subdivision (a) above, an approved Administrative Entity shall also be eligible to administer funds for geographically contiguous Continuums of Care that are eligible to receive funds under the Balance of State Allocation and that agree to administration of their allocation by the Administrative Entity. One hundred percent of both allocations shall be used for Rapid Rehousing activities pursuant to the requirements of sections 8408 and 8409.
- (2) In the absence of an approved Administrative Entity for a Service Area otherwise eligible under the Continuum of Care Allocation, a Continuum of Care may recommend a provider to apply for Rapid Rehousing activities
- (A) In making this recommendation, the Continuum of Care shall use a process which is
- (i) Fair and open and avoids conflicts of interest in project selection, implementation, and the administration of funds;
 - (ii) Considers selection criteria reasonably consistent with the criteria used by the Department in section 8407;
 - (iii) Complies with the requirements of sections 8408 and 8409;
 - (iv). Incorporates reasonable performance standards as set forth in the Action Plan based on HUD requirements and guidance. If the applicant has not implemented the proposed activity or similar activity within the past three years, the Continuum of Care shall work with the funded applicant to ensure it meets reasonable performance standards specified in the Action Plan in the contract

year. Applications that may be received from the applicant in subsequent years must meet reasonable performance standards as determined by the Department.

- (v) Complies with federal ESG requirements
- (vi) Considers any other practices promoted or required by HUD.
- (B) If recommending a Private nonprofit organization for these funds, the nonprofit organization must submit a Certification of Local Government Approval to undertake ESG-funded activities from each Unit of Local Government where the activity is carried out pursuant to section 414 [42 U.S.C. section 11373(c)];
- (C) Documentation of matching contributions, satisfactory to the Department, must be maintained pursuant to the requirements of 24 CFR pursuant to 24 CFR 576.201.
- (D) The Department may request information from the Continuum of Care or Subrecipient which demonstrates compliance with the above requirements, and the Continuum of Care or Subrecipient shall provide such information.
- (E) The provider shall enter into a Standard Agreement with the Department for Rapid Re-housing funds awarded pursuant to Subdivision (a) (2) above;
- (F) The Action Plan will propose minimum and maximum percentages of a Service Area allocation that shall be designated for a Rapid Rehousing application.
- (b) The Department will use the formula in section 8402 to reallocate any remaining funds that have not conditionally reserved or allocated pursuant to the requirements of subdivision (a) to participating Service Areas in the Continuum of Care and Balance of State Allocations.
- (c) The Department will evaluate applications from Units of general purpose local government in ESG Entitlement Areas recommended by Continuums of Care to determine eligibility and approve the designation of qualified Administrative Entities on a bi-annual basis.
 - (1) The application must demonstrate eligibility of the Continuum of Care and Administrative Entity pursuant to the requirements of this section and describe the collaboration among the two entities and the process for allocating funds to activities, and selecting providers.
 - (A) If proposing to also administer funds in a geographically contiguous Continuum of Care Service Area pursuant to subdivision (a) (1) above, the application shall also include evidence, acceptable to the Department, of agreement between geographically contiguous Continuums of Care to administer Rapid Re-Housing with 100 percent of both allocations.
 - (B) Applications from a continuing Administrative Entity shall include HMIS project-level and system-level performance data for the prior two years. After the initial award period, this data will be set forth in the State's Action Plan for the prior fiscal year. If performance remains in the lowest quartile compared to all participating Service Areas in the Continuum of

Care allocation, the Department will work collaboratively with the Administrative Entity to develop performance improvement plans which will be incorporated into the written agreements required under subdivisions (f) and (j)

- (d) To be eligible to participate in the Continuum of Care Allocation, the Service Area shall have an Eligible Continuum of Care that meets all of the following criteria:
- (1) It has received Continuum of Care funding from HUD in at least one of the past two federal competitions or has registered with HUD to apply for funding in the next competition;
 - (2) It has conflict of interest policies in place that meet HUD requirements;
 - (3) It has adopted Written Standards for all Eligible activities proposed to be carried out with ESG funds; and
 - (4) It operates, or causes to be operated, an HMIS system that meets HUD requirements.
- (e) To be eligible to participate in the Continuum of Care Allocation, the Continuum of Care shall recommend an Administrative Entity that meets the following criteria set forth in subsections (1) through (3) below. Where there is more than one eligible ESG Entitlement in a Continuum of Care Service Area willing to perform the functions of an Administrative Entity the Continuum of Care shall recommend a single Administrative Entity for approval by the Department.
- (1) Is a unit of general purpose local government that has administered ESG funds for an Entitlement Area during at least one of the past five years;
 - (2) Has no unresolved ESG monitoring findings with HUD or the Department that the Department determines poses a substantial risk to the Department if the Administrative Entity is approved; and
 - (3) Demonstrates the ability and willingness to perform the functions of an Administrative Entity pursuant to federal and State ESG requirements.
- (f) The Continuum of Care and the Administrative Entity shall enter into a written agreement that specifies the roles and responsibilities of each entity to ensure compliance with federal and State ESG requirements. The Continuum of Care and the Administrative Entity shall collaborate to the maximum extent feasible in determining Eligible activities, selecting providers, and administering the ESG funds.
- (g) The Administrative Entity shall select providers qualified to deliver Eligible activities in the Service Area through a process that is consistent with (1) through (8) below, and inform the Department of selected providers and activities. The Administrative Entity shall:
- (1) Conduct fair and open competitions which avoid conflict of interest
 - (2) Follow procurement requirements of 24 CFR Part 84;
 - (3) Evaluate provider capacity and experience, including the ability to deliver services in Nonentitlement areas;
 - (4) Evaluate eligibility and quality of services, including adherence to Core Practices pursuant to section 8409;

- (5) Utilize data and consider community input to identify unmet needs;
- (6) Prioritize activities that address the highest unmet need, considering other available funding and system-wide performance measures;
- (7) Consider project-level performance measures when evaluating proposals; and
- (8) Collaborate with the Continuum of Care pursuant to subdivision (f) above.
- (h) The Action Plan will set forth any proposed limits on the number of contracts, subcontracts, and activities per contract between the Administrative Entity and the Subrecipient of the Administrative Entity.
- (i) The Administrative Entity shall ensure that:
 - (1) Not including the funding administered for a geographically contiguous Continuum of Care Service Area pursuant to subdivision (a)(1) above, not less than 40 percent of the funds awarded on an annual basis shall be used for Rapid Re-Housing activities; and
 - (2) Through the use of Coordinated Entry and other means, all funded activities are available to Nonentitlement areas of the Service Area consistent with section 414 [42 U.S.C. section 11373(c)].
 - (A) The Administrative Entity shall facilitate outreach and access to reach populations in the Nonentitlement areas and shall evaluate participation from these areas at least annually. The Department may condition future funding to ensure access to funded activities by Nonentitlement areas.
 - (B) Funded activities may also serve households located in ESG Entitlement Areas.
- (j) In accordance with section 8411, the Administrative Entity shall enter into a Standard Agreement with the Department to do the following:
 - (1) Receive and administer up to two allocations of annual federal ESG funding per application cycle, conditioned on availability of federal funds;
 - (2) Carry out identified Eligible activities through selected providers;
 - (3) Provide for matching funds as required by 24 CF 576.201;
 - (4) Enter into a written agreement with providers of funded activities governing the implementation of activities, including but not limited to eligible use of funds, funds disbursement, activity reporting, performance evaluation, monitoring, and termination;
 - (5) Monitor the performance of all contractors, including selected providers, and those they subcontract with to carry out ESG-eligible activities, to ensure compliance with federal and State ESG requirements;
 - (6) Provide timely reports to the Department using a format and method prescribed by the Department; and
 - (7) In all other ways administer ESG funding to ensure compliance with federal and State ESG requirements, and the Standard Agreement.

(k) The Department may deny or revoke the designation of an approved Administrative Entity under any of the following circumstances:

- (1) The Administrative Entity or one or more of the Subrecipients of the Administrative Entity has engaged in, or is responsible for, serious violations of federal or State ESG requirements;
- (2) The Administrative Entity fails to utilize project-level or system-wide performance data in its project selection, renewal, or monitoring process; or
- (3) The Administrative Entity or the Service Areas for which it has been approved does not meet the requirements of this section.

(l) The Department may request information from the Administrative Entity or the Continuum of Care, which demonstrates compliance with any or all of the above requirements. The Administrative Entity or Continuum of Care shall provide such information when requested.

Authority: section 50406 (n), Health and Safety Code
Reference: 24 C.F.R. section 91.320; 24 CFR 576.400.

~~A statewide NOFA is a document issued by the Department which notifies all interested persons of the following:~~

- ~~(1) That the FESG program has been allocated funds or expects to be allocated funds;~~
- ~~(2) The types and amounts of funds available to Eligible organizations located in or serving Eligible cities or Eligible counties for specified Eligible activities;~~
- ~~(3) That the FESG funds will be distributed to Eligible organizations through a competitive process;~~
- ~~(4) Whether one-year Grants, two-year Grants, or both will be accepted;~~
- ~~(5) The specified minimum and maximum Grant amount(s);~~
- ~~(6) The specified timeframes that apply to the application and Grant selection processes, including the deadline for filing of applications;~~
- ~~(7) That copies of the FESG governing statute and regulations can be obtained from a contact person whose name, address, telephone number, and electronic mail address are provided;~~
- ~~(8) Identification of the Eligible Cities and Eligible counties for which the Department shall accept applications for Grant awards pursuant to these regulations.~~

- ~~(9) The electronic mail address, street address, telephone number, and facsimile number of a contact person within the Department who can provide further information, and the application package; and~~
- ~~(10) The Grant selection criteria described in section 8411 below.~~

Authority: ~~Section 50406 (n), Health and Safety Code~~
Reference: ~~24 C.F.R. section 576.25~~

Amend Section 8404. Eligible OrganizationsBalance of State Allocation

(a) The Department will administer the Balance of State Allocation for a Service Area without an ESG Entitlement consistent with the requirements of this section as follows:

(1) To be eligible to participate in the Balance of State Allocation, a Service Area shall have a Continuum of Care that meets all of the following requirements:

(A) It has not opted to have funds for the Service Area administered under the Continuum of Care Allocation pursuant to 8403 (a) (1).

(B) It has received Continuum of Care funding from HUD in at least one of the past two federal competitions or has registered with HUD to apply for funding in the next competition;

(C) It has conflict of interest policies in place that meet HUD requirements;

(D) It has adopted Written Standards that meet HUD requirements for all Eligible activities proposed to be carried out with ESG funds;

(E) It operates, or causes to be operated, an HMIS system that meets HUD requirements

(2) An Eligible Continuum of Care may recommend a provider for Rapid Re-housing activities.

(A) In making this recommendation, the Continuum of Care shall use a process which is

(i) Fair and open and avoids conflicts of interest in project selection, Implementation, and the administration of funds;

(ii) Considers selection criteria reasonably consistent with the criteria used by the Department in section 8407;

(iii) Complies with the requirements of sections 8408 and 8409;

(iv). Incorporates reasonable performance standards as set forth in the Action Plan based on HUD requirements and guidance. If the applicant has not implemented the proposed activity or similar activity within the past three years, the Continuum of Care shall work with the funded applicant to ensure it meets reasonable performance

standards specified in the Action Plan in the contract year. Applications that may be received from the applicant in subsequent years must meet reasonable performance standards as determined by the Department;

(v) Complies with federal ESG requirements;

(vi) Considers any other practices promoted or required by HUD.

(B) If recommending a Private nonprofit organization for these funds, the nonprofit organization must submit a Certification of Local Government Approval to undertake ESG-funded activities from each Unit of Local Government where the activity is carried out pursuant to section 414 [42 U.S.C. section 11373(c)];

(C) Documentation of satisfactory match must be maintained pursuant to the requirements of 24 CFR pursuant to 24 CFR 576.201.

(D) The Department may request information from the Continuum of Care or Subrecipient which demonstrates compliance with the above requirements. Such information shall be provided upon request.

(E) The Action Plan will propose minimum and maximum percentages of the Service Area allocation that shall be designated for these activities

(3) Funds remaining after allocating for Rapid Re-housing activities pursuant to section 8404 (a) (2) will be made available within three regional allocations as follows.

(A) Northern Region comprised of the Service Areas for the Continuums of Care covering the counties of Amador, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, Yuba;

(B) Bay Area Region comprised of the Service Areas for the Continuums of Care covering the counties of El Dorado, Marin, Napa, Nevada, Placer, Santa Cruz, and Solano, Yolo;

(C) Central and Imperial Valley Region comprised of the Service Areas for the Continuums of Care covering the counties of Alpine, Imperial, Inyo, Kings, Mariposa, Merced, Mono, Tulare.

(D) The configuration of Service Areas within each region may change subject to individual Continuum of Care or ESG Entitlement Area designations made by HUD. The counties belonging to each region will be announced in the NOFA.

(4) As requested in the NOFA, each Continuum of Care shall recommend to the Department an Eligible organization or organizations proposing Eligible activities within the Continuum of Care Service Area for funds available under the applicable regional allocation. In making

recommendations, the Continuum of Care shall use a process which meets the following requirements:

(A) Is Fair and open, and avoids conflicts of interest in project selection, implementation, and the administration of funds

(B) considers State application eligibility and rating criteria in sections 8406 and 8407

(C) complies with the requirements of sections 8408 and 8409

(5) All applications for funds available under the regional allocations will be evaluated by the Department pursuant to the requirements of sections 8406, 8408, and 8409. Depending on whether the regional allocations are oversubscribed, applications submitted for funds within a regional allocation may be rated and ranked pursuant to the requirements of 8407.

(b) The Action Plan will set forth any proposed limits on the number of applications per Continuum of Care, and any limits on the number or type of activities, contracts, or subcontracts within an application.

Authority: section 50406 (n), Health and Safety Code

Reference: 24 C.F.R. section 91.320.

~~(a) Only Eligible organizations submitting applications to provide Eligible activities will be considered for funding~~

~~(b) Except for applicants that apply as a New Program pursuant to Section 8402, as of the publication date of the Statewide NOFA, an applicant or State recipient shall have provided Client housing continuously each day throughout the prior twelve months or, for winter only or summer-only shelter providers, each day throughout the region's prior winter or summer shelter season.~~

~~(c) An applicant or State recipient shall not provide Client housing in a manner which illegally discriminates in violation of applicable state and federal laws. Housing provided to selected subpopulations of homeless persons shall not be considered a form of arbitrary discrimination if:~~

~~(1) A state or federal law or regulation requires an FESG-funded facility to exclusively serve a select homeless subpopulation; or~~

~~(2) The nature of the physical facilities or the nature of the services provided reasonably necessitates restriction of the housing to a selected subpopulation consistent with federal and state fair housing law.~~

Authority: Section 50406 (n), Health and Safety Code

Reference: 24 C.F.R. section 576.25, Government Code section 12955 et seq., Government Code section 11135, Civil Code section 51 et seq., Harris v. Capital Growth Investors XIV (1991) 52 Cal.3d 1142, 278 Cal.Rptr. 614. 42 U.S.C 3601 et seq.

Amend Section 8405. Eligible Applications Notice of Funding Availability

- (a) The Department will issue a NOFA soliciting applications for Eligible activities within the regional allocations pursuant to 8404(a) (4) and 8404 (a) (5).
- (b) The NOFA will notify all interested persons of the following:
 - (1) That the Department has been allocated ESG funds or expects to be allocated such funds;
 - (2) Identification of Continuum of Care Service Areas and allocation amounts under the Balance of State and Continuum of Care Allocations;
 - (3) Regional allocation amounts and identification of Continuum of Care Service Areas eligible to submit applications under the regional allocations pursuant to 8404 (a) (4) and 8404 (a) (5);
 - (4) Range of Eligible activities as adopted in the Action Plan, and any prohibitions on uses of funds;
 - (5) As adopted in the Action Plan, the maximum number of applications from a Continuum of Care Service Area, and the maximum number and type of Eligible activities, contracts, and subcontracts within an application;
 - (6) Role of Continuum of Care in the application process;
 - (7) Application or other documentation requirements pursuant to activities to be funded under the regional allocations pursuant to 8404 (a) (4) and 8404 (a) (5);
 - (8) Deadline for filing of applications to be reviewed and approved by the Department, timeframes for review and funding of all applications; and
 - (9) General terms and conditions of funding allocations.

Authority: section 50406 (n), Health and Safety Code

Reference: 24 C.F.R. section 91.320.

- ~~(a) Eligible applications must:~~
 - ~~(1) Be received by the deadline stated in the applicable NOFA;~~
 - ~~(2) Be submitted to the address noted in the applicable NOFA;~~
 - ~~(3) Be complete, subject to the requirements of subsections (b) and (c); and~~
 - ~~(4) Contain a certification by the applicant that all information within the application is true, complete, and accurate.~~
- ~~(b) A complete application shall consist of the following:~~
 - ~~(1) An authorizing resolution by the applicant's Governing Board;~~

- ~~(2) For applications requesting funds for Emergency shelter or Transitional housing, evidence of site control;~~
- ~~(3) Pursuant to 42 U.S.C. section 11373(c), Private nonprofit organizations must obtain a Certification of Local Government Approval to undertake all FESG-funded activities;
 - ~~(A) Private nonprofit organizations whose Client housing is provided in an Eligible City must obtain a Certification of Local Approval from that City to carry out all FESG activities;~~
 - ~~(B) Private nonprofit organizations whose Client housing is provided in an unincorporated area of a Eligible county must obtain a Certification of Local Government Approval from that Eligible county to carry out all FESG activities;~~~~
- ~~(4) Documentation of satisfactory match pursuant to the requirements of Section 8410;~~
- ~~(5) A fully completed application accompanied by all applicable attachments, certifications, and any additional information requested in the applicable NOFA; and~~
- ~~(6) Any other information the Department or HUD requires to determine the eligibility of the applicant and the proposed activities, to evaluate or rate and rank the application, or to confirm that the applicant is capable of successfully completing all activities.~~
- ~~(7) A response to all of the Grant selection criteria as set forth in Section 8411.~~
- ~~(c) The State reserves the right to request clarification of unclear or ambiguous statements made in the application and other supporting documents where doing so will not impact the neutral evaluation of the application.~~
- ~~(d) The Department may request that an applicant revise application documents as necessary to establish threshold compliance as long as such revisions do not alter competitive scoring. This includes, but is not limited to, adjustments made to the amount of funding requested in order to conform to the monetary funding limits prescribed by 42 U.S.C. section 11374, 24 C.F.R. section 576.21, and section 8406 of these regulations.~~
- ~~(e) Notwithstanding any other provision of this section, in instances where an application ranks high enough to be funded but there is information missing from the application, the Department may request submission of information that was omitted from the application if such information existed prior to the application deadline, and the submission of information is necessary for application completeness but does not alter competitive scoring. This may include information such as evidence of an applicant's status as a unit of general local government or as a private nonprofit organization.~~

~~(f) All or a portion of an application can be denied because:~~

- ~~(1) The State is unable to reasonably determine what the applicant is proposing.~~
- ~~(2) The application is incomplete.~~
- ~~(3) The applicant or the proposed activities are determined to be ineligible.~~

~~Authority: Section 50406 (n), Health and Safety Code~~

~~Reference: 42 U.S.C. sections 11373-11375, 24 C.F.R. section 576.21, 24 C.F.R. section 576.25~~

Amend Section 8406. General Program Requirements-NOFA Application Process

(a) Applications submitted pursuant to the NOFA for the regional competition pursuant to 8404(a) (4) and 8404 (a) (5) shall meet the following requirements.

- (1) The applicant is an Eligible organization and is recommended by the Continuum of Care as described in the NOFA pursuant to section 8404(a)(4);
- (2) The Continuum of Care meets the requirements of section 8404 (a) (1)
- (3) The application proposes an Eligible activity in the Continuum of Care Service Area consistent with section 8408;
- (4) The application is received by the deadline stated in the NOFA;
- (5) Except as provided in subdivision (b), the application is complete and includes the following:
 - (A) Authorizing resolution by the applicant's Governing Board;
 - (B) For applications requesting funds for Emergency shelter, evidence of site control;
 - (C) For Private nonprofit organizations, a Certification of Local Government Approval to undertake ESG-funded activities from each Unit of Local Government where the activity is carried out pursuant to section 414 [42 U.S.C. section 11373(c)];
 - (D) Response to all of the application selection criteria as set forth in section 8407;
 - (E) Written Standards for the proposed program activity from the Continuum of Care that is recommending this application for funding which meet the requirements of section 8409, as well as federal requirements.
 - (F) Documentation of satisfactory match pursuant to the requirements of section 8410;

- (G) Completed application accompanied by all applicable attachments, certifications, and any additional information requested in the applicable NOFA;
 - (H) Certification by the applicant that all information within the application is true, complete, and accurate; and
 - (I) Any other information the Department or HUD requires to determine compliance with the requirements of these regulations and all other regulations, statutes, and laws applicable to ESG, and scored based on the criteria in section 8407.
- (b) Applications that meet the requirements in subdivision (a) will be evaluated according to the criteria in section 8407. Notwithstanding the above, in the event that information, other than the requirements enumerated in this section, is missing from an application, the application may be scored as submitted.
- (c) Notwithstanding subsection (b) , if the Department determines that 1) an initial applicant scores sufficiently high pursuant to section 8407 to be awarded funds, 2) the application is deficient with regard to one or more items in (5)(A) through (5)(I) of this section 8406, and 3) all of the deficient items are correctible, the Department may allow the applicant to correct all of the deficiencies prior to 15 calendar days following written notification to the applicant that the applicant will be provided such opportunity. In this written notification, prospective awards will be conditioned upon applicants correcting all deficiencies to the satisfaction of the Department. If all corrections are not made within 15 days following this written notification to the applicant, that funding award is automatically terminated and the attendant funds will be awarded to the next highest scoring applicant, which has submitted a complete application that complies in all respects with the requirements set forth in (5)(A) through (5)(I) of this section.
- (d) The Department reserves the right to request clarification of unclear or ambiguous statements made in the application and other supporting documents where doing so will not impact the competitive scoring of the application.
- (e) The Department may request that an applicant revise application documents as necessary to establish compliance as long as such revisions do not impact the competitive scoring of the application.

Authority: section 50406 (n), Health and Safety Code

Reference: 42 U.S.C. section 11373

~~(a) FESG funds shall only be used for Eligible activities that comply with the following.~~

- ~~(1) FESG funds shall be used for any of the eligible uses of funds as set forth in 42 U.S.C. section 11374 and 24 C.F.R. section 576.21 subject to the following general FESG requirements. Definitions of pertinent terms are also included in 24 C.F.R. section 576.3 and 42 U.S.C. section 11371.~~

- ~~(A) The maximum time period in which all FESG funds must be spent shall be 24 months.~~
- ~~(B) Up to 1% of an FESG Grant may be used for costs associated with Grant administration.~~
- ~~(C) The 10% limitation on staff costs set forth in 24 C.F.R. section 576.21(a)(3) applies only to supervisory staff costs within the Operations funding category.~~
- ~~(D) FESG funds used for Major rehabilitation and Conversion activities are subject to the continued use requirements of 42 U.S.C. section 11375 (c)(1)(A).~~
- ~~(E) FESG funds used for Rehabilitation activities are subject to the continued use requirements of 42 U.S.C. section 11375 (c)(1)(B).~~
- ~~(F) FESG funds used for Essential services, maintenance, operations, insurance, utilities, and furnishings are subject to the continued use requirements of 42 U.S.C. section 11375 (c)(1)(C).~~
- ~~(G) An applicant or a State recipient providing Client housing shall establish rules for Client participation which shall:~~
- ~~1. Include a statement of the maximum consecutive number of days during which a Client is eligible to participate in the Client housing;~~
 - ~~2. Include a description of the program's disability-related policies, including the process for a Client to request a reasonable accommodation to a program policy, practice, or requirement because of the Client's disability or perceived disability, and the process for a Client to file a disability related grievance.~~
 - ~~3. Include the policy for termination from the Client housing, and the process for Client appeal of that termination;~~
 - ~~4. Be conspicuously posted at the housing facility, or given to recipients of Homeless Prevention funds, where applicable.~~
- ~~(H) An applicant or a State recipient providing Client housing shall have a process for program evaluation.~~
- ~~(I) Notwithstanding the provisions of Section 8406 subdivision (b)(1)(B), a State recipient may accept payment vouchers provided through any other public or private program for Clients in Emergency shelters so long as no shelter beds are reserved beyond sundown for that purpose.~~
- ~~(J) An applicant proposing to provide, or a State recipient providing, Transitional housing, may charge rent only if a minimum of ten percent of all rent collected for each Client is reserved to assist that Client in moving to permanent housing subject to the following:~~

- ~~1. The reserve of rent for each Client must be accounted for separately;~~
- ~~2. If rent reserved for a Client remains unused due to the absence of the Client for a year or more, the monies shall be used to assist another Client in moving to permanent housing; and~~
- ~~3. the rent and any service fees charged are limited to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons.~~
- ~~4. An applicant or State recipient can request from the Department a waiver of the 10% requirement set forth above where the applicant or State recipient has demonstrated to the Department's satisfaction that its program is funded to provide assistance to all Clients when they move to permanent housing, and that this assistance is funded from sources other than State FESG funds. This assistance can include such things as: assistance with security deposit, first/last month's rent, or household items. Such individual assistance provided to a Client must equal at least 10% of all the rent collected from that Client.~~

~~(K) An applicant proposing to provide, or a State recipient providing Transitional housing, shall demonstrate that the housing meets all of the following tests:~~

- ~~1. Occupancy is limited to a maximum of two years;~~
- ~~2. Every Client is offered at least three types of self-sufficiency development services such as job counseling or instruction, personal budgeting or home economics instruction, tenant skills instruction, landlord/tenant law, victim's rights counseling, or apartment search skills instruction;~~
- ~~3. Every Client is required to participate in at least one self-sufficiency development service offered by the Client housing provider as a condition of receiving Client housing;~~
- ~~4. Pursuant to section 8406 subdivision (a)(1)(J), accumulated rent reserve funds from Clients are applied to first and last-months rent and/or a security deposit for permanent housing; and~~
- ~~5. Every Client is provided referrals to permanent housing.~~

~~(L) Pursuant to 24 C.F.R. 576.21(a) (3), in-house telephone use by Clients of an Emergency shelter or Transitional housing facility is an eligible operations expense.~~

~~(M) Use of FESG funds for Homeless prevention activities must meet the requirements of Section 8407.~~

~~(N) Use of FESG funds to lease or rent rooms with vouchers must meet the requirements of Section 8408.~~

~~(O) Use of FESG funds for Renovation, Major rehabilitation, or Conversion must meet the requirements of Section 8409.~~

~~(b) FESG funds shall not be used for facilities or activities that do not comply with the following.~~

~~(1) FESG funds shall not be used for costs associated with activities in violation of any law, or for the following:~~

~~(A) The purchase of radios, televisions, and other appliances or equipment for recreational purposes;~~

~~(B) Facilities in which occupancy fees are charged to Clients of Emergency shelters;~~

~~(C) Off-site costs, special requirements, assessments, or anything more than is directly necessary for the development of Emergency shelter or Transitional housing;~~

~~(D) On-site improvements or other expenses beyond those directly necessary for the development or operation of Emergency shelter or Transitional housing (e.g., retaining walls, fencing, storage sheds, shade structures, playground equipment, parking lots, and landscaping);~~

~~(E) Temporary Housing for minor children separated from their families due to a court order or an administrative order;~~

~~(F) Acquisition~~

~~(G) New construction activities;~~

~~(H) Predevelopment activities;~~

~~(I) Property clearance or demolition;~~

~~(J) Services to persons who are not homeless, except when providing Homeless prevention activities in accordance with Section 8407;~~

~~(K) Telephone Hotline costs;~~

~~(L) Staff recruitment or training;~~

- ~~(M) — Costs associated with advocacy, planning, or fundraising;~~
- ~~(N) — Administrative costs not permitted under Section 8406 (a) (1) (B) and Section 8406 (a) (1) (C);~~
- ~~(O) — Activities determined by the Department to be an ineligible, inefficient, or ineffective use of Grant funds as stated in the applicable NOFA.~~
- ~~(2) — An applicant or a State recipient shall not require, as a condition of Client housing, participation by Clients in any religious or philosophical ritual, service, meeting, or rite.~~
- ~~(3) — Any buildings for which FESG funds are used for Conversion, Major rehabilitation, or Renovation must meet the requirements of 24 C.F.R. section 576.55, including required compliance with local government safety and sanitation standards.~~
- ~~(4) — An applicant or a State recipient shall not provide Client housing in a structure which contains any of the conditions of a substandard building listed in section 17920.3 of the Health and Safety Code, and shall comply with all applicable State and local construction, maintenance, and occupancy standards.~~
- ~~(5) — An applicant or a State recipient providing Emergency shelter to Clients shall not:

 - ~~(A) — Condition the provision of Emergency shelter on the receipt of public or private payment vouchers or cash payment from the Client; or~~
 - ~~(B) — Deny shelter or services to any Client due to the inability to pay.~~~~

Authority: ~~Section 50406(n), Health and Safety Code~~

Reference: ~~42 U.S.C. section 11371, 42 U.S.C. sections 11374-11375, 24 C.F.R. section 576.3, 24 C.F.R. section 576.21, 24 C.F.R. section 576.23, 24 C.F.R. section 576.35, 24 C.F.R. section 576.55, 24 C.F.R. section 576.61, Health and Safety Code section 17920.3,~~

Amend Section 8407. Homeless Prevention Activities Selection Criteria for NOFA Applicants

(a) All applications made pursuant to section 8404 (5) will be evaluated using the criteria below and ranked according to subdivision (b) below. Where applications requesting funds for more than one program are permitted in the NOFA, each program will receive a separate score for each rating factor, and the point scores will be averaged to calculate a final point score for each rating factor

(1) Applicant Experience - 20 points

(A) Length of experience implementing the proposed Eligible activity or activity similar to the proposed activity.

(B) For applicants who have received funding in the State's ESG program in the past three years, a maximum of 20 points will be deducted for the following

- i. Whether the Department has terminated or disencumbered ESG grant funding;
- ii. Whether the applicant has any unresolved monitoring findings in ESG that pose a substantial risk to the Department;
- iii. Whether the applicant has submitted annual reports in a timely manner for ESG grants.

(2) Need for Funds – 10 points

Need for funds based on whether the application activity and subpopulation targeting, if any, meets a high need for the community as identified by the Continuum of Care. The Continuum of Care shall provide data and analysis to support the need.

(3) Program Design -20 points

Quality of the proposed program in delivering Eligible activities to participants consistent with the Written Standards of the Continuum of Care, and Core Practices as set forth under section 8409. In making determinations under this rating factor, the Department may examine such things as Continuum of Care Written Standards for the activity; provider guidelines governing activity operations; program rules for clients; and the reasonableness of program staffing patterns and the activity budget relative to program design, target population, and local conditions.

(4) Impact and Effectiveness – 20 points

Using HMIS data from the most recent ESG contract year, applications will be evaluated based on an evaluation of project and system-wide impact and effectiveness utilizing project level and system-wide performance outcomes for ESG Eligible activities or similar activities implemented within the past three years, based on data which is reasonably available. Performance measures for each ESG activity and for each Continuum of Care Service Area will be identified in the Action Plan and based on the metrics used by HUD in programs such as ESG and the Continuum of Care. The Department may require documentation to verify the accuracy of the data provided by the applicant. Such documentation shall be provided upon the request of the Department.

(5) Cost Efficiency – 20 points

Using HMIS data from the most recent ESG contract year, applications will be evaluated based on the average cost per exit to permanent housing based on the total ESG project budget and the number of exits to permanent housing. The Department may require documentation to verify the accuracy of the information provided by the applicant. Such documentation shall be provided upon the request of the Department.

(6) State Objectives – 10 Points

The Department may award each application up to 10 points for addressing one or more State Objectives as identified in the Action Plan and NOFA. The Department's selection of State Objectives will be based on one or more of the following:

(A) Federal funding priorities, as publicly announced by HUD;

(B) State funding priorities as publicly announced by the Governor or Department Director; and

(C) Housing and community development needs or objectives as identified in the Action Plan.

(b) Applications evaluated under subdivision (a) will be ranked as follows:

(1) Within each regional allocation, applications will be ranked in descending order and awarded the amount requested in the application or a revised amount if necessary to conform to funding limits in the NOFA. In the event of a tie between applicants within a regional allocation, funds will be awarded to the applicant who scored the most points in the Cost Efficiency rating factor.

(2) ESG funds remaining in a regional allocation may be made available for the highest ranked unfunded applications in the other regional set-asides, according to their total application score. Remaining funds may also be set-aside for distribution in the next NOFA.

(3) When there are insufficient funds to fully fund the next highest ranked unfunded application, this application may be partially funded if the funded activities can be adequately performed with the remaining ESG allocation.

Authority: section 50406 (n), Health and Safety Code

~~(a) Use of FESG funds for Homeless prevention activities must meet the requirements of 42 U.S.C. 11374 (a) (4) and 24 C.F.R. 576.21 (a) (4).~~

~~(b) Pursuant to 42 U.S.C. section 11374, not more than 30% of the annual State FESG allocation may be used for Homeless prevention activities.~~

- ~~(c) The following additional requirements apply to the use of FESG funds to provide Residential Rental Assistance.~~
- ~~(1) The payment of rent in arrears shall not exceed one month's rent plus a reasonable late charge. FESG funds shall be used only if:~~
- ~~(A) The Client is unable to pay the rent in arrears due to a sudden reduction in income, and has received an eviction notice;~~
- ~~(B) No other resources or assistance are available to pay the rent in arrears;~~
- ~~(C) The Client has not received more than one payment for rent arrears for the past two years from any other source; and~~
- ~~(D) There is a reasonable prospect that the Client will be able to resume rent payments on their own within a reasonable period of time.~~
- ~~(2) The payment of initial rent shall consist of no more than the first month's rent or the last month's rent, or both if required as a condition of occupancy of permanent housing. FESG funds shall be used only if:~~
- ~~(A) No other resources or assistance are available to pay the initial rent;~~
- ~~(B) The Client has not received more than one payment of initial rent in the immediate past two years from any other source; and~~
- ~~(C) There is a reasonable prospect that the Client will be able to make rent payments on their own within a reasonable period of time.~~
- ~~(3) FESG funds to be used for Residential Rental Assistance shall be accounted for separately.~~
- ~~(4) Consistent with the requirements in 24 C.F.R. 576.63, and 24 C.F.R. Parts 84, and 85, interest earned on FESG funds set aside for rental assistance shall be returned to the Department for return to HUD.~~
- ~~(5) Prior to providing Residential Rental Assistance, the State recipient shall verify that:~~
- ~~(A) The Client is eligible to participate in the program and has income sufficient to pay the monthly rent once the Residential Rental Assistance terminates; and~~
- ~~(B) An appropriately sized and priced rental unit is available and suitable for occupancy by the Client.~~

- ~~(6) The Client shall not have direct use of FESG funds. FESG funds shall be distributed directly from the State recipient or Subgrantee to the landlord for the benefit of the Client.~~
- ~~(7) A State recipient providing Residential Rental Assistance shall do all of the following:
 - ~~(A) make determinations regarding the eligibility of Clients based upon a written application from the Client in order to determine the Client's need for the assistance, and the Client's ability to remain permanently housed once the assistance is provided;~~
 - ~~(B) provide information to Clients regarding the landlord-tenant relationship, the appropriate treatment of rental property, appropriate behavior within the neighborhood, the importance of timely rental payments; and~~
 - ~~(C) provide staff that shall be reasonably available to landlords and tenants to answer questions or complaints about Residential Rental Assistance.~~~~
- ~~(d) The following additional requirements apply to the use of FESG funds to provide utility assistance:
 - ~~(1) A State recipient providing utility assistance shall make determinations regarding the eligibility of Clients based upon a written application from the Client in order to determine the Client's need for the assistance, and the Client's ability to remain permanently housed once the assistance is provided~~
 - ~~(2) The payment of utility assistance shall not exceed three months past due utility payments plus a reasonable late charge. FESG funds shall be used only if:
 - ~~(A) The Client is unable to pay the utility costs in arrears due to a sudden reduction in income and has received a notice of termination of utility services;~~
 - ~~(B) No other resources or assistance are available to pay the utility costs in arrears;~~
 - ~~(C) The Client has not received more than one payment of utility assistance in the immediate past two years from any other source; and~~
 - ~~(D) There is a reasonable prospect that the Client will be able to make utility payments on their own within a reasonable period of time.~~~~
 - ~~(3) FESG funds to be used for utility assistance shall be accounted for separately.~~~~

- (4) ~~Consistent with the requirements in 24 C.F.R. 576.63, and 24 C.F.R. Parts 84, and 85, interest earned on FESG funds set aside for utility assistance shall be returned to the Department for return to HUD.~~
- (5) ~~The Client shall not have direct use of FESG funds. FESG funds shall be distributed directly from the State recipient or Subgrantee to the utility company for the benefit of the Client.~~
- (e) ~~State recipients may use FESG funds to provide up to three months of initial rent and/or utility assistance to individuals whose income does not exceed 50% of the Area Median Income and who are discharged from publicly funded institutions or systems of care, such as health care facilities, foster care facilities, other youth facilities, or corrections programs and institutions.~~

Authority: ~~Section 50406(n), Health and Safety Code~~

Reference: ~~42 U.S.C. section 11374, 24 C.F.R. Parts 84 and 85, 24 C.F.R. section 576.21, 24 C.F.R. section 576.63~~

Amend Section 8408. Leasing or Renting Rooms with Vouchers Eligible Activities

- (a) State ESG funds awarded by an Administrative Entity or by the Department shall be used for Eligible activities as permitted by HUD pursuant to 24 CFR Part 576 in accordance with this section.
- (b) Pursuant to 24 CFR 91.320 (d), to address the State's priority needs and objectives pursuant to the Action Plan, the Department may limit the types of activities that may be funded in a particular NOFA.
- (c) A maximum of ten percent of an individual formula allocation under section 8302 may be used for HMIS activities.
- (d) State ESG funds shall not be used for Renovation, Conversion, or Major Rehabilitation activities pursuant to 576.102. Minor repairs to an ESG-funded Emergency shelter that do not qualify as Renovation, Conversion, or Major Rehabilitation are an eligible use of State ESG funds.

Authority: section 50406(n), Health and Safety Code

Reference: 24 C.F.R. 92. 320, 24 C.F.R. Part 576

~~The following requirements apply to the use of FESG funds to provide vouchers to lease or rent Temporary Housing for Clients.~~

- (a) ~~Eligible Temporary Housing includes apartments, motel rooms, hotel rooms, rental rooms in single-room occupancy housing, single-family homes, and manufactured housing.~~
- (b) ~~Vouchers for Temporary Housing may also be used to pay rental fees for spaces at a Special occupancy park which is defined by section 18862.43 of the Health~~

~~and Safety Code as a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp.~~

- ~~(c) Payment of rent must be at a rate that is reasonable based on local market conditions. Rent charged to voucher holders shall not exceed market rent for comparably sized units or spaces.~~
- ~~(d) Vouchers must only be used for Temporary Housing located in an Eligible City that is in the county in which the FESG funds have been awarded, or in an unincorporated area of the Eligible county in which the funds have been awarded.~~
- ~~(e) Temporary housing financed with vouchers is limited to occupancy of six months or less by a homeless person or household.~~

~~Authority: Section 50406(n), Health and Safety Code~~

~~Reference: Section 18216.1, Health and Safety Code, 24 C.F.R. section 576.21~~

Amend Section 8409. Renovation, Conversion, and Major rehabilitation Core Practices

- (a) Unless exempted by federal rules, all ESG-funded activities shall utilize a Coordinated Entry system established by and consistent with the protocols of the Continuum of Care for the Service Area in which that program operates. Participation in Coordinated Entry shall occur in a manner that promotes the following:
 - (1) Comprehensive and coordinated access to assistance regardless of where an individual or family is located in the Continuum of Care Service Area. Local systems should be easy to navigate and have protocols in place to ensure immediate access to assistance for people who are homeless or most at-risk;
 - (2) Prioritized access to assistance for people with the most urgent and severe needs. ESG-funded activities shall seek to prioritize people who:
 - (A) Are unsheltered and living in places not designed for human habitation, such as cars, parks, bus stations, and abandoned buildings;
 - (B) Have experienced the longest amount of time homeless;
 - (C) Have multiple and severe service needs that inhibit their ability to quickly identify and secure housing on their own; and
 - (D) For Homelessness prevention activities, people who are at greatest risk of becoming literally homeless without an intervention and are at greatest risk of experiencing a longer time in shelter or on the street should they become homeless.
- (b) All ESG-assisted projects shall operate in a manner consistent with housing first

practices (consistent with subsections (1) through (5) below), and progressive engagement and assistance practices, including the following:

- (1) Ensuring low-barrier, easily accessible assistance to all people, including, but not limited to, people with no income or income history, and people with active substance abuse or mental health issues;
- (2) Helping participants quickly identify and resolve barriers to obtaining and maintaining housing;
- (3) Seeking to quickly resolve the housing crisis before focusing on other non-housing related services;
- (4) Allowing participants to choose the services and housing that meets their needs, within practical and funding limitations;
- (5) Connecting participants to appropriate support and services available in the community that foster long-term housing stability;
- (6) Offering financial assistance and supportive services in a manner which offers a minimum amount of assistance initially, adding more assistance over time if needed to quickly resolve the housing crisis by either ending homelessness, or avoiding an immediate return to literal homelessness or the imminent risk of literal homelessness. The type, duration, and amount of assistance offered shall be based on an individual assessment of the household, and the availability of other resources or support systems to resolve their housing crisis and stabilize them in housing; and
- (7) Any other practices promoted or required by HUD.

Authority: Section 50406(n), Health and Safety Code

- ~~(a) — Grants for Renovation, Conversion or Major rehabilitation activities pursuant to 24 C.F.R. 576.21(a) (1) cannot exceed the amount specified in the applicable NOFA.~~
- ~~(b) — Eligible costs for Renovation, Conversion, and Major rehabilitation include, but are not limited to, costs for local government fees, and materials and labor costs.~~
- ~~(c) — Costs set forth under Section 8406 (b) are ineligible.~~
- ~~(d) — FESG funds for Renovation, Conversion, or Major rehabilitation activities shall be in the form of a forgivable deferred loan.~~
- ~~(e) — The term of a Renovation, Conversion, or Major rehabilitation Standard Agreement is 24 months from the effective date of the contract.~~
- ~~(f) — A Renovation, Conversion, or Major rehabilitation project shall be deemed feasible when an evaluation by the Department demonstrates all of the following.~~

- ~~(1) The project's legal status, finances, projected cash flow, technical feasibility, and the accuracy of the project's construction schedule demonstrate the probability of successful completion of the project.~~
- ~~(2) The project's design and materials and the proposed labor needs and costs demonstrate that the project excludes non-essential materials or a luxury design.~~
- ~~(3) The applicant's site control demonstrates that the project will be completed and operated without jeopardizing the Department's security interest for at least the applicable period of continued use pursuant to 42 U.S.C. 11375 (c).~~
- ~~(4) The proposed construction schedule corresponds with the scope of the project and demonstrates that the construction shall be completed within the term of the Standard Agreement.~~
- ~~(5) The development team proposed for the project has the experience and ability to efficiently and successfully complete and operate the project as proposed.~~

~~Authority: Section 50406(n), Health and Safety Code~~

~~Reference: 42 U.S.C. section 11375, 24 C.F.R. 576.21, 24 CFR 576.35.~~

Amend Section 8410. Match Requirements

- (a) Pursuant to ~~42 U.S.C. 11375~~24 CFR 576.201, the Department will provide HUD with annual documentation of the sources and amounts of matching funds required of the Department as a recipient of ESG funds.
- (b) Pursuant to subdivision (a), the Department may satisfy HUD's matching requirement, by submitting documentation to HUD of available State funding for programs serving persons experiencing the homelessness.
- (c) Pursuant to subdivision (a), the Department will set forth in the applicable ~~FESG~~ESG Action Plan and NOFA any requirement of ~~FESG~~ESG applicantsSubrecipients and Subrecipients of the Administrative Entity to provide documentation of matching funds.

Authority: Section 50406 (n), Health and Safety Code

Reference:~~42 U.S.C. 11375~~24 CFR 576.201

Section 8411. Grant Selection Process

- (a) ~~A Grant selection process shall involve eligible and complete applications received by the Department in response to the applicable NOFA.~~
- (b) ~~Each of the following criteria is Grant selection criteria that shall be included in the statewide NOFA. For applications requesting funds for multiple programs, each program will receive a separate score for each rating factor, and the point scores will be averaged to calculate a final point score for each rating factor.~~

~~(1) **Applicant Capability - 300 points**~~

~~The applicant's capability of achieving the activities and results proposed in the application will be evaluated based on the rating factors listed in this section. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question.~~

~~(A) The number of years the applicant has been providing housing and services for the homeless; _____ 30 points~~

~~(B) Whether the applicant has experience operating the proposed program, or a program similar to the proposed program; _____ 30 points~~

~~(C) The process utilized by the organization to evaluate the program. Points will be awarded for this factor based on the frequency of evaluation, the degree of involvement of Clients and staff in the evaluation process, and the impact of the evaluation process on the program. Applicants that provide supporting documentation of their evaluation process and outcomes will receive more points for this rating factor. _____ 30 points~~

~~(D) The applicant's experience administering other federal housing grants including, but not limited to, other FESG Grants; _____ 30 points~~

~~(E) The relative number of years of experience working in the _____ program or other related experience as determined by the Department possessed by the key staff of the program, (executive director, manager/supervisor, counselors/case managers). The total number of years of experience of key staff will be divided by the total number of key staff to calculate the relative number of years of experience. Related experience outside of the program must be described in order for the Department to consider awarding points for related experience. 60 points~~

~~(F) The proposed ratio of staff to Clients. Applicants with a higher staff to Client ratio will receive more points for this rating factor. 60 points~~

~~(G) Whether the applicant has any unresolved monitoring findings or concerns from FESG Grants awarded in no more than the previous four years; 20 points~~

~~(H) Whether the applicant has submitted required reports in a timely manner for FESG Grants awarded in no more than the previous four years; 20 points~~

~~(I) Whether the applicant has obligated and expended funds in a timely manner for FESG Grants awarded in no more than the previous four years. 20 points~~

~~(2) Need for Funds -100 points~~

~~The need for FESG funds will be evaluated based on the rating factors listed in this section. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question~~

~~(A) The applicant's need for FESG funds when comparing the percentage of FESG funds to other sources of funding in the applicant's proposed program budget. Applicants with the highest percentage of FESG funds compared to other sources of funding in the proposed program budget will receive more points for this rating factor. 50 points~~

~~(B) Depending on the type of Client housing proposed for funding, the relative level of need for that housing type. Applicants whose Client housing type addresses higher needs as certified by a county-wide coordinating body or agency of county government specifically dealing with the issue of homelessness will receive more points for this rating factor. The certifying entity must also meet the conflict of interest provisions set forth in 24 C.F.R. 576.57 (d). The Department may specify in the NOFA what local entities may be certifying entities. 50 points~~

~~(3) Impact and Effectiveness of the Client Housing 250 points~~

~~The impact and effectiveness of the Client housing provided and proposed to be provided by the applicant will be evaluated based on the rating factors listed in this section. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point~~

~~scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question. For subsection (b) (3) (B) through subsection (b) (3) (E), the Department may require applicants to submit documentation to verify the accuracy of their placement rates.~~

~~(A) The number of services offered to homeless persons by the program, including services offered through direct referral of program Clients to other agencies that provide services not directly available through the program, and the accessibility of these services. Accessibility of services means transportation to off-site services based on the needs of the individual Client, accommodations for Clients with disabilities, and services that address the linguistic needs of the Clients. Applicants must also explain how they will provide Client access to services when barriers to accessibility as set forth in this subdivision do exist. Applications that demonstrate the accessibility of program services as set forth in this subdivision will receive more points than applications that do not demonstrate service accessibility. To receive points for services offered through direct referral of program Clients to other agencies, applicants must provide documentation substantiating an arrangement between the program and the other agencies to provide services to program Clients.~~

~~60 points~~

~~(B) In the last twelve months, the percentage of Clients who have exited the program and moved into permanent, transitional, or emergency housing, (overall placement rate).~~

~~For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.~~

~~60 points~~

~~(C) In the last 12 months, the percentage of Clients who as a result of their participation in the program have obtained or retained employment.~~

~~For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.~~

~~30 points~~

~~(D) In the last 12 months, the percentage of Clients who as a result of their participation in the program have obtained other income such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or county general assistance;~~

~~For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.~~

~~30 points~~

~~(E) In the last 12 months, the percentage of Clients who as a result of their participation in the program have stabilized a mental illness or chemical addiction for a minimum of 90 days if the program is a Transitional housing program, or for a minimum of 30 days for all other programs.~~

~~For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.~~

~~30 points~~

~~(F) The applicant is a participant in a local planning process for the community-wide continuum of care, EHAP Local Emergency Shelter Strategy (LESS), or other homeless housing and supportive services plan, as evidenced by documentation from this planning process.~~

~~40 points~~

~~(4) Cost Efficiency — 100 points~~

~~The Cost efficiency of the proposed use of FESG funds for Client housing will be based on the rating factors listed in this subdivision. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question. For each rating factor in this subdivision, the Department may require applicants to submit documentation to verify the accuracy of the information provided by the applicant.~~

~~(A) The relative cost efficiency of the proposed use of FESG funds as measured by the following factors, where applicable.~~

~~60 points~~

~~1. The cost per bed per month when comparing overnight Emergency shelter programs with one another. The Department will examine the total Emergency shelter budget, with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or~~

~~2. The cost per bed per month when comparing Transitional housing programs with one another. The Department will examine the total Transitional housing budget with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or~~

~~3. The cost per bed per month when comparing Temporary Housing voucher programs with one another. The Department will examine the total voucher program budget with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or~~

~~4. The cost per household served per month when comparing Homeless prevention programs, with one another. The Department will examine the total Homeless Prevention program budget, with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or~~

~~5. The cost per household served per month when comparing Day Center programs with one another. The Department will examine the total Day Center budget, with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or~~

~~6. The cost per household served per month when comparing other FESG-eligible non-housing programs with one another. The Department will examine the total program budget with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services.~~

~~(B) The applicant's level of coordination with other organizations to operate the program as demonstrated by such things as: coordination of service delivery with other providers of housing or services to the homeless, use of volunteers, and use of in-kind donations, use of client and community educational programs, and participation in coalitions. In evaluating this rating factor, the~~

Department may ask the applicant to provide up to three letters from collaborating organizations which describe their collaborative relationship with the applicant.

40 points

~~(5) **State Objectives – 35 points**~~

~~The Department may award each application up to 35 points for addressing one or more State Objectives as identified in the annual FESG NOFA. The Department's selection of State Objectives for inclusion in the annual NOFA shall be based on one or more of the issue areas listed in this section. The point scores awarded to each application for the State Objectives selected in any given year will depend on the relative merit of the individual answers to the State Objective questions. In no instance shall the total amount of State Objective points available in any given year exceed 5% of the total amount of points available under Section 8411 (b).~~

~~(A) Imbalance in the types of programs funded in prior years, such as Emergency shelters versus Transitional housing;~~

~~(B) Federal funding priorities as publicly announced by HUD;~~

~~(C) State funding priorities as publicly announced by the Governor;~~

~~(D) Housing and community development needs or objectives as identified in the Department's annual consolidated plan required by HUD.~~

~~(6) **Total Possible – 785 Points**~~

~~(c) Applications for the New Programs set aside and three regional set-asides shall be separately rated by group and then ranked in descending order within their groups.~~

~~(d) FESG funds will be awarded to Eligible organizations in descending rank order for the amount requested in the corresponding eligible application, subject to the Department's limitations on certain Eligible activities including the limitations applicable to Essential Services and efforts to prevent homelessness at 42 U.S.C. subdivisions 11374 (a) (2) (B) and 11374 (a) (4) respectively, or for a revised amount pursuant to section 8405 subdivision (d), until the remaining funds in each set-aside are insufficient to fully fund the next highest ranked application(s).~~

~~(e) Any FESG funds remaining in the New Programs or regional set-asides shall be made available for distribution by general competition pursuant to section 8402 subdivision (c) (4).~~

~~(f) Among the applications competing for the general competition funds, FESG funds will be awarded to Eligible organizations in descending rank order for the~~

amount requested in the corresponding eligible application, subject to the Department's limitations on certain Eligible activities including the limitations applicable to Essential Services and efforts to prevent homelessness at 42 U.S.C. subdivisions 11374 (a) (2) (B) and 11374 (a) (4) respectively, or for a revised amount pursuant to section 8405 subdivision (d).

- (g) ~~When there are insufficient funds to fully fund the next highest ranked unfunded application, this application shall be partially funded if the funded activities can be adequately carried out with the remaining FESG allocation.~~
- (h) ~~Within each of the set-asides set forth in section 8402, subdivisions (b) and (c) in the event of a tie for applicants in the lowest-ranked position to be funded, before continuing the award process the Department will break the tie among the applicants by awarding funds from the set-aside to the applicant who scored the most points overall in the Cost Efficiency rating category.~~

Authority: ~~Section 50406 (n), Health and Safety Code~~
Reference: ~~24 C.F.R. section 576.25~~

Amend Section 84112.State Recipient Contract Requirements Standard Agreement

- (a) ~~Following a Grant award, the Department shall enter into a written contract directly with the State recipient. The contract shall be known as the "Standard Agreement" and shall include the items specified in this section. The Department shall enter into a written contract, known as the "State Agreement" Standard Agreement directly with the Subrecipient.~~
 - (1) For the Administrative Entity, the Standard Agreement will follow receipt of funding recommendations from an Administrative Entity and certification by the Administrative Entity that the proposed activities meet federal and State requirements pursuant to sections 8403, 8408, and 8409. The Department may require documentation to verify the accuracy of the information provided.
 - (2) For applications funded pursuant to the NOFA, the Standard Agreement will follow the funding award by the Department.
- (b) The Standard Agreement will require the Subrecipient to comply with the requirements and provisions of the Act, 24 CFR Part 576, these regulations, and generally applicable State contracting rules and requirements.
- (c) The Standard Agreement will include the items specified in this section:
 - (1) A clear and accurate identification of the State-Subrecipient under contract with and the Department;
 - (2) The geographic area in which the activity or activities are to be provided. The timeframe for the performance of the approved project activities;

- (3) The amount of the Grant award, including budget detail sufficient for the Department to enter into HUD's financial management system ("IDIS"), and to ensure eligibility of expenses, clearly expressed as the maximum amount; the basis upon which payment is to be made; and the process by which the StateSubrecipient must request payment;
- (4) A clear and complete statement of the activities and services the StateSubrecipient will perform and provide or, for an Administrative Entity, cause to be performed and provided. For an Administrative Entity, the information on activity, services, and budget will be reflected for each of its selected providers; under the Grant.
- (b) (5) Timeframes for the performance of approved project Eligible activities as required pursuant to 24 CFR 576.203. shall be as follows:
 - (1) ~~All approved project activities except for Renovation, Conversion or Major rehabilitation shall commence within two months of the effective date of the Standard Agreement and shall be completed within 24 months of the effective date of the Standard Agreement. No extension of this contract term shall be granted.~~
 - (2) ~~Approved project activities for Renovation, Conversion or Major rehabilitation shall commence within six months of the effective date of the Standard Agreement and shall be completed within 24 months of the effective date of the Standard Agreement. No extension of this contract term shall be granted.~~
 - (A) ~~The commencement of project activities for Renovation, Conversion, or Major rehabilitation shall mean acquiring a building permit for Renovation, Conversion or Major rehabilitation.~~
 - (B) ~~The completion of project activities for Renovation, Conversion, or Major rehabilitation activities shall mean acquiring a certificate of completion, where applicable.~~
- (c) ~~Each Standard Agreement shall provide that a StateSubrecipient shall request and receive Grant payments only under conditions that protect the Department's interests.~~
- (d) The Department may approve modifications to the Standard Agreement as described below.
 - (1) The Administrative Entity may propose to change the funded provider or Eligible activity consistent with section 8403 if necessary to meet the requirements of this Chapter or to expend its funding allocation. Any change must still comply with the requirements in sections 8408 and 8409.

- (2) A Subrecipient shall notify the Department of any line item changes to the budget needed for the Department to update IDIS. For line item changes representing more than 25 percent of the overall budget, a contract amendment is required. Changes must still comply with the requirements in sections 8408 and 8409.
- (de) The following performance requirements shall appear in each Standard Agreement and shall include additional provisions specific to each State Subrecipient:
- (1) ~~State recipients shall submit to the Department reports on the progress toward the completion of approved activities during the term of the Standard Agreement~~ Reporting requirements pursuant to section 8413; and
- (2) Requirements for fiscal management ~~State recipients shall maintain accounting books and records in accordance with generally accepted accounting standards and federal fiscal requirements.;~~
- (3) ~~State recipients receiving FESG funds for Renovation, Conversion, or Major rehabilitation shall provide the Department with a security interest in any real or personal property improved with FESG funds. The security interest shall be sufficient to secure the continued compliance by the State recipient with specified terms of the Standard Agreement.~~
- (e) ~~The Standard Agreement may require a work plan prepared by the State Subrecipient as part of its application and incorporated by reference as part of the Standard Agreement which the State may then use for contract monitoring purposes.~~
- (f) ~~The Standard Agreement shall contain the applicable continued use requirements for Renovation, Conversion, and Major rehabilitation. Such requirements shall be consistent with the requirements set forth in the FESG Certifications on use of Assistance at 42 U.S.C. section 11375(c) (1) and 24 C.F.R. section 576.53, and shall be recorded against the property.~~

Authority: section 50406 (n), Health and Safety Code

Reference: 24 C.F.R 576.203.

Section 8413. Procedures and Requirements for Procuring Contracts for Services or Materials under Development Contract

- (a) ~~Each State recipient awarded a Grant for Renovation, Conversion, or Major rehabilitation shall include compliance with the requirements of this section in all its contracts and subcontracts for labor and materials to be paid for with FESG funds.~~
- (b) ~~Prior to the disbursement of FESG funds for labor or materials, no contract in~~

~~excess of \$25,000 shall be awarded without the prior review and written approval from the Department. The Department shall not unreasonably withhold approval of said contracts.~~

- ~~(c) Each contract for Renovation, Conversion, or Major rehabilitation labor or materials shall comply with all applicable FESG program requirements, and all applicable terms and provisions of the Standard Agreement.~~
- ~~(d) Each contract shall include a provision stating that the records of the contracting parties shall be retained and subject to audit by the Department for a period of six years from the date of execution of the Standard Agreement.~~
- ~~(e) Each contract shall include a provision stating the method and schedule of payments, and shall provide for the retention of an amount of not less than ten percent from each progress payment, until such time as the lien-free completion of the project is ensured.~~
- ~~(f) Each Renovation, Conversion, or Major rehabilitation contract or subcontract of \$25,000 or more shall include a security provision requiring the construction or service contractor to provide both a performance and a payment bond or an equivalent form of security, such as a letter of credit. Security instruments shall be subject to the following:
 - ~~(1) Other than a performance bond and a payment bond, any form of security required of a contractor is subject to prior review and written approval by the Department;~~
 - ~~(2) The security shall be in an amount equal to one hundred percent of the amount of the successful bid;~~
 - ~~(3) Each construction or service contractor or subcontractor shall be appropriately licensed by the California State Contractors Licensing Board, and shall be insured as required by State law; and~~
 - ~~(4) Each construction or service contractor or subcontractor shall not be on a list of federally debarred contractors.~~~~
- ~~(g) The State recipient shall establish procedures that ensure that disbursements are properly expended by, or on behalf of, the State recipient. Such procedures shall include:
 - ~~(1) Performing on-site inspections of the construction or rehabilitation work; and~~
 - ~~(2) Using progress inspection reports as the basis for issuing payments to contractors or subcontractors.~~~~

~~Authority: Section 50406 (n), Health and Safety Code~~

~~Reference: 24 C.F.R. 576.25, 24 C.F.R. 576.61, 24 C.F.R. 576.65~~

~~Section 8414. Requirements for Renovation, Conversion, or Major rehabilitation Performed by the State Recipient~~

- ~~(a) — A State recipient that chooses to perform all or part of the labor, and/or to provide all or part of the materials necessary for Renovation, Conversion, or Major rehabilitation, shall comply with the requirements of this section.~~
- ~~(1) — FESG funds shall not be used to pay any family member of any person on the Governing Board or staff of the State recipient.~~
- ~~(2) — The State recipient shall enter into a written contract with each subcontractor, pursuant to the requirements of section 8413.~~

~~Authority: Section 50406 (n), Health and Safety Code~~

~~Reference: 24 C.F.R. section 576.57, 24 C.F.R. section 576.61~~

Section 8415 Budget Changes

- ~~(a) — After the award is made, the Department may approve changes to a project budget provided the requested budget change complies with either of the requirements of section 8415-8412 subdivisions (b) or (c) below.~~
- ~~(b) — The proposed budget change meets all of the following criteria when applicable:
 - ~~(1) — Does not substantially change the specific Clients served by the approved project activities;~~
 - ~~(2) — Continues to meet the priorities and criteria imposed during the respective award selection process;~~
 - ~~(3) — Results in a product substantially the same as the originally approved Eligible activity and, costs the same as or less than the originally approved Eligible activity;~~
 - ~~(4) — Will be completed by substantially the same date as allowed for in the original approval;~~
 - ~~(5) — Is justifiable, at the sole discretion of the Department, upon the Department's consideration of written evidence documenting the reasons for the change. If the proposed budget change involves eliminating an entire expense item from the Grant budget, the State Subrecipient must explain what other funding will pay for this item.~~~~
- ~~(c) — Will not result in a decrease in benefits to the local program.~~
- ~~(d) — If the proposed budget change represents more than 10% of the overall award amount, an amendment to the Standard Agreement is required.~~

~~Authority: Section 50406 (n), Health and Safety Code~~

Amend Section 8416 8412. Disbursement Procedures

- (a) FESGESG funds shall be disbursed pursuant to the terms of the Standard Agreement.
- (b) ~~For Renovation, Conversion, or Major rehabilitation activities, the Department may require the State recipient to have an escrow account, a construction fund control account, or a comparable type of account for these activities.~~
- (~~e~~b) The first request for disbursement shall include expenditure detail. After the first request, ~~†~~The Department may rely on the StateSubrecipient's certification that expenditures claimed in a request for disbursement are eligible and necessary, provided that the StateSubrecipient also certifies that detailed supporting documentation verifying each expenditure is available and shall be retained by the StateSubrecipient for six years after the execution of the Standard Agreement.
- (dc) ~~Except for Renovation, Conversion, and Major rehabilitation activities, StateSubrecipients may request an advance of 30 days working capital or \$5,000, whichever is greater, after the Standard Agreement is fully executed.~~
- (ed) ~~As necessary, †~~The Department shall establish minimum disbursement amounts or other related procedures necessary for the efficient administration of the FESGESG program. Requests for disbursement must be made at least quarterly and on forms approved by the Department.
- (fe) If a StateSubrecipient uses FESGESG funds for the costs of ineligible activities, the StateSubrecipient shall be required to reimburse these funds to the Department, and shall be prohibited from applying to the Department for subsequent FESGESG funds until the Department is fully repaid.
- (gf) Notwithstanding section 8416 subdivision (~~d c~~), above only costs incurred after full execution of the Standard Agreement, and after all-environmental review requirements have been met, will be paid by the Department. Environmental review compliance shall include compliance with 24 C.F.R. Part 5058.
- (h) ~~Requests for disbursement of FESG funds must be made by the State recipient on forms approved by the Department.~~

Authority: section 50406 (n), Health and Safety Code
Reference: ~~24 C.F.R. 576.21, 24 C.F.R. 576.25, 24 C.F.R. 576.57, 24 C.F.R. 576.61, 24 C.F.R. 576.63, 24, 24 C.F.R. 576.65; 24 CFR Part 50.~~

Amend Section 84178413. Recordkeeping and Reporting

- (a) In addition to the recordkeeping requirements of 24 C.F.R. Parts 84 and 85, the Subrecipient shall retain all program records pertaining to the Standard Agreement for a period of five years from the date of expenditure of all funds under the Standard Agreement. ~~the following requirements apply to requests for funds, fiscal reporting and maintenance of records:~~
- (b) The Subrecipient shall submit the following reports on forms approved by the Department. All State recipients must submit a written request for disbursement each time a request for funds is made;
 - (1) Annual performance reports during the period of the grant. Performance reporting may, as required by HUD or the Department, include data on the metrics used by HUD in programs such as ESG and the Continuum of Care or other information required by HMIS or the Consolidated Annual Performance Evaluation Report required by HUD at 24 CFR 91.520;
 - (2) Completion reports within 60 days after expiration of the Standard Agreement; and
 - (3) Additional reports as requested by the Department to meet other federal reporting requirements. Such reports shall be provided by the Subrecipient upon request.
- ~~(c) All State recipients must submit a written disbursement expenditure detail report with the first request for disbursement;~~
- ~~(d) All State recipients must submit written quarterly accrued expenditure reports;~~
- ~~(e) A written report must be submitted annually during the period of the Ggrant;~~
- ~~(f) A written completion report must be submitted within 60 days after expiration of the Standard Agreement;~~
- ~~(g) Additional reports may be requested by the Department to meet other applicable federal reporting requirements;~~
- ~~(h) State recipients must maintain all fiscal and program records pertaining to the Ggrant for a period of six years from the date of execution of the Standard Agreement; and~~
- ~~(i) Pursuant to 24 C.F.R. section 576.65(b) all State recipients must maintain the confidentiality of records pertaining to the provision of prevention or treatment services to victims of family violence.~~

Authority: section 50406 (n), Health and Safety Code

Reference: 24 C.F.R. 576.61, 24 C.F.R. 576.65 24 C.F.R. Parts 84 and 85.

Amend Section 84188414. Monitoring Grant Activities

- (a) Administrative Entities shall monitor the activities selected and awarded by them to ensure compliance with federal and State ESG requirements. An onsite monitoring visit of selected providers shall occur whenever determined necessary by the Administrative Entity, but at least once during the grant period.
- (b) The Department will monitor the performance of the Subrecipient based on a risk assessment and according to the terms of the Standard Agreement. The Department may also monitor the Subrecipient of the Administrative Entity as the Department deems appropriate based on a risk assessment.
- (c) The Department will monitor the performance of Administrative Entity and funded projects based on the performance measures used by HUD in ESG or the Continuum of Care program. In the event that project-level or system-wide performance consistently remains in the lowest quartile compared to all participating Service Areas in the Continuum of Care allocation, the Department will work collaboratively with the Administrative Entity to develop performance improvement plans which will be incorporated into the Standard Agreement and other agreements required under section 8403.
- (d) If it is determined that a Subrecipient falsified any certification, application information, financial, or contract report, the Subrecipient shall be required to reimburse the full amount of the ESG award to the Department, and may be prohibited from any further participation in the ESG program. The Department may also impose any other actions permitted under 24 CFR 576.501 (c).
- ~~(a) The Department shall monitor activities funded by Grants selected and awarded by the Department according to the terms of the Standard Agreement.~~
- ~~(b) If it is determined that a State recipient falsified any certification, application information, financial, or contract report, the State recipient shall be required to reimburse the full amount of the Grant to the Department, and may be prohibited from any further participation in the FESG program~~

Authority: section 50406 (n), Health & Safety Code
Reference: 24 C.F.R 576.50 576.61, 24 C.F.R. 576.67

Amend Section 8419 8415. Audit Requirements

- (a) Private nonprofit organizations must submit audits to the Department for review and approval. These audits must comply with all applicable federal laws, including without limitation applicable OMB Circulars A-133. See 24 C.F.R. 576.57 ~~(g)~~ 407 (c).

- (b) Units of general local government must submit audits to the Department for review and approval. These audits must comply with all applicable federal and other laws, 24 C.F.R. Part 44 as set forth in 24 C.F.R. Part 45.
- (c) The Department may also periodically request that a State-Subrecipient be audited at the expense of the Subrecipient and the Subrecipient shall comply.

Authority: section 50406 (n), Health and Safety Code

Reference: 24 C.F.R. ~~576.57~~ 576.407, ~~24 C.F.R. 576.61~~, ~~24 C.F.R. Part 44~~, and ~~24 C.F.R. Part 45.~~

Amend Section 84208416. Sanctions

The Department may impose sanctions, as well as any other remedies available to it under law, on a State-Subrecipient for failure to abide by any ~~s~~State and federal laws and regulations applicable to the ~~FESG~~ESG program. As the Department deems appropriate or necessary, S such sanctions include, without limitation, any or all of the following:

- (a) Conditioning a future ESG ~~G~~ grant on compliance with specific laws or regulations;
- (b) Directing a State-Subrecipient to stop incurring costs under the current ~~G~~ grant;
- (c) Requiring that some or all of the ~~G~~ grant amount be remitted to the Department;
- (d) Reducing the amount of ~~G~~ grant funds a State-Subrecipient would otherwise be entitled to receive; ~~and/or~~
- (e) Electing not to award future ~~G~~ grant funds to a State-Subrecipient and prohibiting an Administrative Entity from awarding to a particular Subrecipient of the Administrative Entity until appropriate actions are taken by the State recipient to ensure compliance with ESG requirements; and/or;
- (f) Taking any other actions permitted pursuant to 24 CFR 576.501.

Authority: section 50406 (n), Health and Safety Code

Reference: 24 C.F.R. ~~576.50 (c)~~, ~~576.61~~, ~~24 C.F.R. 576.67~~

Amend Section 84218417. Other Federal Requirements

State-Subrecipients and Subrecipients of the Administrative Entity shall abide by all applicable local, state, and federal laws pertaining to the ~~FESG~~ESG program, including, but not limited to, all other applicable federal laws cited in 42 U.S.C. sections 11371-11378 and 24 C.F.R. Part 576.

Authority: section 50406 (n), Health and Safety Code

Reference: 42 U.S.C. sections 11371-11378, ~~24 C.F.R. 576.61~~