

TOD Housing Program Guidelines

SECOND DRAFT
Proposed Revised Guidelines
November 24, 2008

Article 1. General

Section 100. Purpose and Scope

- (a) The purpose of these guidelines is to implement and interpret Part 13 of Division 31 of the Health and Safety Code (commencing with Section 53560), which establishes the Transit Oriented Development Implementation Program, hereinafter referred to as the TOD Housing Program.
- (b) The purpose of the TOD Housing Program is to stimulate the production of housing developments located near transit stations that include affordable units and increase public transit ridership and minimize automobile trips.

Section 101. Program Description - An Overview

The TOD Housing Program was funded by Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006. Its primary objectives are to increase the overall supply of housing, increase the supply of affordable housing, increase public transit ridership, and minimize automobile trips. The program seeks to accomplish these objectives by providing financial assistance for the development of housing and related infrastructure near public transit stations. The TOD Housing Program is authorized by Health and Safety Code sections 53560-53564, adopted by SB 1689 (chpt. 27, stats. 2006) A total of \$285 million will be made available over approximately three years.

Under the program, low-interest loans are available as gap financing for rental housing developments that include affordable units, and as mortgage assistance for homeownership developments. In addition, grants are available to cities, counties, and transit agencies for infrastructure improvements necessary for the development of specified housing developments, or to facilitate connections between these developments and the transit station.

Research indicates that TOD development is most effective in minimizing automobile trips and increasing public transit ridership where there is substantial roadway congestion and convenient and reliable transit in high density areas. For this reason, assisted developments must be located in areas with these characteristics.

The basic structure of the TOD Housing Program borrows heavily from two existing State housing programs. For rental development, it is patterned after the Multifamily

Housing Program (MHP), but without the emphasis on large family units or special needs populations. For homeownership development, the model is the Building Equity and Growth in Neighborhoods Program (BEGIN), absent the requirement for local regulatory relief.

Funds will be allocated through a competitive process, based on the merits of individual development projects. The application selection criteria focus on both traditional concerns of publicly funded housing programs, such as affordability and readiness, and on the extent to which developments realize the program's objectives of reducing auto trips and increasing transit ridership. To the extent possible, the transportation-related criteria are grounded in empirical research.

Section 102. Definitions

- (a) "Area Median Income" means the most recent applicable county median family income published the California Tax Credit Allocation Committee.
- (b) "BEGIN" or "BEGIN Program" means the Building Equity and Growth in Neighborhoods Program authorized and governed by Health and Safety Code Section 50860 et. seq. and the guidelines promulgated there under.
- (c) "Bus Hub" means an intersection of three or more bus routes, where one route or a combination of routes has a minimum scheduled headway of 10 minutes or at least six buses per hour during peak hours. Peak hours means the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday.
- (d) "Bus Rapid Transit" (BRT) means a rubber-tired form of rapid transit in an integrated system of facilities, equipment, services, and amenities that exceed the speed and reliability of bus transit. Major components include the following: (1) use of exclusive right-of way, including busways, exclusive lanes, and bypass/queue jumping lanes for buses at congested intersections to reduce vehicle running time; (2) use of more limited-stop service including express service and skip-stopping; (3) application of intelligent transportation systems (ITS) technology such as signal priority, automatic vehicle location systems, system security, and customer information.
- (e) "Bus Transfer Station" means an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.
- (f) "CCR" means the California Code of Regulations.
- (g) "Department" means the Department of Housing and Community

Development of the State of California.

- (h) “FAR” (Floor Area Ratio) means the square footage of the floor area of a building divided by the site square footage, excluding therefrom dedicated streets, sidewalks, parks and open space. The floor area of a building is the sum of the gross area of each floor of the building, excluding mechanical space, cellar space, floor space in open balconies, and elevators or stair bulkheads. Multiplying the FAR by the area of the site produces the minimum amount of floor area required in a building on the lot. For example, on a 10,000 square-foot site in a district with a minimum FAR of 1.5, the floor area of a building must be at least 15,000 square feet.
 - (i) “Housing Development” means a proposed development meeting the criteria of Section 103, subdivision (a).
 - (j) “Incremental Unit” means a Restricted Unit included in a residential development receiving either a nine-percent tax credit allocation from TCAC or receiving an award of MHP funds and where the unit either:
 - 1. would have qualified the development for an award of an additional tax credit amount but for the per development limit on tax credit awards, or
 - 2. would have qualified the development for an award of an additional MHP amount but for the per development limit on MHP funds or the limit on the use of MHP-General funds in connection with MHP-Supportive Housing awards.
- The method of calculation of the number of Incremental Units shall be provided in the application for Program funds.
- (k) “Infrastructure Project” means a proposed development meeting the criteria of Section 103, subdivision (c).
 - (l) “Large City Downtown” means an area in one of the following cities: Anaheim, Long Beach, Los Angeles, Oakland, Sacramento, San Diego, San Francisco, San Jose, and Santa Ana which is designated as a downtown, central business district, or core area in local planning documents.
 - (m) “Locality” means a California city, county or city and county.
 - (n) “Lower income” has the meaning set forth in Health and Safety Code Section 50079.5.
 - (o) “Moderate income” has the meaning set forth in Health and Safety Code

Section 50093.

- (p) “MHP” shall mean the Multifamily Housing Program authorized and governed by Sections 50675 through 50675.14 of the Health and Safety Code and the regulations promulgated there under in 25 CCR 7300, *et seq.*
- (q) “Net Density” means the total number of dwelling units per acre of land, excluding dedicated streets, sidewalks, parks and open space.
- (r) “NOFA” means a Notice of Funding Availability issued by the Department.
- (s) “Program” means the TOD Housing Program as implemented by these Guidelines.
- (t) “Project” means a Housing Development or an Infrastructure Project or a combination the two. A Project may consist of a portion or phase of a larger development. The provisions of these Guidelines shall apply only to the Project as designated by the applicant in the application for Program funds.
- (u) "Qualifying Transit Station" means a Transit Station which qualifies a Housing Development for the award of Program funds and where the transit serving the Transit Station provides weekday, evening, and weekend service,
- (v) “Recipient” means the public agency receiving a commitment of Program funds for either a homeownership Housing Development, or portion thereof, or for an Infrastructure Project or both.
- (w) “Recurrent Congestion” means a condition lasting 15 minutes or longer where travel demand exceeds freeway design capacity, as evident by vehicular speeds of 35 mph or less occurring during peak commute periods on a typical incident-free weekday. Recurrent Congestion is documented in the 200~~7~~⁶ State Highway Congestion Monitoring Program (HICOMP) Report, published by Caltrans in 200~~8~~⁷.
- (x) “Restricted Units” means residential units restricted by an enforceable covenant or agreement with the Department or other public agency to occupancy by low- or very low-income households, with affordable rents pursuant to 25 CCR 7312 of the MHP regulations or affordable housing costs pursuant to the BEGIN Program for at least 55 years. Restricted Units must be substantially equivalent in size and number of bedrooms to the balance of units in the Housing Development. Restricted Units may consist of units designated for any housing tenure, rental or owner-occupied, within the Housing Development.

- (y) “Substantial Rehabilitation” means a Housing Development with a rehabilitation construction contract cost of at least \$35,000 per residential unit.
- (z) “TCAC” means the California Tax Credit Allocation Committee.
- (aa) “Transit Station” means a rail or light-rail station, ferry terminal, Bus Hub, or Bus Transfer Station. Included in this definition are planned transit stations otherwise meeting this definition, whose construction is programmed into a Regional or State Transportation Improvement Program to be completed prior to the scheduled completion and occupancy of the supported Housing Development(s) but in no case more than five years from the application due date.
- (bb) “Urban Center” means an area other than a large city downtown as defined in (l) above and which is served by more than one mode of transit.
- (cc) “Very-low income” has the meaning set forth in Health and Safety Code Section 50105.

Article 2. Program Requirements

Section 103. Eligible Projects

To be eligible for funding under the Program a Project must consist of either or both a Housing Development or an Infrastructure Project meeting the following criteria:

(a) A Housing Development must:

(1) consist of new construction or Substantial Rehabilitation of residential dwelling units, or the conversion of one or more nonresidential structures to residential dwelling units, with a total of not less than 50 such units.

(2) be located:

(A) in one of the following urbanized areas, as defined by the U.S. Census Bureau:

Antioch	San Francisco-Oakland
Concord	San Jose
Fairfield	Santa Barbara
Fresno	Santa Clarita
Gilroy-Morgan Hill	Santa Cruz
Livermore	Santa Rosa
Los Angeles-Long Beach-Santa Ana	Seaside-Monterey-Marina
Manteca	Simi Valley
Mission Viejo	Stockton
Modesto	Temecula-Murrieta
Petaluma	Thousand Oaks
Riverside-San Bernardino	Tracy
Sacramento	Vallejo
San Diego	

These urbanized areas have one or more freeway segments where there is Recurrent Congestion. Maps showing urbanized area boundaries are available at:

<http://www.census.gov/main/www/cen2000.html>

Maps showing Recurrent Congestion are available at:
<http://www.dot.ca.gov/hq/traffops/sysmgtp/HICOMP/pdfs/2007HICOMP.pdf>

- (B) within one-fourth mile from a Qualifying Transit Station, measured in a straight line from the nearest boundary of the Housing Development parcel to the outer boundary of the Transit Station site; and
 - (C) within one-half mile from a Qualifying Transit Station, measured from the nearest boarding point of the Qualifying Transit Station to the entrance of the residential structure in the Housing Development furthest from the Transit Station along a walkable route. The walkable route, after completion of the proposed Project, shall be free of negative environmental conditions that deter pedestrian circulation, such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials or highways without regulated crossings that facilitate pedestrian movement; or stretches without lighted streets.
- (3) include at least 15% of the total residential units as Restricted Units.
- (4) have a minimum Net Density, upon completion of the Housing Development, not less than that shown on the following table:

Project Location Designation ⁽¹⁾	MINIMUM NET DENSITY REQUIREMENTS	
	Residential only Projects	Mixed-use Project (floor area ratio, FAR)
Large City Downtown	60 units per acre	>3.0
Urban Center	40 units per acre	>2.0
All other areas	25 units per acre	>1.5

(1) Refer to Section 102 (l) and (bb) for definitions of Project Location Designations

- (b) Housing Developments may:
 - (1) include residential units that are rental or owner-occupied, or a combination of both;
 - (2) consist of scattered sites with different ownership entities, as long the sites are developed together as part of a common development scheme adopted, approved or required by a public agency and each site meets the requirements of paragraph (a)(2) above; or
 - (3) include nonresidential uses that are compatible.
- (c) Infrastructure Projects must include either or both of the following:
 - (1) capital improvements required by a local governmental entity, transit agency, or special district as a condition to the development of the Housing Development, such as sewer or water system upgrades, streets, construction of drainage basins, parking spaces or structures, utility access, connection or relocation, and noise mitigation; or
 - (2) capital improvements that clearly and substantially enhance public pedestrian or bicycle access from one or more specifically identified Housing Developments to the nearest Transit Station, such as pedestrian walkways, plazas, or mini-parks, signal lights, streetscape improvements, security enhancements, bicycle lanes and intelligent transportation information systems.
- (d) Infrastructure Projects may benefit residential development not included in the Housing Development, but must provide substantial direct benefit to one identified Housing Development.
- (e) The following are not eligible Infrastructure Projects: schools, replacement parking not required by a public agency as a condition of developing the Project and transit station improvements not identified in paragraphs (c)(1) and (c)(2).

Section 104. Eligible Uses of Funds

- (a) All costs must be reasonable and necessary for the proposed Project, as determined by the Department.
- (b) Eligible costs for Housing Developments are limited to costs for housing development, as specified in 25 CCR Section 7304 (a) and (b).

- (c) Redevelopment Agencies may use Program funds for land acquisition subject to the terms set forth in Section 105, subdivision (e) of these Guidelines.
- (d) Eligible costs for Infrastructure Projects include:
 - (1) Real property acquisition, and associated fees and costs, not including real estate commissions for purchase or acquisition;
 - (2) Construction work and associated fees and costs
 - (3) Engineering design and supervision;
 - (4) Environmental studies, remediation and mitigation.
 - (5) Relocation costs.
- (e) Eligible costs for Infrastructure Projects do not include costs incurred by local public agencies for project administration or planning or costs of replacement parking not required by a public agency as a condition of the development of the Project.
- (f) Localities receiving an award of Infrastructure Project funds may contract with private entities for the development and construction of all or a portion of the improvements included in the Infrastructure Project, provided that such contractual arrangement shall ensure compliance with all applicable requirements of the Program.

Section 105. Assistance Terms and Limits

- (a) The maximum Program loan or grant or combination of the two for a single Housing Development or applicant, including any affiliates of an applicant shall be limited to \$17 million per funding round.
- (b) The total maximum amount of Program assistance for applications based on a single Qualifying Transit Station and all awards of Program funds over the life of the Program shall be \$50 million.
- (c) Construction of the Housing Development must commence within three years of the Program award and must be completed within five years of the Program award date.
- (e)(d) Loans for rental Housing Developments, or the rental portions of a Housing Development, are subject to the following terms:
 - (1) Program funds will be provided as a loan for permanent

financing by the Department to the owner of the Housing Development, with the same terms as MHP financing as set forth in 25 CCR 7308.

(2) The maximum loan amount shall be calculated pursuant to 25 CCR Section 7307 based on the number of Restricted Units in the Housing Development, affordability, unit sizes, location, and on the base amount for loan calculation as specified in the Program NOFA. For the first Program NOFA, the base loan amounts shall be \$20,000 more than those established for the August, 2007 MHP NOFA. Housing Developments, or portions thereof, containing Incremental Units shall have the loan amount based only on the Incremental Units.

(3) Housing Developments ~~not containing Incremental Units~~ shall be ineligible to receive Program funding if receiving either a nine-percent tax credit allocation from TCAC or receiving an award of MHP funds, except under the following circumstances:

(A) Program funding is limited to Incremental Units;

(B) Program funding is limited to Incremental Units that are not supportive housing units in Housing Developments receiving funds under the Supportive Housing component of MHP; or

(C) The application receives the maximum 170 points available under the following subdivisions of section 108: (b), (c), (d), (e), (f), (h), and (i).

~~(d)~~(e) For homeownership Housing Developments, Program assistance will be provided in the form of a grant from the Department to a Locality, to be used to provide a loan from the Locality to a qualified first-time homebuyer in an identified homeownership Housing Development, in accordance with the provisions of the BEGIN program as set forth in the BEGIN Guidelines issued by the Department, as amended May 21, 2007, except for the requirements for regulatory relief, set forth in Section 106 of those guidelines, and the application selection criteria set forth in Section 119.

~~(e)~~(f) For redevelopment agency borrowers only, loan proceeds for Housing Developments may be drawn for land acquisition during the predevelopment period subject to the following:

(1) The loan amount shall not exceed the least of 80% of the value

of the land to be acquired as established by an appraisal acceptable to the department, \$50,000 per residential unit in the proposed Housing Development, or \$3 million.

- (2) The loan may be assumable by the developer of the proposed Housing Development.
- (3) The loan shall be due and payable to the Department in one year from the date of the award of Program funds if an enforceable disposition and development agreement or similar agreement providing for the development and construction of the proposed Housing Development is not executed by the redevelopment agency and the proposed housing developer within that time.
- (4) The loan shall be due and payable to the Department in five years from the date of the award of Program funds if construction of the proposed Housing Development is not completed as specified in the Program application, as evidenced by a recorded notice of completion.
- (5) The loan shall carry an annual simple interest rate of 6% until conversion to permanent financing upon completion of the Housing Development. Upon conversion, deferred unpaid interest shall be added to the outstanding principal to be carried forward with any additional Program loan commitment on the same terms as in subdivision (a) above, with a total permanent Program loan amount not to exceed \$17 million.

(f)(g) Grants for Infrastructure Projects shall be subject to the following terms:

- (1) The grant shall be repaid to the Department if all necessary and discretionary public land use approvals have not been received for the Housing Development within five years of the date of the Program award.
- (2) The grant must be matched by a cash contribution of funds, including federal and State funds under local control, allocated by the applicant equal to 20% of the Infrastructure Project grant.
- (3) The total grant amount shall be limited to \$35,000 per residential unit in the proposed Housing Development, and \$50,000 per Restricted Unit.
- (4) The amount for improvements to enhance access to transit

pursuant to Section 103, paragraph (c)(2) shall be limited to \$10,000 per residential unit.

- (5) The applicant must demonstrate that the grant does not result in developers benefiting from the infrastructure grant realizing a profit that exceeds the commercially reasonable range for other developments of similar size and level of risk. The applicant must show that Program funds are reasonably necessary for Project feasibility and no other source of compatible funding is reasonably available.
- (6) Conditions precedent to the first disbursement of Program funds shall include receipt of all required public agency entitlements and all funding commitments for the Housing Development supported by the infrastructure. If the Housing Development includes multiple phases or developments, all entitlements and funding commitments for the first phase must be received.
- (7) Funds will be disbursed as progress payments for eligible costs incurred.
- (8) Rental Housing Developments supported by the Infrastructure Project shall be subject to a recorded covenant ensuring affordability for a duration of at least 55 years. Homeownership Housing Developments supported by the Infrastructure Project shall be subject to a recorded covenant with a duration of at least 30 years that includes either a resale restriction or equity sharing upon resale.

Article 3. Application Procedures

Section 106. Application Process

- (a) The Department shall offer funds through a NOFA in accordance with the procedures for MHP set forth in 25 CCR 7317.
- (b) Applications shall be made on forms made available by the Department.
- (c) Applicant Entities shall be as set forth below:

TYPE OF PROJECT FINANCIAL ASSISTANCE REQUESTED	REQUIRED APPLICANT(S)
Rental Housing Development	Eligible Developer(s) of the proposed Housing

	Development
Homeownership Housing Development	Eligible Developer(s) of the proposed Housing Development and the Locality in which the proposed Housing Development is to be located as co-applicants
Rental and Homeownership Housing Development	Eligible Developer(s) of the proposed Housing Development and the Locality in which the proposed Housing Development is to be located as co-applicants
Infrastructure Project	The Locality in which proposed Project is to be located, or a public transit agency
Housing Development and Infrastructure Project	Eligible Developer(s) of the proposed Housing Development, and the developer of the Infrastructure Project (either the Locality in which proposed Infrastructure Project is to be located, or a public transit agency), as co-applicants. If Program funds will be used for homeownership units, the Locality that will administer these funds must be a co-applicant.
Housing Development Land Acquisition	Redevelopment Agencies only

Applicants may include duly authorized entities formed by joint powers agreements comprised of Required Applicants as set forth above.

- (d) The Department shall evaluate applications for compliance with the threshold requirements listed in Section 107, and score them based on the application selection criteria listed in Section 108. The highest scoring applications that meet all threshold requirements shall be selected for funding as specified in the NOFA, except that the Department may make adjustments in this procedure to meet the following geographic distribution objectives of each NOFA release:
- (1) awarding not less than 45% of funds to Southern California Projects (those located in Kern, San Bernardino, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego or Imperial counties);
 - (2) awarding not less than 30% of funds to Northern California Projects (those not located in the counties specified in the previous subsection); and
 - (3) awarding not less than 40% of funds to Projects served by Qualifying Transit Stations not served by heavy rail (BART and Metro Red Line). ~~at least one Project within each of the regions encompassed by the Association of Bay Area Governments (ABAG); the Sacramento~~

~~Association of Governments (SACOG); the San Diego Association of Governments (SANDAG); or the Southern California Association of Governments (SCAG).~~

- (e) The NOFA may specify a minimum number of ranking points for a Project to be eligible for funding.
- (f) The Department may elect to not evaluate compliance with some or all threshold requirements for applications that are not within a fundable range, as indicated by a preliminary point scoring.
- (g) Applications selected for funding shall be approved subject to conditions specified by the Department.

Section 107. Application Threshold Requirements

- (a) To be considered for Program funding for Housing Developments, applications must meet all of the following threshold requirements:
 - (1) The Housing Development must be eligible pursuant to Section 103 and the applicant must be eligible pursuant to Section 106(c).
 - (2) All proposed uses of Program funds must be eligible pursuant to Section 104 and 105.
 - (3) The application must be sufficiently complete to assess Project feasibility and compliance with Program requirements.
 - (4) Construction of the Housing Development has not commenced.
 - (5) The Housing Development is infeasible without Program funds, and other available funds are not being supplanted by the Program funds.
 - (6) Rental Housing Developments must meet the underwriting standards in the Uniform Multifamily Regulations, 25 CCR 8308 through 8312. However, the Department may use alternative underwriting standards for Housing Developments receiving 9% tax credits or that have more than 20 percent market-rate, unrestricted units or more than 100 total units.
 - (7) Owner-occupied Housing Developments must meet the requirements of the BEGIN program, except for the following:
 - (A) The requirements for regulatory relief specified in the BEGIN Program Guidelines, including those in Section 106 of these guidelines.

(B) The requirements of Section 119 of the BEGIN Program Guidelines, on application selection criteria.

(8) The applicant has site control, in accordance with the requirements of the Uniform Multifamily Regulations, 25 CCR 8303, for rental Housing Developments, or Section 116 of the BEGIN Program Guidelines for homeownership Housing Developments. This requirement shall not apply to redevelopment agencies applying for land acquisition loans pursuant to Section 105(e).

(9) The application must receive the minimum point scores for those application selection criteria requiring minimum scores and, the overall application total score shall not be less than 250 points.

(10) If the application involves the demolition or rehabilitation of existing units affordable to lower income households, the Housing Development must include units with similar or greater affordability, equal to or greater than the number of the existing affordable units.

(b) To be considered for Program funding for Infrastructure Projects, applications must meet all of the following threshold requirements:

(1) The applicant must be eligible.

(2) The Infrastructure Project must be an eligible Project under Section 103(c).

(3) The Infrastructure Project must support a Housing Development meeting the criteria of Section 103(a).

(4) All proposed uses of Program funds must be eligible pursuant to Section 104 and 105.

(5) The application must be sufficiently complete to assess Project feasibility and compliance with Program requirements.

(6) Construction of the Infrastructure Project and the supported Housing Development has not commenced. Both the Infrastructure Project and the Housing Development may be defined by the applicant to exclude discrete phases of improvements that are part of the overall development scheme, but that are being constructed or financed separately from that portion of the overall development assisted by the Program.

(7) The Infrastructure Project is infeasible without the requested Program funds, and other available funds are not being supplanted by Program funds.

- (8) The developer of the supported Housing Development(s) must have site control, in accordance 25 CCR 8303 for rental Housing Developments, or Section 116 of the BEGIN Program Guidelines for homeownership Housing Developments.
- (9) The supported Housing Development must be feasible, based on the Department's analysis of the applicant's sources and uses statement, an operating proforma, information on the status of funding commitments, and other related financial information.
- (10) The Infrastructure Project must be feasible, based on the Department's analysis of the applicant's sources and uses statement, the status of commitments from other funding sources, and similar information.
- (11) Where approval by a local public works department, or its equivalent, is required for the Infrastructure Project, the application must include a statement from that department indicating that the Infrastructure Project is consistent with all applicable local rules, regulations, codes, policies and plans enforced or implemented by that department.
- (12) If the Infrastructure Project includes a pedestrian bridge, tunnel, or similar feature, the applicant must demonstrate that this feature is cost effective, compared to street-level crossings or other alternatives, and considering the number of users reasonably expected to use the feature and any documented safety problems that the feature would eliminate.
- (13) If the application involves the demolition or rehabilitation of existing units affordable to lower income households, the Housing Development must include units with similar or greater affordability, equal to or greater than the number of the existing affordable units.

Section 108. Application Selection Criteria

The following criteria shall be used to rate applications:

- (a) **The extent to which the Project will increase public transit ridership and minimize automobile trips – 9140 points maximum.**
 - (1) A maximum of 30 points shall be assigned to applications in which the best performing mode of transit serving the Qualified Transit Station has peak period headway frequency of twelve minutes or less. Scoring for all other applications will be determined by the best performing primary mode of transit demonstrating all day, on-time arrival/departure performance as set forth below:

Points	Rail	Bus/Ferry
30	≥95%	≥90%
25	90-94.99%	85-89.99%
20	85-89.99%	80-84.99%
0	<85%	<80%

Peak period means the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday or the alternative peak period designated for the transportation corridor by the transit agency.

~~(2) A maximum of (20) points shall be assigned to applications in which the best performing mode of transit serving the Qualified Transit Station, demonstrates a peak period commute service travel time ratio as compared to automobile travel along the comparable highway corridor as set forth below:~~

Points	Comparative transit travel time to automobile use
20	≤1.5
15	1.6-2.0
0	≥2.0

~~Comparative travel time ratios will be computed by Caltrans which will provide driving times along the comparable highway corridor during periods of recurrent congestion, based on current PeMS data.~~

(3) Four (4) points will be assigned to applications where electronic user information services provide information on schedules and real-time predicted arrival times at the transit stop, Housing Development, area businesses or through cellular phone access for the best performing primary mode of transit serving the Qualified Transit Station.

(4) One (1) point will be assigned to Qualifying Transit Stations posting current schedules and route maps at the transit station.

(5) A maximum of fifty-five (55) points will be assigned based on the primary mode of transit serving the Qualifying Transit Station and the population density of the area within a four mile radius of the Qualifying Transit Station, in accordance with the following table. Population density shall be calculated based on 2000 census data, as more specifically described in the Program application and in the instructions posted on the Department's web site.

Density Range (population per square mile of land area)

Transit Mode	0 – 1,000	1001 – 2,000	2,001 – 3,000	3,001 – 4,000	4,001 – 5,000	5,001 – 6,000	6,001 – 8,000	8,001 – 10,000	10,000 – 13,000	13,001 +
Heavy Rail (BART, METRO Red Line)	29	31	33	37	41	44	48	50	53	55
Light Rail/ Bus Rapid Transit	21	22	23	27	31	35	38	42	46	50
Rapid Bus / Express Bus	20	20	20	22	24	26	28	30	33	36
Commuter Rail (Capitol Corridor, Caltrain, Metrolink, Surfliner, Coaster), Ferry, Non-Express Bus Hub	19	19	19	20	22	24	26	27	29	30

(b) **Location in an area designated for infill or transit-oriented development, and where there is coordinated public and private investment – 40 points maximum.**

(1) Applications for Housing Developments located in an area designated for infill development through a regional plan policy adopted by the local council of governments shall receive 20 points.

(2) Applications for Housing Developments located in an area designated for transit oriented development in the applicable local general plan, specific plan, zoning ordinance, community plan, redevelopment plan, or transit village plan, or in an area regulated by, or included in land use policies, regional blueprint plans, other regional plans, development regulations or programs which promote transit-supportive residential and nonresidential uses within the Project area, shall receive 10 points.

(3) Applications for Housing Developments receiving points under subsection (1) or (2) shall receive an additional 10 points where there is coordinated public and private investment in amounts sufficient to transform the area into a transit-oriented community, as evidenced by both of the following occurring within a half-mile radius of the Qualifying Transit Station:

(A) Expenditures or commitments of public funds during the ten years preceding the application due date on transit-oriented infrastructure or housing in the amount of at least \$5 million; and

(B) The construction during the ten years preceding the application due date of privately owned transit supportive uses with a gross floor area of at least 50,000 square feet (including developments under construction).

(c) **The extent to which the Housing Development serves households at moderate and below moderate income levels –30 points maximum.**

Applications will be scored based on the percentage of units in the Housing Development limited to various income levels, in accordance with the following schedule. Applicants may elect to exclude from the calculation of “total units” units which are not utilized in the calculation of leverage points pursuant to subdivision (h) of this Section and which are not utilized in the calculation of the loan amount pursuant to Section 105. Point scores will be rounded to the nearest one hundredth point in this category:

- (1) 0.13 points will be awarded for each percent of total units that are owner-occupied and restricted to initial occupancy by households with incomes not exceeding the moderate income limit.
- (2) 0.25 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the moderate income limit at affordable housing costs for not less than 55 years.
- (3) 0.30 points will be awarded for each percent of total units that are owner-occupied and restricted to occupancy by households with incomes not exceeding the lower income limit at affordable housing costs for not less than 55 years
- (4) 0.13 points will be awarded for each percent of total units that are rental Restricted Units for households with incomes less than or equal to 50% of Area Median Income.
- (5) 0.7 points will be awarded for each percent of total units that are rental Restricted Units for households with incomes less than or equal to 40% of State Median Income, expressed as a percentage of Area Median Income.
- (6) 0.9 points will be awarded for each percent of total units that are rental Restricted Units for households with incomes less than or equal to 35% of State Median Income, expressed as a percentage of Area Median Income.
- (7) 1.3 points will be awarded for each percent of total units that are rental

Restricted Units for households with incomes not exceeding 20% of State Median Income (adjusted by the Department to avoid exclusion of working CalWORKs recipients and individuals receiving SSI and expressed as a percentage of Area Median Income) for the first 10% of total Restricted Units; then 1 point for each subsequent percent of total Restricted Units.

- (8) For rental Housing Developments utilizing 9% low income housing tax credits, applicants may elect to have their rental units scored in accordance with the scoring system used for this purpose by TCAC, under the Lowest Income point category. Applicants making this election shall be awarded .577 points for every 1 point they would be eligible to receive using TCAC's system (so that applications eligible for the maximum possible 52 points using the 9% scale receive 30 points in this category for the Program).
- (9) For rental Housing Developments, rent limits for initial occupancy and for each subsequent occupancy of Restricted Units shall be based on unit type, applicable income limit, and area in which the Project is located, following the calculation procedures used by TCAC and using the income limits recognized by TCAC for purposes of application scoring as well as the income limits set forth above. Rents will be further restricted in accordance with rent and income limits submitted by the Sponsor in its application for the Program loan, approved by the Department, and set forth in the regulatory agreement. Rents shall not exceed 30% of the applicable income eligibility level. The maximum rent shall be 30% of 60% of Area Median Income for the appropriate unit size.

(d) **Transit-Supportive land use – 15 points maximum.**

Points will be awarded based on the existing and planned land uses in the Project area.

- (1) The following transit-supportive amenities, services and uses within half-mile of the Qualifying Transit Station should be identified and listed in the application. The term “within half-mile of the Qualifying Transit Station” means that any part of the physical structure or portion of a structure occupied by the use is located within half-mile of the nearest boundary of the Qualifying Transit Station. The term “amenities, services and uses” includes uses projected for improvements that are either under construction or included as part of the Project.

Transit-Supportive Amenities and Services	
Bank /Credit union	
Licensed child care facility	
Each such facility will count as two amenities	
Community/civic center	
Convenience store	
Hair care	
Hardware store	
Pocket park or playground	
Health club, sport court, or outdoor recreation facility	
Laundry / dry cleaner	
Library	
Medical / dental office	
Pharmacy	
Place of worship	
Police / fire station	
Restaurant	
Coffee shop / <u>Internet Cafe</u>	
Delicatessen or bakery	
School	
Senior care facility	
Shoe Repair shop	
Grocery store	
Social service facility	
Theater	
<u>Postal Mailing & Shipping Center</u>	
<u>Bicycle Shop</u>	

- (2) Projects in areas with at least ten distinct transit-supportive amenities and services will receive 150 points.
- (3) ~~Projects in areas regulated by, or included in land use policies, regional blueprint plans, development regulations, or programs which promote transit-supportive residential and nonresidential uses within the Project area, will receive 5 points. These policies may include, but are not limited to, station area plans and adopted general plans or zoning ordinances. They must either include measures explicitly supporting transit-oriented development or impose development standards and criteria, such as allowing high density residential and residential-serving uses near transit stations that have the same effect.~~

(e) **The extent to which the Project incorporates walkable corridor features - ~~24~~5 points maximum**

Points will be awarded based on the extent to which the application demonstrates the following features exist, or will exist upon completion of the Project, in the primary walkable corridor between the Housing Development and the Qualifying Transit Station. The primary walkable corridor is the route most likely to be taken by pedestrians traveling directly between the Housing Development and the Transit Station. ~~Five~~ Three points will be awarded for each feature.

- (1) No more than 25% of the street blocks in the corridor exceed 500 feet in length.
- (2) The corridor is fully served by continuously-paved, ADA-compliant sidewalks with a minimum width of 4 feet.
- (3) The corridor allows for safe pedestrian crossing of any arterials between the Housing Development and the Transit Station and the corridor is adequately lighted to accommodate pedestrian use after dark.
- (4) The Transit Station contains transit waiting facilities that are lighted and provide overhead shelter from outdoor elements.
- (5) The Qualifying Transit Station has bicycle access and provides secure bicycle storage facilities, or the transit service allows bicycle conveyance on-board~~corridor is adequately lighted to accommodate pedestrian use after dark.~~

(f) **Parking – ~~32~~0 points maximum**

Points will be awarded based on the extent to which the pricing, supply, and management of motor vehicle parking serving the Housing Development promotes economic efficiency and minimizes the development of new parking spaces as ~~follows:~~ detailed below. Projects that do not include parking will automatically receive the maximum available points under all subcategories except 108(f)(2).

- (1) Parking pricing (5 points). Five points will be assigned to applications where the Housing Development parking is priced to cover the full capital and operating costs of the parking, and paid for separately, rather than bundled with the cost of the housing, except for units subsidized under one or more affordable housing funding programs, including low-income housing tax credit programs.

- (2) Transit passes (~~54~~ points). ~~Four-Five~~ points will be assigned to applications where Housing Developments provide to residents free transit passes or discounted passes priced at no more than half of retail cost. At least one transit pass shall be made available to each Restricted Unit for the term of the Program loan.
- (3) Shared parking (~~52~~ points). ~~Two-Five~~ points will be assigned to applications where the Housing Development provides parking that will be shared between different uses, such as parking that serves housing residents at night and retail customers by day.
- (4) Car sharing (~~52~~ points). ~~Two-Five~~ points will be assigned to applications where the Housing Development provides dedicated parking spaces for shared vehicle only parking.
- (5) Maximum parking spaces (~~107~~ points). ~~Seven-Ten~~ points will be assigned to applications for Projects which provide for no more that the following maximum parking spaces excluding park-and-ride and transit station replacement parking.

MAXIMUM PARKING SPACES			
Project Location Designation ⁽¹⁾	Bedrooms per Unit	Maximum resident and guest parking spaces per unit	
Large City Downtown	0-1	1.0	
	2+	1.5	
Urban Center	0-1	1.25	
	2+	1.75	
All Other Areas	0-1	1.5	
	2+	2.0	

(1) Refer to Section 102 (l) and (bb) for definitions of Project Location Designations

(g) Readiness of the Housing Development – 30 points maximum.

Points will be awarded for each of the following at the level indicated:

- (1) Obtaining enforceable commitments for all construction period funding for the Housing Development excluding funding provided by another

Department program, provided that this funding is awarded prior to or simultaneously with the final rating and ranking of the Program application, tax credit equity , and tax-exempt bonds (8 points).

- (2) Completion of all necessary environmental clearances, including those required under the California Environmental Quality Act and the National Environmental Policy Act, and all applicable appeal periods have lapsed (7 points), or issuance of a public notice of the availability of a draft environmental impact report or negative declaration (4 points).

- (3) Applications demonstrating that all necessary discretionary local land use approvals, excluding design review, have been granted ~~Obtaining all necessary and discretionary public land use approvals, excluding building permits and other ministerial approvals~~ (8 points).

- (4) One of the following (7 points):

- (A) The developer or developers of the Housing Development have fee title ownership of the site, or a long-term leasehold meeting the requirements of Section 8303(b) of the Uniform Multifamily Regulations; or

- (B) Local design review approval has been obtained, or is not required; or

- (C) All deferred payment grants and subsidies, in accordance with TCAC requirements, and with the same exceptions as allowed by TCAC, have been committed.

- (5) Applications for land acquisition loans pursuant to Section 105(f) shall first be ranked together with all applications based on their scores under all scoring categories and awards made according to rank up to a total maximum of \$6 million for all land acquisition applications. If such awards total less than \$6 million, the remaining land acquisition applications shall receive an additional score equal to the difference between 30 and the largest readiness score received by a land acquisition application. Those applications receiving an enhanced score shall then be ranked with all the other applications and funds awarded accordingly, up to the maximum \$6 million for land acquisition applications

(h) **Leverage – 15 points maximum**

- (1) Applications will be scored based on the amount of permanent development funding from sources other than the Program, as a percentage of the requested amount of Program funds. For each full 10-percent increment above 100 percent, 0.75 points will be awarded. For example, an application where other funds equal 140 percent of Program funds will receive 3 points, and a Project where other funds equal 300 percent of program funds will receive the maximum 15 points.
- (2) In calculating the amount of other funds:
 - (A) Funds used for both the Housing Development and the Infrastructure Project will be counted.
 - (B) Deferred developer fees will not be counted as a source.
 - (C) Land donations will be counted, where the value is established with a current appraisal.

(i) **Developer past performance – 30 points maximum (50 points maximum deduction)**

- (1) Applications will be scored based on the number of urban infill residential housing developments with at least 100 units, or that are similar in size and scope to, or larger than, the Housing Development proposed in the application that have been completed by the developer of the proposed Housing Development, and whether this developer has any performance problems.
- (2) Ten points will be awarded for each development described in paragraph (1) completed by the applicant during the five years preceding the application due date.
- (3) In addition, 10 points will be awarded to applications proposing a joint development project, if the applicant has successfully completed a joint development project in the five years prior to the application due date. For the purposes of this Section, “joint development project” means a residential housing development built on land owned or conveyed by a public transit agency.
- (4) If the proposed Housing Development involves multiple developers for different developments, the experience of the developer of the development containing the most residential units will be the basis for the score.

- (5) In the case of a Housing Development being developed by multiple developer partners, the score will be based on the experience of the most experienced partner, provided that this partner has a controlling interest in the Housing Development and a continued role in ongoing operations of the Housing Development. Any change in the composition of the partnership shall require prior written Department approval.
- (6) The experience of affiliated entities or principals (including employees responsible for managing an organization's development activities) shall be counted. Experience of board members shall not be counted.
- (7) Five points will be deducted for each occurrence or event in the following categories, with a maximum total deduction of 50 points.
 - (A) removal or withdrawal under threat of removal as general partner;
 - (B) failure to submit, when due, compliance documentation required under a Department program;
 - (C) use of reserve funds for Department-assisted projects in a manner contrary to Program requirements, or failure to deposit reserve funds as required by the Department;
 - (D) failure to provide promised supportive services to tenants of a publicly funded project, where providing such services was a condition of funding;
 - (E) other significant violations of the requirements of Department programs or of the programs of other public agencies, such as the failure to adequately maintain a project or the books and records thereof.

(j) Community Support – 15 points maximum.

Applications shall receive 15 points if the Project has been planned through a documented, inclusive process with community stakeholders, including representatives of low income and minority groups, and the planning process included the public distribution of a detailed development description with information on the income groups served and proposed rents or sale prices.

(k) Project Size – 30 points maximum

- (1) Applications for Housing Developments with 200 or more residential units shall receive 30 points.

(2) Applications for Housing Developments with ~~400-150~~ to 199 residential units shall receive ~~4~~25 points.

(3) Applications for Housing Developments with 100 to 149 residential units shall receive 20 points.

(4) Applications for Housing Developments with 50 to 99 residential units shall receive 15 points.

(I) Adopted Economic Development Plan – 10 points maximum

(5) 10 points shall be awarded to applications for **Projects** located in jurisdictions that have adopted a general plan economic development element.

(6) 5 points shall be awarded to applications for **Projects** located in jurisdictions that have integrated economic development **strategies**, are in a state-approved Enterprise Zone, or are in an eligible New Market Tax Credit census tract.

Article 4. Program Operations

Section 109. Legal Documents

(a) Rental Housing Developments: Upon the award of Program funds to assist a rental Housing Development, the Department shall enter into one or more agreements with the Sponsor, which may be in the form of a conditional commitment letter issued by the Department and accepted by the Sponsor, which shall commit funds from the Program in an amount sufficient to fund the approved Program loan amount. The agreement or agreements shall contain the following:

- (1) a description of the approved Housing Development and the permitted uses of Program funds;
- (2) the amount and terms of the Program loan;
- (3) the regulatory restrictions to be applied to the Housing Development through the Regulatory Agreement;
- (4) special conditions imposed as part of the Department's approval of the Housing Development;

- (5) requirements for the execution and the recordation of the agreements and documents required under the Program;
 - (6) terms and conditions required by federal or state law;
 - (7) requirements regarding the establishment of escrow accounts for the deposit of documents and the deposit and disbursement of Program loan proceeds;
 - (8) the approved schedule of the Housing Development, including land acquisition if any, commencement and completion of construction or rehabilitation work, and occupancy by eligible households;
 - (9) the approved Housing Development development budget and sources and uses of funds and financing;
 - (10) requirements for reporting to the Department;
 - (11) terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;
 - (12) provisions regarding tenant relocation in accordance with State law;
 - (13) provisions relating to the erection and placement on or in the vicinity of the Housing Development site a sign indicating that the Department has provided financing for the Housing Development. The Department may also arrange for publicity of the Program loan in its sole discretion; and
 - (14) other provisions necessary to ensure compliance with the requirements of the Program.
- (b) For rental Housing Developments the Department shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan that shall be recorded against the property of the Housing Development prior to the disbursement of funds. The Regulatory Agreement shall include, but not be limited to, the following:
- (1) the number, type and income level of Restricted Units;
 - (2) standards for tenant selection pursuant to 25 CCR 8305;
 - (3) provisions regulating the terms of the rental agreement pursuant to 25 CCR 8307;
 - (4) provisions related to a Rent Schedule, including initial rent

levels for Restricted Units and non-Restricted Units pursuant to subsections (a) and (b) of 25 CCR 7312;

- (5) conditions and procedures for permitting rent increases pursuant to 25 CCR 7312;
 - (6) provisions for limitations on Distributions pursuant to 25 CCR 8314 and on developer fees pursuant to 25 CCR 8312;
 - (7) provisions regarding the deposit and withdrawal of funds to and from reserve accounts in accordance with 25 CCR 8308 and 8309;
 - (8) assurances that the Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to 25 CCR 7324;
 - (9) description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;
 - (10) provisions governing use and operation of non-Restricted Units and common areas to the extent necessary to ensure compliance with Program requirements;
 - (11) special conditions of loan approval imposed by the Department;
 - (12) Article 4, Subchapter 4, Chapter 7, Division 1 of Title 25, "Program Operations," Sections 25 CCR 7321 through 7326, shall apply to rental Housing Developments assisted by the Program; and
 - (13) other provisions necessary to assure compliance with the requirements of the Program.
- (c) All Program loans for assistance to rental Housing Developments shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the Program. The note shall be secured by a deed of trust on the Housing Development property naming the Department as beneficiary or by other security acceptable to the Department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Housing Development and the performance of Sponsor's Program obligations. In addition to other requirements for Housing Development funding, loans to redevelopment agencies for land acquisition pursuant to Section 104, subdivision (c) of these Guidelines shall be evidenced by a note reflecting the terms therefore as set forth in Section 105, subdivision (d) of these Guidelines.

- (d) Upon the award of Program funds to a Locality for assistance to a homeowner Housing Development the Department shall enter into a Standard Agreement with the Recipient constituting a conditional commitment of funds. This agreement shall require the Recipient to comply with the requirements and provisions of these Guidelines. The Standard Agreement shall encumber Program funds in an amount sufficient to fund the approved Project, subject to limits established in the NOFA and consistent with the application. The Standard Agreement shall contain, but not be limited to, the following:
- (1) a description of the approved local Project and the permitted uses of Program funds;
 - (2) requirements for the execution and, where appropriate, the recordation of the agreements and documents required under the Program;
 - (3) the Recipient's responsibilities for completion of the Project, including, but not limited to, number of units to be assisted, marketing, Program loan processing and funding, construction monitoring and disbursement, report submissions, file documentation;
 - (4) manner, timing and conditions for disbursement of Program funds to Recipients;
 - (5) provisions relating to the placement on or in the vicinity of the homeownership Housing Development project site, a sign indicating that the Department has provided financing for the Project. The Department may also arrange for publicity of the Project in its sole discretion;
 - (6) remedies available to the Department in the event of a violation, breach or default of the standard agreement;
 - (7) requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the project or local program and all books, records and documents maintained by the Recipient in connection with the local program and the local program individual Program loans;
 - (8) special conditions imposed on a case-by-case basis as part of Department's approval of the Project;
 - (9) terms and conditions required by federal or state law; and
 - (10) other provisions necessary to ensure compliance with the requirements

of the Program.

- (e) Prior to the disbursement of Program funds for a homeownership Housing Development, the Department shall enter into a monitoring agreement with the Recipient requiring the Recipient to comply with Program requirements. The monitoring agreement shall contain, but not be limited to, the following:
 - (1) requirements regarding the establishment of a reuse account for the deposit of loan repayments, including interest and principal, and the requirements for disbursement of funds from the reuse account;
 - (2) the plan for servicing of the Program loans as prepared by the Recipient to be reviewed for approval by the Department;
 - (3) the plan for the reuse of Program funds as prepared by the Recipient to be reviewed for approval by the Department;
 - (4) requirements for submittal of an annual report on a form provided by the Department;
 - (5) remedies available to the Department in the event of a violation, breach or default of the monitoring agreement;
 - (6) requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the Program and Project books, and all records and documents maintained by the Recipient in connection with the reuse account and long term loan servicing; and
 - (7) other provisions necessary to ensure compliance with the requirements of the Program.

- (f) All homebuyer Program loans originated by a Recipient for a homeowner Housing Development shall be evidenced by the following documents and provisions, models of which may be provided by the Department:
 - (1) A promissory note evidencing the Program loan, payable by the homebuyer to the Recipient in the principal amount of the Program loan and stating the terms and rate of interest of the Program loan consistent with the requirements of the Program. The Recipient is and shall be prohibited from assigning their beneficial interest under the note.

- (2) The note shall be secured by a deed of trust, or other appropriate security instrument acceptable to the Department, on the homebuyer property naming the Recipient as beneficiary. This deed of trust or other appropriate security instrument shall be recorded in the official records of the county in which the unit is located and shall secure the Recipient's financial interest in the project.
- (g) Awards of Housing Development funds for the acquisition of real property by a redevelopment agency pursuant to Section 104 (c) shall be governed by agreements, instruments and other documentation sufficient to ensure proper security for the Program loan and compliance with the requirements of Section 105(e), as determined by the Department.
- (h) Grants for Infrastructure Projects shall be governed by a standard agreement or other agreement with the Recipient in a form prescribed by the Department. The agreement shall ensure that the provisions of Section 105(e) of these Guidelines are applicable to the Project covered by the agreement and enforceable by the Department. The agreement will contain such other provisions as the Department determines are necessary to meet the requirements and goals of the Program, including but not limited to the following:
 - (1) a description of the Project and the sources and uses of funds to finance the Project;
 - (2) a schedule for completion of the Project and a series of milestones for progress toward Project completion together with the remedies available to the Department in the event of the failure to meet such milestones;
 - (3) a schedule of and the conditions for the disbursement of Program funds;
 - (4) provisions for the completion of the Housing Development(s) which qualified the Project for the award of Program funds. The Housing Development shall be regulated by an agreement with a public agency ensuring that the Program requirements for use and occupancy by lower income households at affordable rents or housing costs are met.
 - (5) provisions for the payment of prevailing wages if and as required by state or federal law;
 - (6) requirements for periodic reports from the Recipient on the construction and use of the Project and provisions for monitoring of the Project by the Department;
 - (7) requirements for segregated accounts for Program funds and the maintenance of books, records and documents for the Project. The Recipient

shall permit the Department or its designated agents and employees to inspect the Project all books, records and documents maintained by the Recipient in connection with the Project; and

- (8) Remedies available to the Department in the event of a violation, breach or default of the agreement.