

**TITLE 25. HOUSING AND COMMUNITY DEVELOPMENT
DIVISION 1. HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER 7. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS
SUBCHAPTER 3. FARMWORKER HOUSING GRANT PROGRAM
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§ 7200. Purpose and Scope.

These regulations set forth the policies and procedures governing the management and use of the Joe Serna, Jr. Farmworker Housing Grant Fund established by [Section 50517.5 of the California Health and Safety Code](#).

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Repealer of Subchapter 3 (Sections 7200-7242) and new Subchapter 3 (Sections 7200-7242 not consecutive) filed as an emergency 7-1-80; effective upon filing Certificate of Compliance included (Register 80, No. 27).
2. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 1346.2\(d\)](#) (Register 83, No. 7).
3. New article 1 heading and amendment of section heading and section filed 4- 2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7201. Uniform Multifamily Underwriting and Program Rules.

(a) The following sections of title 25, Division 1, Chapter 7, Subchapter 19 are hereby incorporated by reference into this subchapter and shall apply to rental housing developments receiving assistance from the Fund.

- (1) Section 8302. Restrictions on Demolition;
- (2) Section 8303. Site Control Requirements.
- (3) Section 8304. Unit Standards;
- (4) Section 8305. Tenant Selection;
- (5) Section 8306. Tenant Recertification and Unit Mix Maintenance;
- (6) Section 8307. Rental Agreement and Grievance Procedure;
- (7) Section 8310. Underwriting Standards;
- (8) Section 8311. Limits on Development Costs;
- (9) Section 8312. Developer Fee.
- (10) Section 8313. Reserved.

(11) Section 8314. Use of Operating Cash Flow.

(12) Section 8315. Subordination Policy.

(13) Section 8316. Leasehold Security.

(b) For purposes of this section 7239 and subsections (b) and (c) of section 7234, the definitions found in Section 8301 shall apply.

(c) In the event of a conflict between the provisions of Subchapter 19 and this Subchapter 3, the provisions of this Subchapter 3 shall prevail.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering of former section 7239 to new section 7201, including amendment of subsection (a), filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7202. Definitions.

In addition to the definitions found in Chapter 2 (commencing with Section 50050), of Part 1 of Division 1 of the Health and Safety Code, the following definitions and, for rental housing developments only, those found in the Uniform Multifamily Regulations ("UMRs") (Chapter 7, subchapter 19, Section 8301), shall apply to this subchapter. In the event of a conflict between the following definitions and those found in the UMRs, the following definitions prevail for the purpose of this subchapter. References to code sections refer to sections of these regulations unless otherwise noted:

(a) "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.

(b) "Agricultural household" means an agricultural worker or workers and other persons who reside or will reside with an agricultural worker in an assisted unit.

(c) "Agricultural worker" means an individual who derives or prior to retirement or disability derived a substantial portion of his/her income from agricultural employment.

(d) "Applicant" means an organization that applies for a loan and/or grant from the Fund.

(e) "Assistance" means a loan and/or grant provided from the Fund to an applicant, or a grant made directly to an agricultural worker.

(f) "Assisted unit" means a residential housing unit that is purchased, developed or rehabilitated with assistance from the Fund and is subject to the occupancy, resale, or rent restrictions imposed by this Subchapter.

(g) "Award" means a commitment of money from the Fund in the form of a grant or a loan that is made to a recipient by the Department.

(h) "Borrower" means an eligible organization that has applied for, or has received approval for, a loan from the Fund. The term "borrower" shall include successors in interest and assignees of a borrower.

(i) "CalHFA" means the California Housing Finance Agency.

(j) "Cash investments" include but are not limited to:

- (1) Recipient's cash contribution;
- (2) Private financial assistance;
- (3) Local public entity financial assistance;
- (4) State financial assistance from programs other than the Fund;
- (5) Federal government financial assistance.

(k) "Department" means the California Department of Housing and Community Development.

(l) "Fiscal Integrity," with respect to a Rental Housing Development, means 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 (including asset management fees and deferred developer fees, if permitted by the Regulatory Agreement); (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.

(m) "Fund" means the Joe Serna, Jr. Farmworker Housing Grant Fund.

(n) "Grant" means a commitment of money from the Fund in the form of a grant that is made to a grantee by the Department.

(o) "Grantee" means an eligible organization that has applied or has received approval for a grant from the Fund. The term "Grantee" shall include successors in interest and assignees of a grantee.

(p) "Grant Agreement" means the written agreement between the department and the developer of a rental housing development receiving a grant or the developer of an ownership housing project, as more fully described in Section 7226, ensuring compliance with construction, financial and program obligations.

(q) "Housing cost" -for homeownership, see [Title 25, California Administrative Code, Section 6920](#).

(r) "Housing development" means residential housing and related support facilities necessary to such housing that receives assistance from the Fund and includes assisted housing units.

(s) "In-kind contributions" include but are not limited to contributions directly related to the housing development in the form of:

- (1) labor and/or other eligible services;
- (2) land and/or site development;
- (3) existing structures;
- (4) materials.

(t) "Limited Partnership" means a "limited partnership" as defined in [Section 171.5 of the Corporations Code](#) and in which each general partner is a nonprofit public benefit corporation, a limited liability company where all the members are nonprofit public benefit corporations, or a combination of both.

(u) "Local public entity" means any county, city, city and county, redevelopment agency or public housing authority, and also includes any state agency, public district or other political subdivision of the state, 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 the governing body or housing authority of a federally recognized Indian tribe. It also includes two or more local public entities acting jointly.

(v) "Low/lower income household" -see [Title 25, California Administrative Code Section 6928](#).

(w) "Manufactured housing" means a mobilehome, as defined by [Health and Safety Code Section 18008](#).

(x) "Matching share" means the proceeds of loans, cash investments, or in-kind contributions that the recipient commits to the total development or rehabilitation cost of the housing development. The Department will determine the valuation and eligibility of a proposed matching share where necessary.

(y) "Net income" -see [Title 25, California Administrative Code, Section 6916](#).

(z) "NOFA" is the acronym for Notice of Funding Availability. The NOFA is the document used by the department to announce that funds are available and applications may be submitted.

(aa) "Nonprofit Corporation" means the same as "nonprofit corporation" defined in [Health and Safety Code Section 50091](#).

(bb) "Program" means the Joe Serna, Jr. Farmworker Housing Grant Program.

(cc) "Project" means: the acquisition, rehabilitation, and/or construction of a rental housing development; or the construction of single-family homes where the title to the homes will be transferred to an Agricultural Worker.

(dd) "Project organization or planning costs" include developer fees.

(ee) "Recipient" means an eligible organization that has applied or has received approval for an award of funds in the form of a grant or loan from the Fund. The term "Recipient" shall include successors in interest and assignees of a recipient.

(ff) "Regulatory Agreement" means the written agreement between the Department and a Borrower that will be recorded as a lien on the rental housing development to control the use and maintenance of the project, including restricting rent and occupancy of assisted units.

(gg) "Rehabilitation" means repairs and improvements to a dwelling unit necessary to make it a modest, decent, safe, and sanitary dwelling which meets applicable state and local building and housing standards mandated by the enforcement agency.

(hh) "Related support facilities" include but are not limited to:

(1) water and sewer facilities and other utilities directly related to the proposed housing development.

(2) physical improvements for child care services, recreational activities, meeting room(s) all of which are intended for use of project residents.

(3) solar and other alternative energy efficient systems.

(ii) "Rental Housing Development" means the same as "Rental Housing Development" as defined in subsection (o) of Section 8301.

(jj) "Rural Development" or "RD" means the United States Department of Agriculture acting through the Rural Housing Service, formerly known as the Farmers Home Administration.

(kk) "Subsequent Grant Agreement" means the written agreement between the Department and an Agricultural Household purchasing an owner-occupied unit used to ensure compliance with Program requirements as further described in Section 7228.

(ll) "Very low income" -see [Title 25, California Administrative Code, Section 6926](#).

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 1346.2\(d\)](#) (Register 83, No. 7).

2. Amendment of definitions of "Grant" and "Grantee" and repealer of definition of "Nonprofit corporation" filed 10-1-2002; operative 10-1-2002 pursuant to [Government Code section 11343.4](#) (Register 2002, No. 40).

3. Amendment filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7204. Project Eligibility Requirements.

Program funds may only be expended for housing developments that meet the following criteria:

(a) The housing development must contain assisted units to be occupied by agricultural households.

(b) To the greatest extent possible, assisted units are to be occupied by lower-income agricultural households.

(c) To the greatest extent possible, any non-assisted units are to be occupied by agricultural households.

(d) Assisted units in a rental housing development required to be made available to lower-income households pursuant to Section 7209 are to be made available at affordable rents as defined in [Health and Safety Code Section 50053](#).

(e) When grant funds are to be used for homeownership purposes, assisted units shall be newly constructed, and are to be made available to lower-income households at a total monthly housing cost not to exceed 35% of monthly net income.

(1) An eligible household's monthly housing costs may exceed 35% of monthly net income if all of the following conditions are satisfied:

(A) the proposed housing costs are approximately the same as the present housing costs of the household, and

(B) a satisfactory credit record has been maintained by the households, and

(C) the household has demonstrated an ability to sustain its present housing expense without serious difficulty.

(2) In the alternative, a different standard can be applied if it has otherwise been determined by the Department that the eligible household can assume greater responsibility for monthly housing costs.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment of subsection (a)(3) filed 9-29-2003; operative 9-29-2003 pursuant to [Government Code section 11343.4](#) (Register 2003, No. 40).

3. New article 2 heading and amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205. Applicant Eligibility Requirements.

(a) To be eligible to apply for funding, the applicant shall be a local public entity, nonprofit corporation, limited liability company, or limited partnership. In the case of a nonprofit corporation, limited liability company, or limited partnership, the applicant shall demonstrate to the department's satisfaction that the applicant is independent from any direction of, or control by, a for-profit entity and shall meet the requirements of Section 7205.1.

(b) To be eligible to receive funding, the applicant shall demonstrate to the Department's satisfaction that:

(1) It has the ability to timely proceed with the construction or rehabilitation of the development or program upon commitment of Program funds; and

(2) It has sufficient experience and organizational capacity to carry out the activity for which Program funds are being requested. In the case of a rental housing development, the applicant shall have:

(A) Successfully developed and owned a minimum of one rental housing project; and/or

(B) Have a staff with demonstrated experience in developing and owning a minimum of one rental housing project.

(C) Have a staff with demonstrated experience in managing a rental housing development occupied primarily by agricultural workers and their families.

(c) To be eligible to receive a commitment of funds to provide direct grants to Agricultural Employees for the purchase of a new conventionally constructed homes, or rehabilitation of existing owner-occupied housing, the Applicant shall demonstrate to the Department's satisfaction that it is sponsoring and supervising the program of rehabilitation or construction.

(d) To be eligible to receive funding for the purchase of Manufactured Homes not placed on a permanent foundation, the Applicant shall demonstrate to the Department's satisfaction that it is operating, or will operate using Program funds, a program to address and remedy the impacts of current and potential displacement of Agricultural Households from existing labor camps, mobilehome parks, or other housing

due to governmental actions to enforce health and safety laws including, but not limited to the Mobilehome Parks Act and the Employee Housing Act.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205.1. Limited Partnership Eligibility Requirements.

(a) To be eligible to apply for funding, a limited partnership shall demonstrate to the Department's satisfaction that it is controlled by a nonprofit public benefit corporation, limited liability company, or a combination of both. If the limited partnership is controlled by a limited liability company, the limited liability company shall demonstrate to the Department's satisfaction that it is controlled by a nonprofit public benefit corporation.

(b) In making its determination, the Department shall consider the limited partnership agreement, any limited liability company operating agreement, the articles and bylaws of any nonprofit corporation, and any pertinent side agreements between limited and general partners relating to the management and operations of the limited partnership (collectively, "organizational documents").

(c) In order to demonstrate control, a nonprofit corporation or limited liability company must have the authority to perform substantially all of the following functions, as shown in the organizational documents:

(1) Employ and maintain a staff that has the experience and ability to perform the responsibilities and functions of the partnership.

(2) Rent, maintain and repair the rental housing development or, if such duties are delegated to a property management agent, hire and oversee the work of the property management agent.

(3) Hire and oversee the work of all persons necessary to provide services for the management and operation of the limited partnership business.

(4) Execute and enforce all contracts executed by the limited partnership.

(5) Execute and deliver all partnership documents on behalf of the limited partnership.

(6) Prepare or cause to be prepared all reports to be provided to the partners and lenders on a monthly, quarterly, or annual basis consistent with the requirements of the limited partnership agreement.

(7) Coordinate all present and future development, construction, or rehabilitation of the rental housing development that is the subject of the limited partnership agreement.

(8) Monitor compliance with all government regulations and file or supervise the filing of all required documents with government agencies.

(9) Acquire, hold, assign or dispose of partnership property or any interest in partnership property.

(10) Borrow money on behalf of the limited partnership, encumber limited partnership assets, place title in the name of a nominee to obtain financing, prepay in whole or in part, refinance, increase, modify or extend any obligation.

(11) Pay organizational expenses incurred in the creation of the partnership and all operational expenses.

(12) Determine the amount and timing of distributions to partners and establish and maintain all required reserves.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205.2. Nonprofit Corporation Eligibility Requirements.

For all applicants, where a nonprofit corporation is part of the ownership structure, the involved nonprofit corporation shall meet the following requirements:

(a) The articles and by laws shall clearly demonstrate that the corporation's authorized mission includes the provision of affordable or low-income housing.

(b) Any fees earned as a general partner shall remain with the corporation. No fees shall be assigned to a for-profit organization.

(c) The partnership agreement shall be structured to permit the nonprofit corporation to eventually purchase the rental housing development.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205.3. Agricultural Employee Eligibility Requirements.

(a) To be eligible to receive a grant for purchase of a newly constructed home, or rehabilitation of an existing home, an Agricultural Employee shall be a participant in the program described in Section 7205 subsection (c).

(b) To be eligible to receive a grant for the purchase of a Manufactured Home, an Agricultural Employee shall demonstrate that he or she has been displaced, or is facing displacement, from existing labor camps, mobilehome parks, or other housing due to governmental actions to enforce health and safety laws including, but not limited to the Mobilehome Parks Act and the Employee Housing Act.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7206. Eligible Activities.

Subject to all applicable requirements of this subchapter, Program funds may be used for the following activities:

- (a) Rehabilitation, acquisition and rehabilitation, or construction of a Rental Housing Development.
- (b) Single-family new construction in which the ultimate Grantees are participants. Title to the development property may be held in the name of the recipient until completion of construction of the individual home, or title to the development property may be transferred to a Grantee prior to or during construction. Development may be on contiguous lots or on scattered sites.
- (c) Owner-occupied rehabilitation.
- (d) Acquisition of Manufactured Homes not installed on permanent foundations as part of a program to address and remedy the impacts of current and potential displacement of farmworker families from existing labor camps, mobilehome parks, or other housing.
- (e) Migrant farmworker assistance as permitted under [subdivision \(c\) of Section 50517.10 of the Health and Safety Code](#).

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Sections 50517.5](#) and [50517.10, Health and Safety Code](#).

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).
2. Renumbering of former section 7206 to section 7209.5 and new section 7206 filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7207. Site Control Requirements.

- (a) For a Rental Housing Development, at the time of Application the Applicant shall have site control pursuant to Section 8303.
- (b) For a single-family Project, at the time of Application, the Applicant shall have site control pursuant to either subsection (a), (c), (d), (e), or (f) of Section 8303, or pursuant to a ground lease. If the project will be on a lease, the terms and conditions of the proposed lease shall permit the lessee to make improvements on and encumber the property, and permit compliance with all requirements of this subchapter.
- (c) Grants by the department to individual Agricultural Workers shall not be disbursed unless and until the Agricultural Worker is the fee owner of the real property, the lessee under a lease, or, in the case of a Manufactured Home not on a permanent foundation, is the registered owner.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7208. General Requirements.

- (a) Matching Share. Before the Department will make a firm commitment for a grant or a loan, an applicant must demonstrate to the satisfaction of the Department that it can and will provide for the housing development a matching share at least equal to the offered grant or loan; or in the case of an application for not more than five hundred thousand dollars (\$500,000), the applicant demonstrates to the

department's satisfaction its inability to secure adequate financing from other sources.

(b) Architectural and Engineering Requirements. Housing developments not involving a public lender or insurer of loans shall be subject to a Departmental review of the architectural and engineering aspects of the project.

(c) Non-Discrimination and Affirmative Action. Recipients must agree not to discriminate on account of race, sex, age, marital status, physical disability, creed, religion, or national origin and to abide by all local, state and federal regulations precluding such discrimination. Moreover, recipients must agree to adopt and implement affirmative action programs to cover all aspects of the construction, rehabilitation, marketing, and management of the housing developed with the assistance of the Fund.

(1) Recipients will be required to execute certificates of nondiscrimination.

(2) Recipients will be required to adopt and implement affirmative action programs approved by the Department.

(d) Local, State or Federal Requirements. Recipients are required to abide by such local, state or federal rules and regulations as are applicable to the proposed housing development. These may include but are not limited to: zoning ordinances, building and housing codes; planning; historical preservation, environmental, tenant occupancy, and relocation regulations; and applicable federal requirements.

(e) Reports. Recipients are required to provide the Department with periodic reports on the progress of the housing development and the expenditure of grant and/or loan funds from the date of grant and/or loan approval to date of completion of the housing development and occupancy by agricultural households. Recipients are also required to provide the Department with reports on the characteristics of the housing development and its occupants.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7209. Minimum Number of Assisted Units and Affordability.

(a) For a Rental Housing Development, Assisted Units shall be provided shall be as follows:

(1) When Program funds amount to less than twenty-five percent (25%) of the total development/rehabilitation cost or value of a project, whichever is applicable, for every one percent (1%) of the total development/rehabilitation cost or value which Program funds constitute, a minimum of two percent (2%) of the total number of units of the housing development shall be designated as assisted units restricted to occupancy by agricultural households.

(2) When the funds amount to twenty five percent (25%) or more of the total development/rehabilitation cost or value of a housing development, the number of assisted units restricted to occupancy by agricultural households shall be directly proportional to the percentage of Program funds awarded to the total development/rehabilitation costs, but not less than fifty percent (50%) of the total number of units in the housing development.

(3) To the greatest extent possible consistent with fiscal integrity, at least ten percent (10%) of the

assisted units shall be reserved for agricultural households with incomes no greater than thirty percent (30%) of area median income (AMI). These units shall be distributed reasonably among bedroom sizes. The remaining ninety percent (90%) of assisted units shall be reserved for agricultural households with incomes no greater than 80% of AMI.

(4) Rent limits for initial occupancy and for each subsequent tenancy by a new eligible household shall apply to all assisted units in accordance with subdivision (b) of [Health and Safety Code Section 50053](#).

(5) In the event that the agricultural worker population in a Rental Housing Development falls below the minimum number required to occupy the housing development either through change of status or by persons leaving the housing development, the recipient shall implement an affirmative marketing plan which will recruit other agricultural households as units become available until the minimum number is once again in occupancy.

(b) For homeownership housing developments, where program funds are used for subdivision development costs, the percentage of assisted units shall not be less than the percentage of the total development cost or value which Program funds constitute.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7209.5. Eligible Expenditures.

(a) The costs which may be paid from Program funds for the rehabilitation or construction of conventionally constructed housing are only those which are approved by the Department as reasonable and necessary for the construction or rehabilitation of the housing development, including, but not limited to, the following:

(1) The cost of refinancing or acquiring land and any buildings thereon, including payments for commissions, options, deposits, or contracts to purchase properties on a proposed housing development site or payments for the purchase of such properties.

(2) The cost of site preparation, demolition, and clearing.

(3) Architectural, engineering, legal, accounting, packaging and other fees paid or payable in connection with the planning, execution, and financing of a housing development and the finding of an eligible mortgage for a housing development.

(4) The cost of necessary reports, studies, surveys, plans, permits, and fees.

(5) The cost of insurance, interest and financing, tax and assessment costs, and other operating and carrying costs incurred during construction or rehabilitation.

(6) The cost of construction or rehabilitation of the housing development and related support facilities including material, direct labor, and actual construction supervision.

(7) The cost of land improvements, including, but not limited to, landscaping, site preparation and streets, sewers, utilities, and other offsite improvements, whether or not such costs are paid in cash or in a form other than cash.

(8) A reasonable profit in addition to job overhead to the general contractor and subcontractors.

(9) An allowance for reasonable reserves set aside to defray unanticipated additional development or rehabilitation costs and operating costs during the initial years of occupancy of the housing development.

(10) Repayment of a predevelopment loan made by a public entity or nonprofit corporation incorporated in any state or the District of Columbia.

(11) The cost of developing or modifying a housing development or structure so that it is accessible to and convenient for the elderly or disabled.

(12) The cost of such other items, including tenant and homeowner relocation and tenant and homeowner counseling, as the Department shall determine to be reasonable and necessary for the development or rehabilitation of a housing development.

(13) The cost of solar and other energy efficient alternative systems.

(b) The costs which may be paid from Program funds for the purchase of a Manufactured Home are only those which are approved by the Department as reasonable and necessary for the acquisition and installation of the Manufactured Home including, but not limited to, the following:

(1) Purchase of the Manufactured Home including taxes and registration fees; and

(2) Delivery, installation, and set-up charges;

(c) Unauthorized Costs. Program funds shall not be used for:

(1) A recipient's project organization or planning costs including, but not limited to, administrative costs or developer fees.

(2) Downpayment assistance.

(d) Special Limitations. The following limitations on eligible expenses will apply.

(1) Engineering Fees. These fees must not exceed prevailing rates unless an unusual engineering situation exists and is substantiated. Normally, the engineering fees allowable under RD and/or HUD-FHA schedules and practices will provide the upper limit for such cost expenditures.

(2) Architectural Fees. These fees must not exceed prevailing rates unless an unusual architectural situation exists and is substantiated. Normally, the architectural fees allowable under RD and/or HUD-FHA schedules and practices will provide the upper limit for such expenditures.

(3) Grant or Loan Packager Fees. Program funds may be used for such fees if all of the following occur:

(A) The tasks and fees of the packager are enumerated in an agreement between the applicant and the packager which is subject to prior approval by the Department;

(B) The applicant is incapable of carrying out the task for which these services are sought;

(C) The applicant does not have the funds with which to hire a packager;

(D) Payments to the packager are staged in accordance with the completion of various tasks;

(E) For RD financed housing developments, such fees will be disbursed from the Fund only if, in advance of the initial disbursement, RD approves the use of a packager and the fees to be paid; and

(F) Charges payable from Program funds for such fees may be approved to a maximum of 1% of the housing development's costs or \$100 per unit, whichever is less.

(4) Legal Fees. These fees must be reasonable relative to the legal work required. Normally, the legal fees allowable under RD and/or HUD-FHA schedules and practices will provide the upper limit for such expenses. Billings or statements for legal services must be itemized.

(e) Waivers. The Director may waive any requirement of this section not required by law if it is determined that such requirement would adversely affect the purposes of the grant program or that such requirement would impose an intolerable burden on the grantee.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering of former section 7206 to new section 7209.5, including amendment of section, filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7210. Site and Design Criteria.

(a) Applicants shall observe the following criteria relative to the location and design of proposed housing developments:

(1) Site Criteria.

(A) The location is in or reasonably near a residential area with access to schools, shopping, medical services, social services and employment;

(B) The location does not unnecessarily confine assisted units to an area in which there exists a high concentration of low income households.

(C) The location of the housing development is not found to be inconsistent with the housing element or housing assistance plan of the public jurisdiction in which the housing development is to be located;

(D) The characteristics of the site, including its topography and distance to public utilities, do not result in unreasonable development or rehabilitation costs; and

(E) The site will not be in a 100 year flood plain unless sufficient measures have been taken, as determined by the Department, to ensure the security of the housing development in the event of flooding.

(2) Design Criteria.

(A) The design will provide safe, sanitary, and decent housing meeting the requirements of all applicable building and housing standards and codes;

(B) The design to the maximum extent feasible, is compatible with the existing community in which the housing development will be located;

(C) To the maximum extent feasible, the design of the improvements, the materials and the mechanical equipment to be used, and the siting of the structures shall be consistent with effective energy conservation design principles; and

(D) The design provides for a cost effective use of grant funds in order to achieve affordable housing costs for agricultural households.

(b) A major deficiency in meeting one or more of the listed site or design criteria may result in the Department's rejection of an application.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Amendment of subsection (a)(1) filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2](#)(d) (Register 83, No. 7).

2. Amendment of subsection (a) filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7211. Loan Terms and Requirements.

(a) The term of a loan for a rental housing development shall be for 55 years commencing on the date of recordation of the Program loan documents.

(b) A loan shall bear simple interest at the rate of three percent (3%) per annum.

(c) Repayment of principal and interest on a loan shall be deferred for the full term except that, for rental housing developments, payments shall be required to the extent of available cash flow and residual receipts pursuant to Section 8314.

(d) Loans shall be evidenced by a promissory note the repayment of which shall be secured by a deed of trust recorded as a lien on the development property and improvements.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7212. Priorities in Use of Funds.

(a) Special consideration may be given to housing developments which meet one or more of the following criteria:

(1) The plan for development or rehabilitation provides for ownership or eventual ownership by agricultural employees, including ownership of shares in a cooperative housing corporation.

(2) The housing development conforms with the Statewide Housing Plan and the Farmworker Housing Assistance Plan, and the housing element for the jurisdiction in which the development will be located.

(3) The number of dwelling units projected to be occupied by agricultural households and to be regulated as such in the regulatory agreement or grant agreement will be large in relation to the total amount of grant funds requested.

(4) The plan for development provides for rehabilitation of existing housing provided that the total development cost of rehabilitation compares favorably with the cost of new construction for a comparable facility.

(5) The plan for development or rehabilitation provides that some or all of the housing units of the housing development will be accessible and adaptable to the needs of the elderly or disabled.

(6) There are social and economic factors associated with the housing development such as:

(A) The housing development is intended to serve households with the greatest need for government assistance in obtaining adequate and affordable housing as measured by the extent to which the development serves agricultural workers at the lowest income levels.

(B) Labor and economic development programs and any other relevant programs or services will be available on site or in close proximity to the housing development.

(C) Other significant social or economic aspects merit special considerations.

(7) There is an urgent need for farmworker housing in the area where the housing development will be located based on local vacancy rates or evidenced by verification from the local government or as shown in a Department-approved market study.

(8) The housing development will utilize solar and other alternative energy efficient systems.

(9) The housing development will utilize manufactured housing or other cost-efficient design or construction techniques for the purpose of making housing affordable to lower-income households.

(10) The applicant has demonstrated an ability to proceed with the project more quickly than other projects and/or applicants.

(11) The applicant has a high degree of experience in development and ownership of affordable housing relative to other applicants.

(12) For tax credit projects, the project will leverage a high amount of other funding relative to other tax credit projects.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Sections 50007.5](#) and [50517.5, Health and Safety Code](#).

HISTORY

1. Amendment of subsection (a) filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7214. Grant Committee. [Repealed]

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).
2. Repealer filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7215. Application Process.

(a) The Department shall periodically issue a Notice of Funding Availability (NOFA) that specifies, among other things, the amount of funds available, application requirements, the selection and weighting of funding priorities, the deadline for submittal of applications, the schedule for rating and ranking of applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible applications for which the Department has issued, or concurrently will issue, a special NOFA pursuant to subsection (e).

(b) Applicants shall make application on a form made available by the Department requesting information required by this Subchapter 3.

(c) Applications selected for funding shall be approved at loan and/or grant amounts, terms, and conditions specified by the Department based on staff's analysis of the financing structure and amount of funds necessary for the activity to be financially feasible, and, in the case of a rental housing development, to meet the underwriting requirements of Sections 8310, 8311, and 8312. For each application selected for funding, the Department shall issue an award letter and a conditional loan and/or grant commitment.

(d) In order to implement the goals and purposes of the Program, the Department may adopt measures to direct funding awards to designated types of housing developments based on the factors set forth in Section 7212. 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 development types.

(3) Notwithstanding anything in these regulations 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 based on Section 7212 published in a NOFA for the process, and makes awards to housing developments that meet or exceed these criteria until the funding available for the process is exhausted.

Note: Authority cited: [Sections 50406](#) and [50517.5, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New article 3 heading and new section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7216. Application Process. [Repealed]

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Repealer filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7217. Contents of Applications.

(a) Application shall be made on a form made available by the department requesting information required by these regulations and, for Rental Housing Developments, the Uniform Multifamily Regulations. Applicants shall provide sufficient information for the department to determine that the applicant is eligible, that the project is eligible, that the proposed uses of Program funds are eligible, and in the case of a Rental Housing Developments, that the project will maintain Fiscal Integrity.

(b) Use of RD, CHFA or other Department funds. If the applicant will use RD, CalHFA or other Department program loans or grants as all or part of its matching share, the applicant shall submit with its application a copy of the preliminary or final application, as the case may be, it has submitted for such matching funding.

(c) All applicants shall provide the following information:

(1) Contact information for the following if they are involved in the project: applicant, sponsor, developer, general contractor, credit enhancer, borrower's counsel, bond counsel, credit enhancer, and property manager.

(2) A resolution authorizing the application for the grant with original signatures of the authorized officials of the applicant organization.

(3) A description of the proposed site, available utilities and amenities, and the following:

(A) Information sufficient to demonstrate compliance with sections 7210 and 8303 regarding site criteria and control;

(B) A preliminary title report;

(C) Description of current and proposed ownership; and

(D) Phase I or Phase II environmental report.

(4) A description of the proposed improvements both residential and commercial, and a timetable for construction.

(5) A plot plan and detailed plans and specifications.

(6) A detailed cost breakdown for such items as land acquisition, site development, construction (including rehabilitation), equipment, utility connections, financing, fees and furnishings if such are to be included.

(7) Sources and uses for both construction and permanent financing of the housing development including the amount of Program funds needed and the source and amount of the matching share.

(8) Information on the method of construction or rehabilitation and on the architectural, engineering and legal services to be provided including copies of any contracts for the provisions of these services.

(9) Satisfactory evidence of review and approval by the required state and local officials.

(10) A market analysis which supports the need for the proposed housing and includes the characteristics of the persons eligible for occupancy including income and estimates of the number of eligible occupants willing and able to occupy the proposed housing. This market analysis shall specifically address the demand for agricultural worker housing and the ability of local agricultural workers to pay the rents or housing costs proposed in the application.

(11) Income ranges of the agricultural households to be served.

(12) Existing or proposed legal composition of the applicant, including:

(A) For nonprofit corporations: articles of incorporation or enabling resolution of operating authority, bylaws, and a list of directors and officers;

(B) For limited liability companies: the operating agreement and the names of all members.

(C) For limited partnerships, the appropriate information required in subparagraphs (A) and (B) for each general partner.

(13) Current financial statement for nonprofit organization applicants.

(14) A description and justification of any related facilities to be financed by the Program funds.

(15) A satisfactory survey of the land.

(16) A resolution authorizing the application for the grant with original signatures of the authorized officials of the applicant organization.

(17) Other materials as required by the Department in its application instructions.

(d) Rental Housing Development applications shall also include:

(1) Detailed operating budgets for the first year's operation and for a typical year's operation that include:

(A) Allowance for vacancies and non-payment of rents or fees;

(B) Allowances for accumulation of a reserve account as required by Section 7234; and

(C) Separate listings of all applicable federal, state and local taxes.

(D) Identification of any operating subsidies.

(2) Narrative statements of the proposed manner of managing the housing and information on the qualifications of the management staff.

(3) A statement of policy regarding management and operation including method of tenant selection, proposed lease and grievance procedures, and proposed rules and regulations for the housing development.

(4) A schedule of proposed rents and utility estimates which indicates that the monthly shelter costs

for assisted units will be affordable by low income agricultural households as provided in Section 7204(b).

(5) For rehabilitation projects: a physical needs assessment; description of any relocation plans, scope of proposed work, current rent roll, and current tenant incomes and household size by unit.

(6) History and status of any legal proceedings involving the applicant or any of the following, as appropriate to the organization of the applicant: principals, officers, directors, senior executives, general partners, members, and owners with more than a 10% interest.

(7) Description of at least the last five years' experience in developing projects similar to the project being applied for and describing the applicant's relationship to the development process (e.g., principal, affiliate, general partner, managing member). If the applicant will be relying on the experience of specific individuals within the applicant's organization, resumes and statements of qualifications for those individuals shall be included.

(8) Any special issues regarding the development (e.g., soils, slope, historic preservation, relocation, environmental).

(9) Narrative and/or documentation evidencing compliance with Section 7205.1 regarding sponsor control for the entity and/or individual(s) for which experience is claimed in paragraph (7) above.

(e) Homeownership Applications shall also include:

(1) Information regarding the financing of the individual dwelling units including the amount of grant needed and the source and amount of matching share; and

(2) A breakdown of the pro rata share of the grant which will be applied to each assisted dwelling unit and the criteria used to make such a determination.

(f) The Director may waive any requirement of this section provided that he/she has determined that the submittal of such information at the time of grant application is unnecessary for adequate evaluation of the feasibility of a proposed housing development.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering of former section 7218 to new section 7217, including amendment of section heading and section, filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7218. Contents of Grant Applications. [Renumbered]

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Renumbering of former section 7218 to section 7217 filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7220. Grant or Loan Cancellation.

(a) After notice has been given to the recipient and other parties with an interest in the housing development, an award of Program funds may be canceled. Cancellation may occur after an award has been approved but before any disbursements have been made or after partial disbursement of the Program funds, if the following occur:

- (1) The objectives for which the award was made cannot, for any reason, be met; or
- (2) Alternative sources of matching financing cannot be obtained by the recipient; or
- (3) The recipient has not abided by the conditions of the conditional commitment or other agreements executed with the Department.
- (4) The recipient has failed to execute required agreements or to provide necessary documentation within a reasonable time period prescribed by the Department.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Repealer of former Section 7220 and renumbering and amendment of Section 7222 to Section 7220 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).
2. Amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7222. Environmental Clearances.

(a) Whenever a proposed housing development is a project which potentially may have a significant impact on the environment and is not categorically exempt, recipients will be responsible for supplying in a timely and responsive way all data and information to all public agencies that have the primary responsibility for complying with requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

(b) Program applicants for projects subject to CEQA shall provide the Department with assurances of compliance with CEQA.

(c) Recipients which are local public entities shall act as lead agency for projects subject to CEQA unless another public entity has assumed the role of lead agency.

The activities of the Department regarding implementation of CEQA shall be governed by Subchapter 3 of Chapter 6.5 of [Title 25, California Administrative Code \(Sections 6940 et seq.\)](#).

Note: Authority cited: [Section 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering and amendment of former Section 7222 to Section 7220 and renumbering and amendment of Section 7224 to Section 7222 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).
2. New article heading and amendment of section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

14).

§ 7224. Coordination with Federal Agencies.

(a) Recipients which will utilize federal assistance, such as loans and/or grants from RD, as their matching share, shall submit promptly to the Department copies of all letters from the federal agencies that have a bearing on the housing development.

(b) The department will work with the federal agencies to ensure a coordinated approach to processing and approving applications for housing developments.

(c) In the event a conflict exists between federal and state regulations, the Department shall yield to the federal regulations insofar as not prohibited by State law or the legitimate interests of the State.

(d) The Department always maintains the right to monitor housing developments assisted by its grant in areas of concern to the Department.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering and amendment of former Section 7224 to Section 7222 and renumbering of Section 7226 to Section 7224 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment of subsection (a) filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7225. Standard Agreement.

(a) The Department and recipient shall enter into an agreement known as a standard agreement that represents a conditional commitment of Program Funds.

(b) This standard agreement will reserve Program funds in an amount approved for funding by the Department.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7226. Grant Agreement.

(a) In order to close a grant, a grantee is required to execute a Grant Agreement with the Department.

(b) The Grant Agreement shall be in a form determined by the Department and shall contain, but not be limited to, the following conditions:

(1) Assisted Units. It shall specify the minimum number of units of the housing development which have been designated as assisted units subject to program occupancy and resale restrictions.

(2) Recordation. It shall require the grantee to cause the Grant Agreement to be recorded in the Official Records of the county in which the housing development is or will be situated.

(3) Lien. The Grant Agreement shall be recorded as a lien on the real property of the housing development, or the title of a manufactured home not on a permanent foundation, in favor of the Department for the purpose of securing performance of the 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 7230.

(4) Duration. It shall state that it is binding on the grantee for a term of fifty-five (55) years for rental housing development new construction and rehabilitation, a term of twenty (20) years for conventionally-constructed ownership housing or manufactured housing placed on a permanent foundation, and a term of ten (10) years for manufactured housing not on a permanent foundation. The Department may in its discretion prescribe a lesser period for the duration of Grant Agreements relating to housing to be developed for ownership by individual agricultural households.

(5) Conveyance. It shall state that for the duration of the Grant Agreement, no contract for sale or conveyance of the housing development, or any portion thereof, shall be entered into or made without the express prior written approval of the Department, which approval shall be given in accordance with the provisions of Section 7228.

(6) Covenants. In addition, the Grant Agreement will contain, but not be limited to, the following covenants:

(A) Agricultural households shall be given a priority for occupancy in non-assisted units, and those agricultural households of low income shall be given a preference for occupancy in assisted units.

(B) The grantee shall accept the criteria for tenant and homeowner selection that has been determined by the Department for assisted units.

(C) The grantee shall accept the terms of occupancy agreements that have been prescribed by the Department for assisted units.

(D) With regard to rental housing developments, the grantee shall additionally agree to abide by the provisions of Section 7234.

(7) The Grant Agreement shall further provide that in the event of a breach of any of its conditions or covenants, the grantee or its successors in interest, the Department shall have the option to enforce the Grant Agreement by proceeding at law or in equity. The Department may, at its option, require the grantee or its successor in interest to immediately repay to the State the total amount of the grant then due with interest. The interest rate shall be the same as the average rate returned by the investment of state funds through the California Pooled Money Investment Board from the date of breach to the date of repayment.

(8) It shall provide that in the event of a forced sale or conveyance of the housing development resulting from an action to foreclose on a mortgage or deed of trust, the execution of a judgment lien, or other action resulting in an involuntary sale, the purchaser shall take title subject to these conditions and limitations, unless the appropriate amount of the grant is returned to the Department in accordance with these regulations.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering of former Section 7226 to Section 7224 and renumbering and amendment of Section 7228 to Section 7226 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section](#)

[11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment of subsections (b)(3)-(4) and (b)(6)(D) filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7228. Conveyance of the Housing Development.

The following provisions govern the sale or conveyance of the housing development, or any part thereof.

(a) Conveyance to Agricultural Households for the Purpose of Homeownership. If the grantee intends to sell or convey all or a portion of the housing development to individual agricultural households for the purpose of homeownership, the Department will authorize the sale or conveyance after the following conditions are met:

(1) Identification of Assisted Units. The grantee must identify any assisted units that will be located in the conveyed portion(s) of the housing development.

(2) Allocation of Grant Funds. For each assisted unit identified, the grantee shall specify in monetary terms the portion of the grant funds that will be used to reduce the costs of acquiring ownership of the assisted unit by an agricultural household.

(3) Subsequent Grant Agreement. Prior to or concurrently with the sale or conveyance of an assisted unit, the grantee shall ensure that a representative of the agricultural household which will own the assisted unit executes a Subsequent Grant Agreement with the Department which shall be in a form prescribed by the Department and contain the following conditions:

(A) It shall be binding upon the agricultural household for a term of twenty (20) years for conventionally-constructed housing or manufactured housing placed on a permanent foundation, and for a term of ten (10) years for manufactured housing not on a permanent foundation.

(B) It shall require the members of the agricultural household to reside in the assisted unit for the duration of the Subsequent Grant Agreement.

(C) It shall contain the following conditions with respect to the sale or conveyance of an assisted unit by the agricultural household.

1. If an assisted unit is sold or conveyed within a period of 10 years from the date of execution of the Subsequent Grant Agreement, an amount equal to the sum allocated to the assisted unit pursuant to subdivision (a)(2) of this section shall be paid to the Department.

2. If an assisted unit, other than a manufactured home not installed on a permanent foundation, is sold or conveyed more than ten years after the date of execution of the Subsequent Grant Agreement, the Department shall be repaid an amount equal to the sum allocated pursuant to subdivision (a)(2) of this section minus 10% of that amount for each additional year that the agricultural household occupies the assisted unit beyond the tenth year. The lien for a manufactured home not installed on a permanent foundation shall be released 10 years from the date of execution of the Subsequent Grant Agreement, and no repayment of grant funds will be required, if the homeowner is in compliance with the Subsequent Grant Agreement.

3. The Department shall determine whether or not any amounts subject to repayment to the Department, as specified above, will be assigned to the new owner in lieu of repayment to the Department.

4. The Subsequent Grant Agreement shall terminate after the grant funds have been repaid to the Department and the assisted unit has been sold or conveyed.

(4) Recordation of the Subsequent Grant Agreement. The grantee shall cause the Subsequent Grant Agreement and other pertinent documents to be recorded in the official records of the county in which the housing development is located.

(5) Sale of Non-assisted Units. After the total number of assisted units has been determined, the Department shall approve the sale or conveyance of any housing units not identified as assisted units and shall, at the time of sale or conveyance, release any such units from the lien securing performance of the Grant Agreement. The grant shall not be used to reduce the acquisition cost of a non-assisted unit.

(6) Termination of Grant Agreement. The Department shall terminate the Grant Agreement and the lien securing its performance after sale or conveyance of all of the assisted units if all of the conditions of the Grant Agreement have been satisfied, as determined by the Department.

(7) The Department may charge an administrative fee for its costs in processing a Subsequent Grant Agreement.

(b) Conveyance For Continued Agricultural Households Occupancy. If the grantee intends to sell or convey the housing development to an entity that will continue to use the development to provide housing for agricultural households, the Department will authorize the sale or conveyance provided that:

(1) The successor in interest to the grantee agrees to assume the obligations of the grantee, including the assumption of the conditions and obligations specified in the Grant Agreement between the grantee and the Department.

(2) The successor in interest agrees to take title to the housing development subject to the Grant Agreement between the grantee and the Department.

(3) The successor in interest agrees to an extension of the duration of the Grant Agreement where the Department has determined that such an extension would be in the best interest of the continued operation of the housing development.

(4) The successor in interest has demonstrated to the satisfaction of the Department that it can adequately operate the housing development in accordance with the requirements of the program and meet its obligations under the Grant Agreement.

(c) Conveyance For Use Other Than Agricultural Household Occupancy. The grantee shall not sell or convey the housing development to an entity that will not continue to use the development to provide housing for agricultural households in accordance with program requirements unless the Department has approved such sale or conveyance. The Department will approve a sale or conveyance provided that the grantee has demonstrated to the satisfaction of the Department that good cause exists for terminating the operation of the housing development as provided in Section 7236; and the grantee repays the state the full amount of the grant.

Note: Authority cited: [Sections 50402, 50406](#) and [50517.5\(d\)\(5\), Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering and amendment of former Section 7228 to Section 7226 and renumbering and

amendment of Section 7230 to Section 7228 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7230. Subordination.

The Department may execute and cause to be recorded in the office of the recorder of the county in which a Grant Agreement, Regulatory Agreement, or Subsequent Grant Agreement has been recorded, a subordination of the Agreement, provided that any subordination of the Agreement shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in such subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering and amendment of former Section 7230 to Section 7228 and renumbering and amendment of Section 7232 to Section 7230 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7231. Regulatory Agreement.

(a) In order to close a loan, a recipient shall enter into a regulatory agreement with the Department with a term not less than the term of the loan. The regulatory agreement shall be recorded against the rental housing development property prior to the disbursement of any Program funds.

(b) The Regulatory Agreement shall be in a form determined by the Department and shall contain, but not be limited to, the following:

- (1) The number, type and income level of Assisted Units pursuant to Section 7209.
- (2) Standards for tenant selection pursuant to Section 8305.
- (3) Provisions regulating the terms of the rental agreement pursuant to Section 8307.
- (4) Provisions related to operation of the project pursuant to Section 7234.
- (5) Provisions for limitation on distributions pursuant to Section 8314.
- (6) Description of the conditions constituting breach of the regulatory agreement and remedies available to the parties thereto.
- (7) Provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with Program requirements.
- (8) Provisions specifying that the regulatory agreement shall be binding on all successors and assigns of the borrower.

(9) Other provisions necessary to assure compliance with the requirements of the Program.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7232. Disbursements.

(a) Program funds shall only be disbursed for payment of obligations which are due or for reimbursement of expenditures previously approved by the Department.

(b) The recipient must request disbursements of Program funds on a form prescribed by the Department and such requests must be in accordance with authorized amounts set forth in the budget approved by the Department. With the prior approval of the Department, the recipient may transfer any allocations or portions thereof set forth in the approved budget to other allocated items of said budget.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering and amendment of former Section 7232 to Section 7230, repealer of Section 7234 and renumbering and amendment of Section 7236 to Section 7232 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7234. Operation of Rental Housing Developments.

Except as otherwise explicitly set forth in this section, operation requirements shall refer to the entire development and all units therein, rather than only to the assisted portion:

(a) Occupancy Restrictions. The recipient shall maintain the housing development so that assisted units shall only be occupied by agricultural households in accordance with the provisions of Section 7208(g).

(b) Operating Reserves. Operating reserves for a housing development shall be established as required by Section 8308. The Department, at its discretion, may allow the use of the grant funds to satisfy part or all of this requirement.

(c) Replacement Reserve. Replacement reserves for a housing development shall be established as required by Section 8309.

(d) Housing Costs. The Department will approve a schedule of rents as may be necessary to provide occupants of the housing development with affordable housing costs to the extent consistent with the maintenance of the fiscal integrity of the housing development and the requirements of other agencies which have financed the housing development.

(1) The recipient shall not increase the rent on any unit of the housing development without the prior

permission of the Department, which shall be given if the recipient demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development and that such increase complies with the procedures and limits required by the federal or other state agencies which have financed the housing development. 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 procedures used by the California Tax Credit Allocation Committee.

(e) Occupancy Rules. Documents, including rental agreements, governing, tenant occupancy of the housing development shall be subject to approval by the Department.

(f) Linguistic Services. The recipient shall provide linguistically appropriate services and publications to the occupants of the housing development.

(1) If requested, the Department will provide recipients technical assistance in meeting this obligation.

(g) Maintenance. The recipient shall maintain the housing development in a way which protects the public interest and the health, safety and welfare of its occupants, and the secured interest of the Department.

(h) Right of Inspection. The Department may, through its agents or employees, with prior notice enter upon and inspect the lands, buildings, and equipment of the grantee, including books and records, at any time before, during or after the construction or rehabilitation of the housing development.

(1) The Department shall neither enter or inspect any unit which is occupied, whether or not the occupant is present, without the prior consent of the occupant.

(2) After inspection of the housing development, the Department may require such repairs or corrections as may be necessary to protect the public interest or the health, safety, or welfare of the occupants of the housing development.

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Repealer of former Section 7234 and renumbering of Section 7238 to Section 7234 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

2. Repealer of subsection (c) and new subsections (c)-(c)(4) filed 10-1-2002; operative 10-1-2002 pursuant to [Government Code section 11343.4](#) (Register 2002, No. 40).

3. Amendment of subsections (a)-(c) and repealer of subsections (c)(1)-(4) filed 9-29-2003; operative 9-29-2003 pursuant to [Government Code section 11343.4](#) (Register 2003, No. 40).

4. Amendment of subsections (a), (d), (d)(1) and (f)-(g) filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7236. Termination of Grant Agreement.

(a) A grantee may terminate a Grant Agreement upon request provided that the grantee repays the Department the full amount of the grant and the Department has determined that one or more of the following or similar circumstances has occurred which makes the continued operation of the housing development in compliance with Program requirements no longer feasible:

(1) The employment of agricultural workers has greatly decreased in the area.

(2) A sufficient number of agricultural workers and their families in fact do not apply to live in the housing development.

(3) The dwelling units of the housing development are no longer suitable because of design, size, or age, for the housing needs of the agricultural workers and their families employed in the area.

(4) The grantee's continued operation of the housing development is no longer financially feasible and the grantee has demonstrated to the satisfaction of the Department that it has made a good faith effort to convey the housing development in accordance with Section 7228(b).

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering and amendment of former Section 7236 to Section 7232 and renumbering and amendment of Section 7240 to Section 7236 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

§ 7238. Disposition of Recaptured Grant Funds.

All funds, including interest therefrom, repaid to the Department because of termination, sale, conveyance, default, recapture or any other reason, will be deposited in the Farm Worker Housing Grant Fund.

Note: Authority cited: [Sections 50402](#), [50406](#) and [50517.5\(b\), Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. Renumbering and amendment of former Section 7238 to Section 7234 and renumbering and amendment of Section 7242 to Section 7238 filed 2-10-83; designated effective 3-4-83 pursuant to [Government Code Section 11346.2\(d\)](#) (Register 83, No. 7).

§ 7239. Uniform Multifamily Underwriting and Program Rules. [Renumbered]

Note: Authority cited: [Sections 50402](#) and [50406, Health and Safety Code](#). Reference: [Section 50517.5, Health and Safety Code](#).

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to [GovernmentCode section 11343.4](#) (Register 2003, No. 40).

2. Renumbering of former section 7239 to section 7201 filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

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