

# Multifamily Housing Program

## DRAFT Guidelines

To ease in review, language identified in red text throughout this document represents text that is generally consistent across all multifamily funding programs subject to Assembly Bill 434 (2020) and Health and Safety Code section 53559, subdivision (c).

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## Article 1. General

### Section 7300. Purpose and Scope.

- (a) These guidelines implement and interpret Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code (HSC), which establishes the Multifamily Housing Program (MHP) administered by the California Department of Housing and Community Development (Department).
- (b) These guidelines establish terms, conditions, and procedures for funds awarded after the effective date of these guidelines, and are authorized by HSC Section 54014, subdivision (b).
- (c) Nothing in these guidelines is intended to be, nor should be, interpreted to amend or repeal rules, regulations or requirements set forth in prior versions of MHP guidelines or their amendments; these guidelines shall have no retroactive application. These guidelines apply to the **Multifamily Finance Super NOFA – Round 2-3** funding offered subsequent to their publication.
- (d) These guidelines implement and interpret AB 434 (Chapter 192, Statutes of 2020), which amends, repeals, and adds sections of and to the HSC and the Military and Veterans Code (MVC). AB 434 ~~requires~~ requests the Department to harmonize the Designated Programs in four (4) respects:
  - (1) All Designated Program funds are to be made available at the same time as any MHP funds are made available;
  - (2) Designated Program applications are to be rated and ranked in a manner consistent with MHP applications;
  - (3) Designated Program funds are to be administered consistent with MHP; and
  - (4) Designated Program loans, to the extent applicable, are to be consistent with MHP loan terms.

### Section 7300.1. Uniform Multifamily Regulations (UMRs) and Other Authorities Incorporated by Reference.

- (a) The Uniform Multifamily Regulations (UMR) (Cal. Code Regs., tit. 25, § 8300 et seq.), effective November 15, 2017, and as subsequently amended, are hereby incorporated by reference as if set forth in full herein, with the exceptions of UMR Section 8304(c), other UMR sections specifically identified herein, and any UMR provision that would be inconsistent with these guidelines.
- (b) The following administrative notices, policies, and guidance are hereby incorporated herein by reference and shall be deemed to have the same force and effect as if set forth in full herein:
  - (1) The Department's "[Disencumbrance Policy](#)" (Administrative Notice No. 2022-02), dated March 30, 2022, as amended on December 19, 2022, and as may be subsequently amended;

- (2) The Department’s [“Negative Points Policy”](#) (Administrative Notice No. 2022-01), dated March 30<sup>4</sup>, 2022, as amended on November 9, 2022 and April 3, 2023, and as may be subsequently amended;
- (3) The Department’s [“Pooled Transition Reserve Policy”](#) (Administrative Notice No. 23-01), dated January 3, 2023, as amended on August 8, 2023, and as may be subsequently amended;
- (4) The Department’s [“Repeal of Stacking Prohibition of Multiple Department Funding Sources”](#) (Administrative Notice No. 21-06), dated August 20, 2021, as amended on September 13, 2023, and as may be subsequently amended; and
- (5) The Department’s [“AB 977 HMIS Project Setup Instructions,”](#) dated March 23, 2023, and as may be subsequently amended.
- (6) The Department’s [“Notice of Omnibus Program Guideline Amendments Supportive Services Costs Limits”](#) (Administrative Notice No. 24-05) dated October 7, 2024, and as may be subsequently amended.

## **Section 7301. Definitions.**

In addition to the definitions found in the MHP statutory scheme and the UMRs, the definitions in Appendix A – Defined Terms shall apply to these guidelines.

In the event of a conflict, the definitions in Appendix A – Defined Terms shall prevail for the purposes of these guidelines and application to the Designated Programs. The defined terms will be capitalized throughout the guideline text. References to sections herein refer to sections of these guidelines unless otherwise noted.

## **Article 2. Administration of Funds.**

### **Section 7302. Eligible Project.**

Proposed Projects are eligible for funding only if they meet the requirements of each funding source identified and applied for in the relevant Project application, as well as all of the requirements set forth below:

- (a) The Project includes the new construction or Rehabilitation of a Rental Housing Development or the conversion of a nonresidential structure to a Rental Housing Development. Rehabilitation Projects with existing Department restrictions must comply with loan restructuring requirements pursuant to HSC Sections 50560 through 50562 and current [Portfolio Restructuring Guidelines](#) published by the Department. Restructuring transaction fees are set forth in UMR Section 8317. Proposed increases to rent restrictions as well as corresponding operating budget underwriting assumptions in an application will be evaluated for reasonableness by the Department. All occupied or partially occupied Rental Housing Developments must comply with the rent rules of paragraphs (e)(4)(G) through (I) below.
  - (1) The Project must contain five (5) or more Units. A single-family house is considered to be one Unit, and an apartment Unit in an apartment building is

considered to be one Unit regardless of the number of bedrooms within the apartment Unit.

- (b) Other development funding sources, including all tax credit equity generated by the Project, are insufficient to cover Project development costs.
- (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. For the purposes of this subdivision, the commencement of construction or Rehabilitation work means the first land-disturbing activity associated with a Project, including land preparation such as clearing, grading, and filling, or the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (d) The Project meets accessibility requirements pursuant to Section 7314 below. Projects must also provide a preference for Accessible Housing Unit(s) to persons with disabilities requiring the accessibility features of those units in accordance with California Code of Regulations (CCR), Title 4, Section 10337(b)(2).
- (e) The Project qualifies as one or more of the following project types:
  - (1) Large Family, where at least 25 percent of the Restricted Units have three or more bedrooms, and at least an additional 25 percent have two or more bedrooms;
  - (2) Senior, where all units are restricted to households eligible under applicable provisions of California Civil Code (CIV) Section 51.3 and the federal Fair Housing Act (42 U.S.C. § 3601 et seq.) (or where Projects utilize federal funds whose programs have differing definitions for senior projects, or have the Rehabilitation of occupied developments restricted to residents 55 or older, or have Supportive Housing or Special Needs Projects also restricting occupancy to residents who are 55 years of age or older), and the Project is subject to state and federal fair housing laws with respect to senior housing and senior housing exemptions;
  - (3) Farmworker Housing, where at least 25 percent of the units are available to, and occupied by, Agricultural Households. At least 10 percent of those units shall be at or below 30 percent AMI. Farmworker Housing Projects shall provide appropriate oral and written linguistic services and publications.
    - (A) The Applicant shall document that there is sufficient demand for Agricultural Household units in the area in which the project is or will be located as evidenced by a market study.
  - (4) At High Risk, means Projects that meet the requirements for at-risk projects set forth in California Tax Credit Allocation Committee (TCAC) Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325, including meeting the definition of “at risk of conversion” as defined for the low-income housing tax credit program in Revenue and Taxation Code Section 17058(c)(6). Projects must also meet all of the following additional characteristics and requirements:

- (A) They are currently owned by for-profit entities, or nonprofits that own no more than three publicly assisted Rental Housing Developments, or were owned by one of these entities prior to purchase with interim financing no more than five (5) years before the application date by an entity described in the following subsection (B);
- (B) They are under contract to be purchased by a nonprofit meeting the requirements of California Government Code (GC) Section 65863.11(e), or by a limited partnership where the sole general partner is a nonprofit that meets these requirements, or are owned by one of these entities; and
- (C) They are not subject to rent restrictions associated with financial assistance that will survive the event that qualifies them for at-risk status under TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325, except where a Project has been acquired by a qualified nonprofit organization within the five (5) years preceding the date of application with interim financing in order to preserve its affordability and that meets all other requirements of this section.
- (D) For Projects receiving financial assistance from HUD or the Department of Agriculture, the Project is not assisted under either the HUD 811 or HUD 202 program or subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA); and either:
  - (i) The weighted average contract rent for Units in the Project is less than or equal to 0.90 times the weighted average of the relevant Small Area Fair Market Rents (SAFMRs), as published by HUD, for these Units; or
  - (ii) The Project owner previously opted out of an agreement with a public agency that restricted tenant incomes and tenant-paid rents.
- (E) For Projects not receiving federal assistance, the Department projects the owner could pay off all current secured debt with the proceeds of a new commercial mortgage, assuming that Rents were set at Small Area Fair Market Rent levels.
- (F) For Projects receiving financial assistance from HUD or the Department of Agriculture, and subject to restrictions associated with financial assistance from other sources, the Project must meet the requirements of both subdivision (D) and (E).
- (G) Rent rules for existing tenants:
  - (i) For existing tenants with household incomes that do not exceed 35 percent of AMI, annual rent increases are capped at 5 percent.
  - (ii) For existing tenants with incomes greater than 35 percent of AMI, annual rent increases are capped at 10 percent.
  - (iii) If tenant rent increases are pursuant to an HCD loan restructure where existing tenant incomes exceed their restricted formula- or AMI-based rents, the annual rent increase limits will continue until the tenant's rent

reaches the unit's rent limit (as updated annually and posted on the Department's website).

- (iv) Once an existing tenant's rent reaches the rent limit designated for that unit, the unit's rent will be restricted solely by the published AMI-based rent and will no longer be subject to the above 5 percent or 10 percent rent increase rules.
  - (v) If an existing tenant's rent is or reaches 50 percent or more of the tenant's actual household income, no rent increase is permitted.
  - (vi) Rent increases may also be restricted by other funding sources or by state or local law. In such cases the most restrictive rent requirements will be applicable.
- (H) Rent rules for existing over-income tenants:
- (i) Existing tenants with household incomes that exceed 60 percent of AMI will be required to pay 30 percent of their actual household income for rent after proper noticing is provided to the tenant as required in paragraph (I) below.
  - (ii) Tenants who move into the Project after the application is submitted and whose incomes increase to more than 60 percent of AMI in an annual income recertification conducted after the Program Regulatory Agreement is recorded will be required to pay 30 percent of their actual household income after proper noticing is provided to the tenant as required in paragraph (I) below.
- (I) Prior to the implementation of the first rent increases under the Program, the Project owner shall provide existing tenants with the following notifications of rent increases:
- (i) Notice six (6) months prior to rent increase with an estimate of the amount of the increase;
  - (ii) Notice ninety (90) days prior to the actual rent increase with the exact amount of the new rent.
- (J) No permanent relocation shall be permitted unless reviewed and approved by the Department. Furthermore, no displacement is permitted unless and until the Department has provided express written approval of the Sponsor's relocation documentation, as more fully specified at Section 7315.
- (5) Special Needs, 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 following, including the integration requirements specified in subdivision (g) below:
- (A) The Lead Service Provider must have at least three (3) years' experience providing services to at least five (5) households of the same target



population at any one time in a residential setting (which can include scattered site housing with multiple owners).

- (B) The Sponsor must have experience owning or operating at least one (1) project with Units restricted by a public agency to a Special Needs Population.
- (C) The property management agent must have at least one (1) year of experience managing a project with Units restricted by a public agency to a Special Needs Population.
- (D) The Project must provide a Supportive Services plan consistent with the requirements of Section 7310 except as provided in Section 7310.1 for projects offering services funded through Medi-Cal pursuant to the requirements of Section 7310.1.
- (E) The Project must follow tenant screening, property management, and service delivery practices for these units in accordance with the core components of Housing First set forth in Welfare and Institutions Code (WIC) Section 8255. These core components include, but may not be limited to, the following:
  - (i) Tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.
  - (ii) Promote tenant selection plans for Supportive Housing that prioritize eligible tenants based on criteria other than “first-come-first-served,” including, but not limited to, the duration or chronicity of homelessness, vulnerability to early mortality, or high utilization of crisis services. Prioritization may include triage tools, developed through local data, to identify high-cost, high-need homeless residents.
  - (iii) Applicants shall not be rejected on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of “housing readiness” (perceived inability to live independently due to untreated mental health or substance abuse issues, or lack of life skills, such as impulse control or ability to manage personal finances). Any criminal history screening for criminal convictions *related to tenancy* must comply with the requirements and limits of California Code of Regulations, title 2, sections 12264-12271.
  - (iv) Where referrals from a Coordinated Entry System (CES) are not available, acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness.
  - (v) Supportive Services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.

- (vi) Participation in services or program compliance is not a condition of permanent housing tenancy.
  - (vii) Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in the CIV, HSC, and GC.
  - (viii) The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction.
  - (ix) Case Managers and service coordinators who are trained in, and actively employ evidence-based practices for client engagement, including, but not limited to, motivational interviewing and client-centered counseling.
  - (x) Services are informed by a harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants' lives, where tenants are engaged in nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices, as well as connected to evidence-based treatment, if the tenant so chooses.
  - (xi) The project and specific units may include special physical features that accommodate persons with disabilities, reduce harm, and promote health, community, and independence among tenants.
- (f) Projects qualifying as Special Needs projects, where one or more of the Assisted Units are restricted under Department Regulatory Agreements to occupancy by Chronically Homeless or Homeless, have the following additional requirements:
- (1) Have an Eligible Sponsor (as specified in Section 7303) with at least two (2) years' experience during the past five (5) years owning or operating (under a long-term master lease or similar arrangement) a Rental Housing Development that includes at least 10 units occupied by people experiencing Homelessness, and that provides on-site Comprehensive Case Management services. Occupancy by persons experiencing Homelessness may be evidenced either by public agency restrictions requiring this occupancy or by documentation conclusively demonstrating occupancy for at least two years by people experiencing Homelessness upon initial move-in.
  - (2) Be managed by a property manager that has managed, for at least three (3) years, Rental Housing Developments that include at least 10 units occupied by people experiencing Homelessness, and that provide on-site Comprehensive Case Management services. Occupancy by persons experiencing Homelessness may be evidenced either by public agency restrictions requiring this occupancy or by documentation conclusively demonstrating occupancy for at least three years by people experiencing Homelessness upon initial move-in.
  - (3) (A) Utilize a Lead Service Provider with at least three (3) years of experience providing Comprehensive Case Management to at least 20 Homeless households in the aggregate in either of the following circumstances:

- (i) As a part of project- or tenant-based housing, emergency shelters, transitional housing, or similar programs; or
    - (ii) Pursuant to a contract with a public agency.
  - (B) For purposes of satisfying subparagraph (A), the households served may be located at different sites. In all cases, the Comprehensive Case Management services shall be or have been provided on an ongoing and continuous basis.
  - (C) A written agreement, or letter of intent, between the Lead Service Provider and the Sponsor or Project owner satisfactory to the Department must be submitted with the Program application.
- (4) Fill vacancies for these Units with local CES referrals of people who are Homeless, Chronically Homeless, or At Risk of Homelessness, where the CES system is actively referring such households to Supportive Housing. Tribal Entities may utilize another similar system that prioritizes based on need and barriers to housing stability, as approved by the Department. Where the CES system is not operational, referrals shall be through another similar system that prioritizes based on need and barriers to housing stability, as approved by the Department.
- (A) If the local CES fails to refer tenants within 30 days of written notification of a vacancy, these Units may be filled by referrals from other sources, including homeless shelters.
  - (B) Where the local office of the U.S. Department of Veterans Affairs is not participating in a CES, vacancies may be filled with those Veterans who are referred directly by that local office.
  - (C) If acuity (the severity of presenting issues) is used as the basis for selecting tenants, it must be measured using the VI-SPDAT or some other standardized assessment tool approved by the Department.
- (5) Provide on-site Comprehensive Case Management services, with a resident to Case Manager ratio for these Units not exceeding the ratios set forth in Section 7310.
- (6) Be operated in accordance with property management and Supportive Services plans that were approved by the Department initially at time of application, and then at such later time(s) prior to occupancy as the Department may require, except as provided in Section 7310.1 for projects offering services funded through Medi-Cal pursuant to the requirements of Section 7310.1.
- (7) Comply with the integration requirements specified in subdivision (g) hereof.
- (8) Track and provide annual reports to the Department on tenant characteristics as specified in Section 7326.

- (g) Special Needs Projects must demonstrate integration of targeted populations with the general public by:
- (1) Physically integrating Restricted Units for people with disabilities with other Units, to the maximum extent feasible and subject to reasonable health and safety requirements, consistent with 24 Code of Federal Regulations (CFR) Section 8.26.
  - (2) In Projects with more than 20 Units, have no more than 49 percent of total Units restricted through a Department Regulatory Agreement(s) under all of the Designated Programs combined, to occupancy by persons with disabilities. This limitation shall not be interpreted to preclude occupancy of any Project Units by persons with disabilities, or restrictions by other funding sources, including but not limited to TCAC, that result in more than 50 percent of total Project Units being restricted to persons with disabilities. It shall also not apply to Projects complying with alternative requirements for demonstrating Olmstead compliance adopted by counties and approved by the Department.

(h) Assisted Unit Requirements:

~~(1) Where multiple Department programs assist the Project and the jurisdiction does not have Article XXXIV authority, the Department's total non-VHHP regulatory restrictions shall not exceed 49 percent of the Project's total Units, unless the Project otherwise has an exemption.~~

~~(A) Tribal Entities are not required to demonstrate compliance with Article XXXIV for Projects located in Indian Country where an Indian tribe exercises jurisdiction.~~

(1) The units regulated by the Department, including MHP Assisted Units, shall include those with the lowest income limits.

(i) Projects proposed by Tribal Entity Applicants must meet the following additional requirements:

(1) Located in Indian Country, or located on fee or trust land within the state of California;

~~(2) Project occupancy will be limited to Tribal Households to the greatest extent possible; and~~

(2) The Applicant meets the following conditions of award funding to the extent applicable, and, subject to any modifications or waivers as provided for in HSC Section 50406, subdivision (p) (Assembly Bill 1010 (Chapter 660, Statutes of 2019)) that shall be set forth in a Standard Agreement. It is noted that these same conditions do not need to be satisfied initially to engage in the competitive award process.

(A) BIA Approval. To the extent required by applicable law, the Bureau of Indian Affairs (BIA) has approved the Applicant's execution and recordation (as applicable) of all Department-required documents that are subject to 25 CFR Section 152.34 or 25 CFR Section 162.12, prior to Award disbursement.

~~(B)(A) Personal and Subject Matter Jurisdiction. Personal and subject matter jurisdiction in regard to the Standard Agreement, Project, or any matters arising from either of them is in a court of competent jurisdiction and the Department has received any legal instruments or waivers, all duly approved and executed, as are or may be legally necessary and effective to provide for such personal and subject matter jurisdiction in a court of competent jurisdiction.~~

~~(C)(B) Title Insurance. The Department has received title insurance for the property underlying the Project that is satisfactory to the Department. Notwithstanding the foregoing sentence, upon a showing of good cause, for Applicants unable to provide a conventional title insurance policy satisfactory to the Department, this condition may be satisfied by a title status report issued by the BIA Land Title and Records Office or pursuant to a title opinion letter issued for the benefit of the Department but paid for by the Applicant. Such title status report may be uncertified, so long as a certified title status report is submitted to the Department prior to the disbursement of Award funds. Notwithstanding the foregoing sentence, upon a showing of good cause, for Applicants unable to provide a conventional title insurance policy satisfactory to the Department for land held in trust by the BIA or land subject to a restriction by the United States against alienation, this condition may be satisfied by a title status report issued by the BIA Land Title and Records Office or pursuant to a title opinion letter issued for the benefit of the Department but paid for by the Applicant.~~

~~(D)(C) Recordation Requirements. Where recordation of instruments is a condition of award funding or otherwise required under or pursuant to the Standard Agreement, the subject instrument is recorded with the Land Titles and Records Office at the BIA for Projects on trust or restricted land and, in all cases where feasible, in the appropriate official records of the County county in which the Project property is located.~~

(j) Multiple Department Funding Sources:

(1) Use of multiple funding sources on the same Assisted Units is permitted, subject to the following limitation:

(A) ~~The HCD Repeal of Stacking Prohibition of Multiple Department Funding Sources Memo shall remain applicable. A maximum of four (4) HCD funding sources comprised of no more than two (2) development loans and two (2) housing-related infrastructure grants may be used on a single Project. Housing-related infrastructure grants are those grants provided through the Affordable Housing and Sustainable Communities program – Housing-Related Infrastructure (HRI) grants, Transit-Oriented Development (TOD) Implementation program – Infrastructure grants, and infill infrastructure grant programs (IG-2007 and IG-2019).~~

~~(2) “HCD funding sources” do not include:~~

~~(A) Offsite infrastructure funds; or~~

(B) ~~Existing loans or grants under any Department funding source listed above that are at least 14 years old and that will be assumed or recast as part of an acquisition and Rehabilitation project~~"HCD funding sources" do not include offsite infrastructure funds.

~~(3)~~(2) Additional limitations on use of multiple Department funding sources may be specified in the NOFA.

~~(4)~~(3) Limits on Department Funding, including loan or grant funds, on a per unit, per project, and/or per Sponsor basis, may be further specified in the NOFA.

- (k) Once a Project is awarded Department funds, the Sponsor/Awardee acceptance of these Department funds is acknowledging that the Project as submitted to and approved by the Department is the Project that is to be funded and built. Any bifurcation of the Project would make that award null and void, as the awarded Project is no longer feasible as originally submitted and approved and because the awarded funds are unable to be assumed or assigned.

### Section 7303. Eligible Sponsor.

(a) A Sponsor shall be any individual; joint venture; partnership; limited partnership; ~~special purpose entity formed and controlled by the Sponsor in accordance with UMR Section 8313.2;~~ trust; corporation; cooperative; Local Public Entity; Tribal Entity; or other legal entity; or any combination thereof; which meets the requirements of subdivisions (b) through (g) noted below, as applicable.

(b) Sponsor shall submit the application for Department funds and be the recipient or co-recipient of the Department's award of funds.

(c) Sponsor shall be organized on a for-profit, limited profit, or nonprofit basis.

(d) Sponsor shall demonstrate that it has successfully developed, operated, and owned at least one (1) Rental Housing Development of equivalent bedroom unit type and project size (including total units in the proposed Project not to exceed 150 percent of the Sponsor's largest Rental Housing Development), scale, level of amenities, and occupancy. For example, if applying as a Farmworker Housing Project, Sponsor shall further demonstrate that said Rental Housing Development (or one of said Rental Housing Developments) includes occupancy restrictions for Agricultural Households; or if proposing 50 percent or greater of the Restricted Units as Permanent Supportive Housing or Homeless, Sponsor shall further demonstrate that said Rental Housing Development (or one of said Rental Housing Developments) includes an equal or greater percentage of occupancy restrictions for Permanent Supportive Housing or Homeless. 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, operational, and ownership activities), but Sponsor shall not satisfy this experience requirement by aggregating the experience of its controlled affiliated entities and its

Principals, and in no event may Sponsor satisfy this experience requirement with not the experience of non-management board members.

(1) If there are multiple Applicants, then the following requirements must be met:

(A) The co-Applicant with experience must document that experience in the application as required by the NOFA.

(B) The co-Applicant with experience must perform a substantial management role in the borrowing entity from the time of Award through the full term of the Regulatory Agreement, as evidenced by the applicable organizational documents. Such role shall include the substantial management duties set forth at UMR Section 8313.2. Notwithstanding the forgoing, the party performing the substantial management role in the borrowing entity from the time of Award through the full term of the Regulatory Agreement may be replaced by a third-party that is an eligible Sponsor under this Section 7303, provided such third-party is deemed acceptable to the Department in its sole and absolute discretion.

~~(e) Solely for the purpose of applying to the Emerging Developer funding target, an Emerging Developer shall qualify on its own as a Sponsor so long as the Emerging Developer meets the experience requirements set forth in the Defined Terms Appendix A.~~

~~(f) Solely for the purpose of applying to the Community-Based Developer funding target, a Community-Based Developer shall qualify on its own as a Sponsor so long as the Community-Based Developer meets the experience requirements set forth in the Defined Terms Appendix A.~~

~~(g)~~(e) If an Emerging Developer or Community-Based Developer relies upon the experience of a co-Applicant to qualify for funding outside of the funding target, then the following requirements, in addition to the requirements under Section 7303(d), must be met:

- (1) The co-Applicant with experience must document that experience in the application as required by the NOFA.
- (2) The co-Applicant with experience must perform a substantial management role in the borrowing entity from the time of Award, through permanent financing close of escrow, and for at least seven (7) consecutive years thereafter, as evidenced by the applicable organizational documents. Such role shall include the substantial management duties set forth at UMR Section 8313.2.
- (3) The partnership agreement or other applicable organizational documents must, for the duration of the borrowing entity, provide for all of the following:
  - (A) The Emerging Developer or Community-Based Developer must receive no less than 50 percent of the Project's total Developer Fee. This requirement will be included as a special condition in the Project's respective Standard Agreement, as well as in its Regulatory Agreement (or Covenant where applicable).
  - (B) Provide the co-Sponsor without experience with an option to purchase the Rental Housing Development at appraised fair market value. The time period for exercising such option shall be no earlier than seven (7) years from the date of permanent financing close of escrow. Such options shall be subordinate to the Department's funding and security documents.

~~(h)~~(f) The Sponsor/Applicant that has demonstrated the experience required under Section 7303(d), above, (to include each constituent co-Sponsor) shall also demonstrate capacity to acquire, develop, and own affordable rental housing. In cases where there are co-Applicants, the co-Applicant(s) who have not demonstrated the experience required under Section 7303(d), above, shall not be required to demonstrate capacity to acquire, develop, and own affordable rental housing, until such time as they are contemplated to be (or replace) the Applicant that has demonstrated the experience required under Section 7303(d), above. For purposes of this subdivision, an entity has "capacity" if it has adequate staff, offices, capital, assets, and other resources to efficiently meet the operational needs of the Rental Housing Development; to maintain the Fiscal Integrity of the Rental Housing Development; and to satisfy all legal requirements and obligations in connection with the Rental Housing Development. Evidence of capacity must be reasonably acceptable to the Department in form and substance. Sponsor (to include each constituent co-Sponsor) shall satisfactorily demonstrate capacity at the time of its application for the funds. The Department will exercise reasonable discretion in determining capacity. In all cases, the Department will base its capacity determination on the experience, past performance, and organizational documents of ~~the~~ Sponsor/Applicant entity. ~~Where necessary to~~



clarify ambiguities in the application, the Department may request, during application review, any of the following::

- (1) Staff rosters, which include the job titles and duty statements of all staff positions, and/or payroll records;
- (2) Certified audited financial statements for the past three (3) consecutive years;
- (3) Certificates of good standing from the California Secretary of State, the California Franchise Tax Board, and/or the relevant regulatory agencies of foreign jurisdictions; and
- (4) Any other documentary evidence that reasonably supports the Sponsor's ability to satisfy the capacity requirement.

(i) ~~(g)~~ 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. For Projects with co-Sponsors, the co-Sponsor who garnered experience points at the application stage shall control the borrowing entity at construction closing, through permanent financing close of escrow, and for a period of at least seven (7) consecutive years thereafter. After seven (7) years have elapsed since permanent financing close of escrow for a project, the co-Sponsor who garnered experience points at the application stage may be replaced as the controlling entity of the borrower by a co-Applicant who is an eligible Sponsor under this Section. Notwithstanding the forgoing, the party performing the substantial management role in the borrowing entity from the time of the Award through the full term of the Regulatory Agreement may be replaced by a third-party that is ~~an~~ an eligible Sponsor under this Section 7303, provided such third-party is deemed acceptable to the Department in its sole and absolute discretion. If the Department's funding disbursement is structured with or through a special purpose entity, 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, as evidenced by the organizational documents of the special purpose entity and all of its constituent tier entities. Sponsor shall certify that it will abide by this control requirement at the time of its application for the funds for the full term of the Regulatory Agreement.

### **Section 7303.1 Threshold Requirements.**

Projects shall be eligible for an award of funds if the application demonstrates that all the following threshold requirements have been met:

- (a) The application involves an eligible Project pursuant to Section 7302;
- (b) The Applicant is an eligible Sponsor pursuant to Section 7303;

- (c) All proposed uses of Program funds are eligible pursuant to Section 7304, and otherwise complies with Section 7309;
- (d) The application is complete pursuant to Sections ~~7317 and~~ 7318;
- (e) Achieve a minimum point score for Universal Scoring criteria as set forth in the Notice of Funding Availability (NOFA);
- (f) The Project, as proposed in the application, is financially feasible as evidenced by documentation such as, but not limited to, Enforceable Funding Commitments, market study, project proforma, sources and uses statement, or other feasibility documentation that is standard industry practice for the type of proposed housing development;
- (g) The Project will maintain Fiscal Integrity consistent with ~~proposed restricted Rents in the Assisted Units~~ and is feasible pursuant to the underwriting standards in UMR Section 8310. The project will be underwritten utilizing restricted Rents less utility allowances;
- (h) The Applicant must document the status of local land use approvals by either: (1) submitting the application's local approvals and environmental review verification form; or (2) documenting that an application for streamlined, ministerial approval under Government Code section 65913.4 has been submitted to the relevant local government. Such local approvals and environmental review verification form must be completed and signed by the local authority and must provide the status of all entitlements related to the Project, the applicability of the California Environmental Quality Act ("CEQA ") and the National Environmental Policy Act ("NEPA") to the Project, and the status of the Project's compliance with CEQA and NEPA, to the extent applicable. ~~All discretionary local land use approvals have been obtained, and any applications for streamlined, ministerial approval under Government Code section 65913.4 have been submitted to the relevant local government;~~
  - (1) This requirement is not applicable where a Tribal Entity Applicant is proposing a Project that is located in Indian Country.
- (i) Environmental Site Assessment (ESA) reporting:
  - (1) A Phase I ESA must be completed and dated no more than 12 months prior to the application deadline. The Phase I ESA must indicate that the Project site(s) are free from severe adverse environmental conditions, such as the presence of toxic waste.
  - (2) If the Phase I ESA revealed known or potential contamination, a Phase II ESA is required to be completed and dated no more than 12 months prior to the application deadline. The forgoing Section 7303.1(i)(1) notwithstanding, if a Phase II ESA has been completed and dated within 12 months prior to the application deadline, the recommending Phase I ESA may have been completed and dated 12 months or more prior to the application deadline.

~~(3) If the Phase I ESA indicates or discloses that the presence of toxic waste is economically infeasible to remove or cannot be mitigated, then the application is ineligible for a Program Award.~~

~~(2)(4) The threshold requirements discussed in this Section 7303.1(i) are not applicable where a Tribal Entity Applicant is proposing a Project located in Indian Country. A Phase I Environmental Site Assessment (ESA) — and a Phase II Environmental Site Assessment, if the Phase I ESA revealed known or potential contamination — which has or have been completed and dated within 12 months prior to the application deadline, indicates that the Project site is free from severe adverse environmental conditions, such as the presence of toxic waste that cannot feasibly be removed or adequately mitigated;~~

~~(3) This requirement is not applicable where a Tribal Entity Applicant is proposing a Project that is located in Indian Country.~~

~~(i)(j) The Project site is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the Project tenants;~~

~~(j)(k) Projects involving new construction, acquisition and substantial Rehabilitation, or conversion of nonresidential structures to residential dwelling units must be constructed in a manner to accommodate broadband service with at least a speed of 25 megabits per second for downloading and 3 megabits per second for uploading (25/3). Sponsor is not required to provide free internet service to the tenants;~~

~~(k)(l) Projects with Special Needs Units shall provide services suitable to the needs of the Special Needs Population; and the application shall demonstrate satisfaction of Section 7302(e)(5)(A) – (E), as well as satisfaction of the integration requirement specified at Section 7302(g). Where any Special Needs Unit is additionally restricted by the Department to Homeless or Chronically Homeless, then the application shall also demonstrate satisfaction of Section 7302(f)(1) – (8). These requirements include providing a Supportive Services plan consistent with the requirements of Section 7310;~~

~~(m) Projects that do not include Special Needs Units shall provide service amenities sufficient to achieve a minimum score of 7 points pursuant to TCAC Regulations, as set forth in CCR Title 4 Section 10325(c)(4)(B);~~

~~(n) The Project complies with the restrictions on demolition as set forth in UMR Section 8302;~~

~~(o) The Project complies with the site control requirements as set forth at UMR Sections 8303 and 8316, with the additional requirement that the Applicant shall maintain site control through permanent financing close of escrow.~~

~~(1) Where site control is in the name of another entity, the Applicant shall provide documentation, in form and substance reasonably satisfactory to the Department, which clearly demonstrates that the Applicant has the right, either directly or~~

indirectly (contractually or through its organizational control of the entity with site control), to acquire or lease the Project property prior to or concurrent with construction closing. Acceptable documentation may include, but is not limited to, a purchase and sale agreement, an option, a leasehold interest/option, a disposition and development agreement, an exclusive right to negotiate with a public agency for the acquisition of the site, or contractual or organizational documentation evidencing such control.

- (2) Where site control will be satisfied by a long-term ground lease, the Department will require the execution and recordation of the Department's form lease rider, which shall be entered into by and among the ground lessor, the ground lessee, the Department, and any other applicable parties. In all cases (with applicable exceptions made for projects developed on trust or restricted real property in Indian Country), the lease rider shall be recorded against the fee interest in the Project property. For projects developed on trust or restricted real property, the Department's form lease rider, together with any and all other use restriction instruments, shall be approved by, and recorded with, the U.S. Department of Interior's Bureau of Indian Affairs ("BIA").
  - (3) For projects developed in Indian Country, the following exceptions apply:
    - (A) Where site control is a ground lease, the lease agreement between the Tribal Entity and the Project owner is for a period not less than 50 years; and
    - (B) For trust or restricted land, a current title status report issued by the BIA is acceptable in lieu of a title report. ~~An attorney's opinion regarding chain of title and current title status is acceptable in lieu of a title report.~~
  - (4) If an Applicant'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 valid extension is submitted during the application review period. For purposes of this paragraph, "evidence of a 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.
- (p) The Project complies with accessibility and fair housing obligations in Section 7314.
- (q) The Project complies with all applicable state and federal law with respect to any preference policies for occupancy, as specified and set forth in a written analysis that is submitted with the application. No written analysis is required if priority placement will be given only to prospective tenants who qualify for the following preference categories:
- (1) Veterans;
  - (2) Agricultural Households;
  - (3) people with disabilities;
  - (4) At Risk of Homelessness, as defined in Appendix A;

- (5) individuals with substance use disorders;
- (6) frequent users of public health or mental health services, as identified by a public health or mental health agency;
- (7) individuals who are fleeing domestic violence, sexual assault, and human trafficking;
- (8) individuals who are experiencing Homelessness and individuals experiencing Chronic Homelessness as defined in Appendix A;
- (9) homeless youth as defined in Government Code Section 12957, subdivision (e)(2);
- (10) families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county;
- (11) individuals exiting from institutional settings or at risk of placement in an institutional setting; and
- (12) Older Adults in Need of Supportive Services.

Notwithstanding anything to the contrary contained in this Section 7303.1(q), all preference policies for occupancy must be compliant with applicable law, including (but not limited to) The Local Tenant Preferences to Prevent Displacement Act of 2022 (GC § 7061), the Teacher Housing Act of 2016 (HSC § 53570 et seq.), and the Employee Rental Housing Act (GC § 54700.1 et seq.).

- (r) Firm financing commitments have been obtained for the project with the exception of bond financing and tax credits.

#### **Section 7304. Eligible Use of Funds.**

Funds shall be used only for approved eligible costs that are incurred on the Project as set forth in this section, including interim or bridge loans used to pay such costs. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost consistent with the Project's scope and area as determined by the Department.

- (a) Funds shall only be used for capital asset related expenses as required by GC Section 16727.
- (b) Eligible costs include the following:
  - (1) Property acquisition;
  - (2) Refinancing of existing long-term debt, only in connection with a Project involving a Rehabilitation contract in an amount equal to or exceeding \$35,000 per unit (which may be adjusted based on the current Consumer Price Index (CPI)) and only to the extent necessary to reduce debt service to a level consistent with the provision of Affordable Rents in Assisted Units and with the Fiscal Integrity of the Project;
  - (3) Land lease payments;

- (4) Construction and Rehabilitation work;
- (5) Offsite improvements, such as sewers, utilities, and streets, directly related to, and required by the Rental Housing Development when other infrastructure funding is unavailable and inaccessible;
- (6) Onsite improvements related to the Rental Housing Development;
- (7) Architectural, appraisal, engineering, 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;
- (8) Development costs of a residential Unit reserved for an onsite manager, childcare, after- school care, adult daycare, or social service and health amenities integrally linked to, and addressing the needs of the tenants of the Assisted Units.
  - (A) Health amenities does not include any “health facility” as defined by HSC Section 1250 or any “alcoholism or drug abuse recovery or treatment facility” as defined by HSC Section 11834.02.
- (9) A reasonable Developer Fee subject to the provisions of Section 7305;
- (10) Rent-Up Costs;
- (11) Reasonable carrying costs during construction, including insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the Rental Housing Development is under construction;
- (12) Building permits and state and local fees;
- (13) Capitalized operating reserves and capitalized replacement reserves up to the amount of the initial deposit required by the Department pursuant to UMR Sections 8308(b) and 8309(b);
- (14) Capitalized Operating Subsidy Reserves provided in conjunction with MHP capital funds for Permanent Supportive Housing in Projects qualifying as Special Needs housing type Projects as set forth under Section 7304.1;
- (15) Capitalized Reserves for Supportive Services as set forth under Section 7313 (e).
- ~~(14)~~(16) \_\_\_\_\_ Escrow, title insurance, recording and other related costs;
- ~~(15)~~(17) \_\_\_\_\_ Costs for items intended to assure the completion of construction, such as contractor bond premiums;
- ~~(16)~~(18) \_\_\_\_\_ Environmental hazard reports, surveys, and investigations;
- ~~(17)~~(19) \_\_\_\_\_ Costs of relocation benefits and assistance required by law;

~~(18)~~(20) \_\_\_\_\_ Installation of broadband internet trunk line or fixed wireless infrastructure;

~~(19)~~(21) \_\_\_\_\_ High-speed broadband internet service, with the minimum speeds listed in Section 7303.1, that is made available to all Units; and

~~(20)~~(22) \_\_\_\_\_ Any other costs of Rehabilitation or new construction approved by the Department.

(c) Except as provided in subsection (b)(8) above, no Program funds shall be used for costs associated exclusively with non-Restricted Units or Commercial Space. A Manager's Unit may be considered a Restricted Unit for the purpose of allocating development costs. If only a portion of the Rental Housing Development consists of Restricted Units, the Program loan amount shall not exceed the sum of the following:

(1) The costs of all items specified in subsection (b), above, associated exclusively with the Restricted Units;

(2) A share of the costs of common areas used primarily by residential tenants. This share shall be in direct proportion to the ratio between the gross floor area of the Restricted Units and the gross floor area of all residential units; and

(3) A share of the cost of other items such as roofs that cannot be specifically allocated to Restricted Units, non-Restricted Units, or Commercial Space. This share shall be in direct proportion to the ratio between:

(A) The gross floor area of the Restricted Units, plus a share of the gross floor area of common areas used primarily by residential tenants in direct proportion to the ratio between the gross floor area of the Restricted Units and the gross floor area of all units; and

(B) The total gross floor area of the structure or structures.

#### Section 7304.1. Capitalized Operating Subsidy Reserves (“COSRs”).

(a) COSRs shall only be available for Special Needs Projects to assist units at 30 percent AMI and below in accordance with the requirements of these guidelines.

(b) In 2025, not more than \$195,000 per Unit may be provided for a COSR to address Project operating deficits attributable to the COSR Assisted Units. In addition, not more than \$50,000,000 or 20 percent of the total MHP funds available in a NOFA, whichever is less, may be used for COSRs for projects ranking high enough to receive an Award of capital funds from MHP. All funds available for COSRs in a given funding round that are not awarded shall be used for other eligible uses in that funding round, or shall be used in subsequent NOFAs.

(c) The Department may adjust the above per-Unit subsidy limits or NOFA limits for the COSR from time to time as may be necessary to achieve Department policy objectives, including, but not limited to, adjustments based upon increases in the Consumer Price Index, or adjustments based on NOFA demand or available funds. Any adjustments to the COSR limits will be published annually with the NOFA. Any changes shall be

applicable to new awards subsequent to posting of adjustments, and not to existing contracts or loan or grant agreements or pending contracts.

(d) In order to be eligible to receive a COSR, the Applicant must first demonstrate, and the Department must verify prior to issuing an award letter for the Project, and also prior to permanent loan closing that, in lieu of relying in whole or in part on COSR assistance for Assisted Units, the Applicant or its development partners have provided documentation as required below:

(1) Identified all possible federal, state, and local sources of rental assistance and other operating assistance to support the COSR Assisted Units; and

(2) submitted unfunded applications or other written requests to the appropriate entity to secure Project-based rental or other operating assistance to support the COSR Assisted Units; or

(3) can provide other evidence from the appropriate entities that rental assistance and other operating assistance is not available to support the COSR Assisted Units, or is insufficient based on the COSR calculation performed pursuant to the requirements of this section.

(e) The Sponsor shall notify the Department immediately if it receives an award of rental assistance or operating subsidies following submission of the application that will be used to support the COSR Assisted Units.

(f) The COSR shall be sized to address anticipated operating deficits attributable to the COSR Assisted Units for a minimum of 20 years. The total amount of each Project COSR will be determined based upon the individual Project underwriting performed by the Department pursuant to the requirements of these guidelines based on a 20-year cash flow. The amount of the COSR will be the lesser of:

(1) The amount calculated pursuant to the current COSR per unit subsidy limit; or

(2) The amount necessary to bring to zero the operating deficit attributable to the COSR Assisted Units.

(3) A lesser amount may also be provided if requested by the Applicant and if the Project can be shown to be financially feasible with the reduced amount.

(4) If the amount of the COSR a Project is eligible for is insufficient to enable the Project to avoid having a negative cash flow for 20-years for the MHP COSR-Assisted Units, the application must document other means for addressing the shortfall in addition to relying on the COSR.

(g) COSRs shall be sized using the maximum restricted rents for the COSR-Assisted Units.

(h) Pursuant to UMR 8310-(e), adjustments to the first year debt service coverage ratio may be made on a case by case basis to accommodate the need for a COSR.



- (i) If a Project has requested or been awarded operating subsidy or rental assistance funds through MHP and another HCD or non-HCD source for the same COSR-Assisted Units, and the Project underwriting at application submission or permanent loan closing shows that the total amount requested or received in COSR funds is not needed in the first 20 years, but some lesser amount -of COSR is needed, the MHP COSR amount shall be reduced to the amount necessary so that the cash flow attributable to the MHP COSR- Assisted Units is zero for the first 20 years.
- (j) The Department shall hold all Project COSR funds in a separate subaccount for the MHP Program.
- (k) All COSR disbursements shall be for one or more eligible Operating Expenses attributable to the COSR Assisted Units. Ineligible COSR expenses are set forth in subsection (p).
- (l) Distributions from the COSR shall be subject to all of the following:
- A. In accordance with procedures established by the Department, the initial COSR disbursement may be requested during the Department's permanent loan closing process in order to reimburse the Project following permanent loan closing for operating revenue shortfalls attributable to the COSR Assisted Units during the Initial Operating Year, including the rent-up period after receipt of the Certificate of Occupancy, for up to 7 percent of the total COSR award, and for the second fiscal year of operations, up to an additional 7 percent of the total COSR award. Alternatively, the rent-up period covered by the first COSR disbursement may be in the fiscal year or calendar year prior to the project's Initial Operating Year. In no event shall the period covered by the initial COSR disbursement exceed 24 months.
- B. For all other COSR disbursements, the Department shall not disburse more than 5 percent of the total COSR award made to a Project per year, except that in any given year where the operating deficit attributable to the COSR Assisted Units exceeds this amount, the Department may, in its sole discretion, increase the disbursement to up to 7 percent of the total COSR award, in accordance with the COSR limits and applicable review processes described in this Section.
- C. Pursuant to the requirements of subsection (o), the Department reserves the right at its sole discretion, to impose additional limits on withdrawals of the remaining COSR funds, during the course of the first 20 years so that the COSR shall last a minimum of 20 years.
- (m) All COSR disbursements for eligible costs will be verified based on the results of an independent bifurcated audit for the Project prepared by a certified public accountant for the prior operating year, as reviewed and approved by the Department in accordance with the requirements noted in the Project's regulatory agreement and the Department's current audit requirements, which are posted to the Department's website and may be amended from time to time. The bifurcated audit must distinguish actual annual income and expenses for the COSR Assisted Units and the other Project Units

in order to determine the amount of any operating deficit specifically attributable to the COSR Assisted Units.

(n) If, after review of the Project's annual bifurcated audit, the Department finds that the Project did not need as much from the COSR as it received for that year, the Department may:

(1) Provide less in COSR payments in a subsequent year to make up the difference between what the Project received and the actual amount of the operating deficit attributable to the COSR Assisted Units in the prior year;

(2) Require the Project to return to the Department the amount provided that was in excess of the amount of the operating deficit attributable to the COSR Assisted Units. Any such amount returned shall be deposited to the Project's COSR subaccount; or

(3) Recalculate the remaining amount of COSR funds available over the remaining years until the twentieth year and inform the Borrower of an allowable COSR withdrawal amount per year, with the intent of keeping the COSR available for the full 20 years.

(o) If, after review of the Project's first five years of annual bifurcated audits, the Department finds that the Project has used more than 25 percent of the total amount of the Project's COSR funds, the Department reserves the right, at its sole discretion, to impose annual limits for withdrawals of the remaining COSR funds. Such limits shall be determined by dividing the remaining COSR funds by the years remaining until the twentieth year.

(1) The Department reserves the right, at its sole discretion, to implement the same COSR review process at years 10 and 15 to determine if COSR withdrawals may be greater than 5 percent per year, or greater than the limits imposed at a previous fifth-year COSR review in order to determine if different limits on COSR withdrawals shall be imposed for the remaining years until the twentieth year.

(2) The Department will hold the COSR for longer than 20 years in the event that there is still money in a Project's COSR after Year 20. If there are funds remaining in the Project COSR after the twentieth year, the Department reserves the right, at its sole discretion, to implement a similar process for determining the amounts available for allocation.

(p) Operating Expenses that are not eligible to be paid from the COSR include:

(1) Costs associated with non-Assisted Units;

(2) Any loan payments; however, the Department's annual monitoring fee may be paid from the COSR;

(3) Ground lease payments;

(4) Sponsor Distributions;

- (5) Developer fees;
- (6) Asset management fees and partnership management fees attributable to the COSR Assisted Units that can be paid for out of cash flow from the non-COSR Assisted Units.
  - (A) Asset management fees and partnership management fees attributable to the COSR Assisted Units that cannot be paid for out of cash flow from the non-COSR Assisted Units can only be paid out of the COSR if all other eligible Operating Expenses have been paid and the total amount of the COSR payment for that year does not exceed 5 percent of the total COSR award;
- (7) Deposits to reserves beyond those required by the Department under the UMRs, including reserves required by other Project financing sources;
- (8) Vacancy loss beyond three months for a tenant who has left the COSR Assisted Unit. Where vacancy loss is paid through the COSR, this amount shall not exceed 80 percent of the approved Rent for the COSR Assisted Unit. If the COSR Assisted Unit is also receiving rental assistance, the requirements of the rental subsidy source shall apply.
- (9) Supportive Services costs not permitted by the Department as part of the Project budget.
- (10) Under no circumstances may COSR funds be used for or in connection with a limited partner buyout, substitution, or assignment of ownership interest, neither during an operating (fiscal) year nor at any potential restructure or resyndication transaction.

### **Section 7305. Cost Limitations.**

- (a) Project development costs must be reasonable, as specified in UMR Section 8311(a) and (b). The limits on development costs specified in UMR Section 8311 shall apply, except that:
  - (1) For related party sales, property acquisition prices may be set at levels that allow for recovery of verified holding costs and the assumption of existing debt. However, any proceeds realized by the seller, above their costs, shall be contributed back to, and remain with, the Project.
  - (2) The amount of funds set aside, borrowed, or applied to cover future land lease payments must be discounted to the present value of these payments.
- (b) The limits on Developer Fee specified in UMR Section 8312 shall apply, except that:
  - (1) UMR Section 8312(a), (c), and (d) shall not apply.

~~(2) For non-tax credit new construction projects, the total Developer Fee shall not exceed the following: consistent with Title 4 CCR, Section 10327(c)(2)(A).~~

~~(3) For projects utilizing 9 percent tax credits, the total Developer Fee shall be consistent with Title 4 CCR, Section 10327(c)(2)(A), including any increases to the Developer Fee occasioned by virtue of occupancy restrictions at the Project for Special Needs Populations except that “persons with Special Needs” shall, for purposes of this Section 7305(b)(3), be construed to be the same as “Special Needs” as that term is used these guidelines, including the requirements of Section 7303.1(l).~~

~~(2)~~

~~(A) For Projects with 49 or fewer Restricted Units (excluding units restricted at levels above 60 percent of AMI): the greater of \$40,000 per Restricted/Manager’s Unit or \$1,200,000;~~

~~(B) For Projects with between 50 and 100 Restricted Units (excluding units restricted at levels above 60 percent of AMI): \$2,200,000; and~~

~~(C) For Projects with more than 100 Restricted Units (excluding units restricted at levels above 60 percent of AMI): \$2,200,000 plus \$20,000 per Restricted Unit in excess of 100 up to a maximum of \$3,500,000. The Developer Fee in excess of \$2,200,000 must be deferred. Payment of deferred Developer Fee shall be in compliance with UMR Section 8314.~~

~~(3)(4) For projects utilizing four 4 percent tax credits, Developer Fee payments shall not exceed the amount that may be included in project costs pursuant to Title 4 CCR, Section 10327(c)(2)(B);, and in no event shall the total Developer Fee for acquisition basis exceed 5 percent of the unadjusted eligible acquisition basis.~~

~~(4)(5) If an Emerging Developer or a Community-Based Developer relies on a co-Applicant to qualify for funding outside of the funding target, then such eligible Sponsor shall have its allowable total Developer Fee increased according to the following:~~

~~(A) For non-tax credit projects, an increase of \$300,000 over the limits set forth in (b)(2) (a) (c) above. Additionally, for projects with more than 100 units as defined above in (b)(2)(C), the Developer Fee paid from sources may increase up to \$2,640,000.~~

~~(B)(A) For projects utilizing four 4 percent tax credits, an increase consistent with Title 4 CCR, Section 10327(c)(2)(E), if eligible pursuant to that section.~~

~~(c) Except where required to secure local government approvals essential to completion of the Project, or where necessary to receive tax credits for historic preservation, construction materials and amenities not typically found in modestly designed rental housing are ineligible costs.~~

## Section 7306. Type and Term of Loan.

- (a) Program funds shall be used for post-construction, permanent financing only.
- (b) The initial term of the loan shall be 55 years, commencing on the date of recordation of the Program loan documents.
  - (1) The initial term of the loan may be 50 years if the Project is located in Indian Country and if a 55-year term is not feasible as determined by the Department. The 50-year term shall commence on the date of recordation of the Program loan documents.
- (c) The Program loan shall be secured by the Project real property and improvements, subject only to liens, encumbrances and other matters of record approved by the Department pursuant to UMR Section 8315. The Program loan shall have priority over loans provided by the Affordable Housing Program administered by the Federal Home Loan Bank.
- (d) For projects located in Indian Country, the subject instrument shall be deemed sufficiently recorded if recorded with the Land Titles and Records Office at the BIA where the Project is located on trust or restricted land. In all cases where feasible, the subject instrument shall be recorded in the relevant county recording system. ~~If a Department loan is recorded against a fee interest, then there must be a restriction preventing that land from being put into trust until the affordability term of the Department loan/grant term has run.~~ If any Department loan and/or grant documents are recorded in the chain of title for the fee interest in the Project site, then either: (1) there must also be recorded in the chain of title for the fee interest in the Project site, restrictions precluding such interest from being placed in trust with the BIA until term of the Department's affordability restrictions for the loan and/or grant have run, or; (2) subsequent to the Department's loan and/or grant document(s) being recorded in the chain of title for the fee interest in the Project site, such fee interest may thereafter be placed in trust with the BIA, subject to the Department's previously recorded loan and/or grant document(s), which recorded Department loan and/or grant documents the BIA must approve to the extent such approval is required by law.
- (e) Where the requirements of federal funding for a project, or the requirements of the low-income housing tax credits used in a project, would cause a violation of the requirements of these guidelines, the requirements of these guidelines may be modified as necessary to ensure program compatibility. Where the requirements of state regulations or guidelines of funding or tax credits create what are deemed to be minor inconsistencies as determined by the Director of the Department, the Department may waive the guideline requirements as deemed necessary to avoid an unnecessary administrative burden. Any such modifications or waivers shall be recorded in the Regulatory Agreement or other documents governing the loan.

## Section 7307. Maximum Loan Amounts.

- (a) When sizing the loan, the Department will consider all other available financing and assistance, including the full amount of any tax credit equity generated by the Project. In addition, the loan amount shall not exceed the total eligible costs required to do the following:

- (1) Acquire, develop, and construct or rehabilitate the Rental Housing Development;
  - (2) Ensure that Rents for Assisted Units comply with Program requirements; and
  - (3) Operate the Rental Housing Development in compliance with all other Program requirements.
  - (4) With the exception of deferred Developer Fee, Department funds shall not be used to supplant other available financing, including funds committed by local jurisdictions.
- (b) The per unit loan limits shall be defined in the NOFA. For loan limit calculations, the Unit count shall include the number of Units within the Rental Housing Development.
  - (c) The loan limits will be calculated based upon the Units' level of income restriction and number of bedrooms per Unit.
  - (d) For a project required to be constructed as a condition of approval of one or more market rate developments pursuant to an inclusionary housing ordinance, or similar local requirement, Units required under the ordinance, or other requirements shall not be counted in determining applicable loan limits, except for the following:
    - (1) Units restricted under the Program at a lower rent level than required by the ordinance.
    - (2) Units developed under a land dedication to the local government agency in which the project is located.

For purposes of this subdivision (d), site-specific affordability requirements of public land sales and affordability requirements under the Surplus Land Act are not considered to be inclusionary housing ordinances or similar local requirements.

- (e) Projects developed pursuant to an inclusionary housing ordinance applying for any Department funds, including those meeting one of the above two exceptions, must disclose such at application, or the Department's Award to the Project will be void.
- (f) In each NOFA, the Department shall establish a maximum per Project loan amount and a maximum per Project COSR grant amount. These maximum per Project loan amount shall be set at a level that ensures sufficient demand for Program funds while meeting the Program's geographic and other distribution goals, taking into account the demand evidenced in previous funding rounds, the availability of other sources of rental subsidy financing, and the total amount of Program funds available for award. The maximum per Project COSR grant amount shall be determined in accordance with the requirements of Section 7304.1 and shall be included in the total amount available to a Project under the limits set forth under the NOFA.

### **Section 7308. Interest Rate and Loan Repayments.**

Loans shall have the following terms:

- (a) Loans shall bear simple interest on the unpaid principal balance at a rate that is the lesser of:
  - (1) 3 percent per annum; or,
  - (2) If a Project has received an allocation of tax credits, the maximum rate that allows the Program loan to be treated as debt for federal or state low-income housing tax credit purposes, or that avoids the inability to syndicate due to projected negative capital account balances, but not less than 0.42 percent, but only if the change in interest rate:
    - (A) Materially increases the feasibility of the Project; and
    - (B) Ensures long term affordability for the residents.

The Department may require a third-party tax professional to verify the necessity for reducing the interest rate below three (3) percent, pursuant to subdivision (a)(1) above, the cost of which shall be borne by the Sponsor.

- (b) Interest shall accrue from the date that funds are disbursed by the Department to or on behalf of the Sponsor.
- (c) For the first 30 years of the loan term, payments in the amount of 0.42 percent of the original principal loan balance, not including any award amounts attributable to the COSR, shall be payable to the Department commencing on the last day of the Initial Operating Year and continuing on each anniversary date thereafter. The payment shall remain constant for the first 30 years regardless of any paydown of the original loan amount. The balance of accrued interest shall be payable out of Operating Income remaining after payment of approved Operating Expenses, debt service on other loans, and reserve deposits. Commencing on the 30th anniversary of the last day of the Initial Operating Year, and continuing annually thereafter, the monitoring fee shall be payable annually in an amount equal to the lesser of the following, regardless of whether the loan has been prepaid in full or in part:
  - (1) an amount equal to the full amount of interest accruing on the original principal loan amount; or
  - (2) the amount determined by the Department to be necessary to cover the costs of continued monitoring of the Project for compliance with the requirements of the Program which amount shall in no event be less than that in effect for the immediately preceding year. HUD Sections 811 and 202 projects will be subject to the requirements of this subsection.
- (d) Except for the required payment of 0.42 percent of the original principal loan balance, which does not include the portion of the award amount attributable to the COSR, the Department shall permit the deferral of accrued interest for such periods and subject to such conditions as will enable the Sponsor to maintain Affordable Rents, maintain the Fiscal Integrity of the Project, and pay allowable Distributions pursuant to UMR Section 8314.

- (e) All Program loan payments (including the 0.42 percent loan payment which does not include the portion of the award amount attributable to the COSR) shall be applied in the following order:
  - (1) Any expenses incurred by the Department to protect the property or the Department's security interest in the property, or incurred due to the Sponsor's failure to perform any of the Sponsor's covenants and agreements contained in the deed of trust or other loan documents;
  - (2) Payment of accrued interest; and
  - (3) Reduction of principal.
- (f) The total outstanding principal and interest, including deferred interest, shall be due and payable in full to the Department at the end of the loan term, including any extension granted by the Department.

**Section 7309. Appraisal and Market Study Requirements.**

- (a) With the application submission (and prior to permanent loan closing if necessary), the Department will require an appraisal or market study, or both, dated within one year of the Application due date stated in the NOFA, to:
  - (1) Establish a market value for the land to be purchased or leased as part of the Project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to Section 7304.
  - (2) Assist with establishing other reasonable development costs pursuant to Section 7304.
  - (3) Assess Fiscal Integrity.
  - (4) Verify an adequate tenant market.
- (b) Any appraisal required by the Department shall be prepared at the Sponsor's expense by an individual or firm which:
  - (1) Has the appropriate license and the knowledge and experience necessary to competently appraise low-income residential rental property;
  - (2) Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;
  - (3) In reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property; and
  - (4) Is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.



(c) Any market study required by the Department shall conform to the market study guidelines adopted by TCAC (including those for acquisition/rehabilitation projects pursuant to Title 4 CCR, Section 10322(h)(10)), summarize the existing and planned affordable housing developments in the market area, specify any of those with Project type or target population preference or restrictions, document that there is sufficient demand for Project type or target population in the geographic area where the proposed Project is or will be located, and be prepared at the Sponsor's expense by an individual or firm which:

~~(e) \_ and be prepared at the Sponsor's expense by an individual or firm which:~~

- (1) Has the knowledge and experience necessary to conduct a competent market study for low-income residential rental property;
- (2) Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study;
- (3) In reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true market needs for low-income residential property; and
- (4) Is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.

**The remaining sections of Article 2 below apply only to MHP-funded Projects**

### **Section 7310. MHP Supportive Services Plan Requirements.**

(a) Supportive Services plans must address the needs of the target Special Needs Population served. Where MHP and VHHP are assisting the same Units, and there is a conflict between the Supportive Services Plan requirements, the Supportive Services Plan requirements of VHHP shall prevail.

Certain intake, coordination and referral duties may be performed by a resident services coordinator or other services specialist, rather than by a Case Manager with prior written approval by the Department. Sponsors and LSPs are responsible for ensuring that the nature and manner of service delivery is appropriate for the target population.

(b) A preliminary plan shall be submitted by the Sponsor 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. The plan shall include:

- (1) A description of the specific population to be served;
- (2) A description of the tenant selection criteria and process for the units serving the designated Special Needs Populations. The tenant selection criteria and processes must comply with all applicable state and federal fair housing laws as

required in Section 7314(a) below and UMR Section 8305. For projects serving populations that are Homeless, Chronically Homeless, or At Risk of Homelessness, the plan must indicate how the Project will be connected to the local CES, where operational, and how the Project will conform to Housing First practices set forth in Welfare and Institutions Code Section 8255. Where CES is not operational, or where referrals for the Homeless, Chronically Homeless, or At Risk of Homelessness are not being made, another tenant referral system shall be used for Special Needs Populations which prioritizes based on need and barriers to housing stability;

- (3) A description of the specific services to be provided. Any off-site services should be easily accessible, with the on-site services provider being responsible for helping tenants connect easily and effectively to transportation and services in the community;

For Projects with Assisted Units serving Special Needs Populations that require intensive services, specifically including high acuity Homeless and Chronically Homeless populations (as well as other populations as determined by the Department), services to be provided must include at a minimum, on-site Comprehensive Case Management as well as on or off-site mental health care, physical health care and substance use services;

- (4) Identification of the organization(s) that will provide services as well as memoranda of understanding or commitment letters from the proposed service providers;
- (5) Location of services to be provided off site, a description of public and private transportation options available to access these services, without walking more than one-half mile and a viable plan (e.g., financial assistance) for assisting tenants to access those options;
- (6) A description of the evidence-based case management practices that will be employed;
- (7) A tenant engagement plan (i.e., plan to encourage voluntary tenant participation in services as well as in community building, such as resident councils or similar forums);
- (8) A description of plans and measures to ensure the safety and security of residents and staff (e.g., guest and visitor policies, policies on the violation of safety rules, staff training, and building design features intended to promote security);
- (9) A services line-item budget itemizing all expenses and listing the sources, amounts, and status (i.e., proposed or committed) of supportive services funds;
- (10) Funding source(s);
- (11) A staffing plan with staffing levels sufficient to meet the needs of the target population. If applicable as specified in Section 7302, on-site Comprehensive Case Management services must be provided. Where one or more of the Assisted Units are restricted under Department Regulatory Agreements to occupancy by

Chronically Homeless, services must be provided with a household to staffing ratio not exceeding 20 to 1. Where one or more of the Assisted Units are restricted under Department Regulatory Agreements to occupancy by Homeless persons with disabilities, services must be provided with a household to staffing ratio not exceeding 25 to 1. Where one or more of the Assisted Units are restricted under Department Regulatory Agreements to occupancy by other Special Needs populations, services must be provided with a household to staffing ratio not exceeding 40 to 1;

- (12) A description of communication protocols between service staff and property management staff, including how the staff will work together to prevent evictions; to adopt and ensure compliance with harm reduction principles; and to respond to and implement reasonable accommodations, reasonable modifications, and auxiliary aids and services to ensure effective communications for people with disabilities throughout the life of the Project in a manner than complies with the requirements listed in Section 7314(a) below, particularly Article 18 of the FEHA regulations regarding reasonable accommodations and modifications (2 CCR Section 12176-12185) and the ADA regulations on effective communications (35 CFR Section 25.160 and 28 CFR Section 36.303);
- (13) Identification of outcome measures to be tracked, description of the data to be collected for each measure, and explanation of the methods for data collection and entry. Sample forms may be requested by the Department; and
- (14) Other information deemed necessary by the Department to evaluate the proposed services, which may differ by tenant population.

### **Section 7310.1 Medi-Cal-Funded Supportive Services**

Notwithstanding any other provisions of these guidelines to the contrary, the following provisions apply to Projects applying for MHP funds after December 31, 2023, pursuant to the requirements of Section 50675.15 of the Health and Safety Code.

(a) For purposes of this section, the following definitions shall apply:

- (1) DHCS” means the California Department of Health Care Services.
- (2) “Eligible Individual” means an individual who meets both of the following criteria:
  - (A) The individual is Experiencing Homelessness, as defined in this section; and
  - (B) The individual or head of household is eligible to receive Qualifying Services; as defined in this section; however, participation in Supportive Services is voluntary and not a condition of tenancy.
- (3) “Eligible Service Provider or Service Provider” - A supportive services provider approved by DHCS to offer Qualifying Services. Eligible Individuals have the freedom choice to receive services from the approved DHCS service provider of their choice even if that Eligible Service Provider is not contracted with the Project.

(4) “Experiencing Homelessness” means the same as “homeless” and “homelessness,” as those terms are each defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2022, except that people who were homeless upon admission to an institutional setting shall continue to be considered homeless upon discharge, regardless of the length of time residing in the institutional setting. For the purposes of this paragraph, people who have lost their housing as a result of institutionalization, including, but not limited to, institutionalization in skilled nursing facilities, acute care hospitals, psychiatric facilities, jails, and prisons, and have no home to live in upon discharge are considered homeless regardless of the length of time residing in the institutional setting.

(5) “Qualifying Services” includes any of the following:

(A) Services received under the Assisted Living Waiver (ALW) pursuant to state and federal Medicaid law, the federally approved Waiver Application, under the authority of Section 1915(c) of the federal Social Security Act (42 United States Code (U.S.C.) Section 1396n(c));

(B) Services received under the Home and Community-Based Alternatives (HCBA) Waiver pursuant to state and federal Medicaid law, the federally approved Waiver Application, under the authority of Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c));

(C) Services received under the Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code, the Medi-Cal State Plan, federal and state Medicaid law applying to PACE, the two-way PACE contract between DHCS and the PACE Organization, and the three-way PACE contract between DHCS, the Center for Medicare and Medicaid Services, and the PACE Organization;

(6) “Qualifying Units” means MHP-Assisted units set aside under the provisions of this section for Eligible Individuals. These individuals may be single-person households or may reside with others. Qualifying Units must comply with the Home and Community-Based Settings Final Rule as set forth in 42 CFR Sections 441.301 and 441.710 and the Medi-Cal Statewide Transition Plan.

(b) Applicants that agree to do all of the following shall be eligible for the incentives set forth in subdivision (c):

(1) Set aside at least 20 percent of the Project’s units for Eligible Individuals. If the Project includes more than 100 units, the Applicant shall agree to set aside no more than 50 percent of the Project’s units for Eligible Individuals;

(2) Enter into a written agreement with an Eligible Service Provider, submitted with the Project application, to offer Qualifying Services to Eligible Individuals;

(A) The Department or DHCS will require use of written agreements by the Sponsor and Eligible Service Provider and CES for persons exiting institutions in accordance with subsection (3), incorporating requirements or

best practices, including but not limited to: the tenant referral process and timeline, eligibility determination for Qualifying Services, move-in assistance, the provision of Qualifying Services, ongoing coordination between service providers and property management, and Housing First practices. The Department or DHCS may provide template documents incorporating these requirements.

- (B) The Sponsor's obligation to make Qualifying Services available to Eligible Individuals, on-site or off-site, extends through the term of the Program Loan.
  - (C) The minimum term of the executed written agreement between the Sponsor and the Eligible Service Provider shall be five years with the option to renew. If the option to renew is not exercised, the Sponsor shall enter into a new written agreement with another Eligible Service Provider in a timeframe necessary to ensure continuity of services.
  - (D) All written agreements and any amendments thereto between the Sponsor and the Eligible Service Provider governing access to or the provision of Qualifying Services shall be approved by the Department and may require consultation with DHCS.
  - (E) Any provision of a written agreement relating to Medi-Cal services being received by an Eligible Individual, including the qualifications of the service provider and the home and community-based setting where Medi-Cal services are received, must be approved by DHCS as being in compliance with Medi-Cal requirements before the written agreement can be finalized. The Department may consult with DHCS on the terms of the written agreement between the Sponsor and the Eligible Service Provider, or any amendments thereto.
- (3) Accept referrals of all Eligible Individuals from a local CES;
- (4) Work with Eligible Service Providers providing Qualifying Services to do the following:
- (A) Work with a CES to establish an expedited process for assessment for all individuals Experiencing Homelessness that DHCS, the Eligible Service Provider, or other local entities have identified;
  - (B) Facilitate the initial assessment of Eligible Individuals for Qualifying Services, provide assistance with Eligible Individuals' applications to the property, and provide other move-in assistance that enables timely occupancy of Assisted Units by Eligible Individuals. DHCS shall make final determinations regarding eligibility once the application for enrollment or request for recertification for Qualifying Services is submitted to DHCS;
  - (C) Facilitate the provision of housing and Qualifying Services in accordance with Housing First core components as set forth in Welfare and institutions Code Section 8255(b);
  - (D) Meet with Service Provider when necessary to discuss any issues

jeopardizing housing stability that may be arising with each Eligible Individual in an effort to try to prevent evictions and to assist Eligible Individuals in meeting their goals;

(E) Meet with DHCS and HCD as needed following the MHP award to discuss the above requirements, lease up procedures, and other issues necessary to ensure a successful partnership with Eligible Service Providers;

(F) Work with Eligible Service Providers to ensure that the income limits for the Qualifying Units are within the income limits for the Qualifying Services;

(G) Language access services shall be provided to applicants and tenants as required under federal and state law.

(c) Applicants who demonstrate the ability to comply with the requirements in (b) will be eligible for all of the following:

(1) Loan limits for Qualifying Units that are higher than those offered to other units for people Experiencing Homelessness. These loan limits will be announced in the Notice of Funding Available (NOFA) consistent with the requirements of Section 7307;

(2) Loan limits for on-site supportive services space for Eligible Service Providers to provide Qualifying Services to Eligible Individuals. Amounts provided under this subsection will be in addition to amounts provided under subsection (c)(1). These loan limits will be announced in the NOFA; and

(3) An exemption from the supportive services plan requirements of Section 7310 for the Qualifying Units. Notwithstanding the above exemption:

(A) A supportive services plan meeting the requirements of Section 7310 must continue to be submitted for all other Restricted Units serving Special Needs populations;

(B) If Qualifying Units are also VHHP Assisted, a Supportive Services plan meeting the requirements of Section 214 of the VHHP Guidelines must be submitted for the VHHP Assisted Units;

(C) A supportive services plan meeting the requirements of Section 7310 may be requested by the Department for Qualifying Units at any time if the Department determines, in consultation with DHCS, that the Qualifying Services are not available to Eligible Individuals;

(D) The application must document that Qualifying Services will be provided in a manner that complies with applicable Medi-Cal requirements and the Housing First core components as set forth in Welfare and Institutions Code Section 8255(b) and if the Medi-Cal requirements and the Housing First core components conflict, the Medi-Cal requirements applicable to the Qualifying Services at issue must be followed;

(E) The Project must continue to meet the staff to client ratios for case management services set forth in 7310 (b) (11) that are funded through the

Project's budget:

(F) The Project must continue to have a Lead Service Provider meeting the requirements of Section 7302 who will act to ensure service access and coordination for all project Special Needs units, not just those eligible to receive Qualifying Services.

(d) The Department may temporarily suspend offering some or all of the incentives in subsection (c) in a given NOFA, if it determines in consultation with DHCS that access to Qualifying Services will be temporarily suspended or limited due to such things as long Qualifying Services enrollment waiting lists or other factors.

(e) No later than 180 days following the first year of operation of a representative sample of Projects, with respect to Projects receiving incentives under subdivision (c), the Department shall assess tenant outcomes and engage with an evaluator to identify and report on the following:

(1) The number and demographics, including age, race, or ethnicity, and pre-subsidy housing status, of people being served.

(2) Housing retention rates.

**Section 7311. MHP Rent and Unit Designation Adjustment.**

For Assisted Units:

(a) If, at the time of recertification, a tenant household's income exceeds the income limit designated for the household's Unit, and, to the extent a rent increase for the household is permitted by statutes and regulations governing the low-income housing tax credit program, the Sponsor shall:

(1) Re-designate the tenant's Unit as a Unit at the higher income level;

(2) Increase the tenant's Rent to the level applicable to Units at the higher income level; and

(3) Designate the next available comparable Unit as a Unit at the income level originally applicable to the household until the Unit mix required by the Program Regulatory Agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms as the original Unit.

For example, in a Project where the income limits utilized to qualify new tenants are 20 percent, 40 percent, and 50 percent of AMI, if the income of a household occupying a Unit designated as a 20 percent Unit increases to 48 percent of AMI, the Sponsor must re-designate the household's Unit as a Unit at the 50 percent level, increase the tenant's Rent to the level applicable to Units at the 50 percent level, and designate the next available comparable Unit as a Unit at the 20 percent income level.

(b) If, at the time of recertification, a tenant household's income exceeds the income limit designated for the household's Unit but does not exceed the limit for a higher income level applicable to new tenants, the Sponsor may increase the household's Rent to an amount not exceeding the Rent limit applicable to the household's income level at the

time of recertification. For purposes of this subsection, income levels shall not be limited to those applicable to new tenants and shall consist of 5 percent increments of AMI. Continuing with the example described in subsection (a), the income levels utilized to establish Rent limits upon recertification would be 20 percent, 25 percent, 30 percent, 35 percent, etc. A household occupying a Unit in this project with a 20 percent limit whose income, upon recertification, had increased to 32 percent of AMI could have their Rent increased to the Rent level applicable to the 35 percent income level. In accordance with Policy/Process Notice #2012-04, if a household income exceeds the income limit set for the highest restricted income band delineated in the Project's Regulatory Agreement, the unit restriction should be adjusted as appropriate for the household to qualify using 5 percent increments up to the maximum allowed by program regulations, e.g., 60 percent AMI, regardless, of the income bands specified in the Project's Regulatory Agreement Tenant Rent should be increased based on the new income level designation.

- (c) If a tenant household fails to be recertified by size, such family must relocate to the next available appropriately sized unit. In the event that an appropriately sized unit is not available within a reasonable period of time, the foregoing shall not be deemed to limit any other rights or remedies under UMR Section 8306.

### **Article 3. General Requirements.**

#### **Section 7312. Rent Standards.**

The Department shall establish Rent standards for Assisted Units in each Project as follows:

- (a) Rent limits for initial occupancy and for each subsequent occupancy by a new Eligible Household shall be based on Unit type, applicable income limit, and area in which the Project is located, following the calculation procedures used by TCAC, or other applicable law for Tribal Entities, and using income limits in 5 percent increments of AMI, including the income limits utilized by the Program for this purpose. The maximum Rent limit shall be 30 percent of 60 percent of AMI for the appropriate Unit size.
- (b) Rents will be further restricted in accordance with restricted Rent and income limits submitted by the Sponsor in its application for the Program loan, approved by the Department, and set forth in the Regulatory Agreement. Rents shall not exceed 30 percent of the applicable income eligibility level. In the event the Unit is subsidized, the tenant-paid portion of the rent shall not exceed 30 percent of the applicable income eligibility level.
- (c) Rents in Assisted Units may be adjusted no more often than annually. The amount and method of adjustment for Assisted Units shall be in accordance with the regulations and procedures used by TCAC and using income limits in 5 percent increments of AMI, as approved by the Department.
- (d) The Department may permit an annual Rent increase greater than that permitted by this section if the Project's continued Fiscal Integrity is jeopardized due to factors that could not be reasonably foreseen.
- (e) For Units receiving HUD Section 8 or other similar rental assistance, the rules of the rental assistance program pertaining to Rent increases will prevail for as long as the



rental assistance remains in place. Changes in the tenant contribution amounts may occur more often than annually as required by the rental assistance program.

### **Section 7312.1. Project-Specific Transition Reserve and Pooled Transition Reserve Fund.**

- (a) Where a Project is receiving a Qualified Project Rental or Operating Subsidy, as defined, the Sponsor is not required to fund a Project-Specific Transition Reserve for the purpose of paying down tenant rents after the loss or exhaustion of rental or operating assistance. Such a Project is subject to all of the requirements as set forth and specified in the Pooled Transition Reserve Policy.
- (b) Where a Project is receiving Project-based rental assistance or operating assistance that does not fall within the definition of a Qualified Project Rental or Operating Subsidy, all of the following apply:
  - (1) The Sponsor shall in good faith apply for and accept all renewals available.
  - (2) The Sponsor shall fund a transition reserve to be used in the event the rental assistance contract is terminated or the operating subsidy is exhausted. The minimum amount of the transition reserve for renewable Project-based rental assistance shall be the amount sufficient to prevent Rent increases for one year following the loss of the rental assistance. If the rental assistance contract has a minimum of a 15-year term with a 15-year automatic renewal, 50 percent of the non-COSR operating reserve may be applied to meet the transition reserve requirement. The minimum amount of the transition reserve for non-renewable Project-based rental assistance or non-COSR operating subsidies shall be the amount sufficient to prevent Rent increases for two years following the loss of the rental assistance or operating subsidy. The minimum amount of the transition reserve for COSR shall be the amount sufficient to prevent rent increases for one year following the exhaustion of the COSR. Transition reserves may be capitalized or funded from annual Project cash flow in amounts to be approved by the Department. Use of funds in the reserve shall be subject to the prior review and written approval of the Department.
  - (3) If the Project-based rental assistance or operating subsidy is or will be terminated or exhausted, the Sponsor shall notify the Department in writing immediately upon discovery of same. Sponsor shall then make its best efforts to find alternative subsidies or financing structures that would maintain the tenant income, rent, and special population targeting specified in the Department's Regulatory Agreement. Sponsor shall provide written documentation of its efforts to obtain such alternative resources, and such documentation shall be acceptable to the Department in its sole and absolute discretion. Where the Sponsor has provided acceptable documentation and where the termination or exhaustion occurs through no fault of the Sponsor:
    - (A) Rents and income limits for Units that were originally covered by the rental assistance or operating subsidy may be increased above the levels allowed pursuant to Section 7312, but only to the minimum extent required for Fiscal Integrity, as determined by the Department, with income limits not to exceed 60 percent of AMI and Rents not to exceed 30 percent of 60 percent of AMI.

- (B) Occupancy restrictions for Units that were originally covered by the rental assistance or operating subsidy may be modified, but only to the minimum extent required for Fiscal Integrity, as determined by the Department. The modified restrictions shall be imposed only upon those Units that become vacant through natural attrition.
  - (C) Any increase in Rents and income limits pursuant to subparagraph (A) above, or any modification of occupancy restrictions pursuant to subparagraph (B) above, shall require advance written Department approval. To the maximum extent possible, these changes shall minimize the impact on the lowest income Project residents and shall be phased in as gradually as possible.
  - (D) If, following any increase in Rents and income limits pursuant to subparagraph (A) above, or modification of occupancy restrictions pursuant to subparagraph (B) above, new resources become available, or market demand changes, allowing reversion to the former income and Rent limits or occupancy restrictions, the Department may re-impose these income and Rent limits or occupancy restrictions, in whole or in part, subject to an analysis of Project feasibility.
- (4) Where the Sponsor is losing the rental assistance or operating subsidy due to its own negligence, mistake, omission, breach, default, or violation, the Sponsor shall not modify the Rents, income limits, or occupancy restrictions for those Units covered by the rental assistance or operating subsidy.

### **Section 7313. Use of Operating Income.**

- (a) Notwithstanding UMR Section 8314(a)(1), Operating Income remaining after payment of approved current and prior year Operating Expenses, reserve deposits, and mandatory debt service shall be applied in the following priority order:
  - (1) Approved deferred Developer Fee, pursuant to Section 7305, provided that the aggregate of the Developer Fee paid from sources and paid as deferred shall not exceed \$3,500,000.
  - (2) Asset management, partnership management, and similar fees, including fees paid to investors, in an amount not to exceed the sum of the following:
    - (A) An amount for the current year, equal to \$38,168 for 2023 and increased at the rate of 3.5 percent for each subsequent year;
    - (B) Unpaid asset management, partnership management, and similar fees accrued for a period not to exceed three project fiscal years following the year during which they are earned, up to the difference between the limit for the year and the amount paid for that year; and
    - (C) Supportive Services Costs that the UMR would allow to be paid as operating costs, but that other funding sources do not.
- (b) Any Net Cash Flow remaining after the mandatory payments listed in the previous subdivision (a) shall be applied in accordance with UMR Section 8314(a)(2).

- (c) The requirements of UMR Section 8314(b) through 8314(h) shall apply.
- (d) Where there is a difference between the provisions of the UMRs and these guidelines, the provisions of these guidelines shall prevail in the use of operating cash flow.
- (e) Beginning in 2025, limits on Supportive Services Costs paid as Project Operating Expense shall be in accordance with the Department's "Notice of Omnibus Program Guideline Amendments Supportive Services Costs Limits" (Administrative Memo No. 24-05) dated October 7, 2024, and as may be subsequently amended.
- (f) For Supportive Housing, as defined pursuant to Appendix A of these guidelines, and upon approval by the Department, Sponsors may establish a reserve to cover unexpected shortfalls in revenues to pay for resident services coordination and case management costs. This reserve may be funded through project cash flow available after funding Operating Expenses and other required reserves, or through development sources. The maximum balance shall not exceed three times the per-unit, per-year limits specified in subsection (e).

### **Section 7314. State and Federal Laws, Rules, Guidelines and Regulations.**

The Sponsor must comply with all applicable local, state, and federal laws, constitutions, codes, standards, rules, guidelines, and regulations, including, without limitation, those that pertain to accessibility, construction, health and safety, labor, fair housing, fair employment practices, affirmatively furthering fair housing, nondiscrimination, and equal opportunity.

#### **(a) Nondiscrimination and Fair Housing Requirements**

- (1) To the furthest extent applicable and subject to federal preemption, the Sponsor must comply with all relevant laws, including, without limitation, the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.); the Unruh Civil Rights Act (Civ. Code, § 51); Government Code section 11135 (the prohibition of discrimination in state-funded programs); Government Code section 8899.50 (the duty to affirmatively further fair housing); California's Housing Element Law (Gov. Code, § 65583 et seq.); California Code of Regulations, title 2, sections 12264 – 12271 (legally permissible consideration of criminal history information in housing); Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.); the Fair Housing Act (FHA) and amendments (42 U.S.C. § 3601 et seq.); the Fair Housing Amendments Act of 1988; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Architectural Barriers Act of 1968 (42 U.S.C. § 4151 et seq.); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 – 6107); and all federal and state regulations implementing these laws.
- (2) Sponsor must do the following:
  - (A) Adopt a written nondiscrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where

explicitly prohibited by federal law), criminal history, arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any protected class, or any individual or person associated with any protected class be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Program funds. Pursuant to Section 7325, the nondiscrimination policy is part of the Sponsor's management plan, and it is therefore subject to Department approval prior to loan closing. In addition, upon Department request, the Sponsor shall promptly submit a copy of its nondiscrimination policy to the Department.

- (B) Adopt a written tenant selection policy that complies with state and federal law. Such policy shall include the criteria, prohibitions, and procedures specified at UMR Section 8305(a). All screening criteria shall be written in clear, intelligible, and unambiguous language. Pursuant to Section 7325, the tenant selection policy is part of the Sponsor's management plan, and it is therefore subject to Department approval prior to loan closing. In addition, upon Department request, the Sponsor shall promptly submit a copy of its tenant selection policy to the Department.
- (C) Adopt a written reasonable accommodation policy that complies with state and federal law, including California Code of Regulations, title 2, sections 12176 – 12185. Sponsor shall maintain a copy of the policy at the Rental Housing Development, and shall ensure that its relevant employees and contractors are aware of and abide by the policy. Pursuant to Section 7325, a written reasonable accommodation policy is part of the Sponsor's management plan, and it is therefore subject to Department approval prior to loan closing. In addition, upon Department request, the Sponsor shall promptly submit a copy of its reasonable accommodation policy to the Department.
- (D) Develop and implement an affirmative fair housing marketing plan that is consistent with HUD's equal opportunity regulations for affirmative fair housing marketing at 24 C.F.R. part 200, subpart M, and that is reasonably satisfactory to the Department.
- (E) If the Project is contemplated to be restricted to 100 percent Senior tenants, provide the Department with a fair housing legal opinion for the Designated Programs, with the exception of the Infill Infrastructure Grant Program of 2007 and Infill Infrastructure Grant Program of 2019.
- (F) Examine the feasibility of shared parking agreements to replace new parking construction and/or limit the number of new parking spaces that will be constructed for the Project. These requirements do not apply to proposals located on land owned or leased by the State of California (see GC § 65863.1(j)). An examination of the feasibility of shared parking shall include, at a minimum, identification of parking facilities on contiguous properties or nearby properties that would not require users to cross a street, together with consideration of the apparent availability of those facilities for shared parking

(see GC § 65863.1(i)(3)). The examination of the feasibility of shared parking shall be submitted to the Department prior to the execution and approval of the Standard Agreement.

(i) Tribal Entities are not required to examine the feasibility of shared parking for Projects located in Indian Country where an Indian tribe exercises jurisdiction.

(b) Americans with Disabilities Act (ADA) of 1990 and Physical Design Accessibility Requirements

- (1) Sponsor shall comply generally with all applicable state and federal building codes and standards, as well as with all design and accessibility laws.
- (2) Sponsor shall adopt written policies for providing reasonable accommodations, reasonable modifications, and auxiliary aids and services for effective communications with residents and applicants with disabilities.
- (3) Sponsor shall ensure that the Project is in compliance with the following housing and building accessibility requirements:
  - (A) California Building Code (CBC) Chapters 11A and 11B;
  - (B) ~~the~~The Fair Housing Act (42 U.S.C. § 3601 et seq.) and its implementing regulations at 24 Code of Federal Regulations (CFR) part 100, and the ANSI A117.1-1986 design and construction standard incorporated by reference at 24 Code of Federal Regulations part 100.201a;
  - (C) ~~the~~The Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and its implementing regulations at 28 Code of Federal Regulations part 35 (Title 11) and part 36 (Title III);
  - (D) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations at 24 Code of Federal Regulations part 8; and
  - (E) ~~the~~The Uniform Federal Accessibility Standards (UFAS) at 24 Code of Federal Regulations part 40, or, in the alternative, the 2010 ADA Standards for Accessible Design.
- (4) New Construction Projects: All new construction projects must provide a minimum of 15 percent (15%) of the Restricted Units with mobility features, and a minimum of 10 percent (10%) of the Restricted Units with hearing and vision features.
- (5) Rehabilitation Project: All Rehabilitation projects must provide a minimum of 10 percent (10%) of the Restricted Units with mobility features, and a minimum of four percent (4%) of the Restricted Units with hearing and vision features. At least one of each common area facility type and amenity, as well as paths of travel between Accessible Housing Units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard. In all other respects, applicable building code will apply. The Department's Director may approve a

partial or full exemption to the requirements for the number of Accessible Housing Units in excess of those required by the ADA, Section 504, or CBC Chapter 11B provided:

- (A) The exemption does not pertain to any accessibility features required by applicable building codes, the CBC Chapter 11B, or federal law, including the required minimum 5 percent Units with mobility features and 2 percent Units with hearing and vision features. These CBC Chapter 11B and federal law minimums are calculated on all units in the project, not just restricted units, and
  - (B) The Sponsor and Project's architect demonstrate that full compliance with requirements that exceed those otherwise required by building codes or state or federal law would be infeasible or create an undue financial and administrative burden. Accessibility must be provided to the maximum extent feasible.
- (6) Senior Projects: Senior new construction projects must provide a minimum of 50 percent (50%) of all Restricted Units with mobility features. Senior Rehabilitation projects must provide a minimum of 25 percent (25%) of all Restricted Units. The Department's Director may approve a waiver for a Senior Rehabilitation project pursuant to the provisions stated in the previous paragraph.
  - (7) All projects with elevators must comply with CBC Chapter 11B accessibility requirements for elevators.
  - (8) All Project owners with adaptable dwelling Units must provide adequate and visible notice to tenants of their ability to request conversion of adaptable features in their units to more accessible versions.
  - (9) Percentage requirements shall be calculated based on the number of Restricted Units (as defined in UMR) in the building and rounded up to the nearest whole number. However, CBC Chapter 11B and federal laws requiring a minimum 5 percent Units with mobility features and 2 percent Units with hearing and vision features are calculated on all units in the project, not just restricted units. The required number of units shall be the higher of these two calculations.
  - (10) Accessible Housing Units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities so that an individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible for housing assistance under the same project consistent with 24 CFR Section 8.26.
  - (11) Compliance and Verification: Prior to loan closing but after construction completion, the Sponsor shall provide a certification of compliance, signed by the borrowing entity and the project architect as well as third party documentation confirming compliance (by a Certified Access Specialist (CASP) with demonstrated experience meeting federal accessibility standards, or by an architect with demonstrated experience meeting federal accessibility standards.

(12) Accessible Housing Units: All new and existing projects with fully Accessible Housing Units shall adopt suitable means to assure that information regarding the availability of Accessible Housing Units reaches eligible individuals with disabilities and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit. Such information shall be included in marketing plans. To this end, when an Accessible Housing Unit becomes vacant, before offering such unit to an applicant who does not need the features of the unit, the Project shall offer such unit:

- (A) First, to a current occupant of another unit of the same project having a disability requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then
- (B) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.
- (C) If no applicant meeting the criteria in subsections (A) or (B) is available, the Accessible Housing Unit may be offered to a tenant or applicant who does not need the unit's accessibility features.
- (D) When offering an Accessible Housing Unit to an applicant not having a disability requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree to move to a non-accessible unit when a comparable unit is available. This agreement shall be incorporated in the lease or a lease addendum.

(c) Violence Against Women Act (VAWA)

Where applicable, Sponsors shall ensure individuals are not denied assistance, evicted, or have their assistance terminated because of their status as survivors of domestic violence, dating violence, sexual assault, or stalking, or for being affiliated with a victim, pursuant to 34 USC Section 12491. Sponsors and owners have an obligation to inform such prospective and existing tenants of the rights and protections available to them under federal law by providing them with a Notice of Occupancy Rights Form HUD-5380 and VAWA Self-Certification Form HUD-5382. Notice must be given at the time an applicant is denied housing, at the time an applicant is admitted to housing, or when a tenant is notified of eviction or termination. Sponsors and owners are also required to comply with additional protections afforded to survivors under state law pursuant to CIV Section 1946.7 (early lease termination without penalty) and CIV Sections 1941.5 and 1941.6.

(d) Pet Friendly Housing Act of 2017

Sponsor shall authorize residents of the housing development to own or otherwise maintain one or more common household pets pursuant to the Pet Friendly Housing Act of 2017 (Health & Saf. Code, § 50466).

(e) Prevailing Wage Law Requirements

~~Sponsor's use of Program funds is subject to California's prevailing wage law (Lab. Code, § 1720 et seq.). Sponsors are urged to seek professional legal advice about the law's requirements. Prior to disbursing the Program funds, the Department will require a certification of compliance with California's prevailing wage law, as well as all applicable federal prevailing wage law. The certification must verify that prevailing wages have been or will be paid (if such payment is required by law), and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and the Sponsor (including all co-Sponsors).~~  
Sponsor's use of Program funds is subject to applicable tribal, federal and/or California prevailing wage law. Sponsor is urged to consider all applicable prevailing wage law requirements and seek legal advice on compliance with said law. Prior to disbursing Program funds, the Department will require a certification of compliance with applicable tribal, federal and/or California prevailing wage law. The certification must verify that prevailing wages have been or will be paid if such payment is required by law, and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and the Grantee.

~~(f) Article XXXIV, Section 1 of the California Constitution~~

~~All Projects shall comply with Article XXXIV unless they fall within one or more statutory exceptions under the Public Housing Election Implementation Law (PHEIL) (Health & Saf. Code, §§ 37000 – 37002). Article XXXIV documentation of compliance shall be subject to review and approval by HCD prior to the announcement of Award recommendations. Even if IIG-2019 funding is awarded for infrastructure which does not come within the purview of Article XXXIV, if the Affordable Units used to calculate the award are financed by public sources, including other HCD funding sources, governed by Article XXXIV, then IIG-2019 funding shall be conditioned upon compliance with Article XXXIV. Tribal Entities are not required to demonstrate compliance with or exemption from Article XXXIV for Projects located in Indian Country where an Indian tribe exercises jurisdiction.~~

~~Except as indicated above, Applicants must submit documentation that shows the Project's compliance with or exemption from Article XXXIV. If a Project is subject to Article XXXIV, the Applicant must submit an allocation letter from the Local Public Entity that shows that there is Article XXXIV authority for the Project. A local government official with authority should prepare the allocation letter, and it should include the following:~~

- ~~(1) The name and date of the proposition and the number of Units that were approved;~~
- ~~(2) A copy of the referendum and a certified vote tally;~~
- ~~(3) The number of Units that remain in the Local Public Entity's "bank" of Article XXXIV authority (i.e., the number of Units that are still available for allocation); and~~
- ~~(4) The number of Units that the Local Public Entity will commit to this Project, including the Manager's Unit.~~



~~If a Project satisfies a statutory exception to Article XXXIV, then the Applicant must submit an Article XXXIV opinion letter from the Applicant's legal counsel. The Article XXXIV opinion letter must demonstrate that the Applicant has considered both the legal requirements of Article XXXIV and the relevant facts of the Project (e.g., all funding provided by public bodies, including state, county, or city sources; the number of Low-Income restricted Units; and the general content of any regulatory restrictions). Any conclusion that a Project is exempt from Article XXXIV must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.~~*Intentionally omitted.*

## **Section 7315. Relocation Requirements.**

- (a) The Sponsor 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 this section and in applicable state and federal law and shall agree to indemnify and hold harmless the Department from any liabilities or claims for relocation-related costs.
- (b) All persons, businesses, or farm operations that are displaced as a direct result of the development of a Project shall be entitled to relocation benefits and assistance as provided in Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code and the Department's implementing regulations at California Code of Regulations, title 25, sections 6000 – 6198. Additionally, to the extent applicable, local relocation law as well as the Federal Uniform Relocation Assistance and Real Property Acquisition Act, 49 CFR Part 24, including Appendix A to Part 24, shall apply. To the extent of any variation in the applicable relocation laws, the stricter standard shall apply. Displaced tenants who are not replaced with Eligible Households under this Program shall be provided relocation benefits and assistance from funds other than Program funds.
- (c) The Sponsor shall prepare or update a relocation plan in conformance with the provisions of California Code of Regulations, title 25, section 6038, and any other applicable relocation laws. The relocation plan shall be subject to the review and approval by the Department prior to ~~the execution and approval of the Standard Agreement~~construction loan closing and prior to actual displacement of persons, businesses, or farm operations. If no persons, businesses, or farm operations will be displaced as a direct result of the Project's development, then the Sponsor shall execute a certification, on a form prepared by the Department, prior to ~~execution and approval of the Standard Agreement~~construction loan closing.
- (d) All Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy Assisted Units meeting the tenant occupancy standards set forth in UMR Section 8305.
- (e) All ineligible households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy any available non-Assisted Units for which they qualify.

- (f) Notwithstanding the preceding subdivisions, tenants who are notified in writing prior to their occupancy of an existing Unit that the Unit may be demolished as a result of funding provided under the Program shall not be eligible for relocation benefits and assistance under this section. The form of any notices used for this purpose shall be subject to Department approval.
- (g) California relocation requirements are not applicable to Projects within Indian Country; however, Projects within Indian Country must comply with all relocation requirements imposed by virtue of 24 C.F.R. 1000.14.

**Section 7316. Construction Requirements.**

- (a) The Department may review Project plans and specifications to ensure the following objectives:

Maintenance, repair, and replacement costs shall be minimized during the useful life of the Rental Housing Development through use of durable, low maintenance materials, and equipment and design features that minimize wear and tear.

- (1) Operating costs shall be minimized during the useful life of the Rental Housing Development.
  - (2) Tenant security shall be enhanced through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.
  - (3) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the Project.
- (b) The Sponsor shall ensure that the construction work for the Project is performed in a competent, professional manner at the lowest reasonable cost consistent with the Project's scope, design, and locality and not in excess of the total funds available.
- (c) The Sponsor shall enter into a written contract for the construction or Rehabilitation work with a contractor having the appropriate state license.
- (d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions, and representations between the parties and shall specify a total contract price consistent with the Project budget approved by the Department.
- (e) The Sponsor shall ensure the construction contract requires compliance with state prevailing wage law (Labor Code, Chapter 1, Part 7, Division 2, commencing with Section 1720). The construction contract shall require the contractor to maintain labor records as required by law, and to make these records available to any enforcement agency upon request.

Prior to the close of the Program loan, the Sponsor shall provide to the Department a certification that prevailing wages have been paid or will be paid, and that the records shall be available consistent with the requirements of this subsection.

- (f) The Sponsor will ensure that the project complies with the accessibility requirements in Section 7314.
- (g) Senior housing type projects must also comply with the Unruh Act's requirements for Senior housing (CIV 51.2-51.4) and FEHA's specific requirements for Senior housing (GC 12955.9). All Senior housing type projects must comply with CIV Section 51.2(d)(4): "Access to all common areas and housing units within the development shall be provided without use of stairs, either by means of an elevator or sloped walking ramps." Senior housing type projects with elevators must comply with CBC 11B accessibility requirements for elevators.

## **Article 4. Application Procedures.**

### **Section 7317. Application Process.**

- (a) The Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, summary application requirements, the criteria of rating points, minimum eligibility threshold point scores, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible those Project applications for which the Department has issued, or concurrently will issue, a special NOFA pursuant to subsection (c)(4), below. Applications selected for funding shall be approved at loan amounts, terms, and conditions specified by the Department. For each Project selected for funding, the Department shall issue an award letter and Standard Agreement. With respect to any NOFA involving funding from one or more Designated Programs, the Department may require Applicants to specify all sources and amounts of funding for which the Applicant is applying. This requirement may be set forth in either the NOFA or the application.
- (b) 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.
- (c) In order to implement the goals and purposes of the Program, the Department may adopt measures to direct funding awards to designated Project types including, but not limited to, Rural Area Projects, Projects located in areas needing additional funding to achieve a reasonable geographic distribution of Program funds, Projects preserving continued affordability, and Projects with specified funding characteristics. These measures may include, but are not limited to:
  - (1) Issuing a special NOFA for designated Project types.
  - (2) Awarding bonus points within a particular NOFA to designated Project types.
  - (3) Reserving a portion of funds in the NOFA for designated Project types.

- (4) Notwithstanding anything in these guidelines to the contrary, a special NOFA issued pursuant to this subsection may establish an Over-the-Counter application process, meaning the Department continuously accepts and rates applications according to minimum threshold criteria published in a NOFA for the process, and makes loans to Projects that meet or exceed these criteria until the funding available for the process is exhausted. At a minimum, a special NOFA shall include a description of the application process and funding conditions, shall require compliance with Section 7303.1, and shall establish minimum funding threshold criteria based on the rating criteria set forth in the Universal Scoring Criteria in the Super NOFA; and
- (5) Establishing set-asides for specific projects and project types that serve specific target populations, as contemplated by HSC Section 50675.7(g).
- (d) Applications selected for funding shall be approved subject to conditions specified by the Department.
- (e) The Department may adjust these procedures as follows:
- (1) It may elect to not evaluate compliance with some or all eligibility requirements for applications that are not within a fundable range, as indicated by a preliminary point scoring.
- (f) Applications will be reviewed, and negative points assessed, consistent with the Department's Negative Points Policy. The Negative Points Policy, dated March 30, 2022 (and amended on November 9, 2022 and April 3, 2023), is published on the Department's [website](#).
- (g) Of the total MHP funds awarded ~~and authorized by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1)~~, the share that is awarded to Senior Projects shall be not less than the percentage of lower income renter households in the state that are lower income elderly renter households.
- (1) The required percentage shall be calculated using data from the American Community Survey or successor survey conducted by the U.S. Census Bureau, as defined and reported by HUD. The required percentage shall be calculated using HUD's most recent definitions and report of the data.
- (2) In each funding round, to the extent the Department receives applications meeting the requirements of Section 7320, the amount of awards to Senior Projects will be sufficient to make the share of total cumulative Proposition 1 MHP awards to Senior Projects at least equal to the percentage calculated pursuant to the preceding subsection, less one percent.
- (3) The required percentage as of the effective date of these guidelines is 210.70 percent.
- (h) Applicant(s) shall respond to all Department requests for information and/or deliverables in a commercially reasonable period of time following the Award Letter or risk disencumbrance of the Award in the Department's sole and absolute discretion.

(i) All parties contemplated by Department's Standard Agreement must execute same within thirty (30) days of receipt of the Standard Agreement by Applicant(s) or risk disencumbrance of the Award in the Department's sole and absolute discretion.

### **Section 7318. Application Content and Application Eligibility Requirements.**

(a) Applicants shall use the application made available by the Department, without modification. In the event any NOFA involves funding from one or more Designated Programs, the application may require the Applicant(s) to specify all sources and amounts of funding for which they are applying.

(b) An application is complete when it satisfies all of the following:

(1) The application includes a letter from the Applicant to the relevant local legislative body or tribal governing body that, pursuant to HSC Section 50675.7(e), notifies the body of the Applicant's intent to submit a loan application to the Department.

(2) The application meets all threshold requirements, as set forth in the NOFA, Section 7303.1, and the application.

(2)(A) During application review, Department staff may request or accept clarifying information as set forth in the NOFA.

(3) The application provides sufficient information for the Department to assess the proposed Project's feasibility pursuant to UMR Section 8310.

(3)(A) During application review, Project feasibility may be assessed subsequent to threshold and scoring determinations and must be finalized prior to the close of the award period. In assessing feasibility, Department staff may request and accept corrective documentation as set forth in the NOFA, provided these corrections do not significantly modify Department staff's threshold or scoring determinations.

(4) The application includes organizational documents for each Applicant entity. Determination of the completeness of organizational documents required pursuant to this section and sections 7303 and 7303.1 may occur concurrent with the Project feasibility review. Resolutions must be submitted within sixty (60) calendar days of the conditional award notification and in advance of Standard Agreement execution. Applicants are strongly encouraged to submit resolutions at the time of application to ensure timely access to funds as Standard Agreements will be prioritized based on the receipt and review of all required documents.

(5) The application includes a title report for the Property dated within 30 days of the application deadline.

(6) The application includes a site plan and design identification documents, such as site map, basic architectural design, and such other similar items as may be required by the Department.

- (c) The Department may reduce the score of an application that does not include all information necessary for scoring.
- (d) Applications shall be evaluated for compliance with the threshold and eligibility requirements of these guidelines, and applicable statutes, and scored based on the application scoring criteria listed in Article IV of the Super NOFA – Universal Scoring Criteria. The applications with the highest number of points shall be selected for funding, provided that they meet all threshold and eligibility requirements and achieve specified minimum scores as identified in the NOFA.
- (e) The Sponsor shall disclose on the MHP application whether the Project will be part of an application to TCAC seeking hybrid tiebreaker incentives. This election is irrevocable. Once awarded, the Department will not break up or combine project awards to accommodate a conversion to or from a hybrid project.

**Section 7319. [Reserved]**

**Section 7320. Project Scoring and Selection.**

- (a) All scoring criteria are found in Article IV of the Super NOFA – Universal Scoring Criteria.
- (b) Any reference outside of these guidelines and the Universal Scoring Criteria in the current Super NOFA, including references in the guidelines or regulations for any Designated Program, to the ranking and rating or the administration of funds in a manner consistent with MHP shall not be interpreted as authorizing funding criteria or requirements that conflict with those approved by the voters through a statewide initiative or referendum.

**Section 7321. Performance Deadlines.**

- (a) Upon receipt of an award of Program funds to a Project, the Sponsor shall be required to secure all permanent financing, including tax credits and bond allocations, no later than 24 months after the date the initial funds were awarded by the Department.
- (b) Failure to meet the requirement set forth in (a) above shall result in withdrawal of the Department's funding award.
- (c) An extension, not to exceed 6 months, may be granted by the Department, at its sole discretion, only if the Sponsor has demonstrated to the Department's satisfaction that the failure was due to circumstances entirely outside the Sponsor's control and offers reasonable assurance that all financing can be secured within the extension period.
  - (1) Failure to compete successfully for TCAC or CDLAC awards, alone, is not sufficient basis to receive an extension.
- (d) If a previously awarded bond allocation and/or tax credit reservation is withdrawn by TCAC or CDLAC for failure to meet deadlines, the Department's award shall be withdrawn, and no extensions will be granted.
- (e) In addition to (a) through (d), all awardees will be subject to the Department's Disencumbrance Policy. The Disencumbrance Policy, Administrative Notice Number

2022-02 dated March 30, 2022, and amended on December 19, 2022, is published on the Department's [website](#).

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## Article 5. Operations

### Section 7322. Legal Documents.

(a) Upon the award of Program funds to a Project, the Department shall enter into one or more agreements with the Sponsor and the borrowing entity, including a Standard Agreement, which shall commit funds from the Program, subject to specified conditions, in an amount sufficient to encumber the approved Program ~~loan~~award amount. The Standard Agreement shall require the Sponsor to comply with the requirements and provisions of these guidelines, and generally applicable state contracting rules and requirements, and all other applicable laws. All parties contemplated by the Department's Standard Agreement must execute same within thirty (30) days of receipt of the Standard Agreement by Applicant(s) or risk disencumbrance of the Award in the Department's sole and absolute discretion. The agreement or agreements shall contain the following:

- (1) A description of the approved Project and the permitted uses of Program funds;
- (2) The amount and terms of the Program ~~loan~~and any COSR grant funds;
- (3) The regulatory restrictions to be applied to the Project through the Regulatory Agreement as consideration for the Program loan;
- (4) Provisions governing the construction work and, as applicable, the acquisition of the Project site, and the disbursement of ~~loan~~award proceeds;
- (5) Special conditions imposed as part of Department approval of the Project;
- (6) Requirements for the execution and the recordation of the agreements and documents required under the Program;
- (7) Terms and conditions required by federal or state law;
- (8) Requirements regarding the establishment of escrow accounts for the deposit of documents and the disbursement of Program ~~loan~~award funds;
- (9) The approved schedule of the Project, including land acquisition if any, commencement and completion of construction or Rehabilitation work, and occupancy by Eligible Households;
- (10) The approved Project development budget and sources and uses of funds and financing;
- (11) Requirements for reporting to the Department;
- (12) Terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;
- (13) Provisions regarding compliance with California's Relocation Assistance Law (Gov. Code, § 7260 et seq.) and the implementing regulations adopted by the



Department (Cal. Code Regs., tit. 25, § 6000 et seq.), or to the extent applicable, compliance with federal Uniform Relocation Act requirements;

~~(14) Provisions regarding compliance with Article XXXIV;~~

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~~(15)~~(14) \_\_\_\_\_ Provisions relating to the placement of a sign on or in the vicinity of the Project site indicating that the Department has provided financing for the Project, or provisions relating to the Department's arrangement, in its sole and absolute discretion, for publicity of the Program ~~loan~~award;

~~(16)~~(15) \_\_\_\_\_ Remedies available to the Department in the event of a violation, breach, or default of the agreement;

~~(17)~~(16) \_\_\_\_\_ Other provisions necessary to ensure compliance with the requirements of the Program and applicable state and federal laws; and

~~(18)~~(17) \_\_\_\_\_ Provisions identifying the modification or waiver of state housing finance requirements for Tribal Entities pursuant to HSC Section 50406, Subdivision (p).

(b) The Department shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan that shall be recorded against the property of the Project prior to the disbursement of funds. The Regulatory Agreement shall include, but not be limited to, the following:

- (1) The number, type, and income level of Assisted Units pursuant to UMR Section 8304;
- (2) Standards for tenant selection pursuant to Section 7325(d)(5) and UMR Section 8305 for tenants qualifying under a Special Needs Population;
- (3) Provisions regulating the terms of the rental agreement pursuant to UMR Section 8307;
- (4) Provisions related to an annual operating budget approved by the Department pursuant to Section 7327;
- (5) Provisions related to a management plan pursuant to Section 7325;
- (6) Provisions related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to subsections (a) and (b) of Section 7312;
- (7) Conditions and procedures for permitting Rent increases pursuant to Section 7312;
- (8) Provisions for limitations on Distributions pursuant to UMR Section 8314; and on developer fees pursuant to UMR Section 8312;
- (9) Provisions relating to annual reports, inspections, and independent audits pursuant to Sections 7326 and 7327;
- (10) Provisions regarding the deposit and withdrawal of funds to and from all Project reserve accounts, including, without limitation, operating reserves and replacement reserves subject to UMR Sections 8308 and 8309;
- (11) Provisions regarding the funding and withdrawal of funds from the Project-Specific Transition Reserve in accordance with Section 7312.1, or the Pooled Transition

Reserve Fund in accordance with the Pooled Transition Reserve Policy, all as applicable;

- (12) Assurances that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to Section 7325;
  - (13) Description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;
  - (14) Provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with program requirements;
  - (15) Provisions relating to enforcement of program requirements by tenants;
  - (16) Special conditions of award~~loan~~ approval imposed by the Department;
  - (17) Provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to the terms of Section 7323 herein;
  - (18) For Projects serving Special Needs Populations and/or providing services to the general tenant population, provisions regarding the implementation and maintenance of services and facilities for the targeted Special Needs Population group and/or general tenant population;
  - (19) Other provisions necessary to assure compliance with the requirements of the Program; and
  - (20) HSC provisions identifying the modification or waiver of state housing finance requirements for Tribal Entities pursuant to HSC Section 50406, Subdivision (p).
- (c) All Program loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the Program. The note shall be secured by a Deed of Trust on all of the sites comprising the Project property naming the Department as beneficiary or, in the case of Tribal Entities that cannot satisfy this security requirement, by other security acceptable to the Department. This Deed of Trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of Sponsor's Program obligations.
- (d) The Sponsor and the borrowing entity shall enter into a Sponsor Operating and Control Agreement with the Department at or prior to permanent financing close of escrow. Pursuant to the Sponsor Operating and Control Agreement, the Sponsor shall be responsible for performing certain activities for the full term of the Regulatory Agreement and at no cost to the borrowing entity. Such activities include, without limitation, the following:
- (1) Controlling the borrowing entity and obtaining the Department's written approval in advance of any modification, amendment, limitation, or termination of such control;

- (2) Ensuring that the borrowing entity has sufficient resources and expertise to successfully operate the Affordable Housing Development;
  - (3) Providing general oversight of the borrowing entity's internal operations and management of the Affordable Housing Development;
  - (4) Ensuring the borrowing entity's performance of its obligations under the Regulatory Agreement; and
  - (5) Providing sufficient staff and other resources, as needed, to enable the borrowing entity to perform its obligations under the Regulatory Agreement.
- (e) Sponsor shall execute all legal documents on its own behalf and on behalf of the borrowing entity that it controls in accordance with UMR Section 8313.2.
- (f) All COSR funds provided in the form of a grant shall be evidenced by a grant agreement, which shall be secured by a deed of trust or other lien recorded against the real property of the housing development in favor of the Department, for the purpose of securing performance of the covenants and conditions of the grant agreement. The lien shall endure for the duration of the grant agreement and shall be subject to the provisions of Section 7304.1 and other applicable provisions of these guidelines. The security for the grant agreement shall be recorded junior only to such liens, encumbrances, and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of the Applicant's Program obligations.

### **Section 7323. Sales, Transfers, Encumbrances, and Loan Payoff.**

- (a) A Sponsor shall not directly or indirectly sell, assign, transfer, or convey the Rental Housing Development, or any interest therein or portion thereof, without the express prior written approval of the Department. A sale, transfer or conveyance may be approved only if all of the following requirements are met:
- (1) The existing Sponsor is in compliance with the Regulatory Agreement and other loan documents, or the sale, transfer or conveyance will result in the cure of any existing violations;
  - (2) The successor-in-interest to the Sponsor agrees to assume all obligations of the existing Sponsor pursuant to the Regulatory Agreement and other loan documents and the program;
  - (3) The successor-in-interest is an eligible Sponsor and demonstrates to the Department's satisfaction that it can successfully own and operate the Rental Housing Development and comply with all Program requirements; and
  - (4) No terms of the sale, transfer, or conveyance jeopardize either the Department's security or the successor's ability to comply with all Program requirements.
- (b) If the Sponsor or its successor-in-interest is a partnership, the Sponsor shall not discharge or replace any general partner or amend, modify, or add to its partnership agreement, or cause or permit the general partner to amend, modify or add to the

organizational documents of the general partner, without the prior written approval of the Department.

(c) The Sponsor may transfer limited partner equity interests without the prior written approval of the Department.

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- (d) If the Department approves a sale, assignment, transfer, or conveyance in accordance with the provisions of subparagraph (a) above, the Department shall grant its approval subject to such terms and conditions as may be necessary to preserve or establish the Fiscal Integrity of the Project. Such conditions may include, but are not limited to:
- (1) The deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;
  - (2) The recapture of syndication proceeds or other funds in accordance with special conditions included in any agreement executed by the Sponsor; and/or
  - (3) Such conditions as may be necessary to ensure compliance with the Program requirements.
- (e) The Sponsor shall not encumber, pledge, or hypothecate the Rental Housing Development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the Rental Housing Development without the prior written approval of the Department. The Department will not permit refinancing of existing liens or additional financing secured by the Rental Housing Development except to the extent necessary to maintain or improve the Fiscal Integrity of the Project, to maintain Affordable Rents, or to decrease Rents and for no other purpose, including, but not limited to, cash payments to the Sponsor, repayment of general partner loans or of limited partner loans, or for limited partner buyouts. Notwithstanding the general provisions in UMR Section 8308(g), this special condition controls, in that no MHP reserve balance can fund a limited partner buyout or exit.
- (f) No loan may be paid off prior to maturity without the prior written consent of the Department in its sole discretion, which consent shall be subject to conditions deemed necessary to ensure compliance with the Program requirements. All of the loan documents, including the Regulatory Agreement and Deed of Trust, shall continue in full force and effect notwithstanding any prepayment, in whole or in part, of the loan.

#### **Section 7324. Defaults and Loan or Grant Cancellations.**

- (a) In the event of a breach or violation by the Sponsor of any of the provisions of the Regulatory Agreement, the promissory note, or the Deed of Trust, or any other agreement pertaining to the Project, the Department may give written notice to the Sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time, the Department, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default including the following:
- (1) The Department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof and may also demand immediate repayment of the COSR award. Upon a failure to repay such accelerated amounts in full, the Department may proceed with a foreclosure in accordance with the provisions of the deed of trust or any COSR security agreement and state law regarding foreclosures.
  - (2) The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to

operate the Rental Housing Development in accordance with Program requirements.

- (3) The Department may seek such other remedies as may be available under the relevant agreement or any law.
- (4) In the event the Project is or has been awarded additional Department funding, any and all such funding will be cross defaulted to and among one another in the respective loan or, where applicable, grant documents. A default under one source of Departmental funding shall be a default under any and all other sources of Department funding in the Project.

(b) If the breach or violation involves charging tenants Rent or other charges in excess of those permitted under the Regulatory Agreement, the Department may demand the return of such excess Rents or other charges to the respective households. In any action to enforce the provisions of the Regulatory Agreement, the Department may seek, as an additional remedy, the repayment of such overcharges.

(c) The Department may cancel loan or grant commitments under any of the following conditions:

- (1) The objectives and requirements of the Program cannot be met;
- (2) Implementation of the Project cannot proceed in a timely fashion in accordance with the approved plans and schedules;
- (3) Special conditions have not been fulfilled within required time periods; or
- (4) There has been a material change, not approved by the Department, in the Project or the principals or management of the Sponsor or Project.

Upon Sponsor demonstration of good cause to comply with any or all of the conditions of this subsection, the Department may extend the date for compliance and shall provide the extension in writing.

(d) Upon receipt of a notice from the Department of intent to cancel the loan or grant, the Sponsor shall have the right to appeal to the Department's Director.

(e) The Department may use amounts in the Housing Rehabilitation and Loan Fund to cure or avoid a Sponsor's default on the terms of any loan or other obligation that jeopardizes the Fiscal Integrity of a Project or the Department's security in the Project. Such defaults may include defaults or impending defaults in payments on mortgages, failures to pay taxes, or failures to maintain insurance or required reserves. The payment or advance of funds by the Department pursuant to this subsection shall be solely within the discretion of the Department and no Sponsor or any other person or entity shall be entitled to or have any right to payment of these funds. All funds advanced pursuant to this subsection shall be part of the Program loan and, upon demand, shall be immediately due and payable to the Department. Where it becomes necessary to use the Housing Rehabilitation and Loan Fund to assist a Project to avoid threatened defaults or foreclosures, the Department shall have the right to take those actions necessary, including, but not limited to, foreclosure or forced sale of the Project

property, to prevent further, similar occurrences and ensure compliance with the terms of the applicable agreements.

### **Section 7325. Management and Maintenance.**

- (a) The Sponsor shall be responsible for all management functions of the Rental Housing Development including selection of the tenants, annual recertification of household income and size, evictions, and collection of Rent.
- (b) The Sponsor is responsible for all repair and maintenance functions of the Rental Housing Development, including ordinary and routine maintenance, replacement of capital items, repair and maintenance of accessibility features, provision and maintenance of accessibility features provided as a reasonable modification to a resident with a disability, and extraordinary and/or unforeseen repairs and replacement necessary to maintain the health and safety of the Project and residents. The Sponsor shall ensure maintenance of residential units, Commercial Space, and common areas in accordance with local health, building, and housing codes, and the management plan.
- (c) The Sponsor shall ensure that the Rental Housing Development is managed by an entity approved in writing by the Department that is actively in the business of managing low-income housing. Any management contract or management activities entered into for this purpose shall be subject to Department approval and contain a provision allowing the Sponsor to terminate the contract upon 30-days' notice. The Sponsor shall terminate said contract as directed by the Department upon determination that management does not comply with Program requirements.
- (d) The Sponsor shall develop a management plan subject to Department approval prior to loan closing. Any change to the management plan shall be subject to the approval of the Department. The Department may review and request updates to the management plan as necessary and appropriate. The management plan shall be developed consistent with Housing First best practices and other Program requirements and shall include the following:
  - (1) The role and responsibility of the Sponsor and its delegation of authority, if any, to the managing agent;
  - (2) Personnel policy and staffing arrangements;
  - (3) Plans and procedures for publicizing and achieving early and continued occupancy including marketing plans and application intake;
    - (A) The Sponsor's plan must include a policy for marketing, matching, and leasing Accessible Housing Units that complies with 24 CFR Section 8.27.
  - (4) Procedures for determining tenant eligibility and selecting tenants and for certifying and annually recertifying household income and size;
  - (5) The Sponsor's tenant screening and selection policy must comply with UMR Section 8305. Notwithstanding these provisions, tenants qualifying under a Special Needs Population must be selected through a tenant referral system which prioritizes based on need and barriers to housing stability. Tenants qualifying as Chronically Homeless or Homeless must be selected through a Coordinated Entry



System (CES), where operational. Where CES is not operational, another similar system must be utilized which prioritizes based on need and barriers to housing stability.

- (6) Plans for carrying out an effective maintenance and repair program;
- (7) Rent collection policies and procedures;
- (8) A program for maintaining adequate accounting records and handling necessary forms and vouchers;
- (9) Plans for enhancing tenant-management relations including maximizing tenant retention;
- (10) The management agreement, if any;
- (11) Provisions for periodic update of the management plan;
- (12) Appeal and grievance procedures that comply with UMR Section 8307;
- (13) Sponsor's written nondiscrimination policy;
- (14) Sponsor's written reasonable accommodation policy in compliance with state and federal law, including California Code of Regulations, title 2, sections 12176 – 12185; and
- (15) Plans for collections for tenant-caused damages, processing evictions and terminations.

The Department reserves the right to require use of specific materials developed to facilitate compliance with Housing First requirements and best practices.

#### **Section 7326. Reporting Requirements.**

- (a) No later than 90 days after the end of each Project fiscal year, the Sponsor shall submit the following:
  - (1) An independent audit of the Rental Housing Development prepared by a certified public accountant in accordance with Department audit requirements, as periodically updated and incorporated by reference; and
  - (2) A complete annual compliance report, including tenant demographics pursuant to Department defined reporting requirements.
- (b) No later than 60 days prior to the end of each Project fiscal year, the Sponsor shall submit the proposed annual budget and Schedule of Rental Income as detailed in Section 7327 below.
- (c) For Projects with Special Needs Housing units restricted to Homeless, including Chronically Homeless persons:

- (1) Sponsors shall report client data in the local Homeless Management Information System (HMIS), if such systems are available, and must comply with the local Continuum of Care's HMIS requirements.
- (2) Sponsors shall report annually to the Department on all occupants of these units. The report must specifically identify the number of units rented to the elderly, and Veterans. The report must identify for all occupants of Units, their referral source, previous living situation, whether the occupant was experiencing Chronic Homelessness or Homelessness, length of stay, and residence after exiting.
- (3) Sponsors shall report annually to the Department on the services provided to residents of these units, the qualifying characteristic of each resident, and similar information.

### **Section 7327. Annual Operating Budget and Schedule of Rental Income.**

The Sponsor shall submit proposed operating budgets and Schedule of Rental Income (SRI) to the Department prior to occupancy and annually thereafter. These operating budgets and SRI shall be subject to Department approval, be consistent with related and supporting documentation, and comply with the following requirements:

- (a) Prior to permanent loan closing, the Sponsor shall submit an initial operating budget, SRI, and other documents as requested to the Department. Such budget and SRI shall show all anticipated income; expenses for management, operations, and maintenance; debt service; and reserve deposits for the Initial Operating Year. The initial SRI shall show proposed Rents for individual units, gross rent floor date, rental and operating subsidy amounts, and similar information on both individual Units and the Project as a whole.
- (b) For the Initial Operating Year, the borrowing entity shall operate the Rental Housing Development in accordance with the initial operating budget and SRI, which were approved by the Department prior to loan closing. Such budget shall show all anticipated Operating Income, debt service, Operating Expenses and amount payable to reserves for the Initial Operating Year. Such SRI shall set forth the rent roll, which will identify each tenant household (by unit number or other method of household identification that is acceptable to the Department), as well as the following information in connection with each tenant household: size, income, current Rent, and proposed Rent adjustments (including utility allowances, if applicable). Such SRI shall provide estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.
- (c) For as long as deemed necessary by the Department to ensure compliance with Program requirements, but for no less than the full-term of the recorded Regulatory Agreement, the Sponsor shall submit to the Department for its approval, 60 days prior to the end of each Project fiscal year, a proposed operating budget and SRI on forms provided by the Department. The proposed annual operating budget and SRI, together, shall set forth the borrowing entity's estimates for the upcoming year of Operating Income, Operating Expenses, debt service amounts payable to reserves, and proposed Rent adjustments pursuant to Section 7312. The Department, at its sole discretion, may request in situations, such as, but not limited to, re-syndication, change of ownership, or change of Project fiscal year, submission of limited budget information, such as a

proposed Rent schedule, proposed management fees, and reserve deposit amounts. The Department may re-impose the requirement for submission of complete operating budgets where necessary to ensure compliance with program requirements.

- (d) The initial and subsequent proposed operating budgets shall be subject to the approval of the Department based on its determination that the budget line items are reasonable and necessary, considering costs for comparable Rental Housing Developments and prior year budgets. Actual expenditures in excess of the approved budget amount shall be subject to Department approval.
- (e) The initial and subsequent proposed SRI shall be subject to approval of the Department based on its determination that the proposed rents are in accordance with these guidelines and applicable regulations and statutes.
- (f) For Projects with non-Assisted Units or Commercial Space, all budgets submitted pursuant to this section shall show income and uses of income allocated among Assisted Units, Restricted Units, non-Restricted Units, and Commercial Space. The allocation method used for each budget line item shall be subject to Department approval and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational, and economic characteristics of the Project.

#### **Section 7328. Homeless Management Information System (HMIS) Data Entry.**

- (a) Pursuant to Assembly Bill 977 (Chapter 397, Statutes of 2021), the Sponsor shall, as a condition of receiving funds, enter specified data elements on the individuals and families it serves into its local Homeless Management Information System (HMIS), as required by HUD, and unless otherwise exempted by state or federal law. (Welf. & Inst. Code, § 8256, subd. (d)(1).)
- (b) Required data elements are identified at Welfare and Institutions Code section 8256, subdivision (d)(8). Such data elements may be amended to maintain alignment with changing federal standards.
- (c) For guidance on the entry format of HMIS data, as well as other project setup requirements, Sponsors should refer to the Department's "[AB 977 HMIS Project Setup Instructions](#)," dated March 23, 2023, and as may be subsequently amended.

# Appendix A – Defined Terms

All capitalized terms used throughout these guidelines shall, unless they have a program-specific definition or their context suggests otherwise, be given the same meanings of terms as defined in the Multifamily Housing Program guidelines or as ascribed in the UMRs (Chapter 7, Subchapter 19, Section 8301).

This appendix includes combined definitions for all AB 434 program guidelines and replaces former guidelines definitions sections: 7301 (MHP), 201 (Serna), 102 (VHHP), and 102 (IIG). Definitions specific to a particular set of program guidelines are identified by the color coding noted below:

IIG- Specific Guidelines Definition – Purple

MHP (“Universal”) Guidelines Definition - Black

Serna- Specific Guidelines Definition – Green

VHHP- Specific Guidelines Definition - Blue

**AB 434** - Assembly Bill No. 434, Chapter 192, Statutes of 2020.

**Accessible Housing Unit(s)** - refers collectively to “Housing Units with Mobility Features” and “Housing Units with Hearing/Vision Features” as defined below:

- (1) A “Housing Unit with Mobility Features” means and refers to a housing unit that is located on an accessible route and complies with the requirements of 24 C.F.R. Section 8.22 and all applicable provisions of Uniform Federal Accessibility Standards (UFAS) or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Sections 809.2 through 809.4 of the 2010 ADA Standards for Accessible Design. A Housing Unit with Mobility Features can be approached, entered, and used by persons with mobility disabilities, including individuals who use wheelchairs. Such units must also comply with CBC 11B.
- (2) A “Housing Unit with Hearing/Vision Features” means and refers to a housing unit that complies with 24 CFR Section 8.22, and all applicable provisions of UFAS or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Section 809.5 of the 2010 ADA Standards for Accessible Design. Such units must also comply with CBC 11B.

**Adaptive Reuse** – means the repurposing of building structures (e.g., offices, commercial spaces, business parks) for residential purposes. When referring to building structures, Adaptive Reuse means the retrofitting and repurposing of existing buildings in order to create new residential rental Units, and expressly excludes a Project that involves Rehabilitation of any construction affecting existing residential units that are, or have been, recently occupied.

**Affirmatively Furthering Fair Housing** - is defined, in accordance with Government Code (GC) Section 8899.50, subdivision (a)(1), to mean taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, Affirmatively Furthering Fair Housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development.

**Affordable Housing Development** - has the same meaning as "Rental Housing Development" defined below.

**Affordable Rents** - Rents established for Assisted Units in accordance with Section 7312 of the MHP guidelines.

**Affordable Unit** - a unit that is made available at an affordable rent, as defined in Health and Safety Code Section 50053, to a household earning no more than 60 percent of the Area Median Income (AMI) or, for ownership projects, at an affordable housing cost, as defined in Health and Safety Code Section 50052.5, to a household earning no more than 120 percent of the AMI. Rental Units shall be subject to a recorded covenant ensuring affordability for a duration of at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household and shall be subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

**Agricultural Employment** - means employed in the cultivation and tillage of the soil; the production, cultivation, growing and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, furbearing animals, or poultry; dairying, forestry, and lumbering operations; and any work on a farm as incident to or in conjunction with such farming operations, including the delivery and preparation of commodities for market or storage. Agricultural Employment also includes work done by any person who works on or off the farm in the processing of any agricultural commodity until it is shipped for distribution, whether or not such person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

**Agricultural Household** - an Agricultural Worker or workers and other persons who reside or will reside with an Agricultural Worker in an Assisted Unit.

**Agricultural Worker** - an individual who derives, or prior to retirement or disability derived, a substantial portion of his/her income from Agricultural Employment.

**Alternative Accessibility Standard** - also referred to as the HUD Deeming Notice (HUD-2014-0042-0001), means the alternative accessibility standard for accessibility set out in HUD's notice at 79 Fed. Reg. 29671 (May 23, 2014), when used in conjunction with the requirements of 24 CFR pt. 8, 24 CFR Section 8.22, and the requirements of 28 CFR pt. 35, including 28 CFR Section 35.151 and the 2010 Standards for Accessible Design as defined in 28 CFR Section 35.104.

**Applicant** - the entity or entities applying to the Department for the Program funding. Such entity or entities may also be the Sponsor, as defined in Section 7303 of the MHP Guidelines and as consistent with UMR Section 8301(s). Upon receiving an Award of funds, the Applicant or co-Applicants will, both individually and collectively, be referred to as the "Recipient" in the Department's legal documents relative to an Award of a grant, or as "Sponsor" in the Department's legal documents relative to an Award of a loan. For the purpose of Designated Program guidelines, an Applicant or co-Applicant that only receives an Award of grant funding will, both individually and collectively, be referred to as the "Recipient."

**Area Median Income or AMI** - means the most recent applicable county median family income published by California Tax Credit Allocation Committee (TCAC). For Tribal Entity Applicants, if the HUD income for a county/parish located within a Tribal Entity's service area is lower than the United States median, the Tribal Entity may use the United States median income limit.

~~**Article XXXIV** - Article XXXIV, Section 1 of the California Constitution. This constitutional provision requires local voter approval before a state public body can develop, construct, or acquire a low-rent housing project in any manner. The Public Housing Election Implementation Law (PHEIL) (Health & Saf. Code, §§ 37000 - 37002) sets forth statutory exceptions to this constitutional requirement.~~

**Assisted Unit** - a housing Unit that is subject to Program Rent and/or occupancy restrictions as a result of financial assistance provided under the Program.

**At Risk of Homelessness** - the condition of individuals or households who meet the definition of at risk of homelessness in 24 CFR Part 578.3.

**Award** - a commitment of money in the form of a Program grant or a loan that is made by the Department to an Applicant.

**Bus Hub** - an intersection of three or more bus routes, where one route or a combination of routes has a minimum scheduled headway of 10 minutes or at least six buses per hour during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider in the 12 months preceding the application due date.

**Bus Transfer Station** - an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having a permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

**Capital Asset** - means a tangible physical property with an expected useful life of 15 years or more. Capital Asset also means a tangible physical property with an expected useful life of 10 to 15 years for costs not to exceed 10 percent of the Program grant. Capital Asset includes major maintenance, reconstruction, demolition for purposes of reconstruction of facilities, and retrofitting work that is ordinarily done no more often than once every 5 to 15 years or expenditures that continue or enhance the useful life of the Capital Asset. "Capital Asset" also includes equipment with an expected useful life of two years or more. Costs

allowable under this definition include costs incidentally but directly related to construction or acquisition, including, but not limited to, planning, engineering, construction management, architectural, and other design work, environmental impact reports and assessments, required mitigation expenses, appraisals, legal expenses, site acquisitions, and necessary easements.

**Capital Improvement Project** - the construction, rehabilitation (as that term is defined below in Appendix A), demolition, relocation, preservation, acquisition, or other physical improvement of a Capital Asset that is an integral part of, or necessary to facilitate the development of, a Qualifying Infill Project. Capital Improvement Projects that may be funded under the Program include, but are not limited to, those described in Section 200 of the IIG guidelines.

**Capitalized Operating Subsidy Reserve or COSR** - the reserve established by the Department pursuant to the requirements of Section 7304.1 of these guidelines to address Project operating deficits attributable to MHP Assisted Units. Pursuant to Section 50675.5 of the Health and Safety Code, COSRs shall be provided in the form of a grant.

**Case Manager** - a social worker or other qualified person who assists in individualized service planning, and the assessment, coordination, monitoring, referral, and advocacy of services to meet tenants' supportive services needs, including, but not limited to, access to medical and mental health services, substance abuse services, vocational training, employment, home and community-based services and crisis management and interventions. Resident service coordinators are not Case Managers.

**CDLAC** - the California Debt Limit Allocation Committee.

**Chronic Homelessness or Chronically Homeless** - the condition experienced by people defined as "Chronically Homeless" under the federal Continuum of Care Program, at 24 CFR Part 578.3.

It also includes the condition of individuals and families:

- (1) Residing in a place not meant for human habitation, emergency shelter, or safe haven, after experiencing Chronic Homelessness as, defined in 24 CFR Section 578.3, and subsequently residing in a permanent housing project within the last year.
- (2) Residing in transitional housing who were experiencing chronic homelessness as defined in 24 CFR Section 578.3 prior to entering the transitional housing; or
- (3) Residing in an existing supportive housing project receiving MHP funding for Rehabilitation or being replaced by an MHP-funded project, provided that, upon initial occupancy, the individuals were experiencing chronic homelessness as defined in 24 CFR Section 578.3 or qualified under Section 7303(f).

**Commercial Space** - any nonresidential space located in or on the property of an Affordable Housing Development that is, or is proposed to be, rented, or leased by the owner of the Project and that is or will be used to serve clients or customers. The income from ~~the any~~ Commercial Space shall ~~be included as constitute~~ Operating Income, including

(but not limited to) any and all rents received by virtue of the lease thereof. All leases for Commercial Space must be for fair market value (“FMV”) rents, and otherwise on commercially reasonable terms and conditions, unless, in the sole and exclusive discretion of the Department, the commercial activity(ies) conducted within the Commercial Space provide a material benefit to the tenants occupying the Affordable Units, in which case rents for such Commercial Space may be at below FMV in an amount approved by the Department.

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**Community-Based Developer** – means a nonprofit entity (including a Tribal Entity) and/or a for-profit entity, as required by the applicable funding Program, which satisfies all of the following requirements at the time of application, as reasonably determined by the Department:

- (a) The entity shall have been operating in the community to be served by the Project described in the application for a period of at least twenty-four (24) consecutive months immediately preceding application submittal;
- (b) The entity shall reasonably define the community to be served by specifying and delineating the applicable neighborhood geographic area on a map showing, among other things, the boundaries thereof and the number of square miles contained therein, not to exceed ten (10) square miles for non-Rural Areas or twenty (20) square miles for Rural Areas; and such defined community shall:
  - (1) be primarily or exclusively located in a Moderate and/or Low Resource area or in a High Segregation & Poverty area, as designated in the most recently updated TCAC/HCD Opportunity Area Map or in such comparable federal map(s) as approved by the Department;
  - (2) include the Project to be funded by the award; and
  - (3) subject to subsection (c) immediately following, include the entity's corporate office within its boundaries.
- (c) The entity satisfies either of the following geographic requirements, as applicable:
  - (1) Where the proposed Project is located in a non-Rural Area, either: (A) the entity maintains a corporate office within five (5) miles of the proposed Project, or (B) the entity has developed, owned, or operated at least three (3) deed-restricted affordable housing projects located within ten (10) miles of the proposed Project; or
  - (2) Where the proposed Project is located in a Rural Area, either: (A) the entity maintains a corporate office within ten (10) miles of the proposed Project, or (B) the entity has developed, owned, or operated at least three (3) deed-restricted affordable housing projects located within twenty (20) miles of the proposed Project.
- (d) The entity satisfies both of the following experience requirements:
  - (1) The entity has developed, owned, or operated at least one (1) Rental Housing Development that is equivalent to the proposed Project in size, scale, level of amenities, and occupancy. The Department may determine experience by evaluating the experience of the entity itself or the experience of ~~senior staff~~ the principal(s) within the organization. If the experience requirement is satisfied by one or more of the Community-

Based Developer's ~~senior staff members~~principals, then the Standard Agreement and the loan documents shall include a Sponsor obligation to provide the Department with immediate written notice in the event of such member's or members' departure from or termination by the entity.

- (2) The entity has at least five (5) years' experience in the delivery of Culturally Competent Services and/or Community Benefit Programs to Very Low Income and/or Lower Income households in the communities served by the entity. This experience must include direct, in-person delivery of at least two (2) Culturally Competent Services and/or Community Benefit Programs to the general public within ten (10) miles of the proposed Project. Such services or programs must have been provided on an ongoing basis and during core business hours, and they cannot have been provided at an existing affordable housing project.
- (e) The entity serves no more than three (3) distinct geographic communities, as demonstrated by the location or delivery site of corporate offices, affordable housing projects, Culturally Competent Services, and/or Community Benefit Programs.
- (f) The entity has community knowledge, commitment to long-term community investment, and population-specific cultural competency, as demonstrated by evidence of at least two (2) of the following:
  - (1) Receipt of grant funds for services within the relevant community.
  - (2) Bilingual staff members that provide daily language assistance during the entity's delivery of services to the relevant community.
  - (3) A record of hiring within the community.
  - (4) Membership in or recruitment from a local Urban League (or substantially equivalent) organization.

**Community Benefit Programs** – Such programs include, but are not limited to, the following:

- (1) Free or reduced-cost childcare, after-school care, youth development, or adult daycare programs.
- (2) Community center facilities that are staffed and open to the public at least once a week or a minimum of seven (7) hours each week.
- (3) A medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week.
- (4) Technical assistance or lending to, or investment in, at least ten (10) small businesses within five (5) miles of the proposed Project.

- (5) Job training, digital literacy training, college outreach (linking potential students to college resources and information), or other employment or educational programs or outreach.
- (6) Financial counseling, housing counseling, free tax return assistance, or other economic empowerment programs.
- (7) Food distribution programs.

**Comprehensive Case Management** - individualized services planning and the provision of connections to mental health, substance abuse, employment, health, housing retention, and similar services.

**Coordinated Entry System or CES** - a centralized or coordinated process developed pursuant to 24 CFR Section 578.7(a)(8), as that section read on May 1, 2016, designed to coordinate program participant intake, assessment, and provision of referrals. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.

**Culturally Competent Services** – means services that respect diversity in the community and that respond effectively across cultures, regardless of differences in language, communication styles, abilities, disabilities, beliefs, attitudes, and behaviors.

**Department or HCD** - the California Department of Housing and Community Development.

**Designated Programs** - the Infill Incentive Grant Program of 2007 (IIG-2007), the Joe Serna, Jr. Farmworker Housing Grant Program (FWHG or Serna), the Multifamily Housing Program (MHP), the Housing for a Healthy California Program (HHC), the Transit Oriented Development (TOD) Implementation Program, and the Veterans Housing and Homelessness Prevention Program (VHHP) to the extent that AB 434 requires that funds from such programs be made available at the same time as funds are made available under MHP, that the applications for funding under such programs are to be rated and ranked in a manner consistent with MHP and that that the administration of funds made available under such programs shall be consistent with MHP. “Designated Programs” also includes the Infill Infrastructure Grant Program of 2019 (IIG-2019) with respect to Capital Improvement Projects for Large Jurisdictions.

**Developer** – the legal entity that the 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.

**Disability** - meeting the definitions of disability in the Americans with Disabilities Act (42 U.S.C. Section 12102) or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) and shall be broadly construed to include:

- (1) individuals with a mental or physical disability that limits a major life activity;

- (2) individuals regarded or perceived as having a mental or physical disability that limits a major life activity. This includes being perceived as having or having had a disorder or condition that has no present disabling effect but may become a mental or physical disability;
- (3) individuals having a record of a mental or physical disability that limits a major life activity. A “record” of mental or physical disability includes previously having, or being misclassified as having, a record or history of a mental or physical disability; and/or
- (4) individuals who are, or are perceived as, associated with a person who has, or is perceived to have, a mental or physical disability.
- (5) For purposes of this definition:
  - (a) “Mental disability” includes, but is not limited to, having any mental or psychological disorder or condition, intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, and chronic or episodic conditions that limits a major life activity. This includes disabilities such as autism spectrum disorders, schizophrenia, clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive-compulsive disorder.
  - (b) “Physical disability” includes, but is not limited to, having any physiological disease, disorder, condition, cosmetic disfigurement, anatomical loss that affects one or more of the following body systems or the operation of an individual organ within a body system: neurological; immunological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; circulatory; skin; endocrine; brain; and normal cell growth; and that limits a major life activity.
  - (c) “Major life activity” shall be construed broadly and includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and social activities.
  - (d) “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A mental or physical disability “limits” a major life activity if it makes the achievement of the major life activity difficult.
  - (e) Disabilities also include Intellectual/Developmental Disabilities as defined in Designated Program Guidelines and acquired brain injuries (which have both a physical and mental disability component); chronic and recurring disabilities, and medical conditions as defined in Government Code Section 12926(i), such as cancer.

**Distributions** – is defined in accordance with UMR Section 8301(h).

**Efficiency Unit** - a Unit containing only one habitable room. A room in a structure that is a single-family house at the time of application will not be considered to be an Efficiency Unit eligible for program funds.

**Eligible Households** - households whose incomes do not exceed 60 percent of AMI (or 80 percent of AMI, as applicable under Serna), as calculated in accordance with the regulations and procedures governing the low-income housing tax credit program, as administered by TCAC, or other, lower-income limits agreed to by a Project Sponsor and the Department. Household income will be calculated based on Units in accordance with TCAC rules and procedures.

**Emergency Shelter** - has the meaning set forth in 24 CFR 578.3.

**Emerging Developer** - as determined by the Department in its reasonable discretion, means an entity, including a Tribal Entity, that has developed, owned, or operated at least one (1) but not more than four (4) Rental Housing Developments that are equivalent to the proposed Rental Housing Development in unit type and project size (including total units in the proposed Project not to exceed one hundred fifty percent (150%) of the Sponsor's largest Rental Housing Development), scale, level of amenities, and occupancy. For example, if applying as a Farmworker Housing Project, Sponsor shall further demonstrate that said Rental Housing Development (or one of said Rental Housing Developments) includes occupancy restrictions for Agricultural Households; or if proposing fifty percent (50%) or greater of the Restricted Units as Permanent Supportive Housing or Homeless, Sponsor shall further demonstrate that said Rental Housing Development (or one of said Rental Housing Developments) includes an equal or greater percentage of occupancy restrictions for Permanent Supportive Housing or Homeless. Notwithstanding the forgoing, in no event shall a public entity, or non-profit controlled by a public entity, qualify as an Emerging Developer. The Department may determine experience by evaluating the experience of the entity itself or the experience of ~~senior staff~~the principals within the organization. If the experience requirement is satisfied by one or more of the Emerging Developer's ~~senior staff members~~Principals, then the Standard Agreement and the loan documents shall include a Sponsor obligation to provide the Department with immediate written notice in the event of such member's or members' departure from or termination by the entity. However, the forgoing notwithstanding, the experience of a consulting firm retained by an Emerging Developer shall in no event be attributed to such Emerging Developer for purposes of any experience requirement.

**Enforceable Funding Commitment** - a letter or other document evidencing, to the satisfaction of the Department, a commitment of funds or a reservation of funds by a Project funding source for construction or permanent financing, including, but not limited to, the following:

- (1) Private financing from a lender other than a mortgage broker, the Applicant, or an entity with an identity of interest with the Applicant, unless the Applicant is a lending institution actively and regularly engaged in residential lending;

- (2) Deferred-payment financing, residual receipts payment financing, and grants from public agencies;
- (3) Funds awarded by another Department program. Proof of award must be issued prior to final rating and ranking of the Program application.
- (4) A land donation in fee for no other consideration that is supported by an appraisal and/or purchase/sale agreement, or some other instrument of title transfer (“Land Donation”), or a local fee waiver resulting in quantifiable cost savings for the Project where those fee waivers are not otherwise required by federal or state law (“Local Fee Waiver”), shall be considered a funding commitment. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-party appraisal prepared by a Member Appraisal Institute-qualified appraiser within one year prior to the application deadline. A funding commitment in the form of a Local Fee Waiver must be supported by written documentation from the local public agency. A below market lease that meets the requirements of UMR section 8316 would be considered a ~~land donation~~Land Donation (\$1 per year).
- (5) Owner equity contributions or developer funds. Such contributions or funds shall not be subsequently substituted with a different funding source or forgone if committed in the application, except that a substitution may be made for up to 50 percent of the deferred Developer Fee. The Applicant shall be prepared, upon Department request, to provide evidence that the proposed amount of owner equity or developer funds is actually available at the time of application.
- (6) Funds for transportation projects, if an eligible use of a Designated Program. Funds must be programmed for allocation and expenditure in the applicable Project plan consistent with the terms and timeframes of the Standard Agreement.
- (7) Enforceable Funding Commitment Letters must contain the following:
  - (A) The name of the Applicant or Development Sponsor,
  - (B) The Project name,
  - (C) The Project site address, assessor’s parcel number, or legal description; and
  - (D) The amount, interest rate (if any), and terms of the funding source.

The assistance will be deemed to be an Enforceable Funding Commitment if it has been awarded to the Project or if the Department approves other evidence that the assistance will be reliably available. The Enforceable Funding Commitment may be conditioned on certain standard underwriting criteria, such as appraisals, but may not be generally conditional. Examples of unacceptable general conditions include phrases such as “subject to senior management approval”, or a statement that omits the word “commitment”, but instead indicates the lender’s “willingness to process an application” or indicates that financing is subject to loan committee approval of the Project. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low-income housing tax credits will not disqualify a source from being counted as committed.

**Extremely Low Income** - households with Gross Incomes not exceeding 30 percent of Area Median Income as set forth in Health and Safety Code section 50106.

**Factory-Built Housing** - as set forth in Health and Safety Code section 19971 means a residential building, dwelling unit, or an individual dwelling room or combination of rooms thereof, or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, that is either wholly manufactured or is in substantial part manufactured at an offsite location to be wholly or partially assembled onsite in accordance with building standards published in the California Building Standards Code and other regulations adopted by the California Building Standards Commission pursuant to Health and Safety Code section 19990. Factory-Built Housing does not include a mobilehome, as defined in Health and Safety Code section 18008, a recreational vehicle, as defined in Health and Safety Code section 18010.5, or a commercial modular, as defined in Health and Safety Code section 18012.5.

**Farmworker Housing** - a Rental Housing Development where at least 25 percent of the units are restricted to Agricultural Households.

**Fiscal Integrity** - that the total Operating Income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to:

- (1) pay all current Operating Expenses;
- (2) pay all current debt service (excluding deferred interest);
- (3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and
- (4) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the permitted annual Distributions shall not be considered in determining Fiscal Integrity.

**Fund** - the Joe Serna, Jr. Farmworker Housing Grant Fund.

**Gross Income** - all income as defined in CCR Title 25 Section 6914.

**Homeless or Homelessness** - the condition of individuals and households who meet the definition of “homeless” in 24 CFR Part 578.3. “Homelessness” includes “Chronic Homelessness” as defined in Designated Program guidelines. Occupants of a development undergoing Rehabilitation with Designated Program funds, or being replaced by an MHP-funded development, shall be deemed to qualify under this definition if they qualified upon initial occupancy. For persons qualifying as Homeless pursuant to the provisions of Section 7310.1, persons Experiencing Homelessness also includes people who have lost their housing as a result of institutionalization, including, but not limited to, institutionalization in skilled nursing facilities, acute care hospitals, psychiatric facilities, jails, and prisons, and have no home to live in upon discharge, are considered homeless regardless of the length of time residing in the institutional setting.

**Housing First** - is defined in accordance with Welfare and Institutions Code section (WIC) Section 8255.

**HUD** - the U.S. Department of Housing and Urban Development.

**Indian Country** – means the following:

- (1) All land located in “Indian country,” as defined by 18 U.S. Code (USC) 1151;
- (2) All land within the limits of a Rancheria under the jurisdiction of the United States government;
- (3) All land held in trust by the United States for an Indian tribe or individual; or
- (4) All land that is held by an Indian tribe or individual, and that is subject to a restriction by the United States against alienation.

**Initial Operating Year** - the initial period of operation of the Rental Housing Development, beginning at the time of the initial occupancy of the completed Project and ending on the last day of the fiscal year for the development.

**Intellectual/Developmental Disability** - a Disability that is covered under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 USC Sections 15001 and 15002(8) and implementing regulations at 45 CFR section 1325.3) or WIC 4512(a), and Disabilities that make a person eligible for services from the California Regional Center System. It includes a severe, chronic Disability that:

- (1) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) manifests before the age of 22;
- (3) is likely to continue indefinitely;
- (4) results in substantial functional limitations in three or more of the following areas of major life activity:
  - (A) self-care,
  - (B) receptive and expressive language,
  - (C) learning,
  - (D) mobility,
  - (E) self-direction,
  - (F) capacity for independent living, or
  - (G) economic self-sufficiency; and
- (5) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms



of assistance that are of lifelong or extended duration and are individually planned and coordinated.

The definition includes Intellectual Disabilities, cerebral palsy, epilepsy, and autism spectrum disorder. It also includes conditions that are closely related to Intellectual Disability or that require similar treatment (WIC Section 4512(a)).

**Intellectual Disability** - is a condition characterized by either significant limitations in intellectual functioning (reasoning, learning, problem-solving) or adaptive behavior (everyday social and practical skills).

**Large Family** - a housing type meeting the requirements of MHP guidelines Section 7302(e)(1).

**Large Jurisdiction** - a county that is not a Small Jurisdiction, or any city within that county.

**Lead Service Provider or LSP** - the organization that has overall responsibility for the provisions of Supportive Services and implementation of the supportive service plan in the Project. The LSP may directly provide Comprehensive Case Management services or contract with other agencies that provide services. For HUD-VASH tenants, the LSP will enable the applicable Veterans Affairs Case Manager to administer services in accordance with the HUD-VA Supportive Housing (VASH) Program.

**Local Public Entity** - any county, city, city and county, Tribal Entity, a community redevelopment agency or successor agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low income. It also includes two or more Local Public Entities acting jointly.

**Lower Income or Low-Income** - households with Gross Incomes not exceeding 80 percent of Area Median Income as set forth in Health and Safety Code Section 50079.5.

**Major Transit Stop** - a site containing any of the following:

- (1) An existing rail or bus rapid transit station.
- (2) A ferry terminal served by either a bus or rail transit service.
- (3) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during peak hours. Peak hours are limited to the time between 7:00 a.m. to 10:00 a.m., inclusive, and 3:00 p.m. to 7:00 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider in the 12 months preceding the application due date.

**Manager's Unit** - a unit in which the onsite manager of the Project resides. A Manager's Unit will not be considered to be an Assisted Unit, nor will it be considered to be a Restricted Unit for the purpose of calculating allowable Distributions. A Manager's Unit will be considered to be a Restricted Unit for the purpose of allocating development costs and may qualify for a loan amount up to the amount applicable to the 60 percent of AMI level.

**Net Cash Flow** – means that portion of Operating Income that remains after payment of the mandatory expenses, costs, and fees that are identified at Section 7313(a) of the MHP Guidelines. Such Net Cash Flow shall be applied in accordance with UMR Section 8314(a)(2): 50 percent of the Net Cash Flow will be apportioned to the Sponsor as Distributions, and 50 percent of the Net Cash Flow will be apportioned to the Department as residual receipts.

**Net Density** - the total number of dwelling units per acre of land to be developed for residential or mixed use, excluding allowed deductible areas. Allowed deductible areas are public dedications of land which are for public streets, public sidewalks, public Open Space, and public drainage facilities. Non-allowed deductible areas include utility easements, setbacks, private drives and walkways, general landscaping, common areas and facilities, off street parking, and traditional drainage facilities exclusive to a development project. Mitigations required for development will not be included in the allowed deductible areas.

**Net Income** - the same as defined in California Code of Regulations, Title 25, Section 6916.

**NOFA** - the Notice of Funding Availability issued by the Department to announce that funds are available and that applications for that funding may be submitted.

**Nondiscretionary Local Approval Process** - means a process for development approval involving no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "objective zoning standards", "objective subdivision standards", or "objective design review standards" in effect at the time that the application is submitted to the local government but uses no special discretion or judgment in reaching a decision. A nondiscretionary process involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. "Objective Zoning Standard, Objective Subdivision Standard, and Objective Design Review Standard" means standards that involve no personal or subjective judgment by a public official and that are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development Applicant or proponent and the public official prior to submittal.

**Nonprofit Corporation** - the same as defined in HSC Section 50091.

**Older Adults in Need of Supportive Services** - individuals who are age 55 or older and who need Supportive Services to maintain and stabilize their housing, including individuals meeting the following criteria:

- (1) Eligible under Medi-Cal 1915(c) waiver programs including the Home and Community-Based Alternatives Waiver, the Multipurpose Senior Services Program (MSSP), the AIDS Waiver, the Assisted Living Waiver, the Home and Community-Based Services for the Developmentally Disabled (HCBS-DD) Waiver, and the Self-Determination Program (SDP) Waiver;
- (2) Eligible for services under the Program of All-Inclusive Care for the Elderly or Community-Based Adult Services (CBAS);

- (3) Eligible for services through Enhanced Care Management or Community Supports (also known as “In Lieu of Services”) provided through Cal-AIM or similar programs;
- (4) Eligible for services through the In-Home Supportive Services Program;
- (5) Eligible for services similar to those listed in (1)-(4) above through the Department of Developmental Services (DDS) or the Regional Centers, including Independent Living Services and Supported Living Services;
- (6) Older Veterans who need services similar to those listed in (1)-(5) above but are served through the VA; and/or
- (7) Older adults at risk of institutionalization and eligible for long term care.

Eligibility for these programs must be established by the agency responsible for determining eligibility for the benefits provided by them.

**Open Space** - a parcel or area of land or water that is essentially unimproved and dedicated to one or more of the following purposes:

- (1) the preservation of natural resources;
- (2) the managed production of resources;
- (3) public and/or residential outdoor recreation; or
- (4) public health and safety.

**Operating Expenses** - the same as defined in UMR Section 8301(k).

**Operating Income** - all income generated in connection with operation of the Affordable Housing Development including rental income for Assisted Units and non-Assisted Units, fair market value rental income for Commercial Space or commercial use, laundry and equipment rental fees, rental subsidy payments, and interest on any accounts, other than approved reserve accounts, related to the Affordable Housing Development. "Operating Income" does not include security and equipment deposits, payments to the Sponsor for Supportive Services not included in the Department-approved operating budget, cash contributed by the Sponsor, or tax benefits received by the Sponsor.

**Park** - a facility that provides benefits to the community and includes, but is not limited to, places for organized team sports, outdoor recreation, and informal turf play; nonmotorized recreational trails; permanent play structures; landscaping; community gardens; places for passive recreation; multipurpose structures designed to meet the special recreational, educational, vocational, and social needs of youth, senior citizens, and other population groups; recreation areas created by the redesign and retrofit of urban freeways; community swim centers; regional recreational trails; and infrastructure and other improvements that support these facilities.

Payee – any entity receiving Program funds that is either a (1) Recipient; or (2) special purpose entity controlled by the Recipient and included on the Standard Agreement as a party to the contract.

**Permanent Supportive Housing or Supportive Housing** - means the same as defined under Health and Safety Code Section 50675.14(b)(2) and refers to Assisted Units.

**Pooled Transition Reserve Fund** – means the same as specified and described in the Department’s Pooled Transition Reserve Policy.

~~**Principal** - employees of the Sponsor who are in a position responsible for the oversight and management of development activities.~~ individual employees of the Sponsor who oversee the day-to-day operations and/or development activities of Rental Housing Developments as senior management personnel. In no event shall the experience of any consultant be imputed to any Principal for purposes of satisfying any experience requirements contained in these MHP guidelines.

**Program** – in the MHP guidelines, the term ‘Program’ is defined as the Multifamily Housing Program (MHP). Each Designated Program guidelines defines Program separately.

**Program** – in the Serna guidelines, the term ‘Program’ is defined as the Joe Serna, Jr. Farmworker Housing Grant Program.

**Program** – in the VHHP guidelines, the term ‘Program’ is defined as the Veterans Housing and Homelessness Prevention Program, authorized by Proposition 41, the Veterans Housing and Homeless Prevention Bond Act of 2014.

**Program** – in the IIG guidelines, the term ‘Program’ is defined as the Infill Infrastructure Grant Program of 2019 (IIG-2019).

**Project** – an Affordable Housing Development for which funding is being requested, and includes the development, the construction or Rehabilitation, and the operation thereof, and the financing structure and all agreements and documentation approved in connection therewith.

**Project-Specific Transition Reserve** – is defined in accordance with Health and Safety Code section 50468, subdivision (d)(1).

**Qualified Project Rental or Operating Subsidy** – is defined in accordance with Health and Safety Code section 50468, subdivision (d)(3), and shall include any other means of rental assistance or operating assistance identified by the Department in its Pooled Transition Reserve Policy.

**Qualifying Infill Project** - 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. QIP applications from Tribal Entities may request an exemption to the requirement to be located within an Urbanized Area.

**Recipient** - the eligible Applicant as defined in Section 201 of the IIG guidelines receiving a commitment of Program funds for an approved Capital Improvement Project.

**Regulatory Agreement** - the written agreement between the Department and the Sponsor that will be recorded as a lien on the Affordable Housing Development to control the use and maintenance of the Project, including restricting the rent and occupancy of the Assisted Units.

**Rehabilitation** - the term as defined in HSC Section 50096, including improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.

**Related Support Facilities** - include but are not limited to:

- (1) water and sewer facilities and other utilities directly related to the proposed Rental Housing Development.
- (2) physical improvements for childcare services, recreational activities, meeting room(s) all of which are intended for use of Project residents.
- (3) solar and other alternative energy efficient systems.

**Rent** - the same as “gross rent,” as defined in accordance with the Internal Revenue Code (IRC) (26 USC 42(g)(2)(B)). It includes all mandatory charges, other than deposits paid by the tenant, for use and occupancy of an Assisted Unit, plus a utility allowance established in accordance with TCAC regulations, if applicable. For units assisted under the Housing Choice Voucher (HCV) or similar rental or operating subsidy program, rent includes only the tenant contribution portion of the contract rent.

**Rental Housing Development** - a structure or set of structures with common financing, ownership, and management, and which collectively include(s) five or more dwelling units that are or will be subject to Department-approved affordability, occupancy, and/or rent restrictions as a condition of Department funding. Such dwelling units may include efficiency units as defined in HSC Section 50675.2, subdivision (d). No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures. For the purpose of Designated Program guidelines, “Rental Housing Development” does not include any “health facility” as defined by HSC Section 1250 or any “alcoholism or drug abuse recovery or treatment facility” as defined in HSC Section 11834.02. A Rental Housing Development includes, without limitation, the real property, the improvements located thereon, and all fixtures and appurtenances related thereto. **Note:** Where any Applicant is demonstrating experience in its application for Program funding, the term “Rental Housing Development” will also be interpreted to mean a structure or set of structures with common financing, ownership, and management, and which collectively include(s) five or more dwelling units that are subject to the affordability, occupancy, and/or rent restrictions of any Local Public Entity, any Tribal Entity, TCAC/CDLADC, or the federal government. In such cases, the term is also subject to any additional requirements that appear in context.

**Rent-Up Costs** - costs incurred in connection with marketing and preparing an Assisted Unit for occupancy while the unit is on the housing market but not yet rented to its first tenant.

**Residential Hotel** - any building that contains six or more Residential Hotel Units, where a majority of the units are Residential Hotel Units. Single-family houses are not considered Residential Hotels.

**Residential Hotel Unit** - also referred to as a single room occupancy unit or an “SRO,” means an Efficiency Unit that:

- (1) is occupied as a primary residence; and
- (2) is subject to state landlord-tenant law pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. The term also includes a unit in an “SRO Project” as described in Title 4 CCR, Section 10325(g)(3).

**Restricted Unit** - the same as that term is defined in UMR Section 8301(q), excluding units restricted at levels above 60 percent of AMI for MHP and VHHP, or above 80 percent AMI for Serna.

**Rural Area** - has the meaning set forth in Health and Safety Code Section 50199.21.

**Rural Development or RD** - the United States Department of Agriculture acting through the Rural Housing Service, formerly known as the Farmers Home Administration.

**Safe Haven** - has the meaning set forth in 24 CFR 578.3.

**Schedule of Rental Income or SRI** - is submitted to and approved by the Department prior to permanent financing closing and as required by the Regulatory Agreement. The SRI sets forth the rent roll, which identifies each tenant household in a form and manner that is reasonably acceptable to the Department; includes information requested by the Department (e.g., tenant household size, income, current rent, proposed rent adjustments); and provides estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.

**Senior** - a housing type meeting the requirements of MHP guidelines Section 7302(e)(3).

**Small Jurisdiction** - a county with a population of less than 250,000 as of January 1, 2019, or any city within that county.

**Special Needs** - a housing type meeting the requirements of MHP guidelines Section 7302(e)(5).

**Special Needs Population(s)** - means one or more of the following groups who need Supportive Services to maintain and stabilize their housing:

- (1) people with disabilities;
- (2) At Risk of Homelessness, as defined above in Appendix A;
- (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 above in Appendix A;
- (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.

**Sponsor** – means the same as defined in Section 7303 of the MHP guidelines and as consistent with the definition of “Sponsor” at UMR Section 8301(s).

**Structured Parking** - a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking, residential garages, or carports, including solar carports.

**Super NOFA** - a NOFA issued by the Department announcing availability of funding for one or more Designated Programs as required by AB 434 and Health and Safety Code section 53559, subdivision (c).

**Supportive Housing** - housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the Supportive Housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

**Supportive Services** - social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits (UMR Section 8301(t)).

**Supportive Services for Veteran Families Program (SSVF)** - the program established pursuant to 38 CFR Part 62 and operated by the VA.

**Supportive Services Costs** - the costs of providing tenant service coordination, case management, and direct resident and Supportive Services. It includes:

- (1) The cost of providing tenants with information on and referral to social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits; and
- (2) salaries, benefits, contracted services, telecommunication expenses, travel costs, supplies, office expenses, staff training, maintenance of on-site equipment used in services programs, such as computer labs, incidental costs related to resident events, and other similar costs approved by the Department.

Supportive Services Costs shall be calculated in accordance with UMR Section 8314 the Department's "Notice of Omnibus Program Guideline Amendments Supportive Services Costs Limits" (Administrative Notice No. 24-05) dated October 9, 2024, and as may be subsequently amended.

**Target Population** – this definition in the Serna guidelines has the same meaning as Agricultural Worker.

**Target Population** – this definition in the VHHP guidelines has the same definition as stated in Health & Safety Code 50675.14(b)(32)(A).

**TCAC** - the California Tax Credit Allocation Committee.

**TCAC/HCD Opportunity Area Map** - the most recently approved TCAC/HCD Opportunity Area Map that measures and provides a graphical representation of place-based characteristics linked to critical life outcomes, such as educational attainment, earnings from employment, and economic mobility. For projects on federal land, and properties not identified on the TCAC/HCD Opportunity Area Map, the Applicant may use the TCAC/HCD Opportunity Area Map's census tract nearest to the Project.

<https://treasurer.ca.gov/ctcac/opportunity.asp> . Note that Projects located in map areas designated as "Missing/Insufficient Data" or similar designation shall be considered to be in the resource area that most frequently surrounds the perimeter of the Project's map area.

**Transitional Housing** - buildings configured as Rental Housing Developments but operated under Program requirements that call for the termination of assistance and recirculation of the Assisted Unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, but no longer than twenty-four (24) months. Projects serving persons experiencing Homelessness, including Chronic Homelessness, shall comply with the core components of Housing First set forth in Welfare and Institutions Code section 8255.

**Transit Priority Area** - an area within one-half mile of a Major Transit Stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a transportation improvement program adopted pursuant to Title 23 of the Code of Federal Regulations section 450.216 or 450.322.

**Transit Station** - a rail or light-rail station, ferry terminal, Bus Hub, or Bus Transfer Station. Included in this definition are planned Transit Stations otherwise meeting this definition



whose construction is programmed into a regional or state transportation improvement program to be completed no more than five years from the deadline for submittal of applications set forth in the NOFA.

**Tribal Entity** – Tribe or a tribally designated housing entity. An Applicant that is any of the following:

- (1) An Indian Tribe as defined under 25 USC Section 4103(13)(B).
- (2) A Tribally Designated Housing Entity under 25 USC Section 4103(22).
- (3) If not a federally recognized tribe as identified above, either:
  - (a) Listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to 25 CFR part 83.1, and has formed and controls a special purpose entity in compliance with UMR Section 8313.2; or
  - (b) An Indian tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of consultation pursuant to GC Section 65352.3, and that has formed and controls a special purpose entity in compliance with UMR Section 8313.2.

**Tribal Households or Tribal Household** – means a household that includes at least one (1) member of either of the following:

- (1) An Indian Tribe as defined under 25 USC Section 4103(13)(B); or
- (2) A non-federally recognized tribe that is either (a) listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to 25 CFR part 83.1; or (b) an Indian tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of consultation pursuant to GC Section 65352.3.

**Unit** - has the same definition as UMR Section 8301(x).

**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. For sites in unincorporated areas, the site must be within a designated urban service area that is designated in the local general plan for urban development and that is served by public sewer and water systems.

**VA** - the United States Department of Veterans Affairs.

**Very Low Income** - households with Gross Incomes not exceeding 50 percent of Area Median Income as set forth in Health and Safety Code Section 50105.

**Veteran** - any person who actively served within one or more of the military services of the United States who was called to and released from active duty or active service, for a period of not less than 90 consecutive days or was

discharged from the service due to a service-connected disability within that 90-day period. This includes all Veterans regardless of discharge status.

**Veterans with a Disability Experiencing Homelessness** - Veterans experiencing the same condition as individuals experiencing “Chronic Homelessness”, excluding the requirement of having experienced Homelessness for a defined period of time, and as defined in 42 U.S.C. 11360(10)(A) and as determined by a medical doctor or nurse practitioner.

**VHHP Eligible Household** - a household whose composition includes at least one Veteran, as defined ~~above in subsection (h) of the VHHP guidelines~~, who meets the criteria of Target Populations, ~~also defined above in subsection (f) of the VHHP guidelines~~, and whose Gross Incomes do not exceed the income limit specified by TCAC.

**Walkable Route** - a route which, after completion of the proposed Project, shall be free of negative environmental conditions that deter pedestrian circulation, such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials, or highways without regulated crossings that facilitate pedestrian movement; or stretches without adequate lighting.

**Workforce Housing Opportunity Zone or Zone** - an area of contiguous or noncontiguous parcels identified on a city or county’s inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Government Code Section 65583 established pursuant to Section 65621.