



Multifamily Super NOFA (MFSN)  
NOFA Date: March 30, 2022  
Q&A Date: June 16, 2022

## Multifamily Super NOFA March 2022 Round 1 Q&A

This Questions and Answers (Q&A) document represents key information and inquiry responses provided to potential applicants for the Multifamily Super NOFA. The questions and answers published below provide clarification and additional detail on the Multifamily Super NOFA Guidelines and application process.

The most recently added questions & answers have been prefaced with **\*\*New\*\*** for a more efficient review experience. Questions are organized into the following categories (additional categories to be added as questions are received).

### Table of Contents

<b>Table of Contents</b> .....	<b>1</b>
<b>Application</b> .....	<b>2</b>
<b>Appraisals</b> .....	<b>8</b>
<b>Article XXXIV</b> .....	<b>10</b>
<b>Eligible Sponsor</b> .....	<b>11</b>
<b>Eligible Project</b> .....	<b>14</b>
<b>General</b> .....	<b>15</b>
<b>Feasibility</b> .....	<b>29</b>
<b>IIG</b> .....	<b>29</b>
<b>CEQA/NEPA</b> .....	<b>34</b>
<b>Reports</b> .....	<b>36</b>
<b>Site Control</b> .....	<b>37</b>
<b>Threshold</b> .....	<b>40</b>
<b>VHHP</b> .....	<b>41</b>

## Application

- 1. Pursuant to HCD's allowance of concurrent applications, NOFA Section §II(E): Will the forthcoming e-application allow for a project that qualifies (e.g. meet the threshold/points/loan requirements) for both MHP and VHHP, to indicate that \$xxx amount of funds (within the loan(s) limits) are being sought and would like the ability to compete for either MHP funds or VHHP funds, WITHOUT having to prepare a separate application "scenario" for evaluation?**

**Obviously, it would save time on both sponsor (preparing the application) and HCD (reviewing the application) if the project was not required to prepare another application for the same amount of funds with the same financing structure, just to request either MHP or VHHP funds (as they are available).**

The Super NOFA released March 30, 2022, makes funds available for the MHP, VHHP, Serna (Multifamily), and IIG (Qualified Infill Projects) programs in one combined application. Sponsors may apply for one or more Super NOFA program, with the request based on the funding needs and gap.

- 2. Can you please confirm we can only apply for IIG, or just Serna, and that MHP does not need to be requested in every application?**

The Super NOFA released March 30, 2022, makes funds available for the MHP, VHHP, Serna (Multifamily), and IIG (Qualified Infill Projects) programs in one combined application. Sponsors may apply for one or more Super NOFA program, with the request based on the funding needs and gap.

Please see the Super NOFA Section I (D) for the per unit loan limits available.

- 3. Do you have a definition of "Community Based Developers" so I can be sure we fit into that category?**

Community Based Developer (CBD) is a new Sponsor entity type that has been defined. Defined terms can be located in Appendix A, located at the end of each set of Program guidelines. The CBD defined term lists all the qualifying factors and can be found in Appendix A.

A qualified CBD must also meet all eligible Sponsor requirements. For a full list of eligible Sponsor requirements, please see MHP Guidelines Section 7303.

The Super NOFA Application lists the requirements for community based services. Please ensure you select the applicable sections in the Project Overview, which will provide additional conditions needing to be met.

- 4. I want to be sure I'm using the most up to date MHP loan limits. On HCD's website, I was able to find the MHP 2021 Per Unit Loan Limits, which were effective starting April 1, 2021. Are these still the right loan limits to use?**

The current Loan Limits for the March 30, 2022, Multifamily Super NOFA (MFSN) are available on the HCD website. [State and Federal Income, Rent, and Loan/Value Limits | California Department of Housing and Community Development](#)

- 5. In scoring section, where you are prioritizing application also applying for VHHP/SERNA, can you confirm that a project with an existing VHHP award that is only applying for MHP and IIG will get that same benefit?**

The Multifamily Super NOFA dated March 30, 2022, Sections I (J) (2) (a-k) provides an overview of the application ranking process and funding order. Projects that have previously awarded funds in any of the four (4) Super NOFA programs – MHP, VHHP, Serna MF, or IIG QIP, are not eligible for the priority ranking. The priority is given to applications with requests for new Super NOFA funding.

- 6. Reducing Barriers Plan – Can you clarify if this is regarding marketing of the building or something else?**

The Super NOFA application, document checklist provides a list of all potential documents required for your proposal. The Department does not provide templates for the attachments referenced.

Attachment # 59, the AICP Letter, would be provided as part of the Universal Scoring Matrix document requirements. The Super NOFA dated March 30, 2022, Section III (E)(2) identifies scoring opportunities for Loan and Environmental Approvals. If you qualify for Section III (E)(2)(iii), the accompanying document to verify that score would be attachment #59. It would be a letter signed by a planner certified by the American Institute of Certified Planners that the project meets all of the requirements under a non-discretionary approval process. For the full criteria, please ensure you review the section reference provided.

Attachment # 67, the Reducing Barriers Plan, would be provided as part of the Universal Scoring Matrix document requirements. The Super NOFA dated March 30, 2022, Section III (F)(3) identifies scoring opportunities for Broadband Access. If you qualify for Section III (F)(3), the accompanying document to verify that score would be attachment #67. It would be a plan for reducing barriers to broadband internet access for Project tenants. The plan can include programs providing free or reduced prices, internet facilities and equipment, as well as training or technical assistance. For the full criteria, please ensure you review the section reference provided.

- 7. The Entity Org Docs tab of the excel applications references “Resolutions templates” and to check the web site for new templates. Can you please**

**direct me to where these can be downloaded or when they will be available?**

For this first round of Super NOFA funding, a resolution is not required for any Sponsor or entity at the time of application. If a project is awarded, the assigned representative will reach out to obtain the applicable resolutions.

- 8. When I click on solely IIG as the HCD program, the scoring automatically gives me 10 points in the State Priority – Special Needs section without any special needs units. My understanding from the guidelines is that we must have at least 10% of units designated as special needs regardless of what application (MHP, IIG, VHHP) we are applying to. That said, the application appears to give me full points (10 points) in this section when we are applying solely to IIG without a special need’s population. I would like confirmation that we would receive 10 points in the “State Policy Priorities” -special needs section if we only applied for IIG and did not have a special needs population as the application indicates.**

The IIG Restrictive Covenant, recorded against the fee of the Qualifying Infill Project, shall impose development, use, and affordability restrictions upon the real property. However, IIG does not impose, or regulate occupancy (i.e. Special Needs Populations). For this reason, and to ensure equitable scoring outcomes, projects proposing IIG only will automatically receive 10 points in the State Policy Priorities category. An upcoming NOFA amendment will clarify this provision, which is properly calculating in the Super NOFA Excel application.

- 9. If we were to apply for both IIG and MHP, I understand that to score at least 8 points from the State Priority – “Special Needs” section we would need at least 10% of the units allocated to “special needs” (5 units). Because we would have a special needs component, we would need an integration plan, a supportive service plan, and a contract with our service provider. Is there anything else that must be included if we have a portion (10%) of units designated to “special needs”?**

All projects proposing any special needs units must include a preliminary Supportive Services Plan (SSP) meeting the requirements of Section 7310 at time of application. Prior to the permanent closing of the MHP loan, the Sponsor shall finalize the plan and obtain the Department’s express written approval thereof. Note that submission of the preliminary SSP is a threshold requirement.

Only Special Needs Projects where at least 25 percent of the Restricted Units are limited under Department Regulatory Agreements to occupancy by Special Needs Populations, must comply with the requirements of Section 7302(5), including the integration requirements.

To open the SSP tabs in the Application, you may need to select “Special Needs” as a project type, in addition to your actual project type, in the Project Overview tab.

**10. We will have obtained all land use approvals prior to issuance of a building permit, so we score the 5 Points. I put “No” for 2(A)(ii) and 2(A)(iii) because if I put “Yes” more documents such as a Land Use App Submission are required although we are attaching Local Approvals (File #63). Is this the correct way to fill out the application?**

To obtain points in Universal Scoring Section E(2)(a), “Land Use Approvals”, select only the option which is applicable to your project. The choices are (i) OR (ii) OR (iii).

**11. I am wondering what the "Manager of LLC" is in the organizational documents section of the checklist. Could you provide an example or definition?**

Pursuant to UMR Section 8313.2(a)(3) Special Purpose Entity(ies) “There shall be no more than two corporate entities between the Sponsor and the special purpose entity in the corporate control and organizational structure(s). For the purposes of this subsection, “corporate entity” may include a corporation, limited liability company, business trust, limited partnership, or general partnership. For the purposes of determining “control,” the Sponsor must provide, at the very minimum, evidence satisfactory to the Department that the Sponsor (or Sponsors) through direct control of the corporate entities between the Sponsor and the special purpose entity, performs the substantial management duties on behalf of the special purpose entity”.

The term “Special Purpose Entity” refers to the Owner/Borrower, which is often a Limited Partnership. In the majority of projects, the Borrower structure includes the Sponsor → a Sponsor-controlled affiliate (typically an LLC as Managing or Administrative General Partner, as applicable to the for-profit/non-profit status of the partners) , and → the LP (Borrower). In this structure there is one entity between the Sponsor and the LP.

In some instances, the Borrower structure may include an additional entity Sponsor → Sponsor-controlled affiliate LLC → 2<sup>nd</sup> Sponsor-controlled affiliate LLC as MGP/AGP → LP (Borrower). This structure has two entities between the Sponsor and the LP.

The “Manager of LLC” in the organizational documents section refers to the 2<sup>nd</sup> entity described in the above example. Note that this entity is not required to be an LLC, although that is the most common, it could be any of the entity types stated in UMR Section 8313.2, provided that the Sponsor demonstrates control of all entities and the LP/Borrower.

**12. Would a “Yes” response to the following question in Project Overview tab disqualify project?: “Does Sponsor/Applicant plan to complete, or has completed, any emergency repairs to existing structures required to eliminate hazards or threats to health and safety?” We will be**

**demolishing existing structures and installing vapor barrier during construction.**

A “yes” answer does not disqualify a project, but this question is specific to “emergency repairs as described in MHP Guidelines Section 7302(c): ”At the time of the application due date, the construction or Rehabilitation work has not commenced, except for emergency repairs to existing structures required to eliminate hazards or threats to health and safety”.

Such emergency repairs must be verified (i.e. documentation of condemnation or mandatory requirement of the local jurisdiction). Otherwise, no construction activities, including demolition of existing structures and installation of vapor barriers shall have commenced prior to the date of application submission. Your comment “We will be (doing demolition & vapor barrier) during construction” seems to indicate that these are not emergency repairs as specified in 7302.

**13. We have a project where the only required discretionary review is design review. The form does not account for a situation where the only discretionary approval is design review.**

**a. How do you suggest we fill this form out?**

**We have a project where the Project site is has been determined as eligible for streamlined ministerial approval under SB-35. The form does not account for a situation where the Project site is eligible for streamlined ministerial approval under SB-35.**

**b. How do you suggest we fill this form out?**

**i. Would it make sense to leave this section of the form blank and provide a separate letter from the planning department confirming Project site eligibility for SB-35**

The Super NOFA Application, Local Enviro Verification tab is applicable to all Project proposals, regardless of funding type requested. MHP Guideline Section 7303.1 lists all minimum threshold requirements. Submission of the completed Local Approval and Environmental Review Verification (the “Verification”) is a threshold requirement as part of a complete application.

There are also scoring opportunities per the Universal Scoring Matrix, Section III located in the Super NOFA dated March 30, 2022. The local jurisdiction must complete the Verification indicating the status of the review and supporting documentation is required. If the project is subject to design review only, please select N/A in the drop down options with additional comments located in the comment box located below the question.

If your project is subject to the streamlined process identified in SB-35, select the N/A in the drop down options with additional comments located in the comment box located below the question. Any supporting documentation related to the SB-

35 eligibility should be provided along with a Letter of Explanation. The Verification and all supporting documentation should be submitted by the application due date.

**14. **\*\*New\*\*** Is there a certification form Super NOFA and/or MHP would like sponsors to use to attest to the nondiscrimination policy and fair housing requirements?**

The Super NOFA Application, Project Overview tab, provides self-certifications the Sponsor is attesting to. No additional documentation is required to be submitted at the application due date.

**15. **\*\*New\*\*** My project has an existing VHHP commitment. In the Super NOFA, I am applying for additional funding from MHP and IIG. On the Super NOFA Application Portal initial page, should I select Yes or No for VHHP? The question only lists the program and requests Yes or No; it does not specify if it is requesting the funds you are applying for in this Super NOFA, or the funds that are applicable to your project in general.**

Applicants should select only the programs for which they are seeking funding under this Super NOFA. Prior award information must be entered in the Excel Application in the Project Overview, Unit Mix and Development Sources tabs.

**16. **\*\*New\*\*** My project is applying for MHP as a ‘Large-Family’ qualifying project. The project also happens to have about 37% of the units restricted to special needs (homeless vets, per prior VHHP award), but we are not asking to be a Special Needs project. We are taking 10 points for State Policy Priorities for having 25%+ Assisted Units serving Special Needs populations. Please confirm:**

- a. We don’t need to meet all requirements of Special Needs projects
- b. Experience scoring doesn’t need to go by the Special Needs criteria
- c. We can simply submit the supportive services plan from our previous HCD VHHP application which is the program funding the Special Needs units as an FYI, but do not need to re-do the supportive service plan and documents for this application

- a. To receive points under State Policy Priorities, the special needs units claimed for points must be funded by a Super NOFA funding source, in this case, MHP. Using the revised application, which was posted on 6/10/2022, identify these units associated with MHP in the column “Special Needs”, matching the VHHP units. Note that in addition to VHHP, these units will be restricted under the MHP Regulatory Agreement as special needs units. The project does not need to be identified as a Special Needs Project to include these units.
- b. Because this project has received a prior award of VHHP funding, the Applicant should adhere to the VHHP requirements.

- c. If the special needs units are limited exclusively to the VHHP units, an MHP SSP is not required and the VHHP SSP should be submitted. However, if additional units are added as MHP special needs units, an MHP SSP will be required.

- 17. \*\*New\*\* My project plans to request 5 points for being served solely by electricity and no gas connections. The attachment description asks for a certification that the development ‘will contain the level of electricity stated in the Green Building Status document.’ What is the Green Building Status document as it relates to electrification? Can we simply have a letter from a licensed professional certifying that the building will be all-electric and have no gas connection?**

Please refer to the revised application posted on 6/10 which now states “Provide a document from a licensed professional that the document that the AHD or Mixed-Use Development will contain the level of electricity stated in this application”.

- 18. \*\*New\*\* Is it true that a new workbook will be released? What is the timing? If the application on the website has been populated, then can HCD staff make its corrections to the populated one?**

The Application was revised and posted on 6/10/2022. To ensure the accuracy and functionality of the application, Applicants must reenter their project information in the 6/10 revision and resubmit through the SNAP online portal. Prior versions of the Application will not be accepted.

HCD regrets and apologizes for this inconvenience, but due to several significant changes announced in the NOFA Amendment #1, dated 6/10/2022, use of the revised application has been determined to be necessary.

## **Appraisals**

- 1. We have a project that will be applying for funds under the HCD Super NOFA. We see a note in the NOFA that an appraisal will be required to substantiate the value of the land donation if including in the tiebreaker calculation. We would like to inquire whether a broker valuation letter would be acceptable documentation to establish the value of the land donation?**

**This property was purchased off the market by XXXX at the request of the City of Sunnyvale. It was subsequently sold to the City of Sunnyvale who is now the owner of the land and contributing the land back to the project under a long-term ground lease. Prior to the original purchase off the market, the seller’s broker provided a broker’s valuation letter to the City with information about all bids received and how our purchase price compared to other bids.**

**Please let me know if this would be acceptable documentation for the**

## **Super NOFA application.**

A broker's valuation letter to the city would not be deemed acceptable documentation by the Department. If your proposal requires the submission of an appraisal, refer to MHP Guideline Section 7309 for Appraisal Requirements.

### **2. Land donations can be counted as leveraged funds with a "current appraisal" – does current mean within the last 12 months?**

(Land Cost): If the application has land costs or value associated to the project, and shown on the Development Budget, an appraisal is required. Appraisals will be accepted, regardless of date, provided the value supports the costs documented on the Development Budget. In this example the Development Budget would include the value of the donation and the corresponding Source would be Land Donation in the same amount.

### **3. Please confirm when an appraisal is required, the application states that "if land cost or value is included in the development budget, an appraisal report supporting the cost or value is required." Typically an appraisal is only required if the land cost is shown as a source in the development sources but this language seems to indicate that if any land value is shown in the development budget, an appraisal needs to be provided. Please confirm.**

Correct. If the application includes land costs or value associated to the project, in the Development Budget, an appraisal is required. Appraisals will be accepted, regardless of date, provided the value supports the costs documented in the Development Budget.

The Development Budget includes all costs related to the development of the project. Every "cost" would have a corresponding "source", you can not have one without the other. For example, the Development Budget may show a land cost of \$500,000 with a corresponding source of Land Donation of \$500,000

### **4. If we created a Limited Partnership entity to serve as the owner/borrower for project would Sponsor be non-profit controlling entity with experience or Limited Partnership? Would non-profit have to be recipient of funds?**

Pursuant to MHP Guidelines Sections 7303(d), (e), and (f) the Sponsor shall have sufficient experience and capacity to acquire, develop and own an affordable rental housing. Further, the Sponsor shall maintain direct and continuing control of the Rental Housing Development throughout the full term of the Department's use restriction on the Rental Housing Development.

Alternatively, if the Department's funding disbursement is structured with or through a special purpose entity (i.e., a Limited Partnership), the Sponsor shall exercise direct and continuing control over such special purpose entity in accordance with UMR Section 8313.2 and throughout the full term of the Department's use restriction on the Rental Housing Development.

For loans, HCD funds will be disbursed to the Owner/Borrower. For IIG Grants,

funds will be disbursed to the Applicant/Recipient.

5. **\*\*New\*\*** Is there a requirement for an appraisal to have been completed within a certain period of time before the application is due? I have an appraisal completed in July 2021 and am wondering if it is recent enough to be accepted.

**Also does the value of land if contributed to the project through a ground lease with a \$1/yr payment count toward part 2 of the tiebreaker, just as donated land would?**

(Land Cost): If the application has land costs or value associated to the project, and shown on the Development Budget, an appraisal is required. Appraisals will be accepted, regardless of date, provided the value supports the costs documented on the Development Budget. In this example the Development Budget would include the value of the donation and the corresponding Source would be Land Donation in the same amount

A long-term ground lease of \$1/year would count as land donation for leveraging, supported by a current appraisal. The appraised value of the land cannot be included in the development budget as a project cost because that value is never paid, only the nominal lease payment. The lease payment should always be included as an expense on the operating budget.

## **Article XXXIV**

1. **If we want to apply to MHP, does Article XXXIV limit how many units we can apply for funding? Are only 49% of units eligible for MHP funding under this NOFA? This would be a building that is 100% affordable (up to 60% AMI) and one manager's unit.**

The Super NOFA dated March 30, 2022, Section I (D) provides a breakdown of the per unit loan limits for an Affordable Housing Development. It identifies the amount available per Restricted Unit based on the level of restriction. Please review the NOFA in its entirety as there are additional per unit loan amount increase opportunities available if the requirements stated are met.

The 2017 UMRs Section 8301 (q) and Appendix A define a Restricted Unit. For MHP, a Restricted Unit is regulated and restricted by a public agency or body, inclusive of TCAC/CDLAC and HCD, for units that are at 60% AMI and less. MHP will lend on units that are Assisted (and therefore restricted) by any HCD source and will also lend on any other Restricted Unit from a non-HCD Source. An Assisted Unit as noted in the application unit mix is also a Restricted Unit

based on the definition above. For the purposes of determining a funding request, a Managers Unit is considered restricted.

For those applications seeking Serna or VHHP funding, only Assisted Units will be eligible to receive funding.

If the project has Article 34 authority, meaning the project has received an allocation of units from the local jurisdiction, MHP will Assist the maximum number available to comply with UMR 8304 (c). If the project does not have Article 34 authority, then 49% of the units in the project will be assisted by MHP. In either scenario related to Article 34, your unit mix will be increased/decreased to ensure the maximum number of units will be Assisted (therefore restricted) by MHP in the Regulatory Agreement.

For projects that request Serna funding, Article 34 will only be applied to those Assisted Units, in addition to any Units receiving MHP funds that are subject to the requirements in the paragraph above. VHHP has an Article 34 exemption, therefore does not have a limit on the VHHP Assisted Units.

## **Eligible Sponsor**

### **1. Can a nonprofit apply for this program on its own or does the nonprofit have to be affiliated or backed by a public organization/business?**

If applying for MHP, VHHP, or IIG funding, an eligible Sponsor can be for profit, non-profit, or limited profit.

If the funding request is specific to Serna, then the Sponsor must be a non-profit. For those projects applying as a 4% or 9% tax credit project, a non-profit entity must be a part of the ultimate borrowing structure as required by UMR 8313.2.

For a full list of eligible Sponsor requirements, please see MHP Guidelines Section 7303.

### **2. I am looking for guidance regarding if a religious organization can be a SuperNOFA Application Sponsor. I am working with an experienced Sponsor that is partnering with a religious organization, i.e. a Church. The proposed project structure for the application is as follows: Sponsor #1 – Experienced 501c3 Developer, Sponsor #2 – Church Organization, Borrower – Limited Partnership, Managing GP – LLC Affiliate of Sponsor #1 with 501c3 as Sole Member, Admin GP – LLC Affiliate of Church with Church as initial Sole Member until 501c3 is formed. Can you please clarify if a religious organization is an eligible Sponsor and if the Administrative GP will be considered “fully formed.”**

We are unable to review project specific information or documentation as that would provide an unfair competitive advantage.

The Department does not have a prohibition on religious organizations applying as a Sponsor. In order to be eligible for funding, a Sponsor must meet all criteria listed in MHP Guideline Section 7303. If the project being submitted has a Co-Sponsor, only one of the Sponsors must meet the three criteria of experience, capacity and continuing control as required. It must be the same Sponsor meeting that criteria, they cannot be split between Sponsor and Co-Sponsor.

If the project being proposed is being submitted as a 4% or 9% tax credit project, one of the Sponsors must be a non-profit entity.

All organization documents listed in the Super NOFA application, Document checklist tab, must be submitted by the application due date for all Sponsors. Please note this is a Threshold requirement. For a full list of minimum Threshold requirements, please see MHP Guideline Section 7303.1.

Borrower organization documents are not required to meet minimum threshold requirements. There are scoring opportunities as identified in the Universal Scoring Matrix located in the Super NOFA dated March 30, 2022, Section III (E)(3). Points can be awarded if the ultimate borrowing entity as identified in UMR 8301 and 8313.2, along with all affiliated entities (General Partner, Administrative Partner, Managing General Partner) are fully formed, filed with the state, and have all entity organizational documents submitted by the application due date.

### **3. Where is definition of Emerging Developer located in NOFA?**

Emerging Developer (ED) is a new Sponsor entity type that has been defined. Defined terms can be located in Appendix A, located at the end of each set of Program guidelines. The ED defined term lists all the qualifying factors and can be found in Appendix A.

All projects must be an Eligible Sponsor (MHP Guideline Section 7303), meet all minimum threshold requirements identified in MHP Guideline Section 7303.1, the NOFA dated March 30, 2022, and documentation requirements listed in the Super NOFA Application. All requirements and documentation must be met and submitted by the Application due date of June 28, 2022.

### **4. **\*\*New\*\* We are submitting an application as a Community-Based Developer. We are confused by the requirements as there seems to be conflicting information in the MHP Guidelines, the defined term, and the NOFA. Also, are there different requirements for the Emerging Developer/Community-based developer set-aside?****

To clarify the Community-Based Developer Sponsor entity type, the following requirements must be met in addition to those in MHP Guideline Sections 7303 and 7318.

1. For the 24 months prior to the application due date, entity must be located in and operating exclusively from or primarily in:
  - a. A Low or Moderate Resource area **or**

b. High Segregation or Poverty area according to the TCAC/HCD Opportunity Area Map

2. The Community-Based Developer must:
  - a. Maintain their corporate headquarters within ten miles of the proposed project site **or**
  - b. Have three deed-restricted affordable housing projects within ten miles of the proposed project site
3. The entity must have at least five (5) years of experience in the delivery of culturally competent services and/or community development programs to low or lower income households in their community (or census tract).
4. Directly provide at least two community benefit programs accessible to the general public within ten miles of the proposed project.
  - a. Community benefit programs include the following:
    - i. Free or reduced-cost child-care, after-school care, youth development, or adult day care programs.
    - ii. Community center facilities that are staffed and open to the public at least once a week or a minimum of 7 hours each week
    - iii. Medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week
    - iv. Small business technical assistance, lending, or investment to at least ten neighborhood businesses within five miles of the proposed project
    - v. Job training, digital literacy training, college outreach (linking potential students to college resources and information), financial counseling, housing counseling, free tax return, or other economic empowerment programs .
    - vi. Food distribution programs

All community benefit programs must be provided directly by the Sponsor and be open to the general public (not limited in any way, such as to building residents). A minimum of 7 hours per week total is required (medical clinic requirement is 40 hours per week); aggregating 7 hours across two or more programs is permitted. Programs that experienced closure or reduced access due to the COVID pandemic in 2020 and 2021 must have either (1) provided programs virtually (online) for a minimum of 7 hours per week during periods of closure or (2) provided a minimum of 7 hours per week in each of the years 2017-2019 and in 2022.

5. Certify that they have community knowledge, commitment to long-term community investment, and population-specific cultural competency through a combination of at least three of the following:
  - a. Receipt of grant funds for services within the relevant neighborhood or community

- b. Cultural and linguistic competency on staff relevant to community members (must be utilized daily in the provision of services and community benefit programs)
- c. A record of hiring from the community (within a ten-mile range of the Community-Based Developer's central office)
- d. Membership in or recruitment from a local urban league (or substantially equivalent) organization. All the highlighted was already there.

Community-Based Developers may also meet the minimum Threshold experience requirement by meeting the requirement set forth in MHP Guideline Section 7303 (d)(2)-(4)

1. If choosing Section 7303 (d)(3), the experience requirement can be met by contracting with an entity (experienced Developer) for the application and construction period with the submission of an executed Development Contract Agreement (Super NOFA Application, Document Checklist, Attachment # 11) by the Application due date.

An eligible Sponsor who qualifies as a Community-Based Developer is eligible for the Emerging Developer/Community-Based Developer set aside. Once those funds have been allocated, remaining eligible Community-Based Developers will then be ranked against all remaining applicants in the general pool of funds.

## Eligible Project

- 1. Are projects that have 25% special needs units considered “Supportive Housing” projects and are there specific checklist items for “Supportive Housing” projects?**

For Sponsors submitting a request for funding from MHP, they must be qualified as an eligible Project type per MHP Guideline Section 7302. There are 5 Project types available, but a Sponsor must meet all requirements of at least one (1) to be eligible. Supportive Housing is not an eligible project type for MHP.

Section 7302 (e)(2), the Special Needs Project type, requires at least 25% of the Department Restricted Units target populations listed under the Special Needs Population defined in Appendix A, located at the back of each program guidelines. This percentage can include targeted populations in NPLH, VHHP, and HHC. Farmworkers are excluded from this percentage.

There are eleven (11) population types eligible as a Special Needs Population. Please review Section 7302 to ensure you meet all requirements for an eligible Project, as that is a minimum Threshold requirement as detailed in Guideline Section 7303.1.

If applying for VHHP funding, VHHP Guideline Section 201 lists all eligible Project types and requirements. Section 201 (g) provides the minimum Unit requirements for projects targeting Supportive Housing populations, which

includes, but is not limited to, those experiencing Chronic Homelessness and those with a Disability Experiencing Homelessness. Please review Section 201 to ensure you meet all requirements for an eligible Project, as that is a minimum Threshold requirement as detailed in Guideline Section 202.

- 2. **\*\*New\*\* Is the requirement for a project specific legal opinion labeled "Fair Housing Legal opinion" in item 45 of the checklist limited to senior projects and/or rehabs, or does it apply to all Supernofa submissions? I wasn't able to find the section of the NOFA that matches this requirement, can you please let me know where I should look for it?****

The Super NOFA released March 30, 2022, combined four (4) HCD programs into one (1) funding notice. The four (4) programs are – MHP, VHHP, Serna (Multifamily), and IIG (Qualified Infill Projects). If the proposal seeks MHP in combination with any of the other 3 Super NOFA programs listed above, or is seeking only MHP funds, the Project must be qualified as an eligible Project type per MHP Guideline Section 7302. There are 5 Project types available, but a Sponsor must meet all requirements of at least one (1) to be eligible. MHP Guideline Section 7302 (e)(2) identifies the requirements for a Senior project type.

The Super NOFA Application, Document Checklist, Attachment # 45 Fair Housing Legal Opinion, is only required for Senior project types. The Sponsor's Legal Counsel must provide a written analysis & legal opinion which must be submitted by the application due date. The Department does not have an example of the Fair Housing Letter.

## **General**

- 1. Is an adaptive reuse non-tax credit application eligible? The NOFA references new construction. Typically, adaptive reuse qualifies as new construction, but we wanted to ask for clarification.**

If applying for MHP, VHHP, or Serna funding, adaptive reuse is not a defined term. Adaptive reuse can be considered a conversion of vacant and underutilized commercial or industrial building into an Affordable Housing Development (AHD).

When applying for these 3 sources of funding, you must be an eligible Project Type as required in MHP Guideline Section 7302. Section 7302 (a) requires a Project to be New Construction, Rehabilitation, or Conversion.

The NOFA dated March 30, 2022, offers scoring opportunities for Adaptive Reuse. Section III (F)(1) list all requirements needed to be awarded points in this category.

Sponsors can submit a Project as a non-tax credit project. Eligible Projects must meet all requirements as listed in the MHP Guideline Section 7302.

- 2. Per the HCD Super NOFA and MHP guidelines, Senior Housing type projects are required to make at least 50% of the restricted units with**

**mobility features to support aging in place. What is the minimum percentage requirement for units with hearing and vision features in a senior housing project? Would this follow the new construction requirement at 10% HVI units?**

MHP Guideline Section 7302 (e)(2) lists the requirements for a Senior Housing Project type, in addition to meeting the requirements listed in (a)-(d).

MHP Guideline Section 7314 (b) provides a breakdown for ADA requirements.

MHP Guideline Section 7314 (b)(1)-(2) lists the requirements for a New Construction or Rehabilitation project.

If qualifying as a Senior Housing Project type, MHP Guideline Section 7314 (b)(3) lists the minimum requirements for mobility features.

Lastly, MHP Guideline Section 7314 (b)(6) provides the requirements for hearing and vision features at 2 percent of total Units rounded up to the nearest whole number.

- 3. On page 6 of the Super NOFA, it states that “layering or stacking of Super NOFA funds on the same unit is not permitted”. This appears to conflict with page 14 and 15 that it states, “Use of multiple HCD funding sources on the same assisted unit is permitted” and the HCD Notice 21-06.**

The NOFA released March 30, 2022, states the stacking of Super NOFA funds is not permitted. To clarify, if requesting AB 434 funds in MHP, VHHP, or Serna, the Super NOFA prohibits the stacking of more than one (1) of these program funds on the same unit. If requesting more than one (1) of these program funds, ***it can be acceptable if*** funds are allocated to different units.

The use of multiple Department sources of funds on the same unit ***is permissible*** when requesting Super NOFA funding from MHP, VHHP, or Serna in combination with a non-Super NOFA funding program such as AHSC or NPLH.

Last, the Department released Administrative Notice 21-06, known as the Repeal of the Stacking Prohibition. The use of multiple Department funding sources is allowed on a single unit. This notice also instituted a cap on Department funding per project. There is now a cap of 2 loans and 2 infrastructure grants per project. This applies to all programs listed in the memo. If you have a previously awarded project, these loans count towards the 2 loan and 2 grant limit.

- 4. I have a question regarding rehab projects and MHP funding. I was reviewing the recently released Super NOFA guidelines, and it appears that there is new language that would not allow currently existing affordable projects to apply for MHP funding – is this correct? XXXX would like to apply for one of its existing properties that is not “At High Risk” but needs a great deal of rehab work.**

**Here is the text in question:**

**Rehabilitation Projects must also meet the following conditions: a. The Project qualifies as At High Risk or involves the conversion of single occupancy units without kitchens and/or bathrooms to units with kitchens and bathrooms; and b. The contract for rehabilitation work equals or exceeds \$60,000 per unit in hard construction costs. Hard construction costs mean costs included in a construction contract but excluding general requirements, profit and overhead. Would that mean then that the Super NOFA is not really for rehab projects that are currently affordable rent restricted like any of our existing XXXX properties?**

For any previously awarded Department projects, Sponsors/Awardees must go through our Transaction Unit to verify a project is eligible to apply for new Department funding. This process must be completed prior to the application due date of June 28, 2022.

An existing Affordable Housing Development can apply for Super NOFA funding. It must meet the requirements as listed in MHP Guidelines Section 7302. Additionally, Section 7302 (a) requires a Project to be New Construction, Rehabilitation, or Conversion. For those Projects that have rehabilitation or a demolition/rehabilitation component, please refer to the Super NOFA Application, Document Checklist, to ensure all required documents are submitted.

The Super NOFA dated March 30, 2022, has scoring opportunities available for qualified Rehabilitation Projects. Please review NOFA Section III for all available scoring opportunities depending on the Project being proposed.

**5. Please advise with moving forward with application for Funding Application. This would be for housing acquisition for veteran affordable housing.**

The Super NOFA released March 30, 2022, makes funds available for the MHP, VHHP, Serna (Multifamily), and IIG (Qualified Infill Projects) programs in one combined application. Sponsors may apply for one or more Super NOFA program, with the request based on the funding needs and gap.

VHHP provides funding in the form of a 55-year loan to eligible Sponsors and eligible Projects who meet all minimum threshold requirements and are competitive during the rating and ranking process. For a full list of threshold requirements, please review VHHP Guideline Section 202, eligible Sponsor requirements in Section 203, and eligible Project requirements in Section 201.

VHHP does provide funding to specific targeted populations, which include Veterans. For all defined terms, please review Appendix A, located at the back of all program guidelines.

**6. I had a quick question about eligibility. Are housing trusts eligible to**

## **apply?**

Eligible Sponsor entity types can be found in the MHP Guideline Section 7303 (a), which includes a Trust. To qualify as an eligible Sponsor, all requirements in Guidelines Section 7303 must be met. Last, the Super NOFA Application, Document Checklist, lists all minimum documentation required dependent on the entity type, and must be submitted by the application due date of June 28, 2022.

### **7. I would like to obtain more information on how NOFA works. Is this funding available to anyone or is it only to a certain group? Is it free money that the State gives for building homes?**

The Super NOFA released March 30, 2022, combined four (4) HCD programs into one (1) funding notice. There are three (3) programs – MHP, VHHP, and Serna MF, that provide 55-year loans. The fourth program, IIG, is specific to Qualified Infill Projects. IIG awards are in the form of a grant.

All projects must be an Eligible Sponsor (MHP Guideline Section 7303), Eligible Project (MHP Guideline Section 7302), have Site Control (UMR Section 8303 & 8316), as well as meeting all minimum threshold requirements identified in MHP Guideline Section 7303.1, the NOFA dated March 30, 2022, and documentation requirements listed in the Super NOFA Application. All requirements and documentation must be met and submitted by the Application due date of June 28, 2022.

### **8. During the webinar today, you had responded to a question that it is possible to submit to TCAC/CDLAC as well as the Super NOFA at roughly the same time – but if the TCAC/CDLAC scoring is dependent on having a committed source from HCD for one of the Super NOFA sources, wouldn't you need to wait until you receive the award from HCD prior to submitting to TCAC/CDLAC?**

The Department does not prohibit concurrent HCD and TCAC/CDLAC applications. The Department's requirement is that if an application is submitted as a 4% tax credit project seeking any HCD funding, the concurrent application submitted to TCAC/CDLAC would be the same – a 4% tax credit project. The Department would disqualify an application in the event concurrent applications are submitted as a 4% and 9% tax credit projects to both HCD and TCAC/CDLAC for the same project.

### **9. Please forward the presentation documents. We would like to apply.**

Power Point presentation will be posted on the HCD website [www.hcd.ca.gov](http://www.hcd.ca.gov) by close of business Friday, May 20, 2022.

The Super NOFA Application has been released and is also available at the following link [Multifamily Finance Super NOFA | California Department of Housing and Community Development](#). In this link, you will also find the program guidelines for MHP, VHHP, Serna (Multifamily), and IIG (Qualified Infill

Projects).

In order to be awarded funding, you must meet all minimum threshold requirements (MHP Guideline Section 7303.1), score competitively against all other projects according to the Universal Scoring Matrix (Super NOFA dated March 30, 2022 Section III), and be deemed a feasible project per UMR 8310.

The Super NOFA application, documentation checklist tab also lists all document requirements dependent on your project proposal. All threshold requirements, application, and documentation must be met and submitted by the application due date of June 28, 2022 at 4pm PDT.

**10. Thank you for the very helpful webinar last week for emerging developers. Wanted to follow-up with one additional question. We have a project that was awarded MHP Funds in Round 4 (but our request was not fully funded). Given rising construction costs, we applied for HHC funds to make the project more competitive for CDLAC. It is unclear when HHC awards will be announced. Wondering if given per unit loan limits are higher in the SuperNOFA, we can apply for additional MHP funds under the SuperNOFA? These funds wouldn't "substitute" previously awarded funds but would be in addition to previously awarded funds. Would such a scenario require us to withdraw our prior award (we are not intending on doing that)? I see the language below in blue in the new MHP guidelines but I'm not sure if this language pertains to additional MHP funds as well (not just "substitution"). Thanks! "Substituting previously awarded Department funds is prohibited, except as provided below: (1) Applicants seeking to substitute previously awarded funds must request withdrawal of their prior award in writing and provide reasonable justification that the substitution is necessary to ensure project feasibility. Substitutions based solely upon Sponsor preference or convenience will not be permitted. Department approval of the withdrawal is required 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."**

Thanks for joining us at the workshop and for your follow up inquiry. Hopefully the following provides more clarity to the scenario you have presented. For a complete list of policies and requirements, please review the MHP Guidelines dated March 30, 2022, the Super NOFA dated March 30, 2022, and Administrative Memo 21-06.

If you have previously awarded MHP funds, and you intend to submit an application for additional MHP funding in the Super NOFA funding cycle due June 28, 2022, the project will be deemed ineligible upon receipt. In order for the Sponsor to be eligible to submit an application in the upcoming Super NOFA round, the previous MHP award would need to be relinquished prior to the application due date. An request to relinquish that award must be received in writing from the Sponsor(s). If you have a previous MHP award, and intend to

apply for funding for any Super NOFA funds other than MHP, you do not need to relinquish the MHP award.

Please note, a relinquishment of an award, and subsequent application for future funding in the same program, does not guaranty an award. The project must meet all threshold requirements, be competitive against all projects in scoring, and be reviewed for feasibility per the new NOFA.

In the scenario that a previous MHP award is not relinquished, and additional funds for the project are received from Super NOFA funds, they would be subject to the per unit loan limit, Project cap, and Sponsor cap, and 2 loan and 2 limit infrastructure grant cap. Additionally, if the MHP award is not relinquished, and non-Super NOFA funds are awarded, such as HHC, the project would be subject to the Project cap, and 2 loan and 2 limit infrastructure grant cap.

If separate applications are submitted that do not identify in the Development sources all Department funding applied to whether awarded or not, the first program to award funds will be the award received and concurrent applications would be removed from the review process.

**11. Will governing body letters of support be required in the application and if so is there specific language HCD wants to see?**

The Super NOFA released March 30, 2022, combined four (4) HCD programs into one (1) funding notice. The four (4) programs are – MHP, VHHP, Serna (Multifamily), and IIG (Qualified Infill Projects). The Department does not have templates available.

If the proposal seeks MHP in combination with any of the other 3 Super NOFA programs listed above, or is seeking only MHP funds, Health and Safety Code 50675.7(e) requires each applicant to notify the local legislative body (City Council or County Board of Supervisors) of the Sponsor's loan application prior to application submission. Sponsor must provide a copy of the legislative letter as part of the application submission per the Super NOFA application, Document Checklist, Attachment #3.

For projects seeking IIG funding, IIG Guideline Section 206 (a)(2) requires that a letter of support be submitted for a Qualifying Infill Project from the local governing body. For any applicant that is requesting IIG funding in combination with any other Super NOFA funding source or IIG funding on its own, the due date to meet the requirement has been extended to September 30, 2022, 5pm PDT.

This extension is specific to this requirement and does not provide an extension to any other requirement, and is listed in the Super NOFA Application, Document checklist, as Attachment #84. Failure to provide this attachment by date and time listed above will result in the disqualification of the project due to not meeting minimum threshold requirements as stated in MHP Guideline Sections 7303.1 (a) & (d) and 7318.

**12. Will HCD accept DocuSign signature on documents or must it still be a scanned hand signature?**

The Department no longer requires a wet signature on documentation being submitted. HCD will accept forms signed via DocuSign, e-signatures, or scanned copies.

The exception to this policy is the Certification of Relocation/No Relocation this is only applicable to awarded projects.

**13. Can you confirm there is no application fee?**

The Super NOFA released March 30, 2022, combined four (4) HCD programs into one (1) funding notice. There are three (3) programs – MHP, VHHP, and Serna (Multifamily), that provide 55-year loans. The fourth program, IIG, is specific to Qualified Infill Projects. IIG awards are in the form of a grant.

The Department does not have an application fee for projects seeking any of the Super NOFA programs - MHP, VHHP, Serna (Multifamily), and IIG (Qualified Infill Projects).

The fourth program, IIG, is specific to Qualified Infill Projects. IIG awards are in the form of a grant.

If the proposal seeks funding from any of the three loan programs, MHP, VHHP, Serna (Multifamily), the Department charges an annual monitoring fee of 0.42 % per loan based on the loan request(s). Please see MHP Guideline Section 7308 for loan rate and repayments.

**14. For purposes of stacking limitations on the 2 loans and 2 infrastructure grants, does HomeKey in this instance count as a grant or a loan?**

All Department Funding Sources listed in the HCD Repeal of Stacking Prohibition of Multiple Department funding sources Administrative Notice Number: 21-06 (the Notice), are applicable to the requirements set forth in the 2022 Super NOFA, Section I.G.3 and Note. These Department funding sources include both loans and grants. This HCD-wide Department funding cap applies not only to 2022 Super NOFA awards, but to all Department awards.

We were contemplating stacking HomeKey with NPLH and MHP if that is a valid configuration within the guidelines.

The Notice includes Homekey, NPLH and MHP as sources and all three are loans, so this configuration would not be acceptable.

In the event that the Sponsor has received prior awards for Homekey and NPLH and is seeking to substitute MHP for previously awarded funds, including but not limited to substitutions in order to increase the amount of an award, must first withdraw their previous award in writing and provide reasonable justification that the substitution is necessary to ensure project feasibility. A consultation with Department program staff is required at the time of the withdrawal. Substitutions

based solely upon Sponsor/Applicant preference or convenience will not be permitted.

**15. Do projects in the Emerging Developer or Community Based Developer set-aside need to score the min 85 points, if the experience points are not taken into account in that set-aside?**

Pursuant to the 2022 Super NOFA Section I.I Threshold a Project is not eligible for an award unless it meets all the threshold requirements of the applicable Designated Program(s) and the universal requirements of this NOFA. Further, Sponsors/Applicants must achieve a minimum point score of 85 points in Universal Scoring criteria to be considered for a funding award. There is no exception for Emerging Developer or Community Based Developers. Although experience is not considered in ranking of these applications only for the purpose of this set-aside, all applications are required to meet all applicable threshold requirements. An application which does not meet all threshold requirements will be disqualified and will not be considered in ranking.

**16. What are the requirements in terms of how updated the relocation plan needs to be for the MHP application? The plan I have is from 8/30/21.**

Relocation plans must conform with MHP Guideline Section 7315(c) which states that the Sponsor shall prepare a Relocation Plan in conformance with the provisions of Title 25 CCR, Section 6038. The Department currently does not have restrictions on the date of the initial relocation plan, however, should the project receive an award, an updated plan may be required. Relocation plans or other relocation documentation shall be subject to the review and approval by the Department. For further guidance, refer to the Super NOFA dated March 30, 2022 Section VI.

Last, a Relocation plan if required, would be required to meet minimum threshold requirements as stated in MHP Guideline Section 7303.1 and 7318. The relocation plan can be located in the Super NOFA Application, Document Checklist, attachment # 36, and shows all minimum documentation required dependent on the Project, and must be submitted by the application due date of June 28, 2022.

**17. III. E.2.a.i of the SuperNOFA reads: “Five (5) points will be awarded for obtaining all land use approvals or entitlements necessary prior to issuance of a building permit, including any required discretionary approvals. Notwithstanding this requirement, design review, variances, and development agreements are not required to be completed. Project sites where the planning department confirms eligibility for streamlined ministerial approval (including but not limited to the Senate Bill 35 (2017) Streamlined Ministerial Approval Processing) are eligible for these points.” (Underline added).**

**Can you confirm that if a Planning Department confirms a project's eligibility for [Assembly Bill 2162 \[leginfo.ca.gov\]](http://leginfo.ca.gov) that this will result in 5 points for Land Use Approvals, ie, that AB 2162 is equivalent to SB 35 in this matter? AB 2162 provides for ministerial approval of supportive housing projects within a specified timeframe.**

Yes, a Planning Department can confirm a project's eligibility for streamlined ministerial approval through Assembly Bill 2162 as part of signing the Local Approvals Verification sheet. Yes, AB 2162 is equivalent to SB 35 in this matter. There is a comment box, cell B21 of this sheet/tab, where this information can be provided. Please also answer the ministerial approval question on row 155 of the Scoring sheet of the Excel application.

**18. Is 45. Fair Housing Legal Opinion a required attachment for all MHP applications?**

The Fair Housing Legal Opinion is required for Senior Projects only.

**19. To satisfy the requirements for 58. Land Use App Submission, is documentation of planning commission approval the same as "complete application?"**

In scoring, pursuant to the Universal Scoring Section E(2)(a)(ii), Local Approvals, "4 points will be awarded for submission of a complete application to the relevant local authorities for land use approval under a Nondiscretionary Local Approval Process, where the application has been neither approved nor disapproved".

Please disregard item 58, instead, please submit the Local Approvals and Environmental Review Verification form, which will show that the application is "Under Review". Note that this will be corrected in future applications.

**20. The Sponsor understands it needs to notify the local legislative body of its intention to apply for funding. To fulfill this requirement, does the application need to include only a copy of the notifying letter or does it also need to include a reply letter from the local legislative body?**

The Leg Letter is a notification of the intention to apply for a loan from the Multifamily Housing Program (MHP) and is different from a letter communicating the general approval of a loan to the project as you describe. A copy of the Leg Letter must be submitted at the time of application. Confirmation of receipt or reply is not required.

**21. For this project, 2 established not for profit developers are co-developing this project. One has a strong housing background and easily qualifies for the experience and management points. The other has a strong services expertise but does not qualify on its own for the experience and management points. The two organizations have a property management agreement in place for the experienced organization to manage the project. Is this sufficient to get full points or is some other documentation**

**needed as well? Would the property management agreement suffice as the bona fide agreements as well for #52 and #53?**

Based upon the information provided, it appears that the parties will be co-Sponsors or partners in this application. Under the scenario presented, one partner meets both the Development and Management requirements to receive points under Section (D)(1) and (2). In this case, the applicants should rely upon the experience of the most experienced partner for the purpose of scoring. Contracting with a bona fide management company is only required when the Sponsor has fewer than four active Rental Housing Developments in service more than three years. If you determine that contracting with an experienced Property Manager is needed, the requirements set forth below would be applicable and would need to be addressed in the Property Management Agreement. The Property Management Agreement needs to be fully executed and submitted with the application (#52 & 53).

**22. I'm interested in viewing the webinar for Tribal Entities and Emerging Developers. Is there a recording of that event?**

Although there is not a recording of this specific webinar, you may view our recorded webinar and power point slides at:

[Webinars and Workshops | California Department of Housing and Community Development](#)

**23. Can you please clarify what the difference is between a ministerial approval and a nondiscretionary approval? In many cases they seem to be used interchangeably, but in the NOFA and guidelines it seems like HCD might consider them to be different.**

HCD does not determine whether a requirement is discretionary or ministerial, instead, HCD relies upon the information provided in the Local Approvals and Environmental Review Verification form as verified and signed by the local jurisdiction.

**24. Can you tell me if the Support Services Verification form is required if the Project will have a special needs population but is not supportive housing/permanent supportive housing?**

Special Needs Projects and projects having even one Special Needs Unit must complete the "MHP Supportive Services Plan", "MHP Supportive Services Costs", "Special Needs Exp", and "Supportive Services Verification" Application Worksheets .

**25. My office represents multiple affordable housing developers who will be submitting SuperNOFA applications in the near future. I am reaching out to confirm that Required Document #45, "Fair Housing Legal Opinion" is only required for projects designated as Senior Housing, and to**

**determine whether the Department has a specific form of opinion that will satisfy the requirement.**

The “Fair Housing Legal Opinion” is required only for Senior Housing projects. HCD cannot offer legal advice regarding the manner, form, or sufficiency of a legal opinion. However, at a minimum, the opinion should describe the project and proposed age restrictions, a well-reasoned analysis of applicable state and federal laws, and an opinion as to the eligibility of the project as Senior Housing.

**26. For Phase II update requirements would a letter from environmental consultant suffice versus new Phase II? Environmental consultants do not provide updates like they do for Phase I’s.**

HCD can not comment regarding the sufficiency of documents we have not reviewed. Often, the original consultant will provide a “Reliance Letter” reaffirming their original findings and attesting that there has been no change to the conditions reported.

**27. What is allowable documentation of location in an Urban Area?**

Regarding IIG, please refer to Guidelines Appendix A for definitions of Qualifying Infill Project, Urban Uses and Urbanized area. Documentation should include a narrative description of the project site, aerial maps, and documentation from the U.S Census Bureau, as appropriate.

Similar documentation would also be applicable to Universal Scoring Section F.1. Infill Development and should be appropriate to the scoring criteria the Applicant has selected.

**28. Is a service funding commitment required for SH/SN projects?**

Although service funding commitments are not specifically required at the time of application, they are required to receive the Department’s final plan approval prior to closing the MHP loan. However, the initial plan must identify all sources of service funding, whether committed or not, and total funding must be sufficient to meet the costs of services. Please refer to the MHP Supportive Services Plan Part VI, Sections 1, 2, and 3 for complete details and instructions.

**29. Property Management Experience - Could we use the PM experience of a staff member to qualify for points?**

Yes, a Sponsor/Applicant may include the experience of its controlled affiliated entities or its principals (e.g., employed by, and under the control of the Sponsor/Applicant and responsible for property management activities), but not the experience of non-management board members. HCD anticipates additional clarification of this to be posted soon.

**30. What is the difference between the principal resume and principal SOQ?**

The SOQ and resume can be quite similar but differ somewhat in their purpose: an SOQ generally describes the individual's skills and qualifications in detail, whereas the resume documents the individual's employment history, where they worked, period of employment, position held and description of responsibilities. The resume may also include contact information for prior employers.

**31. **\*\*New\*\*** Is a Fair Housing Legal Opinion required if the project is not age- or gender-restricted?**

HCD cannot offer legal advice regarding the manner, form, or sufficiency of a legal opinion. However, at a minimum, the opinion should describe the project and proposed age restrictions, a well-reasoned analysis of applicable state and federal laws, and an opinion as to the eligibility of the project as Senior Housing. Gender-restricted housing is not permitted.

**32. **\*\*New\*\*** Our project involves relocation. Per 7315(c) of the MHP Guidelines: " The Sponsor shall prepare or update a relocation plan in conformance with the provisions of Title 25 CCR, Section 6038, and any other application relocation laws. The relocation plan shall be subject to the review and approval by the Department prior to the disbursement of Program funds and prior to actual displacement of persons, businesses, or farm operations." Please can you clarify what level of detail HCD requires of the relocation plan at application versus prior to disbursement of Program funds.**

The relocation plan submitted with the application shall be prepared in conformance with Title 25 CCR, Section 6038, and any other applicable relocation laws.

At a minimum, a Relocation Plan shall include the following:

- (1) A diagrammatic sketch of the project area.
- (2) Projected dates of displacement.
- (3) A written analysis of the aggregate relocation needs of all persons to be displaced (as required by section 6048) and a detailed explanation as to how these needs are to be met.
- (4) A written analysis of relocation housing resources (as required by section 6052).
- (5) A detailed description of the relocation advisory services program, including specific procedures for locating and referring eligible persons to comparable replacement housing.
- (6) A description of the relocation payments to be made (pursuant to Article 3) and a plan for disbursement.
- (7) A cost estimate for carrying out the plan and identification of the source of the necessary funds.

- (8) A detailed plan by which any last resort housing (as described in section 6054 and Article 4) is to be built and financed.
- (9) A standard information statement to be sent to all renters who will be permanently displaced (as required by section 6046).
- (10) Temporary relocation plans, if any.
- (11) A description of relocation office operation procedures.
- (12) Plans for citizen participation.
- (13) An enumeration of the coordination activities undertaken (pursuant to section 6052).
- (14) The comments of the relocation committee, if any (pursuant to section 6012).
- (15) A written determination by the public entity that the necessary resources will be available as required.

Copies of the Model Relocation Plan HCD-832(6/8/99) as well as the Informational Notice HCD-833(6/8/99), which is incorporated by reference as if set forth in full, may be downloaded from the Department's internet web site at [www.hcd.ca.gov](http://www.hcd.ca.gov). This form can be obtained from the Department by telephoning 916-323-7288.

You may also download the Relocation Project Planning Check list available at: [d06\\_relocation\\_program\\_planning\\_checklist.doc](http://d06_relocation_program_planning_checklist.doc) ([live.com](http://live.com))

**33. *\*\*New\*\** In a case where a project is pursuing both MHP and IIG funds, should we use the Limited Partnership or the Non-Profit/For-Profit Developer as the Sponsor/Applicant?**

To provide clarification regarding the terms “Sponsor” and “Applicant” as stated in the Super NOFA:

Although both terms are often used to mean the entity which is submitting the application, there are some distinct differences. “Sponsor” is associated with loan programs. Pursuant to MHP Guidelines Sections 7303(d), (e), and (f) the Sponsor shall have sufficient experience and capacity to acquire, develop and own an affordable rental housing. Further, the Sponsor shall maintain direct and continuing control of the Rental Housing Development throughout the full term of the Department’s use restriction on the Rental Housing Development. Alternatively, if the Department’s funding disbursement is structured with or through a special purpose entity (i.e., a Limited Partnership), the Sponsor shall exercise direct and continuing control over such special purpose entity in accordance with UMR Section 8313.2 and throughout the full term of the Department’s use restriction on the Rental Housing Development.

In legal documents, including the Standard Agreement, the term “Sponsor” refers collectively to all entities included in the Borrower organizational structure. Within this meaning, the “Sponsor” is the recipient of loan proceeds, but the loan is made to the Borrower.

“Applicant” and “Recipient” are terms related specifically to IIG. The Applicant is the eligible entity defined in IIG Section 201. An Applicant which receives an award of funds is the Recipient. Funds are disbursed to the Recipient.

Pursuant to IIG Section 205(e): “where the Qualifying Infill Project is receiving low-income housing tax credits, the Recipient may provide Program funds to the Sponsor of the Qualifying Infill Project in the form of a zero percent deferred payment loan, with a term of at least 55 years”, subject to limitations set forth in this section. Sponsor, within the meaning of this section, refers to the Borrower/Owner.

For purposes of the Application, when applying for both MHP and IIG, the Sponsor/Applicant should be the eligible entity as define in applicable program guidelines—typically, this will be the for-profit or non-profit developer. The Limited Partnership/Borrower is not the Sponsor but is identified as the Borrower.

Regarding the question “Will the Sponsor/Applicant be the Recipient/co-Recipient of the Department’s Award of funds?” on the Project Overview tab, Line 190, the correct answer should be “yes”.

**34. **\*\*New\*\*** I am working on the “Resume of Principal” section on the MHP application and I am reaching out for a bit of clarity on this. Does this section only apply to newly formed sponsors that rely on experience from “principal” staff?**

The following requirements are applicable whenever a Sponsor relies upon the experience of its Principal, whether newly formed or not:

Pursuant to MHP Section 7303(d) “Except as abrogated below in this subdivision, Sponsor shall demonstrate that it has successfully developed, operated, and owned at least four (4) affordable rental housing developments of equivalent size, scale, and occupancy. If applying as a Farmworker Housing Project, one (1) of the four (4) must be a development that houses Agricultural Households. Sponsor shall have satisfied this experience requirement at the time of its application for the funds. To satisfy experience requirements, Sponsor may include the experience of its controlled affiliated entities or its principals (e.g., employed by, and under the control of the Sponsor and responsible for managing development activities), but not the experience of non-management board members.”

**If a Sponsor/Applicant relies upon the experience of its Principal,** documentation of the Principal’s experience is required as set forth in the NOFA and application.

As set forth in the application, documentation of the principal’s experience includes the Resume of Principal, Statement of Qualifications of Principal, and Certification of Prior Employment Executed by Previous Employer.

These requirements are not applicable if the Sponsor entity relies upon its own experience.

## **Feasibility**

### **1. Do we have to run two scenarios for the Proposed rents?**

The Department underwrites to the maximum Restricted rents, generally with the expectation that full rents will be charged. Should an applicant propose lower “proposed rents”, the project would need to demonstrate compliance with the UMR 8310 for both scenarios. This would require inclusion of two cash-flow analyses: one using Restricted rents and another using Proposed rents. Further, an explanation as to why the lower rents are necessary must be included. HCD will evaluate the proposal on a case by-case basis. Lastly, if lower rents are proposed as a method of managing the cashflow to meet the DCR requirements, HCD may require the units be restricted at lower Restricted rents.

## **IIG**

### **1. In regards to the IIG: Could a jurisdiction identify potential areas prime for redevelopment and request funds for Capital Improvement Projects to improve infrastructure in anticipation of future projects? In this case, would it be more usual for Public Works to apply for funding rather than Planning?**

Local Jurisdictions are not an eligible entity type for IIG. IIG Guideline Section 201 (a) lists eligible entity types for this round of funding. To qualify as an eligible Sponsor, all requirements listed in IIG Guideline Section 201 must be met.

### **2. Are Capital Improvement Projects only for IIG projects or are they also for MHP projects?**

If a proposal is seeking funding from the Infill Infrastructure Program (IIG) through the Super NOFA released March 30, 2022, it must include a Qualifying Infill Project (QIP). The three (3) other Super NOFA programs, MHP, VHHP, or Serna MF, do not have a QIP as an eligible Project type. It is specific to IIG.

IIG Guideline Section 200 (a) states that to be eligible to receive funding, the QIP must include a CIP.

Capital Improvement Project is a defined term, and can be found in Appendix A, located at the back of each program guidelines.

Please review IIG Guideline Section 200 for all QIP eligibility requirements, Section 202 for minimum Threshold requirements, the Super NOFA dated March 30, 2022 Section for the Universal Scoring Matrix, and the Super NOFA Application, Document checklist for documentation needed based on your project proposal.

### **3. We're very pleased to see the first iteration of the Super NOFA and several of our sponsors are preparing to submit applications by the June 28**

deadline. We noticed the language below for eligible applicants asks for a letter of support from the governing body of the city, county or city and county. Would a letter from the MOHCD Director be acceptable for purpose of establishing local jurisdiction support? Our Board of Supervisors doesn't typically write letters of support, and for previous applications where there the sponsor is the sole applicant, the MOHCD Director usually submits a commitment letter of our gap loan to show local support in our state funding applications. Obtaining a resolution from the BOS for this application would take a number of weeks and could delay the projects' applications, so we want to ask this clarifying question early. Here's the language: (2) Eligible Applicants for IIG-2019 include the following:

**(A) A nonprofit or for-profit developer of a Qualifying Infill Project that has received a letter of support from the governing body of the city, county, or city and county that has jurisdiction over a Qualifying Infill Project. For purposes of this paragraph, "governing body" means a city council or a board of supervisors of a county or city and county.**

**i. "Developer" within this section means the legal entity that the Department of Housing and Community Development (Department) relies upon for capacity, experience, and Site Control of the Qualifying Infill Project, and which controls the Rental Housing Development during development and through occupancy.**

**ii. For the purposes of this section only, a nonprofit or for-profit developer may include a Tribally Designated Housing Entity, as defined in Section 4103 of Title 25 of the United States Code and Section 50104.6.5.**

IIG Guideline Section 206 (a)(2) requires that a letter of support be submitted for a Qualifying Infill Project from the local governing body. For any applicant that is requesting IIG funding in combination with any other Super NOFA funding source or IIG funding on its own, the due date to meet the requirement has been extended to September 30, 2022, 5pm PDT.

This extension is specific to this requirement and does not provide an extension to any other requirement, and is listed in the Super NOFA Application, Document checklist, as Attachment #84. Failure to provide this attachment by date and time listed above will result in the disqualification of the project due to not meeting minimum threshold requirements as stated in MHP Guideline Sections 7303.1 (a) & (d) and 7318.

**5. What documentation will be accepted to satisfy Attachment 04. Urban Area?**

Attachment 04 is required only for projects seeking IIG funding.

(a) To be eligible for funding, a Capital Improvement Project must be an integral part of, or necessary to facilitate the development, of the Qualifying Infill Project(s) identified in the application.

(1) To be eligible for funding, all applications must include a Qualifying Infill

Project. Qualifying Infill Project (QIP) means “a residential or mixed-use Residential Development Project designated in the Program application that is located within an Urbanized Area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with Urban Uses. A property is adjoining the side of a Project site if the property is separated from the Project site only by an improved public right-of-way”.

Urban Uses - any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Urbanized Area - an incorporated city or an Urbanized Area or urban cluster as defined by the United States Census Bureau. For unincorporated areas outside of an Urbanized Area or urban cluster, the area must be within a designated urban service area that is designated in the local general plan for urban development and is served by public sewer and water systems.

Documentation should include documentation obtained from the Census Bureau, aerial maps of the site and surrounding area, as well as a narrative explanation.

- 6. In past rounds, for the minimum density ordinance requirement described in Section 200(b)(5) listed as an IIG Threshold Requirement (checklist item 86) we have been able to submit project-specific letters like the attached and it was called Net Density Verification. Would the attached, or a similar letter from a licensed surveyor be considered sufficient documentation that the future development will be at the required densities?**

(5) The Eligible Applicant must identify a mechanism, such as a minimum density ordinance or a recorded, binding covenant, acceptable to the Department to reliably ensure that future development will occur at an overall Net Density equaling or exceeding that set forth in Section 200(b)(3). This mechanism must be in effect and legally enforceable prior to the initial disbursement of Program funds.

At the time of application, the Applicant must identify this mechanism or covenant, which must be effective or recorded and legally enforceable prior to disbursement of funds. At a minimum, the Applicant should provide a Letter of Explanation regarding the mechanism or covenant and how it meets this requirement. A project-specific letter, as you’ve described may be sufficient for the application, but would not, in and of itself, satisfy the requirement of Section 200(b)(3). If possible, the Applicant should also include a copy of the draft mechanism or covenant.

- 7. Minimum Density - if the project will be subject to a recorded land use covenant evidencing a density bonus, what can be submitted at time of application as proof of density?**

Pursuant to IIG Section 200(b)(5) The Eligible Applicant must identify a

mechanism, such as a minimum density ordinance or a recorded, binding covenant, acceptable to the Department to reliably ensure that future development will occur at an overall Net Density equaling or exceeding that set forth in Section 200(b)(3). This mechanism must be in effect and legally enforceable prior to the initial disbursement of Program funds.

At the time of application, the Applicant must identify this document, which must be recorded and legally enforceable prior to disbursement of funds. At a minimum, the Applicant should provide a letter of Explanation regarding the covenant and how it meets this requirement. If possible, include a copy of the draft covenant.

**8. Does a QIP have to meet one of the criteria under 200(b)(2)(A)-(C) to be eligible? Is there another way to evidence that it will meet the minimum 15% affordable unit requirement?**

Pursuant to the 2022 SuperNOFA, the project must meet the threshold requirements of IIG Section 202 to be eligible for IIG 2007 funding. In addition, the threshold requirements of IIG Section 206 must also be met to be eligible for IIG 2019 funding. The evidence of compliance is the project's unit mix chart.

**9. **\*\*New\*\*** IIG guidelines Section 202(m)(2) regarding Site Control states that the Sponsor must demonstrate site control for proposed off-site improvements via an easement or encroachment permit. Please confirm that this is a construction closing requirement, not an application requirement. Easements aren't always applicable and encroachment permits would typically be granted at construction closing along with the rest of the building permits, not this early in the process.**

Pursuant to IIG Guidelines Section 202(m)(2)(A) & (B): "The following shall apply to offsite work proposed for Capital Improvement Projects:

(A) Recipient/Sponsor shall have a right of way or easement, which is either perpetual, or of sufficient duration to meet Program requirements, and which allows the Recipient/Sponsor to access, improve, occupy, use, maintain, repair, and alter the property underlying the right of way or easement; and

(B) Recipient/Sponsor shall have an executed encroachment permit for construction of any improvements or facilities within the public right of way or on public land".

Such easement or encroachment shall be fully executed/recorded and enforceable prior to disbursement of funds but are not required at time of application.

**10. **\*\*New\*\*** Past IIG applications have required a Net Density verification by an engineer, but I don't see it this time. Please confirm this is not required**

**this round.**

IIG Guidelines Section 200(b)(3), Eligible Capital Improvement Project, specifies the minimum Net Densities required for the Qualifying Infill Project.

The Application Document Checklist specifies that Applicant “provide a minimum density ordinance, recorded binding covenant or date stamped map, and letter certified by a California State-licensed professional such as an engineer, surveyor or architect confirming the Net Density”.

- 11. **\*\*New\*\*** I am an Assistant Project Manager with Alliant Strategic Development, an affordable housing developer working on a proposed new construction affordable housing project in the City of Moorpark, Ventura County, which would bring 150 units of LIHTC-financed housing to the city. We are currently working on an IIG only application for this NOFA, and we’d like some clarification on the Document #5 on the Document Checklist “Capital Improvement Project.” In the excel application, it says that the document should include an “Applicant narrative and documentation evidencing the Locality requiring the CIP.” What does “documentation evidencing the Locality requiring the CIP” mean? Does a certification from the applicant describing the required infrastructure investments for the project suffice?**

To be eligible for funding, a Capital Improvement Project must be an integral part of, or necessary to facilitate the development, of the Qualifying Infill Project(s) identified in the application.

Documentation submitted should clearly describe and establish that the Capital Improvement Project is “integral or necessary to facilitate the development of the Qualifying Infill Project”. The Applicant narrative should include a description of the required infrastructure, how the infrastructure meets this requirement and describes infrastructure required by the local jurisdiction to obtain plan approval. Documentation demonstrating local requirements may include but is not limited to standard or special conditions of approval, requirements pursuant to a Development and Disposition Agreement (or similar document), which support the finding that the infrastructure is “integral, or necessary”.

- 12. **\*\*New\*\*** We are applying to IIG for a project in the City of LA. It appears the City is OUT of compliance; however, a Housing Element has been submitted and it is under review. I would like to confirm that a Housing Element under review is sufficient at the time of application submittal. Please opine.**

Jurisdictions should continue to work toward substantial compliance with urgency, but current compliance status should not discourage a jurisdiction from applying to the Super NOFA. Requirements and application deadlines vary by program but achieving compliance past the due date is not disqualifying. Only the Infill Infrastructure Grant program funding within the Super NOFA requires housing

element compliance, however even that program is a blended fund, with only some of the funding requiring housing element compliance. As you will see from the NOFA amendment, only 2019 IIG funds require housing element compliance and that is by time of award, not application. See the NOFA amendment for other provisions. No applicant should hesitate to apply based on their jurisdiction's current housing element status. What is most important for all jurisdictions is working toward substantial compliance, including robust public engagement, as quickly as possible.

## **CEQA/NEPA**

### **1. Will HCD require NEPA clearance at the application deadline for existing projects that are being re-syndicated and have an existing loan from a federal source being rolled over as part of the re-syndication or is the NEPA clearance requirement for new federal sources that are not PBVs?**

For projects that are a Rehabilitation development type (MHP Guidelines Section 7303 (a)) and have existing federal funds, the Authority to Use Grant Funds (ATUGF) must be submitted to meet minimum Threshold requirements by the Application due date of June 28, 2022.

For New Construction projects, the ATUGF is not required.

The NOFA dated March 30, 2022, lists the Universal Scoring Matrix. NOFA Section III (E)(2) provides the opportunities for Local and Environmental Approvals. NEPA is not a part of the scoring opportunity and is not required to be awarded points.

If a Project proposes Project Based Vouchers/Rental Subsidies (PBV), an Enforceable Funding Commitment (EFC) from the funding source must be provided by the Application due date of June 28, 2022, in order to be awarded points. An EFC for PBV is not required for Threshold.

Please note, an Operating Subsidy must have an EFC to meet minimum Threshold Requirements and possibly be awarded points as shown in the Universal Scoring Matrix.

For any previously awarded Department projects, Sponsors/Awardees must go through our Transaction Unit to verify a project is eligible to apply for new Department funding, which can include re-syndication or refinances. This process must be completed prior to the application due date of June 28, 2022.

### **2. Local & Environmental Approvals - Is this sheet required to be signed by the jurisdiction even if you are only providing the letter from a certified planner for one point?**

The Local Approvals and Environmental Verification form is used to determine points which may be awarded under Universal Scoring Section (E)(2) (a) & (b),

which includes Land Use Approvals and verification of CEQA status. Although you can provide a letter from a certified planner to obtain one point, you will still need verification of CEQA status. If the form is not submitted, the two points available for CEQA will not be awarded.

- 3. *\*\*New\*\** I am working on a Super NOFA application for a project in Marin on a State Surplus site. Because this project is on State owned land, it has State Sovereignty and therefore has an entitlement process that does not fit nicely into the Super NOFA's readiness categories. We currently do not have any land use approvals process because of State Sovereignty but we do need to get CEQA sign off, which we have not yet done. Because we are not yet done with CEQA, I understand that we will not get the 'Environmental Approval' points, but could we get any or all of the 'Land use approvals' points?**

The Super NOFA Application, Local Enviro Verification tab is applicable to all Project proposals, regardless of funding type requested. MHP Guideline Section 7303.1 lists all minimum threshold requirements. Submission of the completed Local Approval and Environmental Review Verification (the "Verification") is a threshold requirement as part of a complete application.

There are also scoring opportunities per the Universal Scoring Matrix, Section III (E) located in the Super NOFA dated March 30, 2022. For CEQA, the local jurisdiction must complete the Verification indicating the status of the review and supporting documentation is required (e.g., Negative Declaration, Exemption Letter or explanation in the Verification as to why CEQA is not required).

To qualify as an eligible excess site pursuant to Governor Gavin Newsom's Executive Order N-06-19, you would need to submit a Request for Information (RFI), followed by a Request for Qualifications (RFQ), and if approved, a Request for Proposal (RFP) starting with the Department of General Services (DGS) (<https://www.dgs.ca.gov/OFAM/Services/Page-Content/Office-of-Fleet-and-Asset1Management-Services-List-Folder/Reutilize-State-owned-Personal-Property>). DGS will then contact HCD to verify proposal eligibility with approval needed **prior to the application due date**. At that time, you would be advised what source of funding you could apply for. All applications will be subject to minimum Threshold, Scoring, and Feasibility requirements for all programs and funding rounds. A surplus site identified by a local jurisdiction would not be considered an excess site as defined by Executive Order N-06-19.

The Universal Scoring Matrix, Section III (C) located in the Super NOFA dated March 30, 2022, provides scoring opportunities for approved excess sites that have completed the process described above. Surplus sites would not be eligible to be awarded these points. Additionally, proposals that are excess sites but have not completed the approval process with DGS and HCD prior to the application due will not be eligible to be awarded these points.

## Reports

- 1. I will be submitting an MHP application in the upcoming 2022 NOFA for a 108-unit affordable family project which is a 2nd phase on a 4.63-acre vacant parcel and is immediately adjacent to the 84-unit 1st phase. Both phases include the same percentages of 1, 2, and 3 bedroom units and the same unit sizes, amenities, parking ratio and the same affordability levels, and are two-story residential buildings. All that is different is the unit count. MHP Guideline Section 7303.1 lists the minimum threshold requirements for projects requesting funding from any of the four (4) Super NOFA programs – MHP, VHHP, Serna MF, and IIG QIP.**

Section 7303.1 (d) lists the requirement of a complete application.

Applicants must complete the NOFA Application, which includes the Document Checklist, listing the required documents and reports for a Project. A Market Study is required to be submitted for the specific, proposed Project, and cannot be a previous or future phase. The Market Study must be dated no greater than 12 months from the application due date. The Assessor's Parcel Numbers (APN) and subject Property address(s) must match all documentation submitted.

All documentation must be submitted by the Application due date of June 28, 2022.

- 2. While looking at the requirements for the Super NOFA, I noticed that neither the NOFA nor the MHP Guidelines mentions Phase 1 environmental reports. I'd appreciate it if you would confirm whether that means that we don't need a Phase 1 to apply for MHP this year (and that Phase 1 environmental reports do not impact scoring).**

MHP Guideline Section 7303.1 lists the minimum threshold requirements for projects requesting funding from any of the four (4) Super NOFA programs – MHP, VHHP, Serna MF, and IIG QIP.

Section 7303.1 (d) lists the requirement of a complete application.

Section 7303.1 (h) identifies that the Project must be free of severe adverse environmental conditions. The NOFA Application, Document checklist, lists the documentation required for environmental reports. A Phase 1 and/or Phase 2 must be dated no greater than 12 months from the Application due date. The Assessor's Parcel Numbers (APN) and subject Property address(s) must match all documentation submitted.

All documentation must be submitted by the Application due date of June 28, 2022.

- 3. Will HCD require NEPA clearance at the application deadline for existing projects that are being re-syndicated and have an existing loan from a**

**federal source being rolled over as part of the re-syndication or is the NEPA clearance requirement for new federal sources that are not PBVs?**

For any previously awarded Department projects, Sponsors/Awardees must go through our Transaction Unit to verify a project is eligible to apply for new Department funding, which can include re-syndication or refinances. This process must be completed prior to the application due date of June 28, 2022.

For projects that are a Rehabilitation or have a Demolition/Rehabilitation component (MHP Guidelines Section 7303 (a)) and have existing federal funds, the Authority to Use Grant Funds (ATUGF) must be submitted to meet minimum Threshold requirements by the Application due date of June 28, 2022.

For New Construction projects, the ATUGF is not required.

The NOFA dated March 30, 2022, lists the Universal Scoring Matrix. NOFA Section III (E)(2) provides the opportunities for Local and Environmental Approvals. NEPA is not a part of the scoring opportunity and is not required to be awarded points.

## **Site Control**

- 1. I am writing for your input on whether a site control document that XXXX's partner, XXXX Collaborative, has with the U.S. Department of Health and Human Services would be acceptable to HCD under the just released Super-NOFA. XXXX had opined that the document would be acceptable for MHP or NPLH when he reviewed it in 2019 but I wanted confirmation that his opinion would still be considered valid.**

**The document is attached for reference and is in the form of a 3-year ground lease that allows the lessor to acquire the property by Quitclaim Deed after the site has been re-zoned (which has already occurred) and after HHS has received and approved an updated financial plan. The term of the original lease expired September 2021 and was extended to July 1, 2022. We are currently working with HHS to get a longer extension. A secondary question if the ground lease form is acceptable is what duration the extension would need. Most relevant language of ground lease is as follows:**

**Lessee covenants and agrees that upon proper rezoning of the property for the Lessee's program of use as set forth in its approved application dated August 7, 2017, and amended on August 24th, October 30th, November 9th, November 14th, November 16th, and December 2, 2017, Lessee shall submit a request to Lessor to acquire the property by Quitclaim Deed which will be processed by the Lessor without undue delay. The request shall include a statement that the Lessee is ready, willing and able to fully implement the Lessee's program of use as set forth in its approved application dated August 7, 2017, and amended on August 24th, October**

**30th, November 9th, November 14th, November 16th, and December 2, 2017 and an updated financial plan which demonstrates Lessee's ability to fully implement and sustain the program.**

The Super NOFA released March 30, 2022, combined four (4) HCD programs into one (1) funding notice. All four (4) programs – MHP, VHHP, Serna MF, and IIG QIP, are subject to minimum threshold requirements that can be found in the MHP Guideline Section 7303.1

Guideline Section 7303.1 (n) requires the Sponsor to demonstrate Site Control for all proposed Projects through the award date meeting all the qualifying factors listed in UMR Section 8303 and, 8316 if Site Control is subject to a lease agreement. The minimum documentation requirements are listed in the NOFA Application, Document checklist.

If the Site Control is in the name of an entity other than the Sponsor or Co-Sponsor, organizational documents must be submitted to establish Sponsor control of the entity identified on the Site Control documentation.

All documentation must be submitted by the Application due date of June 28, 2022.

**2. If the applicant is a 501C3 corporation, is it permissible to show site control in the form of a PSA held by an LP of which the 501C3 corporation is part?**

Site control is a threshold requirement, which is not related to scoring. Failure to meet the requirement specified below will result in disqualification for failure to meet threshold requirements.

UMR Section 8303 provides the requirements of Site Control. At the time of application due date, a Sponsor must have site control of the proposed Project property (all parcels, sites and land associated with the Project), in the name of the Sponsor or an entity controlled by the Sponsor. If an entity controlled by the Sponsor, all organizational documents and/or supporting documents must be submitted at the time of application. It is the responsibility of the Sponsor to submit all supporting documentation as listed in the Super NOFA Application document checklist to evidence Site Control. Draft documentation would not be deemed acceptable, as the Department would require fully executed documentation, as applicable. Submitted documents will be reviewed by the Department and must be deemed acceptable.

If the Applicant is the Sponsor, the LP must be an entity controlled by the Sponsor as evidenced by organizational and/or other supporting documentation which clearly demonstrates Sponsor control. The Sponsor's non-profit status is not relevant.

**3. We are currently in escrow for a site and were scheduled to close in May.**

**But because we have a conditional CDBG-DR award from Butte County, there is a choice-limiting action provision requiring us to complete our NEPA prior to closing escrow. This meant we needed to secure an extension from the seller— which we did through August.**

**Since we are waiting for completion of the NEPA, we won't achieve perfect site control by the application deadline of June 28th, but we will perfect our site control between the application date and the award date in November (first week of August). We already secured an acquisition loan approval, so we are only waiting for the NEPA to be completed in order for us to close.**

**What is HCD's opinion on our situation? Do we meet the site control criteria? Would HCD agree with our thinking that while we won't have site control by the application deadline, the fact that we will close prior to the award date, means that we meet the requirement for site control? Is there any documentation that HCD would want us to provide upon close of escrow to help satisfy the site control requirement?**

**When defining site control, the NOFA (see attached) defers to UMR section 8303 (see attached), and in 8303 (a) there are 2 sections that could match our current situation:**

**(3) an enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the Notice of Funding Availability (NOFA);**

**(6) a land sales contract, or other enforceable agreement for the acquisition of the property.**

**I believe our situation meets the criteria for (6) above, but could you confirm whether my thinking is correct here? We want to ensure we receive those points in the application.**

Site control is a threshold requirement, which is not related to scoring. Failure to meet the requirement specified below will result in disqualification for failure to meet threshold requirements.

UMR Section 8303 provides the requirements of Site Control. At the time of application due date, a Sponsor must have site control of the proposed Project property (all parcels, sites and land associated with the Project), in the name of the Sponsor or an entity controlled by the Sponsor. If an entity controlled by the Sponsor, all organizational documents and/or supporting documents must be submitted at the time of application. It is the responsibility of the Sponsor to submit all supporting documentation as listed in the Super NOFA Application document checklist to evidence Site Control. Draft documentation would not be deemed acceptable, as the Department would require fully executed documentation, as applicable. Submitted documents will be reviewed by the Department and must be deemed acceptable.

HCD cannot comment on the acceptability of documents without benefit of viewing the application. #3 & #6, mentioned above may be acceptable forms of site control pursuant to UMR 8303, but such determination will be made during application review. Note that site control, in all forms, must extend through the anticipated date of awards.

**4. My team will be submitting applications to the Super NOFA and am curious about the requirement for the Phase II ESA.**

**If our Phase II is dated earlier than 12 months from the submission date but our consultant does not expect any difference in the site conditions due to the lack of activity between when the report was first issued and now, can we include a signed consultant letter stating as such in place of a full Phase II update?**

**Our consultant is working on a Phase I update, but re-sampling the site would considerably more time consuming and expensive, and we don't expect there to be any findings. For reference, the original Phase II will be 14-months old at the time of submission.**

The Super NOFA dated March 30, 2022 and Super NOFA Application, Document Checklist provide report requirements which include effective dates. A Phase 1 and/or market study must be dated within 12 months of the application due date which is June 28, 2022. If you have an update provided by the firm that completed the original report and they provided something on their letterhead, that would be acceptable. If they are unwilling to do that, then a full updated report would be required. If a Phase II environmental report is recommended by the Phase I, and the Phase II is dated within 12 months prior to the application due date, the Department would accept an older Phase I.

The completed Super NOFA application and all supporting documentation must be submitted by the application due date.

## **Threshold**

- 1. **\*\*New\*\*** Our aim is to develop a 100% Affordable Special Needs project at 30% AMI in the Palmdale community of LA County. Unfortunately, as we discussed no agency wants to be the first to commit funding. In the Super NOFA, it clearly stated the funding commitments as scoring items. Would you be able to confirm the NOFA guidelines do not require other funding commitments at the time of application?**

Enforceable Funding Commitments (EFCs) are considered as part of the threshold requirement of a complete application – MHP Guideline Sections 7303.1 (d) & (f), 7317, and 7318.

A Project will not fail threshold if the EFCs were not provided.

*EFCs are required documentation for various scoring opportunities.* So in order to obtain the points in the Universal Scoring Matrix, Section III (E)(1), those EFCs must be provided for any Construction Development Sources, and Permanent Development Sources, including operating subsidies, but not project based rental subsidies to obtain points. During Threshold and Scoring review phases, the application and supporting documents submitted at the application due date are all that is used to review for threshold and scoring.

2. **\*\*New\*\*** The preliminary title report requirement indicates the report must be dated less than 30 days from the date of application submittal. The title company informs us that many counties are 3 weeks or more behind posting recorded documents? Can the title report be dated 60 days from application submittal?

As a threshold requirement, the Application requires submission of a preliminary report dated within 30 days of application due date. For projects developed in Indian country, an attorney's opinion regarding chain of title and current title status is acceptable in lieu of a title report.

Generally, a request for a current title report does not require posting of additional recorded documents and HCD is currently not aware of specific difficulties encountered by Applicants. If you do have documents which are awaiting recordation, please provide a title report dated within 30 days of the application due date, which has been extended to July 12, 2020 pursuant to the NOFA Amendment #1, dated 6/10/2022, and also include a pro forma title policy showing the pending, unrecorded documents.

## **VHHP**

1. **As we try to make the affordable housing more accessible and streamlined we are also striving to make sure we are in compliance with all applicable regulations that might impact affordable units. What definition of Veterans should we be using?**

Veteran is targeted population in VHHP that has been defined. Defined terms can be located in Appendix A, located at the end of each set of Program guidelines.

2. **Are VHHP projects restricted to the greater of 25% of the total units (or 10 units) as Assisted? I just want to make sure I am reading this right, as it used to be the minimum was 25% of the units as Assisted.**

For eligible Projects requesting VHHP funding, the VHHP Guidelines Section 201 (e) requires at least 25 percent of the total units in the project, but not less than

10 units (5 units for rural), are restricted to occupancy by VHHP Eligible Households.

To qualify as an eligible project, all requirements listed in the VHHP Guideline Section 201 must be met by the application due date of June 28, 2022.

The minimum documentation requirements are listed in the NOFA Application, Document checklist. All documentation must be submitted by the Application due date mentioned above.