

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

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December 26, 2019

MEMORANDUM FOR: All Potential Applicants

FROM: Jennifer Seeger, Acting Deputy Director
Division of Financial Assistance

SUBJECT: **Joe Serna, Jr., Farmworker Housing Grant Program
Notice of Funding Availability**

The California Department of Housing and Community Development (Department) is pleased to announce the availability of approximately \$74 million in funding for the Joe Serna, Jr., Farmworker Housing Grant Program (Program).

This Notice of Funding Availability (NOFA) is subject to the requirements of [Health and Safety Code Section 50517.5 et seq.](#) and the December 26, 2019 Notice of Guidelines for the program. This NOFA provides grants, deferred-payment loans, or a combination thereof, for the construction and rehabilitation of housing for agricultural workers and their families. Per California Code of Regulations ([CCR](#)), [Title 25, Section 7205](#), eligible Applicants shall include a local public entity, nonprofit corporation, limited liability company, or limited partnership.

The Department will accept applications Over-the-Counter, meaning the first complete and eligible application received will be the first to be reviewed and considered for funding. The Department will begin accepting Program applications from 8:00 a.m. on February 20, 2020 through 5:00 p.m. Pacific Standard Time on May 20, 2020 or until such time as the Department has received enough eligible applications to reasonably use all funds currently available.

A complete original application with signatures, and one electronic copy on CD or flash drive, with all applicable information must be submitted to the Department through a carrier service such as U. S. Postal Service, UPS, Fed Ex, or other carrier services that provide date stamp verification confirming delivery. Personal deliveries will not be accepted.

The Department will hold workshops to review the program NOFA and application. For the list of workshop dates, times, locations, and registration, please refer to the Department's website at: <http://www.hcd.ca.gov/grants-funding/active-funding/fwhg.shtml>. To receive information on workshops and other Program updates, please subscribe at http://www.hcd.ca.gov/HCD_SSI/subscribe-form.html.

If you have any questions, please submit them to serna@hcd.ca.gov.

Attachment

Joe Serna, Jr., Farmworker Housing Grant Program 2019 Notice of Funding Availability



**Governor Gavin Newsom
State of California**

**Alexis Podesta, Secretary
Business, Consumer Services and Housing Agency**

**Douglas R. McCauley, Acting Director
Department of Housing and Community Development**

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Website: <http://www.hcd.ca.gov/>

Program email: serna@hcd.ca.gov

December 26, 2019

Table of Contents

I. Overview	1
A. Notice of Funding Availability	1
B. Timeline	1
C. Authorizing Legislation and Regulations	1
II. Program requirements	2
A. Applicant eligibility	2
B. Eligible activities	2
C. Minimum number of Assisted units and affordability requirements	3
D. Site and design criteria	4
III. Program funding amounts and terms	4
A. Eligible expenditures	4
B. Maximum assistance per Assisted unit	5
C. Maximum project funding amounts	5
D. Loan terms and requirements	6
E. Grant terms and requirements	7
IV. Application, workshops, review, and appeals	7
A. Application workshops and submission process	7
B. Content of applications	8
C. Application review	8
D. Appeals	9
E. Disclosure of application	10
V. Award announcements and contracts	10
A. Award announcements	10
B. Contracts	10
VI. Other state requirements	11
A. Article XXXIV	11
B. Pet Friendly Housing Act of 2017	11
C. State Prevailing Wages	11
D. Relocation	12
VII. Other terms and conditions	12
A. Right to modify and suspend	12
B. Conflicts	12

I. Overview

A. Notice of Funding Availability

The California Department of Housing and Community Development (Department) announces the availability of approximately \$74 million, which is a combination of Proposition 1 and Senate Bill (SB) 2 funding, for the Joe Serna, Jr., Farmworker Housing Grant Program (Program).

Program funds will be used to provide deferred-payment loans for the construction or rehabilitation of multifamily housing, and grants for single-family new construction or owner-occupied rehabilitation programs, to address the housing needs of agricultural workers.

B. Timeline

NOFA Release	December 26, 2019
Application Due Date	Over-the-Counter starting February 20, 2020 through May 20, 2020, or until the Department has received enough eligible applications to reasonably use all the funds currently available.
Award Announcements	Ongoing beginning in March 2020.

C. Authorizing Legislation and Regulations

This Notice of Funding Availability (NOFA) is subject to the statutes and guidelines described in the Notice of Guidelines for the Joe Serna, Jr., Farmworker Housing Grant Program memorandum dated December 26, 2019 (the "Notice of Guidelines Memorandum") that establish the program requirements.

Chapter 365, Statutes 2017 (SB 3), adopted by voters on November 6, 2018 (Proposition 1), provides additional funding and authority for the program. Health and Safety Code (HSC) Section 54014 gave the Department authority to implement this Program by utilizing guidelines. Pursuant to subdivision (b) of Section 54014, those guidelines are not subject to the requirements of Government Code (GC) Title 2, Division 3, Part 1, Chapter 3.5 (commencing with Section 11340). Chapter 364, Statutes 2017 (SB 2) provides funding to address affordable homeownership and rental housing opportunities for agricultural workers and their families. HSC Section 50470(d) gives the Department authority to establish guidelines for the implementation of these funds.

For the purposes of this NOFA, and any subsequent amendments thereto, the Notice of Guidelines Memorandum, and any subsequent amendments thereto, shall constitute the guidelines applicable to funding released hereunder.

Applicants are urged to carefully review the applicable statutes, guidelines, and this NOFA before submitting applications to understand the Program requirements.

II. Program requirements

The following program requirements are provided as a summary and are not to be considered a complete representation of the entirety of the eligibility, threshold, or other requirements or terms and conditions of the program. Please refer to the applicable statutes and guidelines for complete information. Please note that capitalized words may be defined terms and can be found in the applicable statutes and guidelines.

A. Applicant eligibility

To be eligible to apply for funding, the Applicant shall be a local public entity, nonprofit corporation, limited liability company, or limited partnership having sufficient capacity (including financial resources, an office, staff, and payroll) and experience to carry out the proposed project as set forth in California Code of Regulations (CCR), Section 7205. All references to CCR section numbers in this NOFA refer to section numbers in Title 25, unless otherwise stated.

In the case of a nonprofit corporation, limited liability company, or limited partnership, the Applicant shall demonstrate to the Department's satisfaction that the Applicant is independent from any direction of, or control by, a for-profit entity and shall meet the requirements of CCR Section 7205.1. Nonprofit corporations shall also meet the requirements of CCR Section 7205.2.

For-profit entities are not eligible Applicants.

Minimum Experience:

To be eligible to receive funding, the Applicant shall demonstrate to the Department's satisfaction that:

- For rental housing developments, an Applicant must have developed and owned at least one rental housing project of similar type and size as the proposed project within the last five years and have staff with demonstrated experience in managing at least one project occupied primarily by agricultural workers and their families.
- For single-family new construction or owner-occupied rehabilitation projects, an Applicant must have successfully sponsored and supervised a similar program for a period of at least two years within the last ten years.

B. Eligible activities

Under this NOFA, program funds shall be used for the following activities as set forth in CCR Section 7206:

- New construction or Rehabilitation, with or without acquisition, of a Rental Housing Development;
- Single-family new construction in which the ultimate Grantees are participants; or
- Owner-occupied Rehabilitation.

Program funds may only be expended for rental housing developments that meet the criteria in CCR Section 7204 (a) – (d) and homeownership purposes as set forth in CCR Section 7204(e).

For multifamily developments, use of multiple Department funding sources on the same Assisted units (subsidy stacking) is prohibited. “Department funding sources” shall mean loan or grant funds awarded for permanent funding of development costs (which shall not include funds specifically designated for capitalized operating reserves or rental assistance) under the following programs:

1. Multifamily Housing Program, including supportive housing awards;
2. Veterans Housing and Homelessness Prevention Program;
3. No Place Like Home Program, including funds awarded either by the Department or an Alternative Process County;
4. Affordable Housing and Sustainable Communities Program (AHSC) - Affordable Housing Development loans, but not grants for Housing-Related Infrastructure, Sustainable Transportation Infrastructure, Transportation-Related amenities or Program Costs, all as defined in the AHSC guidelines;
5. Transit Oriented Development Program - rental housing development loans, but not grants for infrastructure;
6. Housing for a Healthy California Program, including funds awarded either by the Department or a county; and
7. National Housing Trust Fund Program.

“Department funding sources” do not include existing loans or grants under any Department funding source listed above that are at least 14 years old and will be assumed or recast as part of an acquisition and rehabilitation project. See Multifamily Housing Program Guidelines, Effective June 19, 2019, Section 7302(h)(1) and (h)(2).

C. Minimum number of Assisted units and affordability requirements

- For a Rental Housing Development, Assisted units shall be provided in accordance with CCR Section 7209(a).

To the greatest extent possible, consistent with fiscal integrity, at least 10 percent of the Assisted units shall be reserved for agricultural households with incomes no greater than 30 percent of Area Median Income (AMI). These units shall be distributed reasonably among bedroom sizes.

The remaining 90 percent of Assisted units shall be reserved for agricultural households with incomes no greater than 80 percent of AMI.

To achieve deeper affordability and potentially increase the project's per-unit loan limit, the Applicant may restrict Assisted units to households at 60 percent AMI or lower.

Note: Projects meeting only the minimum requirement are likely not subject to the provisions of Article XXXIV of the California Constitution. Projects proposing deeper affordability restrictions likely fall within the meaning of "low-income housing" for purposes of Article XXXIV. All projects shall comply with the provisions of Section VI., below.

"Area Median Income" or "AMI" means the most recent applicable county median family income published by California Tax Credit Allocation Committee (TCAC). Rent limits for initial occupancy, and for each subsequent occupancy, by a new eligible household shall apply to all Assisted units and be based on unit type, applicable income limit, and area in which the Project is located, following the calculation procedures used by TCAC and using income limits in 5 percent increments of AMI, including the income limits in this subsection. The maximum Rent limit shall be 30 percent of 80 percent of AMI for the appropriate unit size. Income, Rent, and loan limits for this NOFA can be downloaded from: <http://www.hcd.ca.gov/grants-funding/docs/2019MTSPRegularLimits.pdf>.

- For homeownership housing developments where program funds are used for subdivision development costs, the percentage of Assisted units shall not be less than the percentage of the total development cost or the value that program funds constitute (CCR Section 7209(b)).

D. Site and design criteria

Proposed housing developments shall observe the criteria relative to the location and design of the proposed housing development as set forth in CCR Section 7210.

A major deficiency in meeting one or more of the listed site or design criteria pursuant to CCR Section 7210 may result in the Department's rejection of an application.

III. Program funding amounts and terms

A. Eligible expenditures

Eligible expenditures of Program funds shall be for reasonable and necessary costs as set forth in CCR Section 7209.5.

B. Maximum assistance per Assisted unit

1. For a Rental Housing Development, the loan amount is limited to the sum of:
 - a. A base amount per Assisted unit, as defined by Section 7202(f), plus
 - b. The amount per Assisted unit required to reduce Rents from 30 percent of 60 percent of AMI to the actual maximum restricted Rent for the unit, assuming that the Rent reduction will be achieved by substituting program funds for private amortized debt and calculated by the Department based on private market multifamily rental loan terms available at the time of issuance of each NOFA.

The initial base amount shall be \$95,000 per Assisted unit utilizing 9 percent tax credits, \$175,000 per Assisted unit utilizing 4 percent tax credits or no tax credits in a new construction project located in a “High Resource” or “Highest Resource” area on the TCAC/HCD Opportunity Map, and \$150,000 per other Assisted unit utilizing 4 percent tax credits or no tax credits.

2. For a single-family new construction project, the grant amount is limited to \$150,000 per Assisted unit.
3. For owner-occupied rehabilitation, the grant amount is limited to \$75,000 per Assisted unit.

C. Maximum project funding amounts

The loan or grant shall not exceed the lesser of the per-unit maximum

1. The total eligible costs required, when considered with other available financing and assistance, in order to complete the project, ensure the Rents and housing costs for Assisted units, and operate the project in compliance Program requirements; or
2. The NOFA maximum, set forth below:

- a. Multifamily Rental Project:

Project without Low-Income Housing Tax Credits (LIHTC) <u>or</u> using 4 percent LIHTC:	Maximum	\$10,000,000
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Project using 9 percent LIHTC:	Maximum	\$5,000,000
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- b. Single-Family Homeownership Projects: Maximum \$3,000,000

- c. Owner-Occupied Rehabilitation: Maximum \$2,000,000

All the funds used in the development of a subdivision, following the sale of the individual lots, shall be subsequently granted in the form of mortgage write down assistance to individual agricultural worker homebuyers that meet the program requirements pursuant to CCR Section 7228. The Serna grant requested must not exceed the total that will be subsequently granted to eligible agricultural workers.

Note: The Department reserves the right to reduce the amount of funding for any given project, based upon analysis of proposed financing, the project's need for the Serna loan/grant, and the amount of funding available to the program.

D. Loan terms and requirements

Rental housing

Pursuant to CCR Section 7211, the term of a loan shall be 55 years commencing on the date of recordation of the program loan documents; shall bear simple interest at 3 percent per annum; and shall be evidenced by a promissory note and secured by a deed of trust.

Subordination of the Department's lien for a Rental Housing Development shall be in accordance with the Uniform Multifamily Regulations (UMR), Title 25, CCR Section 8315 and Title 25, CCR Section 7230.

The limits on developer fees specified in the UMR Section 8312 shall apply, except that:

1. Section 8312(d) shall not apply; and
2. For Projects utilizing 4 percent tax credits, Developer Fee payments shall not exceed the amount that may be included in project costs pursuant to CCR Title 4, Section 10327. In addition, the Developer Fee paid from development funding sources shall not exceed the following:
 - a. For acquisition and/or Rehabilitation Projects or adaptive reuse projects, the lesser of the amount of Developer Fee in project costs or \$2 million.
 - b. For new construction Projects, the base limit shall be the lesser of the amount that may be included in project costs or \$2.2 million. To arrive at the final limit on Developer Fee paid from development funding sources, the base limit shall then be multiplied by a ratio that is the average of: (i) the difference between two and the Project's high-cost ratio, as calculated pursuant to CCR Title 4, Section 10317(i)(6) or successor language; and (ii) 100 percent.

Loan payments are deferred for the full term of the loan, except that: (1) residual receipt payments shall be required to the extent there is available cash flow pursuant to UMR Section 8314; and (2) the monitoring fee described below. The uses of operating income shall be governed by UMR Section 8314, except that the aggregate of the Developer Fee paid from sources and paid as first-priority use of operating income shall not exceed \$3.5 million.

Pursuant to HSC Section 50517.5(2), the Department shall require annual payments to cover the costs of Project monitoring. For the first 30 years of the loan term, the required payment shall be 0.42 percent of the outstanding loan principal per annum.

E. Grant terms and requirements

Pursuant to CCR Section 7226, the term of a Grant shall be as follows:

1. Single Family Homeownership Projects: 20 years commencing on the date of recordation of the Standard Agreement.
2. Owner-Occupied Rehabilitation: 20 years commencing on the date of execution of the Standard Agreement.

The Standard Agreement shall contain at minimum the conditions as defined CCR Section 7226 (b).

The Department will authorize the reconveyance of the Housing development to individual agricultural households for the purpose of homeownership contingent upon the conditions as defined by CCR Section 7228 having been met.

Subordination of the Department's lien shall be in accordance with CCR Section 7230.

A Grantee may terminate a Standard Agreement if the conditions of CCR Section 7236 have been met.

IV. Application, workshops, review, and appeals

A. Application workshops and submission process

Application forms, workshop details, and related program information is available at <http://www.hcd.ca.gov/grants-funding/active-funding/fwhg.shtml>. To receive information on workshops and other updates, please subscribe to the Department's [listserv](#). Questions may be directed to serna@hcd.ca.gov.

The Department will conduct workshops and pre-application consultations for this round of application submissions. For the list of workshop dates, times, locations, and registration, please refer to the Department's website at <http://www.hcd.ca.gov/grants-funding/active-funding/fwhg.shtml>. Appointments are required for pre-application consultations. Appointment requests and workshop questions should be directed to serna@hcd.ca.gov.

Applications must meet eligibility, threshold, and application requirements upon submission of the application. It is the Applicant's responsibility to ensure that the submitted application is clear, complete, and accurate.

Department staff may request clarifying information. If the Department deems the application incomplete, or it fails threshold or eligibility requirements, the Applicant may correct the application, but the application will be deemed a new application received on the date of resubmission, or on last date of the NOFA application period, whichever comes first.

The Department will accept over-the-counter applications beginning at 8:00 a.m. on February 20, 2020 through 5:00 p.m. Pacific Standard Time on May 20, 2020 or until such time before May 20, 2020 that the Department has received a sufficient number of applications to reasonably use all funds available. All applications received on the same day shall be assigned an order of receipt via lottery.

The Applicant must submit a complete original application and one electronic copy on CD or flash drive with all applicable information. Applications will only be accepted through a carrier service that provides date stamp verification of delivery such as U.S. Postal Service, UPS, FedEx, or other carrier services to the following address:

California Department of Housing and Community Development
Division of Financial Assistance, NOFA Section
Joe Serna, Jr., Farmworker Housing Grant Program
2020 W. El Camino Ave, Suite 650
Sacramento, CA 95833

Personal deliveries will not be accepted. No late applications, incomplete applications, or facsimiles will be accepted.

B. Content of applications

The program application shall be submitted on Department forms without alteration or modification and shall include all reports and documents specified in the application checklist.

Please note: The application package shall be submitted with all required documents and reports with tabs and labels consistent with the application checklist.

C. Application review

At time of application, Applicants must meet the following initial threshold requirements:

- Be an eligible Applicant pursuant to CCR Section 7205;
- Have an eligible Project pursuant to CCR Section 7204;
- Have Site Control pursuant to CCR Section 7207 in the name of the Applicant, or an entity controlled by the Applicant, by any means set forth in [UMR 8303\(a\)](#). Where site control is in the name of another entity, documentation, which clearly demonstrates the Applicant's control (i.e. the entity's organizational documents) is required. UMR 8303 notwithstanding, all forms of site control shall extend until at least four months after application submission; and
- The application is complete pursuant to CCR Section 7217, and UMR 8300 et seq. (if applicable), including submission of all required documents and reports.

Only applications meeting the initial threshold requirements will move forward to the second stage, which is financial feasibility review. Financial feasibility will include determining if proposed projects are consistent with the program statutes and program guidelines, including underwriting and site and design criteria as outlined in CCR Section 7210 and UMR Section 8310.

Additional information may be solicited from the Applicant during this process.

D. Appeals

1. Basis of appeals

- a. Upon receipt of the Department's notice that an application has been determined to be incomplete, or it fails threshold or eligibility requirements, Applicants under this NOFA may appeal such decision(s) to the Department pursuant to this section.
- b. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's eligibility, award, denial of award, or any other matter related thereto.
- c. Prior program NOFAs. The appeal process provided herein applies solely to decisions of the Department made in this program NOFA and does not apply to any decisions made with respect to any previously issued NOFAs or decisions to be made pursuant to future program NOFAs.

2. Appeal process and deadlines

- a. Process. In order to lodge an appeal, Applicants must submit to the Department, by the deadline set forth in subsection (b) below, a written appeal, which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed reference to the area(s) of the application that provide clarification and substantiation for the basis of the appeal. Once the written appeal is submitted to the Department, no further information or materials will be accepted or considered thereafter.

Appeals are to be submitted to the Department either via email at serna@hcd.ca.gov or at the following address:

California Department of Housing and Community Development
Attn: Serna Program Staff Appeals
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

The Department will accept appeals through a carrier service such as the U.S. Postal Service, UPS, FedEx, or other carrier services that provide date stamp verification of delivery. Deliveries must be received during Department weekday (nonstate holiday) business hours of 9:00 a.m. to 5:00 p.m. Pacific Standard Time. Emails to the email address listed above will be accepted so long as the email time stamp is prior to the appeal deadline.

- b. Filing deadline. Appeals must be received by the Department no later than five business days from the date of the Department's eligibility, or threshold review determination letters representing the Department's decision made in response to the application.

3. Decision

Any request to amend the Department's decision shall be reviewed for compliance with the Notice of Guidelines Memorandum, the December 26, 2019 program NOFA, and any subsequent clarifying documents such as the program responses to "Frequently Asked Questions." It is the Department's intent to render its decision in writing within 15 business days of receipt of the Applicant's written appeal. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department with respect to the appeal.

4. Effectiveness

In the event that the applicable statutes or guidelines governing the program contain an existing process for appealing decisions of the Department with respect to NOFA awards made under such programs, this Section shall be inapplicable, and all appeals shall be governed by such existing authority.

E. Disclosure of application

[\(California Public Records Act Statutes of 1968 Chapter 1473\)](#)

Information provided in the application will become a public record available for review by the public, pursuant to the California Public Records Act Statutes of 1968, Chapter 1473. As such, any materials provided will be disclosable to any person making a request under this Act. The Department cautions Applicants to use discretion in providing information not specifically requested, including but not limited to, bank accounts, personal phone numbers and home addresses. By providing this information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

V. Award announcements and contracts

A. Award announcements

The Department will notify successful Applicants (awardees) by U.S. Postal Service beginning in March 2020.

B. Contracts

Successful Applicants (awardees) will enter into Standard Agreements with the Department. The Standard Agreement contains relevant terms and conditions for the funding of the Award, including reporting requirements. Failure to meet the terms and conditions could result in disencumbrance of funds and cancellation of the contract. The Standard Agreement will include all the relevant state and federal requirements, as well as specific information about the Award and the work to be performed.

The Department has set a goal to deliver Standard Agreements to awardees within 90 days following the date of Award announcements. To facilitate efficient processing of Standard Agreements, Awardees are strongly urged to submit organizational documents of the borrower or grantee with their application.

VI. Other state requirements

A. Article XXXIV

Applicants must submit documentation that demonstrates the Project's compliance with, or exemption from, Article XXXIV. If a Project is subject to Article XXXIV, the Department requires an allocation letter from the locality, which shows that there is Article XXXIV authority for the project. A local government official with authority should prepare the allocation letter and it should include the following:

1. The name and date of the proposition and the number of units that were approved;
2. A copy of the referendum and a certified vote tally;
3. The number of units that remain in the locality's "bank" of Article XXXIV authority (i.e., the number of units that are still available for allocation); and
4. The number of units that the locality will commit to this project, including the manager unit.

If a Project is statutorily exempt from Article XXXIV, the Department requires an Article XXXIV opinion letter from the Applicant's legal counsel. The Article XXXIV opinion letter must demonstrate that the Applicant has considered both the legal requirements of Article XXXIV and the relevant facts of the project (e.g., all funding provided by public bodies, including state, county or city sources, the number of low-income restricted units, and the general content of any regulatory restrictions). Any conclusion that a Project is exempt from Article XXXIV must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.

B. Pet Friendly Housing Act of 2017

Housing funded through this program is subject to the Pet Friendly Housing Act of 2017 (HSC Section 50466). Each awardee will be required to submit a signed and dated certification that residents of the program-funded Housing development will be authorized to own or otherwise maintain one or more common household pets as required by HSC Section 50466. Pursuant to this statute, "common household pet" means a domesticated animal, such as a dog or cat, commonly kept in the home for pleasure rather than for commercial purposes.

C. State Prevailing Wages

Program funds awarded under this NOFA are subject to State Prevailing Wage law as set forth in Labor Code Sections 1771, 1720-1781 and require the payment of prevailing wages unless the project meets one of the exceptions of Labor Code 1720 as determined by the Department of Industrial Relations (DIR). The DIR can be contacted via its website at: <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>.

Applicants are urged to seek professional advice as to how to comply with the State Prevailing Wage Law.

D. Relocation

All persons who are displaced as a direct result of the development of a Project shall be entitled to relocation benefits and assistance as provided in California relocation assistance law (GC Section 7260 et seq., CCR Title 25, Section 6000 et seq.).

A relocation plan conforming to the provisions of CCR Section 6038 shall be prepared. The relocation plan or other relocation documentation shall be subject to the review and approval by the Department prior to the beginning of any construction or activity that will result in displacement.

Should relocation not be required, the Recipient of an award of funds shall be required to submit an original, fully executed Indemnification and Certification (prepared by the Department) prior to execution of the Standard Agreement.

VII. Other terms and conditions

A. Right to modify and suspend

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including without limitation, the amount of funds available hereunder.

If such an action occurs, the Department will notify all interested parties via listserv and will post the revisions to the Department's website. Subscriptions to the Department's email list are available at: http://www.hcd.ca.gov/HCD_SSI/subscribe-form.html.

B. Conflicts

In the event of any conflict between the terms of this NOFA and either applicable state or federal law or guideline, the terms of the applicable state or federal law or guideline shall control.