

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF STATE FINANCIAL ASSISTANCE
ASSET MANAGEMENT AND COMPLIANCE BRANCH**

2020 W. El Camino Avenue, Suite 400, Sacramento, CA 95833

P. O. Box 952054

Sacramento, CA 94252-2054

(916) 263-2771 / (FAX) 263-2763

www.hcd.ca.gov**ASSET MANAGEMENT AND COMPLIANCE (AMC)****ADMINISTRATIVE NOTICE
NOTICE NUMBER: 21-02****DATE: May 5, 2021****TO: Sponsors and Borrowers****FROM: Steven Marshall, Section Chief
Asset Management and Compliance Branch****SUBJECT: No Place Like Home (NPLH) Capitalized Operating Subsidy Reserve (COSR)
Frequently Asked Questions**

The NPLH Program was signed into law by Governor Brown on July 1, 2016 to acquire, design, construct, rehabilitate, or preserve permanent supportive housing for persons who are experiencing homelessness, chronic homelessness or who are at risk of chronic homelessness, and who are in need of mental health services. Projects funded by the Department of Housing and Community Development (the "Department" or "HCD") under the NPLH Program may have also been awarded funding to create a COSR. The purpose of the COSR is to address eligible operating deficits attributable to designated COSR Assisted Units. The following includes questions and answers on the COSR disbursement requirements and process.

For additional information on COSRs, the NPLH Program Guidelines, and other NPLH Program requirements, please visit the Department's [NPLH Program](https://www.hcd.ca.gov/grants-funding/active-funding/nplh.shtml) website page, located at <https://www.hcd.ca.gov/grants-funding/active-funding/nplh.shtml>.

1. What is the process for an Applicant/Borrower/Sponsor to designate a COSR payee other than the Borrower on the Standard Agreement (SA) (in effect for 30 years) or change the payee for the COSR?

The Applicant/Borrower/Sponsor must submit required documentation to the Department to designate a COSR payee other than the Borrower, add a payee, or change the payee. If the addition or change is requested during the application period up through construction loan closing, the Applicant/Borrower/Sponsor should contact HCD's Program Design and Implementation (PDI) Branch. If the change is requested after the construction loan closing but prior to the permanent loan closing, the Applicant/Borrower/Sponsor should contact HCD's

Loan Closing Branch. If the change is requested after the permanent loan closes, the Borrower/Sponsor should contact the Asset Management and Compliance Branch.

The Applicant/Borrower/Sponsor may be required to submit additional documents to make this change including, but not limited to, an Amendment to the Standard Agreement (SA) (form STD 213 A), a Taxpayer Identification Number (TIN) for a government entity, or a new Payee Data Record (form STD 204) for other Applicants/Borrowers/Sponsors. Please work with the assigned Department representative for the Project if you need to begin this process. Please note that a change in payee or a change in payee address may result in longer COSR disbursement times. For this reason, the Department highly encourages the Applicant/Borrower/Sponsor to decide on who the COSR payee will be as soon as possible and make these changes well before the close of the NPLH permanent financing.

2. **The Borrower makes a request for a COSR disbursement using the Department's COSR Disbursement Request Form. Who is approved to sign the COSR Disbursement Request Form?** Only persons included in the Borrower/Sponsor's Authorizing Resolution on file with the Department are approved to sign the COSR Disbursement Request Form on behalf of the Borrower. A new Authorizing Resolution must be provided to the Department if there is a person added or removed as an authorized signer. The Borrower/Sponsor shall not designate another person using any other method.
3. **What is the standard process for annual COSR disbursements?** The Borrower/Sponsor shall submit the COSR Disbursement Request Form annually at the time of submitting the Project's required bifurcated independent audit prepared by a certified public accountant ("Audit"), which is within 90 days after the end of each fiscal year (FY). The bifurcated Audit will show revenue and expenses for the NPLH COSR Assisted Units separately from the revenue and expenses for all other units. The Audit submitted must be in accordance with the [Audited Financial Statements Handbook for Multifamily Rental Housing](https://www.hcd.ca.gov/grants-funding/already-have-funding/docs/hcdcalhfaaudit handbook.pdf) located on the Department's website at <https://www.hcd.ca.gov/grants-funding/already-have-funding/docs/hcdcalhfaaudit handbook.pdf>, which may be revised from time to time.

The Department will review the Annual Report, including the annual bifurcated Audit, to determine revenue and expenses for both the COSR Assisted units and other units. The Department will base the approved COSR disbursement on COSR eligible operating deficits pursuant to NPLH Guidelines Section 209 and the Capitalized Operating Subsidy Reserve Agreement (COSRA).

- a. The Department will not authorize a COSR disbursement that is higher than the Project is eligible to receive. The amount may be lower than the Borrower/Sponsor requested. The Department will include the total approved amount on the COSR Disbursement Request Form and return it to the Borrower/Sponsor.
- b. The Department will authorize the Borrower/Sponsor requested amount on the COSR Disbursement Request Form if the Borrower/Sponsor requested a lower COSR disbursement compared to the eligible disbursement amount determined by the Department as part of the Annual Report review.

- c. Each annual COSR disbursement amount may be no greater than 5% of the total COSR award unless an exception is granted to allow 7% of the total COSR award for extraordinary circumstances (NPLH Guidelines Section 209 (j)). In no case may any COSR disbursement be more than 7% of the total COSR award, and after any recalculation/resizing of a Project's remaining COSR funds, no annual disbursement may be greater than 7% of the remaining COSR amount. For example, an exception can be granted in the first and second years of operations as noted in question four (4) below. In order to receive a 7% COSR disbursement, the Borrower/Sponsor must request an exception in writing to the Department that includes the reasons for the exception. See questions seven (7) through ten (10) below on COSR disbursement resizing and impact on COSR disbursement limits.

The Department will return the approved COSR Disbursement Request Form to the Borrower/Sponsor with the Annual Report review determination. The only time COSR disbursements are not made once-per-year after Department approval of the submitted Audit, is at the time of permanent loan closing, if requested by the Borrower, as detailed in question four (4) below.

4. Borrowers/Sponsors may request an initial COSR disbursement at the time of permanent loan closing. This initial COSR disbursement amount is the only time a disbursement can be made without submittal of an annual bifurcated Audit. (a) What time period does this cover? (b) How does the Borrower/Sponsor make the initial request? (c) What is the COSR disbursement process? (d) How long will it take from the time of request to the State Controller's Office (SCO) disbursement?

- a. The initial COSR disbursement can be requested by the Borrower to cover operating revenue shortfalls attributable to the NPLH COSR Assisted Units during the following:
 - Initial operating year (first FY) including the rent-up period (after receipt of the Certificate of Occupancy) that occurs prior to permanent loan closing (up to 7% of the total COSR award).
 - The second FY of operations (up to an additional 7% of the total COSR award).

The next COSR disbursement is received after the end of the third year of operations (third FY) if the Borrower/Sponsor requested an initial COSR Disbursement for the first and second operating years, or after the end of the second year of operations if the Borrower/Sponsor only requested an initial COSR Disbursement for the first operating year (which may include the rent-up period). If the Borrower/Sponsor elects to request a COSR disbursement exceeding 5% of the total COSR award amount, for the initial disbursement request(s) or any subsequent year of operations, the higher request will result in less COSR funds available in subsequent years. Please see questions seven (7) through ten (10) for information on when and how the Department will re-size subsequent COSR payments.

- b. The Borrower/Sponsor makes the initial COSR disbursement request by submitting the HCD COSR Disbursement Request Form to the AMC-Fiscal (AMC-F) Representative when submitting the initial Operating Budget for approval during the permanent loan closing process. The Department will provide the Borrower/Sponsor with a preliminary approval of the initial COSR Disbursement Request Form with the Operating Budget approval. The Department reserves the right to ask for an updated COSR Disbursement Request Form when necessary (e.g., when a new Operating Budget is submitted). Although the Department will pre-approve the COSR Disbursement Request Form, COSR funds will not actually be disbursed to the Borrower/Sponsor until after permanent loan closing and recordation of the NPLH Regulatory Agreement.
- c. The Department is committed to reviewing a COSR Disbursement Request Form as quickly as possible by beginning the request process prior to the NPLH permanent loan closing. The Project will be assigned to an AMC-F Representative approximately 60 days before the permanent loan closes. The AMC-F Representative will review and provide an approval of the Project's initial Operating Budget and a preliminary approval of the COSR Disbursement Request Form to the Borrower/Sponsor. Upon permanent loan closing and recordation of the Project's NPLH Deed of Trust and Regulatory Agreement, the Department will approve, process the request, and submit the documents to the SCO within approximately 13 business days. Incomplete information, a change in payee, or a change in the COSR disbursement amount or designee may result in a longer review and/or disbursement times.
- d. Borrower/Sponsor's may use the COSR Projection Schedule below to obtain estimated COSR disbursement timeframes. **However, please note: In all cases below, HCD will process the COSR Disbursement Request Form and submit it to SCO, but the Department cannot control the timeframe SCO will need to actually send a check to the Borrower/Sponsor.**

Initial Disbursement Request for Operating FY 1 and FY 2

Action	Timeframe	Date
Borrower/Sponsor submits the FY 1 Operating Budget and FY 1* and FY 2 COSR Disbursement Request Form	Submittal date – approximately 60 days before the NPLH permanent loan closing	<i>Example: 1/1/2021</i>
Department reviews and approves the FY 1 Operating Budget and provides a FY 1 and FY 2 preliminary approval of the COSR Disbursement Request Form	30 calendar days from submittal date	<i>Example: 1/31/2021</i>
Permanent Loan Closes	Permanent Loan Closing date	<i>Example: 3/1/2021</i>
Department processes the COSR Disbursement Request Form and submits release to the SCO for COSR Disbursement	13 business days from Permanent Loan Closing	<i>Example: 3/14/2021</i>

*Covers the initial operating FY following loan closing and the rent up period that occurred during that year after the Certificate of Occupancy, though prior to permanent loan closing.

COSR Disbursement Request for Operating FY 3

Action	Timeframe	Date
Borrower/Sponsor submits the FY 3 Annual Report/Audit and the COSR Disbursement Request Form	Submittal date – no later than 90 days after the end of the FY	<i>Example: 4/1/2024</i>
The Department reviews and approves the FY 3 Annual Report/Audit and COSR Disbursement Request Form	30 calendar days from date of receipt*	<i>Example: 5/1/2024</i>
Department processes the COSR Disbursement Request Form and submits release to the SCO for COSR Disbursement	Up to 25 business days from the Department’s approval date of the Annual Report (including the bifurcated Audit) and the COSR Disbursement Request Form	<i>Example: 6/6/2024</i>

*Incomplete Annual Report/Audit submittals including the COSR Disbursement Request Form may result in longer Department review times.

- 5. Should the requested initial COSR disbursement be included in the initial proposed Operating Budget?** Yes, the requested initial COSR disbursement amount should be included in the initial Operating Budget for the purposes of closing the NPLH permanent loan. The Borrower/Sponsor should inform the Department if they plan to request an initial COSR disbursement for the first FY or the first and second FYs, as noted above, otherwise the COSR will be disbursed following the Department’s review of the Annual Report/Audit following the first full fiscal year of operations.

The Borrower/Sponsor should include the COSR withdrawal amount on the Operating Budget, tab 4, Additions to Cash Flow as “Other” and label the line as “NPLH COSR”.

56	Additions to Cash Flow:						
57	41	Borrower Contribution	0	0	0	0	0
58	42	Other (specify) NPLH COSR	0	124,000	0	0	124,000
59	43	Other (specify)	0	0	0	0	0
60	44	Other (specify)	0	0	0	0	0
61	45	Total Additional Revenue	0	124,000	0	0	124,000

The Department will return an approved initial Operating Budget to the Borrower/Sponsor. The approved Operating Budget does not constitute a COSR Disbursement approval. The COSR Disbursement Request Form is submitted to the Department with the initial proposed Operating Budget to document the amount of COSR requested by the Borrower/Sponsor. Once the COSR Disbursement Request Form is approved, the Department-signed form will be returned to the Sponsor and serves as the Department’s approval.

After the initial COSR Disbursement, any subsequent COSR amounts requested for subsequent FYs are submitted with the Annual Report inclusive of the bifurcated Audit, and should not be included in any subsequent Operating Budgets. See question three (3) above for more information.

- 6. What happens if the Borrower/Sponsor received a higher COSR disbursement at permanent loan closing than was needed to cover qualified operating deficits attributable to COSR assisted units per the Project’s annual bifurcated audit?** The Department will make a final determination of operating deficits that are COSR eligible as part of the Audit review and approval process. If the deficit is determined to be lower than the amount issued at permanent loan closing for the first FY or the first and second FYs, the Department will apply the excess amount toward the next year’s COSR disbursement under NPLH Guidelines Section 209 (k)(1). Alternatively, the Borrower/Sponsor may make a request to the Department to return the excess amount to the Department under Section 209 (k)(2), or recalculate/resize the Project’s total remaining COSR amount under Section 209 (k)(3).
- 7. When is the COSR reevaluated?** The Department will evaluate the total amount of COSR funds used as part of the 5th FY Annual Report submittal. Per NPLH Guidelines Section 209 (l), if the Department finds that the Project has used more than 25 percent of the total amount of the Project’s COSR funds, the Department may limit the amount of withdrawals of the

remaining COSR funds. This process is called “resizing” the COSR disbursement. As noted above, once the COSR has been resized, annual disbursements should be no higher than 5%, though in no case may an annual disbursement amount be greater than 7% of the remaining amount of COSR funds. The purpose of resizing the COSR is to ensure that the COSR lasts a minimum of 20 years.

- 8. **Can the COSR disbursement amount be resized before as well as after the 5th year?** Yes, the Department may resize the COSR disbursement at years five (5), 10 and 15, and also prior to FY 3, or the Second Disbursement, if the Project requests both of the first two fiscal years at 7% disbursement amounts.
- 9. **How does the Department resize the COSR disbursement?** The Department will divide the remaining COSR funds by the remaining years through year 20.

Year	Total COSR Disbursement
Permanent Loan Closing	Awarded COSR Funds/20 Years
5	Remaining COSR Funds/15 Years
10	Remaining COSR Funds/10 Years
15	Remaining COSR Funds/5 Years

- 10. **What happens if there are COSR funds remaining after year 20?** The COSR funds stay committed to the Project, and are held by the Department for continued eligible uses (deficits attributable to COSR Assisted Units) for as long as the funds are available. These funds are not released to the Borrower/Sponsor, investor or any other party for any other purpose including, but not limited to, a limited partner exit. The Department will work with the Borrower/Sponsor to determine the amount available for allocation at year 20 and the process for issuing remaining funds to cover eligible future deficits per the NPLH Guidelines. In the event COSR funds remain after the end of the entire term of the NPLH Regulatory Agreement, the Department will return the undisbursed funds to the NPLH or other appropriate state housing fund.
- 11. **How are tenant households determined to be eligible for Occupancy at a NPLH funded Project?** Eligibility requirements are determined per the Statute and the NPLH Guidelines. The Statute on these requirements is located at: [Welfare and Institutions Code section 5849.1 et seq.](http://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=5.&title=&part=3.9.&chapter=&article=) located at http://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=5.&title=&part=3.9.&chapter=&article=
- 12. **How can Borrowers/Sponsors get more information about the COSR Disbursement Process or ongoing monitoring and compliance requirements?** Please visit the Department’s [Reporting and Compliance](https://www.hcd.ca.gov/grants-funding/already-have-funding/all-rental-projects.shtml) website (located at <https://www.hcd.ca.gov/grants-funding/already-have-funding/all-rental-projects.shtml>) for additional information on reporting and compliance requirements. Borrowers/Sponsors can also send questions regarding this Administrative Notice or long term monitoring and compliance of the NPLH Program to the

Project's assigned Asset Management and Compliance Fiscal Representative, or to the Asset Management and Compliance Branch at AMCBranch@hcd.ca.gov.