

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

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July 23, 2021

MEMORANDUM FOR: All Potential Applicants

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

SUBJECT: **Multifamily Housing Program
July 2021 Notice of Funding Availability**

The California Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$220 million in funds for the Multifamily Housing Program (MHP). \$20 million of available funding will be set aside for a project(s) selected pursuant to Governor Gavin Newsom's Executive Order N-06-19.

MHP funding provides loans to individuals, public agencies, or private entities (including for-profit, limited profit, or nonprofit). The funds awarded under this NOFA will be allocated as permanent financing for affordable multifamily rental and transitional new construction, acquisition, rehabilitation, and conversion housing developments.

Application materials must be submitted electronically via the Financial Assistance Application Submittal Tool (FAAST) system no later than **5:00 p.m. Pacific Daylight Time on Wednesday, September 29, 2021**. The Department will no longer accept hardcopy submittals.

Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, electronically transmitted, or walk-in application packages will be accepted.

The MHP Application, online workshop details, guidelines and regulations are posted on the Department's [website](#). To receive information regarding online workshops and other updates, please subscribe to our MHP [listserv](#). If you have any further questions, please contact MHP@hcd.ca.gov.

Attachment

MULTIFAMILY HOUSING PROGRAM

July 2021

NOTICE OF FUNDING AVAILABILITY



**State of California
Gavin Newsom, Governor**

**Lourdes M. Castro Ramirez, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
California Department of Housing and Community Development**

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July 23, 2021

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I. What's New in this NOFA?

New information will appear in **bold** print in the applicable sections.

The Department of Housing and Community Development (“Department”), by executive action, is amending, adding and deleting certain guidelines administered by the Department that govern the Multifamily Housing Program (MHP) as set forth in Appendix A of this NOFA.

A. 9% Tax Credit Projects: Section IV (A)(1)

B. Tribal Entity and Tribe: Section IV (A), (B) and defined in Appendix A.

Guidelines Section 7301 is amended to include definitions for Tribal Entity and Tribe.

C. Set-aside for Tribal Entities and additional requirements: Section IV (A)(2) and (3)

D. 9% Loan Limits Added: Section IV (E)(4)

E. Non-Tax Credit Projects: Section IV (F)

MHP funds available as supplemental assistance for non-tax credit projects. Subject to certain terms and conditions.

F. Clarification of Disabled Population: Section (IV) (G)(3)(h)(ii)(c) and defined in Appendix A

Guidelines Section 7302(g) is amended to include clarification of disabled populations that are subject to integration requirements.

G. Appendix A: Notice of MHP Changes

II. Continuation of July 2020 MHP NOFA Requirements

New information released in the July 2020 MHP NOFA is still applicable and in effect for the July 2021 MHP NOFA, as outlined below:

A. Limitations on Swapping Awards

With four percent (4%) bond allocations now being competitive, it is critically important that funds are awarded to projects that are actually ready to move forward in an effort to align Department resources with timely unit production. It is an inefficient use of limited public resources and not appropriate to deny one applicant funding and impede unit construction while another applicant is allowed to delay the deployment of funding while reapplying or changing programs. To ensure the liquidity of program funds, applicants seeking to swap previously awarded funds must forfeit their prior award, in writing, prior to the application due date without assurance of receiving a new award. This prohibition applies to funds awarded under any Department program, including a prior MHP award.

B. Joint Venture Defined: Section IV (B)

Joint Venture is clarified and distinguished from other types of legal entities, as an Eligible Sponsor.

C. Certification of Sponsor Capacity: Section IV (B)

Sponsor certifications of capacity and a project staffing chart were added to the MHP application.

D. Documentation of Principal’s Experience: Section IV, (B), IV (G)(1)(a) and IV (G)(2)

Provides clarity and specific documentation requirements when Sponsor relies upon the experience of its Principal.

E. Scoring of projects serving Special Needs Populations: Section IV (G)(2)

Updated Special Needs Population criteria to Guideline Section 7320(b)(2)(A).

F. Bonus point clarification: Section IV (G)(2)(a)

III. Overview

A. Notice of Funding Availability

The California Department of Housing and Community Development (Department) is announcing the availability of approximately \$220 million in funding for the Multifamily Housing Program (MHP). Funding for this Notice of Funding Availability (NOFA) is provided by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1). The funds awarded under this NOFA will be allocated as permanent financing for affordable new construction, rehabilitation and preservation of permanent and transitional rental housing for households having incomes at or below sixty percent of Area Median Income.

B. Timeline

Description	Date
NOFA Release	Friday, July 23, 2021
Application Due Date	Wednesday, September 29, 2021
Award Announcements	January 2022

C. Authorizing Legislation

MHP was established by Chapter 637, Statutes of 1999 (SB 1121), which created Chapter 6.7 of Part 2 of Division 31 commencing with California Health & Safety Code (HSC) Section 50675, as amended.

Senate Bill 3 (SB 3) (Chapter 365, Statutes of 2017), which authorized the Veterans and Affordable Housing Bond Act of 2018 (SB 3) was adopted by voters on November 6, 2018, (Proposition 1) and authorizes the issuance of bonds in the amount of \$4 billion under the State General Obligation Bond Law. The intent of SB 3 is that \$2.85 billion of the bond proceeds be used to fund certain indicated programs administered by the Department. Specifically, SB 3 allows for the allocation of \$1.5 billion of the bond proceeds for MHP to assist the new construction, acquisition, rehabilitation, and preservation of permanent and transitional rental housing for lower-income households.

SB 3 also allows the Department to adopt Guidelines instead of regulations for MHP establishing requirements for administration of the program. The Department prepared and released Guidelines for MHP in June 2019 based on prior program implementation experience, research into several policy issues that have arisen over time, and stakeholder feedback.

Applications submitted under this NOFA are subject to the Guidelines, all applicable statutory requirements, and this NOFA. All section references in this NOFA refer to the Guidelines unless otherwise noted. The Guidelines and NOFA are available on the Department's [website](#).

IV. Program requirements

The following is provided as a summary and is not to be considered a complete representation of the entirety of the eligibility, threshold, or other requirements, terms and conditions for MHP.

A. Eligible Project

Projects must qualify as Rental Housing Developments (within the definition of the Uniform Multifamily Regulations (UMR) Section 8301). Additionally, projects must meet all eligibility requirements in Guidelines Section 7302.

As of the application submittal date, the rehabilitation or construction work, including demolition, must not have commenced, except as necessary to perform emergency repairs to existing structures or eliminate hazards or threats to health and safety per Guidelines Section 7302(c). Projects must meet the underwriting standards described in UMR Section 8310.

1. 9% Tax Credit Projects

9% Tax Credit projects are eligible to apply for MHP funds under this NOFA.

2. Set-aside for Tribal Entities

To promote equitable distribution of Program funds, the following set-asides are added:

The top ranked application submitted by an eligible Tribal Entity, which meets all Threshold requirements pursuant to Guidelines Section 7320(a), will receive an award of funds available under each NOFA. Lower scoring applications will be ranked among all other applications and may receive an award of funds pursuant to Guidelines Section 7320(b).

3. Additional requirements for Tribal Entities

Projects proposed by Tribal Entities must meet the following requirements:

a. Projects must satisfy one of the following:

- i) Located in Indian country as defined by 18 USC 1151; or**
- ii) Located on fee land.**

b. The applicant meets the following conditions of award funding (which conditions are not, however, conditions to engaging in the competitive award process) as and to the extent applicable and set forth in a Standard Agreement:

- i) BIA Consent. The Bureau of Indian Affairs has consented to applicant's execution and recordation (as applicable) of all Department-required documents that are subject to 25 CFR sec. 152.34 or 25 CFR sec. 162.12, prior to award disbursement.**
- ii) Personal and Subject Matter Jurisdiction. Personal and subject matter jurisdiction in regard to the Standard Agreement, Project, or any matters arising from either of them is in state court and the Department has received any legal instruments or waivers, all duly approved and executed, as are or may be legally necessary and effective to provide for such personal and subject matter jurisdiction in state court.**
- iii) Title Insurance. The Department has received title insurance for the property underlying the Project that is satisfactory to the Department. Notwithstanding the foregoing sentence, upon a showing of good cause, for Applicants unable to provide a conventional title insurance policy satisfactory to the Department, this condition may be satisfied by a title condition report issued by the BIA Land Title and Records Office and pursuant to a title opinion letter issued for the benefit of the Department but paid for by the Applicant.**

- iv) **Recordation Requirements. Where recordation of instruments is a condition of award funding or otherwise required under or pursuant to the Standard Agreement, the subject instrument is recorded with the Land Titles and Records Office at the BIA or in the appropriate official records of the County in which the Project property is located, as may be applicable.**

B. Eligible Sponsor

An Applicant must be an Eligible Sponsor pursuant to Guidelines Section 7303.

A Sponsor shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited liability company, local public entity, or Tribal Entity, or any combination thereof which meets the requirements of Guidelines Section 7303(c).

For purposes of Guidelines Section 7303(a), a Joint Venture is defined as “an association of two or more persons, or entities who combine their property, skill or knowledge to carry out a single business enterprise for profit.” A Sponsor formed as a Joint Venture in accordance Section 7303(a) shall comply with the requirements of Section 7303(d). Neither the Borrower limited partnership, nor a network of entities affiliated with a common parent entity are Joint Venture entities within the meaning of this section.

Pursuant to Guidelines Section 7303(c), a Sponsor must demonstrate experience developing and owning affordable rental housing through evidencing current capacity including financial and human resources. Sponsors shall affirmatively certify regarding their present capacity and include a staffing chart as set forth in the application. Where an entity is represented as being the Sponsor, but relies on the capacity of a parent organization, or other entity having control of the Sponsor, the Sponsor may be deemed ineligible. Please contact the Department prior to application submission for guidance.

If a Sponsor relies upon the experience of its principal to meet the Sponsor eligibility requirements, documentation of the principal’s experience is required as set forth in the application.

Tribal Entities may contract with an experienced developer who will not be a general partner to meet the requirements of Guidelines Section 7303(c) provided that the contract is fully executed at time of application submission and shall be in effect at least until permanent loan closing and the issuance of 8609 tax forms, if applicable.

C. Eligible uses of funds

MHP funds shall be used only for approved eligible costs that are incurred on the project as set forth in Guidelines Section 7304.

D. Program threshold requirements

A project is not eligible for an award unless it meets the requirements of Guidelines Sections 7318 and 7320(a). Further, Applicants must achieve a minimum point score of 90 points to be considered for a funding award.

E. Program funding amounts and terms

1. Program funding award limit

The maximum amount of MHP funds available in accordance with this NOFA is approximately \$220 million, excluding the \$20 million set aside for excess sites, of which approximately 18.3 percent will be set aside for Senior Housing projects in accordance with Guidelines Section 7317(c)(2) & (3).

MHP's enabling statute requires it to "ensure a reasonable geographic distribution of funds," HSC Section 50675.7. To the extent possible, no less than approximately 45 percent of the total funds awarded under this NOFA will be awarded to projects in Southern California, 30 percent will be awarded to projects in Northern California, and 20 percent will be awarded to projects in Rural areas. In its sole discretion, the Department may determine the geographic distribution targets have been met based either on individual program funding components or on the amount of total funds made available under this NOFA.

For the purpose of geographic distribution:

- Southern California includes the counties of Kern, San Bernardino, San Luis Obispo and all counties to the south of these counties;
- Northern California includes all other counties of the state; and
- "Rural" is defined to be consistent with the definition used by the Tax Credit Allocation Committee (TCAC) for the tax credit program. A list of Rural areas, as well as the methodology to determine Rural or Non-Rural status, can be found on TCAC's website at <https://www.treasurer.ca.gov/ctcac/>

Additionally, \$20 million of available funding will be set aside for a project(s) selected pursuant to Governor Gavin Newsom's Executive Order N-06-19. Pursuant to the RFP, a set-aside of up to \$20 million dollars is to be made available from the Multifamily Housing Program for the selected development entity for their proposed affordable housing development. The RFP was a public and competitive process open to participation by any qualified development entity.

2. Cost limitations

Limitations on development costs and developer fees are set forth in Guidelines Section 7305.

Whereas, the Department shares the interest in maximizing basis and access to 4 and 9 percent tax credits, it will approve a contribution of developer fee in the form of general partner equity, sponsor loan, or sponsor affiliate loan. If structured as a sponsor loan or sponsor affiliate loan, the loan shall be repayable solely from owner distributions remaining after the payment of residual receipts to the Department (non-priority payment from distributions).

For further clarification on the Department's interpretation of Section 8312 of the 2017 UMRs relating to developer fee limits, please reference the following memo: 2017 Uniform Multifamily Regulations (UMR) Developer Fee Limits and Capital Contributions.

Type and terms of loan

MHP loan type and terms are set forth in Guidelines Section 7306.

3. Developer Fee

For Projects utilizing four percent tax credits, Developer Fee payments shall not exceed the amount that may be included in project costs pursuant to Title 4 CCR, Section 10327(c)(2)(A).

4. Maximum loan amounts

The maximum loan per MHP project under this NOFA shall be \$20 million, or the amount allowed under Guidelines Section 7307.

For projects utilizing four percent tax credits the initial base amount shall be \$175,000 per Supportive Housing Unit, \$175,000 per Restricted Unit in a Large Family new construction project located in a "High Resource" or "Highest Resource" area on the TCAC/HCD Opportunity Map, and \$150,000 per other Restricted Units.

For projects utilizing nine percent tax credits the initial base amount shall be \$110,000 per Supportive Housing Unit, \$110,000 per Restricted Unit in a Large Family new construction project located in a "High Resource" or "Highest Resource" area on the TCAC/HCD Opportunity Map and \$95,000 per other Restricted Unit.

5. Interest rate and loan repayments

Interest rate and MHP loan repayments are set forth in Guidelines Section 7308.

6. Appraisal and market study requirements

MHP appraisal and market study requirements are set forth in Guidelines Section 7309 and the application.

7. Rent standards

The Department shall establish rent limits for MHP Assisted Units in each Project in accordance with Guidelines Section 7312.

8. Use of operating income

Use of operating income requirements for MHP projects are set forth in Guidelines Section 7313.

F. Non-Tax Credit Projects

In an effort to reduce demand for CDLAC bond allocations while encouraging efficient and timely development of affordable housing. MHP will reserve up to 20% of funds available under this NOFA to be made available as supplemental funding to qualified non-tax credit project applications subject to the following terms and conditions:

- 1. Sponsor is a non-profit or Tribal Entity;**
- 2. Total Department funding, including MHP, shall not exceed 75% of the total development cost;**
- 3. The MHP loan limit shall be the lesser of the funding gap, not to exceed the NOFA limit of \$20M;**
- 4. Per unit development costs shall not exceed \$550,000;**
- 5. Total developer fee shall not exceed \$2,200,000, in addition, the developer fee paid from development funding sources shall not exceed the per unit limit calculated in accordance with UMR 8312(a).**
- 6. All Department funding, other than MHP must be “committed” prior to final rating & ranking of the MHP application;**
- 7. Qualified projects will receive maximum Leverage points under section 7320(b)(4); and**
- 8. Construction must begin within twelve (12) months after the date of the award letter. Failure to meet this requirement shall result in withdrawal of the MHP award.**
- 9. In the event of a tie, the project having the lowest percentage of Department funding shall receive an award of funds.**

The provisions of this Section are intended to encourage submission of qualified non-tax credit project applications by offering enhanced loan limits, but do not create a set-aside or give these projects an unreasonable competitive advantage.

All applications will be scored and ranked in accordance with Section 7320(b). Only the highest scoring non-tax credit applications will receive enhanced awards.

Applicants may choose to compete as tax-credit, non-tax credit, or both. Applicants which choose to compete as both tax-credit and non-tax credit projects must submit two separate MHP Applications.

G. Application review and project selection

The application review process consists of three phases: 1) initial threshold review; 2) rating and ranking; 3) and project feasibility review. In the event of oversubscription, the Department may establish a preliminary point score and ranking pursuant to Guidelines Section 7320(b). Applications ranked below a fundable range as indicated by the preliminary ranking will not be subject to further review by the Department.

1. Initial threshold review

During the initial review, applications will be evaluated based solely upon the materials contained within the application to determine completeness and compliance with the following minimum requirements:

- a. Eligible Project pursuant to Guidelines Section 7302;
- b. Eligible Sponsor pursuant to Guidelines Section 7303;
- c. Site control in the name of the Sponsor, or an entity controlled by the Sponsor, by any means set forth in UMR Section 8303. UMR Section 8303 notwithstanding, all forms of site control must be of sufficient duration to extend through the anticipated award date set forth in this NOFA (or at least December 31, 2021). Where site control is in the name of another entity, documentation, which clearly demonstrates the Sponsor's control (i.e., the entity's organizational documents), is required;
- d. The application is complete pursuant to Guidelines Section 7318, including submission of all required documents and reports as set forth in the application and application checklist; and
- e. Applications for projects targeting Special Needs Populations, or including Supportive Housing units, must include an initial supportive services plan. **This is not applicable for Agricultural workers.**

2. Rating and ranking

The Department shall rate and rank applications in accordance with Guidelines Section 7320(b). MHP funds will be allocated through a competitive process based on the merits of the application.

The following application point scoring will apply for this 2021 NOFA, Round 4:

1 - Scoring Criteria Table

Criterion	Max Pts.
Extent project serves the lowest income levels (Guidelines Section 7320(b)(1))	35
Extent to which the project addresses the most serious local housing needs (Guidelines Section 7320(b)(2))	10
Development and ownership experience of the Sponsor (Guidelines Section 7320(b)(3))	-50 to 20
Leverage of other funds (Guidelines Section 7320(b)(4))	20
Project readiness (Guidelines Section 7320(b)(5))	15
Adaptive reuse/infill/proximity to amenities/sustainable building methods (Guidelines Section 7320(b)(6))	15
Borrower Organization Bonus	1
Total maximum points	116

Most-Serious Housing Needs: Special Needs Populations

Guidelines Section 7320(b)(2)(A) is revised under this NOFA only to read:

- a. Location in a “High Resource”, or “Highest Resource” area as shown on the TCAC/HCD Opportunity Area Map, OR
- b. Where at least 15 percent of the Restricted Units restricted under the Program regulatory agreement are restricted for occupancy by Special Needs Populations as defined in Guidelines Section 7301(z). (Large Family new construction projects only).

Development and ownership experience of the Project Sponsor: Alternative Scoring

Tribal Entities may use the alternative scoring method set forth in Guidelines Section 7320(b)(3)(E).

Negative points

Five points will be deducted for each occurrence or event in the categories in Guidelines Section 7320(b)(3)(F)(i)-(vi), with a maximum deduction of 10 points per category and a maximum total deduction of 50 points. Events shall not result in the deduction of points if they have been fully resolved as determined by, or to the satisfaction of, the Department as of the application due date, or the date awards are made, at the Department's discretion.

Whereas a hybrid project is generally dependent on approval of a competitive 9 percent tax credit application, five points will be subtracted from the Sponsor's project readiness scores for projects utilizing 4 percent low-income housing tax credits that will be part of an application to TCAC seeking hybrid tiebreaker incentives in accordance with Guidelines Section 7320(b)(5)(E).

Tiebreaker

In the event of tied point scores, the Department shall rank tied applications based on the lowest weighted average affordability of Restricted Units pursuant to Guidelines Section 7320(b)(7).

Bonus point

One bonus point is offered as an inducement to form Borrower entities in advance and provide the organizational documents necessary for the efficient production of standard agreements within ninety days following award announcements.

Applicants which have fully formed the Borrower entity, including all general partner entities, and submit complete Borrower organizational documents as specified in the MHP Application shall be awarded one bonus point.

For-profit Sponsors which have not included the necessary non-profit partners will not be eligible for this bonus. Similarly, applications that include to-be-formed entities, or indicate an intent to change the Borrower organizational structure at a future date (i.e. adding a Sponsor-controlled limited liability company as general partner) will not be eligible for this bonus.

3. Feasibility review

The highest scoring applications will be evaluated for financial feasibility in accordance with UMR Section 8310, the Guidelines, and this NOFA. The Department shall request any other information as set forth in the NOFA or application in order to determine project feasibility and compliance with program requirements. This shall include, but is not limited to, the following:

- a. The Sponsor's organizational documents;
- b. A market study prepared in accordance with TCAC requirements prepared or updated no earlier than 12 months prior to the application due date, which demonstrates a market for the non-Assisted Units and documents the anticipated need for the Assisted Units;
- c. An appraisal prepared or updated at the Sponsor's expense no earlier than 24 months prior to the application due date in accordance with Guidelines Section 7309(b);
- d. A preliminary title report;
- e. For new construction projects, a Phase I Environmental Site Assessment prepared or updated no earlier than 12 months prior to the application due date, and a Phase II environmental report if recommended by the Phase I;
- f. For rehabilitation projects, lead-based paint, mold, and asbestos reports;
- g. For projects serving homeless populations, include a letter from the local Coordinated Entry System (CES) or network homeless coordinator (or similar official) describing the population to be served, affordability of the project rents, and how the project meets a high-priority local need (e.g., waitlists, Point-in-Time Count, and other statistical information).
- h. A supportive services plan will be required for all projects that include MHP assisted Supportive Housing (SH) or Special Need Populations (SNP) units. The minimum threshold requirements will be as follows:
 - i) The tenant selection criteria and process shall be in accordance with applicable state and federal fair housing laws. For projects serving homeless populations, indicate how Sponsor/Applicant will be connected to CES and conform to Housing First practices.
 - ii) Projects must demonstrate integration of targeted disabled populations with the general public by:
 - a) Physically integrating Assisted Units restricted to disabled persons with other units to the maximum extent feasible, and subject to reasonable health and safety requirements, consistent with 24 CFR, Section 8.26.

b) In projects with more than 20 units, have no more than 49 percent of total units restricted to occupancy by persons with disabilities by “Department Funding Sources”, as defined in Section 7302(h). This limitation shall not be interpreted to preclude occupancy of any project units by persons with disabilities, or restrictions by other funding sources, including, but not limited to, TCAC that result in more than 49 percent of total project units being restricted to persons with disabilities. It shall also not apply to projects complying with alternative requirements for demonstrating Olmstead compliance adopted by counties and approved by the Department.

c) Disabled Populations, as applicable to this subsection, is defined in Appendix A of this NOFA.

- iii) A description of the services to be provided, who the provider will be, the provider’s relationship to Applicant, the type of agreement, and service location.
- iv) A completed supportive service staff budget for the SH/SNP MHP Assisted Units. Staffing levels must be sufficient in order to meet the needs of the target population. Industry practice indicates a range of 10 to 15 tenant households per Full Time Equivalent (FTE) service staff person for a project serving a target population likely to need intensive services (i.e., homeless, dually diagnosed individuals). A project serving a less service-intensive target population could be staffed by a range of 15 to 25 tenant households per FTE.
- v) A services line item budget itemizing all expenses and listing the sources, amounts, and status (i.e., proposed or committed) of supportive service funds. Industry practice indicates a range from \$5,000 to \$10,000 per household (depending upon the intensity of the needs of the target population).
- vi) A narrative description of a tenant engagement plan (i.e., a plan to elicit voluntary tenant participation in services). Any occupancy restrictions required by a public agency funding source will be subject to Department approval.
- vii) Commitments or letters of intent to provide operational funding for a minimum of 25 percent of the total service budget (excludes the project operating budget). This requirement may be waived where the lead service provider documents a history of securing supportive service funding similar to the total required in the project service budget.

- viii) A supportive services verification from a public or nonprofit funding or regulatory agency with oversight or monitoring responsibilities for the proposed supportive services for the proposed target population that verifies that:
 - a) The proposed services and staffing levels are adequate and appropriate to meet the needs of the target population(s); and,
 - b) The Applicant or proposed service provider is a viable provider of the proposed support services.

V. Article XXXIV

All projects shall comply with Article XXXIV, Section 1 of the California Constitution, as clarified by the Public Housing Election Implementation Law (HSC Section 37000 - 37002). Article XXXIV documentation for loans underwritten by the Department shall be subject to review and approval by the Department prior to the announcement of award recommendations.

Article XXXIV requires local voter approval before any state public body can develop, construct, or acquire a low-rent housing project in any manner. However, the Public Housing Election Implementation Law (HSC Section 37000 – 37002) provides clarification as to when Article XXXIV is applicable. HSC Section 37001, for example, lists a number of project types that are not considered “low-rent housing projects.”

Applicants must submit documentation that shows 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 that 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:

- A. The name and date of the proposition, and the number of units that were approved;
- B. A copy of the referendum and a certified vote tally;
- C. 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
- D. 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.

VI. Relocation

Both the Applicant and the Department must comply with applicable Relocation Law, which is detailed pursuant to Government Code Section 7260 et seq., the California Code of Regulations, title 25, Section 6000 et seq., and if federal law is applicable (depending on project financing), 49 CFR Part 24 of the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (the “URA”) (collectively referred to herein forth as “Relocation” or “Relocation Law”).

Relocation Law provides important protections and assistance for displaced persons and entities affected by the acquisition, rehabilitation, or demolition of real property for government funded projects. Relocation Law ensures that those displaced individuals and entities whose real property is acquired, or who move (even if temporarily), as a direct result of projects receiving government funds, are treated fairly and equitably and receive assistance in moving from the property they occupy. The Department seeks to ensure that displaced persons, which includes tenants, businesses and homeowners, do not suffer disproportionately as a result of programs designed for the benefit of the public as a whole.

At the NOFA application stage, it is too premature to conduct a detailed Relocation review. At this stage the Department only needs to confirm that Relocation is properly budgeted. Due to the importance of satisfying Relocation Law, the Applicant is encouraged to employ the services of a Relocation consultant to procure a good faith estimate of the potential Relocation cost, which may (or may not) necessitate a Relocation plan. The Department has found that the services of a professional Relocation consultant may save an Awardee money and time in the loan process.

The importance of satisfying Relocation cannot be understated. Failure to follow the Relocation requirements will result in the project not being funded by the Department. Applicants cannot circumvent Relocation Law to avoid Relocation payment assistance by simply not renewing leases, which is not permissible under Relocation Law. At the construction loan close stage, the Department will notify all lenders that failure to satisfy Relocation, particularly the improper displacement of individuals or entities, could jeopardize Department funding.

VII. Appeals

A. Basis of appeals

1. Upon receipt of the Department’s notice that an application has been determined to be incomplete, ineligible, fail threshold review, or have a reduction to the initial point score, Applicants under this NOFA may appeal such decision(s) to the Department pursuant to this section.
2. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant’s eligibility, point score, award, denial of award, or any other matter related thereto.

3. 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.

B. Appeal process and deadlines

1. Process: To file an appeal, Applicants must submit to the Department, by the deadline set forth 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 or areas of the application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be considered if this information would result in a competitive advantage to an Applicant. 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 at MHP@hcd.ca.gov according to the deadline set forth in Department review letters.
2. Filing Deadline: Appeals must be received by the Department no later than five (5) business days from the date of the Department's threshold review, or initial score letters, representing the Department's decision made in response to the application.

C. Decision

Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with the Guidelines and this NOFA. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department.

VIII. Award announcements and contracts

A. Award announcements

It is the Department's intent to announce awards in January 2022. Award recommendations will be posted on the MHP website.

B. Contracts

Successful Applicants (Awardee(s)) will enter into Standard Agreements with the Department. The Standard Agreement contains relevant terms and conditions for the funding of the award.

The Department has set a goal to deliver Standard Agreements to the Awardee(s) within 90 days following the date of the Award announcements. To facilitate efficient processing of Standard Agreements, Sponsors are strongly urged to submit organizational documents of the Borrower with their application. The Awardee(s) shall remain a party to the Standard Agreement for the entire term of the Standard Agreement; removal of the Awardee(s) shall be prohibited.

IX. Application, submission, and workshops

Applications must meet eligibility requirements for Sponsor, project and costs upon submission (See Program Requirements above for eligible Applicants, eligible Projects and eligible uses of funds). Modification of the application forms by the Applicant is prohibited. It is the Applicant's responsibility to ensure the application is clear, complete and accurate. After the application deadline, Department staff may request clarifying information, provided such information does not affect the competitive rating of the application. No information, whether written or oral, will be solicited or accepted if this information would result in a competitive advantage to an Applicant or a competitive disadvantage to other Applicants. No Applicant may appeal the evaluation of another Applicant's application.

A. MHP Application

The MHP Application must be submitted under this NOFA and will be funded on a competitive basis, as set forth in the Guidelines. The MHP Application and program Guidelines are available on the MHP website.

B. Application submittal

Application materials must be submitted electronically via the Financial Assistance Application Submittal Tool (FAAST) system.

Electronic FAAST Submission - Requirements for uploading the MHP Application and required supporting documentation, including naming conventions, are described in the MHP Application instructions page. Applicants must upload all application materials to the FAAST system no later than **5:00 p.m. Pacific Daylight Time on Wednesday, September 29, 2021.**

Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on the Department's forms and cannot be altered or modified by the Applicant. Excel forms must be in Excel format, not a PDF document.

C. Application Workshops

The Department will conduct online application workshops for the Round 4 application submission. MHP workshop details, and related program information, will be posted on the MHP website. Workshop questions should be directed to: MHP@hcd.ca.gov.

D. Disclosure of Application

Information provided in the application will become a public record available for review by the public pursuant to the California Public Records Act (Gov. Code Section 6250 et seq.). As such, any materials provided are subject to disclosure 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 account numbers, personal phone numbers and home addresses. By volunteering such information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

X. Other Terms and Conditions

A. Right to Modify or 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 and will post the revisions to the Department's website. To receive updates, please subscribe to our MHP listserv. Please note that in the event this NOFA is amended, the Department will require new authorizing resolutions from successful Applicants, the Borrower, and all constituent entities thereof.

A. Conflicts

In the event of any conflict between the terms of this NOFA and either applicable state or federal law or regulation, the terms of the applicable state or federal law or regulation shall control. Applicants are deemed to have fully read and understand all applicable state and federal laws, regulations and guidelines pertaining to MHP, and understand and agree that the Department shall not be responsible for any errors or omissions in the preparation of this NOFA.

APPENDIX A

Notice of Changes to the Multifamily Housing Program Guidelines