Multifamily Housing Program (MHP) Guidelines
Summary of Comments and Responses

30-DAY PUBLIC COMMENT PERIOD (January 11 through February 11, 2019)

June 21, 2019

This document summarizes public comments received by the Department of Housing and Community Development (HCD) on draft guidelines for the Multifamily Housing Program from January 11, 2019 through February 11, 2019, and provides HCD's responses to those comments.

Written or verbal comments were received from the following parties:

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Stakeholder Comments	Department Response
Section 7301: Definitions	
NPH & SAHA – Define "Rural".	"Rural Area" is defined in the Uniform Multifamily Regulations, which apply to MHP. No change has been made.
PATH – Add a definition of "Supportive Housing Unit" to make clear that Supportive Housing Units are serving people previously experiencing chronic homelessness.	A definition of "Supportive Housing" has been added to Section 7301, for clarity.
Shelter – Provide a uniform definition of "(Comprehensive) Case Management Services". Furthermore, given the Guidelines' requirement of a 1:20 Case Manager ratio for Supportive Housing units (Section 7302(f)(6)), it is important that "Case Manager" be defined so as not to be confused with other service roles that are distinct in nature and function (e.g. "Resident Services Coordinator").	Definitions of both terms have been added.
Section 7301(a): Definition of Affordable Rents	
SJ – Align with the California Tax Credit Allocation Committee's (TCAC's) definition of "Affordable Rents". If MHP will not fund units above 60 percent AMI, this will exacerbate the difficulty in funding deals with these units. This is especially true as cities' former 20 percent redevelopment funds that are repaid and recommitted to new developments have the same restriction on use under HSC. HCD	Proposition 1 limits MHP assistance to units restricted at 60 percent AMI and below. Also, please note that the guidelines exclude units restricted at levels above 60 percent are from scoring calculations, to avoid disadvantaging projects with these units.

could potentially avoid financially disadvantaging projects that are following TCAC's rules by creating bifurcated scoring for deals where all units are below 60 percent AMI, and those that include units over 60 percent AMI, so that the latter are scored differently and have more of an even playing field with lower targeted projects.	
Section 7301(d): Definition of Chronically Homeless	
CE – The definition of "Chronically Homeless" should allow for the rehabilitation of units occupied by documented formerly homeless households who met the definition at time of intake to count under this definition as the MHP SH regulations have done. Include persons receiving Veterans Affairs Supportive Housing (VASH) rental assistance to meet the Chronically Homeless criteria.	The definition has been revised consistent with this comment. VASH recipients are not necessarily chronically homeless. No change has been made.
CSH – Change throughout references to "Chronically Homeless People" to "People Experiencing Chronic Homelessness" and change the term within this definition to "People Experiencing Chronic Homelessness". Remove paragraph (4). Receiving assistance from the VASH or Supportive Services for Veterans programs is not good policy. Unless making exceptions for all receiving public assistance, including veterans receiving assistance from the VA implies veterans are "more deserving" than other populations.	The suggested change has been made. Agreed, suggested change made. Homeless veterans can qualify under the other categories in this definition. Those who are receiving VASH assistance but who are not homeless should not be treated as chronically homeless.
DRC – There is a concern that the expanded definition could result in supported housing and similar programs serving fewer people with disabilities, or could permit programs to select homeless people	It is unclear how an expanded definition would adversely impact people with disabilities. No change has been made.

without disabilities who are perceived as easier to serve. If HCD adopts these proposed changes, it should also monitor the effect of such changes for at least two years to ensure people with disabilities are not negatively affected. HCD should also adopt specific requirements and procedures to monitor whether programs are complying with the required accessibility and integration provisions.	HCD recognizes the need to monitor compliance with program requirements, in general.
Sections 7301(d) & (l): Definition of Chronically Homeless & Homeless	
Eden, Mercy, MidPen, MOHCD, NPH, & RCD – The definitions of "Chronically Homeless" and "Homeless" should line up with other programs. To the extent that they conflict with other HCD programs (e.g. VHHP or NPLH), MHP should defer to those already established definitions instead.	The changes made increase the alignment with other state and federal programs. To the extend differences remain, the most restrictive requirement applies.
Eden has many properties in their portfolio that currently have set-asides for homeless or chronically homeless households. If they seek to rehabilitate or redevelop one of these projects using MHP funds, they request the ability to use these existing units to qualify for MHP funds under the Supportive Housing project type regardless of the length of tenancy of the current tenant. Their view is that these units still serve a homeless or chronically homeless population, even if they will not immediately be available to the Coordinated Entry System.	Agreed, language has been added that results in residents of existing projects being treated as persons experiencing homelessness or chronic homelessness if they were so upon initial occupancy.
Additionally, Eden requests striking "Receiving assistance through the VA-funded homeless assistance programs" from the guidelines.	Agreed, for the reason cited in the response to CSH's comment, above.
Mercy and NPH add that for projects involving the redevelopment of existing supportive housing, formerly homeless households currently housed in supportive housing should continue to be considered homeless for purposes of qualifying for the new replacement housing.	Agreed, the guidelines have been revised to allow redevelopment of projects restricted to persons experiencing chronic homelessness.

MidPen adds the following to the definition of "Homeless": *Households who were experiencing chronic homelessness as defined in 24 CFR 578.3 prior to living in housing originally meant for the United States Army, Navy, or Air Force that was transferred to a homeless services provider through the Base Realignment and Closure Act of 1990 (BRAC).*	Under the revised definition, this housing would qualify if the existing tenants were experiencing "Homelessness" upon initial occupancy.
Section 7301(e): Definition of Disabled Household	
CSH – Change the definition to "People with Disabilities". Clarify that people with sensory disabilities and other disabilities are included in this definition by stating people or household members with diagnosed physical or sensory disabilities who require special care or accommodations in the home should be included. Refer to people with developmental disabilities as people with intellectual and developmental disabilities. Include people with all behavioral health disorders who are eligible for publicly funded programs or treatment due to such a disorder.	This definition has been deleted, as the extensively revised definition of "Special Needs Populations" makes it unnecessary.
DRC – Amend the definition of "Disability", and use accurate terms when referring to individuals with specific types of disabilities. DRC suggests the following language: *"Disability" means any disability, including mental or physical disability, that limits a major life activity, including a disability that falls within the definitions in Sections 12926 and 12926.1 of the Government Code or Section 11135 of the Government Code, or*	See response to preceding comment.

within the definition of "disability" used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336).	
Section 7301(f): Definition of Coordinated Entry System (CES)	
MOHCD – The definition of Coordinated Entry System (CES) should recognize that referrals for the VASH program must be made in coordination with the VA.	Section 7302(f) has been revised to allow for direct referrals by the VA, where the local CES is not involved in this process.
Section 7301(h): Definition of Eligible Households	
Law Offices of Patrick R. Sabelhaus & PDG – Include households with incomes up to 80 percent of AMI, which will enable use of Income Averaging as allowed under federal law as well as the Qualified Allocation Plan (QAP) of the CTCAC for Low-Income Housing Tax Credit (LIHTC) projects.	Proposition 1 restricts MHP assistance to units restricted to 60 percent or below. Projects with units restricted at higher levels are eligible, however.
Section 7301(h) & (w): Definition of Eligible Households & Definition of Restricted Unit	
BRIDGE – This change is particularly important to the financial feasibility of acquisition/rehabilitation projects with existing tenants who may be low income but are above 60 percent AMI. For this reason, and overall flexibility considering TCAC's accommodation for income averaging, BRIDGE supports the proposed policy that ensures that units between 60 percent AMI and 80 percent AMI are excluded from relevant scoring sections so that the projects containing these units are not disadvantaged in the scoring system.	The final guidelines retain the exclusion of units restricted at levels above 60 percent from being considered as restricted, for purposes of application scoring.
Section 7301(k): Definition of Frail Elderly	

CCRH & CHIP – Under current scoring criteria, the "Frail Elderly" qualify as a "Special Needs Population" for receipt of application scoring points. However, the definition of a Special Needs Population explicitly excludes able-bodied seniors who are not frail. CCRH adds to amend the definition of Special Needs Population to include the non-frail elderly who wish to age-in-community and will inevitably experience frailties.	The Department continues to believe that it is worthwhile to encourage sponsors of senior projects to include units for the frail elderly, persons experiencing homelessness, or other special needs populations, so has not revised the guidelines to include seniors as a special needs group. However, modifications have been made to the scoring system will make senior projects more competitive, if they include a modest number of units for homeless seniors. In addition, senior projects of all types are likely to be more competitive due to the existence of the senior set-aside required by statute.
SCMRF – The definition is too narrow and will exclude many frail elderlies (1. They live outside of a Program of All-Inclusive Care for the Elderly (PACE) service area, 2. They live in a county with no Multipurpose Senior Service Program (MSSP) site, 3. They live in a county that does not participate in the Assisted Living Waiver program, 4. They do not qualify for Medi-Cal, and therefore cannot receive In-Home Supportive Services (IHSS), and/or 5. They have already moved into an institutionalized care setting). Under IHSS, it is difficult to obtain eligibility for 20 personal care hours per week and still be able to live independently, especially at an advanced age. A person receiving 20 or more personal care hours per week is considered "Severely Impaired". Revise the definition in Section 7301(k)(3) to require 12 or more personal care hours per week under the IHSS Program. Expand the definition to include persons with two or more chronic conditions, as verified by a doctor to make the definition of frail elderly inclusive of those who do not qualify for Medi-Cal.	The intent here is to define a population that is essentially nursing home eligible, and therefore needing specialized housing coupled with substantial services. Individuals who qualify for 12 personal care hours per week under IHSS do not necessarily meet this intent. There are also many seniors with multiple chronic health conditions in this same category. The Department recognizes that there are individuals who are sufficiently frail to need specialized housing but who not qualify for the listed public programs due to their income levels and similar considerations, and is open to expanding this definition to include them in the future, if a reliable method for qualifying them can be identified.

Shelter – In order to meet the definition of “Frail Elderly”, an individual must be age 62 or older. Consider the inclusion of the Home & Community-Based Services (HCBS) waiver as an eligible program type to determine eligibility under the “Frail Elderly” definition. By including 62 as the age limit, this would align with HCD’s definition of a Senior project. The HCBS will serve a similar population, and address similar needs as the Assisted Living Waiver, PACE and IHSS programs.	The Home and Community Based Services Waiver has been added to the list of waiver programs that qualify individuals for frail elderly status
Section 7301(l): Definition of Homeless	
CCRH & CSH – Refer to the HUD definition of “Homelessness” (24 CFR Section 578.3). Change language of the Guidelines to “People Experiencing Homelessness”, rather than “Homeless”. The inconsistency between existing HCD programs’ definition of homelessness and this definition may make it difficult to administer effectively. CCRH adds that “Homeless” includes “Chronically Homeless” and “Homeless with a Disability”.	The definition has been revised consistent with this comment. The guidelines are consistent with this comment, although they do not call out “Homeless with a Disability” as a separate category.
CE – The definition of “Homeless” should allow for the rehabilitation of units occupied by documented formerly homeless households who met the definition at the time of intake to count under this definition.	Agreed, the definition has been revised accordingly.
CHIP & PSHHC –	

HCD should adopt the definition used in the VHHP Program that is based on the federal Continuum of Care (CoC) definition. PSHHC suggests adding the following language: *"Homeless" means the same as defined under the federal CoC Program, at 24 CFR 578.3, as may be amended and renumbered from time to time. "Homeless" includes "Chronically Homeless" and "Homeless with a Disability"*.	The definition has been revised to point to the now-standard federal definition. See response to above comments.
MOHCD – The definition of "Homeless" should include individuals or households who have become homeless while getting treatment at a Residential Care Facility for the Chronically Ill (RCFCI).	People who become homeless upon exiting a RCFCI are eligible under the existing definition. No change has been made.
Section 7301(s): Definition of Rental Housing Development	
CCCD – Rescind Section 7302(a) and revise 7301(s) of the Draft Guidelines that will prevent Limited Equity Housing Cooperatives (LEHCs) from qualifying for MHP funding. Section 7302(a) stipulates that projects must include a "Rental Housing Development" as defined by Section 50675.2 of the HSC; HCD should remove this section or amend it such that it explicitly includes LEHCs.	The cited provisions do not render limited equity housing cooperatives ineligible. No change has been made.
Section 7301(w): Definition of Restricted Unit	
AH, Law Offices of Patrick R. Sabelhaus, & PDG – To be consistent with TCAC's Regulations and Section 42 as amended, Restricted Units should also include 80 percent AMI units.	Proposition 1 limits assistance to units restricted at 60 percent AMI and below. However, projects with units restricted at higher levels are eligible.

Law Offices of Patrick R. Sabelhaus & PDG add to include units restricted at incomes up to 80 percent of AMI under the definition of "Restricted Unit" for purposes of program scoring and similar calculations. Including units up to 80 percent AMI will acknowledge the ability to use Income Averaging as allowed under federal law as well as the QAP of CTCAC.	Units restricted at levels above 60 percent continue to be excluded for purposes of scoring. The Department believes this will actually advantage these projects, rather than disadvantage them. E.g. affordability will be scored excluding the least affordable units.
CE – CE understands that the Restricted Unit definition is created to exclude units over 60 percent AMI. CE shares the Department's concern that this will incentivize higher income units.	The Department has not revised this provision but will monitor its impact and consider adjustments as appropriate.
CHPC – Adopt HCD's proposal for excluding units between 60 percent AMI and 80 percent AMI from "Restricted Unit" definition, which excludes them from relevant scoring sections.	The final guidelines are consistent with this comment.
Integrity – Integrity states that this language should be modified to allow for the use of income averaging with some units restricted at levels above 60 percent AMI but overall affordability at less than or equal to 60 percent AMI.	The guidelines do not preclude projects from including higher income units.
Section 7301(x): Definition of Special Needs Populations	
CE – Inclusion of single parent households and teenage parents in this section as occupancy criteria should meet fair housing requirements.	Agreed. The revised definition no longer specifically calls out these groups.
CHC –	

Expand the definition to include all populations that are considered Special Needs in TCAC Regulations (Section 10325(g)(3)).	The revised definition is modeled after the TCAC definition.
CHPC & PSHHC – Revise the definition of “Special Needs Populations” to include non-special needs seniors or allow non-special needs senior developments to score competitively for MHP funding. CHPC adds to impose a cap of 20 percent of MHP funds per round for non-targeted senior housing. PSHHC adds that under current scoring criteria, the “Frail Elderly” qualify as a “Special Needs Population” for receipt of application scoring points. However, the definition of a Special Needs Population explicitly excludes able-bodied seniors who are not frail. We urge HCD to amend the definition of special needs population to include the non-frail elderly who wish to age-in-community and will inevitably experience frailties that would otherwise qualify them as a special-needs population under current rules.	Senior developments already benefit from a set-aside, and the Department continues to believe it beneficial to provide encouragement for these developments to include units for the frail elderly, persons experiencing homelessness, or some other less well served population. No change has been made to this definition.
CSH – Eliminate "Persons at Risk of Homelessness" from the definition. It is extremely hard to define. Include people experiencing homelessness or chronic homelessness in the definition. TCAC includes people experiencing homelessness as a special needs category, and supportive housing falls under the TCAC category of special needs housing. Alternatively, adopt the TCAC definition of special needs. Change “Survivors of Physical Abuse” to “Survivors of Domestic Violence, Sexual Assault, and Human Trafficking.” The category of	Agreed, this category has been eliminated. Persons experiencing homelessness were included in the originally proposed definition, and are called out as an eligible group in the revised definition. The definition of homelessness explicitly includes persons experiencing chronic homelessness. This change has been made.

"Survivors of Physical Abuse" is too narrow and should be broadened. Clarify "Displaced Teenage Parents" and include teenage parents who are living in overcrowded households, couch surfing, or experiencing homelessness in the past year.	This group is not specifically identified in the revised definition. The Department is open to considering arguments as to why it should be included, in connection with a specific project proposal.
DRC – Units with features accessible to people with mobility and vision or hearing disabilities must be prioritized for people with disabilities as outlined in Section 7324(e)(see below), but should not, without some additional restriction, qualify a project as "Special Needs."	Agreed, including accessible units does not qualify a project as serving a special needs population. The definition has been revised to not consider persons with a disability generally as a special needs population but, similar to TCAC, continues to include individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental disabilities, serious mental illness or substance abuse disorders; and individuals with HIV. The Department acknowledges that it may need to directly address accessibility issues under MHP and other programs, and that it would be desirable to do so in a uniform fashion, across programs. For now, it is deferring to TCAC on this subject. TCAC rules, including those requiring prioritizing of units with special design features for persons needing those features, will apply to nearly all MHP projects, so the policy objectives associated with this and similar comments will be realized, without any revisions to the guidelines. One of the reasons for deferring action on this subject is that the Department wishes to avoid duplicating TCAC's work in this area, and to avoid inconsistent interpretations of TCAC rules.
Eden – The definition of Special Needs should match the CTCAC definition, with the addition of Frail Elderly and Farmworker. The new definition	Agreed, for the most part. The revised definition is based on the TCAC definition, plus the frail elderly and agricultural workers. It does not

of Special Needs seems particularly broad and may present Fair Housing issues.	include those with chronic health conditions, due to the vagueness of this category.
LA – Broaden the definition of Special Needs to include victims of domestic violence and people with criminal records. In reference to including Frail Elderly as a "Special Needs Population", skilled nursing facilities and assisted living communities are a very different type of housing that needs its own dedicated sources of funding and specific regulations. Table this issue and continue to prioritize MHP funds for low-income families and the formerly homeless.	Survivors of domestic violence are now explicitly identified. The Department is open to considering arguments as to why those whose only qualifying characteristic is a criminal background should be included, in connection with a specific project proposal. By including the Frail Elderly, the Department does not believe it has opened the door to licensed SNF or RCFE facilities. Its intent is to encourage apartment complexes that rely on PACE or similar programs to provide the health and personal care services needed by frail elderly residents. No change has been made.
PEP – Add "Elderly Persons with Chronic Illness" or "Elderly Persons" as a "Special Needs Population". The way scoring is done under Section 7320(b)(2) awards points to those quality as a Senior and a Special Needs Project (or frail senior). By only awarding points to applications that qualify as large family, special needs (which only includes frail seniors), supportive housing or at high risk, the Department discriminates against regular senior housing and unfairly gives more weight to large family housing and the other categories.	Most people living with a chronic illness do not need special housing, so this is not included as a special needs population. As described above, given that seniors already benefit from a set-aside, and to encourage projects that address the needs of harder to serve seniors, such as the frail elderly and homeless seniors, the Department sees no need to designate them as a separate special needs population. The scoring criterion identified in the comment has been eliminated, which expands the universe of senior projects that will be competitive.
Shelter – Broaden the description of "Survivors of Physical Abuse" to go beyond physical abuse by using the term "Survivors of Physical, Sexual and/or Emotional Abuse."	This definition has been revised to include survivors of domestic violence, sexual assault and human trafficking. The Department would be open to

Add two populations: “Survivors of Human Trafficking” and “Frequent Users of Public Health and/or Mental Health Services”.	considering arguments for including related categories, such as emotional abuse, in the context of specific project applications. The revised definition also includes frequent users, to align with local public health efforts.
Unknown (oral comment) How do you define persons at risk of becoming homeless? Would seniors who pay more than 30 percent of their income on housing be considered at risk of becoming homeless?	The revised definition no longer references “at risk of homelessness,” for the reason identified in CSH’s comment, above.
Section 7301(y): Definition of State Median Income (SMI)	
Integrity – Specify that you mean a family of four.	This definition has been deleted, consistent with revisions to the section on scoring affordability.
Section 7302(a): New Construction or Rehabilitation of a Rental Housing Development	
Integrity – The definition of “Rehabilitation of a Rental Housing Development” should be changed to “Substantial Rehabilitation”.	The Department does not want to preclude all projects that do not require substantial rehabilitation; e.g. one that qualifies as At High Risk and is in good physical condition. No change has been made.
Section 7302(b): Use of Tax Credit Equity	
CE – Clarify the “including the full amount of any tax credit equity generated by the Project” language. Is the intent of this language to limit the hybrid tax credit structure? Is this intended to limit scattered	The intent of this provision is not to limit hybrid or scattered site projects, but simply to preclude diverting tax credit equity to a development that is not part of the MHP project. No change has been made.

site projects? There may be unintended consequences to this change.	
Section 7302(d): Eligibility of 9 Percent Tax Credit Projects	
CCRH, Mutual Housing, & PSHHC – Increase the flexible use of MHP funds for all non-Supportive Housing projects with 9 percent tax credits.	Given the large oversubscription in the 9 percent tax credit program, the availability of tax-exempt bond cap, and the need to prioritize MHP resources, the Department chooses to limit the use of MHP resources to projects utilizing 4 percent tax credits. This will leverage and maximize untapped 4 percent equity in California and ensure that MHP projects are ready to proceed to construction. Because of these considerations, the final guidelines eliminate use of MHP with 9 credits entirely. The Department is confident that supportive housing projects will still be successful. In the current Supportive Housing MHP round, 15 of 17 qualified applications were viable with 4 percent credits, and supportive housing projects can still utilize 9 percent credits through the No Place Like Home, VHHP, or Housing for a Healthy California Program. Nonetheless, the Department will monitor the results and may revisit this issue in subsequent rounds.
CE – MHP should be permitted to be combined with 9 percent tax credits for all projects. The reduced loan limit will be enough of an incentive for developers to use 4 percent credits instead. 9 percent projects will use few MHP dollars and a small amount of MHP may be the last sliver of funding to make a project feasible, especially in areas without much local funding. If MHP can only be combined with Supportive Housing, clarify whether it is the intent of the Department that projects meet the TCAC requirements for Special Needs Housing under 10325(g) or	Same as response to CCRH + above.

whether the intent is to meet the requirements for Homeless Assistance under TCAC section 10315. The language should be clarified to allow MHP on the 4 percent component of a project submitted to TCAC as a hybrid.	For the reasons cited in the response to the above CCRH + comment, the final guidelines do not allow MHP to be used on 9 percent projects, so clarification is unnecessary. Clarification on hybrid projects has been added to Section 7318.
CSH – Allow developers to access MHP and 9 percent credits in projects that include a significant percentage of units set aside for people experiencing homelessness who have incomes at or below 20 percent of AMI and do not need intensive services to remain stably housed.	See response to CCRH + comment above.
NPH – NPH supports prohibiting 9 percent Projects from accessing MHP except for those that qualify for TCAC Non Profit Homeless Set Aside.	See response to CCRH + comment above.
PH – Reconsider allowing projects that do not benefit from a Qualified Census Tract (QCT) or Difficult Development Areas (DDA) 130 percent basis boost to combing MHP with 9 percent credits. Projects without this basis boost are often infeasible as 4 percent tax credit projects.	The 9 percent program is consistently over-subscribed, so it is unclear why MHP should made available to increase the level of over-subscription. No change has been made.
Section 7302(e): Eligible Project Types	
CEDC – Would a non-special needs family project be able to score points for providing services to the residents? Is this funding source applicable	To be eligible, a project needs to fall into one or more of the project type categories described in this section. To have a realistic chance of being

for projects that do not have special needs or homeless designated units, but that serve very low and low income households?	funded, potential applicants need to consider the scoring criteria described in Section 7320. The Department expects that a variety of project types will end up receiving funding.
CHC – The scoring criteria under Sections 7320(b)(2) and 7320(b)(4) should be incorporated into these threshold requirements.	7320(b)(4) has been deleted, which essentially makes project type a threshold, as suggested. The Department is unsure of the volume of applications that will be able to obtain the maximum possible score under 7320(b)(2) and believes that there may be acceptable applications that do not score highly in this category. For these reasons, it has not made the qualities awarded points under 7320(b)(2) threshold requirements.
Freebird – The Department should eliminate the project types and rely on advancing its programmatic priorities through the scoring alone. That means that should there be enough funding, a project that does not necessarily meet one of the project types could still be funded.	Previously, MHP followed this approach, with outcomes essentially the same as same as if project type had been made a threshold requirement; virtually all successful applications received the maximum possible score under the "project type" criterion. The Department expects the same pattern would hold for new funding, and thought it more straightforward to make these matters threshold requirements. No change has been made.
PH – Allow relief from CES referral requirement if CES takes too long to make referrals. Do not require holding units vacant for extended periods.	A provision has been added allowing filling Supportive Housing units with qualified tenants from other referral sources if CES does not make a referral within 60 days.
The Unity Council – The Unity Council states that requiring projects to align with a specific housing type is inconsistent with 4 percent tax credit requirements and will exclude many excellent projects from utilizing MHP funds.	Available program resources are insufficient to fund all meritorious projects.
Section 7302(e)(1): Eligible Large Family Projects	

AH – HCD should phase in this change and only require this of new projects entitled in 2019 or later. Requiring this of all projects will disqualify projects that were entitled in 2018 and are further along in their readiness thus closer to beginning construction.	The Department expects demand for relatively ready projects meeting this requirement will be very high, particularly since the requirement matches that used for the 9 percent tax credit program. It is unclear what public policy goal would be furthered by delay.
BRIDGE – The unit mix requirement raises concerns in jurisdictions where three-bedroom apartments are challenging to lease-up, especially at 50 and 60 percent AMI where single-family home product type is comparably priced. Regional differences in demand for larger unit types should also somehow be accommodated. A suggestion is to remove the two-bedroom requirement and lower the threshold for the percentage of three-bedroom units, but incentivize projects that include two-bedroom units and more than the threshold three-bedroom requirement by awarding additional points. An example: Projects are awarded for the number of units provided with two, three, or more bedrooms. Family projects are required to include a threshold minimum 15 percent of three+ bedroom units. - X additional points will be awarded for each 20 percent of units that have two bedrooms. - X additional points will be awarded for each additional 5 percent of units with three bedrooms or larger (above the minimum threshold).	The Department did look at demographic data to see if the program should place less emphasis on large households, or if this emphasis should vary by geographic area. It found that there continues to be large numbers of large poor households in all areas of the state, and therefore did not reduce the initially proposed requirement (which puts less emphasis on three-bedroom units than the historic MHP standard). Although vacancy rates in existing Department-funded large family projects are quite low, the Department acknowledges that the market for large higher AMI units in some areas may be thin. Applicants can address this issue by limiting the number of higher AMI units, or targeting areas with stronger markets, such as the high resource areas encouraged under the guidelines.
BRIDGE supports the reliance on criteria that encourages income integration, especially for children. The concern of including a threshold requirement of 20 percent of the total units restricted at levels above 60 percent AMI is that there is often a limited market for units above 60 percent AMI in High Segregation and Poverty areas.	Whereas 70 percent and 80 percent AMI rents may not be achievable in all High Segregation and Poverty tracts and MHP cannot assist units above 60 percent AMI, the department is concerned about creating funding gaps with this rule and for now has deleted the requirement for higher income units in areas of high segregation and poverty. However,

Given the ongoing gentrification trends in urban areas, BRIDGE proposes that family projects in high-density urban areas that are located in a High Segregation and Poverty census tract adjacent to moderate, high or highest resource areas according to TCAC be eligible under MHP.	it remains interested in this concept and may revisit the issue in future rounds, particularly if the CalHFA Middle Income Program is opened up to MHP projects. Achieving economically diverse neighborhoods, particularly for families with children, is a major policy goal of the Department.
CCRH, CE, CHC, CHPC, Eden, Mercy, MidPen, MOHCD, Mutual Housing, NPH, PSHHC, & Shelter – HCD should not adopt the 20 percent of units at higher than 60 percent of AMI requirement. CE adds that it would be better to incentivize high resource neighborhoods rather than penalize low resource neighborhoods. These units will be difficult to market creating additional issues for private lenders. Eden adds that this requirement forces projects to income average, a tool that is new, not well understood, and can be difficult to execute for many project sponsors. Additionally, rents above 60 percent AMI may not be supportable by a market study in these areas, forcing sponsors to forego MHP funds on those units even if they will end up serving a similar population. While Mercy is fine with using the “Opportunity Maps” as carrots in metropolitan areas to incentivize development in areas with more resources, they disagree with the sticks of disallowing new development in areas that have been left behind because local opportunities are not revealed through Census-level data analysis. New affordable housing can help revitalize depressed areas and can help stabilize areas at risk of gentrification and displacement. Also, while market rents are high in many California markets now, that has not and will not always be the case and rents higher than the 60 percent AMI level may not be marketable. Lenders/investors may	See response to BRIDGE comments above.

also balk at structuring mortgages based on underwriting at those rent levels because of concern for the longtime feasibility of the project. As well, these units would not be eligible for MHP funding, creating a higher feasibility gap. MOHCD adds that MOHCD's 20-year investments in Hunters View, Alice Griffith, Potrero and Sunnydale neighborhoods subscribe to a mixed income model on a neighborhood-wide basis, rather than building by building. NPH adds that rents above 60 percent AMI may not be feasible in these areas, forcing sponsors to forego MHP funds on those units even if they will end up serving a similar population. Shelter adds that while there are indeed benefits for low-income families with children to be integrated with higher income households, the need for affordable housing at all income levels is of even greater importance. Developers should be permitted to propose a project with all units below 60 percent AMI.	
CHC – For large family projects, MHP should have more flexibility than the 9 percent tax credit in order to meet the unique housing needs in some communities, particularly in high cost areas and for projects replacing old public housing stock. Modify this section to require at least 10 percent of the units have three or more bedrooms, and at least an additional 25 percent have two or more bedrooms.	As noted above, the demographic data reviewed by the Department indicated continuing high need for three-bedroom units, throughout the state. For this reason, it has not made further reductions in the required number of three-bedroom units. For future rounds, it would be happy to review additional data on this subject.
Eden – HCD should remove the specific requirement for three-bedroom units, instead requiring Large Family projects to have 50 percent of the unit mix be two-bedroom or larger. There is a smaller demand for three-bedroom and larger units in many of the municipalities.	See response to CHC comment above.

Adjusting this requirement would allow more flexibility in defining the unit mix while maintaining the emphasis on family housing.	
Freebird – Large family projects already have a powerful financing source in 9 percent LIHTCs. 4 percent LIHTC projects historically have had greater flexibility in unit mix since they did not need to include 25 percent three or more bedrooms. Since MHP is intended to fund 4 percent LIHTC projects only, 4 percent LIHTC projects will no longer have this flexibility.	Compared to the historic MHP rules, the new guidelines place substantially less emphasis on three-bedroom units. For example, to achieve a perfect score under the old rules, which was typically required to receive an award, a project with 25 percent two-bedroom units would need over 32 percent of the units to have three or more bedrooms. Under the new guidelines, this same project would need only 25 percent of the units to have three or more bedrooms. See also the response to a similar comment from CHC, above.
Integrity Housing – Should allow request to program director for exceptions to the large family unit mix requirement for a rehabilitation project. In low AMI counties, the requirement for Opportunity Area Maps would put these projects in significant disadvantage as: 1. Rent levels for +60 percent AMI units may very well not be greater than max 60 percent AMI allowable rents and 2. These 20 percent + units would not currently be eligible for funding under this program, resulting in a potential loss of 20 percent + of potential funds.	Rehabs without sufficient two- and three-bedroom units to qualify as a Large Family project may be able to qualify under one of the other project type categories. No change has been made. As noted above, the requirement for units restricted at levels above 60 percent has been deleted, at least for now.
LA – There is a concern about any unintended consequences that would limit housing choice and/or limit much needed investment in under resourced areas that are gentrifying. Rather than prohibit 100 percent affordable, large family housing in lower-income areas, provide additional resources to incentivize the construction of affordable housing in higher opportunity/higher resource areas. To achieve this goal, allow large family projects in	As noted above, the requirement for units restricted at levels above 60 percent has been deleted, at least for now.

high opportunity areas to combine MHP funds with 9 percent tax credits. This would assist in offsetting the cost of the higher land values in high opportunity areas and provide some financial incentives for developers. There should be a higher threshold for large family projects that goes beyond the proposed 25 percent three-bedroom suggestion. Incentivize projects with more three- and four-bedroom units through the scoring criteria.	The Department appreciates the data provided by the commenter to support their position, showing a high continued need for large family units in Los Angeles, and a disproportionately low number of existing affordable large family units. Given this situation, it would not be unreasonable for local funding agencies in this area to encourage developers to exceed the minimum requirements established in the guidelines.
Law Offices of Patrick R. Sabelhaus – If units in excess of 60 percent AMI are required then, consistent with our comment that the definitions of "Eligible Household and "Restricted Unit" should include units at 80 percent AMI, there should be some assistance available for such units.	As noted above, the requirement for units restricted at levels above 60 percent has been deleted, for now.
MBS – Creating a point allocation for the percentage of units that are three-bedroom or larger and two-bedrooms, so that family needs can be addressed in a variety of unit type combinations, with a minimum three+ bedroom standard. For example, the threshold minimum requirement could be for a minimum of 15 percent three-bedrooms (or larger) units, with an additional minimum of 25 percent two-bedroom units. Additional points could be earned by the addition of two-bedroom or larger units (or an equivalent three+ bedroom units), which would provide developments the flexibility of meeting local needs and ensure an adequate supply of units for large families. In addition to the unit mix issue, the requirement that large family developments located in TCAC identified High Segregation and	The census data reviewed by the Department suggests that there continues to be a high need for large units, throughout the state. Without more evidence to the contrary, it does not believe it appropriate to further reduce the emphasis on these units. As noted above, the requirement for units restricted at levels above 60 percent has been deleted, for now.

Poverty areas must include at least 20 percent of the total units either not restricted or restricted at levels above 60 percent AMI must be combined with appropriate subsidy requirements. Typical underwriting by institutional permanent lenders and tax credit investors typically requires that units above 60 percent of AMI be underwritten at 60 percent of AMI in affordable housing developments located in the identified areas primarily due to market concerns. This reduces the amount of conventional financing that can be leveraged in these areas. In addition, while these units are not restricted, construction costs will require the use of State Prevailing Wages. The resulting costs are not covered by the typical market rate rents or the restricted 60 percent AMI in these areas. As a result, units in these areas will be at an economic disadvantage when determining financial feasibility for these projects. If this requirement is maintained, the MHP funding amounts will need to be adjusted to allow for units above 60 percent AMI located in High Segregation and Poverty areas be eligible for MHP funding at an amount equal to the 60 percent AMI level. If the mixed income requirement is maintained, without proving adequate resources for units above 60 percent AMI, the Department is effectively redlining neighborhoods that are most in need by reducing the amount of resources available to these communities and requiring developments that will have greater levels of financial gaps when compared to other locations. Moreover, this requirement may conflict with local redevelopment plans that place an income level cap on certain neighborhoods.	
MOHCD – Large Family projects should not be defined so narrowly. There should be more flexibility into the MHP definition while maintaining emphasis on families by defining Large Family as projects that have at least 50 percent two or more bedrooms. This is consistent with	See above responses to similar comments. The census data reviewed by the Department did show a continued high need for large units in the San Francisco Bay Area. The Department would welcome the opportunity to

MOHCD's local policy to encourage family-sized units with at least 40 percent of the units having two+ bedrooms, and a better fit with local demand that is higher for two-bedroom than three-bedroom units. HCD should align its occupancy standards with those of TCAC. For a three-bedroom unit, HCD requires four-person minimum while others require only three-person. This can create an equity issue for displaced households who previously qualified for a three-bedroom unit but under HCD only qualify for a two-bedroom, and also results in higher costs to develop.	review additional data on this subject, to guide future guideline adjustments. This issue is not addressed by the MHP guidelines.
NPH – Large Family projects should not be defined as narrowly as the TCAC 9 percent program since MHP should apply to a broader set of projects, especially in localities where demographics suggest there is less demand among families for the larger three-bedroom units. NPH proposes to build more flexibility into the MHP definition while maintaining emphasis on families by defining Large Family as projects that have at least 50 percent two or more bedrooms.	See above responses to similar comments. The census data reviewed by the Department did show a continued high need for large units in the San Francisco Bay Area. The Department would welcome the opportunity to review additional data on this subject, to guide future guideline adjustments.
PDG – Reference units up to 80 percent AMI.	Units restricted at levels above 60 percent may be included in MHP projects.
SCANPH – The existing threshold requirement creates an environment for redlining. To prevent redlining and to ensure project feasibility, SCANPH requests that HCD delete the second requirement that sets AMI to 60 percent.	As noted above, the requirement for units restricted at levels above 60 percent has been deleted, at least for now.
SHE –	

SHE disagrees with requiring large family projects in “High Segregation and Poverty” areas to include 20 percent of the units at higher that 60 percent AMI levels. The inclusion of units above 60 percent AMI may not coincide the TCAC scoring for affordability. The income averaging approach with 20 percent of the units above 60 percent AMI could result in at least the same amount or more units at 30 percent AMI to offset the higher rents.	See response to SCANPH comment above.
SJ – The definition of "Restricted Units" includes only units with incomes and rents at or below 60 percent AMI. However, the definition of Large Family units in areas defined as having "High Segregation and Poverty" requires 20 percent of the units to be unrestricted or above 60 percent AMI. This requirement will exacerbate the difficulty in funding deals with these units. See comment above for Section 7301(a) Affordable Rents.	As noted above, the requirement for units restricted at levels above 60 percent has been deleted, at least for now.
The Unity Council – The definition of the large family housing type noted in the section promotes an inefficient and ineffective unit mix. Reduce or eliminate the three-bedroom requirement from the large family housing type.	See response to NPH comment above.
Section 7302(e)(2): Eligible Special Needs Projects	
MOHCD – HCD might consider adding another Special Needs category to align the locally established Public Housing Administrative Plans with MHP.	The guidelines, as written, allow the Department to consider proposals for other categories of special needs populations, beyond those specifically enumerated.
Mutual Housing –	

Award all senior projects full points as Special Needs Projects, even without having 25 percent for seniors who otherwise qualify as Special Needs residents.	The Department continues to believe that it is worthwhile to encourage sponsors of senior projects to include units for the frail elderly, persons experiencing homelessness, or other special needs projects, so has not included seniors as a special needs group in the final guidelines. However, modification have been made to the scoring system will make senior projects more competitive, if they include a modest number of units for homeless seniors.
NPH – NPH supports this definition.	No response necessary.
Section 7302(e)(3): Eligible Senior Projects	
CHIP, CSH, Integrity, MOHCD, & NPH – Change the age category for seniors to 55. Lowering the age would position the state to pair service programs and resources with MHP senior projects. CSH adds that they are hoping the state takes advantage of federal changes to services programs that target older adults who are homeless at age 50-55. Lowering the age would position the state to pair these services resources with MHP senior projects. Integrity adds that exception should be allowed for a senior rehab project with existing age restriction of 55, as there may be a large number of existing residents between the ages of 55 and 62 who may be displaced or cause a project to not qualify. May also want to consider that the 62 age limit would apply to new residents. NPH adds that Senior projects that include Supportive and/or Special Needs Housing should be available to residents who are 55 years of age or older since homeless/frail seniors are often younger than 62 years.	The minimum age requirement has been reduced from 62 to 55, for Supportive Housing and Special Needs projects, and for occupied buildings where 55 has been the requirement.

Section 7302(e)(4): Eligible Supportive Housing Projects	
AH – In order to adequately plan for and provide adequate case manager office space in affordable developments, increasing Restricted Units to 20 percent of the total.	The Department agrees that providing adequate case management is difficult for projects with a small number of supportive housing units, and for that reason the guidelines require at least 10 units of this type. The Department is interested on additional feedback on this standard, especially from those with practical experience with projects with a limited number of supportive housing units.
CE, MidPen, NPH, & SAHA – The minimum number of Chronically Homeless units should be only 5 units (not 10 units) because 10 units would be an undesirably high concentration in smaller projects. CE adds that for Supportive Housing they recommend 15 percent and a minimum of 5 units to meet this criteria. NPH and SAHA add that larger projects (over 67 units) would effectively still have a minimum of 10 units with the 15 percent requirement.	See response to previous comment.
CHC – For supportive housing projects, we recommend striking the requirement for a minimum of 10 units.	See response to previous comment.
CSH – Require a project to include 25 percent units of Supportive Housing, or 12 units, whichever is higher, to be considered a Supportive Housing project. Supportive Housing projects tend to have higher retention rates when a service provider stations a dedicated case	See response to previous comment.

manager onsite. However, doing so is not feasible in projects that do not have at least 15 units of Supportive Housing. While we could support 12 units of Supportive Housing as a minimum, 15 percent of a project's units, or 10 units, is providing incentives for affordable housing developers to create Supportive Housing, but disincentives for those developers to offer quality supportive housing. It is also inconsistent with the requirements of Assembly Bill 2162.	
Novin – Considering rising construction costs, are there any considerations being made at this stage that would allow MHP funds to be more readily paired with 9 percent tax credit deals (outside of providing 15+ percent of units as Supportive Housing)?	The Department expects demand to be more than adequate, without opening the 9 percent door.
PH – Suggest that 25 percent (instead of 15 percent) Supportive Housing Units be restricted to Chronically Homeless.	See response to AH comment above.
SCMRF – It is unclear whether the HUD-Veteran Affairs Supportive Housing (HUD-VASH) units would count as supportive housing under the proposed guidelines. Clarify that HUD-VASH units do qualify as Supportive Housing under MHP guidelines.	VASH units qualify provided that they are occupied by veterans experiencing Chronic Homelessness. The Department advises applicants to confirm with the VA that they will be able to make referrals of sufficient veterans meeting this requirement.
SJ – SJ concurs with the definition of Supportive Housing of at least 15 percent of Restricted Units, and not less than ten units, being restricted to occupancy by homeless individuals. This percentage fits the types of projects in San Jose, which may include both a relatively	No response needed.

low percentage of PSH units as well as Rapid Rehousing Units for non-chronically homeless. The term "High-Acuity Households" needs to be defined.	Explanatory language has been added.
Section 7302(e)(5): Eligible At High Risk Projects	
CE, MOHCD, & NPH – The At-Risk additional characteristics are confusing. CE adds that what seem to be incentives for for-profit developers are particularly confusing. Is the intent to incentivize non-profits purchasing such properties from for-profit owners? MOHCD adds that it supports direct alignment with TCAC in this section. NPH adds that to the greatest extent possible, MHP should use the same definitions as in already established programs.	This section has been substantially revised. Hopefully it is less confusing now. The guidelines have been revised to limit purchasers to nonprofits. The guidelines build on TCAC's requirements, but narrow the field to projects where research has shown the risk to be significant. They are based on a statistical analysis of the factors associated with opt-outs, identified by UC-Berkeley researchers.
LA – LA strongly supports expanding the use of MHP funds for the at-risk projects. Require additional public discussions to better assess the "High Risk" characteristics, level of rehabilitation, cost and occupancy limits.	See response to CE, MOHCD & NPH comments, above.
Section 7302(e)(5)(A)(ii): Eligible At High Risk Projects	
CHPC & MidPen – Eligible properties should be those that are: 1) currently owned by for-profit entities or by nonprofits that own three or fewer affordable properties; and 2) under contract to be purchased by a nonprofit	Agreed. The final guidelines incorporate these revisions.

purchaser who meets the definition of a Qualified Purchaser under Section 65863.11 of the California Government Code or that have already been acquired by a Qualified Purchaser. Rather than FMR, weighted average current rents should be measured against HUD's Small Area FMR's for the project area. Further, eligibility should be expanded to properties whose weighted average current rents are less than or equal to 90 percent of the weighted average SAFMR.	
TSA – This section specifies that contract rents must be no greater than 75 percent of the HUD Fair Market Rents (FMRs). HUD Section 8 contract rents are not determined based on FMRs but are based on rent comparability studies. Is the intention here to disallow At Risk project based section 8 to access Prop 1 funds?	The intent is to identify projects where contract rents are arguably below market. The UC-Berkeley study mentioned above found that this was a statistically valid indicator of opt-out risk.
Section 7302(e)(5)(A)(iii): Eligible At High Risk Projects	
CHPC & MidPen – Revise this section to include properties where all recorded affordability covenants have expired or will expire within two years.	The revised guidelines do consider all affordability covenants.
Section 7302(e)(5)(B)(i): Eligible At High Risk Projects	
CHPC – To ensure consistency with subsection (A), eligible properties without federal assistance should also not be subject to restrictions from financial assistance that cannot be unilaterally removed. Allow the same TCAC exception for properties purchased and held by nonprofit organizations with interim financing that became subject to long-term	Agreed, the revised language requires both federally-assisted and other projects to not be subject to restrictions, and creates an exemption for projects recently acquired by nonprofits.

recorded regulatory agreements, pursuant to TCAC Section 10325(4)(B)(iv). Eligible properties without federal assistance should be under contract to be purchased by a nonprofit purchaser who meets the definition of a Qualified Purchaser under Section 65863.11 of the California Government Code or that have already been acquired by a Qualified Purchaser.	Agreed, this provision has been added.
Section 7302(e)(5)(B)(ii): Eligible At High Risk Projects	
CHPC – The Department's calculation of ability to pay off existing debt should use HUD Small Area FMRs (SAFMRs) rather than FMR's.	Agreed, SAFMRs provide a better estimate of market rents. This change has been made.
Section 7302(f): Eligible Supportive Housing Projects	
NPH & SAHA – The experience should not be limited to projects where the units are specifically restricted to homeless. Regulatory agencies requiring homeless set-asides is a relatively recent trend and many long-established Sponsors have been housing and supporting homeless households without a required set-aside. This is particularly important for sponsors serving senior populations, as projects serving seniors will need to elect to be classified as either Supportive or Special Needs housing to be competitive, and experienced sponsors of senior housing should not be discouraged from adding homeless units by this requirement.	Agreed, this provision has been revised to count experience in units without restrictions, if the sponsor can document that they have been serving the target population.
NPH adds that referrals for Supportive Housing units should not be limited to the local CES if other agencies are equally valid and may even be more appropriate (for example, homeless vets are usually referred by the VA, especially when utilizing VASH).	The guidelines now allow direct referrals from the VA. The whole point of having coordinated entry systems is to ensure consistency in prioritizing tenants, so no further revisions have been made. That said, it is recognized that not all CESs may be referring people to supportive housing, so the guidelines only mandate their use if they are doing this.

PH – Do not be too prescriptive in implementing 7302(f), which quotes the statutory requirement for "specific physical features that accommodate disability...."	Agreed.
SMC Housing – For projects outside of SF and LA, which set aside funding for supportive services in supportive housing projects, how would you like applicants to demonstrate the substantial supportive services, case management, etc., and do you have expectations about how projects will pay for those on site services (as opposed to services which may be provided by the county's service agency)?	The Department agrees that services funding is difficult to obtain in many areas. It suggests that applicants reach out to local service providers that have access to the available funding streams. In some cases, it may be possible to capitalize a reserve to be used to support this activity.
Section 7302(f)(1): Eligible Supportive Housing Projects	
Shelter – "Substantial supportive services" is ambiguous verbiage. The Guidelines should instead use the more specific and tangible term "comprehensive case management services." The qualifier "on-site" should be added to the beginning of this phrase. HCD should include a timeframe within which the two years' experience must have occurred (e.g., two years within the last ten).	Agreed with all three points; the guidelines have been revised accordingly.
The Guidelines should establish the standard by which HCD can judge project eligibility. Therefore, HCD should clearly delineate in the Guidelines the type, level, and location of services that were intended by the term "substantial supportive services."	The Department would be open to considering adding more specificity regarding services requirements in the future, particularly if this could be done in a manner that allowed for ready monitoring of commitments made at the application stage. Specific suggestions of how to do this would be welcome.
Additionally, the term "supportive services" is often considered in the affordable and supportive housing world a catch-all term that encompasses services beyond case management, i.e., employment services, health care, mental health, child care, etc. Case	Agreed, the language on case management has been tightened.

management is the one common denominator in housing projects and thus should be considered a basic eligibility criterion. Establish a minimum number/percentage of units restricted for occupancy by homeless individuals or families in order for a sponsor to count a qualifying project for experience purposes. Without a threshold unit count or percentage, projects with as few as 1-2 units could qualify for Supportive Housing experience. In such a scenario, assuming the other units are for the general tenant population, it is likely that such a building would not even have "Substantial Supportive Services." Setting a threshold would be consistent with the current unit restrictions (15 percent of total units or minimum of 10 units) outlined in the Guidelines for proposed projects to be considered Supportive Housing.	Agreed, the guidelines have been revised to require 10 units.
Section 7302(f)(3): Eligible Supportive Housing Projects	
Shelter – HCD should move the definition of "Comprehensive Case Management" to the definitions section of the Guidelines, while retaining the use of term in this section. HCD should add "On-Site" to "Comprehensive Case Management." HCD should clarify what is meant by "Tenant-Based Housing Assistance Program" by revising the wording as follows: "*Tenant-based housing assistance program in which case management services are on site and ongoing rather than time-limited in nature*." Additionally, to avoid confusion, the same minimum number of projects should be required for experience threshold purposes for tenant-based projects as for site-based projects, namely, two each.	Agreed; revisions made. A minimum has been added. Since tenant-based assistance may be spread out over many developments, this minimum has been expressed in terms of units, not projects.

By including "on-site," the Guidelines will establish a clear, measurable service standard rather than allowing for ambiguity. Tenant-based housing assistance programs range in type from rapid re-housing programs in which time-limited case management services are provided, in some cases for as few as 3 months, to VASH and Shelter Plus Care (now CoC Program) where services are ongoing and of indefinite duration. Not taking this wide variation into account will likely undermine, not support, the intentions of the Guidelines in this section. Regarding number of qualifying tenant-based projects for experience threshold purposes, the way the Guidelines currently read, a Lead Service Provider (LSP) would need experience with two site-based projects, minimally, whereas an LSP would only need experience with one tenant-based project. That discrepancy is likely not intentional but could have unintended consequences.	Agree, "on-site" has been added, and services are required to be "ongoing."
Section 7302(f)(4)(B): Eligible Supportive Housing Projects	
PATH – There are two challenges to this language. First, operating subsidies managed by local housing authorities do decline applicants for certain criminal behavior that may or may not be related to tenancy. Second, owners of mixed populations will be at a greater risk for Fair Housing Complaints if it implements different screening criteria for the Supportive Housing applicants than other applicants. To manage these challenges, Case Management staff works closely with the applicants moving from homelessness to prepare a reasonable accommodation requests to appeals an initial rejection, and subsequently be accepted. PATH recommends including an exception for applicants rejected by third-party public agency providing the operating subsidy.	An exception has been added for public rental assistance programs that exclude those with criminal history.

SHA – For mixed population buildings, HCD should clarify that tenant screening criteria related to credit and criminal history may be applied to allow for consistent standards in the same building, but that property management must consider and accept reasonable accommodations requests to overturn a denial for people experiencing homelessness.	If the end result is that prospective tenants are not rejected based on criminal history, the Department would consider this requirement satisfied.
Section 7302(f)(5): Eligible Supportive Housing Projects	
DRC – Fill vacancies for Supportive Housing units with referrals of Chronically Homeless or high acuity households from the local CES, where this system is actively referring households to supportive housing. This process must comply with the requirements a proposed new subsection specifying occupancy priorities for fully accessible units.	See response to DRC comment on Section 7301(x).
Eden & MidPen – Need broader language on requiring referrals from the local CES to allow for other equally valid systems when appropriate (e.g. homeless vets are usually referred by the VA, especially when utilizing VASH).	See response to Mercy, etc. comment above.
Mercy, MOHCD, & SAHA – Referrals for Supportive Housing units should, in addition to CES, be allowed through the VA.	This subsection has been revised to allow referrals directly from the VA, where they are not using a local CES. Agreed, the revised guideline allows referral to be accepted from other sources if the local CES fails to make a referral within 60 days.

In addition, Mercy recommends allowing a blended Resident Selection Criteria to allow for use of CES and a waitlist if units cannot be filled within a certain period of time by the CES system.	
Section 7302(g): Integration of Persons with Disability	
BRIDGE – BRIDGE supports this policy objective to incentivize integration, but asks that the metric for measuring integration be more distinct or clear, but be a point scoring category only, not a threshold category. In terms of clarity, and by way of example, the first metric reads, "Physically integrating Assisted Units restricted to disabled persons with other units and not separating them onto separate floors". If a project has 100 units, and is located in an infill setting with more than 5 stories, which is common in the larger metropolitan areas, to be a Supportive Housing Project type at least 15 percent or 15 units would need to be restricted to chronically homeless individuals and families. To qualify as integrated, would each floor need an equal proration of supportive housing units? BRIDGE's request is that the requirement of how units are integrated across floors is specific so that the design accurately reflects the requirement.	This section has been revised to be consistent with a similar TCAC provision, and to reference federal standards on this subject.
CSH – CSH generally supports the policy of integrating people with disabilities with people without disabilities. Clarify that other sources of funding can serve other units beyond the 49 percent of units by eliminating the word "total" in reference to units. Also, clarify that HCD funds that support operating subsidies, such as HHC and the CESH programs, could be used in units not funded by MHP, and exceed the 49 percent limit.	The Department agrees that units not restricted by "Department Funding Sources" may be restricted by other sources, beyond the 49 percent limit, and with the language as drafted. The specification of which Department funding sources trigger this requirement, found in 7302(f), excludes operating subsidies.

DRC – Special Needs and Supportive Housing Projects must demonstrate integration of targeted disabled populations with the general public. Amend Section 7302(g): (1) *Physically integrating Assisted Units restricted to persons with disabilities with other units, and not separating them onto separate floors. These units shall be distributed throughout projects and shall be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other people without disabilities.* (2) *In Projects with more than 10 units, have no more than 25 percent of total units restricted to occupancy by disabled populations by Department programs. This limitation shall not be interpreted to preclude occupancy of any Project Units by persons with disabilities, or restrictions by other funding sources, including but not limited to TCAC, that result in more than 25 percent of total Project Units being restricted to persons with disabilities. It shall also not apply to projects complying with alternative requirements for demonstrating Olmstead compliance adopted by counties and approved by the Department.*	For consistency, the revised guideline tracks TCAC's language for integration. The cited CFR section in the revised guideline incorporates the commenters point about giving persons with disabilities the same choice of living arrangements as persons without disabilities. The 49 percent limit is an attempt to balance the goal of integration with that of producing significant numbers of units for persons with disabilities. The Department understand the perspective of those who prefer lower percentages and greater integration, but is believes persons with disabilities are better served by higher production levels than this would entail. No change is proposed.
MidPen – Clarify the definition of the special needs that must be integrated. In the case of physical disabilities, site and building constraints may limit where ADA accessible units are placed, whereas distribution of units serving residents with mental health disabilities would not have the same types of constraints.	The revised language provides the flexibility necessary to address the needs of different populations, and to avoid the extreme costs that may be required to make units accessible in all areas of all developments.

SCANPH – Clarify that developers can set aside units for people with disabilities above the 49 percent threshold, so long as using other non-HCD dollars to do so, and thereby take out references to "total units." If a jurisdiction is unable to meet this requirement than they should be required to demonstrate to the State how they are meeting it in an alternative way - such as using a stacking chart to demonstrate leverage of other state or local county funding sources.	The guidelines limit only units restricted by "Department funding sources," which are now more clearly specified.
Furthermore, section 7302(g) should have an added clarification as item 7302(g)(3) (similar to section 7302(h)(3)), that states: "Department Programs" include funds awarded to individual Projects by the Department or the Strategic Growth Council, but not state or federal funds provided by the Department to local agencies and subsequently awarded to individual Projects."	In part to avoid treating projects differently just because they are located in different jurisdictions, the Department is choosing to draw the dividing line between "Department Funding Sources" and other funding sources based on the overall nature of the program, rather than on the entity that happens to make funding decisions. Thus HOME is considered to be fundamentally a non-HCD source rather than a Department one, as the Department role is limited to administrating limited HOME dollars in select jurisdictions. Similarly, No Place Like Home is classified as a Department source, even in Alternate Process counties, because it is primarily a state program, which happens to be administered by local jurisdictions in only a few areas.
Section 7302(g)(1): Integration of Persons with Disability	
Unknown (oral comment)-- The steep topography of certain development sites is such that, in order to meet our required number of ADA accessible units, they all have to be on the first floors of specific buildings. Fully accessible units for disabled persons cannot be provided on every floor. Would a reasonable accommodation allowance be considered?	This is an example of a situation where flexibility may be warranted in locating accessible units. The revised language is intended to address situations like this.
Section 7302(g)(2): Integration of Persons with Disability	
CCDC –	

Clarify and/or include in 7302(g)(2): Only VHHP units designated as Chronically Homeless or Homeless with a Disability count as "restricted to occupancy by disabled populations by Department programs." VHHP restricted units that are not designated as Chronically Homeless or Homeless with a Disability do not count towards the percentage restricted to disabled by Department programs.	The Department agrees that VHHP restrictions that do not require occupancy by people with disabilities do not trigger this provision. This seems clear from the language as written, so no change has been made.
CCRH & PSHHC – Clarify references to "Disabled Populations" and ensure maximum flexibility (does this refer to physical, mental, and/or developmental disabilities, or does it apply to the specific populations targeted in HCD programs, like NPLH and VHHP?). This appears to blend Olmstead issues with programmatic issues. In a jurisdiction that has Article 34 authority, why could we not say VHHP on 49 percent and NPLH on another 49 percent?	The Department believes the reference to "units restricted to occupancy by people with disabilities by Department Funding Sources" is sufficiently clear. The intent is to promote integration of people with disabilities with the general population, while respecting differing approaches taken by other funding sources. Any restriction to a population of people with disabilities counts. For example, some groups listed in MHP's "Special Needs Populations" definition fall into this category, such as individuals living with serious mental illness, while others do not, such as families in the child welfare system who need housing to reunify, or persons experiencing Homelessness.
CSH CSH generally supports the policy of integrating people with disabilities with people without disabilities. Per a webinar comment that developers must segregate populations to meet Americans with Disability Act requirements, CSH is aware of any requirements that would require a developer to segregate populations by floor; just the opposite. Further, CSH recommends clarifying that other sources of funding can serve other units beyond the 49 percent of units by eliminating the word "total" in reference to units. CSH also recommends clarifying that HCD funds that support operating subsidies, such as Housing for a Healthy California and the California	The Department is unclear why use of the word "total" is an issue, as the idea behind this provision is to limit the proportion of units restricted by Department programs to people with disabilities in the entire development, and "total" seems to be consistent with this idea. The definition of "Department Funding Sources" in 7203(h) now makes it clear that operating subsidies alone do not trigger the 49 percent limitation.

Emergency Solutions and Housing programs, could be used in units not funded by MHP, and exceed the 49 percent limit.	
MOHCD – MOHCD would like to know more about alternative requirements for demonstrating Olmstead compliance.	The Department recognizes that there may be more than one way to satisfy Olmstead requirements, and is open to considering alternatives backed by appropriate legal and factual analysis. It does not have any particular alternative in mind, at this point.
PATH – Should the reference to disabled populations in this section refer to the defined term "Disabled Household"?	The defined term has been deleted. The exact way populations of people with disabilities are characterized varies by program, so the Department thought it would be less confusing to avoid the overlay of an additional definition.
PH – It is unclear what this means. Instead of 49 percent of total project units being restricted only MHP assisted units or HCD funded units will be restricted to 49 percent disabled populations?	The calculation involves counting all the units restricted to occupancy by persons with disabilities by the named programs, then dividing this number by the total number of units in the development. For example, if the development has 100 units, MHP is restricting 20 to persons experiencing Chronic Homelessness (which by definition requires a disability) and NPLH is restricting another 25 to persons with serious mental illness, the equation is (20 + 25) / 100 = 45 percent. Restrictions imposed by local funding or tax credits do not count.
Unknown (oral comment) -- It looks like HCD will be requiring no more than 49 percent of all units for people with disabilities. Whereas NPLH allows for a developer to provide SH in all units using other funding sources, this appears to be more restrictive. It could significantly complicate projects getting tax credits and other funding sources, some of which (like Prop HHH in LA) require at least 50 percent set aside for people experiencing	This provision only limits units subject to restrictions requiring occupancy by people with disabilities under the named state programs. It does not limit units restricted under Prop HHH or the LIHTC program.

chronic homelessness. Clarify that the 49 percent applies to assisted units. The language, though, for integration refers to "total units."	
UP Development – Clarify if a project can have 49 percent of units be restricted to Special Needs and funded by MHP funds and an additional 49 percent of units be Supportive Housing units funded through another HCD source. If so, assuming all units except the manager's unit are considered Restricted Units per the California UMR guidelines, how would the maximum allowed loan be calculated for MHP funds?	Some of the special needs categories recognized under MHP qualify as disabilities, while some don't, so an initial step would be to determine which MHP units counted, based on the specific restrictions. A second analysis step would be to determine which of the other HCD source units counted, again based on the specific situation – whether they require occupancy by persons with a disability. The 49 percent limit would apply to the sum of counts determined in these two steps. MHP's per-unit loan limits would be applied to all "Restricted" units in the development, including those not limited to people with disability.
Section 7302(h): Multiple Department Funding Sources	
BRIDGE – BRIDGE recommends that special consideration be given to projects that reflect the State's priority to address homelessness and have a significant percentage of units set aside as Supportive Housing Units that serve homeless persons. In an environment with scares operating subsidy, the high operating costs associated with such service-enriched projects, and extremely low income means that these projects typically need to carry reserves to cover for operating deficits. We would ask HCD to reconsider limiting multiple Department funding sources on the same assisted units for these projects. This is particularly relevant to the NPLH program that includes a Capitalized Operating Subsidy Reserve (COSR). Projects that are competitive for NPLH COSR funding should also be able to apply for capital funding under MHP.	The Department agrees that Supportive Housing generally requires more resources than other housing types. In recognition of this, the revised guidelines offer increased loan limits for Supportive Housing units, among other things. The revised guidelines now clearly exclude operating subsidies, consistent with comment.

Furthermore, BRIDGE asks for the following clarifications: - Identify which program funds are included in "projects originally developed with Department assistance and now being re-syndicated".	This provision has been replaced by a hopefully clearer statement, at the end of subsection (h).
BRIDGE, CE, CHC, CHPC, MidPen – Clearly define "other funding sources". BRIDGE adds to identify which program funds are included in "Department funding sources". It is unclear whether NPLH funds provided to Alternate Process Counties and then awarded to individual Projects are considered a non-Department funding source. CE adds to provide additional clarification of which sources are allowed to be layered with MHP. For example, is it only the HRI/STI/TRA AHSC grants that can be layered? Would NPLH noncompetitive funds or NPLH funds awarded to an Alternative Process County fall under the exception for "state or federal funds provided by the Department to local agencies?" If AHSC funds are assisting 49 percent of units but have Standard Agreements covering 100 percent of units could those units be layered with MHP? Would State HOME be considered as "Department Funds?" CHC adds to clarify that "Department funding sources" does not include funds from HOME, CDBG, the National Housing Trust Fund, NPLH, or SB 2 funds. MidPen adds that given the priority on Supportive and Special Needs housing, which is difficult to make feasible without operating subsidies or capitalized reserves, they urge MHP to permit subsidy stacking for Supportive and Special Needs units, particularly to allow units to receive capitalized operating subsidy from programs like NPLH.	"Department Funding Sources" – the ones to which the limitation applies – are now more clearly listed. The final guidelines consider all NPLH funds to be Department Funding Sources. The revisions to this subsection are intended to address questions like this. Only those programs specifically listed in the revised version of this guideline are included. The revised provision exempts capitalized operating subsidy reserves. Also note that the loan limits applicable to Supportive Housing have been increased. Hopefully the revised guideline provides the necessary clarity.

MidPen also adds to provide a clearer definition regarding which sources are excluded from the stacking rules. In particular, which portions of the AHSC funding are excluded from the stacking rule? All but the direct housing component should be allowed, which would be consistent with the IIG exclusion. Also, HOME CHDO funds should also be excluded and not treated differently from HOME funds which go directly to Cities and Counties.	
CCRH, CHIP, & Mutual Housing – Allow multiple HCD funding sources on units and move to a universal application. CCRH adds that this prohibition should especially be eliminated in targeted rural regions of the state where local resources are limited.	The Department has significantly increased loan limits in MHP and intends to in other programs as well. Allowing stacking of these higher loan limits on a unit would result in unpalatable HCD support per unit. HCD uses a universal base application for its multifamily programs. The Department is cognizant that other funding sources are more limited in rural areas, and will consider modifications to the program design as necessary to make feasible sufficient projects in rural areas.
CE – CE disagrees with the prohibition against layering, particularly when such layering is restricted to 49 percent of the units. Layering could be useful in many situations, for example allowing homeless units to request a NPLH COSR when rental subsidy is not available.	The revised guidelines exempt COSRs from this restriction.
CHPC – CHPC requests to allow MHP assisted units to also benefit from COSR funding under NPLH.	Same as response to CE comment above.
Eden – Allow subsidy layering with the Joe Serna, Jr. Farmworker Housing Grant Program in addition to AHSC and IIG.	To address feasibility issues for Serna projects, the Department intends to seriously consider increasing loan amounts under this program, as compared to historic levels.

Also, allow subsidy layering on Special Needs and Supportive Housing units given the amount of subsidy necessary to make such units feasible.	See responses to similar comments above.
Law Offices of Patrick R. Sabelhaus & PDG – NPLH should be excluded from the definition of Multiple Department Funding Sources. Supportive Housing units are by nature costlier and should be eligible for additional assistance. Exclude federal HOME and CDBG funds from the definition of Department Funding Sources contained in this Section. Including these funds in the definition of Department Funding Sources will undermine basic project feasibility in many cases, and will also disadvantage projects including these funding sources for purposes of the Leverage points under Section 7320(b)(5).	See responses to similar comments above. HOME and CDBG are excluded, as these are primarily federal programs.
Mercy – The current loan limits are not sufficiently high enough to avoid needing multiple sources of funding. The restriction on HCD sources particularly limits those projects in jurisdictions that do not have additional local funds. Additionally, restricting the ability to layer inhibits the goal of integration of special needs and supportive housing projects by limiting the access to funds earmarked for these populations, such as NPLH and VHHP. HCD should consider creating a layering policy which allows a primary and secondary HCD sources to work within the same unit. The secondary source could be capped at a fraction of the per unit limit allowed by the program. With limited local resources in many jurisdictions, projects will find themselves $50,000-$100,000 per unit short even with HCD's new per unit limits.	The Department expects demand for the program, as structured, to significantly exceed available resources. There is not enough money available to make every project feasible.
MidPen & NPH –	

Permit subsidy stacking for Supportive and Special Needs units, particularly to allow units to receive capitalized operating subsidy from programs like NPLH.	The revised provision exempts capitalized operating subsidy reserves. Also note that the loan limits applicable to Supportive Housing have been increased.
MOHCD – Permit subsidy stacking up to half of the gap required to complete the development of permanently supportive housing.	See response to previous comment.
NPH – NPH encourages HCD to research other ways to provide a COSR for homeless units in MHP projects.	The revised provision exempts capitalized operating subsidy reserves. Also note that the loan limits applicable to Supportive Housing have been increased.
PSHHC – Eliminate this prohibition, especially in targeted rural and low-density regions of the state where local resources are limited. Instead, to minimize administrative complexity and costs, over-subsidization, and delays to the Department and sponsors, devise a universal application that enables sponsors to submit one application for multiple programs for a single development.	The Department is committed to making the program work in rural areas, and agrees that a more coordinated application process for multiple programs is something to work towards.
RCD – There is a number of cases where streamlining project development and financing with fewer layered sources is not feasible. For example, there are project applications that have recently been submitted for specific funding sources, such as state HOME and NPLH that are still	The Department expects demand for the program, as structured, to significantly exceed available resources. There is not enough money available to make every project feasible.

relying on a larger funding component through the upcoming MHP program in order to complete their respective financing packages. Higher loan limits and/or layering of programs will still be necessary to enable project feasibility, particularly given the disparity in local funding availability across jurisdictions. This requirement could also disproportionately stall projects that these regulations are hoping to prioritize because those projects typically require deeper subsidies and often large capitalized operating reserves, particularly in jurisdictions that do not have any rental subsidies available.	Note that the loan limits for Supportive Housing have been increased, and that capitalized operating subsidies are now exempt from the subsidy stacking rule.
SHE – This prohibition should either: 1. Be removed entirely and HCD should support a funding environment that allows maximum flexibility in determining the appropriate funding mix based on the specific needs and financial characteristics of each individual project; 2. Allow an exception for rural projects and only have the restriction apply to State funds; or 3. Allow for higher funding limits per unit for rural projects in key programs such as MHP, HOME, Serna, VHHP, and NPLH.	The Department is cognizant that other funding sources are more limited in rural areas, and will consider modifications to the program design as necessary to make feasible sufficient projects in rural areas.
Section 7303(d): Sponsor Experience Requirements	
CHIP – CHIP is a past recipient of MHP funding for a large family development. In order to qualify for the MHP funding, we needed to partner with another organization. Although grateful for that partnership, we did sacrifice some of our developer fee and we thought that our experience made us just as qualified as our partner;	The experience requirements listed in this section are minimal. We believe the commenter's issue is with the number of completed projects required to score well, under Section 7320. The relevant scoring criterion has been revised, to reduce the number of projects needed to obtain the maximum possible points in this area.

the difference was, we did not have enough complete projects in the required time period to qualify as a stand-alone developer.	
Integrity – It is unclear what 'A Joint Venture' means. In reference to the requirement 'That partner must have a controlling interest in the joint venture' – should be controlling interest of General Partner interest. In most tax credit partnerships, greater than 50 percent ownership interest is held by limited partner.	This term has a legal meaning. The Department has consistently interpreted "controlling interest" to mean control over management, rather than ownership.
Section 7304: Eligible Uses of Funds	
CHPC – Clarify that eligible uses of funds in this section refer to uses paid by MHP funds and does not prohibit other non-Department funds to pay other uses in a project's development budget.	The provisions originally proposed limiting acquisition costs and up-front land lease payments – which were intended to apply to development costs rather than uses of MHP funds, and we assume prompted the comment – were misplaced, and have been moved to a separate section on cost limitation.
Section 7304(b)(1): Eligible Development Costs	
CE – The change to limit acquisition to the actual cost of the last arm's length acquisition may negatively impact resyndications. Resyndications should be excluded from this requirement, and allow acquisition price to equal debt in this circumstance.	Agreed. This provision has been modified and moved to 7305(a).
Integrity – If property has been held for a period of time, then purchase prices, supported by 3rd party appraisal, should be allowed.	The Department has traditionally not required sponsors to absorb losses when property values have declined, or allowed profit when they have

	increased. It believes the fairest arrangement is to allow them to recoup reasonable costs. No change has been made.
Law Offices of Patrick R. Sabelhaus & PDG – This section should allow for acquisition costs for acquisition/ rehabilitation projects utilizing tax credits to not exceed the higher of the last arms-length transaction or the appraised value. This could allow for great tax credit equity which assists with feasibility and reduces the request for MHP funds.	Agreed; the treatment of this subject – now in 7305 – has been substantially revised.
MidPen & NPH – It is unclear if this limitation applies only to the use of HCD funds. If being applied more broadly, it should not limit acquisition costs to the last arms-length transaction. There are many reasons why the purchase price would need to be higher than the last arm's length transaction, including the need to acquire the property for the existing debt balances, the need to pass along acquisition interest and other holding costs incurred during the predevelopment period, and to sell the property at current appraised value to generate sufficient tax credit equity for re- syndications. MidPen adds that If HCD is concerned about sales proceeds being distributed to a related seller, HCD rules should address that directly.	See response to Sabelhaus comment above. Agreed. The revised provision, now in 7305, takes this approach
MOHCD Acquisition costs should not be limited to the last arm's length transaction. Seller carryback financing is critical to successful recapitalization of assets in high cost markets. And reliance on a purchase value that is 30 years old is not a reasonable assessment of value – it's critical that properties that have never been syndicated	See response to Sabelhaus comment above

be able to take advantage of the property value increases over the years.	
PATH – Allow flexibility for nonprofit affiliates as the reinvestment is in pursuit of its public benefit purpose.	This provision has been extensively revised, and the Department believes it fair to nonprofits and for-profits alike.
RCD – It is critical that the rules for property acquisition costs are consistent with those of TCAC's program, otherwise, the leveraging of tax credits and investor equity could be significantly restricted for certain deals. This is especially true for smaller projects and/or portfolio re-syndication projects.	See response to Sabelhaus comment above.
Section 7304(b)(4): Eligible Development Costs	
DRC – Amend Section 7304(b)(4): (4) construction and rehabilitation work, including accessibility modifications;	The Department has always considered reasonable accessibility modifications to be eligible for funding under its programs, as rehabilitation. There is no need to call them out separately.
Section 7304(b)(8): Eligible Development Costs	
CSH – In paragraph (8), allow development costs to fund health centers, including Federally Qualified Health Centers, Rural Health Centers, and Adult Day Health Centers;	Agreed, this has been added.

PH – Add health facilities as eligible costs, where needed for tenants (e.g. PACE clinics in buildings targeting PACE eligible seniors.)	See response to CSH comment above.
Section 7304(b)(9): Eligible Development Costs	
Chavez, Novin, & WHCHC – Currently, HCD's developer fee calculation disincentives affordable developers to develop larger projects and it also disincentives using HCD financing products. Developer fee is used as a last resort for cost overruns. The larger the project, the more risk to the developer. Larger projects are substantially riskier utilizing HCD financed products because under both scenarios the affordable developer can lose a substantial amount of developer fee if there are unforeseen events to the development budget. The unintended consequences are lost opportunities to develop more affordable units and inefficient use of land. Affordable Developers tend to be mission driven organizations, their goal is to develop the highest number of affordable units. However, if the risk is too great, Affordable Developers will steer towards smaller affordable developments. The unintended consequences for HCD is less Affordable Developer's willing to use HCD financed products because of the restriction of developer fee that does not mirror TCAC's developer fee calculation. Affordable Developer's will use HCD financed products as a "last resort" for gap financing. Thus, HCD will lose opportunities to restrict more affordable units because Affordable Developer's will	See responses to comments on Section 7305, which now includes revised limits on developer fee.

be more inclined to do smaller projects because of this HCD developer cap. WHCHC & Novin add that developer fees should have the same limitations as TCAC and should not be more restrictive. More-restrictive developer fees limit the amount of additional capacity at affordable housing developers and therefore limits the number of new affordable housing units that can be completed.	
Section 7304(b)(13): Eligible Development Costs	
CSH – In paragraph (13), allow developers to use funding for capitalized operating reserves in an amount greater than the initial deposit. Further, allow for a specific additional loan amount to serve people experiencing homelessness, to match the requirements and limits available to developers under NPLH. Developers list inadequate operating funding as one of the biggest barriers to creating more supportive housing and housing for people experiencing homelessness.	The Department agrees that rent / operating subsidies are key to the success of supportive housing. To maximize unit production and simplify program administration, and in light of the availability of subsidies from NPLH and other sources, it is not allowing MHP funds to be used for this purpose at this time. It will consider changing course if there are insufficient applications for this project type.
Integrity – …or greater amount as may be required by other lenders, equity investors, or regulatory agreements.	Other sources can be readily tapped to cover reserve requirements that exceed the Department's requirements.
Section 7304(c): Eligible Development Costs	
MBS – The section details that MHP funds can only be used for Restricted Units. However, if the proposed changes in Section 7302(e)(1) regarding the requirement of units above 60 percent of AMI in specific areas, the Department will be requiring unrestricted units that	The requirement for certain projects to include higher income units has been deleted, for now. Proposition 1 limits MHP funding to units restricted at 60 percent and below.

cannot be funded with necessary gap funding. The gap funding needs will be driven by the typical underwriting mandated by institutional investors and lenders that maximizes income from units above 60 percent of AMI at 60 percent rent levels. If the requirements for units in specific communities above 60 percent AMI are maintained, then the MHP guidelines should be amended to allow for funding of the mandated AMI per unit types.	
Section 7306(a): Construction Financing	
BRIDGE – Rising construction costs are pushing many projects beyond the TCAC non-taxable loan limit, thus adding meaningful costs to projects. BRIDGE encourages HCD to continue to explore support for construction financing.	The Department has explored this option in the past and found it challenging. Nonetheless, the Department is open to reviewing the matter further.
CE – The program should maintain the option to use MHP funds during construction if needed to allow for flexibility. If such an option is included, we recommend a 57-year term recorded at construction closing or that the 55-year term start at permanent loan conversion.	See response to BRIDGE comment above.
CSH – Allow program funds to be used at construction if a separate, additional lender will be doing construction monitoring. We recognize the capacity of HCD staff to monitor construction is limited. However, when other lenders are performing construction monitoring, we believe HCD capacity to monitor should not be a barrier to financing at construction.	See response to BRIDGE comment.

UP Development – Per this section, program funds can only be used as permanent financing. In other states, the use of similar funds that can be used as construction or bridge financing has allowed for projects to secure higher equity pricing for tax credits and reduces the construction loan interest attributed to development costs. Allowing more flexibility would help HCD further their mission to expand affordable housing.	See response to BRIDGE comment above.
Section 7306(c): Subordination Policy	
SJ – The permitted security for a loan should also include a leasehold deed of trust. Securing MHP only on the ground reduces the value of the land, which diminishes the ground lessor's assets, and makes restructuring more difficult in case it is needed. A similar edit to Section 7321(c) should be made, inserting "*or leasehold interest*" after the phrase "*all of the sites comprising the Project property....*"	The Department is not aware of instances where the manner in which it has secured its loan has created a fundamental barrier to appropriate restructuring. No change has been made.
Section 7306(c) & (d): Subordination Policy	
Law Offices of Patrick R. Sabelhaus & PDG – Include in this section an explicit statement that the Department will subordinate to existing USDA financing where the project is an acquisition/rehabilitation project with existing USDA financing that will be assumed.	The Department has routinely subordinated to USDA, and does not see a need to add this provision.
Section 7307: Maximum Loan Amounts	
CE	

CE supports the increase to the MHP loan limits. CE is concerned that if layering is not permitted, that the loan limits for other HCD programs will need to be increased to incentivize developers to continue their interest in and ability to use those programs. CE appreciates that inclusionary projects are treated separately by the Department. CE would also differentiate between the amount of inclusionary required by ordinance and the amount of units promised in order to obtain project approval. If a developer had promised more units, those units in addition to the minimum required by ordinance should be included in the base amount. CE also request that the 9 percent loan limit tables be applied for all inclusionary projects.	The Department understands that its current policy on subsidy stacking / layering will require larger loan amounts than it has often provided in the past, at least for so long as local resources are limited. The Department does not fully understand the comment, but believes it appropriate to limit program assistance to generate a benefit beyond that created by the local requirement, and that the revised language accomplishes this.
CHPC – Increase the base loan amount to at least $45,000 for 9 percent projects and establish maximum MHP loan amount of at least $20 million. Add a $25,000 boost to the base loan amounts for units set aside for Special Needs, Supportive and Homeless households.	The limit for Supportive Housing unit has been increased, consistent with the comment. For reasons described in responses to comments on 7302, the guidelines have been revised to preclude 9 percent projects. The per project maximum will be established in the NOFA.
Eden, MOHCD, NPH, & SAHA – If multiple HCD sources are not permitted, then the MHP loan limits must be high enough to avoid needing to layer in the other sources. This is particularly problematic for Supportive and Special Needs Units. MOHCD adds that in general, where permanent supportive housing (CES referrals, VA referrals) are getting the same Lowest Income Score as an MHP C unit, they should also have the same loan limits as the MHP C unit. (c) This additional section could apply to many project sites with Development Agreements with the City of San Francisco and is an interesting opportunity to produce lower-income serving units through inclusionary zoning. However, it's unlikely that	The limit for Supportive Housing units has been increased. In response to other comments, the MHP C income level has been eliminated, along with recognizing units restricted to persons experiencing homelessness as equivalent to MHP C units, so this comment is no longer relevant.

these projects will qualify as Large Family (or Senior) due to the minimum standards for large bedroom units and special needs units.	
Mercy – There is a concern that even with the higher per unit limits, and particularly with no layering as currently drafted, projects will face consistent and material funding gaps. It is critical that HCD either allow layering of multiple State sources or further increase the project loan limits.	The Department believes there will be more than sufficient high quality applications to utilize available program funds. If this turns out not to be the case, then some modifications may be necessary.
MidPen, MOHCD, NPH, & SAHA – It is more appropriate to incentivize new Large Family units in High Resource Areas by offering a boost in the loan limits (say $25,000 more per unit) than by granting a scoring advantage to those projects as currently proposed.	The revised guidelines reflect the boost suggested by the commenters.
Section 7307(a): Use of Tax Credit Equity	
CE – Clarify the "including the full amount of any tax credit equity generated by the Project" language as in Section 7302(b). Is the intent of this language to limit the hybrid tax credit structure? Is this intended to limit scattered site projects? We are concerned that there may be unintended consequences to this change.	The intent is not to limit hybrid structures or scattered site projects, but simply to make it clear that the full of amount of equity generated by an MHP Project must be applied towards the costs of that Project, and not diverted to some other use.
Section 7307(b): Per Unit Loan Limits	
CSH – CSH strongly disagrees with the limited loan amounts identified in this section for supportive housing. We strongly recommend increasing the loan limit on projects with 9 percent credits.	As described above, the final guidelines prohibit 9 percent projects, so this comment is moot.

Considering HCD is also restricting use of MHP for projects receiving 9 percent credits to supportive housing, this low limit disregards the inability of supportive housing developers to carry debt on a project.	
Section 7307(c): Per Unit Loan Limits for Inclusionary Projects	
CE – Differentiate between the amounts of inclusionary required by ordinance and the amount of units promised in order to obtain project approval. If a developer had promised more units, those units in addition to the minimum required by ordinance should be included in the base amount. The 9 percent loan limit tables should be applied for all inclusionary projects.	See response to CE comments on 7307.
CHC – Clarify that the inclusionary units serving as mitigation for another project's inclusionary requirements would be allowable in determining applicable loan amounts.	This subsection has been significantly revised. We do not fully understand the comment, but it may be addressed by the revisions.
LA – Expand the definition of inclusionary to include any affordable housing units required by local land use laws including but not limited to inclusionary, density bonus, transit oriented incentives programs, linkage fee units, and replacement requirements. The prohibition on MHP funding for locally required affordable housing units should exempt 100 percent affordable housing developments.	The universe of local requirements has been expanded, and this provision now exempts affordable projects, both as suggested.
Law Offices of Patrick R. Sabelhaus & PDG – This section should be deleted. Whether or not the project is subject to an inclusionary housing ordinance does not impact the project's feasibility or need for subsidy. The existence of the inclusionary	See response to Mutual Housing comment.

housing ordinance indicates a need that is being met by the project which is what the program should be trying to assist with.	
MOHCD – This additional section could apply to many project sites with Development Agreements with the City of SF and is an interesting opportunity to produce lower-income serving units through inclusionary zoning. However, it is unlikely that these projects will qualify as Large Family (or Senior) due to the minimum standards for large bedroom units and special needs units.	No response needed.
Mutual Housing – Recommend against the inclusion of the language that would limit assistance to units developed under inclusionary housing policies. It is not always the case that a local inclusionary policy provides enough financial resources to a project to ensure affordability under its ordinance.	The intent was to address situations where the local measure required units to be produced, typically at the expense of a master developer of a large development, rather than to require the contribution of funds to partially defray project costs. This provision has been revised to more clearly reflect this intent, which should address the commenter's concern.
PSHHC – Inclusionary units should be eligible for MHP financing and eliminate Section 7307(c).	See response to Mutual Housing comment.
Section 7307(d): Loan Limits Calculations	
Mutual Housing – Need clarification of what is intended under this subsection.	The Department is unclear what needs clarification.
Section 7307(e): Maximum per Project Loan Amount	
PH –	

What is the maximum loan amount that can be used to acquire an existing 20+ unit building? Can the loan amount be used as equity to obtain permanent loan financing for this affordable housing acquisition?	The maximum loan amount varies by location, unit configuration and project type, as well as how much is needed for feasibility. The application form will make it relatively easy to calculate. The MHP loan can be subordinated to hard debt, if that is what is meant by the reference to equity.
Section 7308(a): Interest Rate and Loan Repayments	
CSH – Forgive the .42 percent payment for supportive housing and other projects with significant set asides for people experiencing homelessness. This payment drives up operating costs, making it more difficult to develop supportive housing and housing for others with extremely low incomes.	The .42 percent mandatory loan payment covers Department monitoring costs.
SJ – SJ supports the proposed guideline on interest rate for MHP loans, as it mirrors the City's approach to setting interest rates and permitting above-the-line expenses that cover staff administrative costs, such as the 0.42 percent interest.	No response necessary.
Section 7308(c): Interest Rate Reduction	
CE – Pending clarification on implementing the third party verification section should be deleted. This verification should be simple and clear and low cost. The sponsor's tax professionals should be sufficient.	The Department is developing a policy on this matter, applicable to multiple programs. [Note that this provision has been moved to subsection (a).}
MidPen & NPH –	

MidPen and NPH strongly support the flexibility to permit interest rate reductions when needed for capital account purposes.	No response necessary.
Section 7311(a): Over-Income Households	
SJ – This subsection requires a unit to be redesignated as a higher-income unit before a next comparable unit is available. This particular approach may be problematic. This would very likely create an out-of-compliance situation for other public lenders, as until the next unit is available, the balance of the required AMI targeting will be different that that was approved. This provision should be amended so as not to redesignate the unit before a next comparable unit is available, so as to avoid setting up a structural non-compliance situation.	This rule has been in effect for many years, without reports of practical problems resulting from it.
Section 7311(b): Over-Income Households	
SJ – State should strive toward more consistency across funding sources. The provision in subsection (b) that permits sponsors to increase rent on over income households contradicts the State Health & Safety law for the use of former redevelopment funds. Unless local jurisdictions pass their own rules to permit a similar approach, the presence of former redevelopment funds in an MHP-financed deal will prohibit sponsors from taking advantage of this provision. The idea that every Housing Successor would need to create a similar over-income rule and have it approved is unlikely and a perhaps unreasonable expectation.	This subsection grants sponsors the authority to increase rents, but does not require them to do so. If a sponsor is bound by a more restrictive requirement, they need to follow that requirement.
Section 7312(a): Rent Limits	
Law Offices of Patrick R. Sabelhaus & PDG –	

Increase from 60 percent to 80 percent AMI.	This would be appropriate if the program assisted units at income levels above 60 percent AMI. It does not.
MBS – Maximum rent limit should be revised.	The stated maximum is appropriate for the maximum allowable income level.
Section 7312(f)(2): Transition Reserves	
BRIDGE, MidPen, MOHCD, & NPH – There is a support for reducing the size of the required transition reserve to 1 year. MidPen, MOHCD, & NPH are hopeful that future modifications will justify even further reductions, or even elimination of the reserve requirement. They also support the new language that permits rents to float up to 60 percent AMI when rental subsidy is terminated, and further request that HCD consider adopting language that permits the Supportive Housing/Special Needs targeting to be removed if needed for feasibility when the subsidy is terminated.	No response necessary. The Department has retained a consultant to assist with determining if further modifications are appropriate, based on the risk associated with subsidy termination. A provision allowing relaxation of restrictions to special needs populations has also been added. If rents need to be substantially increased, it may be impractical to retain these restrictions, as the increased rents may make the units completely unaffordable to them.
CE – While CE understands the intent of the language to allow for recommendations from a consultant on the determination of the requirement in the future, such conditional language in the interim will cause confusion and disparate implementation. Until recommendations are final, the calculation of the reserve should be set to equal the first year rental subsidy amount.	The revised language makes it clear that there would need to be a guideline amendment to modify the specified requirement. Hopefully this reduces any uncertainty.
CHPC –	

Eliminate the requirement for transition reserves for developments with project-based rental assistance.	See response to BRIDGE, etc. comment above.
CSH – Allow flexibility in transition reserves to allow local jurisdictions to offer a portfolio-wide transition reserve for supportive housing. Jurisdictions, including in San Francisco, funding operating subsidies are currently contemplating portfolio-wide reserves, and HCD should prepare for that possibility in these Guidelines.	This is one of the specific issues the consultant retained by the Department is being asked to look at.
Section 7312(f)(2) & (4): Transition Reserves	
Mercy – The risk of subsidy termination has significantly decreased and it not a concern for the majority of developments. Mercy recommends not having a jurisdiction control the reserve and not requiring an increase in the reserve after operations.	The Department is not contemplating increasing transition reserve requirements after projects have been placed in service. It would be interested in an explanation of the rationale behind the comment on local jurisdiction control.
Section 7312(f)(3): Rent Adjustment Upon Subsidy Loss	
CHPC – Adopt population transition language as provided in the TCAC Regulations Section 10337(a)(3)(B).	Agreed; the revised language comes from the TCAC regulations.
NPH NPH supports the new language that permits rents to float up to 60 percent AMI when rental subsidy is terminated, and further request that HCD consider adopting language that permits the Supportive Housing/Special Needs targeting to be removed if needed for feasibility when the subsidy is terminated.	The revisions are consistent with this comment. See response to BRIDGE, etc. comment.

PATH – PATH supports the continued department policy to allow for a change in tenant rent with the loss of an operating subsidy and the change to allow rents to rise up to 60 percent of AMI, which aligns with TCAC regulations. PATH also recommends allowing for a change in the population targeting, as lender and investor underwriting remains compromised by the ability of the current tenant population to pay a higher rent. Perhaps allowing flexibility to change to another Special Needs or high housing need category would be appropriate.	The revisions are consistent with this comment. See response to BRIDGE, etc. comment.
SCANPH – The proposed regulation change would increase rents above the levels allowed pursuant to subsection (c) if the project-based rental assistance is terminated. SCANPH requests HCD provide language that allows for population relief in addition to rent relief for Special Needs/Supportive Housing projects. As homeless and other special needs populations are likely to be unable to pay the higher rents without rental assistance, allowing a project to increase rents but requiring that the target population remain the same, may be insufficient to ensure financial viability and meet lender and investor underwriting standards.	The revisions are consistent with this comment. See response to BRIDGE, etc. comment.
SHA – As some rental subsidy programs are specific to certain populations (e.g. CoC), HCD should also allow an adjustment to the population targeted if any project-based rental assistance is terminated.	The revisions are consistent with this comment. See response to BRIDGE, etc. comment.
Section 7312(f)(4): Transition Reserves	
CE –	

The ability of the Department to adjust the amount of a transition reserve at any time creates an open ended liability that may put project feasibility at risk through additional and burdensome private lender requirements.	It is contemplated that any adjustments will be applied to projects underwritten after the time of the adjustment.
Law Offices of Patrick R. Sabelhaus & PDG – In many situations the contract rental subsidies exceed the 60 percent AMI rents. This section should be stronger and mandate that rents be allowed to increase up to the greater of the contract rent or 80 percent AMI if the rental subsidy is lost in order to maintain project feasibility.	60 percent was set as the limit because that is the maximum income limit for MHP established by Proposition 1.
Section 7315(b): Relocation Benefits and Assistance	
Law Offices of Patrick R. Sabelhaus & PDG – This section should be deleted. Section 7315(a) includes an obligation to comply with State and Federal law which should be sufficient.	The Department believes it helpful to identify the specific requirements that apply. No change has been made.
Section 7316: Construction Requirements	
DRC – Section 7316 Construction Requirements of the MHP Guidelines should set certain threshold requirements for accessible housing units. Add to Section 7316: (f) The Sponsor shall ensure that construction work for the Project meets the following requirements: (1) All new construction projects shall adhere to the provisions of either the Uniform Federal Accessibility Standards (UFAS) standards, 24 C.F.R. Part 8, or HUD's modified version of the 2010 ADA	As noted above, the Department acknowledges that it may need to directly address accessibility issues under MHP and other programs. For now, it is deferring to TCAC on this subject. TCAC rules, including those requiring prioritizing of units with special design features for persons needing those features, will apply to nearly all MHP projects, so many of the policy objectives associated with this and similar comments will be effectively realized, without any revisions to the MHP guidelines.

Standards for Accessible Design(Alternative 2010 ADAS), HUD-2014-0042-0001, 79 F.R. 29671 (5/27/14) regarding accessibility to privately owned housing made available for public use in all respects except as follows: instead of the minimum accessible unit requirements established in 24 C.F.R. Sections 8.22 and 8.23, all new construction projects must provide a minimum of ten percent (10 percent) of the units with features accessible to persons with mobility disabilities, as defined in 24 C.F.R. Section 8.22, and a minimum of four percent (4 percent) of the units with features accessible to persons with hearing or vision disabilities, as defined in 24 C.F.R. Section 8.22. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26. (2) Rehabilitation projects shall, to the maximum extent feasible, provide a minimum of ten percent (10 percent) of the units with features accessible to persons with mobility disabilities, as defined in Subsection (f)(1), and four percent (4 percent) of the units with features accessible to persons with hearing or vision disabilities, as defined in Subsection (f)(1). For purposes of this paragraph, the phrase “to the maximum extent feasible” shall not be interpreted as requiring that a Sponsor make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the Project. To the maximum extent feasible and subject to reasonable health and safety requirements, these units shall be distributed throughout the project consistent with 24 CFR Section 8.26. At least one of each common area facility type and amenity, as well as paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing the standards above. In all other respects, applicable building code will apply. Projects with particular federal, state, or local funding sources may be required to	One of the reasons for deferring action on this subject is that the Department wishes to avoid duplicating TCAC’s work in this area, and to avoid inconsistent interpretations of TCAC rules.

meet additional accessibility requirements related to these other sources. (3) Senior Projects: For new construction projects, one half of all units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of either UFAS or Alternative 2010 ADAS. For rehabilitation projects, 25 percent of all units on an accessible path (ground floor and elevator-serviced) shall be mobility accessible under the provisions of either UFAS or Alternative 2010 ADAS. All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators. These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26. (4) HCD may approve a waiver to paragraph (f) for a rehabilitation or senior project, provided that the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden. All waivers must be approved in advance by HCD. (5) Compliance and Verification: For section (f), the project architect shall provide third party documentation confirming compliance.	
Section 7316(a): Construction Requirements	
Law Offices of Patrick R. Sabelhaus & PDG – Include language allowing that where the Department finds the objectives are exceeded it will not object so long as it is necessary to meet the requirements of other funding sources (as a specific example, CTCAC has some minimum construction standard that exceed what is often typical).	The Department does not intend to object to CTCAC's construction-related requirements.
Section 7317(a): Notice of Funding Availability (NOFA)	

CE – To provide more certainty and comfort to other lenders, additional language should be added to the end of the paragraph as follows, "*and standard agreement, which shall be issued within 60 days of award.*"	The Department recognizes that timely document issuance is important to sponsors and other funding sources.
Section 7320(b): Project Selection Criteria	
CSH – Narrow the senior category to include Seniors only (without qualification as a Special Need population). Add a separate category for Supportive Housing. For households experiencing homelessness referred by CES, clarify this category could include affordable housing serving people experiencing homelessness who do not need supportive housing, particularly if including a separate category for supportive housing.	Seniors already benefit from a set-aside for senior-only projects. No change has been made. It is unclear what this would entail. The comment reflects the Department's intent, and is communicated by referring to persons experiencing "Homelessness" rather than "Chronic Homelessness."
Section 7320(a)(7): Conditions for Eligibility	
Shelter – HCD should define or operationalize "reasonably accessible." The NPLH offer one approach with which we are in agreement provided that such a definition would not disadvantage projects in rural communities. "*For services provided off-site, the plan must describe what public or private transportation options will be available to NPLH tenants in order to provide them reasonable access to these services.*	Agreed, at least with respect to special needs and supportive housing projects. This requirement has been incorporated in 7324, for these project types.

Reasonable access is access that does not require walking more than 1⁄2 mile." (Section 203) The current wording in the Guidelines does not establish a clear standard for evaluating projects in terms of reasonable access to community services and amenities, as the term "reasonably accessible" is ambiguous and open to interpretation.	
Section 7320(b)(1): Income Levels Used in Scoring Applications	
BRIDGE – BRIDGE supports using the alternate metric to score affordability, especially in high cost areas. MHP's targets are too low, compared to other programs. Since MHP would be the only HCD program that relies on SMI's, BRIDGE proposes that HCD adopt the same approach to AMI scoring as used for the AHSC program, and grade projects relative to their county specific TCAC AMIs.	See response to CHC comment above.
CCRH, CE, & CHPC – Eliminate the use of SMI levels in income targeting and scoring and adopt the TCAC 9 percent scoring method. CE adds that the new 9 percent TCAC scoring now includes 20 percent AMI units so that program is also including and skewing towards lower incomes. Recognizing the importance of serving tenants based on an SMI income range, CE suggests requiring that "high income" areas be required to score more points in this category. CHPC's recommendation is to eliminate prejudicial language regarding lowest income scoring for projects with project-based rental assistance contracts. CHPC adds that language suggests that HCD would score a project with project-based vouchers, as an example,	See response to similar CHC comment above. To obtain maximum points under the revised guidelines, applicants with projects in the highest income counties must serve some households at lower AMI levels than in other counties (25 percent AMI vs. 30 percent), which is similar to the suggestion for requiring higher scores in these areas. Agreed, the language on this point could be clearer, and has been revised.

by assuming all units are targeted at 50 percent AMI (the program's maximum) despite whatever deeper targeting the applicant might pledge. While we are aware that, in practice, HCD has not scored subsidized projects consistent with this language, its verbatim application would result in nonsensical outcomes where developments that serve the very lowest income households would only receive scoring consideration consistent with the subsidy program's maximum income limit. This language is an artifact and should be struck.	
CHC – Modify this section to be consistent with the affordability scoring matrix used to score 9 percent tax credit applications. This would allow projects to maintain flexibility in what funding sources they pursue. Under the existing point structure, projects generally require project-based vouchers to be feasible. Without vouchers, these units have NOIs that are negative and unable to support private debt. These units need to be subsidized by other units in the project, which is also very difficult when the program only supports units at or below 60 percent AMI. In the alternative, the existing point structure could be modified to replace "SMI" with "AMI".	The section has been modified by adopting the 9 percent scoring matrix, as suggested, along with another scoring subcategory similar to that used by TCAC to encourage 30 percent AMI units. Consistent with MHP's historically greater emphasis on deep targeting, achieving maximum points under the second subcategory requires a higher percentage of 30 percent units than the comparable TCAC point category. Also, since AMI in the very highest income counties is so high, compared to the incomes of those at the bottom of the income range, the target AMI level for these counties has been set at 25 percent of AMI, instead of 30 percent. On a parenthetical note, the MHP matrix is not identical to the TCAC matrix because the total points available for this scoring category have been kept constant, requiring a reduction in the points associated with each percentage. In addition, and partially because of the points available for 25 percent units in the highest income counties, a 25 percent column has been added.
CHDC – Consideration should be given to modifying this section to promote income averaging as exemplified in the TCAC regulations.	Units restricted at levels above 60 percent are not counted when scoring affordability, so this section arguably favors projects taking advantage of the income averaging opportunity.

CSH – In paragraph (b)(1), simplify the scoring by eliminating points for households experiencing homelessness at 30 percent of AMI. The vast majority of people experiencing homelessness (if not all) fall below 20 percent of AMI (many well below). 1.5 points should be awarded for each percent of households experiencing homelessness at 20 percent or below of AMI.	This scoring category has been overhauled, and the reference to households experiencing homelessness eliminated.
Eden, Mercy, & Mutual Housing – Use the CTCAC Affordability scoring matrix, which is also used by other municipalities in their funding programs and balances affordability with cash flow requirements most effectively. Adopt scoring based on AMI rather than SMI. The use of the SMI system incentives projects that serve a very limited band of incomes in High Income Areas. Adopt a scoring system that is consistent regardless of county and based on AMI. Eden seeks to add to 7320(b)(1)(D) points awarded for units covered by VASH vouchers. Although HUD and many Local Housing Authorities require VASH vouchers to be set at 50 percent AMI, the vouchers specifically serve homeless veterans referred by the Department of Veterans Affairs. Eden believes that these units should be valued equally to units serving other homeless households.	See response to CHC comment above. SMI is no longer used in this scoring criterion. However, to reach those at the bottom of the income scale in the highest income counties, a slighter lower AMI is required in these counties to receive points under the second half of the scoring criterion. The reference to households experiencing homelessness eliminated
Law Offices of Patrick R. Sabelhaus & PDG – The affordability scoring system drives rents and NOI down to the point that it mitigates the benefit of the MHP Program. Since the program is designed to work with bond and 4 percent tax credit program, full points should be available for projects that meet CDLAC's minimum affordability requirements.	Targeting households at the lowest income levels is statutorily mandated.

MidPen & NPH – The MHP affordability scoring system that HCD is proposing and has historically used leads to much skewed income distributions, as well as unrealistically low targeting in high income counties. MidPen is concerned about households at slightly higher levels that are left out as a result. In order to make the cash flow of these projects feasible, the balance of the units need to be at higher levels (50 percent and above), leading to projects with affordable units at 20 percent AMI and below and at 50 percent AMI and above, but not for those between 25 percent and 50 percent AMI. This seems problematic in terms of serving the minimum wage service sector, whose incomes are too high to qualify at 20 percent AMI but likely too low to afford a 50 percent AMI unit. MHP should utilize the same or a similar affordability matrix as TCAC so that points can be obtained for a broader range of the income spectrum, not just for Extremely Low Income (ELI) units. MHP could combine this with a requirement that some percentage of the units (10-20 percent) must be at ELI levels (which might equate to the MHP A, B or C levels). NPH adds that based on 2018 AMIs and SMIs, properties in San Mateo/San Francisco/Marin and Santa Clara would need 35 percent of units at 20 percent AMI to achieve full scoring (or some other similar combination of units at 15 percent, 20 percent and 25 percent AMI). And in order to make the cash flow of these projects feasible, the balance of the units would need to be at higher levels (50 percent, 60 percent and 80 percent AMI), leaving no units at 30-45 percent AMI.	See response to CHC comment above. The reduced emphasis on units in the ELI range under the revised scoring system should make it feasible to include more units at somewhat higher income levels, consistent with this comment.
MOHCD – Tying the incentives to provide lower rents to SMI has limited our ability to create a housing ladder within our portfolio of affordable housing. We are encouraged by the possibilities that new TCAC	See response to CHC comment above.

regulations on income averaging provide. Under these MHP guidelines a San Francisco project would need 35 percent of units at 20 percent scoring to achieve full points. We recommend that MHP use the same affordability matrix as TCAC. And that the maximum points should be achievable at the same percentage of units set aside for homeless/special needs. That would mean 25 percent of the units at 20 percent AMI in San Francisco, instead of 35 percent. And through offering units at above 60 percent AMI, we could establish a ladder that would better facilitate access to housing for working families earning minimum wage. Additionally, going down to 15 percent AMI is too restrictive for our working families – the "dumbbell" distribution of rents exacerbates the challenge to house homeless families who may be working but cannot afford 50 percent AMI rents.	
PDG – The Department should modify the depth of affordability targeting under (A) and (B) of this Section for both High Income and Other Areas. While this program is designed to specifically assist 4 percent LIHTC projects utilizing tax-exempt bonds, the MHP's proposed deep affordability targeting has served to undermine the ability of such projects to support debt due to a reduced level of project revenue, notwithstanding projects within the existing MHP portfolio. The universe of potential issuers of tax-exempt debt may also be reduced as a result of deep affordability targeting due to inability to meet minimum bond/permanent loan sizes. Since the MHP is designed to work with the 4 percent CTCAC tax credit program, full points should be available for projects that meet CDLAC's minimum affordability requirements. Is there a matrix available to aid in the calculation of points under Section 7320(b)(1)?	This section has been modified to reduce the percentage of deeply targeted units required to achieve the maximum possible score. However, given the acute need for units at the lower end of the income spectrum, it still requires substantially more affordability than that required to meet CDLAC's minimum requirements. The MHP application form will include a worksheet for this purpose.
RCD –	

RCD adds that it is critical that the rules for property acquisition costs are consistent with those of TCAC's program, otherwise, the leveraging of tax credits and investor equity could be significantly restricted for certain deals. This is especially true for smaller projects and/or portfolio re-syndication projects.	See response to comments on Section 7304(b).
Section 7320(b)(1)(C) & (D): Income Levels Used in Scoring Applications	
PDG – Should "one and half points" in these sections really read "one and a half points"?	This was a typo in this language that has been deleted.
Section 7320(b)(1)(D): Income Levels Used in Scoring Applications	
CCDC – Clarify the language in the last paragraph of this section: "*In Projects that rely on renewable project-based rental assistance contracts to maintain Fiscal Integrity consistent with the targeted income limits (and associated tenant Rents), scores will be based on the income limits and Rents applicable under the rent subsidy contract*." Does this mean that project-based VASH units that are targeted at 50 percent AMI can earn points unit 7320(b)(1)(D) if targeting at 50 percent AMI is a requirement of the VASH program?	This provision was intended to clarify that the score would be based on the income and rents limits applicable while the rent subsidy was in place, rather than the potentially higher limits that would apply if it was terminated. For assisted units, these would be the limits established in the MHP regulatory agreement. To reduce the potential for different interpretations, the language has been revised, and is hopefully clearer now.
CES units receiving points under 7320(b)(1)(D) should be able to use the MHP C per unit loan limits. Units with VASH voucher operating subsidies are designed to serve homeless veterans whose incomes may be as low as $0 (less than 10 percent AMI). However, the VASH program has a maximum AMI of 50 percent, so that the program can	The scoring system has been revised in such as fashion as to make this point moot.

serve veterans who are homeless in spite of having some income. Setting loan limits based on the maximum AMI of the operating subsidy program means that VASH units will have to use 50 percent AMI loan limits, even if the vast majority of residents they will serve will have incomes that are much lower. This effectively incentivizes projects with VASH to exclude a portion of the homeless veteran population from eligibility for housing in an effort to qualify for higher loan limits under MHP.	
Eden – Add to 7320(b)(1)(D) points awarded for units covered by VASH vouchers. Although HUD and many Local Housing Authorities require VASH vouchers to be set at 50 percent AMI, the vouchers specifically serve homeless veterans referred by the Department of Veterans Affairs.	See response to CCDC comment immediately above.
MOHCD – Given that the homeless population's needs can vary greatly by population, HCD might consider building in flexibility for analyzing CES data along more specific populations. The percentage of seniors earning more than SSI is likely lower than families with employment-age members.	See response to CCDC comment above.
Shelter – 7320(b)(1)(D) states, "*One and half points will be awarded for each percent of Restricted Units that are restricted to occupancy by Homeless households referred by the local Coordinated Entry System at an income level not to exceed 30 percent of AMI. In order to receive these points, it must be demonstrated to the Department's satisfaction that the income level of at least 25 percent of all Homeless households within the local Coordinated Entry System*	See response to CCDC comment above.

database exceeds the income level specified in the previous subsection (C)." How will individual sponsors have access to HMIS data of this sort to submit with their applications to HCD? HCD should determine if this is a reasonable expectation or requirement.	
Section 7320(b)(2): Addressing the Most Serious Identified Housing Needs	
BRIDGE – The policy objective to encourage new affordable housing production should not be at the expense of preserving existing affordable housing stock, especially considering that rising construction costs affect recapitalization, acquisition rehab and new construction projects equally. One suggestion is to create a small set aside for recapitalization projects so that these projects have a chance at competing amongst themselves, but for a much smaller allocation of MHP funds than projects that add new units.	The Department is interested in exploring this idea further, in the future. No change has been made, for now.
CCRH & PSHHC – Add a new subsection (E) to read, "*Located in a community that has been designated as a State disaster area eligible for disaster relief*".	It is unclear that MHP is the best vehicle for providing disaster assistance, or that all disaster areas have unusually high need for affordable rental housing. No change has been made.
CHC – First, there is an issue with subsection (A) and the general connection of this program to the "High Resource" or "Highest Resource" areas. There are many areas suitable for families in the state that are not properly reflected in the maps.	Extensive research has shown that low-income families benefit from living in high resource areas. Projects are difficult to develop in these areas, so very few will be developed there without the type of incentive provided by this scoring advantage. No change has been made.

Further, strike this subsection altogether. These point categories are already covered under eligible housing types and the Department should not encourage one project to meet every housing goal.	The objective of subsection (2) is to encourage projects that provide a public benefit beyond that necessary to meet minimum eligibility requirements. No change has been made.
CHIP – Add special points for those developers who will be rebuilding in disaster areas.	It is unclear that MHP is the best vehicle for providing disaster assistance, or that all disaster areas have unusually high need for affordable rental housing. No change has been made.
CHPC – Rather than effectively disallowing the development of new construction family housing in non-high resource areas, offer an incentive to developers to build in higher opportunity areas by increasing the base loan limit available to these projects by $25,000. In addition to creating an incentive, the increase would also recognize the higher levels of costs borne by developments in such areas as documented by the California Housing Partnership. Further, eliminate the 10 percent homeless set-aside and reduce the total points in this category from 10 to five 5.	The loan limit for projects in high resource areas has been increased as suggested. Given the difficulty of developing in these areas, the Department will be surprised if this scoring criterion rules out successful projects in other areas. The points for reserving a small number of units for people experiencing homelessness are designed to create housing opportunities for people served by rapid rehousing programs, who often experience difficulty finding units they can afford on a long-term basis. The one change made in response to these comments is the increase in loan limits.
CSH – In paragraph (b)(2), increase the maximum points by 10 by taking away 10 points from the “Leveraging Other Funds” category. HCD should accord the most serious housing needs with greater value than leveraging other funds.	Based on past experience, it is doubtful that the relative weight of the scoring criteria will determine which projects receive awards. Applicants typically structure their financing to obtain the maximum possible points in the leveraging category. No change is proposed.
Eden – It is unclear at this time if the MHP program will be oversubscribed and encourage applicants to attain maximum points in Section 7320. If this becomes the case, then Eden is concerned with the policy	Given how difficult it is to develop in high resource areas, the thought was that the program could only hope to fund a few projects in these areas,

implications of achieving maximum points in the local housing needs sections. For example, a Large Family project not located in a High or Highest Resource Area can only achieve 10 points if it also serves homeless households, which subsequently discourages homeless units in opportunity areas and stands in conflict with the goals outlines in Section 7302(e). Specifically identifying non-rehabs as a local housing need subsequently places a priority on rehabs that do happen to serve seniors, special needs, and homeless households, rather than simply prioritizing new construction projects. Due to the uncertainty around the size of the MHP applicant pool and the large policy implications for these pairings, Eden encourages HCD to remove item (D)(1) and award an applicant full points if they meet any one of the other local housing needs identified. Eden also encourages HCD to create a separate pool of funds for acquisition/rehab projects that will not compete with MHP's new construction focus.	and that asking them to also set aside some units for persons experiencing homelessness was asking for too much. Should the volume of projects in these areas be high, it might make sense in future rounds to encourage them to have units for persons experiencing homelessness too. We are not sure we understand the comment about non-rehabs. To score full points in this category, projects would generally have to be new construction and also have one of the characteristics identified in subsections (A) through (C). Rehabs that service seniors or persons experiencing homelessness would not receive full points. California is in great need of new housing for units. For this reason, the Department is prioritizing new construction, with limited exceptions. This is an idea that we would like to explore for future funding rounds. No change has been made, at least for now.
Freebird – There should not be more than one scoring category that awards points based on project type. This section, that awards points based on addressing the most serious identified local housing needs, includes points related to the Senior, Special Needs, and Supportive Housing project types. The State should just include one project type scoring category and score different project types accordingly. Since local housing needs differ from jurisdiction to jurisdiction, we believe this category should be eliminated or, in lieu of the current criteria, require a letter from the local jurisdiction or some other documentation of local need.	Agreed, the criterion focused on the percentage of units for various housing types (subsection (4) in the public comment draft) has been deleted.
Integrity –	

If a perfect score is anticipated to be needed, then this provision will result in the exclusion of: 1. Acquisition/Rehab family and Senior developments, new family developments in non-High or Highest Resource Areas, new Senior only developments. This presents a significant number of project types that are trying to find needed financing every year.	With limited resources, priorities need to be established. It is not possible to fund all potential projects.
Law Offices of Patrick R. Sabelhaus & PDG – Projects located within DDA and QCT as utilized in the current QAP of CTCAC should be added as conditions to be met by projects for purposes of scoring the maximum number of points under this Section. By definition, DDAs (areas with high land, construction and utility costs relative to the AMI) and QCTs (census tracts with 50 percent of households with incomes below 60 percent of AMI or a poverty rate of 25 percent or more) are indicative of areas with serious local housing needs. PDG adds that points should also be available for projects where the Sponsor obtains a letter from the jurisdiction in which the project is located indicating that a need is being met as well as for projects exceeding CTCAC minimum affordability requirements.	There is substantial evidence that families do better in high resource areas, as compared to other areas. This is the reason the Department has chosen to encourage projects in these areas, rather than in DDAs and QCTs. Requiring letters of support from local jurisdictions would enable jurisdictions hostile to affordable housing to block projects. Affordability is the subject of another evaluation criterion.
MBS – The section should be amended to incorporate points for developing public housing units. 5 points should be awarded for having at least 10 percent of the units in a project be public housing units as these units are critical to meeting housing needs in communities across the state.	There is a need for redeveloping and developing public housing. New public housing units could potentially compete well under the guidelines.
Mercy – First, the title should not refer to local need as all of the prescribed needs are effectively State mandated with no opportunity for local	RHNAs set goals by broad income categories. The Department is trying to be more targeted in the types of projects it encourages.

input. However, HCD could consider tying local housing needs with a population identified by a jurisdiction's RHNA analysis. If a population was noted in the RHNA document, the jurisdiction is being held to RHNA production by the State and SB35, and a sponsor was responding to that need in its proposal, it should receive points for local responsiveness. Second, sponsors should not have to meet multiple criteria in this section. If a project is meeting the most critical need, whether it is State or local, it should not also have to meet an additional critical need. We continue to ask too much of our projects to try and solve every housing challenge in a single setting. Drop the point maximum in this section to 5 points and allow sponsors to secure the maximum points through any one of the proposed criteria.	The selection system in the guidelines does indeed set a high bar. If this bar can be reached by a sufficient number of projects, it is unclear why it should be lowered. Available resources are too limited to fund all meritorious projects.
SHE – Reduce this category to 5 points and remove the requirement for projects to include 10 percent homeless units to achieve the maximum amount of points. There is already enough incentive for supportive housing projects through TCAC's 130 percent basis boost. Additionally, in certain projects, blending PSH with family may not be the appropriate mix of populations.	The goal of points for setting aside a few units for persons experiencing homelessness was mainly to create opportunities for households who do not need supportive housing, but who have difficulty staying housed due to extreme poverty, job loss, and similar circumstances.
Section 7320(b)(2)(A): Addressing the Most Serious Identified Housing Needs	
CE – Remove the category or reduce points for projects located in a "High or Highest Resource" area.	The Department is continuing to encourage large family new construction projects in high resource areas, due to the proven benefit to low-income families associated with living in these areas. No change has been made.
MidPen – These points should be eliminated. By giving this scoring advantage to new Large Family projects in High and Highest Resource Areas,	See response to Eden comment on 7302(b)(2), above.

they are able to achieve full points in this category without committing to provide 10 percent of the units for Homeless households. We understand the intent is to incentive projects in these areas, but we believe that if the program intent is also to incentive including homeless units in projects, then that should be applied in all geographic areas. The better way to incentivize these projects is to increase the loan limits for these units.	No changes have been made to this scoring criteria, but the loan limit for high resource projects has been increased, as suggested.
MOHCD, NPH & SAHA – NPH does not believe it appropriate to give a scoring advantage to new Large Family projects in High Resource Areas. The better way to incentivize these projects is to increase the loan limits for these units. We proposed these points be eliminated.	See response to Eden and MidPen comments above.
Section 7320(b)(2)(B): Addressing the Most Serious Identified Housing Needs	
CE – Family projects that qualify as Special Needs should also be eligible for these points, not only senior projects.	Family Special Needs projects can receive 5 points for including setting aside 10 percent of total units for persons experiencing homelessness. No change has been made.
PATH – Align with the Department's Statement of Reasons that to be eligible for these points a Senior project must be coupled with either Frail Elderly or people experiencing homelessness, rather than any Special Needs category.	There are other senior / needs populations the Department believes deserves special encouragement, such seniors with serious mental illness.
Section 7320(b)(2)(B) & (C): Addressing the Most Serious Identified Housing Needs	
MidPen, MOHCD, & NPH –	

Stakeholders support the concept that projects must contain a 10 percent set-aside of units for special populations to get these points. However, they recommend that this be expanded to include either Homeless or Special Needs households. If this change is made, the points under (B) can be eliminated. By definition, Supportive Housing and Special Needs Housing projects would automatically be eligible for these points. If this change is not made, stakeholders recommend that (B) be expanded to include all Special Needs Projects. Otherwise, Special Needs projects will need to also restrict 10 percent of units to Homeless to be maximize points. Stakeholders do not believe that a homeless set-aside is appropriate for all Special Needs projects.	The Department believes that the 25 percent requirement it has set for a project to be considered special needs draws the right balance between maximizing the production of special needs units and integrating special needs populations with the general public. It would also be interested in more specific information on what types of special needs projects for which a homeless set-aside would be inappropriate, especially since the units for persons experiencing homelessness would not have to be limited to the designated special needs population, and the targeted homeless population would not need to be those needing substantial supportive services or exhibiting behaviors that might be detrimental to a vulnerable special needs group. No change has been made.
Section 7320(b)(2)(C): Addressing the Most Serious Identified Housing Needs	
CE – We have concerns that projects with VASH vouchers may not be able to score points here due to potential conflicts between VASH and the CES.	The Department will monitor this situation and make adjustments as necessary. The intent is to not prelude awarding points to projects restricting units to homeless veterans.
CEDC – If you select to have 10 percent of Restricted Units for occupancy by Homeless households from the CES, do you need to submit a services plan for those units with the application?	This will be addressed in the application form.
MidPen, MOHCD, & NPH – Referrals for Homeless households should be permitted from other appropriate referral agencies (such as the VA for homeless vets).	See response to CE comment above.

SCANPH – The proposed regulation change offers 10 points maximum in the scoring criteria to the extent to which a project addresses the most serious identified local housing needs. A project can fulfil this requirement if it has at least 10 percent of the restricted units under the program regulatory agreement for occupancy by Homeless households, with vacancies filled by referrals from the local CES, when and where this system is actively referring households to housing. HCD should allow for more flexibility for jurisdictions not referring people to housing through CES. As stated in other parts of the draft guidelines, HCD could require referral by CES, but in jurisdictions where there are no referrals flowing through a coordinated system, the property manager could use a different process that ensures vulnerable populations are served. This change would not eliminate or negate CES requirement but instead only offer the flexibility.	Agreed, the provision regarding referrals from the CES applies only where the CES is actually making referrals. Where this is not the case, units reserved for persons experiencing homelessness may be filled through other means.
Section 7320(b)(2)(D): Addressing the Most Serious Identified Housing Needs	
CE – Add an additional 5-point category as (D)(4) to support rehabilitation projects that have high rehabilitation needs and serve a high Extremely Low Income population, such as those found in RHCP funded properties. This also supports the intent stated in the Department's rationale regarding Section 7302(e)(5).	The Department hopes to utilize the large subsidies offered under MHP primarily to create new affordable housing opportunities, rather than to recapitalize existing affordable projects. As noted elsewhere, it is interested in a future exploration of the idea of creating a vehicle for recapitalization of existing affordable projects not able to access tax credits.
Section 7320(b)(2)(D)(1): Addressing the Most Serious Identified Housing Needs	
MidPen, MOHCD, & NPH –	

For acquisition-rehab projects, acquisition of unregulated housing from the market is usually time sensitive and will almost certainly need to happen prior to application for MHP funds. Restrictions often must be placed on the project at the time of acquisition as required by the acquisition financing and/or to make the property tax exempt. These projects should still be treated as not being previously restricted for purposes of this scoring category as long as the acquisition occurred within the past 5 years.	Agreed, this subsection has been revised to not rule out projects restricted in connection with acquisition financing.
RCD – It is critical that HCD allow for an acquisition of a property within the past 5 years to be considered as unrestricted given how quickly market rate projects can be sold and the length of time needed to assemble financing to actually move the project into construction.	See response to MidPen + comment.
Section 7320(b)(2)(D)(2): Addressing the Most Serious Identified Housing Needs	
MidPen, MOHCD, & NPH – These guidelines will result in currently restricted affordable housing being unable to gain maximum points. Consider setting aside funds from this or some other HCD program that can be used for existing affordable housing. There are many existing older restricted affordable housing developments that are unable to effectively be recapitalized, as virtually no subsidy program is available. NPH further recommends utilizing the criteria established in [AB/SB], which included projects that were unable to resyndicate due to low acquisition basis, required extensive rehabilitation, and were deeply affordable, among other criteria.	The Department is interested in considering this possibility, for future funding rounds.
RCD –	

It is imperative that HCD find a way (either through adjustments in the eligibility and scoring section here and/or setting aside a separate program specifically for acquisition/rehabilitation projects) to support the preservation of existing, but aging, housing stock, so that we can continue to see a net gain in the supply of affordable housing in the state. This recommendation applies both to re-syndication and renovation of aging restricted buildings, but also to unrestricted buildings located in rapidly gentrifying neighborhoods that may be fully occupied and therefore cannot readily fit into one of the specified housing types that are needed for eligibility and full points.	See response to MidPen + comment above. The Department would be interested in more information on the idea of targeting gentrifying areas, and particularly on how to accurately identify those areas. No change has been made, at this point.
Section 7320(b)(2)(D)(3): Addressing the Most Serious Identified Housing Needs	
MidPen & MOHCD – Stakeholders appreciate that this section will allow new units added to existing regulated properties to gain these points if the MHP loan amount is restricted to the new units. Stakeholders foresee many projects like this, as we work to add density to existing obsolete low density affordable housing developments, including Public Housing, through complete redevelopment of the site. Stakeholders do think that because of the high public purpose value of such projects for community revitalization and preservation, HCD should consider treating the entire project as eligible for MHP funds and still be eligible for these points.	The Department would like to focus its resources on new units, and looks forward to the development community finding ways to make these projects work.
Section 7320(b)(2) & (4): Addressing the Most Serious Identified Housing Needs & Serving Families and Special Needs Populations, and At-Risk Projects	
LTSC & SHA – The 'Special Needs' definition does not include seniors unless they otherwise qualify as a Special Needs population. Section 7320(b)(2) should be revised to provide that a project must qualify as both a senior project and either a Supportive Housing Project or serving the	See response to SCANPH comment above.

frail elderly, so as to ensure those projects with the most serious identified housing needs receive the points as intended in this section. LTSC adds that this change would avoid providing advantage to plain senior projects with a 25 percent Special Needs population. These projects would remain eligible for funding; but would not qualify for the higher priority.	
SCANPH – The proposed regulation change provides the updated scoring criteria to rate applications that identifies an emphasis on addressing the most serious identified housing needs and Serving Families, Special needs and At-Risk Projects. The proposed scoring criterion that awards 5 additional points to projects which are both a Senior and Special Needs provides an undue advantage to such projects. As noted in HCD's Statement of Reasons, senior projects have traditionally been well-served by the tax credit and MHP programs. The definition of special needs is too broad to be used for this purpose and that such additional points should only be awarded to a more narrowly defined category of senior projects, specifically projects serving people experiencing homelessness.	The Department appreciates this cautionary note, and will look at the results of the first funding round to see if this narrowing is necessary. It has taken the broad approach because it believes there may be high value senior projects that target underserved special needs populations beyond the frail elderly and people experiencing homelessness, such as those with serious mental illness.
Section 7320(b)(3): Development and Ownership Experience	
BRIDGE & Freebird – Many established community based organizations do not meet the experience required of 5 completed projects in the past 5 years to score full points.	Agreed; other funding sources have less demanding scales for scoring experience, and seem not to have experienced significant problems as a result. This section has been revised to score experience over a ten year period, giving greater weight to more recent projects.

Freebird adds to either reduce the number of projects or lengthen the number of years or both. BRIDGE adds that this often necessitates joint ventures. BRIDGE appreciates HCD's interest in having qualified developers as applicants and sponsor. However, BRIDGE requests that HCD make an accommodation for turnkey development for joint venture partnerships where one partner has the prerequisite operating experience, but not the development experience. HCD currently makes an accommodation for projects where 70 percent of the Restricted Units are reserved for Special Needs Populations; the Sponsor can contract with a developer that has the required experience. BRIDGE recommends considering a similar arrangement for joint ventures of other Project Types.	
CCDC – Extend the Sponsor experience to 10 years.	This change has been made.
CCRH – Change the scoring on this point section to be equitable to housing organizations that have a track record of providing quality affordable housing without requiring smaller organizations with proven track records to partner with another organization, proven to be costly, inefficient, and unnecessary. HCD should take one step further than TCAC regulations by requiring that if the experience was gained via a joint venture partnership that the partner submitting the application demonstrate that it had a meaningful role in the development and ongoing ownership of the project.	The revised system should make it easier for at least some small organizations to compete successfully. As to the second point, specific suggestions would be welcome on how a "meaningful role" would be evidenced; it is willing to consider this idea in the future.
CHPC, PEP, & SCMRF – Adopt the experience requirements that TCAC has for management experience. The system is simple and point-based.	This section has been significantly revised, in a manner that the Department believes simpler for it to administer than TCAC's system.

PEP adds that the scoring system is set-up to reward large developers that produce quantity, not necessarily quality housing projects. This discriminates against smaller nonprofits that have extensive experience, high scores on all inspections, and longevity because it only rewards production. Alternatively look at quality, not quantity. HCD can re-work this to look at compliance scores for the last 5 projects. HCD should consider changing the scoring on this point section to be equitable to all housing organizations that have a track record of providing quality affordable housing without requiring us to partner with another organization which will prove to be costly and not necessary. SCMRF adds that to be competitive for funding, a small developer would have to partner with a larger developer and give-up a sizable portion of their developer fee, which is a vital resource for any development organization.	The revisions made should allow smaller developers to obtain full points, without partnering.
MidPen, MOHCD, Mutual Housing, NPH, & SAHA – For consistency and simplicity, adopt the same experience scoring criteria as TCAC. Measuring Sponsor experience by the number of projects completed within the past 5 years is too short a look-back period, especially given the shortage of funding availability caused by the RDA dissolution which resulted in a temporary slowdown of projects. Project completion does not address other, potentially more important factors like owning and managing the units in compliance with all regulatory agreements.	See response to CHPC comment above. This is a valid point, and the revised guidelines measure experience over the suggested 10 year timeframe.
Section 7320(b)(3)(A): Development and Ownership Experience	
CE, Law Offices of Patrick R. Sabelhaus, & PDG –	

5 years is too short of a period to determine experience. The scoring should take into consideration projects from the last 10 years to match with the TCAC measure. CE adds to have at least 2 projects in the last 5 years for full points. Law Offices of Patrick R. Sabelhaus & PDG add that one way to insure this would be to require evidence from a CPA that projects older than 5 years have positive cash flow and funded reserves.	Agreed, the revised guidelines now consider project completed in the past 10 years. The Department agrees with the general ideal of not relying exclusively on projects completed long ago, so has assigned less weight to these in the revised scoring system. The Department is hesitant to rely on financial performance as the sole indicator of success, as it would penalize developers who have taken on more difficult projects, such as supportive housing.
The Unity Council – The Unity Council states that extending the look back period an additional two to five years will still capture experienced developers without eliminating those that were temporarily pushed to the sidelines due to forces outside of their control.	The period of consideration has been pushed back by five years.
Section 7320(b)(3)(D): Development and Ownership Experience	
CHDC – Change this proposed requirement so that 3 completed projects in the last 10 years will be counted as relevant experience. If the proposed requirement is adopted, in order to be competitive smaller nonprofits will likely have to partner with larger developers who have completed five projects in the last five years. In these instances, the partner with more experience should not be required to have controlling interest in the proposed development. Such deal points should be at the discretion of the partners. Support local and community-based organization partnerships and award another 10 points for partnering with the community and faith-based	In general, the Department has had better experience with developers who are not too small and not too attached to an individual community. It believes the experience scoring scale in the revised guidelines will direct awards to sufficiently experienced developers, while making it easier for somewhat smaller groups to compete. The reason for focusing on the controlling partner is that their experience will be of limited value to the project if they are not actively managing it.

organizations that demonstrate equity qualities in the partnership structure.	
LTSC – The Development and ownership experience should be changed to 5 projects within the past 10 years. It has been about 5 years since the MHP and SHMHP have been able to offer full funding NOFAs rather than returned money NOFAs.	The revised guidelines adopt the 10 year timeframe.
SCANPH – HCD should consider quality vs. quantity because a smaller qualified non-profit may not have completed 5 projects within 5 years. Acknowledge that experience can be gained through joint venture partnership.	Quality is difficult to measure, as is the degree to which a junior partner benefits from joint venture relationships.
SHA & PATH – Points should be awarded for 10 years of experience instead of five to match the change in the HSC 50675.14(g) which was for SHMHP for at least Supportive Housing/Special Needs project types.	Agreed; the revised guidelines allow consideration of project completed up to 10 years prior to the application date.
Section 7320(b)(3)(E): Development and Ownership Experience	
The Unity Council – Consider making the turnkey developer option available for all projects.	This provision dates from a time when many experienced developers had little interest in special needs projects and was intended to provide special encouragement for these projects. Developer interest in other project types has always been very strong, so it is unclear this option should be extended to them.
Section 7320(b)(4): Serving Families or Special Needs Populations and At-Risk Projects	

CHC – This point category is duplicative of the threshold requirements, except that it would not award points to senior projects that do not also qualify as special needs, at high-risk, or supportive housing. That should be handled in Section 7302 as a threshold issue.	Agreed, this criterion has been deleted.
CSH – In paragraph (b)(4), because the definition of "Special Needs" fails to include people experiencing homelessness, this paragraph will have unintended consequences. To obtain the additional points under other scoring sections, developers will be required to contort their eligibility criteria if they intend to serve people experiencing homelessness who do not fall under a special needs category. For more nuanced scoring for the 35 points: - Provide the highest score to supportive housing: 35 points. - Award 25 points to projects setting aside a specific percentage of units for people with special needs and for at risk projects. - Offer 20 points for projects that set aside units for people experiencing homelessness.	This criterion has been deleted.
Freebird – This section awards 35 points to all eligible project types except for Senior, which gets 0. The Department should eliminate the eligible project types all together and advance programmatic priorities through scoring only. The disparity between 0 and 35 points is too great.	In the past, achieving perfect scores has typically been necessary to secure an award, in effect blurring the distinction between threshold eligibility criteria and scoring. In this context, the Department thinks moving basic project type from scoring to threshold gives potential applicants a clearer message about what is needed to obtain an award.
Integrity, Law Offices of Patrick R. Sabelhaus, PDG, PEP, & SCMRF –	

Points should also be awarded for Senior projects under this Section. PEP adds that this specifically discriminates against regular senior housing and unfairly gives more weight to large family housing and the other categories. Senior housing cannot get funding through the State's AHSC because senior projects are not competitive with family projects. SCMRF adds that HCD should include seniors in the Special Needs definition, or permit senior projects to receive all points in this category automatically. Expand Section 7320(b)(4) to include senior projects (as defined in Section 7302(e)(3)).	This subsection has been deleted, enhancing the competitiveness of senior projects. The senior funding set-aside described in 7317(c) also ensures that seniors-only projects will receive an ample share of program resources.
PDG – PDG believes this Section's reference to Section 7302 (c) is in error as 7302 (c) has nothing to do with project types but rather project eligibility as it relates to the start of construction/rehabilitation.	The sentence containing the reference to 7302(d) has been deleted.
PSHHC – Reject the proposed criteria and maintain the previous point system.	This subsection has been deleted.
Section 7320(b)(5): Leverage of Other Funds	
CE, CHPC, & SCANPH – Eliminate the requirement that land donations be discounted by residual receipt payments or other payments. CHPC adds to provide clarification on Department vs. non-Department funding sources. SCANPH adds that the proposed regulation change requires the leverage of other funds, in those jurisdictions where they are available and states that applications will be scored based on the	Agreed, with respect to residual receipts payments, as the amount of these payments is difficult to accurately predict. The guideline reference to residual receipts payment has been deleted. To avoid disadvantaging projects that combine NPLH and other highly targeted programs with MHP – projects that serve high need populations in an integrated setting – the reference to non-Department funds has been deleted.

leverage of other funds, meaning the amount of funds other than Department housing funds for permanent funding of the development costs attributable to the Restricted Units as a percentage of the requested amount of Program funds. SCANPH believes the proposed regulation change poses several concerns. We believe that land donations should not be discounted because of required residual receipt payments or other payments that local jurisdictions may impose. Clarification is needed as to what is considered Department vs. Non-Department funding sources. Same point as earlier because Los Angeles County is an Alternative Process County and will administered its own No Place Like Home Program funds, this source should not be considered department funding and count for leveraging. SCANPH would like to remind HCD that due to the region's low incomes and high development costs, their member applications are often at a disadvantage because the benefit (in terms of units produced) per HCD dollar is lower than in other parts of the state. Therefore, they recommend the proposed guidelines accurately reflect the needs of the Southern California region applicants so as to not put us at a competitive disadvantage.	The discounting of required payments just adjusts that value of the land donation to reflect the fact that it is not worth as much as if there were no payments. To ensure an equitable distribution of funds, the Department intends to follow its traditional practice of reserving a portion of the amount offered under each NOFA for Southern California, as allowed by the guidelines.
CHC – CHC is opposed to the connection of this program to the "High Resource" or "Highest Resource" areas and would like clarification that "Department funding sources" does not include funds from HOME, CDBG, and the National Housing Trust Fund nor NPLH and SB 2 funds.	The Department believes it difficult to ignore the extensive research demonstrating the benefits to low-income families from living in high resource areas, so is preserving the program's encouragement of projects in these areas. Regarding HOME, the revised guidelines allow these funds to be counted as leveraged resources, regardless of which entity allocates them to individual projects.
CSH –	

Award 10 points, rather than 20, for the leveraging of other funds in paragraph (b)(5). - While this section could benefit supportive housing, requiring leveraging punishes and suppresses developer capacity in jurisdictions that have failed to invest in affordable housing. The policy negatively impacts these communities and vulnerable Californians residing in them, rather than elected who make monetary decisions on investment. - Clarify that operating subsidies are considered a form of leverage, rather than limiting consideration of "funds leveraged" to funding for development.	There is an inherent tension between the objectives of maximizing production and making the program work in as many jurisdictions a possible. To keep production at an acceptable level, the Department is not providing the level of assistance that would be required to make feasible all projects everywhere. It believes this strategy to be in the best overall interests of California residents needing supportive housing. Operating subsidies are key to successful supportive housing. However, to count them as leveraged funds would tilt the scales significantly towards large jurisdictions, exacerbating the issue identified in the comment directly above. It would also encourage them to provide less development assistance, reducing production.
Mercy, MidPen, MOHCD, NPH, & SAHA – Clarify that the requirement that land donation value must be discounted by any required residual receipt payments applies only to required hard payments, such as required Monitoring Fees or HCD's required .42 percent interest payment, not payments that are required only from residual receipts. Mercy adds that this section should be updated to match TCAC's regulations, and allow land donations with residual receipts to count as additional funds.	Agreed, this change has been made. See response to Mercy + comment above.
PH – What is HCD's goal in discounting the value of government land that is repaid as part of residual receipts? Refer to TCAC which includes the value of these transactions in their tiebreaker calculation.	See response to Mercy + comment above.
UP Development –	

Section 7320(b)(5) outlines the scoring considerations for leveraging of funds, including federal funds allocated by local agencies where they are available. In many instances, rural agencies do not receive federal resources and thus are not available to the housing projects in those communities. Program guidelines should include how projects in such communities can demonstrate the lack of funding availability and earn evaluation points to remain competitive with projects in larger communities.	The revised guidelines count other Department funding programs as leveraged funds, which should make it easier for projects in rural areas to score well.
Section 7320(b)(5)(A): Leverage of Other Funds	
CE – For clarity and simplicity, the calculation of leveraged funds should include all project units and the total development cost of the project, not just the Restricted Units in the calculation. Other Department housing funds should be included as a leveraged source so those projects with already awarded HCD funds are not disadvantaged in the scoring. We believe to be in everyone's best interest for projects with already awarded NPLH or VHHP funds to be competitive for MHP. In fact, it may make sense to give additional points to projects with HCD funds already awarded under another program.	Separating out funds attributable to non-restricted units will definitely add to the complexity of the application. However, the Department continue to believe that it is fairest to exclude units it cannot fund, in this and other scoring calculations. Agreed, the revised guidelines count awards from other Department programs.
Law Offices of Patrick R. Sabelhaus & PDG – If other Department funding is not to be counted for leveraging purposes, then the amount of such funding should be deducted from both the total development cost and the committed sources of the project. In the alternative, HCD funding other than those that are the subject of the application should not be excluded.	Other Department funding is counted, in the revised guidelines.

Section 7320(b)(5)(B): Leverage of Other Funds	
Law Offices of Patrick R. Sabelhaus & PDG – The Department should include federal HOME and CDBG funds (whether provided by the Department to local agencies for award to individual projects or provided by the Departments directly to individual projects) in the definition of "Funds other than Department housing funds" for purposes of the leveraging of other funds under this Section. This revision will make the intent of this Section consistent with the proposed revision to the definition of Department Funding Sources.	Under the revised guidelines, HOME and CDBG funds count as leverage, regardless of which entity made the award.
WHCHC – Developer fees should have the same limitations as TCAC and should not be more restrictive. More-restrictive developer fees limits the amount of additional capacity at affordable housing developers and therefore limits the number of new affordable housing units that can be completed.	The developer fee limits have been revised to be less restrictive. See section 7305.
Section 7320(b)(5)(C): Leverage of Other Funds	
Law Offices of Patrick R. Sabelhaus & PDG – Projects located within DDAs and QCTs as utilized in the current QAP of CTCAC should be added to this Section for purposes of obtaining leveraging points. Projects located within DDAs/QCTs that have been successful in attracting other/public funds should be recognized for this effort the same as projects located within TCAC/HCD High/Highest Resource Areas due the high housing needs/high construction costs such designations indicate.	The Department believes the benefit to low-income families is greater for projects located in high resource areas, as compared to DDAs and QCTs.

Section 7320(b)(5)(C)(D) & (F): Leverage of Other Funds	
CE – For ease of implementation and clarity, we recommend having just a 9 percent and a non-9 percent category. The multiple combinations of the 9 percent tax credit or not, and Supportive Housing or not, and Opportunity Areas or not, is complicated and confusing.	Under the revised guidelines 9 percent projects are ineligible, simplifying this section.
Section 7320(b)(6)(C): Project Readiness	
Eden – First, many projects often secure all necessary land use approvals and entitlements prior to completing design review. Because design review has little influence on factors like unit count and project feasibility, completion of design review should be removed from item (i) or awarded a separate set of points. Second, HCD should remove the requirement in part (iii) for the planner to be certified by the American Institute of Certified Planners. Many municipalities employ highly qualified planners who do not have an AICP certification. These planners should not be disqualified from issuing a letter for the purposes of this application.	Changes made as the result of design review can add considerable costs and delay construction commencement. No change has been made. Planners employed by local jurisdictions are unlikely to opine that a project meets the requirements for approval when it has not actually been approved. No change has been made.
Section 7320(b)(6)(C)(iv): Project Readiness	
AH – There is no point score associated with this section. Award 5 or 10 points to encourage the use of streamlined approval processes which can produce rapid delivery of housing units.	Subsection (iv) defines a key term used in subsections (ii) and (iii). These later subsections assign points.

LA – Remove or revisit the “non-discretionary local approval process” letter option for project readiness. Only local jurisdictions are qualified to provide the necessary readiness determinations.	Hopefully the new nondiscretionary processes will make it much easier to determine whether a project will be approved or not. In any event, the Department will monitor how accurately the system in the guidelines predicts approval, and adjust accordingly.
PH – In scoring readiness, count DDA's the same as fee title.	The Department was swayed by the arguments of CE, CHPC, and others, immediately below, and had deleted points for fee tile.
Section 7320(b)(6)(D): Project Readiness	
CE – Sections (i) and (ii) should be eliminated. Site control through other means, such as valid purchase and sale agreements or Exclusive Rights to Negotiate from local government, is as valid for readiness purposes. The additional value of fee title or long term leasehold does not differentiate between good and better projects. Similarly, 50 percent working drawings are more an indication of money spent rather than project progress and the incentive to maximize points could push projects to pay for additional drawings before projects are sufficiently prepared.	The Department agrees, and has deleted the criterion awarding points for fee title or leasehold and for 50 percent working drawings.
CHPC – Eliminate the three (3) points for land ownership and 50 percent working drawings and reduce total points for this section accordingly. The points for land ownership and 50 percent working drawings are not equitable nor effective in determining the projects that are most ready. Many land purchases or leases are made possible through public agency land dispositions. In many cases, public agencies will	See response to CE comment above.

not allow developers to purchase or lease land prior to construction loan closing. This proposed point category puts developers acquiring land via public agencies at a distinct disadvantage, which is contrary to efforts to incentivize public agencies to support affordable housing. Further, the 50 percent working drawing requirement is difficult to standardize, and simply encourages developers to meet an arbitrary requirement.	
MBS – Site control criterion should be amended to include Options to Lease with a public agency (or similar development agreement with a public agency) as an acceptable form of site control to earn points. This reflects the typical structure where the land transfer with a public agency is not typically effectuated until the construction loan closing.	See response to CE comment above.
MidPen & NPH – The points for land ownership or 50 percent working drawings be eliminated and the total points for this section be reduced accordingly. There is questionable public purpose in owning the land (vs enforceable site control) and public agencies may even discourage us from taking ownership prior to closing, especially since we are then subject to property taxes. There is no objective definition of “50 percent working drawings” so this milestone is too easily claimed.	See response to CE comment above.
Mutual Housing – Revisit the 3 readiness points that require fee title ownership/lease of 50 percent working drawings to be completed. Meeting either one of these requirements creates considerable financial risk to the developer if required prior to having significant funding commitments	See response to CE comment above.

in place. Site control and/or conceptual drawings as needed to obtain local site review approval should be sufficient.	
Section 7320(b)(6)(F): Project Readiness	
CE – This all or nothing category for committed funding should be changed to a tiered category so that projects that are otherwise ready can get some points. Because of the necessity to assemble many sources for funding with different timelines and leveraging requirements, and the desire for many sources to be last in, many projects have almost all of their funding committed. Point scoring could reflect this condition more closely by allowing 1 point for 50 percent of funding committed, 2 points for 75 percent of funding committed and 3 points for 100 percent of funding committed.	Failure to secure the last 25 percent of needed funding can be just as much of an impediment to a project's ability to proceed as failure to secure 50 percent or 75 percent. No change has been made.
Section 7320(b)(7): Adaptive Reuse/Infill/Proximity to Amenities/Sustainable Building Methods	
CCRH, CHIP, CHPC, Mercy, & PSHHC – The total points should be reduced back to 10 in this category. CHIP adds that rural projects are disadvantaged with the proposed 15-point category, as many won't likely qualify as an infill project and only infill projects would be able to get full points. CCRH, CHPC, Mercy, and PSHHC add that this seems contrary to HCD's other goals of developing in High- and Highest-Resource Areas. Mercy does not agree that in order to get full points a project should need to be located within an Infill area, as there are plenty of other perfectly suitable development locations. Most developments will not	The Department intends to continue the practice of setting aside funds for rural projects, to ensure that they receive adequate funding. It also believes it sound policy to prioritize rural infill projects over other rural projects. No change has been made. Agreed, the revised guidelines award 5 points to projects located in High and Highest Resource areas, whether or not they meet the infill test. See response to CCRH + comment above, regarding rural area impact.

be able to achieve full points unless they qualify as an infill project, which many rural projects cannot obtain under current State infill definitions that favor dense urban areas. Further, this scoring section should be a menu of choices and not all or nothing, hence the reduction of points from 15 to 10. For the site-amenity points, this is one section where HCD should not be mirroring TCAC exactly. Some high-quality projects just cannot obtain full site amenity points and it is the main reason these projects need to apply through the 4 percent tax credit route. While Mercy believes that some site amenities are important, Mercy does not believe that they need to be set to the very high bar required under the 9 percent scoring system. Mercy recommends that HCD give the full 5 points for projects that obtain at least 60 percent of the full TCAC score in this section. Currently, that would entail receiving at least 9 of the 15 site amenity points.	Regarding the other points, MHP is not funded at a level that would allow funding of all meritorious projects. Priorities must be set, and the Department believes infill development and proximity to amenities should be among them.
Mutual Housing Adjust the scoring that a project does not need to qualify under all of the listed factors to score full points. Reduce the amount of amenity points required so that it is less than required for full points under the 9 percent tax credit program.	See response to CCRH + comment above. Given a choice between projects equal in all respects except the range of amenities nearby, it would seem sound policy to fund the one with more amenities. No change has been made.
Section 7320(b)(7)(A): Adaptive Reuse/Infill/Proximity to Amenities/Sustainable Building Methods	
CCDC – Given that CES units receive the same score as units with AMIs under 7320(b)(1)(D), CES units should be able to use the MHP AMI for the purposes of determining their tiebreaker score. MHP applications are likely to be very competitive and go to tiebreaker scoring, given the dearth of gap financing options for 4 percent tax credit projects. Using the AMI required by the CES to calculate the tiebreaker score could have the unintended effect of shutting projects	The revised guidelines delete the provision that equates units reserved for CES referrals with those restricted to 20 percent of state median income, so this comment is moot.

receiving maximum points under 7320(b)(1)(D) out of the MHP awards.	
CCRH – Revise the tiebreaker to allow applicants throughout the state to be able to compete on a level playing field.	It is unclear what a more level playing field would look like. The regional set-asides, which include a rural set-aside, provide a mechanism for ensuring reasonable geographic distribution.
CE The tiebreaker should include more factors than average affordability. Add public funds to the tiebreaker for scoring consideration. We are concerned that the focus on average affordability will create a "race to the bottom". The tiebreaker should be a combination of average affordability and leveraging, i.e. Tiebreaker = Average Affordability + (MHP Funding Requested divided by Total Development Cost) with the lowest score winning. For this tiebreaker purpose, the average affordability should be calculated based on all project units, not just the units at or under 60 percent of AMI targeting.	The tiebreaker in the draft guidelines has been in use for many years. Overall, the projects selected while it has been in use have performed well financially, with cash flow per unit exceeding the national average for tax credit properties, which does not suggest that there has been a "race to the bottom" threatening financial viability. In the future, the Department is open to considering adding additional factors to the tiebreaker calculation, but would want to do so carefully, to avoid unintentional consequences. Finally, units over 60 percent are excluded because MHP cannot fund them. No changes have been made.
CHPC – Add a second option to the tiebreaker, based on a weighted ratio of non-HCD soft sources to total development costs, to allow applicants an additional method to compete and not jeopardize the long-term economic viability of the development. Further, add a 10 percent boost for Large Family New Construction projects in High and Highest Resource Areas.	See response to CE comment directly above.
Eden, NPH, & SAHA – To the extent that this language is copied exactly from the IIG program, it appears to have been successfully vetted for certain urban localities. Our broader concern, however, is whether adding	MHP uses TCAC's definition of rural areas. The program's rural set-aside will ensure that rural areas receive adequate funding. There are many qualifying sites in smaller communities, and the public benefits

these scoring criteria will unfairly disadvantage projects in smaller cities and/or less urban locations, especially since we are not certain how MHP will define the "Rural" set aside within which many of these projects will compete. HCD should be aware that these scoring criteria could have the unintended consequence of precluding projects from certain geographic areas from being competitive unless an alternative method for obtaining these points is offered.	associated with developing them are similar to those for larger communities, so it not clear why these areas should be exempt. No change has been made in response to this comment.
MidPen & NPH Adding these Infill points to the scoring criteria is a significant change. We are concerned that these definitions which have been imported from the IIG program may not be appropriate throughout the state in less urban locations and rural areas. We think it is important that these MHP funds can be used in all types of geographies. Stakeholders are also concerned that the minimum net density calculations are outdated and based on a 2005 memo which is based on 2002 Census data. Eliminate these points and reducing the total points available in this category.	See response to Eden + above. Also, the Department will evaluate the impact of this criterion on the first funding round, and consider adjustments if it appears to be excluding broad regions. Thank you for spotting the reference to what is now an outdated memo. This has been corrected.
MidPen, NPH, & PSHHC – The current tiebreaker of weighted average affordability is problematic in several ways. Deeper affordability cannot be achieved at the expense of the long-term economic viability of the MHP portfolio. There will be much competition for these funds and many project awards will be decided by the tiebreaker, as was the case in the final prior MHP General rounds. Applicants will feel forced to lower the affordability to win an award, reducing operating expenses to a level that is not sustainable over time. Projects that have commitments of project-based Section 8 or other rent or operating subsidies will be better positioned to reach a lower average affordability, though only from those Housing Authorities that allow regulatory rents on project-based units to be set below 50 percent AMI. While we do think that projects with rental or operating subsides	See response to CE above.

should receive some benefit in the scoring system, we think that they will generally have a very large advantage with this tiebreaker. Rather than remove the weighted average affordability tiebreaker, stakeholders strongly suggests building in another route for applicants to pursue. The MHP Guidelines contain leveraging points; however, full points are readily attainable by most applicants, and generally take into account all sources, including permanent debt and tax credit equity. What is missing from the competitive system is recognition of projects where the sponsors have obtained commitments for significant non-HCD public subsidies, which demonstrate the strong support of the project by localities. Revise the tiebreaker to allow applicants to receive a score equal to the greater of: 1) the inverse of the weighted average affordability; or 2) the leveraged soft resources ratio pursuant to TCAC Regulation Section 10325(9)(A) times a factor of 3.5. (Note that we do not recommend including TCAC's size factor in this formula, as MHP should be readily available to small and medium-sized projects, which are discouraged in the 9 percent system). By allowing a second tiebreaker option, applicants that are not able to achieve the very deep affordability that may be required to win can still remain competitive by leveraging greater amounts of non-HCD soft sources. By encouraging applicants to seek other soft sources, HCD fund requests will be reduced. If an applicant is in a locality where soft sources are in short supply, the original weighted average affordability option remains.	
Mutual Housing – Finding an alternative to the current tiebreaker based on weighted affordability.	See response to CE comment above.
RCD – Build a second alternative for the tie breaker to ensure long term sustainability with HCD funded projects and to provide an alternative	See response to CE comment above.

to much needed projects in areas that may not have access to rental subsidies in their jurisdiction.	
Section 7320(b)(7)(A)(ii): Adaptive Reuse/Infill – Minimum Density	
Law Offices of Patrick R. Sabelhaus & PDG – The density requirements of this Section should be waived for acquisition and rehabilitation Senior projects. Absent projects developed with elevators in highly urbanized locations, Senior housing was often developed at lower net densities (i.e. no multistory buildings, etc.) than those published in Appendix 1 of the 2005 HCD Housing Element Law memorandum to ensure and promote accessibility.	MHP's statutory senior set-aside will ensure that senior housing will fare well. No change has been made.
Section 7320(b)(7)(B) Proximity to Amenities	
MidPen, MOHCD, & NPH – MHP should be available to a broader range of projects than the TCAC 9 percent program, and we do not support requiring the same maximum amenity points as TCAC. A compromise would be to require projects to obtain at least 75 percent of the maximum TCAC score.	The Department has not heard a compelling argument as to why MHP tenants should settle for lesser access to amenities than 9 percent tax credit tenants. No change has been made.
MidPen and NPH add that HCD should also clarify that this is based off of the maximum capped TCAC score, because the total points available are more than the maximum allowed for the category. We also note that the TCAC amenity points vary by Housing Type (as defined by TCAC) and by location (Rural vs. Non-Rural as defined by TCAC). This could create confusion on how to apply this scoring system to the MHP program, which has its own definitions of Housing Type and may or may not use the same Rural definitions.	The Department agrees that full points will be awarded to projects achieving the "capped" TCAC score (15 points under the 2019 TCAC regulations). I believes this is sufficiently clear as written. Also, MHP does use TCAC's rural definition, so confusion on this point should be limited.

MidPen adds that because of this, and because the TCAC regulations could change, we suggest MHP should instead adopt their own specific site amenity scoring.	If the TCAC regulations change, the Department could readily amend these guidelines. TCAC has a well-developed system, refined over the years, and the Department sees no reason not to use it.
Section 7320(b)(7)(C): Sustainable Building Methods	
MidPen – This should specify that the points are available to those projects receiving the maximum capped TCAC score.	The Department agrees that five points will be awarded to projects eligible to receive 5 points under the TCAC regulations. If this becomes a point of confusion, it is open to clarifying the guidelines.
Section 7321(a)(7): Agreements with the Sponsor	
DRC – Terms and conditions required by federal or state law, including the Americans with Disabilities Act, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Act, Government Code Section 11135, Section 504 of the Rehabilitation Act, and regulations promulgated pursuant to those statutes.	Many laws are applicable, beyond those cited in the comment. Given this situation, the Department believes a general statement is best.
Section 7321(b)(1): Regulatory Agreement with the Sponsor	
DRC – The number, type and income level of Assisted Units pursuant to UMR Section 8304 and the number and type of accessible units as required in Section 7316.	See response to DRC comment on Section 7316.
Section 7321(b)(2): Regulatory Agreement with the Sponsor	

DRC – Standards for tenant selection pursuant to UMR Section 8305 and Section 7324 below.	See response to DRC comment on Section 7316.
Section 7324(d): Management Plan	
CSH – The Guidelines include specifics around a services plan; however, because eliminating the MHP-Supportive Housing program means HCD cannot score based on the quality of the services plan, HCD should include quality components in the services plan, per our recommendations below. Quality standards and expectations will become more important as more affordable housing developers will access MHP for supportive housing. In paragraph (13), include as threshold requirements in supportive housing the following metrics of quality services:	The Department agrees that quality is important.
- The services plan demonstrates that participation in services is voluntary, meaning tenants are able to retain housing, even if not participating in services or using drugs/alcohol, reflects flexibility in demonstrating the tenants can choose whether to participate or not, and is individualized and empowers the tenant to select the services they prefer.	Voluntary services and tolerance of substance abuse is covered in Section 7302(f)(4), which mandates housing first practices.
- Identifies an evidence-based case management strategy, such as intensive case management, assertive community treatment, or critical time intervention, and identifies services to be provided providing tenancy support, such as service coordination, onsite groups/classes, case management, benefits counseling & advocacy, healthcare linkages, medication management services, representative payee support, housing retention, and housing preservation services.	This requirement has been added, albeit in a briefer form.

- Identifies the target population and identifies strategies to address the range of needs for the target population.	A specification of the target population has been added.
- Includes a staffing plan and identified partnerships and reflects that staff and tenants work together to complete an individualized service plan.	The original and revised guidelines require identification of service provider partners and staffing plan.
- Indicates supportive services staff work to reduce the harm caused by tenants' substance abuse, including actively working with them to prevent evictions.	A provision to this effect has been added.
- Indicates that the service provider uses peer supports to help tenants attend medical and other appointments, one-to-one peer mentoring support, facilitating and delivering self-management courses, leading self-help groups, and/or trust building.	The Department is open to adding a requirement for peer support in the future if it becomes an issue.
- The budget indicates the direct costs make up 80 percent or more of the overall budget, the 1:20 case manager-to-tenant ration HCD is proposing, and training for staff on evidence-based practices, techniques that engage and support tenants in changing behavior, cultural competency in service delivery, and crisis intervention.	The 1:20 requirement is specified in 7302(f).
- Tenants can access services in multiple locations such as the community, their home or an office and can access services during hours that are convenient to them, including during and after regular business hours.	It is unclear that this is practical, beyond emergency services.
- Staff provide tenants with written and verbal information about community resources and activities in conjunction with the move-in process, including an orientation to the neighborhood, and assist tenants with understanding the content of written materials, when necessary.	The Department is open to adding this requirement in the future, if it becomes an issue.
- The plan includes comprehensive, written eviction prevention policies that details how all supportive housing partners work together to promote housing stability, a plan for communication between	A provision to this effect has been added.

service provider and property manager/landlord, and evidence of planned prevention efforts.	
- The plan reflects that services are not time-limited and are available to tenants throughout their tenancy.	The Department will generally not approve plans with time-limited services.
- In identification of the organization(s) that will provide services, the plan should include written descriptions of each supportive housing partner's role, including, at minimum, the project sponsor, housing and/or property manager and supportive services provider. These descriptions detail the responsibilities of each partner.	This is covered, in briefer form.
- A preliminary staffing plan that includes a tenant council, focus group or another tenant-led group that meets regularly with the supportive housing project partners, along with a written description of the system for reviewing and responding to tenant feedback.	It is unclear that this is essential.
- The provider will collect process measures by using the evidence-based practice Fidelity Scale and General Organizational Index, and which process measures capture the way services are provided.	More information would be required before making this a requirement.
- The plan reflects how outcome measures will be collected.	A requirement for identification of outcome measures, and how they will be collected, has been added.
- A quality assurance system is in place that uses both process and outcome measures to monitor and improve the program's quality.	This has been added.
DRC – Add to Section 7324(d): (13) a nondiscrimination policy; (14) a reasonable accommodations policy and a reasonable modifications policy;	See response to DRC comment on Section 7316.

(15) an affirmative marketing plan for units with accessible features to reach people with disabilities; (16) a policy requiring separate wait lists for conventional units and units with mobility and vision/hearing accessible features; Renumber the existing (13) to (17).	
Section 7324(d)(13): Management Plan	
RC – Add Section 7324(e) (this incorporates the HUD provisions in 24 CFR Part 8): (e) Accessible Units. All new and existing Projects with fully accessible units for occupancy by persons with mobility disabilities or hearing or vision disabilities shall provide a preference for those units as follows. (1) First, to a current occupant of another unit of the same project having disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then (2) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit. (3) When offering an accessible unit to an applicant not having disabilities requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree to move to a non-accessible unit when available. (4) Owners and managers shall adopt suitable means to assure that information regarding the availability of accessible units reaches	See response to DRC comment on Section 7316.

eligible individuals with disabilities, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit.	
Shelter – The way the Guidelines read here it is unclear whether these supportive service plan requirements apply to Supportive Housing projects. HCD should add clarifying language here. We recognize HCD's elimination of Section 7345. However, was it HCD's intention to completely eliminate those requirements?	The guidelines specify that the requirements of this subsection apply to Supportive Housing.
We suggest that HCD consider establishing supportive service plan requirements unique to Special Needs and Supportive Housing projects as compared to the other eligible project types, given the unique needs of the target populations. Short of that, we recommend that, at minimum, HCD add the following italicized elements to the requirements:	The Department is open to considering establishing more specific service plan requirements for different populations, in the future.
(13)(F) location of services to be provided off site and corresponding transportation plan, including public and private transportation options;	This has been added.
(13)(G) any special eligibility requirements for the services.	Subsection (I) asks for information on eligibility requirements.
(13)(H) a description of how service staff and property management staff will work together to prevent evictions and to facilitate the implementation of reasonable accommodation policies from rent-up to ongoing operations of the Project; and	This has been added.
(13)(I) general service provider and property manager communication protocols.	This has been added, as part of the new subsection (J).

Section 7325(c): Reporting	
AH – AH opposes this additional requirement as compliance and reporting is addressed in Section 7325(b).	The Department recognizes that (b) and (c) require duplicative reports. It has investigated the potential for obtaining the information it needs directly from local HMIS systems, to avoid this duplication, but has not been successful in this regard. It would welcome assistance in this endeavor.
CSH – Require developers receiving MHP funds to address the needs of people experiencing homelessness report on housing retention, where tenants go after they exit MHP-funded housing (including the number of deaths), services tenants received, and, when available, health, criminal justice, and child welfare data.	As written, the guidelines provide the flexibility to require additional information, beyond the items specifically identified. The Department would like to collect and analyze richer date, but is sensitive to the cost and difficulty of doing this.
Section 7325(d): Reporting	
DRC – Add to Section 7325(d): *All Projects shall report annually to the Department unit numbers of units accessible to people with mobility disabilities; unit numbers of units accessible to people with vision or hearing disabilities; waiting lists and transfer lists for all accessible units; whether each of the mobility and visions/hearing accessible units are occupied by individuals who require the accessible features of the unit; affirmative marketing policies for accessible units; and in those instances accessible units are not occupied by individuals requiring the accessible features, a description of steps taken to move individuals who do not need accessible features to non-accessible units.*	See response to DRC comment on Section 7316.

Section 7326(a): Submitting Initial Operating Budget	
SJ – Subsection (a) should also include annual lender monitoring fees such as affordability restriction monitoring fees and loan servicing fees.	Agreed that these fees should be included in the operating budget; they are typically considered operating expenses.
General Comments and Questions	
CCRH, PSHHC, & SHE – Set aside 20 percent of the total funds made available in subsequent MHP NOFAs for TCAC-defined rural areas. In most instances, rural projects simply cannot compete against projects located in more urbanized communities.	Agreed that a rural set-aside is appropriate. The guidelines provide authority for such a set-aside, to be included in the NOFA.
Century – In regards to funding for higher level restricted units, CalHFA has a mixed income funding program for workforce housing units at higher AMI levels. Unfortunately, the funding source cannot be layered with MHP. It would seem the funding (albeit limited) would be a good compliment to MHP funding which cannot assist higher than 60 percent AMI restricted units.	At this point, CalHFA considers their program to serve a purpose that is sufficiently different from MHP to not mix the two.
CHDC – There should be no more than two applications per developer in any one funding round.	Historically, MHP has not had developers submit large numbers of applications in a single funding round. If this occurs, and results in a large number of awards to a single developer, it will consider adopting a policy along the lines of that suggested.
CHIP –	

HCD should follow TCAC's experience criteria.	See response to comments on Section 7320(b)(3).
CSH –	
Allow developers to access MHP funding if they are receiving 9 percent low-income housing tax credits and setting aside a significant number of the project's units for people experiencing homelessness with incomes at or below 20 percent of AMI.	See response to similar comments on Section 7302(d).
Increase points scored for developing housing for people with the most serious needs.	The Department's goal is to fund a variety of project types, including those with the most serious needs. It will evaluate how well this goal is achieved, based on the first funding round, and make adjustments accordingly.
Clarify affordable projects could receive a higher score if restricting at least 10 percent of assisted units for people experiencing homelessness.	This is one option for receiving five of the ten points available under 7320(b)(2).
Toward quality supportive housing, we recommend the following:	
- Increase the minimum percentage and number of units for a project to be considered "Supportive Housing."	The Department hopes the low percentage of units required to be considered supportive housing will encourage a significant number of developers to include these units in highly integrated projects.
- Change scoring to allow supportive housing projects to score higher than housing for other special needs populations.	The Department's aim is to encourage a variety of special needs housing projects, including those targeting tenants eligible under NPLH who are not necessarily experiencing chronic homelessness.
- Increase the per-unit loan limits in supportive housing.	These have been increased.
Require quality in services offered to tenants, reflected through threshold requirements of services plans.	Specific suggestions would be welcomed, for future revisions.

DRC –	
MHP should include a threshold requirement for accessible units and accessibility standards and policies.	See response to DRC comment on Section 7316.
The MHP Guidelines should incentivize community integration for people with disabilities, ensuring that people with disabilities are not segregated to any single housing project and that they are not isolated in a particular section of any housing project.	The Department believes the guidelines incentivize integration.
The MHP Guidelines should not incentivize segregated projects. DRC supports the proposed change in Section 7320(4) not to award application points based on the percent of special needs units in a project. This type of point system would incentivize developers to build projects where 100 percent of units are reserved for a particular special needs group.	No response necessary.
The MHP Guidelines should ensure distribution of Special Needs and Supportive Units within a project in order to support community integration. DRC appreciates that the MHP Guidelines address physically integrating Special Needs and Supportive units in Section 7302(g)(1). Just as accessible units in all projects should be distributed throughout a project, so too should Special Needs and Supportive units.	Agreed.
Required accessible units should not be counted as “Special Needs” units. As described above, all MHP Projects must include units accessible for people with mobility and vision or hearing disabilities. DRC wishes to make clear that these units are required of all projects and should not be considered restricted units that qualify a project as “Special Needs.” DRC proposes an amendment to the definition of “Special Needs Populations” to address this issue.	Agreed. The revised definition of “Special Needs Populations” does not include people with mobility, vision or hearing disorders.
DRC is concerned that, for Special Needs and Supportive Housing Projects, the recommended caps on percentages of units restricted	

for people with disabilities (Section 7302(g)(2)) will work against community integration. In many instances, filling half the building with people who have disabilities can become very segregating. It is also worth noting that a 25 percent cap is completely viable.	The 49 percent cap is an attempt to balance the conflicting objectives of maximizing housing opportunities for people with disabilities and community integration.
DRC recommends that only buildings with 10 or fewer units be permitted to be 100 percent restricted to people with disabilities. Additionally, all building with more than 10 units should set a cap of no more than 25 percent units restricted to people with disabilities, if such developments can be financially feasible.	See response to previous comment.
On a similar note, Section 7302(e)(2) requires 25 percent of units to be restricted to a particular population in order to qualify as a Special Needs Project. The regulations need to be more specific on this point because different special needs may trigger different types of issues. Finally, required mobility and vision/hearing accessible units must be prioritized for people with disabilities requiring the features, but should not be counted as restricted units when calculating the above integration percentages unless they are otherwise restricted units under the program.	It is unclear what needs to be more specific.
E3 – Considering a connection to CDLAC, do the same regulations apply (specifically the Sustainable Building Standards)?	The sustainable building standards are in TCAC's regulations.
EAH – Is it possible to combine MHP in a 9 percent /4 percent hybrid model without special needs/homeless being a part of the 9 percent deal? These are technically two separate transactions but are financially connected. It would be helpful to use MHP funds on the "4 percent side" of the deal with no restriction to the "9 percent side" of the	The Department will consider each component of a hybrid as a separate project. MHP funds could be used on the 4 percent project, with eligibility and scoring evaluated without consideration of the 9 percent project.

transaction. In theory the 4 percent deal would meet all other requirements.	
Mercy – Current HCD occupancy standards do not match those of HUD standards. HUD allows for one person per bedroom, while HCD requires three bedroom units to be occupied by a minimum of four people. This is inequitable when considering a community as a whole, as some units may allow for smaller families. It also makes it difficult to manage with residents, especially through relocation. Mercy would like to see the occupancy standards match across HUD and HCD, and have the minimums lowered to one person per bedroom.	The Department's occupancy standards are set by the Uniform Multifamily Regulations. It will consider revising them when the UMRs are next amended.
Mutual Housing – HCD should continue exploring ways to make it possible to make MHP funding available to development projects during construction.	Agreed.
PH – If one is doing a hybrid project and applying for MHP for the 4 percent side, are there any issues with using MHP on a hybrid?	See Section 7320(b)(5)(E).
Ruby's House – There is a need for monies to assist women enter our housing without initial money. Funds are needed to equip apartments with furniture and household goods after they move in Section 8 apartments.	Agreed that this is a need. MHP funds housing development; other programs provide assistance with deposits and other move-in costs.

SCMRF – Senior set-aside is established in statute and cannot be amended without legislation. The intent of the set-aside is to ensure housing for older adults by requiring that a percentage of total assistance (decided by decennial census data) from the MHP be awarded to age-restricted units. SCMRF recommends using more recent data such as the American Community Survey when determining the Senior set-aside.	Agreed. The revised guidelines use ACS data.
TODCO – Acquisition rehabilitation (re-syndicated) projects should be included in the final MHP Guidelines. The inclusion would allow a larger number of projects to apply and compete for the limited MHP funding. There are a number of affordable developments that are being excluded from participating in this and other NOFAs that exclude re-syndicated projects. Most of these projects cannot be financed without the gap financing MHP provides.	The Department believes there will be significant oversubscription for MHP funds and believes that priority should be given to the creation of new units and the preservation of projects at-high-risk of converting to market rate. In the future, the Department is open to considering making limited MHP funds available to existing projects that cannot finance essential rehabilitation using tax credits alone. Defining such projects will be a challenge.
TSA – Which projects with HUD project based rental assistance can apply for the Prop 1 funds? Definition of Net Cash Flow in MHP Regulatory Agreements. On some current MHP transactions, we have seen the language that would indicate that residual receipts payments are still owed even after MHP loan is paid off in full. Section 22 of a Regulatory Agreements states: “Upon payment in full of the loans payable from Net Cash Flow….,all Net Cash Flow proceeds shall be paid to the Department as excess cash, used to reduce rents in Assisted Units,	The answer is complicated and beyond the scope of this document. This provision is designed to reduce windfall profits.

or used for other purposes related to the Development as approved by the Department"	
UP Development – Can you provide clarity around the use of MHP funds in 100 percent PSH developments? In situations that include two HCD sources and other non-HCD (e.g. 4 percent tax credits), can funds be spread across units to create 100 percent PSH for a specific population group (e.g. people experiencing homelessness)? Based on the MHP sessions hosted, a project should be able to be fully funded by an MHP loan, 4 percent tax credits, and "some local funds." However, our underwriting on a rural 50-unit project shows large financing gaps when funded at current loan limit amounts. Since rural projects do not have high enough rents to allow for larger debt nor the same LIHTC pricing as coastal communities of California, we respectfully request a review of the loan limits for rural projects.	MHP rules limit PSH units assisted by certain Department funding programs to no more than 49 percent of total project units. See subsections 7302(g) and (h). The Department expects to receive more feasible applications from rural areas than it will be able to fund. If it is undersubscribed, the issue identified by the commenter would be worthy of exploration.