February 18, 2015

MEMORANDUM FOR: Veterans Housing and Homelessness Prevention (VHHP) Program Stakeholders and Interested Parties

FROM: VHHP Program Design and Implementation Team

SUBJECT: **Veterans Housing and Homelessness Prevention (VHHP) Program Summary of and Response to Comments on Draft Guidelines**

The California Department of Housing and Community Development (HCD), in collaboration with the California Housing Finance Agency (CalHFA) and California Department of Veterans Affairs (CalVet) (the "Agencies") released for public comment draft VHHP Program guidelines in November 2014, following receipt of comments on a "Program Framework" issued in July 2014. This current document summarizes some of the most salient comments received on the draft guidelines, and provides the Agencies' response.

Assisted Unit Definition

COMMENT: Treating transitional housing beds as units is inconsistent with Military & Veterans Code Section 998.544(b), stating the intent of VHHP to create multifamily housing, rather than congregate housing, and with Health and Safety Code Section 50675.2, which requires transitional housing to be configured as rental housing developments (comprised of standard dwelling units, rather than dormitory-style living spaces without logical divisions other than beds). Since loan amounts are based on unit counts, treating beds as units also allows transitional housing to receive higher loan amounts.

RESPONSE: The Agencies agree with the points about the applicable statutes, and have revised the definition accordingly.

Supportive Housing Definition

COMMENT: The definition of "Supportive Housing" is not completely consistent with the applicable statutory definition in Health and Safety Code Section 50675.14, and should also include reference to the "Target population" defined in this section.

RESPONSE: The Agencies agree in part, and have revised the guideline definition to reference that in statute. However, since the statutory definition of "Supportive Housing" does not itself require occupancy by the referenced "Target population," the guidelines do not impose this requirement.

Relation of "Supportive Housing" to "Affordable Rental Housing Development"

COMMENT: Supportive Housing is not mentioned in a number of areas where it appears that it should be mentioned, e.g. in the specification of eligible projects.

RESPONSE: The intent was to include "Supportive Housing" as one type of "Affordable Rental Housing Development". To make this clear, the definition of "Affordable Rental Housing Development" has been revised to explicitly include "Supportive Housing".

Extremely Low income Occupancy Requirement

COMMENT: The requirement that 50% of the units in each project be restricted to Extremely Low Income (ELI) tenants makes achieving project feasibility difficult, and does not foster integration with other populations.

RESPONSE: The Agencies agree that requiring a large proportion of assisted units be for ELI tenants does make it difficult to structure feasible projects. However, the VHHP Program statute requires that 50% of program funds used for capital development be used for ELI units, and the Agencies are concerned about satisfying this requirement without imposing a high threshold for each project. Since the requirement of ELI units applies only to assisted units, and not to the entire project, they also believe that feasibility issues and integration goals may be addressed by mixing VHHP Program assisted units with non-assisted units serving higher income groups, and through rental and operating subsidies.

To at least partially address the issues raised by the comments, while still safely meeting the statutory requirement, the guidelines have been revised to reduce the required ELI percentage to 45%. Depending upon the outcomes of the initial NOFA, it may be possible to adjust this requirement further for future NOFAs.

Limitation on Permanent Relocation

COMMENTS: Allow permanent relocation of high income renters who don't qualify for tax credit units, defer to federal relocation standards, or allow limited relocation based on some standard other than five impacted households.

RESPONSE: Upon reflection, the Agencies believe that existing tenants would be adequately protected if they were accorded the benefits required under the federal Uniform Relocation Act, and have revised the guidelines to this effect.

Threshold Development Experience Requirement

COMMENT: Require sponsors to have developed more than one affordable project.

RESPONSE: The minimum has been increased to two projects, and, for proposed projects with large numbers of supportive or transitional housing units, for the experience of a development partner to be considered.

Reasonable Development Cost Requirement

COMMENT: Requirement for cost reasonableness too vague, exclude capitalized reserves from the analysis.

RESPONSE: Evaluating cost reasonableness is a work in progress. In the absence of a more well defined methodology for doing this, the Agencies believe the guidelines should at least mention it as a consideration. The language used here has been used by the Multifamily Housing Program, without apparent ill effect.

For clarity, this guideline provision has been revised to make it clear that capitalized reserves should not be counted as development costs, for the purpose of evaluating cost reasonableness. No other changes have been made.

Terms for Portion of Loan that Allows Capitalization of Operating Subsidy Reserve

COMMENT: There are potential tax and other problems associated with attaching the same repayment terms that apply to primary development funding to the extra funds made available for the purpose of allowing other funds to be used to capitalize an operating subsidy reserve account. Also, the $120,000 per unit cap on the extra funds is insufficient.

RESPONSE: The guidelines have been revised to make the "extra funds" available as a 0% loan, with no payments required during its term, and to increase the cap to $140,000 per unit. The Agencies recognize that the $140,000 amount may need to be supplemented with funds from other sources for projects that have high operating costs.

Repayment Terms / EHAP Model

COMMENT: For transitional housing, veterans' services agencies would prefer assistance structured as a grant or forgivable loan, and made available during the construction period, like HCD's EHAP. The EHAP model allows participation by those with limited development experience, who have difficulty accessing tax credits and construction loans. It also allows recipients to build equity, and to do projects in areas where tax credits are difficult to obtain.

RESPONSE: The Agencies believe that veterans' services agencies should play a critical role in this program as service providers, and as partners with experienced developers. They also believe that there is an ample supply of experienced developers, and see no need to take the extra risk associated with inexperienced ones operating by themselves. They also believe that far more veterans can be served if program funds are generally leveraged by tax credits funding. No change is being made.

Loan Amounts for 9% Tax Credits vs. Other Projects

COMMENT: To maximize the number of units produced with the combined resources of the state's housing agencies, there should be a higher spread between the loan limits for 9% projects and 4% projects, so that 4% projects are more adequately incentivized.

RESPONSE: It is accurate that the $15,000 spread between these two limits is insufficient to fully compensate for the difference in tax credit equity associated with 9% and 4% credits. The program does not have the resources to fully equalize the difference between the two types of credits, and still produce sufficient veteran units. It expects most projects to either use 9% tax credits, or to use 4% credits and substantial local subsidies. The $15,000 extra for non – 9% projects is intended to provide a small incentive for going the 4% route.

Serving Tenants Not Eligible for HUD-VASH / VA Health Care

COMMENTS: (1) Give veterans who are not eligible for VASH / VA health care based on discharge type priority access to the 10% of total units that are required to be available to them. (2) Don't impose the 10% requirement on 100% VASH projects. (3) Don't require intensive services for supportive housing tenants ineligible for VASH, since they are difficult to fund.

RESPONSE: The Agencies agree with (1), and the final guidelines mandate this occupancy priority. Regarding (2), it is acknowledged that requiring 10% of the units to not be covered by VASH creates complications for some projects, but the Agencies believe this policy warranted nonetheless by the pressing need for units for this population. The same logic applies to requiring services for tenants who need them, but are not eligible for VASH – the Agencies recognize that securing services funding will be challenging, but the need for these services is acute. No change is proposed in response to (2) and (3).

Sponsor Fees

COMMENTS: Allow higher developer and asset management fees; make it clear that asset management fees paid to investors don't count towards the limit.

RESPONSE: For tax credit projects, the guidelines allow developer fees up to the maximum level allowed by TCAC for purposes of determining tax credit amounts, under the 9% program. The Agencies believe this amount is sufficient.

Given the ongoing operational challenges likely faced by projects of the nature that the program seeks to fund, the Agencies do see the need for higher asset management fees, and have increased the limit on these fees for 2015 to $20,000. For clarity, a provision has been added explicitly stating that fees paid to investors do not count towards this limit.

Services Funding

COMMENTS: Allow residual project cash flow to be used for supportive services, rather than applied towards residual receipts loan payments; allow cash flow to be used for supportive services, beyond services coordination; allow larger amounts for service coordination.

RESPONSE: For veteran subpopulations most in need of services, the guidelines allow service coordination to be treated as a project operating expense, up to limits substantially higher than has been allowed under MHP. The Agencies believe this results in an appropriate balance between the need for services funding and the need to keep housing subsidy funding within reasonable bounds. They also doubt that many projects will generate cash flow that would permit these limits to be exceeded.

Scoring Experience

COMMENTS: The guidelines weigh lead service provider experience and experience with veterans too heavily; clarify what is meant by veterans' cultural competency; simplify this section; weigh development and ownership experience more heavily; the scoring system makes it difficult for groups to do well if their primary experience has been with transitional housing.

RESPONSE: This section has been substantially rewritten. The final guidelines slightly reduce the weight accorded to lead service provider experience, replace the general statement about cultural competency with specific indicators of this competency, and value transitional housing more than the draft. Given the key role of supportive services in addressing the needs of the targeted veteran subpopulations, and the unique issues they face as a result of their military service, the final guidelines do retain an emphasis on the experience of the lead service provider, and on demonstrated capacity to work with veterans.

Other Scoring Criteria

COMMENTS: To promote integration, don't reward making more than half of the units supportive housing; to encourage serving veterans ineligible for VASH, don't incentivize projects where all assisted unit have rental assistance; reduce points for rental assistance; don't distinguish between 9% and 4% projects in evaluating readiness.

RESPONSE: For many reasons, the Agencies expect most projects to be integrated, and do not believe that outcomes are necessarily inferior for 100% supportive housing projects; the rental assistance/ operating subsidy scoring category encourages combining VASH with project-based Housing Choice Vouchers, which does allow for serving veterans who are ineligible for VASH; rental assistance continues to be emphasized, because it is critical to serving the highest need veterans; the readiness criterion has been revised to eliminate the distinction between 9% and 4% credits. No other change is being made in response to these comments.

Housing First

COMMENTS: Don't modify Housing First requirements for transitional housing, as compared to permanent housing; modify them more, at least where required by funding contracts.

RESPONSE: Where required by public agency funding contracts, the guidelines now allow mandatory services in transitional housing.

Required Supportive Services

COMMENTS: Don't require services staff to have masters' degrees, relax required staffing ratios, and allow services staff to be reduced over time.

RESPONSE: The final guidelines have been revised to reduce the requirement for staffing with masters degrees, and the minimum ratio of staff to tenants has been reduced.

Encourage DVBE’s / Hiring Veterans

COMMENT: Program funds should be targeted to veteran-owned businesses or DVBEs that will seek to employ veterans in the construction or development of assisted properties.

RESPONSE: Consistent with the procurement practices of the California Department of Veterans Affairs, the final guidelines require 5 percent of total construction costs to be expended on Disabled Veterans Business Enterprises, and to maximize the use of veteran labor during construction process.

Female Only Housing

COMMENT: Allow projects restricted to female veterans or victims of MST.

RESPONSE: This is essentially a fair housing issue. The Notice of Funding Availability will provide guidance on this subject.