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DATE	February 13, 2025
MEMORANDUM FOR	Multifamily Finance Super NOFA Stakeholders and Interested Parties
FROM	Gina Ferguson, Branch Chief Program Design and Implementation Division of State Financial Assistance
SUBJECT	Multifamily Finance Super Notice of Funding Availability (MFSN) Responses to Public Comments for 2025 MFSN Program Guidelines

On October 10, 2024, the California Department of Housing and Community Development (Department or HCD) solicited comments on proposed amendments to the Multifamily Finance Super NOFA (MFSN) Guidelines for the following programs:

- Multifamily Housing Program (MHP)
- Joe Serna, Jr. Farmworker Housing Grant Program (FWHG or Serna) - Multifamily
- Infill Infrastructure Grant Program (IIG) – Qualifying Infill Projects

On October 17, MFSN staff conducted a webinar presentation of the substantive proposed changes. The public comment period ended October 31. Approximately 350 total comments were received from 21 stakeholder organizations and groups. “Commenters” as used below includes both individual developer organizations and groups of developers submitting comments through a coalition organization.

This memo summarizes the major proposed changes and public comments received, and provides responses to comments, including explanations of the final changes made in MFSN program guidelines. Comments were also received for changes outside the scope of the proposed changes and are not included in the summaries below. The Department may consider those comments for future programmatic changes. In addition, a small number of new changes are included in these guidelines that largely correspond to and clarify originally proposed changes, some in response to comments. These changes are also included in the summaries below.

MHP GUIDELINES, RED TEXT CHANGES[1]

1. Section 7302 Eligible Project

Article XXXIV: The proposed change removes the Article XXXIV compliance requirement references due to enactment of Senate Bill 469 (2023). Corresponding changes are also in State and Federal Laws, Rules, Guidelines and Regulations and Legal Documents sections, and Appendix A.

Comments Received: Multiple commenters supported the proposed change.

Response to Comments: Final guidelines remove Article XXXIV compliance requirements.

Requirement for Tribal Entities to limit occupancy to Tribal households: The proposed change removes this requirement.

Comments Received: Multiple commenters supported the proposed change to remove this requirement.

Response to Comments: Final guidelines remove the requirement.

Requirement for Tribal Entities to waive personal and subject matter jurisdiction: The proposed change removes this requirement.

Comments Received: Multiple commenters supported the proposed change. One comment in support also encouraged the Department to analyze whether this waiver may harm the Department's ability to enforce fair housing and disability rights laws against tribal entities who violate them.

Response to Comments: Final guidelines remove the requirement. Regarding the comment concerned with enforcement abilities, the LWSI Omnibus Amendment provides an explanation of the Department's determination regarding this waiver. Regarding enforcement, the memo states, "We have concluded that we can fulfill our compliance obligations through alternative risk mitigation strategies that honor tribal sovereignty by eliminating the requirement for a waiver."

Multiple Department Funding Sources: The proposed change removes excerpts of Admin Memo 21-06 Repeal of Stacking Prohibition of Multiple Department Funding Sources. The language struck is comprised of partial excerpts of the memo. A memo citation is more appropriate than to both cite and excerpt Admin. Notice 21-06, which can cause confusion.

Comments Received: Multiple commenters opposed the proposed change, particularly removal of language citing the exemption of Department loans older than 14 years from the stacking limitation.

Response to Comments: As proposed, final guidelines remove this paragraph which both cites and excerpts a published memo. This change does not alter the

[1] Language identified in red text throughout MHP Guidelines represents text that is generally consistent across all multifamily funding programs subject to Assembly Bill 434 (2020). Please refer to the table of contents in FWHG and IIG Guidelines for corresponding section numbers.

guidelines' implementation of the stacking prohibition repeal, including the exemption of Department loans older than 14 years from the stacking limitation.

Capital sources, rental subsidies, and other operating assistance must be reasonably compatible with the Project's target population(s): this addition to guidelines is a corresponding change based on a public comment to Section 7304.1(i). See also MHP Program-Specific Changes, Section 7304.1 below. A commenter expressed concern that allowing stacking of subsidies can generate "unicorn" units that are extremely difficult to fill, particularly when these are also accessible units. In response to this comment, language was added to Section 7302 Eligible Project and Section 7304.1 Capitalized Operating Subsidy Reserves ("COSRs").

2. **Section 7303 Eligible Sponsor**

Sponsor experience: The proposed changes clarify a Sponsor's equivalent experience and provide metrics for determining equivalent project size and occupancy. These metrics included experience in (1) equivalent size, with the proposed project not exceeding 150% of the Sponsor's largest Rental Housing Development; and (2) experience with Permanent Supportive Housing (PSH) or Homeless. When proposing a project of 50% or greater Permanent Supportive Housing or Homeless units, there must be experience with an equal percentage of these units. Corresponding changes are proposed for the Emerging Developer defined term.

Comments Received: Multiple commenters opposed elements of the proposed change, stating that the proposed limits do not appropriately distinguish the level of capacity needed for successful development, the State should encourage increased production and larger developments to achieve economies of scale, and the limits have the potential to impede applicants to CDLAC because the CDLAC tiebreaker rewards special needs restrictions and cost efficiencies. Commenters proposed various alternative approaches, including variations dependent on incremental experience of 20, 50, and 100 units. Commenters also recommended that a developer with one project of at least 45% PSH units (the TCAC Homeless Apportionment threshold) be allowed to restrict all units for PSH. Multiple commenters pointed out that the proposed language related to occupancy is significantly limiting, prohibiting a developer with respect to a development of 50% or more PSH units from proposing even one percent more PSH than they have ever built. Some commenters recommended that rural new construction developments be limited to a maximum of 80 low-income units in alignment with TCAC regulations.

Response to Comments: In response to comments, final guidelines increase the Sponsor's equivalent experience metric requirement from 150% to 200%. A proposed project's unit count may be twice the number of units previously developed in a single project. Corresponding updates were made to the Emerging Developer defined term.

The percentage establishing the level of PSH or Homeless units in a proposed project that must be supported by equivalent experience was reduced from the

proposed 50% to 25%, which corresponds to the minimum percentage for both MHP Special Needs project type and TCAC's recently updated special needs housing type. Establishing the minimum percentage at 25% of restricted units was set to ensure that developers proposing a significant percentage of PSH or Homeless units have a threshold level of experience to ensure the long-term viability in operations and adequate support for the serving PSH or Homeless households at these projects. Final guidelines have been updated to correct the issue of prohibiting incrementally higher percentages of these units in comparison to Sponsor's existing portfolio by allowing a proposed project to increase these units by up to 125%.

For rural new construction size, no additional language is proposed that would set a maximum unit count. Since all or nearly all rural awards will also apply to CDLAC and/or TCAC, Department staff expects these projects to be sized to meet both HCD and TCAC requirements. MFSN staff will monitor proposed unit levels for rural new construction to ensure this is the case.

Sponsor replacement: Proposed changes acknowledge the ability to replace a Sponsor prior to the end of the regulatory period, and that this ability lies within the Department's sole and absolute discretion.

Comments Received: One comment was received in support of the change.

Response to Comments: Final guidelines have been updated as proposed.

Co-Sponsor requirements: The proposed changes (1) provide clarification of eligible Sponsor requirements when there are co-Applicants, that only one Sponsor need document the required experience and capacity; and (2) add detail to the process for Sponsor change requests, including when the exiting Sponsor was evaluated for experience and capacity and performs the substantial management role. If the request to exit is within a 7-year period, an experienced co-Sponsor must replace the exiting Sponsor. Approval is within the Department's sole and absolute discretion.

Comments Received: Two comments were received in support of the changes. Another comment recommended that, prior seven years (noted as an arbitrary timeframe) the remaining less experienced partner should be viewed in light of the experience requirements of the Emerging Developer definition and not be required to secure a replacement experienced Sponsor.

Response to Comments: Final guidelines retain the original proposal, with additional clarifying language. The Department maintains the importance of establishing a period of time during which a less experienced Sponsor that was not evaluated for experience or capacity at the time of application gains experience. The seven-year period was established in the original 2022 MFSN guidelines and is therefore existing rather than proposed language. In determining the number of years after which an experienced Sponsor would not require replacement, the Department took into account the timespan to acquire experience ranging from predevelopment to post-lease up operations management, and also that in the competitive environment of MFSN awards, experienced Sponsors receiving awards have a significantly higher level of experience than this threshold requirement,

generally needing to score maximum development and ownership experience points in order to receive an award. The seven-year period indicates the importance of establishing sufficient time for a less experienced entity to gain practical knowledge and understanding of developing, operating, and owning a rental housing development subject to Department affordability and occupancy restrictions, and of the terms and conditions of compliance and monitoring.

3. **Section 7303.1 Threshold Requirements**

Underwriting criteria: The proposed change eliminates underwriting to both proposed and restricted rents during an application's feasibility review, with underwriting performed pursuant to UMR Section 8310 utilizing restricted rents (the maximum targeted Area Median Income rent less utility allowance), which is consistent with underwriting that occurs post-award and with rent restrictions monitored pursuant to the Department's regulatory agreement.

Comments Received: Multiple commenters appreciated that the Department proposed to eliminate the double underwriting of both proposed and restricted rents but opposed the underwriting to restricted rents only. Many of these commenters discussed income at the 30% Area Median Income (AMI) level and the need to restrict at 30% AMI although a majority of prospective tenants may only have Supplemental Security Income (SSI) and no other income source; some tenants may have zero income and some might earn up to 30% AMI. This range of incomes requires flexibility and averaging out. Other commenters stated that developers creating supportive housing often underwrite to 15% AMI or below while presenting 30% AMI targeting for the purpose of Department restrictions, with setting rent at 15% AMI levels being critical for right-sizing these tenants' rent burden and keeping them stably housed. Some commenters stated that the Department should underwrite to proposed rents if the applicant can demonstrate legitimate justifications, others stated that the Department should underwrite only to proposed rents, and cited consistency with TCAC and lender underwriting standards.

Reasons for opposition also included: the need to balance community desire to serve higher AMIs where actual incomes may be lower; land use covenants, local financing restrictions, and existing rents on properties with old Department or other agency financing; requirements to underwrite at 10% below market; and underwriting to restricted rents when leasing to tenants at incomes below those levels inaccurately evaluates the financial health of the development and its need for assistance, and adds lease-up risk.

Response to Comments: In response to comments, application underwriting will be performed using maximum rent amounts (restricted rent), with an exception that proposed rents may be utilized for restricted units limited to occupancy by Special Needs Populations targeted at rent levels 30% AMI or below that are identified for households eligible for public cash assistance. Guidelines require three conditions to underwrite utilizing a proposed rent less than the 30% AMI restricted rent: (1) units cannot also be receiving any project-based rental assistance or project-based operating assistance; (2) the proposed rent cannot be less than 50% of the maximum restricted rent for the units' rent and income limit(s) submitted in the

application; and (3) third-party documentation supporting anticipated public cash assistance payment levels shall be provided in the application and prior to permanent loan closing. These changes were made to accommodate the need for target rent flexibility with households who may qualify for public cash assistance payments (for example, Supplemental Security Income, Social Security Disability Income, CalWORKs, Cash Assistance Program for Immigrants (CAPI), or county General Assistance), while also trying to prevent situations where these rent levels may be dramatically increased at any time up to a much higher restricted rent level.

In response to comments regarding use of proposed rents at higher income levels (above 30% AMI), for the MFSN programs' underwriting the Department maintains the importance of matching AMI restrictions to the income levels of populations served and the market area. If significant differences exist between a Sponsor's expected rent levels and the targeted AMI levels, the targeting is not accurately reflective of the income levels of prospective tenants in the market.

Local approvals documentation requirement: The proposed change clarifies that the threshold requirement for local land use approvals is documentation of the status, not complete approval, and includes the status of applicable environmental reviews (CEQA and NEPA).

Comments Received: Commenters generally supported this change, and many recommended that the streamlined ministerial Government Code citation be expanded to include other applicable government code sections. Several commenters opposed the inclusion of NEPA review status, stating that it is a funding disbursement requirement not a land use issue, which CDLAC and TCAC have both decided to no longer evaluate.

Response to Comments: The proposed language has been modified to include the recommended changes of a more comprehensive list of streamlined ministerial/by-right approvals, and removal of the requirement to provide the status of any applicable NEPA review.

Environmental Site Assessment (ESA) report requirement: MFSN program guidelines effective in 2022 and 2023 require applicants to provide ESA Phase I reports (and Phase II reports as applicable) but do not specify how recent the reports must be. For both funding rounds of MFSN, report timing was stated in the application rather than in guidelines. The proposed change adds these details to guidelines, generally requiring ESA report dates no older than 12 months prior to the application deadline.

Comments Received: Multiple comments were received opposing the change, stating that report updates after 12 months are an expensive and unnecessary requirement for most sites where environmental conditions have a very low probability of changing during the development process. Several commenters suggested alternate report timing, between two and five years prior to the application deadline.

Response to Comments: While it may be accurate that many sites have a low probability of changing environmental conditions during the development process,

there remains the possibility of changing environmental conditions, including toxic conditions adjacent or near the site that can migrate and spread over time. These toxic plumes can render previously clean sites unsafe for residential purposes. As a result, final guidelines contain the originally proposed language requiring an ESA report dated within 12 months of the application deadline. A Phase I may be older than 12 months when there is a Phase II submitted that is within the 12 month timeframe.

Preference policies for occupancy: Guidelines require that for any occupancy preference policy, a written analysis be provided describing how the policy complies with state and federal law, and require that all preference policies are compliant with applicable law. Guidelines also provide a list of populations that are exempt from the written analysis requirement. The proposed change includes additional legal citations specifying the applicable laws related to local tenants, teachers, and employees.

Comments Received: One comment was received in support of this change for clarity, and one comment was also supportive of a statewide preference policy for indigenous households in all state funding affordable housing as this would give more choice and opportunity to find housing in an urban setting.

Response to Comments: In response to this comment, members of federally recognized Tribes will be added to the list of populations for which the required written analysis is not applicable.

Financing commitments: The proposed change is to add an additional threshold requirement, to have commitments for all construction and permanent financing with the exception of bond financing and tax credits.

Comments Received: Multiple comments opposed this change, with some suggesting alternative commitment requirements, including that applicants only be required have a firm financing commitment for permanent soft financing outside of federal and state tax credits. Several commenters stated that construction financing commitments are not difficult to secure if permanent financing is in place and therefore have no bearing on project readiness. Others stated that bank commitment letters for permanent financing have little value, especially at the early stage of an HCD financing application.

Several commenters also recommended aligning “firm financing commitment” with the defined term Enforceable Funding Commitment, and to specify that the required commitments are applicable to development funding sources and not rental or operating subsidy commitments.

Response to Comments: Financing commitments as a threshold requirement was proposed to ensure that applicants requesting MFSN program funds exhibit a level of readiness that is consistent with the intent of AB 434 in streamlining the awarding process in order to speed and increase housing unit production. In response to comments, final guidelines incorporate the recommendation that development budget soft financing as described in the defined term Enforceable Funding Commitment be the only financing required to be committed as a threshold item.

4. **Section 7305 Cost Limitations**

Developer fee: Developer fee limits are proposed to continue to align with current TCAC developer fee limits. For the increased limit for regulated special needs populations, these units must meet MFSN Guidelines requirements for Special Needs Population(s) as defined by MFSN. For acquisition and rehabilitation applications utilizing 4% federal tax credits, the proposed changes include clarification that developer fee calculated from acquisition basis is limited to 5% of unadjusted eligible acquisition basis.

Comments Received: Commenters generally supported developer fee alignment with TCAC. Multiple commenters requested additional changes, including: (1) being allowed to utilize the TCAC developer fee limits in place when applying for LIHTC rather than be held to those in place at the time of HCD application. Commenters stated that the developer would need to finance any such increase as HCD awards would not increase; (2) for purposes of this developer fee limit, use the TCAC Special Needs definition; and (3) calculate the limit using 15% of acquisition basis for at-risk developments, for other non-resyndication acquisition/rehabilitation projects with at least $50,000 in hard construction costs per unit, and for developments with at least 30% of units at or below 50% AMI.

Response to Comments: Final guidelines retain the developer fee limit language as proposed. Regarding (1) above, the Department has a published Developer Fee Policy which does not allow an increase in developer fees for awarded projects or for projects under consideration for award. For (2) and (3), to the extent feasible and as aligned with Department goals and policies, MFSN guidelines aim to be consistent with CDLAC and TCAC funding systems and program requirements. However, in some areas, consistency is challenging given that HCD and CDLAC and TCAC are separate housing agencies. For (2) and (3), Department staff does not currently have the ability to ensure that our application review results in these areas (evaluation of TCAC Special Needs and At Risk housing type requirements) would invariably be consistent with CDLAC and TCAC application review results. For these reasons, the final guidelines retain the changes as proposed.

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

Market study requirements: The first proposed change specifies market study report date requirements. The second proposed change allows acquisition rehabilitation applications subject to regulatory affordability restrictions to provide the abridged market study permitted by TCAC regulations. The third proposed change requires the market study to specify any existing or planned affordable housing in the market area with Project type or target population preference or restrictions, and 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.

Comments Received: For the first proposed change, three comments were received opposing the requirement that a market study be completed within one year of the application due date, recommending instead that market studies dated 2 or 3 years prior to the application deadline be accepted (the length of time varied by commenter). One commenter further recommended streamlining duplicative

requirements for a market study at both HCD and TCAC so projects also applying for tax credits need only complete one market study. Multiple comments were received in support of the second proposed change. One comment received was concerned about the negative impact the proposed changes would have on the development of accessible units for people with disabilities. The commenter stated that many developers claim that production of accessible units is unnecessary, citing to the difficulty they have finding eligible tenants to occupy the unit. The commenter stated that if HCD proceeds with the suggested change to market studies, HCD should require that the market study include a thorough analysis of disability housing needs in the region by obtaining information from reliable resources that serve the disability community such as the local independent living center, Deaf Service Agency, and nonprofit service providers.

Response to Comments: The first change is similar to the ESA report timing discussed above in that it is inserting into guidelines an existing report timing that has been required in past MFSN (and prior MHP funding round) application documents. Given that the one year timing is more generous than required by TCAC and CDLAC Market Study Guidelines and that concurrently proposed changes in this section stress the importance of a market study documenting sufficient demand for target populations, final guidelines will reflect the change as originally proposed. The Department has fielded numerous requests to modify AMI levels, bedroom sizes, and reductions in the number of loan-assisted units after awards for FWHG and VHHP program funds have been made, particularly once lease-up begins. This supports the need for timely and accurate market data. MFSN staff will be reviewing market studies in 2025 MFSN NOFA applications to ensure they sufficiently document the demand for population types and corresponding household sizes targeted for regulatory restrictions.

Regarding the comment concerned about the negative impact the proposed changes would have on the development of accessible units for people with disabilities, in order to address this more broadly (not only within MFSN program guidelines), Department staff will meet with TCAC and CDLAC staff to discuss these potential changes to TCAC and CDLAC Market Study Guidelines and/or regulations, and will follow up with the commenter to ensure the concerns are fully understood.

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

Shared parking feasibility study: Proposed changes to this section included the addition of a shared parking feasibility study (Assembly Bill 894, 2023) to be submitted prior to execution of a Standard Agreement.

Comments Received: Numerous comments were received in support of the proposed change's effort in facilitating shared parking, one commenter opposed the proposed change, and many commenters in support recommended the proposed language be modified to address various issues, as summarized below.

A commenter supporting efforts to facilitate shared parking stated concern that the proposed requirements for examining the feasibility are vague (e.g., it is unclear what constitutes "nearby properties"). Additionally, given the extreme difficulty of formalizing shared parking agreements, the commenter recommended that the

updated guidelines include clarifying language to minimize the burden on the applicant to the greatest extent possible. The commenter recommended that the Department review the requirements of AB 894 to ensure that it requires a shared parking evaluation for every project, rather than an option for developers to use shared parking to meet parking needs; the burden on the applicant to prove that they have evaluated shared parking on every project is very high, with shared parking agreements rarely successful. One commenter urged the Department to require that parking feasibility studies include an examination of the (un)availability of accessible parking relative to the need and to address the provision of accessible parking in any plans that reduce the overall availability of parking for residents.

One commenter requested that the Department be responsible for creating a template form for applicants to complete that standardizes the feasibility study to reduce the burden and delay on projects.

One commenter cited increased cost and delays resulting from this requirement and stated that shared parking could be infeasible or inconsistent with entitlement conditions of approval and/or local zoning requirements. One commenter recommended the Department create a pathway for developers to apply for an exception to this requirement if projects can demonstrate extenuating circumstances that make shared parking agreements infeasible. One commenter recommended that projects with no locally required parking be exempt from the shared parking feasibility study requirement, another recommended that projects providing the minimum parking required by land use approvals be exempt, and another suggested there be an option that the requirement be folded into an existing report already prepared for new construction projects, such as a traffic study.

Response to Comments: In response to these comments, the Department re-reviewed AB 894 for its applicability to MFSN program guidelines and has modified the guidelines language addressing shared parking. If the Department is the public agency providing the most funding on the Project, the Sponsor must examine the requirements of a shared parking agreement pursuant to Government Code section 65863.1. Reporting and feasibility study requirements are withdrawn from program guidelines. Department staff will continue to consider for future guidelines how to most effectively implement a shared parking study requirement that addresses the constructive comments received.

7. **Section 7318 Application Process, Application Content, and Application Eligibility Requirements**

Feasibility and underwriting review: The proposed change identifies and clarifies the existing process of a feasibility and underwriting review that occurs in addition to threshold and scoring reviews and acknowledges the existing practice of allowing for limited application corrections outside the appeals process as part of feasibility and underwriting review. Corrections and clarifying information are routinely requested by Department staff during feasibility and underwriting review. The proposed changes include the ability to assess the majority of organizational documents as part of feasibility review, removing them from the threshold review and appeals process. The proposed changes also require this review to be finalized prior to any

scheduled award dates to ensure timely responses from applicants.

Comments Received: One comment was received in support of the change.

Response to Comments: Final guidelines have been updated as proposed.

Corrective information in an application: The prior MFSN 2023 NOFA permitted staff to request clarifying and/or corrective information through an appeals process. This proposed change acknowledges that process in the MFSN guidelines. Staff intends to further specify in the 2025 NOFA the ability for corrections of minor errors and omission of existing documentation identified in the threshold and scoring reviews to be resolved through the appeals process, based on numerous requests from stakeholders over the past two funding rounds.

Comments Received: Multiple comments were received in support of the change, and strongly supported greater flexibility to correct threshold, feasibility and organizational document errors. Commenters stated they understood that HCD would further define the parameters of this flexibility in the NOFA and made recommendations for this. First, HCD should give applicants five business days to submit requested documentation. Second, HCD at a minimum should align with TCAC and accept third party documents in existence at time of application. In addition, it was recommended that HCD achieve greater consistency in when, how, and what documents HCD will request.

Response to Comments: Final guidelines have been updated as proposed. The 2025 MFSN NOFA includes updated language in comparison to the 2023 MFSN NOFA regarding application deficiency corrections (refer to the MFSN NOFA Article III(A), Application Submission Process), giving the Department discretion to accept a document existing as of the application filing deadline, or a document certifying to a condition existing at the time of the application filing deadline.

Site plan and project design documents: The proposed change adds a requirement to provide site plan and project design documents (not complete architectural drawings). These documents provide fundamental information about the proposed project for which program funds are requested.

Comments Received: Three comments were received stating that the proposed language was vaguely written, requested clarification, and asked that the language be explicit in the type of documents required. One comment suggested that HCD include with this requirement identification of the number and types of accessible units the project will include. Upon completion, applicants should submit architectural drawings in addition to a CASp report to confirm the applicant's compliance with state and federal accessibility requirements.

Response to Comments: In response to comments, this requirement has been redrafted using the specific document names to be included in an application: an aerial map, a site plan, and a design development site plan. If additional clarification is needed regarding these particular documents, MFSN staff is available to provide this to prospective applicants upon request (email SuperNOFA@hcd.ca.gov), and plans to provide visual examples in the upcoming MFSN application workshops. Regarding the suggestion that applicants should submit architectural drawings in

addition to a CASp report, while the final guidelines do not require submission of a complete set of architectural drawings, there is an existing guidelines requirement that 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.

8. Section 7322 Legal Documents

Standard Agreement execution timing: The proposed change requires Standard Agreement execution within 30 days of receipt, with the potential penalty of award disencumbrance. The conditional award letter requires receipt of all organizational documents needed to complete the Standard Agreement within 60 days of the award letter. After the organizational document review process is complete, MFSN staff will provide a project's Standard Agreement exhibits to sponsors for review, and the exhibit templates will also be available on the MFSN webpage. Sponsors will have been provided the ability to verify information in the Standard Agreement exhibits and resolve any questions prior to formal receipt of the Standard Agreement and the beginning of the 30-day period. This change is proposed to ensure timely execution of Standard Agreements. Existing Section 7317(a) language requires execution of a Standard Agreement.

Comments Received: Multiple comments were received stating that requiring execution of the Standard Agreement within 30 days of receipt is unreasonable, unless Sponsors are given the opportunity to review and comment on the contents of the Standard Agreement before it is circulated. Sponsors need to circulate the Standard Agreement among investors and construction/permanent lenders prior to signature, and if local jurisdictions are party to the Standard Agreement, they may have even longer timelines for their ability to execute the Standard Agreement.

Response to Comments: As stated above and in the October 10, 2024 Summary of 2025 MFSN Proposed Changes, the 30-day timeframe begins after Sponsors have been provided the exhibits of the Standard Agreement with project-specific information and have had the opportunity to discuss and resolve issues to the extent possible (boilerplate exhibit language may not be amended). MFSN staff will provide the Standard Agreement exhibits and resolve any questions prior to formal receipt of the complete Standard Agreement by a Sponsor and the beginning of the 30-day period. In response to the concerns of the commenters, final guidelines include the ability to be provided an extension of the 30-day timeframe.

9. Appendix A Defined Terms

Commercial Space, Operating Income: the proposed changes clarify and provide additional detail to the requirement that 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. This requirement has been commonly cited in the project reports of awarded projects but not clearly stated within guidelines.

Comments Received: Multiple comments were received expressing that the Department's policy to consider commercial income as operating income for the residential development is risky. Commenters stated that commercial income is unpredictable, that underwriting counting on this income is often over-optimistic, putting projects at risk of failure, and that commercial space in affordable housing can rarely charge fair market value.

Commenters also stated that HCD's policy also is out of alignment with TCAC and CDLAC, putting developers in the difficult position of having to meet conflicting requirements. Commenters recommended that HCD align with TCAC's rules on commercial income.

Commenters stated that while commercial tenants may not explicitly "serve" project residents, they generally fill a need in the community. Commenters recommended that HCD remove this added language and allow developers to manage their commercial space in the best way feasible. One recommendation was to broaden the eligibility for below market rents to uses that provide tenants a direct benefit or to entities that provide a community benefit.

One commenter stated in its consideration of whether Commercial Space provides a material benefit to tenants occupying the affordable units, HCD should require Commercial Spaces to obtain a CASp report and remediate any access barriers identified in the report to ensure that disabled tenants have equal access to the material benefits the Commercial Space claims to provide.

Response to Comments: Alignment with TCAC's rules on commercial income is not feasible given that the Uniform Multifamily Regulations (UMRs) require that Operating Income include rental income for Commercial Space or commercial use. In response to comments, the proposed language has been broadened to allow below market rent for commercial activity(ies) that provide a public benefit. Regarding the recommendation to obtain a CASp report, this change is not being implemented at this time, but may be considered for future guidelines changes.

<u>TCAC/HCD Opportunity Area Map</u>: in alignment with CDLAC regulations, the proposed change was adding the ability for projects located in map areas designated as "Missing/Insufficient Data" or similar designation to be considered in the resource area that most frequently surrounds the perimeter of the project's map area.

Comments Received: No comments were received.

Response to Comments: The final guidelines modify the originally proposed change due to changes made to CDLAC regulations on December 11, 2024. The intent of this proposed change was to align evaluation of Missing/Insufficient Data areas with CDLAC regulations. The updates to CDLAC regulations effective December 11 align with TCAC's methodology for reviewing opportunity areas, which does not allow use of surrounding perimeters to be substituted as a resource area

designation. Correspondingly, the update to MFSN Appendix A's TCAC/HCD Opportunity Area Map definition does not allow for an alternate designation option when sites are located in map areas designated as "Missing/Insufficient Data" or similar designation.

MHP GUIDELINES (MHP PROGRAM-SPECIFIC CHANGES)

1. Section 7304.1 Capitalized Operating Subsidy Reserves (COSRs)

MHP COSR: COSRs will be available for Special Needs Projects to assist units at 30% AMI and below and will be provided in the form of a grant. To be eligible for a COSR award, MHP capital funds must also be requested. For 2025, COSRs will be sized at $195,000 per unit, with the maximum COSR award being the lesser of a per-unit total or the amount of demonstrated need for operating deficits over a 20-year period. The COSR is calculated using the maximum restricted rents for the COSR-assisted units.

To be considered for a COSR, this section also requires that Sponsors demonstrate they have first identified and requested available federal, state, and local sources of rental assistance and other operating assistance. Stacking of rental or operating subsidies on the same COSR-Assisted Unit is permitted. However, the MHP COSR underwriting at application and permanent loan closing requires the COSR sizing to be reduced when awarded rental or operating subsidy amounts reduce what would otherwise be needed in the first 20 years of operations. Where an MHP COSR is involved, the MHP COSR funds will be reduced first to ensure that a Unit is not over-subsidized.

The Department will hold all project COSR funds in a subaccount.

Comments Received: Multiple comments were received in support of MHP COSRs, and many commenters recommended proposed language be modified to address various issues, as summarized below. Some commenters requested that COSRs be made available in the form of a loan for tax rule purposes. Others requested as an alternative to a Department-held COSR, higher per-unit loan limits for the MHP loan so that sponsors could demonstrate the feasibility of a COSR funded from limited partner equity. Commenters stated that COSRs administered by sponsors and their investors could be more streamlined than annual draws from the Department, with one commenter citing the HHC program's COSR accounts held by the borrower.

Multiple commenters opposed the size of the COSR award calculated using the maximum restricted rents for the COSR-assisted units in those circumstances where an applicant can demonstrate that actual rents are lower due to: density bonus or other land use covenants, local financing restrictions, existing rents on properties with old HCD or other agency financing, requirements to underwrites at 10% below market, requirements to ensure special needs households in unsubsidized units are not rent burdened. One commenter stated that it is not feasible to assume COSR sizing based on receiving 30% of an individual's income in rent for supportive housing units, given that many of these tenants will not have any income to pay rent.

Two commenters recommended to increase the AMI limit to 50% for Special Needs units that have a veteran restriction, due to leasing difficulties with veteran PSH units at 30% AMI and below. One commenter recommended considering COSRs on existing supportive housing projects facing operating shortfalls. One commenter stated that requiring Sponsors to demonstrate they have requested other possible available sources of funds seems unduly restrictive. One commenter responded to the requirement that the COSR sizing be reduced to account for other awarded operating subsidy or rental assistance funds offsetting deficits during the first 20 years, stating that estimating accurate revenue shortfalls is challenging and unpredictable for permanent supportive housing projects serving persons experiencing chronic homelessness. Another commenter was concerned that allowing stacking of subsidies can generate “unicorn” units that are extremely difficult to fill, particularly when these are also accessible units.

One commenter requested clarification of Supportive Services costs as described in the list of Operating Expenses that are not eligible to be paid from the COSR. Commenters requested the Department allow COSRs to be used to cover developer/asset management fees. If necessary, the amount of the COSR dedicated to such costs could be capped annually.

One commenter recommended to exclude COSR from the calculation of total development costs for the purpose of measuring project costs against per-unit and per-project limits. Commenters also requested that the NOFA provide procedural clarity as to how COSR awards will function within the larger competition.

Response to Comments: The Department will proceed with offering MHP COSRs in the form of a grant with COSR funds held by the Department until disbursement requests are approved. MHP COSR amounts are expected to be significantly larger compared to other reserves held by a project (such as the HHC program), and as a result the risk to the Department of misuse of COSR funds if this reserve is held by the project is greater. For those equity investors and others requiring COSRs to be reflected as a loan for tax purposes, final guidelines include a paragraph permitting this under Section 7306, with terms similar to IIG program grants converted to zero interest loans.

For MHP COSR underwriting, changes were made to final guidelines permitting proposed rents to be utilized, limited to restricted units for Special Needs Populations targeted at rent levels 30% AMI or below that are identified for households eligible for public cash assistance. Specifically, COSRs that will support Assisted Units restricted at 30% AMI or below to Chronically Homeless, Homeless, or other Special Needs Populations that are likely to be eligible for public cash assistance (for example, Supplemental Security Income, Social Security Disability Income, CalWORKs or county General Assistance) may be sized using proposed rents for the COSR Assisted Units, rather than maximum restricted rents if all of the following conditions are met: (1) these Assisted Units cannot also be receiving any project-based rental assistance or project-based operating assistance; (2) the proposed rent cannot be less than 50% of the maximum restricted rent for the Assisted Units’ rent and income limit(s) submitted in the application; and (3) third-party documentation of anticipated public cash assistance payment levels shall be provided in the application and prior to permanent loan closing

which supports the need for the proposed rents.

Final guidelines include a change to the calculation for sizing to address anticipated operating deficits attributable to the COSR-assisted units for 20 years. To ensure that these attributable operating deficits do not subsidize non-assisted units, the total amount of a COSR will be determined based on underwriting performed for the entire project, including the COSR-assisted and non-assisted units. 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; or
(3) The amount necessary to ensure that the total project cash flow after all Operating Expenses, mandatory debt service, and required reserve deposits does not exceed the amount necessary to pay fees under 7313(a)(2)(A); or
(4) 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.

Since COSR sizing will be based in part on the total project cash flow, if a Sponsor believes that there will be higher numbers of tenants with little to no income than they should: size their AMI rent levels for the assisted units commensurate with anticipated public assistance levels; assume a higher vacancy rate as a way to reflect an expected percentage of zero income tenants; and carefully estimate operating expenses, particularly those anticipated to be higher when serving special needs tenants of the project's proposed target population.

Since it is the Department's intent to target COSR assistance to only those with extremely low incomes, units receiving rents at 50% AMI may not need COSR assistance. Regarding the request to provide MHP COSR assistance to existing supportive housing projects, MHP COSRs were designed to be underwritten, funded, and monitored in conjunction with a concurrently awarded MHP capital award in order to expand the supply of available units. For this reason, MHP COSRS will only be award to projects that also apply for MHP capital.

Regarding the undue restrictions requiring Sponsors to demonstrate they have requested other available sources of funds, this is a statutory requirement. The Department understands that for some PSH projects the MHP COSR alone will not be enough to cover the project's operating deficit. If a project is still running an operating deficit, even with HUD Section 8 or other sources of rental or operating subsidy and other project cash flow, then there should be no reduction in the maximum amount allowable under the MHP COSR. In response to the comment concerned with “unicorn” units, language was added addressing this, not only for COSRs within Section 7304.1, but for all projects as reflected in a new paragraph under Section 7302.

The requested clarification of Supportive Services costs as described in the list of Operating Expense has been made in the final guidelines. Final guidelines also permit COSRs to pay for asset management fees subject to the limitations outlined in Section 7304.1.

It was the intent of the MFSN program to exclude COSR from the calculation of total

development costs, and this clarification has been added to final guidelines. The 2025 MFSN NOFA provides procedural clarity as to how COSR awards will function within the larger competition.

MHP COSR distribution and disbursement requirements: The initial COSR disbursement may be requested during the Department's permanent loan closing process for reimbursement of 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. The maximum annual disbursement is 5% of the COSR Award, with an increase to 7% in the Department's sole discretion. The allowance for an initial disbursement covering revenue shortfalls is necessary since this is likely the time when the Project will have the most vacancies among the COSR Assisted Units and is therefore likely to experience higher revenue shortfalls. For all other COSR disbursements, the Department may not disburse more than 5% 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% of the total COSR Award.

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. The Department has the authority to re-calculate a Project's annual COSR disbursement cap every 5 years to ensure that the COSR can last a minimum of 20 years.

Comments Received: Commenters appreciated the consistency of MHP COSR distribution and disbursement requirements with those of No Place Like Home (NPLH), but requested the Department provide some discretion in the 5% and 7% caps on annual distributions. Commenters stated that in practice, the need to draw down the COSR does not occur evenly year to year. Many projects will require lower COSR draws in the early years and much higher draws in later year. Comments requested to increase the cap included levels up to 15% at the Department's discretion. One commenter stated that the 5% maximum annual disbursement should rise with inflation annually. At the very least, applicants should be able to "bank" COSR draws from years where they do not hit the 5% limit, to exceed the 5% limit in future years without the Department's discretion. Comments also suggested the Department evaluate the feasibility of creating a pooled COSR available to all eligible projects awarded in the SuperNOFA round, and evaluate whether a pooled reserve would allow more MHP funds to be allocated toward production of new units.

One commenter requested the initial disbursement for operating revenue shortfalls from the first year be revised to include the rent-up period after Temporary Certificate of Occupancy (TCO) stating that the TCO is what allows residents to move in, and the final Certificate of Occupancy is often issued months after a development has received its TCO. Shortfalls during these initial months of operation under TCO would not be recoverable from the COSR under the proposed guidelines.

Comments highlighted that in subsection (n), the guidelines describe processes for

returning or reducing the money disbursed from the COSR in the event that the bifurcated audit finds that the project does not need as much from the COSR as it received that year. The guidelines do not discuss the situation where the bifurcated audit finds that the project requires a greater disbursement from the COSR than initially requested. The commenter recommended that HCD add specific procedures to address this situation. One commenter requested that the Department consult with Sponsors when determining which of the three options to choose when a project received a greater disbursement than necessary, stating that option 1 may conflict with the Generally Accepted Accounting Principles (GAAP) and may not allow Sponsor to properly recognize the COSR disbursement in the future year as it is fully recognized when received in the prior fiscal period.

Other comments received for subsection (n) recommended eliminating the term if the audit determines excess COSR was used in the previous year. This term appears to give HCD the right to fix the COSR draw amount for each of the remaining years of the project. Predicting operating results for a single year is challenging, let along for the next 19 years. Comments stated that fixing a COSR amount for the remaining life of a project is not a good option for the project or the Department.

Commenters expressed concerns that the bifurcated audit requirements of this section could become onerous and requested the Department consider this while building out this program to whatever degree possible. One commenter stated that the language in the section regarding bifurcated audit suggest that disbursements are made in arrears, based on final audits. In practice, this means that a project has no resources to operate COSR-funded units and to meet its financial obligations for at least 18 months. This has proven to be a major obstacle in successfully property managing and asset managing NPLH COSR funded projects. The commenter proposed that timing of MHP COSR disbursements be updated to coincide with the fiscal period when expenses are incurred.

Comments stated that in subsection (p)(8), the guidelines specify that a COSR cannot be used to pay for vacancy loss beyond 80% of the approved rent. This standard is needlessly complicated and requires the applicant to perform complex accounting for a small payment.

One commenter recommended to allow interest accrued on COSR accounts to recycle back into themselves.

Response to Comments:

The COSR disbursement limits are set to ensure that the COSR will last a minimum of 20 years. Additional flexibility has been provided in 7304.1(o)(2) to accommodate reimbursement above 7% per year. The COSR is a one-time capitalized reserve with a term of 20 years; the current 5% annual disbursement cannot rise with inflation, otherwise the COSR award would be exhausted prior to Year 20. Additional operating needs which exceed the draw caps in a given year will have to be covered through project cash flow on the non-COSR units or other sources of operating support. If the full COSR draw is not used in a given year, the MHP Guidelines provide flexibility for the project to retain those funds and receive a lesser amount in

the following year. Regarding the pooled reserve comment, pooled reserves only work if there is an expectation that not every project will need to draw from the pooled reserve, or draw from it in excess of what is available. It is the Department's expectation that every project funded with a COSR will need to fully draw those funds.

Regarding the TCO period's need for COSR distributions, the final language has been updated to include the TCO period.

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 has three options. The options which exist in are intended to cover all possible ways to re-size annual draw amounts so that COSRs to last a minimum of 20 years. In most cases, if audits are being done carefully, the Department may exercise option (1) since that is the least administratively burdensome and disruptive to the project. Option (3) is more likely to be used when draw amounts are recalculated every 5 years. These bifurcated audits are necessary for both the project and the Department to determine what expenses are attributable to the COSR assisted units and at what amounts from year to year. The Department will consult with a Sponsor in these circumstances so the amount and means for effectuating that adjustment may be agreed upon.

Because of the large number of COSRs anticipated to be held by the Department, and the complexities of reconciliation with various parties based on an estimated budget versus audited financials, the current disbursement structure is the most efficient way to administer these funds. Once a project adjusts to a reimbursement-only schedule after Year 2, it should be easier to align with cash flow needs in subsequent years. The annual disbursement caps imposed should also provide a level of predictability which will make planning for cash flow needs easier.

The 80% vacancy loss standard is consistent with federal rules for HUD Section 8, and therefore is maintained in the final guidelines language.

For COSRs held by the Department, state administrative rules currently prohibit interest earned to be automatically credited back to individual project COSRs.

2. **Section 7310.1 Medi-Cal Funded Supportive Services**

   Medi-Cal Funded Supportive Services: This new MHP Guidelines section addresses the requirements and incentives available for projects that choose to partner with service providers funded by Medi-Cal through the Program of All Inclusive Care for the Elderly (PACE), Assisted Living Waiver (ALW), and Home and Community Based Alternatives (HCBA) waiver programs. Incentives include higher loan limits and higher per unit subsidy limits for on-site Supportive Services space. To be eligible for higher loan limits, in accordance with statute, a project must set aside at least 20% of the project's units for Eligible Individuals (if the project includes more than 100 units, no more than 50% of the project's units will be set aside for Eligible Individuals). Eligible Individuals are individuals or head of households experiencing homelessness as defined (includes persons exiting institutions as defined under statute) who are eligible to receive Qualifying Services through PACE, ALW, or

HCBA. Per Assembly Bill (AB) 2483, use of a Coordinated Entry System (CES) for referrals is required.

Sponsors must enter into a written agreement with an Eligible Service Provider. The Sponsor has an obligation to ensure that a partnership with an Eligible Service Provider is ongoing so that Qualifying Services continue to be offered to Eligible Individuals residing in the Project.

Comments Received: Numerous comments were received, as summarized below.

Commenters were supportive of services funded through Medi-Cal. One commenter further stated that on-site case management is critical to assisting residents with accessing their off-site healthcare services and encouraging them to utilize all the associated program benefits. Some comments highlighted that Medi-Cal funds cannot fully replace shortfalls in the operating budget and stated that a 55-year commitment is not compatible with the programs and should be adjusted to 20 years to align. Commenters expressed concern over what Sponsors will need to be able to achieve from the Medi-Cal billing since the billing is difficult and some of the incentives seem mismatched to how Medi-Cal billing currently works. Commenters recommend the State work to streamline billing with Medi-Cal to ensure that the incentive offered can be effectively used. Other commenters requested clarification on how the guidelines and NOFA incentives may be impacted by projects billing local vs state health agencies.

Comments expressed concern over the designated Medi-Cal programs long-term, given that the availability of Medi-Cal waiver programs is uncertain and these programs can have astonishingly long waitlists. Several commenters requested to expand the eligible Medi-Cal programs. Commenters stated that the programs included in the guidelines have limited reach due to numerous factors including number of allowable slots, geographic constraints, and operating costs. Opening the allowable Medi-Cal service partnerships to Managed Care and beyond would not only allow developers a greater choice of services and service providers to partner with, but also allow for partnerships in projects that otherwise would not be able to find an ALW, HCBA waiver or PACE provider to partner with.

Several commenters expressed concern over the limitations of referrals from local CES. Many local CES systems do not currently have processes in place to assess all individuals Experiencing Homelessness for Eligible Services. Commenters were concerned that this will place additional responsibilities on Sponsors to establish and facilitate assessment processes. Comments stated that without additional funding, it is unreasonable to expect the local CES system to implement an expedited assessment process for Eligible Services. Furthermore, many CES systems use a one-to-one vacancy matching process by which a single applicant is matched with a single unit. If that single applicant is identified and then must go through an assessment for Qualifying Services requiring approval from Department of Health Care Services (DHCS), this will prolong unit vacancies.

One commenter stated that HCD should use these guidelines to clarify a potential conflict between AB 2483's mandate to use CES and the Housing First statute's requirement to accept referrals directly from shelters and other places that serve the

unhoused. AB 2483 requires projects to “accept referrals from local coordinated entry systems,” but it does not say that CES must be the only source of referrals. In this way, AB 2483 is consistent with WIC 8255, which permits the use of CES for referrals so long as referrals are also accepted by other means. WIC section 8255 requires acceptance of referrals “directly from shelters, street outreach, drop-in centers, and other parts of the crisis response systems frequented by vulnerable people experiencing homelessness.”

Commenters requested clarification for use of CES to screen for eligibility and prioritize potential tenants for placement because CES and Medi-Cal use different definitions of homeless. One commenter noted that projects may face a bureaucratic nightmare in determining how to properly prioritize eligible individuals for placement when CES uses a different prioritization method than eligibility for PACE, ALW, and HCBA and uses a narrower definition of homelessness. One commenter recommended that to avoid the problem of having conflicting definitions for the same term, HCD should consider using the broader definition for all purposes. If HCD is unable to do that for some reason (to comply with federal requirements, for example), it should consider creating a different term for “homeless” under Medi-Cal programs. Commenters asked whether appropriate placements would occur through CES since most CES systems do not track the location of accessible units and units linked to Medi-Cal services.

Comments requested clarification regarding any Department regulatory senior designation based on Medi-Cal program (such as PACE). Comments also expressed concern that guardrails are needed to prevent the creation of segregated housing for people with disabilities. One commenter stated that the Department should implement a cap on the number of units with occupancy restrictions in a project to avoid violating the Olmstead Act obligation. The population served by AB 2483 is, by definition, people with disabilities. Permitting projects to be 100% restricted to people with disabilities allows applicants to create segregated housing. This creates projects that become very institutional in nature, more like boarding homes than integrated community housing. Moreover, tying housing to receipt of Medi-Cal services may trigger a requirement for 100% restricted units to obtain a license from DHCS to operate as a community care facility.

Comments recommended simplifying the provisions to form partnerships with service providers funded by Medi-Cal, including removing the requirement for a written agreement approved by DHCS and the requirement that the written agreement include adoption of best practices due to uncertainty around these requirements. Commenters recommended that HCD work with DHCS to implement other provisions of AB 2483 to facilitate partnerships between these Medi-Cal providers and developers and to provide education to developers.

Responses to Comments: Department staff is able to respond to some questions and comments, however the nature of other comments requires DHCS’s technical knowledge and consultation. Department staff provided these public comments to DHCS staff, who will review and consider them for future guidelines changes.

The primary goal of AB 2483 is to increase supportive services funded through the PACE, ALW, and HCBA Medi-Cal service streams to homeless persons and

persons exiting institutions who were homeless prior to entering the institution or who will be homeless following their exit from the institution. The service providers who offer services through PACE, ALW, and HCBA are service providers that have already been selected by the state DHCS to offer services through these programs. The lists of eligible service providers are located on the DHCS webpages for these programs. Project Sponsors interested in receiving the higher limits will select their service provider partners(s) for PACE, ALW, and HCBA from the list of DHCS-approved agencies. These service providers, or their contracted partners, already have extensive experience working with persons needing nursing facility levels of care; as a result, no additional training in this regard should be required of the project Sponsor.

Medi-Cal service streams for the target population will continue to evolve over time. It is the Department's intent to continue to work with DHCS, project Sponsors, and Medi-Cal service providers as Medi-Cal service streams change to help ensure that services can be made available for the intended target population for the term of the Department's regulatory agreement with the project. Therefore, the Department is not inclined to make the obligations to offer supportive services shorter than the term of the Department's regulatory agreement with the project.

The written agreement between the Medi-Cal Eligible Service Provider and the project Sponsor is necessary to ensure that there is sufficient agreement between the parties to operate in accordance with AB 2483 requirements as well as other applicable requirements, including but not limited to state Housing First requirements. Consistent with what has been done with other similar initiatives, the Department will make available a sample written agreement for use by sponsors and their Medi-Cal Eligible Service Providers. Based on the Department's experience implementing other similar initiatives with DHCS, the sample written agreement will also include suggested best practices. Sponsors and their Eligible Service Provider partners will also have the option to enter into a letter of intent at application stage. The sample written agreement and a sample letter of intent will be made available with the other MFSN application materials for use by the sponsor and Eligible Service Provider. The Department will provide ongoing training and technical assistance to interested parties concerning AB 2483 implementation.

Regarding concerns for ongoing Medi-Cal waiver program availability, pursuant to a new subsection (e) within Section 7310.1, if the Qualifying Services are temporarily suspended or no longer available, the Sponsor has the ability to rent available Qualifying Units to other persons meeting the homeless definition at 24 CFR Part 578 without a reduction in the MHP award or a finding of temporary noncompliance by the Department. The next available Qualifying Unit shall be rented to Eligible Individuals when Qualifying Services become available. This should give projects sufficient flexibility to fill these units with other homeless households that could also qualify for other available Medi-Cal services without jeopardizing reliance on the awarded amount.

The housing developments partnering through the initiatives detailed in Section 7310.1 are not required to be restricted as senior projects.

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

   Supportive Services Reserve: For Supportive Housing as defined pursuant to Appendix A of the MHP 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 for Supportive Services paid for through the project operating budget.

   Comments Received: Multiple comments supported the proposed change, with two comments requesting clarification regarding the reserve funding structure: section 7313(f) states that the reserve can be funded through development sources, but it is unclear whether this would be part of the MHP loan, or a grant similar to the COSR structure.

   Response to Comments: Final guidelines Section 7313(f) has been modified and expanded to clarify that the reserve is provided in the form of a grant to be held by the borrower and to provide additional details regarding disbursements and eligible use of funds.

FWHG GUIDELINES

1. **Section 504 Management and Maintenance (new guidelines language)**

   AB 2240 Implementation: Section 504 now includes language that implements Assembly Bill 2240 (2024). This chaptered bill requires developments funded by the FWHG program to include leasing priority and marketing to migrant farmworker populations who may be residing in proximate Office of Migrant Service centers.

IIG GUIDELINES

1. **Section 203 Eligible Use of Funds**

   Removal of residential structured parking and parking lifts as eligible uses of funds: IIG funds are to be used for infrastructure improvements that further state infill priorities. To align with the statutory intent of the program and with Assembly Bill 894 (2023), the proposed change removes as an eligible use of funds residential structured parking that does not also serve a transit station and replace existing displaced parking spaces.

   Comments Received: Multiple comments opposed the proposed change, citing the following reasons. There are times when a certain amount of parking is necessary to make an infill project feasible. The tight nature of infill sites often requires developers to put the parking on a ground floor podium to maximize efficient use of the land. Structured parking often allows developers to build denser, more efficient developments. If the Department feels strongly about restricting this use, some commenters recommended a cap on spaces per unit funded. Some commenters stated that this blanket removal does not take the geographic and transportation of project sites into account, which may or may not be served by high quality transit

and where parking may be necessary for the well-being and success of future residents.
One commenter supported the State's promotion of transit-oriented development as a solution to combat climate change, but also stated it is imperative to recognize the widespread systemic barriers that make public transit inaccessible to people with disabilities. For them, the availability of accessible parking is necessary for freedom of travel and equal access to community resources, including housing. Instead of aligning with the statutory intent of AB 894, HCD's proposed change conflicts with the statute's intent not to reduce, eliminate, or preclude any requirement to provide accessible parking to people with disabilities. The commenter recommended the Department modify the change to allow the provision of on-site parking that is accessible to people with disabilities (commonly known as "disabled parking," "handicapped parking," or "blue spaces"), and also urged the Department to adopt a requirement in all programs that properties provide accessible parking spaces equal to the number of accessible mobility units. The commenter highlighted that affordable housing built with no on-site parking also can present significant challenges to the freedom of travel and equal access to community resources for people with disabilities. Factors such as the site location conditions and individual levels of mobility challenge may impact the true accessibility of nearby public transit.

Response to Comments: This change is in line with the legislature's climate and equity goals of reducing single-occupant vehicle use. In removing residential structured parking and parking lifts as eligible uses of funds, the change does not prohibit the construction of this parking, but it does require developers who are constructing this parking to allocate other development financing resources to these costs. Structured parking that serves a Transit Station and replaces existing parking spaces displaced by construction of the proposed Project remains an eligible use of IIG funds. In response to the comment regarding barriers to public transit facing people with disabilities, the proposed change was modified to allow on-site accessible parking spaces as an eligible use of IIG funds.

Regarding the recommendation to provide accessible parking spaces equal to the number of accessible mobility units (as well as ensure a level of accessible transportation access for developments with no on-site parking), Department staff requires additional time to consider all parking, location, and project type scenarios. Staff will continue to work through these and intends to propose future guidelines changes addressing this recommendation and its related concerns.

2. **Section 400 Application Process**

Payee requirements: The proposed change requires Applicants to identify a Payee at time of application submission if the Payee is not an award Recipient. The change also clarifies that if no Payee is identified at time of application submission every Payee must be a Recipient. In several past rounds of IIG funding, Recipients were not properly identified or included in the application, and multiple requests were made after award to add an entirely new entity as Recipient and Payee. New entities cannot be introduced as award Recipients once an award has been made pursuant to review of a competitive application. Applicants must identify IIG Recipients and Payees in the application.

Comments Received: No comments were received.

Response to Comments: Final guidelines have been updated as proposed.

3. **Appendix A Defined Terms**

Payee: The proposed change clarifies the defined term's entity types eligible to be Payees.

Comments Received: No comments were received.

Response to Comments: Final guidelines have been updated, with modified language that improves upon the original drafting and adds an applicable reference to UMR Section 8313.2.

4. **Section 201 Eligible Applicant (new guidelines language)**

Recipient continuing control: A paragraph has been added in Section 201 that clarifies the requirement that Recipients maintain continuing control over the Rental Housing Development throughout the full term of the Department's use restriction on the Rental Housing Development either directly or through a special purpose entity in compliance with UMR 8313.2.

5. **NEW: Section 206 IIG-2007 Provisions**

IIG-2007: The 2022 MFSN NOFA included funding from both the IIG-2007 and IIG-2019 programs and the March 30, 2022 IIG Guidelines included separate sections that described the statutory requirements where they differ for the two programs. The 2023 MFSN NOFA included only IIG-2019 program funds, and the May 18, 2023 IIG Guidelines removed the IIG-2007 provisions. Since the 2023 MFSN NOFA again includes funding from both the IIG-2007 and IIG-2019 programs, the IIG-2007 statutory requirements that differ from the IIG-2019 program are inserted as a new Section 206.

The final IIG guidelines for 2025 also include language stating that when the Department issues a NOFA which includes IIG-2007 and IIG-2019 funds, to the extent it is feasible the IIG-2007 funds will be awarded prior to IIG-2019 funds. To the extent that the statutory requirements of IIG-2007 conflict with the statutory requirements of IIG-2019, the provisions set forth in Section 206 of the guidelines govern the award of IIG-2007 funds.

6. **Section 401 Application Content and Application Eligibility Requirements (new guidelines language)**

Market study and appraisal requirements: In alignment with MHP and FWHG Guidelines, final IIG Guidelines have been modified to include red text language for market study requirements, and, for when an appraisal is required, includes the appraiser's qualification requirements. As stated above under Section 7309, for both previous funding rounds of MFSN market study applicability to IIG applications was specified in the application rather than in guidelines. The change to final guidelines adds these details to IIG Guidelines.