

June 28, 2024

MEMORANDUM FOR: POTENTIAL APPLICANTS

FROM: Jenny Cho, Deputy Director
Division of Federal Financial Assistance

SUBJECT: Community Development Block Grant-Disaster Recovery
Multifamily Housing Program, Round One Notice of Funding
Availability

The California Department of Housing and Community Development (Department or HCD) is pleased to announce the release of its Community Development Block Grant-Disaster Recovery Multifamily Housing Program Notice of Funding Availability (DR-MHP NOFA) for the following: (i) approximately \$120.8 million in funds available for new construction of multifamily housing in specific communities impacted by 2020 disasters, identified as “Most Impacted and Distressed” pursuant to FEMA DR-4558 and DR-4569, as provided by the publication of the Federal Register Notice 87 FR 6364 on February 3, 2022; (ii) and approximately \$26 million for specific communities impacted pursuant to FEMA DR-4407, as provided in Federal Register Notice 85 FR 4681 published January 27, 2020.

This is HCD’s first direct-to-developer DR-MHP NOFA that provides eligible Applicants the opportunity to apply directly to HCD for disaster recovery multifamily funding, making funding more accessible to developers, which includes Tribal Entities as defined herein.

Application materials must be submitted electronically via HCD’s Application Portal no later than 4:00 p.m. Pacific Standard Time on September 3, 2024. Application upload and submission instructions are included in the NOFA document. Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, or walk-in application packages will be accepted.

The DR-MHP NOFA, online workshop details, and the Program’s Policies and Procedures are posted on HCD’s website. The DR-MHP Application will be available and posted to the website. To receive information regarding online workshops and other updates, please subscribe to the DR-MHP NOFA email list at www.hcd.ca.gov/contact-us/email-signup.

If you have further questions, please contact DR-MHP@hcd.ca.gov.

**COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER
RECOVERY MULTIFAMILY HOUSING PROGRAM, ROUND
ONE**

Notice of Funding Availability



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I. Overview

A. Notice of Funding Availability (NOFA)

The California Department of Housing and Community Development (Department or HCD) is pleased to announce the release of this Disaster Recovery Multifamily Housing Program (DR-MHP) Round One Notice of Funding Availability in the aggregate amount of \$147,543,092 in Community Development Block Grant-Disaster Recovery (CDBG-DR) funding. CDBG-DR funding was appropriated by Congress and distributed by the U.S. Department of Housing and Urban Development (HUD) to HCD to support long-term recovery efforts in California following presidentially declared wildfire disasters (FEMA DR-4558, DR-4569, and DR-4407).

B. Timeline

NOFA release	June 28, 2024
NOFA workshops	July 11 and 15, 2024
Application Portal opens	July 17, 2024
Application due date	September 3, 2024
Award announcements	February 3, 2025

C. Authorizing Legislation and DR-MHP Policies and Procedures

- The Disaster Recovery Multifamily Housing Program is authorized pursuant to the State of California's [CDBG-DR Action Plan for 2020 Disasters](#) that was approved by HUD August 5, 2022, to address presidentially declared wildfire disasters DR-4558 (August of 2020) and DR-4569 (October of 2020).
- The 2020 Disaster Recovery Multifamily Housing Program Policies and Procedures Manual ([DR-MHP Policy](#)) establishes policies and procedures for the use of CDBG-DR funds for Multifamily Housing (DR-MHP Projects) in response to FEMA DR-4558 and DR-4569, as provided by the publication of the [Federal Register, Vol. 87, No. 23, February 3, 2022 \(87 FR 6364\)](#) and [Public Law 117-43](#).
- Pursuant to the state's [CDBG-DR Action Plan for 2018 Disasters, Non-Substantial Amendment Number 5](#), the 2018 Disaster Recovery Multifamily Housing Program funding included in this NOFA from FEMA DR-4407 shall be implemented in accordance with the 2020 DR-MHP Policy.

All projects funded pursuant to this NOFA shall follow the DR-MHP Policy, which may be amended from time to time unless otherwise exempted.

D. Geographic Set-Asides

Proposed projects must be located in a DR-4558 or DR-4569 Most Impacted and Distressed (MID) area as determined by HUD. The following counties make up these MID areas: Butte, Fresno, Los Angeles, Napa, Santa Cruz, Shasta, Siskiyou, Solano, and Sonoma. Projects must be located within one of the counties that comprise the MID areas. For projects located on Native American Lands, such land must be located within one of the listed MID counties. Accordingly, the State of California [2020 CDBG-DR Action Plan](#) established the following geographic set-asides:

Region	Amount
A) Santa Cruz (County)	\$41,086,865
B) Butte (County)	\$31,419,367
C) Napa, Solano, and Sonoma (Counties)	\$30,210,930
D) Los Angeles and Fresno (Counties)	\$13,292,809
E) Siskiyou and Shasta (Counties)	\$4,833,749
Total	\$120,843,720

The geographic set-asides above represent the total set-aside for each region. Subsequent to NOFA publication, threshold eligibility reviews, and competitive scoring, allocations to projects will be made to the highest scoring projects within each regional set-aside based on their demonstrated funding gaps and cost allocation for MHP units based on the MHP maximum per-unit subsidy.

If a region is oversubscribed, the lowest-ranked project in that region will receive a partial award. If a region is undersubscribed, excess funds from that region will be allocated to the highest-rated project(s) among all projects in other regions that would otherwise receive a partial award. If funds remain after fully funding the remaining gap for the highest rated project(s) among all projects in other regions that would have otherwise received a partial award, funds will be allocated to the next highest rated project(s) among all projects in other regions, and such award may partially or fully address a demonstrated funding gap.

Awarded projects that require 4 percent or 9 percent tax credits shall have no more than three (3) consecutive tax credit rounds or 18 months to secure tax credits or fill the funding gap before the MHP award expires.

Subsequent to the expiration of any awards made pursuant to this NOFA, the remaining funds may, at HCD’s discretion, be pooled and all previously awarded projects with a remaining gap may be considered for funding in rank order based on their original NOFA score, without regard to the NOFA Regional Set-Aside, to fill the funding gap.

Pursuant to [State CDBG-2018 Disaster Recovery Action Plan Non-Substantial Amendment Number 5](#), HCD is making funds available from cancelled Standard Agreement(s):

Region	Amount
F) Malibu, Calabasas, Agoura Hills (Cities)	\$26,699,371

To the extent feasible, the NOFA will utilize the unused funds in their original geographical area. Implementation of projects using these funds will be subject to the 2020 [DR-MHP Policy](#).

II. Program Requirements

The following is provided as a summary and is not intended to be a complete representation of the entirety of the eligibility, minimum requirements, or other terms and conditions of the DR-MHP program. See the [DR-MHP Policy](#) for complete details. It is not a list of all applicable requirements. A project is not eligible for an award unless it meets all the threshold requirements detailed in the [DR-MHP Policy](#).

Please note: Applicants are responsible for independently reviewing the [DR-MHP Policy](#) for a comprehensive discussion of the rules, standards, and requirements that are relevant to proposed projects.

A. Eligible Sponsor/Applicant

An Applicant is the entity or entities applying to the Department for the Program funding. An Applicant must be eligible in order to apply. When receiving an award of funds, the Applicant or co-Applicants will, both individually and collectively, be referred to as the “Sponsor” in the Department’s legal documents relative to an award of a loan. Refer to [DR-MHP Policy](#) sections 1.3 and 2.1.

NOTE: The Program does NOT require a Limited Waiver of Sovereign Immunity for a Tribal Entity to participate in in the Program. In addition, any Tribal Entity is eligible to submit AB 1010 waiver request(s) to the Department if state financing requirements would create an unnecessary administrative burden. Please refer to [DR-MHP Policy](#) section 5.3.

B. Eligible Projects

Eligible Projects must meet the requirements set forth in the [DR-MHP Policy](#), section 2.2, including, but not limited to:

- The project includes the new construction of rental housing.
- The proposed project is located in a Most Impacted and Distressed (MID) Area, as noted in DR-4558, DR-4569, or DR-4407, except that for DR-4407 funds in this NOFA, the eligible MID Areas include the Cities of Agoura Hills, Calabasas, and Malibu.

C. Threshold

Eligible Projects must meet the threshold requirements set forth in the [DR-MHP Policy](#), Section 2.3, including without limitation:

- At the time of application, Sponsor shall demonstrate site control in accordance with UMR §8303. For Projects developed on Native American Land and where site control is a ground lease, the lease agreement between the Tribal Entity and the Project owner may be for a time period

less than required by UMR §8303 but must be for a period not less than 50 years.

Please note: If a Sponsor’s site control documentation (e.g., option) will or may expire prior to the anticipated date of the Program award as specified in the NOFA, the Applicant will satisfy the threshold site control requirement so long as evidence of a legally valid extension is submitted to HCD for review during the application review period. For purposes of this paragraph, “evidence of a legally valid extension” means an option (and/or other applicable site control documentation) that is fully executed prior to the expiration of the site control documentation, and that extends the term of the site control documentation through the actual date of the Program award.

- At the time of application for DR-MHP funds, the proposed Project must not have closed on construction financing or started construction.
- The application includes a letter providing prior notification to the local legislative body, or tribal governing body, pursuant to [HSC Section 50675.7\(e\)](#).
- The application includes a letter or resolution of support for the proposed Project from the local legislative body, or tribal governing body where the proposed Project is located.
- The proposed Project must tie back to the disaster by increasing the supply of affordable housing units in a MID area.
- The proposed Project must have a minimum of five total units, including Scattered Site Projects.
- The proposed Project must have a minimum of five Affordable Units or 51 percent of units must be Affordable Units, whichever is greater. CDBG-DR funds are limited to low to moderate income housing units. Proposed Projects may have mixed-income units, but CDBG-DR funds must only be applied to the Affordable Units for occupation by Low- to Moderate-Income Households.
- All sources of funding required to complete the Project must be identified, including the status of the funds (e.g., applied for funds – pending decision, applying for funds, or funds secured and fully committed to the project).
- The proposed Project must be cost reasonable, which is what a reasonable person would pay in the same or similar circumstances for the same or similar item or service.
- The proposed Project must conform to the Construction Standards set forth in Section 3.1 of the [DR-MHP Policy](#), where applicable.
- The proposed Project must comply with all applicable federal requirements set forth in Section 3.4 of the [DR-MHP Policy](#).

- Per [Administrative Notice No. 23-01](#), if a Project has federally-originated rental assistance or operating subsidies, or rental subsidies operated by the City and County of San Francisco, or the City of Los Angeles, the Project must make a one-time Transition Reserve Fee payment at permanent loan closing in the amount of fifteen percent (15%) of the first year’s maximum subsidy amount.
- The proposed Project must be documented in the application to address the following affordable rent requirements and tenant income limits over the duration of the required affordability period. At a minimum, the following thresholds must be adhered to in all Project applications:
 - The number and type of proposed DR-MHP Assisted Units that will be leased to tenants with an income of up to 65 percent of the AMI based on regulatory and program requirements.
 - Proposed Projects shall include at least 10 percent of the proposed DR-MHP Assisted Units for households with incomes not exceeding 30 percent of AMI.
 - Affordable rents will be determined by using the [Multifamily Tax Subsidy Projects \(MTSP\) Regular Income Rent Limits](#) published annually by HCD for the jurisdiction where the project is located.
 - Projects shall be restricted by a recorded Regulatory Agreement for a minimum affordability period of 55 years, except that a proposed Project to be developed on Native American Land with site control as a ground lease shall be so restricted for a period not less than 50 years.
- The application must receive a minimum point score of 88 points based on the Universal Scoring Criteria set forth in Section 4.3 of the [DR-MHP Policy](#) and Section IV of this NOFA.

D. Program Funding Amounts, Terms, and Limits

Awards of CDBG-DR funds shall not exceed the lesser of the demonstrated need or the MHP Maximum Per-Unit Loan Limit in effect at the time of application, in accordance with [DR-MHP Policy](#) Section 2.3.2.

Bedrooms	Maximum Subsidy
0	\$204,174
1	\$234,055
2	\$284,618
3	\$368,204
4	\$404,171

For DR-MHP loan limit calculations, the unit count may include the number of DR-MHP Assisted Units within the Project, including units with long-term, low-income or occupancy restrictions imposed by HCD, the California Tax Credit Allocation Committee (TCAC), or other public agencies and restricted at no greater than 65 percent of AMI. Awards of CDBG-DR funds shall not exceed the lesser of the demonstrated need or the MHP Maximum Per-Unit Loan Limit calculation. Refer to Section 2.3.2 of the [DR-MHP Policy](#) for additional details on loan sizing.

The type and term of loans is detailed in Section 2.4 of the [DR-MHP Policy](#).

E. Eligible and Ineligible Use of Funds

Eligible Project costs incurred by Sponsors include:

- Property acquisition costs;
- Architectural, appraisal, engineering, environmental, legal, and other consulting costs, and fees, which are directly related to the planning and execution of the Project and which are incurred through third-party contracts;
- Escrow, title insurance, recording and other related costs;
- Building permits, and state and local fees;
- Local development impact fees;
- Developer fees, as set forth in the UMR;
- Mobilization, demolition, site prep, and clean up;
- Residential construction costs; and
- Onsite improvements related to the Project.

Ineligible Project costs for Sponsors include:

- Costs incurred between the date of application and environmental clearance (e.g., Authority to Use Grant Funds) that constitute an adverse environmental impact or that limit the choice of reasonable alternatives pursuant to [24 CFR 58.22\(a\)](#);
- Application development costs;
- Advances of any type, including construction;
- Interest and financing costs;
- Facility operating or maintenance expenses; and
- Reserves and contingencies;
- Furnishings;
- Offsite Improvements, except where the improvement is contiguously adjacent to the Project parcel and serves the housing.
- Construction or any other costs related to any non-residential component of the Project.

- Reimbursement of Sponsor’s capital investment or prepaid expenses.

HCD reserves the right in its sole and absolute discretion to approve or deny the applicability and eligibility of costs on a per-application basis. HCD requires that construction costs are reasonable and consistent with current market costs for the area where the multifamily construction will take place.

F. Scoring and Ranking

1. Scoring Overview

Applications that pass the initial threshold review will be scored using the Universal Scoring Criteria. In the event of tied point scores, HCD shall rank tied applications based on the tie-breaker system detailed in the Universal Scoring Criteria. Refer to Section IV of this NOFA for further details.

Incomplete applications or others not expected to receive an award of funds due to relatively low scores may not be fully evaluated.

2. Ranking Overview

All applications meeting all the threshold requirements and achieving a minimum point score of 88 points in the Universal Scoring Criteria will be considered for funding pursuant to the process described below. Please note, however, that regional set-asides will only be funded to the extent that eligible applications (those meeting all threshold requirements including minimum point score) exist. If the Department receives fewer eligible applications than funding available, any unawarded funds within the regional set-asides may be used to fund remaining eligible applications. For additional information, refer to Section I, Part D of this NOFA.

G. Negative Points and Disencumbrance Policies

An application will be assessed negative points based on performance penalties assessed pursuant to the Department’s [Negative Points Policy](#) (Administrative Notice Number 2022-01) amended April 3, 2023, as may be amended from time to time. The Negative Points Policy is hereby incorporated by this reference to this NOFA as if set forth in full herein and shall apply with equal force as all other provisions set forth herein.

If the Applicant is subject to a negative points assessment based on the criteria outlined in the Department’s Negative Points Policy or is determined to be ineligible for funding, HCD shall notify the Applicant in writing in the initial point score or threshold letter(s).

Negative points will be assessed as a reduction to the score earned under paragraphs (1) and (2) above and will serve as the final score for this criterion. For example, if a Project earns 15 points under paragraph (1) Development and

ownership experience and 5 points under paragraph (2) Property Management Company Experience but is assessed 3 negative points, the final score for this criterion would be 17 (15 + 5 - 3).

If the Sponsor/Applicant is subject to negative points assessment, HCD shall notify the Sponsor/Applicant in writing within the point score letter and will provide opportunity to appeal negative points assessment pursuant to the appeals process as set forth in the NOFA.

No later than August 2, 2024, Applicants may request a pre-submission compliance check to see if their organization is subject to a negative points assessment. Applicants may contact Complianceverification@hcd.ca.gov to request this check before the aforementioned date.

III. Application Submission and Review Procedures

A. Application Submission Process

Applications must meet eligibility requirements upon submission (except as expressly indicated in the [DR-MHP Policy](#)). See Section II Program Requirements above for general information on eligible Sponsors/Applicants, eligible Projects, and eligible uses of funds. See the [DR-MHP Policy](#) for all specific requirements.

Please note: Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on HCD's forms, and such forms cannot be altered or modified by the Applicant. It is the Applicant's responsibility to ensure the application is clear, complete, accurate, and timely. Excel forms must be submitted in Excel format, not as a PDF document.

B. Electronic Submission

Application materials must be submitted electronically via HCD's Application Portal. Requirements for uploading the DR-MHP Application Workbook and required supporting documentation, including naming conventions, are described in the DR-MHP application instructions page. Applicants must upload all application materials to the Application Portal.

C. Application Workshops and Pre-Application Consultation

HCD will conduct live workshops and also make available a recorded webinar for the DR-MHP NOFA. Please visit the DR-MHP NOFA website for the dates and registration information. Pre-application consultations may also be available and can be requested by contacting DR-MHP@hcd.ca.gov.

D. Disclosure of Application

Information provided in the application will become a public record available for review by the public pursuant to the California Public Records Act (Gov. Code, § 7920.00 et seq.). As such, any materials provided are subject to disclosure to any person making a records request under this Act. HCD cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers and home addresses. By providing this information to HCD, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

E. Prior Awards

Applicants seeking to substitute previously awarded funds, including but not limited to substitutions to increase the amount of an award, must first reject their previous award in writing prior to submitting the DR-MHP application, and

provide a reasonable written justification that the substitution is necessary to ensure Project feasibility. A consultation with Department Program staff is required before any substitution will be permitted. Substitutions based solely upon Sponsor/Applicant preference or convenience of the funding source will not be permitted. However, it is allowable for Applicants that wish to retain their previous award to apply for funds available within this DR-MHP NOFA, so long as the previous award is unmodified. In this case, the Department will also allow previously awarded Projects to lower their proposed income targets from one application to the next, so long as the total Unit count remains the same. The Department will restrict Units to the lowest targeting across all awarded funds and will require Projects awarded from a Program with prioritized Target Populations to maintain the special population Units (increasing Target Population and/or Restricted Units is permitted). However, for Projects proposing a reduction to AMI levels on the Unit mix, the awardee must engage with Program staff of their prior award and confirm the change does not impact Project feasibility and would not cause a reduction in awarded funds pursuant to that Program's requirements. This consultation process must begin no later than August 1, 2024.

F. Significant Changes in Project After Application

The Department will review the information provided in the application and score the application accordingly. If there is a significant departure from the application, the Department may re-evaluate the Project's score, reduce the loan or grant amount, or assign negative points to the Sponsor/Applicant.

IV. Universal Scoring Criteria

A. Summary

The criteria detailed below and summarized in the following table shall be used to rate applications:

Universal Point Score Criteria (Used in Project ranking separate from Threshold Review)		
Criterion		Maximum Score
Universal Scoring Criteria	Extent to Which the Project Serves Households at the Lowest Income Levels	30
	State Policy Priorities	20
	Project Sponsor and Property Management Experience	20
	Project Readiness	27
	Infill / Proximity to Amenities / Sustainable Building Methods	15
	Cost Containment	5
Total Possible Universal Points		117

B. Extent to which the Project serves households at the lowest income levels

(30 points maximum)

Applications will be scored based on the percentage of Restricted Units limited to various percentages of AMI, adjusted by household size, and as follows:

1. A maximum of 30 points will be awarded based on the Lowest Income Points Table below.
2. Each “Percent of AMI” category may be used only once. For instance, 50 percent of Restricted Units at 50 percent of AMI cannot be used twice for 100 percent of Units at 50 percent AMI and receive 25 points, nor can 50 percent of Restricted Units at 50 percent of AMI for 12.5 points and 40 percent of Restricted Units at 50 percent of AMI be used for an additional 10 points. However, the “Percent of Restricted Units” may be used multiple times. For example, 50 percent of Restricted Units at 50 percent of AMI for 12.5 points may be combined with another 50 percent of Restricted Units at 45 percent of AMI to achieve the maximum points.

Lowest Income Points Table											
Percent of AMI											
Percent of Restricted Units		65%	60%	55%	50%	45%	40%	35%	30%	25%	20% & below
	50%	5	7.5	10	12.5	16.9	17.5	18.75	30	30	30
	45%	5	6.75	9	11.25	16.9	17.5	18.75	30	30	30
	40%	5	6	8	10	15	17.5	18.75	27.5	30	30
	35%	4.4	5.25	7	8.75	13.15	17.5	18.75	25	27.5	30
	30%	3.75	4.5	6	7.5	11.25	15	18.75	22.5	25	30
	25%	3.15	3.75	5	6.25	9.4	12.5	15.65	18.75	21.9	25
	20%	2.5	3	4	5	7.5	10	12.5	15	17.5	20
	15%	1.9	2.25	3	3.75	5.65	7.5	9.4	11.25	13.1	15
	10%	1.25	1.5	2	2.5	3.75	5	6.25	7.5	8.75	10

To receive any points in this category, at least 10 percent of the Restricted Units must be restricted to households with incomes not exceeding 30 percent of AMI.

The percentage of restricted units at each income level must be rounded to the nearest whole percentage point (i.e. 29.7% rounds to 30.0%).

Example:

10% of units at 30% AMI	7.5
15% of units at 40% AMI	7.5
50% of units at 50% AMI	12.5
25% of units at 65% AMI	3.15
Total Points scored	30.35 (Max 30)

Deeply Affordable Units - those Units with up to 30 percent AMI targeting - cannot be concentrated among a Project's smaller Units. They must be distributed proportionately across all Unit sizes, or, alternately, more heavily represented among larger Units. To ensure a proportional spread of deeply Affordable Units, at least 10 percent of the larger Units in the Project must be provided at 30 percent of AMI, as applicable. So long as the Applicant meets the 10 percent standard Project-wide, the 10 percent standard need not be met among all the smaller Units.

Example:

60 Total Units in Project	Required ELI Units (30% AMI)
18 three-bedroom	2 Units
21 two-bedroom	2 Units
21 one-bedroom	2 Unit
Total (10%)	6 Units

C. State Policy Priorities

(20 points maximum)

1. (5 points maximum) Five points will be awarded for Projects located in a “High Resource” or “Highest Resource” Area as shown on the TCAC/HCD Opportunity Area Map

Once Projects receiving 5 points pursuant to paragraph (1) have been ranked according to the scoring criteria and as further described in the NOFA and recommended for award in the amount of 50 percent of all Program funds available in a geographic set-aside region as outlined in Section I(D) of this NOFA, remaining Projects shall not receive 5 points for meeting the requirements of this paragraph.

2. Total Percentage of DR-MHP funded Units Serving Special Needs Populations (10 points maximum)

Chronically Homeless, Homeless via Coordinated Entry System (CES) or Other Special Needs	
Total percent of DR-MHP funded Units	Points
25%+	10 points
16-24%	9 points
10-15%	8 points

Special Needs or Special Needs Population(s) means one or more of the following groups who need Supportive Services to maintain and stabilize their housing: (1) individuals with disabilities; (2) individuals At Risk of Homelessness, as defined in 24 CFR Part 578.3; (3) individuals with substance use disorders; (4) frequent users of public health or mental health services, as identified by a public health or mental health agency; (5)

individuals who are fleeing domestic violence, sexual assault, and human trafficking; (6) individuals who are experiencing Homelessness and individuals experiencing Chronic Homelessness as defined under the federal Continuum of Care Program at 24 CFR Part 578.3; (7) homeless youth as defined in Government Code Section 12957, subdivision (e)(2); (8) families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; (9) individuals exiting from institutional settings or at risk of placement in an institutional setting; (10) Older Adults in Need of Supportive Services; or (11) other specific groups with unique housing needs as determined by the Department.

Special Needs Populations does not include “seniors or veterans” unless they otherwise qualify as a “Special Needs Population” as required by other statutory laws.

3. Public Excess Lands (5 points maximum)

Five points will be awarded if a new construction Project is located on a site designated as excess land under Executive Order N-06-19 or any land declared surplus by a local agency.

- a. For excess state-owned property, the Project must be located on a site selected under EO-N-06-19 to enter into a ground lease with the state to create affordable housing on excess state-owned property.
- b. For surplus land owned by a local agency, including transit agencies:
 - i. Land donations made in fee title must be supported by a transfer agreement and demonstrated written conformance with the Surplus Land Act.
 - ii. Land donations made as a low-cost, long-term lease must be supported by written conformance with Surplus Land Act, and a Post-Negotiation Notice and Proposed Disposition Summary.

D. Project Sponsor/Applicant and Property Management Experience

(20 points maximum)

“Projects” as used in paragraph (1) and (2) below means Rental Housing Developments of over five Affordable Units that are subject to a recorded Regulatory Agreement, or, in the case of housing on Native American Land, where federal HUD funds have been utilized in affordable rental developments. Points in paragraphs (1) and (2) will be awarded in the highest applicable category and are not cumulative. For points to be awarded in paragraph (2), an enforceable management agreement executed by both parties for the subject

application must be submitted at the time of application.

By applying for and receiving points in these categories, Applicants certify that the property shall be owned and managed by entities with equivalent experience scores for the entire Regulatory Agreement period.

1. Development and Ownership Experience. Applications will be scored based on the number of subsidized rental housing Projects (including tax credit Projects) that the Sponsor/Applicant has completed and operated and whether the Sponsor/Applicant is subject to penalties pursuant to paragraph (3) below. For completed Projects, 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 managing development activities), but not the experience of non-management board members. A Sponsor/Applicant may include the experience of a partner (e.g., Joint Venture partners pursuant to Appendix A of the Guidelines) to gain experience points; however, the experienced partner must have a controlling interest in the Project's ownership and a substantial and continued role in the Project's ongoing operations, as evidenced in the organizational documents for the owner. Experience among partners shall not be aggregated. Any change in the ownership that reduces the Sponsor's/Applicant's role shall require prior written approval by the Department.

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

To receive points under this paragraph the following conditions must be met:

- a. Submit a certification that the Projects for which points are required to have maintained Fiscal Integrity for the year in which each Rental Housing Development's last financial statement has been prepared, a positive operating cash flow from typical residential income alone and have funded reserves in accordance with the partnership agreement and any applicable loan documents.

To obtain points for Projects previously owned, a certification must be submitted with respect to the last full year of ownership by the Sponsor/Applicant, along with verification of the number of years that the Project was owned by that Sponsor/Applicant. To obtain points for Projects previously owned, the ending date of ownership or participation must be no more than ten years from the application deadline.

Points are available as follows:

1-2 projects in service more than 3 years, at least one shall be Department- regulated or projects utilizing low-income housing tax credits allocated by TCAC	5 points
3-4 projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be Department- regulated or projects utilizing low-income housing tax credits allocated by TCAC	10 points
5 or more projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be Department- regulated or projects utilizing low-income housing tax credits allocated by TCAC	15 points
For Special Needs Projects with experience serving Target Population(s) proposed to be served in the application, points are available as described above or as indicated below.	
The Developer shall have three or more years' experience serving the Target Population(s) proposed to be served in the application.	
1 Special Needs project in service more than 3 years	5 points
2-3 Special Needs projects in service more than 3 years, of which 1 shall be in service more than 3 years and 1 shall be Department- regulated or projects utilizing low-income housing tax credits allocated by TCAC	10 points
4 or more Special Needs Projects in service more than 3 years, of which 1 shall be Department- regulated or a project utilizing low-income housing tax credits allocated by TCAC.	15 points

Pursuant to the DR-MHP Policies and Procedures, Applicants with fewer than four active Rental Housing Developments in service more than three years shall contract with a bona-fide management company which itself earns a minimum total of five Property Management Experience points at the time of application.

- b. To obtain development and ownership experience points, Tribal Entities may contract with a Developer who will not be the Project owner and may receive points commensurate with the Developer's experience pursuant to (a) above.
For purposes of this subparagraph only, a Developer is defined to include an entity pre-approved by the Department that has developed but not

owned the requisite number of projects described in (a) above and that provides the certification described in (a) above for the projects for which experience points are requested. If the projects for which the entity requests experience points do not include two Department-regulated projects in service more than three years, the Tribal Entity shall also contract with a bona-fide management company which itself earns a minimum total of 5 Property Management Experience points at the time of application. For this purpose, only, “develop” shall mean developing the project scope and timeline, securing financing, hiring, or performing the services of a general contractor, and overseeing completion of construction and placement in service as well as asset managing the project for at least three years after construction completion. When seeking the Department’s pre- approval, the entity shall provide fully executed copies of contracts demonstrating the Department’s criteria for “develop” as specified above have been met.

The contract shall be in effect at least until the Project’s stabilized occupancy (90 percent occupancy for single room occupancy (SRO) and Special Needs Projects and 95 percent for all other projects), completion of all permanent loan closings, and achievement of all stabilization milestones of the Project’s ownership agreement. Tribal Entities exercising the option under this subparagraph (B) to contract with a Developer for these experience points shall also contract for asset management for at least the term of the 15-year federal compliance period with an entity that has provided three years of asset management for at least two Department-regulated Projects.

2. Property Management Company Experience. To receive points under this paragraph, the property management company must meet the following conditions:
 - a. To obtain points for projects previously managed, the ending date of the property management role must be no more than ten years from the application deadline. In addition, the property management experience with a project shall not pre-date the project’s construction completion date.

Points are available as follows:

1 project managed over 3 years	1 point
2-4 projects managed over 3 years, of which 1 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	2 points

5-7 projects managed over 3 years, of which 1 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	3 points
8-10 projects managed over 3 years, of which 2 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	4 points
11 or more projects managed over 3 years, of which 2 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	5 points
For Special Needs Projects, points are available as described above or as follows:	
4 or more Special Needs Projects in service more than 3 years, of which 1 shall be Department-regulated or a project utilizing low-income housing tax credits allocated by TCAC.	5 Points

When contracting with an experienced property management company under the terms of paragraphs (1) or (2) above, the Sponsor/Applicant or property co- management entity must obtain training in: project operations, on-site certification training in federal fair housing law, and manager certification in Internal Revenue Code (IRC) Section 42 Low Income Housing Credit Program requirements from a CTCAC-approved, nationally recognized entity. Additionally, the experienced property management agent or an equally experienced substitute, must remain for a period of at least three years from the construction completion date (or, for ownership transfers, three years from the sale or transfer date) to allow for at least one HCD monitoring visit to ensure the Project is in compliance with HCD requirements for inspection and monitoring contained in the Regulatory Agreement. Thereafter, the experienced property manager may transfer responsibilities to the remaining general partner or property management firm following formal written approval from HCD.

3. Negative Points – An application will be assessed negative points based on performance penalties assessed pursuant to the Department’s [Negative Points Policy](#) (Administrative Notice Number 2022-01) amended April 3, 2023, as may be amended from time to time. If the Applicant is subject to a negative points assessment based on the criteria outlined in the Department’s Negative Points Policy or is determined to be ineligible for funding, HCD shall notify the Applicant in writing in the initial point score letter.

Negative points will be assessed as a reduction to the score earned under

paragraphs (1) and (2) above and will serve as the final score for this criterion. For example, if a Project earns 15 points under paragraph (1) Development and ownership experience and 5 points under paragraph (2) Property Management Company Experience but is assessed 3 negative points, the final score for this criterion would be 17 (15 + 5 - 3).

If the Sponsor/Applicant is subject to negative points assessment, HCD shall notify the Sponsor/Applicant in writing within the threshold or point score letter and will provide opportunity to appeal negative points assessment pursuant to the appeals process as set forth in the NOFA.

E. Project Readiness

(27 points maximum)

Points will be awarded to Projects under each of the following rating factors as documented in the application and as indicated below. If a particular rating factor is not applicable, full points shall be awarded in that category.

1. Financing Commitments (10 points maximum)

- a. Five points will be awarded for evidencing Enforceable Funding Commitments for all construction financing, excluding:
 - i. funds applied for under the DR-MHP NOFA;
 - ii. an allocation of tax-exempt bonds; and
 - iii. 4 percent or 9 percent tax credits.

For Projects with bond financing, lender commitment of bond financing is required for these points.

- b. Five points will be awarded for evidence of Enforceable Funding Commitments for all permanent financing, grants, project-based rental assistance, and operating subsidies, excluding: funds applied for under the DR-MHP NOFA, an allocation of tax-exempt bonds, and 4 percent or 9 percent tax credits. For Projects with bond financing, any applicable permanent lender commitment of bond financing is required for these points.

For both construction financing commitments and permanent financing commitments, the assistance will be deemed to be an Enforceable Funding Commitment as this term is defined in the Program Policies and Procedures, if it has been awarded to the Project or if the Department approves other evidence that the assistance will be reliably available. Contingencies in commitment documents based upon the receipt of an allocation of tax- exempt bonds, 4

percent tax credits or 9 percent tax credits will not disqualify a source from being counted as committed.

To receive points under paragraphs (a) and (b) above for deferred payment financing, grant funds, or subsidies from other Department programs, these funds must be awarded prior to finalizing the preliminary point scoring of applications under the DR- MHP NOFA.

2. Local and Environmental Approvals (15 points maximum)

- a. Land use approvals (10 points maximum) – Points will be awarded under item i, ii, or iii below.
 - i. Ten 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.
 - ii. Five 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.
 - iii. One point will be awarded for a letter signed by a planner certified by the American Institute of Certified Planners indicating that, in their opinion, the Project meets all of the requirements for approval under a Nondiscretionary Local Approval Process, where an application has not been approved or disapproved by the local authorities.
- b. Environmental Approvals (5 points maximum) – Points will be awarded for submission of a local certification of California Environmental Quality Act (CEQA) exemption or completion and submission of:
 - i. A Complete Draft Environmental Assessment with source documentation;
 - ii. A Complete Draft National Environmental Policy Act (NEPA) Categorically Excluded – Subject to 58.5 review with source documentation; or
 - iii. A signed Authority to Use Grant Funds from HUD or other appropriate federal agency, supported with the underlying environmental review document and source documentation.

Note: The Project's NEPA Authority to Use Grant funds must be received prior to the construction loan closing. It is not necessary to have the Authority to Use Grant Funds at the application stage.

3. Organizational Documents (2 points maximum) – Points will be awarded if the ultimate borrowing entity, including all affiliated entities, is fully formed and all required organizational documents are submitted with the application.

F. Infill / Proximity to Amenities / Sustainable Building Methods

(15 points maximum)

Applications will receive 5 points for each of paragraphs 1-3 of the following three conditions, up to a maximum of 15 points as defined below:

- Infill development and Net Density
- Proximity to amenities
- Sustainable building methods

1. Infill Development and Net Density. Five points will be awarded for infill development located in a developed area served with public infrastructure. The Project must meet one of the following requirements of (a) or (b) below:

a. Located on a site where either:

- i. At least 75 percent of the site was previously improved (including areas where improvements have been demolished) or used for any use other than Open Space, agriculture, forestry, or mining waste storage; or
- ii. At least 75 percent of the perimeter of the site's adjoining parcels that are developed with Urban Uses (residential, commercial, industrial, public institutional, transit or transportation passenger facility use, or retail use, or any combination of those uses) but not including lands used for agricultural uses or parcels in excess of 15,000 square feet in size and containing only one single family residence, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved Parks shall not be included; or
- iii. The combination of at least 50 percent of site area as previously improved (including areas where improvements have been demolished) or used for any use other than Open Space, agriculture, forestry, or mining waste storage, and at least 50 percent of the perimeter of the site adjoining parcels that are developed with Urban Uses or is separated from parcels that are developed with Urban

Uses only by an improved public right-of-way. In calculating this percentage perimeters bordering navigable bodies of water and improved Parks shall not be included.

- b. Developed at average residential Net Densities on the parcels to be developed that are greater than the densities described below:
 - i. For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 20 Units per acre.
 - ii. For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 15 Units per acre.
 - iii. For a suburban jurisdiction: sites allowing at least 25 Units per acre.
 - iv. For a jurisdiction in a metropolitan county: sites allowing at least 45 Units per acre.
 - v. For a Rural Area: sites allowing at least 15 Units per acre.
2. Proximity to amenities. Maximum of 5 points.

Projects will receive 1/3 point per site amenity point that would be awarded under TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325(c)(4)(A) or successor regulation (In TCAC regulations, this is a 15-point category, however, achieving all 15 points under TCAC translates to 5 points under this category).

Transit points must be for a Transit Station or Major Transit Stop and distance must be measured by a Walkable Route.

3. Sustainable building methods. Points will be awarded based on the following (up to a maximum of 5 points):
- a. 2.5 points will be awarded if the Project supports the implementation of a sustainable community's strategy or alternative planning strategy that has been determined by the California Air Resources Board to achieve the region's greenhouse gas emissions target or other adopted regional growth plan intended to foster land use. Consistency with such plans must be demonstrated by a letter or resolution executed by an officer or an equivalent representative from the metropolitan planning organization, regional transportation agency, planning, or local transportation commission.
 - b. If a sustainable community's strategy is not required for a region by law, 2.5 points will be awarded if the Project supports a regional plan that

includes policies and programs to reduce greenhouse gas emissions. Evidence of consistency with such plans must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization or regional transportation planning agency or local transportation commission.

- c. A Project in which not less than 50 percent of the land area is within a Transit Priority Area shall receive 2.5 points. Evidence of Project location within, or partially within, a Transit Priority Area must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization, regional transportation planning agency, or local transportation commission.
- d. Five points will be awarded for a Project that is designed to achieve green building status beyond State mandatory building code requirements as verified upon construction completion by a certified LEED Green rater, certified Green Point rater, or licensed engineer. Applicants may select from the following green building certification programs:

Program	Minimum Required Tier or Designation
CalGreen	Tier 2
U.S. Green Building Council LEED Certification	Gold
Green Point Rated	New Construction: Gold
ENERGY STAR	Certified Home
Living Future Challenge	Living Building

- e. Three points for Projects that achieve near electrification – Projects where two out of three of the major energy appliances (cook stoves, space heating, water heating) are electric. Projects must be wired to be electric-ready, defined as having 240 volts outlets near each gas appliance.
- f. Five points will be awarded for Projects that are powered entirely through electricity with no connections to natural gas infrastructure.

G. Cost Containment

(5 points maximum)

A project shall receive 1 point for each full percent that the Project's eligible basis is less than the Project's adjusted threshold basis limit, up to a maximum of 5 points. The percentage is calculated by dividing the Project's eligible basis by the Project's adjusted threshold basis limit.

Total Eligible Basis per the Development Budget

Adjusted Threshold Basis Limit

(Per California Debt Limit Allocation Committee (CDLAC) Regulation
Section 5230)

For purposes of this subdivision, a Project's adjusted threshold basis limit shall be the Project's threshold basis limit, as if it were a 4 percent LIHTC project, as determined pursuant to Section 10327(c)(5) of the TCAC regulations, except that the increase for deeper targeting pursuant to Section 10327(c)(5)(C) of the TCAC regulations that is multiplied by the unadjusted threshold basis limit shall be limited to 80 percent. Section 10327(c)(5) of the TCAC regulations states that for Projects financed through CDLAC, an increase of one percent in the threshold basis limits shall be available for every 1 percent of the project's Low-Income and Market Rate Units that will be income and rent restricted at or below 50 percent but above 35 percent of AMI. An increase of 2 percent shall be available for every 1 percent of the project's Low-Income and Market Rate Units that will be restricted at or below 35 percent of AMI. In addition, the applicant must agree to maintain the affordability period of the project for 55 years (50 years for projects located on Tribal Trust Land)." The Department, however, will only restrict to income levels in 5 percent increments.

Any Project may be subject to performance penalties if the Project's total eligible basis determined upon construction completion exceeds the revised total adjusted threshold basis limits for the year the Project completes construction (or the original total eligible threshold basis limit if higher) by 40 percent.

H. Tiebreaker Score

(5 points maximum)

In the event of tied point scores, the Department shall rank tied applications based on three factors which will be implemented in sequence. The three factors are: (1) the lowest weighted average affordability of all residential Units, (2) leverage of other funds, and (3) additional cost containment. If after review of the first factor the application(s) remain tied, the second factor shall be calculated. If after review of the second factor, the application(s) remain tied, the third factor shall be calculated. The tiebreaker scoring calculation is explained below.

1. Lowest weighted average affordability of all residential Units.
 - a. Multiply each income limit applicable to the Project by the number of adjusted residential Units restricted at that income level (market rate Units, which do not include Units subject to Rent and/or occupancy restrictions at 70 percent or 80 percent AMI, shall be designated 100 percent AMI). Unrestricted Manager’s Unit(s) are excluded from this calculation.

To calculate adjusted residential Units, multiply the residential Units of a Unit Type (bedroom count) by the following adjustment factors:

Unit Type	Adjustment Factor
Studio/SRO	0.90
1-Bedroom	1.00
2-Bedroom	1.25
3-Bedroom	1.50
4-Bedroom or larger	1.75

For purposes of this calculation:

- Units with federal project-based rental assistance shall be assigned targeted Rent levels of 30 percent AMI regardless of their actual income targeting; and
 - If the average affordability of all unadjusted residential Units, exclusive of Units with rental assistance, is less than 40 percent AMI, then the calculation shall assume a targeted Rent level of 40 percent AMI for each residential Unit that does not have rental assistance.
- b. Add the products calculated pursuant to the previous paragraph.
 - c. Divide the sum calculated pursuant to the previous paragraph by the total number of adjusted residential Units in the Project to obtain the average affordability.
 - d. Subtract (c) from 1.0.
2. Leverage of other funds.
 - a. Applications will be scored based on the leverage of other soft funds, meaning local public funds, including land donations or fee waivers to be used for permanent funding of the development costs attributable to the Restricted Units as a percentage of the total Project development cost.

- b. Local public land donations will be counted as leveraged funds where the value is established with a current appraisal, with the amount discounted to reflect a purchase price that is lower than the appraised value, or any fees, or other reliably predictable payments required as a condition of the donation.
 - c. The capitalized value of Rent differentials attributable to public project-based rental or public operating subsidies, based upon TCAC underwriting standards. Standards shall include the following and shall be annually aligned with TCAC standards for these capitalized values to the extent possible: a 15-year loan term; an interest rate based upon a spread over 10-year Treasury Bill rates; a 1.15 to 1 debt service coverage ratio; and a five percent vacancy rate.
 - d. The rental income differential for subsidized Units shall be established by subtracting rental income at 40 percent AMI levels (30 percent AMI for Special Needs Units with project-based rental assistance) from the committed contract Rent income documented by the subsidy source. In the case of a USDA rental subsidy only, the contract Rent income is the higher of 60 percent AMI rents or the committed contract USDA Basic rents. The committed contract Rent income for Units with existing project-based Section 8 rental subsidy shall be documented by the current monthly contract Rent in place at the time of the application or by contract Rent committed to and approved by the subsidy source (HUD); Rent from a Rent comparable study or post-Rehabilitation Rent shall not be permitted.
 - e. The Rent differential for Projects with public operating subsidies shall equal the annual subsidy amount in year one, provided the subsidy will be of a similar amount in succeeding years, or the aggregate subsidy amount of the contract divided by the number of years in the contract if the contract does not specify an annual subsidy amount.
 - f. Add the sum of all eligible soft funds as set forth in paragraphs (a), (b) and (c).
 - g. Divide (d) by total Project development cost and express as a decimal.
3. Additional Cost Containment. The “additional cost containment” category for the Tiebreaker follows the same methodology as the Cost Containment scoring category above, in Scoring Category G. This factor is calculated by dividing the Project’s eligible basis by the Project’s adjusted threshold basis limit as illustrated below:

Total Eligible Basis per the Development Budget
Adjusted Threshold Basis Limit
(Per CDLAC Regulation Section 5230)

For purposes of this subdivision, a Project's adjusted threshold basis limit shall be the Project's threshold basis limit, as if it were a 4 percent LIHTC Project, as determined pursuant to Section 10327(c)(5) of the TCAC regulations, except that the increase for deeper targeting pursuant to Section 10327(c)(5)(C) of the TCAC regulations that is multiplied by the unadjusted threshold basis limit shall be limited to 80 percent. Section 10327(c)(5) of the TCAC regulations states that for Projects financed through CDLAC, "an increase of one percent in the threshold basis limits shall be available for every 1% of the Project's Low-Income and Market Rate Units that will be income and rent restricted at or below 50 percent (50%) but above thirty-five percent (35%) of Area Median Income (AMI). An increase of two percent (2%) shall be available for every 1% of the Project's Low-Income and Market Rate Units that will be restricted at or below 35% of AMI. In addition, the Applicant must agree to maintain the affordability period of the Project for 55 years (50 years for Projects located on tribal trust land)." The Department, however, will only restrict to income levels in 5 percent increments.

Percentages shall not include any percentage points requested or awarded (up to 5 percent) pursuant to the Cost Containment point category. The maximum percentage shall be 25 percent.

Note: Any Sponsor may be subject to future performance penalties if the Project's total eligible basis determined upon construction completion exceeds the revised total adjusted threshold basis limits for the year the Project completes construction (or the original total eligible threshold basis limit if higher) by 40 percent.

The calculation in this paragraph (3) is multiplied by 0.75

V. Appeals

A. Basis of Appeals

1. Applicants may appeal HCD's written determination that an application is incomplete, has failed threshold review, or has otherwise been determined to provide an insufficient basis for an award (including point scoring and Tiebreaker).
2. At the sole discretion of the Department, the Department's written determination may include a request for clarifying and/or corrective information. For purposes of this section, "clarifying information" includes information and/or documentation that resolves ambiguities in any application materials that will inform the Department's threshold, scoring and feasibility determinations.
3. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's application (e.g., eligibility, award).
4. Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with the [DR-MHP Policy](#) and this NOFA. All decisions rendered shall be made by the Program Manager or his/her designee. The decision shall be final, binding, and conclusive, and shall constitute the final action of HCD.
5. The appeal process provided herein applies solely to decisions of HCD made pursuant to this NOFA.

B. Appeal Process and Deadlines

1. Process

To file an appeal, Applicants must submit to HCD, by the deadline set forth below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed reference to the area or areas of the application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be considered if this information would result in a competitive advantage to an Applicant. Once the written appeal is submitted to HCD, no further information or materials will be accepted or considered thereafter. Appeals are to be submitted to HCD at DR-MHP@hcd.ca.gov according to the deadline set forth in HCD review letters.

2. Filing Deadline

Appeals must be received by HCD no later than five (5) business days from the date of HCD's threshold review, or initial score letters, as applicable, representing HCD's decision made in response to the application.

C. Decision

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

VI. Award Announcements and Contracts

A. Award Announcements

Pursuant to Section 4.4.5 of the [DR-MHP Policy](#), the Department will announce Project awards by issuing an Award Letter sent via email to the Applicant point of contact listed in the Application.

B. Contracts

Successful Sponsors/Applicants will enter into a Standard Agreement with HCD. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed. To facilitate efficient processing of Standard Agreements, a condition of the award will be the delivery of a duly adopted and legally sufficient authorizing resolution and any duly filed or adopted organizational documents not included in the application, within sixty (60) calendar days of HCD's issuance of the award letter.

The awardee(s) shall remain a party to the Standard Agreement for the entire term of the Standard Agreement; removal of the awardee(s) without the Department's prior written consent is prohibited and will result in a default. Once a Project is awarded DR-MHP funds, the Sponsor/Applicant acknowledges and agrees that the completed Project will be substantially the same as what the Sponsor proposed in its application. HCD may nullify the award(s) of a proposed Project that is rendered infeasible through division into separately financed or held portions. Such a Project's awards cannot be transferred or assigned to another Project or Sponsor.

VII. Other Key Requirements

The Sponsor/Applicant agrees to comply with all applicable state and federal laws, rules, guidelines, and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Rental Housing Development, the Sponsor/Applicant, its contractors or subcontractors, and any loan or grant activity, including without limitation the following:

- DR-MHP Policy, Section 2, Administration of Funds
- DR-MHP Policy, Section 3, General Requirements
- DR-MHP Policy, Section 5, Operations

A. Duplication of Benefits

In accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. 5121-5207](#)) (Stafford Act) and Federal Register Notice published June 20, 2019 (84 FR 28836) requirements, all activities funded with CDBG-DR dollars must undergo a Duplication of Benefits (DOB) review and calculation prior to Project award and prior to close out. DOB occurs when a program beneficiary receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. This includes all benefits available to a person or entity for the same recovery purpose, including cash and other resources such as insurance proceeds, grants, FEMA assistance, SBA loans, other local, state, or federal program funds, and private or nonprofit organization funds. It is HCD's responsibility to ensure that the DR-MHP provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The Project application must document all funds obtained from any source from the date of the disaster until the date of the application. Additionally, HCD shall perform a check for Duplication of Benefit (DOB) prior to issuing an award and pre-Project closeout to ensure that duplicative assistance is not provided for multifamily housing. HCD also reserves the right to perform additional DOB checks throughout the course of the Project's period/performance to ensure there is no duplicative assistance throughout the course of the Project.

To address any potential Duplication of Benefits, the Standard Agreement will include provisions requiring repayment of any assistance later received for the same purpose as the CDBG-DR funds. The Standard Agreement must also include the following language: "Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729."

B. California's Preservation Notice Law

All Applicants, Sponsors, co-Sponsors, owners, and special purpose entities, where applicable must, at all times, comply with, and not be in violation of, [California's Preservation Notice Law](#) (Gov. Code, §§ [65863.10](#), [65863.11](#), [65863.13](#)).

C. Relocation

The Sponsor/Applicant of a Project resulting in displacement of persons, businesses, or farm operations shall be solely responsible for providing the assistance and benefits set forth in the [DR-MHP Policy](#) Section 3, and in applicable state and federal law, and shall agree to indemnify and hold harmless HCD from any liabilities or claims for relocation-related costs. In addition, before Standard Agreements from a DR-MHP award will be executed, Sponsor must have either: (1) a Department-approved relocation plan; or (2) a Department-issued Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement, which has been duly executed and approved by the Department.

If a Recipient's Project is located within Native American Lands that are held in trust or restricted, or a Rancheria, Recipient is exempt from this requirement and shall comply with federal relocation law, as applicable, including any relocation requirements under NAHASDA at 24 C.F.R. § 1000.14.

VIII. Other Terms and Conditions

A. Right to Modify or Suspend

HCD reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this DR-MHP NOFA at any time, including without limitation, the amount of funds available hereunder. If such an action occurs, HCD will notify all interested parties via HCD's email list and will post the revisions to the DR-MHP website. Please subscribe to HCD's email list at www.hcd.ca.gov/contact-us/email-signup.

B. Authority to Post Remediated Versions of Agreement

The Sponsor/Applicant of a Project receiving funds pursuant to this NOFA hereby understands and acknowledges that the Department is obligated under federal law to post on the Department's website copies of all CDBG-DR executed contracts. As posted, such contracts must be compliant with federal and state accessibility laws, including the California Government Code Section 11546.7 (2017 Assembly Bill 434) and the federal Americans with Disability Act, Section 508. The state law is the most stringent of the two, so all posted documents must meet the Web Content Accessibility Guidelines 2.0 (WCAG 2.0) accessibility level.

To comply, the Department must utilize document remediation tools that provide the compliant formatting. All remediation will only change formatting, color schemes, and update any tables so that screen readers can properly read out the content of the table. Thus, during remediation, the appearance of this Agreement may change, but under no circumstances shall any terms or tenets of the Agreement be changed in any way.

Additionally, the Department shall offer website visitors the option to receive a scanned, un-remediated copy of this Agreement via email, which option Sponsor/Applicant also consents to.

The foregoing Sponsor/Applicant authorizations apply to both the original Standard Agreement as well as any and all subsequent amendments thereto.

C. Conflicts

It is the duty and responsibility of the Applicant and Sponsor to review any funding source they obtain for a Project to ensure each of the requirements for those funding sources are compatible with HCD program requirements.

Applicants are deemed to have fully read and to understand all applicable state and federal laws, regulations, and guidelines pertaining to DR-MHP, and to understand and agree that HCD shall not be responsible for any errors or omissions in the preparation of this DR-MHP NOFA. In the event of a conflict between the terms of this DR-MHP NOFA, [DR-MHP Policy](#), and any applicable

state, or federal law, the [DR-MHP Policy](#), state, or federal law shall prevail and be controlling.

D. False, Fictitious or Fraudulent Claims

Warning: Any person who knowingly makes a false claim or statement to HUD or HCD may be subject to civil or criminal penalties under 18 U.S.C. §287, 1001 and 31 U.S.C. §3729.

E. Detecting, Preventing, and Reporting Fraud

Fraud is a white-collar crime that has a devastating effect on the CDBG-DR program because the program beneficiaries are victims of this crime when the program is abused. The Department wants to stop any criminal assault on the CDBG-DR programs it administers, and in doing so all CDBG-DR funds go to people it was designed to help and improve their living conditions.

F. Combatting Fraud

The HUD Office of Inspector General (OIG) is committed to protecting HUD's programs, operations, and beneficiaries from dishonest individuals and organizations. HUD cannot combat fraud alone; they rely on HCD and NOFA Applicants to combat program fraud.

HUD also relies on Applicants for, and people receiving, HUD benefits, such as: tenants receiving rental assistance, borrowers with HUD insured loans, or residents having their communities restored using HUD grants.

The HUD OIG Hotline number is 1-800-347-3735. This is the primary means to submit allegations of fraud, waste, abuse, mismanagement, or Whistleblower-related matters for the program to the OIG.

HUD OIG accepts reports of fraud, waste, abuse, or mismanagement in the program from HUD employees, anyone administering the CDBG-DR program, anyone working in the program, contractors, and the public.

You can report mismanagement or violations of law, rules, or regulations by HUD employees or program participants. Fraud, Waste and Abuse in the program and its operation may be reported in one of the following four (4) ways:

1. By email to: hotline@hudoig.gov
2. By phone: Call toll free: 1-800-347-3735
3. By fax: 202-708-4829
4. By mail: Department of Housing & Urban Development Office of Inspector General Hotline Manager 400 Virginia Avenue, SW, Suite 120, Washington, DC 20024

G. Federal Whistleblower Protection Acts (5 U.S.C.2302(b)(8))

The Federal Whistleblower Protection Act (WPA) protects employees from retaliation for making protected disclosures. The WPA also provides penalties for supervisors who retaliate against Whistleblowers.

1. A disclosure is protected under the WPA if the employee discloses information the employee reasonably believes to be evidence of:
 - i. a violation of any law, rule, or regulation,
 - ii. gross mismanagement,
 - iii. a gross waste of funds,
 - iv. an abuse of authority, or
 - v. a substantial and specific danger to public health or safety.

In general, an employee or applicant may make a protected disclosure to anyone, including non-governmental audiences, unless the information is classified or specifically prohibited by law from release. Options for making a protected disclosure include:

- i. Informing a supervisor or someone higher up in management,
- ii. Submitting a complaint to the OIG by emailing the OIG at oig@ftc.gov,
- iii. Filing a complaint with the Office of Special Counsel (OSC) <http://www.osc.gov/>

H. The California Whistleblower Protection Act

The California Whistleblower Protection Act ([Title 2, Division 1, Chapter 6.5, Article 3.5, Gov. Code §§ 8548-8548.5](#)) authorizes the California State Auditor to receive complaints from state employees and members of the public who wish to report an improper governmental activity. An "improper governmental activity" is any action by a state agency or any action by a state employee directly related to state government that:

- i. Violates any state or federal law or regulation,
- ii. Violates an Executive Order of the Governor, a California Rule of Court, or any policy or procedure required by the State Administrative Manual or State Contracting Manual, or
- iii. Is economically wasteful or involves gross misconduct, incompetency, or inefficiency. Complaints received by the State Auditor are confidential, and the identity of the complainant may not be revealed without the complainant's permission, aside from to an appropriate law enforcement agency conducting a criminal investigation.

There are many ways to file a complaint:

By Telephone:

You may call the Whistleblower Hotline at (800) 952-5665 to file a complaint by

talking to one of the State Auditor's employees. The hotline generally is staffed Monday through Friday from 8:00 a.m. to 5:00 p.m. If you call when the hotline is not being staffed, or staff is occupied with other calls, you may leave a voicemail message requesting a return call.

By Mail or Facsimile:

You may file a complaint in the form of a letter to the State Auditor addressed as follows:

Investigations
California State Auditor
P.O. Box 1019
Sacramento, CA 95812

Or you may **fax** the letter to the State Auditor at (916) 322-2603.

As an alternative, you may complete the electronic version of the complaint form (which is available on the State Auditor website at auditor.ca.gov), print it out, and return it by mail or facsimile as stated above.

Online:

Although the State Auditor does not accept complaints by email, you may file a complaint online at <https://www.auditor.ca.gov/whistleblower/>.

The State Auditor will not undertake an investigation unless there is a basis for believing that your complaint has sufficient merit to warrant spending resources on an investigation. Your complaint should therefore include:

- i. A clear and concise statement of what you are alleging to be improper activity and why you believe it is improper.
- ii. The name or other information that clearly identifies the person you are alleging has acted improperly and the department where that person works.
- iii. The names and contact information for any witnesses who can confirm the truth of what you are saying.
- iv. Copies of any documents that will support what you are saying. (You should not submit original documents, as they cannot be returned.)