Multifamily Housing Program
Final Guidelines

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~~MULTIFAMILY HOUSING PROGRAM (MHP) REGULATIONSGUIDELINES~~

~~California Code of Regulations, Title 25~~

~~Division 1~~

~~Chapter 7~~

~~Subchapter 4~~

~~Proposition 1 Funding Only~~

MULTIFAMILY HOUSING PROGRAM GUIDELINES

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Article 1. General

Section 7300. Purpose and Scope

(a) These ~~**regulations**~~ **guidelines** implement and interpret **Health and Safety Code (HSC)** Chapter 6.7 (commencing with Section 50675)**,** ~~**of**~~ Part 2**,** ~~**of**~~ Division 31, ~~**Health and Safety Code,**~~ which establishes the Multifamily Housing Program **(MHP) administered by the California Department of Housing and Community Development (Department).**

(b) These ~~**regulations**~~ **guidelines** establish terms, conditions**,** and procedures for ~~**funds awarded**~~ **funds awarded** after the effective date of these ~~**regulations**~~ **guidelines,** ~~**with funds**~~ **authorized by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1 of 2018).** ~~**They do not apply to projects receiving funds authorized by previous measures, including the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C of 2006), the Housing and Emergency Shelter Trust Fund Act of 2002 (Proposition 46 of 2002), and various state budget acts.**~~

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50406 and 50675, ~~**Health and Safety Code**~~ **HSC**.

Section 7300.1. Uniform Multifamily Underwriting and Program Rules.

(a) Subchapter 19 of Title 25, Division 1, Chapter 7 (commencing with Section 8300) is hereby incorporated by reference into this subchapter and shall apply to rental housing developments receiving assistance under ~~**the Multifamily Housing Program**~~ **MHP**.

(b) In the event of a conflict between the provisions of Subchapter 19 and ~~**this**~~ **these guidelines**~~**Subchapter 4**~~, the provisions of **these guidelines** ~~**this Subchapter 4**~~ shall prevail.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.1, 50675.2, 50675.4, 50675.5, 50675.6, 50675.7, 50675.8, ~~**Health and Safety Code**~~ **HSC**.

Section 7301. Definitions.

In addition to the definitions found in **HSC** Chapter 2 (commencing with Section 50050), ~~**of**~~ Part 1**,** ~~**of**~~ Division 1**,** ~~**of the Health and Safety Code,**~~ and ~~**Health and Safety Code**~~ **HSC** Section 50675.2, the following definitions and those found in the Uniform Multifamily Regulations **(**~~**"**~~**UMR**~~**"**~~**)** (Chapter 7, ~~**s**~~**Subchapter** 19, Section 8301) shall apply to **these guidelines** ~~**this subchapter**~~. In the event of a conflict between the following definitions and those cited above, the following definitions prevail for the purposes of these ~~**regulations**~~ **guidelines**. The defined terms will be capitalized as they appear in the ~~**regulation**~~ **guideline** text. References to code sections refer to sections of these ~~**regulations**~~ **guidelines** unless otherwise noted~~**.:**~~

(a) "Affordable Rents" means Rents established for Assisted Units in accordance with Section 7312.

(b) "Area Median Income" **or "AMI"** means the most recent applicable county median family income published by **California Tax Credit Allocation Committee (**TCAC**)**.

(c) "Article XXXIV" means the Article of the California Constitution (~~**Health and Safety Code**~~ **HSC** Section 37000) that requires advance voter approval of certain publicly funded low-rent housing Projects.

(d) "Case Manager" means a person who provides Comprehensive Case Management services. Resident services coordinators are not Case Managers.

(e) "Comprehensive Case Management" means individualized services planning and the provision of connections to mental health, substance abuse, employment, health, housing retention, and similar services.

(f) "Chronic~~ally~~ Homelessness" means the ~~same as~~ condition experienced by people defined as "Chronically Homeless" under the federal Continuum of Care Program, at 24 Code of Federal Regulations (CFR) 578.3. It also includes the condition of individuals and families:

(1) Residing in a place not meant for human habitation, emergency shelter, or safe haven, after experiencing chronic homelessness as defined in 24 CFR 578.3 and subsequently residing in a permanent housing project within the last year;

(2) Residing in transitional housing who were experiencing chronic homelessness as defined in 24 CFR 578.3 prior to entering the transitional housing; or

(3) Residing and ~~has~~ have resided in a place not meant for human habitation, a safe haven, or emergency shelter for at least 12 months in the last three years, but ~~has~~ have not done so on four separate occasions.~~; or~~

(4) ~~**Receiving assistance through the Department of Veterans Affairs (VA)-funded homeless assistance programs and met one of the above criteria at intake to the VA's homeless assistance system.**~~ **Residing in an existing supportive housing project receiving MHP funding for Rehabilitation or being replaced by an MHP-funded project, provided that, upon initial occupancy, they were experiencing chronic homeless as defined in 24 CFR 578.3 or qualified under subsections (1) through (3) above.**

~~**(e) "Disabled Household" means a household in which a member has an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment, or in which a person requires special care or facilities in the home. "Disabled Household" also includes a household in which a member has a developmental disability specified in subdivision 4512(a) of the Welfare and Institutions Code, or a mental disorder, which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder.**~~

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

(h) "Efficiency Unit" means a Unit containing only one habitable room. A room in a structure that is a sing**l**e-family house at the time of application will not be considered to be an Efficiency Unit eligible for program funds.

(i) "Eligible Households" means households whose incomes do not exceed ~~**the income limits specified by TCAC**~~**60 percent of AMI** ~~**area median income**~~**, calculated in accordance with the regulations and procedures governing the low-income housing tax credit program, as administered by TCAC,** or other~~,~~ lower income limits agreed to by a Project Sponsor and the Department. In non-Special Needs Population ~~**P**~~**projects**, household income will be calculated on the basis of Units in accordance with TCAC rules and procedures~~.~~ **(The rules and procedures set forth in 25 California Code of Regulations (CCR) Section 2510 *et. seq*. do not apply).** In Special Needs Populations Projects, household income may be calculated on the basis of bedrooms within a single-family house and bedrooms within an apartment Unit, provided all Project Units are located on the same parcel or on contiguous parcels and the bedrooms are: (1) occupied by a single individual who is a member of a Special Needs Populations, or an individual member of a Special Needs Populations and his or her relatives or caretaker and (2) subject to an individual rental or occupancy agreement. In transitional Special Needs Populations Projects, household income may be calculated on the basis of each occupant of each bedroom provided all Project Units are located on the same parcel or on contiguous parcels and no more than ~~**2**~~**two** unrelated persons are occupying a bedroom.

(j) "Fiscal Integrity" means that the total ~~**O**~~**operating** ~~**I**~~**income** plus funds released pursuant to the ~~**R**~~**regulatory** ~~**A**~~**agreement** from the operating reserve account is sufficient to: (1) pay all current ~~**O**~~**operating** ~~**E**~~**expenses**; (2) pay all current debt service (excluding deferred interest); (3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and (4) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the permitted annual Distributions shall not be considered in determining Fiscal Integrity.

~~**(j) "Fund" means the Housing Rehabilitation Loan Fund established pursuant to Section 50661 of the Health and Safety Code.**~~

(k) "Frail Elderly" means individuals who qualify for either:

(1) Eligibility under ~~**either of two Medicaid Waiver programs**~~ **the Home and Community Based Services, the Multipurpose Senior Services Program (MSSP), or the Assisted Living Waiver Medicaid Waiver programs;.**

(2) Eligibility for services under the Program of Aall Iinclusive Cccare for the Eelderly; or

(3) Eligibility for 20 or more personal care hours per week under the In Home Supportive Services Program (IHHS).

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

(l) "Homelessness" means the condition of individuals and households who meet the definition of "homeless" in 24 CFR Section 578.3. "Homelessness" includes "Chronic Homelessness. are either: Occupants of a development undergoing Rehabilitation with MHP funds, or being replaced by an MHP-funded development, shall be deemed to qualify under this definition if they qualified upon initial occupancy.

(1) Moving from an emergency shelter; or

(2) Moving from transitional housing; or

(3) Currently homeless, which means:

(A) An individual or household who lacks a fixed, regular and adequate nighttime residence; or

(B) An individual or household who has a primary nighttime residence that is:

i A supervised publicly or privately-operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or

ii An institution that provides a temporary residence for individuals intended to be institutionalized; or

iii A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

"Homeless" includes "Chronically Homeless."

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

(n) "Large Family" refers to a housing type meeting the requirements of Section 7302(e)(1).

(o) "Manager's Unit" means a Unit in which the **onsite** manager of the Project resides. A Manager's Unit will not be considered to be an MHP Assisted Unit, nor will it be considered to be a Restricted Unit for the purpose of calculating allowable Distributions.

A Manager's Unit will be considered to be a Restricted Unit for the purpose of allocating development costs and may qualify for a loan amount up to the amount applicable to the 60~~%~~ **percent** of AMI level.

(p) "Nonprofit Corporation" means the same as defined in Section 50091 of the ~~**Health and Safety Code HSC**~~.

(q) "Refinance" means to pay off all or a portion of existing debt secured by the Project with the proceeds of a Program loan or other financing also secured by the Project.

(r) "Rehabilitation" means the term as defined in Section 50096 of the ~~**Health and Safety Code HSC**~~, including improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.

(s) "Rent" means the same as "gross Rent," as defined in the Internal Revenue Code (26 USC 42(g)(2)(B). It includes all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an Assisted Unit, plus a utility allowance established in accordance with TCAC regulations. For ~~**Units**~~ **units** assisted under the **U.S. Department of Housing and Urban Development (**HUD**)** Section 8 or similar rental subsidy program, Rent includes only the tenant contribution portion of the contract rent.

(t) "Rental Housing Development" means the same as defined in Section 50675.2 of the ~~Health and Safety Code HSC~~, which describes it as, "a structure or set of structures with common financing, ownership, and management, and which collectively contain five or more dwelling units, including efficiency units. No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures."

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

(v) "Residential Hotel" means any building that contains ~~**6**~~ **six** or more Residential Hotel Units, where a majority of the Units are Residential Hotel Units. Single-family houses are not considered Residential Hotels.

(w) **"**Residential Hotel Unit"**,** also referred to as a single room occupancy Unit or an SRO, means an Efficiency Unit that: (1) is occupied as a primary residence, and (2) is subject to state landlord-tenant law pursuant to **Title 5 California Civil Code (Cal. Civ. Code)**, Chapter 2 (commencing with Section 1940), **Part 4, Division 3** ~~**of Title 5 of Part 4 of Division 3 of the Civil Code**~~. The term also includes a ~~**Unit**~~ **unit** in an "SRO Project" as described in **Title 4 CCR,** ~~**California Code of Regulations, Title 4,**~~ Section 10325(g)(3).

(x) "Restricted Unit" means the same as that term is defined in UMR Section 8301 excluding units restricted at levels above 60 percent of ~~Area Median Income~~ AMI.

(y) "Senior" refers to a housing type meeting the requirements of Section 7302(e)(3).

(z) "Special Needs Populations" means ~~Disabled Households,~~ agricultural workers, ~~single-parent households, survivors of physical abuse, homeless persons or persons at risk of becoming homeless, chronically ill persons including those with HIV and mental illness, displaced teenage parents (or expectant teenage parents), homeless youth as defined in Government Code section 11139.512957, individuals exiting from institutional settings, chronic substance abusers,~~ 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; individuals who are survivors of domestic violence, sexual assault, and human trafficking; individuals who are experiencing Homelessness; individuals with HIV; homeless youth as defined in Government Code (GC), Section 12957(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; frequent users of public health or mental health services, as identified by a public health or mental health agency; Frail Elderly persons;~~,~~ or other specific groups with unique housing needs as determined by the Department. "Special Needs Populations" do not include seniors ~~or the frail elderly~~ unless they otherwise qualify as a Special Needs Population.

~~(aa) "State Median Income" means the most recent total median family income for California issued by the federal Department of Housing and Urban Development ("HUD"). For the purposes of assigning point scores and establishing income limits for Assisted Units, State Median Income percentages will be expressed as a percentage of Area Median Income rounded up to the next highest five percent increment as calculated annually by the Department.~~

~~(bb) "Substantial Rehabilitation" means a Rehabilitation Project where the contract for Rehabilitation work equals or exceeds $25,000 per Unit.~~

(aa) "Supportive Housing" refers to a housing type meeting the requirements of Section 7302(e)(4).

(bb) "TCAC" means the California Tax Credit Allocation Committee, established by Revenue and Taxation Code Section 18410.2.

(cc) "TCAC/HCD Opportunity Area Map" means the map or maps approved periodically by TCAC as the TCAC/HCD Opportunity Area Map.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, **~~Health and Safety Code~~ HSC**. Reference: Sections 50675, 50675.1(c), 50675.2, **~~Health and Safety Code~~ HSC.**

Article 2. Program Requirements

Section 7302. Eligible Project.

Proposed Projects are eligible only if:

(a) **~~t~~The** Project includes the new construction or Rehabilitation of a Rental Housing Development or conversion of a nonresidential structure to a Rental Housing Development; for purposes of calculating Program loan amounts and for the purpose of determining compliance with Program requirements that a Rental Housing Development contain **~~5~~ five** or more Units, a single-family house is considered to be one Unit, and an apartment Unit in an apartment building is considered to be one Unit regardless of the number of bedrooms within the apartment Unit;

(b) **~~o~~Other** development funding sources**, including all tax credit equity generated by the Project,** are insufficient to cover Project development costs;**~~ and~~**

(c) **~~a~~At** the time of the application due date, the construction or Rehabilitation work has not commenced, except for emergency repairs to existing structures required to eliminate hazards or threats to health and safety**;**

(d) ~~t~~The Project does not use federal 9 percent low income housing tax credits~~, except for Projects qualifying both as Supportive Housing under subsection (e) hereof and as a homeless assistance project under CCR Section 10325 (the TCAC regulations)~~;~~.

(e) ~~t~~The Project qualifies as one or more of the following project types:

(1) Large Family, where of the Restricted Units at least 25 percent have three or more bedrooms, and at least an additional 25 percent have two or more bedrooms;~~ Large Family new construction Projects located in an area shown on the TCAC/HCD Opportunity Area Map as "High Segregation and Poverty" must have or more of total units either unrestricted or restricted at levels above 60 percent of Area Median Income.~~

(2) Special Needs, where at least 25 percent of the Restricted Units are restricted to occupancy by Special Needs Populations, and the Project complies with the integration requirements specified in subdivision (g) hereof;

(3) Senior, where all units are restricted to residents who are 62 years of age or older under applicable provisions of ~~California Civil Code CCC~~Cal. Civ. Code, Section 51.3 and the federal Fair Housing Act (except for ~~p~~Projects utilizing federal funds whose programs have differing definitions for senior projects, or have the Rehabilitation of occupied developments restricted to residents 55 or older, or have Supportive Housing or Special Needs Projects also restricting occupancy to residents who are 55 years of age or older), and further be subject to state and federal fair housing laws with respect to senior housing;

(4) **Supportive Housing, where at least 15 percent of the Restricted Units, and not less than 10 units, are restricted to occupancy by people experiencing Chronic~~ally~~ Homelessness, ~~individuals and families,~~ and where the Project meets the requirements set forth in subsection (f) below. Where the local Coordinated Entry System prioritizes placements in supportive housing using an acuity measure that considers factors beyond chronic homelessness, the local measure may be employed, in lieu of requiring occupancy by people experiencing Chronic~~ally~~ Homelessness ~~individuals and families~~.**

(5) At High Risk, meaning Projects that meet the requirements for at-risk projects set ~~for~~ forth in ~~CCR~~TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325 ~~(TCAC regulations), with~~ and that meet all of the following additional characteristics:

(A) They are currently owned by for-profit entities, or nonprofits that own no more than three publicly-assisted rental housing developments, or were owned by one of these entities prior to purchase with interim financing no more than five years before the application date by an entity described in the following subsection (B);

(B) They are under contract to be purchased by a nonprofit meeting the requirements of GC, Section 65863.11(e), or a limited partnership where the sole general partner is a nonprofit that meets these requirements, or are owned by one of these entities; and

(C) They are not subject to rent restrictions associated with financial assistance that will survive the event that qualifies them for at-risk status under TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325.

(D) For Projects receiving financial assistance from HUD or Department of Agriculture, ~~and not subject to restrictions associated with financial assistance from other sources:~~ the Project is not assisted under either the HUD 811 or HUD 202 program or subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA); and either:

~~i. the Project is not assisted under either the HUD 811 or HUD 202 program or subject to the Low-Income Housing Preservation and Resident Homeownership. Act of 1990 (LIHPRHA); and either:~~

i ~~the current Sponsor is organized on a for-profit basis and t~~The weighted average contract rent for units in the Project is less than or equal to 0.~~75~~90 times the weighted average Small Area Fair Market Rent published by ~~(~~HUD~~)~~ for these units; or

ii ~~t~~The Project owner previously opted out of an agreement with a public agency that restricted tenant incomes and tenant-paid rents ~~in the Project~~.

(E) For Projects not receiving federal assistance, the Department projects the owner could pay off all current secured debt with the proceeds of a new commercial mortgage, assuming that rents were set at Small Area Fair Market Rent levels.

~~i the current Sponsor is organized on a for profit basis, or is a nonprofit Sponsor of fewer than three affordable Rental Housing Developments; and~~

ii ~~the Department projects that the owner could pay off all current secured debt with the proceeds of a new commercial mortgage, assuming that rents were set at Fair Market Rent levels.~~

(F) **For Projects receiving financial assistance from HUD or Department of Agriculture, and subject to restrictions associated with financial assistance from other sources, the Project must meet the requirements of both subdivision (~~A~~D) and (~~B~~E).**

(f) Supportive Housing must:

(1) **Have a Sponsor (as specified in Section 7303) with at least two years' experience during the past five years owning or operating (under a long-term master lease or similar arrangement) a rental housing development with at least 10 units ~~restricted to occupancy~~ occupied by people experiencing ~~H~~homelessness, ~~individuals or families,~~ with ~~substantial supportive services~~ on-site Comprehensive Management services. Occupancy by persons experiencing Homelessness may be evidenced either by public agency restrictions requiring this occupancy or by documentation conclusively demonstrating occupancy for at least two years by people experiencing Homelessness upon initial move-in.**

(2) **Be managed by a property manager that has managed for at least three years, rental housing developments with at least 10 units ~~restricted to occupancy~~ occupied by ~~homeless individuals or families~~ people experiencing Homelessness, with ~~substantial supportive services~~ on-site Comprehensive Case Management services. Occupancy by persons experiencing Homelessness may be evidenced either by public agency restrictions requiring this occupancy or by documentation conclusively demonstrating occupancy for at least three years by people experiencing Homelessness upon initial move-in.**

(3) **Utilize a lead service provider with at least three years of experience providing services to ~~homeless~~ people experiencing Homelessness that includes on-site ~~c~~Comprehensive ~~c~~Case ~~m~~Management ~~(individualized services planning and the provision of connections to mental health, substance abuse, employment, health, housing retention, and similar services)~~ in at least two publicly-assisted supportive housing projects or through a tenant-based housing assistance program in which Comprehensive Case Management Services are provided on-site to at least 20 persons at a time, and are not time-limited.**

A written agreement between the lead service provider and Sponsor or project owner satisfactory to the Department, must be submitted with the Program application.

(4) Follow tenant screening, property management, and service delivery practices for the Supportive Housing units in accordance with the core components of Housing First set forth in Welfare and Institutions Code, Section 8255. As of 2018, these core components are:

(A) Tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.

(B) **Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of "housing readiness" (perceived inability to live independently due to untreated mental health or substance abuse issues, or lack of life skills, such as impulse control or ability to manage personal finances). Applicants may be rejected for failure to qualify for a public rental assistance program that considers criminal history in determining eligibility.**

(C) Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness.

(D) Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.

(E) Participation in services or program compliance is not a condition of permanent housing tenancy.

(F) **Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in the Cal. Civ. Code~~CCC~~, HSC, and GC~~California's Civil, Health and Safety, and Government codes.~~**

(G) **The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction unless such use may potentially result in the forfeiture of the real property to any governmental entity.**

(H) **Case ~~m~~Managers and service coordinators who are trained in and actively employ evidence-based practices for client engagement, including, but not limited to, motivational interviewing and client-centered counseling.**

(I) Services are informed by a harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants' lives, where tenants are engaged in nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices, as well as connected to evidence-based treatment if the tenant so chooses.

(J) **The project and specific apartments may include special physical features that accommodate disabilities, reduce harm, and promote health, ~~and~~ community, and independence among tenants.**

(5) **Fill vacancies for Supportive Housing units with referrals of people experiencing Chronic~~ally~~ Homelessness or high acuity households from the local Coordinated Entry System, where this system is actively referring households to supportive housing.**

(A) If the local Coordinated Entry System fails to refer tenants within 60 days of written notification of a vacancy, Supportive Housing units may be filled by referrals from other sources, including homeless shelters.

(B) Where the local office of the U.S. Department of Veterans Affairs is not participating in a Coordinated Entry System, vacancies may be filled by veterans experiencing Chronic Homelessness referred directly by this office.

(C) **If acuity (the severity of presenting issues) is used as the basis for selecting tenants, it must be measured using the VI-SPDAT or some other standardized assessment tool approved by the Department.**

(6) **Provide on-site ~~c~~Comprehensive ~~c~~Case ~~m~~Management services, with a resident to ~~c~~Case ~~m~~Manager ratio for Supportive Housing units not exceeding 20 to 1.**

(7) Be operated in accordance with property management and supportive service plans approved by the Department, initially at time of application and then at such later time or times prior to occupancy as the Department may require.

(8) Comply with the integration requirements specified in subdivision (g) hereof.

(9) Track and provide annual reports to the Department on tenant characteristics as specified in Section 7325.

(g) Special Needs and Supportive Housing Projects must demonstrate integration of targeted disabled populations with the general public by:

(1) **Physically integrating Assisted Units restricted to disabled persons with other units, to the maximum extent feasible and subject to reasonable health and safety requirements, consistent with 24 CFR, Section 8.26~~ and not separating them onto separate floors~~.**

(2) **In Projects with more than 20 units, have no more than 49 percent of total units restricted to occupancy by ~~disabled populations~~ persons with disabilities by "Department Funding Sources" ~~programs~~, as defined in Section 7302(h) below. 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 49 percent of total Project Units being restricted to persons with disabilities. It shall also not apply to projects complying with alternative requirements for demonstrating Olmstead compliance adopted by counties and approved by the Department.**

(h) Multiple Department Funding Sources

(1) Use of multiple ~~d~~Department ~~f~~Funding ~~s~~Sources on the same Assisted Units (subsidy stacking) is prohibited~~, with the exception of grants for infrastructure and uses other than housing development, including grants under the Infill Infrastructure Grant program (IIG) and Affordable Housing Sustainable Communities program (AHSC), and projects originally developed with Department assistance and now being re-syndicated~~.

~~(2) No more than two Department funding sources may be used on a single Project, with the same exceptions specified in the previous subsection.~~

(2) "Department ~~f~~Funding ~~s~~Sources" ~~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~~ shall mean loan or grant funds awarded for permanent funding of development costs (which shall not include funds specifically designated for capitalized operating or operating subsidy reserves) under the following programs:

(A) Supportive Housing Multifamily Housing program;

(B) Multifamily Housing Program;

(C) Veterans Housing and Homelessness Prevention program;

(D) No Place Like Home Program, including funds awarded either by the Department or an Alternative Process County;

(E) Affordable Housing and Sustainable Communities program - Affordable Housing Development loans, but not grants for Housing Related Infrastructure, Sustainable Transportation Infrastructure, Transportation Related amenities or Program Costs, all as defined in the program guidelines;~~.~~

(F) Transit Oriented Development program - rental housing development loans, but not grants for infrastructure;

(G) Joe Serna, Junior Farmworker Housing Grant program;

(H) SB 2 Farmworker Housing Program;

(I) Housing for a Healthy California program, including funds awarded either by the Department or a county;

(J) National Housing Trust Fund Program.

"Department ~~f~~Funding ~~s~~Sources" do not include existing loans or grants under any Department funding source listed above that are at least 14 years old and will be assumed or recast as part of an acquisition and Rehabilitation project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, **~~Health and Safety Code~~ HSC**. Reference: Sections 50675.2(d), 50675.4, 50675.7, **~~Health and Safety Code~~ HSC**.

Section 7303. Eligible Sponsor.

(a) A Sponsor shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited liability **~~corporation~~ company**, local public entity, duly constituted governing body of an Indian reservation or Rancheria, or other legal entity, or any combination thereof which meets the requirements of subsection(c), below.

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

(c) In order to be eligible for funding, a Sponsor must demonstrate experience relevant to owning and developing affordable rental housing through **evidencing current capacity (including financial resources, an office and payroll), and** one or more of the following:

(1) **~~s~~Successful** prior ownership and development of affordable rental housing.

(2) **~~e~~Employment** of a staff with demonstrated experience owning and developing affordable rental housing.

~~**(d) Where 70% or more of the Units are reserved for Special Needs Populations, the Sponsor may qualify for development or ownership experience required by subsection (c)(1), above, by demonstrating that the Sponsor has experience owning and developing affordable rental housing or operating and developing affordable rental housing through the following:**~~

~~**(1) the Sponsor may qualify for development experience by contracting with a developer or development consultant for the provision of comprehensive development management services, provided that the Sponsor and the contractor have entered into an agreement acceptable to the Department making the contractor responsible for financial packaging, selection of other consultants, selecting the general construction contractor and property management agent, oversight of architectural design, construction management, and other major aspects of the development process; and**~~

~~**(2) the Sponsor may qualify for ownership experience if the role and responsibility of the Sponsor in the Projects submitted for such experience is commensurate with the ownership role and responsibilities in the proposed Project.**~~

(d) If the Sponsor is a joint venture, and qualifies as an eligible Sponsor under the preceding subsections based on the experience of only one joint venture partner, that partner must have a controlling interest in the joint venture and a substantial and continued role in the Project's ongoing operations, as evidenced in the documents governing the joint venture.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.6 and 50675.7(c)(3), ~~**Health and Safety Co**~~ **HSC**

Section 7304. Eligible Uses of Funds.

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

(b) Eligible costs include the following:

(1) ~~**p**~~**Property** acquisition~~**, not to exceed the actual cost of the last arm's length acquisition between unaffiliated parties;**~~

(2) ~~**r**~~**Refinancing** of existing long-term debt, only in connection with a Project involving ~~**Substantial**~~ Rehabilitation **contract in an amount equal to or exceeding the amount specified in UMR Section 8312(a)(1)**, and only to the extent necessary to reduce debt service to a level consistent with the provision of Affordable Rents in Assisted Units and with the Fiscal Integrity of the Project;

(3) ~~**l**~~**Land** lease payments;~~**future payments must be discounted to present value;, including the net present value of future payments;**~~

(4) ~~**c**~~**Construction** and ~~**r**~~**Rehabilitation** work;

(5) ~~**o**~~**Off**site improvements, such as sewers, utilities and streets, directly related to, and required by the Rental Housing Development;

(6) ~~**o**~~**On**site improvements related to the Rental Housing Development;

(7) ~~**a**~~**Architectural**, appraisal, engineering, legal and other consulting costs and fees, which are directly related to the planning and execution of the Project and which are incurred through third-party contracts;

(8) ~~**d**~~**Development** costs of a residential Unit reserved for an onsite manager, childcare facilities, and after-school care and social service facilities integrally linked to, and addressing the needs of the tenants of the Assisted Units;

(9) Development costs of health care facilities integrally linked to, and addressing the needs of tenants of Assisted Units, such as an adult day health care center in a Project with Units restricted to the Frail Elderly;

(10) ~~**a**~~**A** reasonable developer fee subject to the provisions of Section ~~**8312**~~ **7305;** ~~**of this title;**~~

(11) Rent-Up Costs;

(12) **~~c~~Carrying** costs during construction, including insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the Rental Housing Development is under construction;

(13) **~~b~~Building** permits and state and local fees;

(14) **~~c~~Capitalized** operating and capitalized replacement reserves up to the amount of the initial deposit required by the Department pursuant to **UMR** Sections 8308(b) and 8309(b)**~~) of this title~~**;

(15) **~~e~~Escrow**, title insurance, recording and other related costs;

(16) **~~c~~Costs** for items intended to assure the completion of construction, such as contractor bond premiums;

(17) **~~e~~Environmental** hazard reports, surveys, and investigations;

(18) **~~c~~Costs** of relocation benefits and assistance required by law; and

(19) **~~a~~Any** other costs of Rehabilitation or new construction approved by the Department.

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

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

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

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

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

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

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, **~~Health and Safety Code~~ HSC**. Reference: Sections 50675.2(e) and (h), and 50675.5, **~~Health and Safety Code~~ HSC**.

Section 7305. ~~[Reserved]~~Cost Limitations

(a) The limits on development costs specified in UMR Section 8311 shall apply, except that:

(1) For related party sales, property acquisition prices may be set at levels that allow for recovery of verified holding costs, the assumption of existing debt, and the maximization of acquisition tax credits. However, any proceeds realized by the seller, above their costs, shall be contributed back to the Project.

(2) The amount of funds set aside, borrowed or applied to cover future land lease payments must be discounted to the present value of these payments.

(b) The limits on developer fee specified in UMR Section 8312 shall apply, except that:

(1) Section 8312(d) shall not apply; and

(2) For Projects utilizing 4 percent tax credits, Developer Fee payments shall not exceed the amount that may be included in project costs pursuant to Title 4 CCR, Section 10327. In addition, the Developer Fee paid from development funding sources shall not exceed the following:

(A) For acquisition and/or Rehabilitation projects or adaptive reuse projects, the lesser of the amount of Developer Fee in project costs or $2,000,000.

(B) For new construction projects, the base limit shall be the lesser of the amount that may be included in project costs or $2,200,000. To arrive at the final limit on Developer Fee paid from development funding sources, the base limit shall then be multiplied by a ratio that is the average of (i) the difference between two and the project's high-cost ratio, as calculated pursuant to Title 4 CCR, Section 10317(i)(6) or successor language and (ii) 100 percent.

Section 7306. Type and Term of Loan.

(a) Program funds shall be used for post-construction, permanent financing only~~, **except under an agreement with California Housing Finance Agency to provide construction period financing to eligible Projects receiving financing from both California Housing Finance Agency and the Program**~~**.**

(b) The initial term of the loan shall be 55 years, commencing on the date of recordation of the Program loan documents.

~~**(c) Upon request by the Sponsor, the Department may approve a 10-year extension of the loan term if the Department determines both of the following are met:**~~

~~**(1) The Sponsor is in compliance with the Regulatory Agreement and other Program loan documents and agrees to continue to comply during the extended term; and**~~

~~**(2) The extension is necessary to continue operations consistent with Program requirements.**~~

~~**(d) The Department may condition the extension on such terms as it deems necessary to ensure compliance with the requirements of the Program.**~~

(c) The Program loan shall be secured by the Project real property and improvements, subject only to liens, encumbrances and other matters of record approved by the Department **pursuant to** ~~**CCR**~~ **UMR Section 8315** ~~**(Uniform Multifamily Regulations)**~~. The Program loan shall have priority over ~~**loans from local public agencies and**~~ loans provided by the Affordable Housing Program administered by the Federal Home Loan Bank~~**, provided that the Department may subordinate to these loans if they have a principal amount equal to or greater than twice the amount of the Program loan**~~**.**

(d) Where the requirements of federal funding for a project, or the requirements of the low-income housing tax credits used in a project, would cause a violation of the requirements of these ~~**regulations**~~ **guidelines**, the requirements of these ~~**regulations**~~ **guidelines** may be modified as necessary to ensure program compatibility. Where the requirements of federal funding or tax credits create what are deemed to be minor inconsistencies as determined by the director of the Department, the Department may waive the requirements of these ~~**regulations**~~ **guidelines** as deemed necessary to avoid an unnecessary administrative burden. Any such modifications or waivers shall be included in the Regulatory Agreement or other documents governing the MHP loan.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.1(b), 50675.6, 50675.8, ~~**Health and Safety Code**~~ **HSC**

Section 7307. Maximum Loan Amounts.

(a) The loan amount shall not exceed the total eligible costs required, when considered with other available financing and assistance, **including the full amount of any tax credit equity generated by the Project,** in order to:

(1) ~~**e**~~**Enable** the acquisition, development and construction or Rehabilitation of the Rental Housing Development;

(2) ~~**e**~~**Ensure** that Rents for Assisted Units comply with Program requirements; and

(3) ~~**o**~~**Operate** in compliance with all other Program requirements.

(b) The loan amount is further limited to the sum of:

(1) ~~**a**~~ **A** base amount per Restricted Unit; plus

(2) ~~**t**~~**The** amount per Restricted Unit required to reduce Rents from 30~~**%**~~ **percent** of 60~~**%**~~ **percent** of ~~**Area Median Income**~~ **AMI** to the actual maximum restricted Rent for the Unit, assuming that the Rent reduction will be achieved by substituting Program funds for private amortized debt, and calculated by the Department based on private market multifamily rental loan terms available at the time of issuance of each ~~**n**~~**Notice** of ~~**F**~~**f**unding ~~**A**~~**a**vailability **(NOFA)**.

The initial base amount shall be ~~**$30,000 per Restricted Unit utilizing nine percent credits**~~**, $175,000 per Supportive Housing Unit, $175,000 per Restricted Unit in a Large Family new construction project located in a "High Resource" or "Highest Resource" area on the TCAC/HCD Opportunity Map and $150,000** per **other** Restricted Unit. The Department may periodically adjust this amount as necessary to ensure a sufficient volume of applications that meet the objectives of the Program, as evidenced by high rating scores received under Section 7320(b). In making adjustments to the base amount, the Department shall consider (A) demand evidenced in previous funding rounds; (B) the total amount of Program funds available for award; (C) trends in Project development costs; and (D) trends in the terms and availability of supplemental development funding sources.

(c) **For a Project** ~~**subject**~~ **required to be constructed as a condition of approval of one or more market rate developments pursuant to an inclusionary housing ordinance, or similar local requirement, units required under the ordinance or other requirement shall not be counted in determining applicable loan limits, except for units restricted under the Program at a lower rent level than required by the ordinance, in which case the loan amount shall be limited to the amount required to reduce rents from the level required under the ordinance or other requirement to the program-restricted amount, calculated using the loan limit tables published by the Department. For example, if the local requirement is to construct 60 percent AMI units and the applicant requests MHP funds to provide 30 percent AMI units, the per-unit loan limit shall be the difference between amount shown in the loan limit tables published by the Department for 60 percent AMI units and the amount shown for 30 percent AMI units.**

(d) For loan limit calculations, Unit count shall include the number of single-family houses plus the number of Units within an apartment building or Residential Hotel regardless of whether bedrooms are rented individually.

For Units receiving rental assistance under renewable rental subsidy contracts, the loan amount will be based on the level of income restriction that will apply following the closing of the Program loan.

(e) In each ~~**notice of funding availability**~~ **NOFA**, the Department shall establish a maximum per Project loan amount. This maximum shall be set at a level that ensures sufficient demand for Program funds while meeting the Program's geographic and other distribution goals, taking into account the demand evidenced in previous funding rounds, the availability of other sources of rental subsidy financing and the total amount of Program funds available for award.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.1 and 50675.6(e), ~~**Health and Safety Code**~~ **HSC**.

Section 7308. Interest Rate and Loan Repayments.

(a) Loans shall bear simple interest ~~**of 3% per annum**~~ on the unpaid principal balance **at a rate that is the lesser of:**

(1) **Three percent per annum; or, if a project has received an allocation of tax credits,**

(2) **~~t~~The maximum rate that allows the Program loan to be treated as debt for federal or state low-income housing tax credit purposes, or that avoids the inability to syndicate due to projected negative capital account balances, but not less than 0.42 percent, but only if the change in interest rate:**

(A) Materially increases the feasibility of the Project; and

(B) Ensures long term affordability for the residents.

The Department may require a third-party tax professional to verify the necessity for reducing the interest rate below ~~three~~ 3 percent, pursuant to subdivision (a)(2), the cost of which shall be borne by the Sponsor.

(b) Interest shall accrue from the date that funds are disbursed by the Department to or on behalf of the Sponsor.

~~**(c) The Department may require a third-party tax professional to verify the necessity for reducing the interest rate below three 3 percent, pursuant to subdivision (a)(2), the cost of which shall be borne by the Sponsor.**~~

(c) For the first 30 years of the loan term, payments in the amount of 0.42~~**% percent**~~ of the outstanding principal loan balance shall be payable to the Department commencing on the last day of the Initial Operating Year and continuing on each anniversary date thereafter. The balance of accrued interest shall be payable out of Operating Income remaining after payment of approved Operating Expenses, debt service on other loans, reserve deposits, and Sponsor Distributions. Commencing on the 30th anniversary of the last day of the Initial Operating Year, interest shall be payable in an amount equal to the lesser of: (1) the full amount of interest accruing on the outstanding principal loan amount; or (2) the amount determined by the Department to be necessary to cover the costs of continued monitoring of the Project for compliance with the requirements of the Program. HUD Section 811 and 202 projects will be subject to the requirements of this subsection.

(d) Except for the required payment of 0.42~~**%**~~ **percent** of the outstanding principal loan balance, the Department shall permit the deferral of accrued interest for such periods and subject to such conditions as will enable the Sponsor to maintain Affordable Rents, maintain the Fiscal Integrity of the Project**,** and pay allowable Distributions pursuant to **UMR** Section 8314~~**of this title**~~.

(e) All Program loan payments (including the 0.42~~**%**~~ **percent** loan payment) shall be applied in the following order: (1) to any expenses incurred by the Department to protect the property or the Department's security interest in the property, or incurred due to the Sponsor's failure to perform any of the Sponsor's covenants and agreements contained in the deed of trust or other loan documents; (2) to the payment of accrued interest; and (3) to the reduction of principal.

(f) The total outstanding principal and interest, including deferred interest, shall be due and payable in full to the Department at the end of the loan term including any extension granted by the Department. ~~**The Department shall, at the end of the loan term, forgive that portion of the Program loan, including principal and deferred interest, applied to the costs of developing childcare facilities provided that such facilities have been operated for childcare purposes for a period of not less than ten10 years.**~~

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.1 and 50675.6(c), ~~**Health and Safety Code**~~ **HSC**.

Section 7309. Appraisal and Market Study Requirements.

(a) As a condition of funding, the Department may require an appraisal or market study, or both, to:

(1) ~~**e**~~**Establish** a market value for the land to be purchased or leased as part of the Project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to Section 7304**.**~~**;**~~

(2) ~~**a**~~**Assist** with establishing other reasonable development costs pursuant to Section 7304~~**;**~~**.**

(3) ~~**a**~~**Assess** Fiscal Integrity**.**~~**;**~~

(4) ~~**v**~~**Verify** an adequate tenant market.

(b) Any appraisal required by the Department shall be prepared at the Sponsor's expense by an individual or firm which:

(1) ~~**h**~~**Has** the appropriate license and the knowledge and experience necessary to competently appraise low-income residential rental property;

(2) ~~**i**~~**Is** aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;

(3) ~~**i**~~**In** reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property; and

(4) ~~**i**~~**Is** an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.

(c) Any market study required by the Department shall **conform to the market study guidelines adopted by TCAC and** be prepared at the Sponsor's expense by an individual or firm which:

(1) ~~**h**~~**Has** the knowledge and experience necessary to conduct a competent market study for low-income residential rental property;

(2) **~~i~~Is** aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study;

(3) **~~i~~In** reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true market needs for low-income residential property; and

(4) **~~i~~Is** an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11**~~, Health and Safety Code~~ HSC**. Reference: Sections 50675.1(c) and 50675.7(b)(3), **~~Health and Safety Code~~ HSC**.

Section 7310. [Reserved]

Section 7311. Over-income Households.

For Assisted Units:

(a) If, at the time of recertification, a tenant household's income exceeds the limit for an income level applicable to new tenants that is greater than the income limit designated for the household, and, to the extent a rent increase for the household is permitted by statutes and regulations governing the low income housing tax credit program, the Sponsor:

(1) **~~s~~Shall** redesignate the tenant's Unit as a Unit at the higher income level;

(2) **~~s~~Shall** increase the tenant's Rent to the level applicable to Units at the higher income level; and

(3) **~~s~~Shall** designate the next available comparable Unit as a Unit at the income level originally applicable to the household until the Unit mix required by the Program regulatory agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms as the original Unit.

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

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

For purposes of this subsection, income levels shall not be limited to those applicable to new tenants~~,~~ and shall consist of ~~**five**~~ **5** percent increments of ~~**area**~~ **AMI** ~~**median income**~~. Continuing with the example described in the subsection (a), the income levels utilized to establish Rent limits upon recertification would be 20~~**%**~~ **percent**, 25~~**%**~~ **percent**, 30~~**%**~~ **percent**, 35~~**%**~~ **percent**, etc. A household occupying a Unit in this project with a 20~~**%**~~ **percent** limit whose income, upon recertification, had increased to 32~~**%**~~ **percent** of ~~**area**~~ **AMI** ~~**median income**~~ could have their Rent increased to the Rent level applicable to the 35~~**%**~~ **percent** income level.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.2(b), 50675.7 and 50675.8, ~~**Health and Safety Code**~~ **HSC**.

Section 7312. Rent Standards.

The Department shall establish Rent limits for Assisted Units in each Project in accordance with the following:

(a) Rent limits for initial occupancy and for each subsequent occupancy by a new Eligible Household shall be based on Unit type, applicable income limit, and area in which the Project is located, following the calculation procedures used by TCAC and using ~~**the**~~ income limits ~~**recognized by TCAC for purposes of application scoring as well as**~~ **in 5 percent increments of AMI**~~**rea edian ncome**~~**, including** the income limits utilized by the Program for this purpose pursuant to Section 7320(b)(1). The maximum Rent limit shall be 30~~**%**~~ **percent** of 60~~**%**~~ **percent** of ~~**Area Median Income**~~ **AMI** for the appropriate Unit size.

(b) Rents will be further restricted in accordance with Rent and income limits submitted by the Sponsor in its application for the Program loan, approved by the Department, and set forth in the Regulatory Agreement. Rents shall not exceed 30~~**%**~~ **percent** of the applicable income eligibility level.

(c) Rents in Assisted Units may be adjusted no more often than annually. The amount and method of adjustment for Assisted Units shall be in accordance with the regulations and procedures used by TCAC.

(d) The Department may permit an annual Rent increase greater than that permitted by this section if the Project's continued Fiscal Integrity is jeopardized due to factors that could not be reasonably foreseen.

(e) For Units receiving HUD Section 8 or other similar rental assistance, the rules of the rental assistance program pertaining to Rent increases will prevail for as long as the rental assistance remains in place. Changes in the tenant contribution amounts may occur more often than annually as required by the rental assistance program.

(f) Where a Project is receiving renewable Project-based rental assistance:

(1) ~~**t**~~**The** Sponsor shall in good faith apply for and accept all renewals available;

(2) ~~**t**~~**The** Sponsor shall fund a transition reserve to be used in the event the rental assistance contract is terminated.

The transition reserve shall be in an amount sufficient to prevent, for ~~two~~ **one** year~~s~~, Rent increases for Units that formerly received rental assistance and were restricted to households with incomes not exceeding ~~**a percentage of State Median Income SMI, expressed as a percentage of**~~ **30 percent of** ~~**Area Median Income**~~ **AMI**. The transition reserve may be capitalized or funded from annual project cash flow in amounts to be approved by the Department. Use of funds in the reserve shall be subject to the review and approval of the Department; and

(3) ~~**i**~~**If** the Project-based rental assistance is terminated, **the owner shall notify the Department in writing immediately and shall make every effort to find alternative subsidies or financing structures that would maintain the tenant income, rent, and special population targeting specified in the Department's regulatory agreement. Upon documenting to the Department's satisfaction unsuccessful efforts to identify and obtain alternative resources, and where the termination occurs through no fault of the owner:**

(A) Rents **and income limits** for Units previously covered by this assistance may be increased above the levels allowed pursuant to subsection (c), above, but only to the minimum extent required for Fiscal Integrity, as determined by the Department**, with income limits not to exceed 60 percent of AMI and Rents not to exceed 30 percent of 60 percent of AMI.** ~~**In addition, Rents for such Units restricted to households with incomes not exceeding a percentage of State Median Income SMI, expressed as a percentage of Area Median Income AMI, shall not in any event be increased to an amount in excess of 30% percent of 50%60 percent of Area Median Income AMI, adjusted by number of bedrooms in accordance with TCAC requirements.**~~

(B) Restrictions for Units previously covered by this assistance requiring occupancy by special populations, including by Persons Experiencing Homelessness, Persons Experiencing Chronic Homelessness and Special Needs Populations, may be modified or eliminated, but only to the minimum extent required for Fiscal Integrity, as determined by the Department.

(C) Any increase in rents and income limits pursuant to subsection (A) above, or modification of special population occupancy requirements pursuant to subsection (B), shall require advance Department approval. To the maximum extent possible, these changes shall minimize the impact on the lowest income Project residents, and shall be phased in as gradually as possible.

(4) **Based on an analysis of the risk associated with specific rental assistance programs, the Department may modify the requirements of subsection~~s~~ (2)** ~~**and (3)**~~ **above by an amendment to these guidelines**. **This modification may include adjusting the amount of the required reserve, setting different amounts for different rental assistance programs to reflect the relative risk associated with these programs, allowing the reserve to be funded and controlled by a locality, establishing a reserve funded and held by the Department rather than the Sponsor, or adjusting the level to which rents may be increased upon subsidy termination.**

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~Health and Safety Code~~ **HSC**. Reference: Sections 50675.2(b) and (c) and 50675.8, ~~Health and Safety Code~~ **HSC**.

Section 7313. [~~Reserved]~~ Use of Operating Income

(a) Notwithstanding UMR Section 8314(a)(1), first-priority use of operating income remaining after payment of approved current and prior year operating expenses, reserve deposits and mandatory debt service shall be payment of any:

(1) Approved deferred Developer Fee, pursuant to Section 7305, provided that the aggregate of the Developer Fee paid from sources and paid as deferred shall not exceed $3,500,000.

(2) Asset management, partnership management, and similar fees, including fees paid to investors, in an amount not to exceed the sum of:

(A) An amount for the current year, equal to $30,000 for 2016 and increased at the rate of 3.5 percent for each subsequent year, plus

(B) Unpaid asset management, partnership management, and similar fees accrued for a period not to exceed three project fiscal years following the year during which they are earned, up to the difference between the limit for the year and the amount paid for that year; and

(3) Supportive Services Costs that the UMRs would allow to be paid as operating costs, but that other funding sources do not.

(b) Any operating income remaining after the payments listed in the previous subsection (a) shall be applied in accordance with UMR Section 8314(a)(2).

(c) **The requirements of UMR Section 8314(b) through 8314(h) shall apply.**

Section 7314. ~~Limits on Design Features~~ [Reserved]

~~**Except where required to secure local government approvals essential to completion of the Project, or where necessary to receive tax credits for historic preservation, costs associated with the following items are ineligible for funding with Program loan proceeds, and cannot be paid for from syndication proceeds or loans supported by Rents from Assisted Units:**~~

~~**(a) building and roof shapes, ornamentation and exterior finish schemes whose costs are in excess of the typical costs of these features in modestly designed rental housing;**~~

~~**(b) fireplaces, tennis courts, and similar amenities not typically found in modestly designed rental housing; and**~~

~~**(c) custom-made windows, ceramic tile floors and counters, hardwood floors, and similar features using materials not typically found in modestly designed rental**~~

~~**housing, except where such materials have lower lifecycle costs due to lower operating, maintenance and replacement costs.**~~

~~**NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.5 and 50675.7(b), Health and Safety Code.**~~

Section 7315. Relocation Requirements.

(a) The Sponsor of a Project resulting in displacement of residential tenants shall be solely responsible for providing the assistance and benefits set forth in this section and in applicable state and federal law, and shall agree to indemnify and hold harmless the Department from any liabilities or claims for relocation-related costs.

(b) All tenants of a property who are displaced as a direct result of the development of a Project shall be entitled to relocation benefits and assistance as provided in **GC** Title 1, Division 7, Chapter 16~~**, of the Government Code,**~~ commencing at Section 7260, and **Title 25 CCR,** Subchapter 1**, of** Chapter 6~~**, of Title 25 of the California Code of Regulations,**~~ commencing at Section 6000. Displaced tenants who are not replaced with Eligible Households under this Program shall be provided relocation benefits and assistance from funds other than Program funds.

(c) The Sponsor shall prepare a relocation plan in conformance with the provisions of ~~**California Code of Regulations,**~~ Title 25 **CCR**, Section 6038. The relocation plan shall be subject to the review and approval by the Department prior to the disbursement of Program funds.

(d) All Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy Assisted Units meeting the tenant occupancy standards set forth in **UMR** Section 8305~~**of this title**~~**.**

(e) All in-Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy any available non-Assisted Units for which they qualify.

(f) Notwithstanding the preceding subsections, tenants who are notified in writing prior to their occupancy of an existing Unit that the Unit may be demolished as a result of funding provided under the Program shall not be eligible for relocation benefits and assistance under this section. The form of any notices used for this purpose shall be subject to Department approval.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Government Code, Title 1, Division 7, Chapter 16 (commencing with Section 7260).

Section 7316. Construction Requirements.

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

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

(1) Operating costs shall be minimized during the useful life of the Rental Housing Development.

(2) Tenant security shall be enhanced through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.

(3) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the Project~~**, and Unit density shall not be substantially less than the average for new developments with such Units**~~.

(b) The Sponsor shall ensure that the construction work for the Project is performed in a competent, professional manner at the lowest reasonable cost consistent with the Project's scope, design and locality and not in excess of the total funds available.

(c) The Sponsor shall enter into a written contract for the construction or Rehabilitation work with a contractor having the appropriate state license. ~~**The contract shall be subject to the prior approval of the Department to determine compliance with Program requirements.**~~

(d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions and representations between the parties and shall specify a total contract price consistent with the Project budget approved by the Department.

(e) The Sponsor shall ensure ~~**that**~~ the construction contract requires compliance with state prevailing wage law (**Labor Code,** Chapter 1**,** ~~**of**~~ Part 7**,** ~~**of**~~ Division 2~~**, of the Labor Code,**~~ commencing with Section 1720). The construction contract shall require the contractor to maintain labor records as required by law, and to make these records available to any enforcement agency upon request.

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

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.5 and 50675.7, ~~**Health and Safety Code**~~ **HSC**.

Article 3. Application Procedures

Section 7317. Application Process.

(a) The Department shall periodically issue a ~~**Notice of Funding Availability (**~~NOFA~~**)**~~ that specifies, among other things, the amount of funds available, application requirements, the allocation of rating points, minimum eligibility threshold point scores, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible those Project applications for which the Department has issued, or concurrently will issue, a special NOFA pursuant to subsection (~~**c**~~**b**)(4), below. Applications selected for funding shall be approved at loan amounts, terms, and conditions specified by the Department. For each Project selected for funding, the Department shall issue an award letter **and standard agreement**~~ **and a conditional loan commitment**~~**.**

(b) In order to implement goals and purposes of the Program, the Department may adopt measures to direct funding awards to designated Project types including, but not limited to, Rural Area Projects, Projects located in areas needing additional funding to achieve a reasonable geographic distribution of Program funds, Projects preserving continued affordability, and Projects with specified funding characteristics, including, but not limited to, Projects receiving an award of tax credits from TCAC. These measures may include, but are not limited to:

(1) Issuing a special NOFA for designated Project types.

(2) Awarding bonus points within a particular NOFA to designated Project types.

(3) Reserving a portion of funds in the NOFA for designated Project types.

(4) Notwithstanding anything in these ~~**regulations**~~ **guidelines** to the contrary, a special NOFA issued pursuant to this subsection may establish an over-the-counter application process, meaning the Department continuously accepts and rates applications according to minimum threshold criteria published in a NOFA for the process, and makes loans to Projects that meet or exceed these criteria until the funding available for the process is exhausted. At a minimum, a special NOFA shall include a description of the application process and funding conditions, shall require compliance with Section 7320(a), and shall establish minimum funding threshold criteria based on the rating criteria set forth in Section 7320(b).

(c) Of the total MHP funds awarded, and authorized by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1), the share that is awarded to Senior Projects shall be not less than the percentage of lower income renter households in the state that are lower income elderly renter households.

(1) The required percentage shall be calculated using data from the American Community Survey or successor survey conducted by the U.S. Census Bureau, as defined and reported by HUD. The required percentage shall be calculated using HUD's most recent definitions and report of the data.

(2) In each funding round, to the extent the Department receives applications meeting the requirements of Section 7320, the amount of awards to Senior Projects will be sufficient to make the share of total cumulative Proposition 1 MHP awards to Senior Projects at least equal to the percentage calculated pursuant to the preceding subsection, less one percent.

(3) **The required percentage as of the effective date of these guidelines is 18.3 percent.**

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.1(c), 50675.6, 50675.7, ~~**Health and Safety Code**~~ **HSC**.

Section 7318. Application Requirements.

(a) Application shall be made on a form made available by the Department requesting the information required by ~~**Multifamily Housing Program**~~ **MHP** ~~**Regulations**~~ **guidelines**.

(b) An application shall be deemed complete when the Department is able to review the application and assess the proposed ~~**P**~~**project's** feasibility pursuant to **UMR** Section 8310 ~~**of this title**~~ and to determine from the information provided whether the Project is eligible for rating and ranking pursuant to Section 7320.

(c) Submission of an application by the applicant and a co-applicant must be authorized by resolutions of the governing boards of both the applicant and co- applicant, unless the applicants are individuals.

(d) The applicant shall disclose on the MHP application whether the Project will be part of an application to TCAC seeking hybrid tiebreaker incentives. This election is irrevocable. Once awarded, the Department will not break up or combine project awards to accommodate a conversion to or from a hybrid project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.6 and 50675.7, ~~**Health and Safety Code**~~ **HSC**.

Section 7319. [Reserved]

Section 7320. Project Selection.

(a) Projects shall not be eligible for an award of funds unless the application demonstrates that all of the following conditions exist:

(1) The applicant is an eligible Sponsor pursuant to Section 7303;

(2) The Project involves an eligible Project pursuant to Section 7302;

(3) All proposed uses of Program funds are eligible pursuant to Section 7304;

(4) The application is complete pursuant to Section 7318;

(5) The Project will maintain Fiscal Integrity consistent with proposed Rents in the Assisted Units and is feasible pursuant to **UMR** Section 8310 ~~**of this title**~~;

(6) The Project site is free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove and that cannot be mitigated;

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

(8) In Projects targeting Special Needs Populations, **or including Supportive Housing Units,** the Project will provide services suitable to the needs of the tenants, and the application demonstrates a specific, feasible plan for delivery and funding of those services including identification of service partners and funding sources; and

(9) The Project complies with the requirements of **UMR** Sections 8302 and 8303 ~~**of this title**~~.

(b) Applications shall be reviewed by the Department to determine compliance with subsection (a), above, and shall be rated and ranked in accordance with this subsection (b). Applications shall be ranked in the order of their point scores. The Department may establish a preliminary point score and ranking for applications prior to determining their compliance with subsection (a), above. If an application will not be within a fundable range as indicated by the preliminary ranking, the Department is not required to determine the application's compliance with subsection (a), above. Additional or alternative scoring may be implemented in particular NOFAs for designated Project types as described above in Section 7317(~~**c**~~**b**).

The ~~**following**~~ criteria **detailed below and summarized in the following table** shall be used to rate applications:

Criterion	**Maximum Score**
Serving Lowest Income Levels	**35**
Addressing Most Serious Local Housing Needs	**10~~5~~**
Development and Ownership Experience	20
~~**Serving Families or Special Need Populations, and At High-Risk Projects**~~	~~**35**~~
Leverage of Other Funds	**20**
Readiness	**15**
Adaptive Reuse / Infill / Proximity to Amenities/ Sustainable Building Methods	**15**
Total	~~**155**~~**115**

(1) **The extent to which the Project serves households at the lowest income levels – 35 points maximum.**

Applications will be scored based on the percentage of Restricted Units limited to various percentages of **~~the State Median Income SMI, expressed as a percentage of Area Median Income~~ AMI, ~~and~~** adjusted by household size, and **~~in accordance with the following schedules~~ as follows:**

(A) A maximum of 25 points will be awarded based on the Lowest Income Points Table below.

The "Percent of Area Median Income" category may be used only once. For instance, 50 percent of Restricted Units at 50 percent of Area Median Income cannot be used twice for 100 percent at 50 percent and receive 25 points, nor can 50 percent of Restricted Units at 50 percent of Area Median Income for 12.5 points and 40 percent of Restricted Units at 50 percent of Area Median Income be used for an additional 10 points. However, the "Percent of Restricted Units" may be used multiple times. For example, 50 percent of Restricted Units at 50 percent of Area Median Income for 12.5 points may be combined with another 50 percent of Restricted Units at 45 percent of Area Median Income to achieve the maximum points.

Only projects in Rural Areas may use the 55 percent of Area Median Income column.

Lowest Income Points Table (maximum 25 points):

		Percent of Area Median Income							
		55%	50%	45%	40%	35%	30%	25%	20%
	50%	0	12.5*	18.75	0	0	0	0	0
Percent	45%	0	11.25*	16.9	0	0	0	0	0
of	40%	5*	10	15	0	0	0	0	0
Restricted	35%	4.4*	8.75	13.15	17.5	0	25	0	0
Units	30%	3.75*	7.5	11.25	15	18.75	22.5	25	0
	25%	3.15*	6.25	9.4	12.5	15.65	18.75	21.9	25
	20%	2.5*	5	7.5	10	12.5	15	17.5	20
	15%	1.9*	3.75	5.65	7.5	9.4	11.25	13.1	15
	10%	1.25*	2.5	3.75	5	6.25	7.5	8.75	10

***Available to Rural Area projects only**

(B) An additional 10 points will be awarded to projects where at least 20 percent of the Restricted Units are restricted as follows:

i To households with incomes not exceeding 25 percent of AMI, in counties where AMI exceeds 150 percent of median family income for California, as reported by HUD (currently San Francisco, Santa Clara, San Mateo and Marin counties); or

ii To households with incomes not exceeding 30 percent of AMI, in other counties.

The units receiving points under this subsection (B) must be spread across the various bedroom-count units, starting with the largest bedroom count units (e.g. four-bedroom units), and working down to the smaller bedroom count units, assuring that at least 20 percent of the larger units are proposed at 25 percent or 30 percent of area median income, as applicable. So long as the applicant meets the 20 percent standard project wide, the 20 percent standard need not be met among all the smaller units.

~~High Income Areas~~

~~For purposes of this subchapter, "high income areas" means counties with Area Median Incomes that exceed 110% of the State Median Income.~~

~~(A) 0.75 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 40% of State Median Income, expressed as a percentage of Area Median Income.~~

~~(B) 1 point will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 35% of State Median Income, expressed as a percentage of Area Median Income.~~

~~(C) 1.5 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes not exceeding 20% of State Median Income (adjusted by the Department to avoid exclusion of working CalWORKs recipients and individuals receiving SSI and expressed as a percentage of Area Median Income) for the first 10% of total Restricted Units; then 1 point for each subsequent percent of total Restricted Units.~~

~~(D) 1.5 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 Area Median Income. 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 database exceeds the income level specified in the previous subsection (C).~~

~~Point scores will be rounded to the nearest one hundredth point in this category.~~

~~Other Areas~~

~~(A) .75 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 35% of State Median Income, expressed as a percentage of Area Median Income.~~

~~(B) 1 point will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 30% of State Median Income, expressed as a percentage of Area Median Income.~~

~~**(C) .5 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes not exceeding 20% of State Median Income (adjusted by the Department to avoid exclusion of working CalWORKs recipients and individuals receiving SSI and expressed as a percentage of Area Median Income) for the first 10% of total Restricted Units; then 1 point for each subsequent percent of total Restricted Units.**~~

~~**(D) 1.5 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 Area Median Income. 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 database exceeds the income level specified in the previous subsection (C).**~~

In Projects that rely on renewable ~~**P**~~**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 **and Rent** limits ~~**and Rents**~~ applicable ~~**under**~~ **as long as** the rent subsidy contract **remains in place**.

~~**Point scores will be rounded to the nearest one hundredth point in this category.**~~

(2) **The extent to which the Project addresses the most serious identified local housing needs – 10~~5~~ points maximum.**

~~**(A) 5 points will be awarded based on the receipt of:**~~

~~**i a letter from the local housing agency, or city, or county in which the proposed Project will be located, stating that the proposed Project will address a serious local housing need as identified in a specific local policy document; or**~~

~~**ii for Projects with a minimum of 70% percent of Project Units reserved for Special Needs Populations, a letter from a local government entity responsible for delivery of Special Needs Populations' services, stating that the proposed Project will address a serious local housing need related to Special Needs Populations served by the Project.**~~

~~**(B) Projects will receive 10 5 additional points if either:**~~

~~**i at least 70% of the total Units are reserved for Special Needs Populations; or**~~

~~**ii at least 70% of the total Units have 2 or more bedrooms, and they are located in one of the following counties: San Diego, Orange, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, San Mateo, Santa Clara, San Francisco, Alameda, Contra Costa,**~~

~~**Napa, Solano, Marin or Sonoma.**~~

~~**(C) For Projects not meeting the requirements of subsection (b)(2)(B), above, up to 10 points will be awarded on the basis of vacancy rate comparisons with competitive developments as described in subparagraph (3), below. (For purposes of the following vacancy rate comparison, Units reserved for Special Needs Populations in the proposed Project and competitive Projects shall not be considered.)**~~

~~**i Competitive developments are multifamily rental developments with Units similar to those in the Project, which are not severely dilapidated, are not being purposely held vacant or partially vacant, and are not affected by some other unique situation that is artificially depressing occupancy levels. If the proposed Project is for the elderly, competitive Projects must be limited to this population;**~~

~~**ii Units similar to those in the Project are defined as Units with the same number of bedrooms and bathrooms. Where the proposed Project contains 3 or 4 bedroom Units and where 3 or 4 bedroom multifamily rental developments do not exist in the market area of the proposed Project, competitive developments will be those multifamily rental developments containing the largest Units in the market area of the proposed Project while meeting the requirements of subparagraph (1.), above;**~~

~~**iii Points will be awarded on the basis of either the weighted average vacancy rate, as documented by the Sponsor, of 5 or more competitive developments, nearest the proposed Project, or the vacancy rate for competitive Projects as determined by a market study, performed by a qualified third party in accordance with the Department's application of TCAC Market Study Guidelines dated February 2002 except that market studies for proposed elderly Projects shall be limited to competitive elderly developments as follows:**~~

~~**a. 10 points will be awarded if the vacancy rate is lower than 3%.**~~

b. ~~**5 points will be awarded if the vacancy rate is at least 3% but less than or equal to 5%.**~~

~~5~~Five points will be awarded for each of the following conditions met by the Project:

(A) Location in a "High Resource" or "Highest Resource" area (Large Family new construction projects only) as shown on the TCAC/HCD Opportunity Area Map.

(B) Qualifying as both a Senior and a Special Needs Project.

(C) Having at least 10 percent of the Restricted Units restricted under the Program regulatory agreement for occupancy by Homeless households, with vacancies filled by referrals from the local coordinated entry system, when and where this system is actively referring households to housing.

(D) Meeting one or more of the following conditions:

i ~~At the time of application submittal, not being an existing rent- and income- restricted affordable housing development.~~ Consisting of the new construction or acquisition and Rehabilitation of units not subject to income and rent restrictions at the time of application, unless the restrictions are associated with acquisition financing closed less than five years prior to this date.

ii Qualifying as At High Risk, or involving the conversion of single occupancy units without kitchens and bathrooms to units with kitchens and bathrooms.

iii The Program loan amount is limited to the amount necessary to reduce rents below existing levels, to create new Restricted Units, or to make accessibility improvements necessary for occupancy by disabled persons.

(3) **The development and ownership experience of the Project Sponsor – 20 points maximum, negative 50 points maximum.**

(A) Applications will be scored based on the number of subsidized Rental Housing Developments (including tax credit Projects) that the Sponsor has completed over the last **~~5~~ ten** years and whether they have identified performance problems.

(B) A Sponsor may include the experience of its **controlled** affiliated entities or its principals (e.g., employees responsible for managing development activities), but not the experience of non-management board members. A Sponsor may include the experience of a partner in order to gain experience points; however, the experienced partner must have a controlling interest in the partnership and a substantial and continued role in the Project's ongoing operations, as evidenced in partnership documents. In such cases, points will be awarded based only on the experience of the more experienced partner. Any dissolution of the partnership or withdrawal of the more experienced partner will require prior written approval by the Department.

(C) To be counted towards experience pursuant to subsection (b)(3), above, completed Projects cited for experience points must contain 10 or more Units, except if the proposed Project contains less than 15 Units and at least 70**~~%~~ percent** of the total Units in the proposed Project are reserved for Special Needs Populations, completed Projects submitted for experience points must contain at least **~~5~~ five** Units.

(D) ~~4~~ **Four** points will be awarded for each Project completed in the ~~5~~ **five** years preceding the application due date, **and two points will be awarded for each Project completed in the five years preceding that period,** up to a maximum of 20 points.

(E) Where at least 70~~%~~ **percent** of the Units in the proposed Project are reserved for Special Needs Populations, the Sponsor may elect to have its application scored based on the lesser of:

i The number of subsidized Rental Housing Developments that the Sponsor's development consultant or contracted developer has completed in the last ~~five~~ **10** years; or

ii The number of subsidized Rental Housing Developments that the Sponsor, or affiliates or principals of the Sponsor either own or operate under a long-term lease or other arrangement that involves all responsibilities commensurate with ownership.

To qualify for scoring under this alternative, the Sponsor must contract with the developer or development consultant for comprehensive development services, including financial packaging, selection of other consultants, selection of the construction contractor and property management agent, oversight of architectural design, construction management, and other major aspects of the development process.

Applications scored under this alternative shall be awarded ~~4~~ **four** points per Rental Housing Development **completed in the last five years, and two points per Rental Housing Development completed in the preceding five years,**~~,~~ up to a maximum of 20 points.

(F) ~~5~~ **Five** points will be deducted for each occurrence or event in the following categories, with a maximum deduction of 10 points per category and a maximum total deduction of 50 points**, which shall offset positive points awarded under subsections (A) through (D)**:

i ~~r~~**Removal** or withdrawal under threat of removal as general partner **as a consequence of failing to comply with contractual obligations**;

ii ~~f~~**Failure** to submit, when due, compliance documentation required under the Department Program;

iii ~~u~~**Use** of reserve funds for Department-assisted Projects in a manner contrary to Program requirements, or failure to deposit reserve funds as required by the Department;

iv ~~f~~**Failure** to provide promised supportive services to a Special Needs ~~P~~**population** or other tenants of a publicly funded Project **without just cause**;

v **Failure to restrict occupancy of units to a Special Needs population or other target population as required by a Department program or regulatory agreement for any publicly-assisted project;**

vi ~~o~~**Other** significant violations of the requirements of Department programs or of the programs of other public agencies, such as the failure to adequately maintain a Project or the books and records thereof.

Events occurring in connection with Projects under the control of the Sponsor shall be used as the basis for point deductions. Such events shall have had a detrimental effect on the Project or the Department's ability to monitor the Project, as determined by the Department.

Events shall not result in the deduction of points if they have been fully resolved as determined by, or to the satisfaction of, the Department as of the application due date**, or the date awards or made, at the Department's discretion.**~~.~~

~~**(4) The percentage of Units for families or Special Needs Populations and "aAt High-risk" Rental Housing Developments – 35 points maximum.**~~

~~**Applications will be scored based on the percentage of Project Units that will have 2 or more bedrooms, or that are reserved for Special Needs Populations. Projects must have at least 5 Units reserved for Special Needs Populations to receive points for Special Needs Populations' Units. To receive points for Special Needs Populations' Units, a complete and detailed supportive services plan acceptable to the Department, describing services appropriate to the needs of the targeted population, a line item budget, and documentation identifying proposed funding sources must accompany the application, along with detailed documentation acceptable to the Department describing the experience and capacity of the services provider.**~~

~~**(A) .2 points will be awarded for each percent of total Project Units that have 2 bedrooms.**~~
~~**(B)**~~
~~**(C) .7 points will be awarded for each percent of total Project Units that have 3 or more bedrooms.**~~
~~**(D)**~~
~~**(E) 1 point will be awarded for each percent of total Project Units that are reserved for a Special Needs Population or Populations.**~~
~~**(F)**~~
~~**(G) Projects approved by the Department as "at-risk", as defined by TCAC Regulations, will receive 35 points in this category.**~~

~~**Point scores will be rounded to the nearest one hundredth point in this category.**~~

~~**35 Thirty-five points will be awarded to applications that qualify as Large Family, Special Needs, Supportive Housing or At High Risk, pursuant to Section 7302(c).**~~

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(4) **Leverage of other funds, in those jurisdictions where they are available – 20 points maximum.**

(A) Applications will be scored based on the leverage of other funds, meaning the amount of ~~**non-Program**~~ funds **other than** ~~**Department housing**~~ **MHP funds to be used** for permanent funding of the development costs attributable to the Restricted Units as a percentage of the requested amount of ~~**Program**~~ **MHP** funds.

(B) ~~**"Funds other than Department housing funds" includes, among other things, state and federal resources allocated to individual projects by local public agencies, and grants for infrastructure provided under the Infill Infrastructure Grant and Affordable Housing and Sustainable Communities programs.**~~ Deferred developer fees will not be counted as leveraged funds. Land donations will be counted as leveraged funds where the value is established with a current appraisal**, with the amount discounted to reflect any fees,** ~~**residual receipt payments,**~~ **or other reliably predictable payments required as a condition of the donation**.

~~**(C) For a Project including Supportive Housing units and utilizing 9 percent competitive tax credits, One one-half point will be awarded for each full 5-percentage point increment above 100%. Rural Area Projects will be awarded one-half point for each full 5-percentage point increment above 50%. For example, a non-Rural Area Project where other funds are equal to 100% of requested Program funds will receive zero (0) points, a Project where other funds equal 150% will receive 5 points, a Project where other funds equal 250% will receive 15 points, and a Project where other funds equal 300 of requested Program funds will receive the maximum 20 points.**~~

~~**(D) For projects not utilizing 9 percent low-income housing tax credits, not located in an area shown on the TCAC/HCD Opportunity Area Map as "High Resource" or "Highest Resource", and not including Supportive Housing Units, one point will be awarded for each full 5 percentage point increment above 50. For example, a Project where other funds equal 150 of requested funds will receive 20 points**~~

(C) **For Large Family new construction projects** ~~**not utilizing 9 percent low-income housing tax credits, and**~~ **located in an area shown on the TCAC/HCD Opportunity Area Map as "High Resource" or "Highest Resource", two points will be awarded for each full 5 percentage point increment above 50 percent. A Project where other funds equal 100 percent of** ~~**Program**~~ **MHP funds will receive 20 points.**

(D) For projects ~~**not utilizing 9 percent low-income housing tax credits, not located in an area shown on the TCAC/HCD Opportunity Area Map as "High Resource" or "Highest Resource", and**~~ **including Supportive Housing units, and not qualifying for points under subsection (C) above, points will be awarded based on the mix of Supportive Housing and other units.**

The number of points awarded for each full 5 percentage point increment above 50 percent will be computed by multiplying the percentage of total Restricted Units that are Supportive Housing units by ~~2~~two, and adding this to the fraction of total Restricted Units that are not Supportive Housing units. For example, a Project where 20 percent of total Restricted Units are Supportive Housing units, 1.2 points will be awarded for each full 5 percent increment [(~~.~~20 percent x 2) + ~~.~~80 percent = 1.2]. With this unit mix, a ~~P~~**project where other funds equal 135 percent of ~~Program~~ MHP funds will receive ~~20~~ twenty points.**

~~**(G) For a project including Supportive Housing units and utilizing 9 percent competitive tax credits, one-half point will be awarded for each full 5-percentage point increment above 100 percent. For example, a Project where other funds are equal to 100 percent of requested Program funds will receive zero points, a Project where other funds equal 150 percent will receive five points, a Project where other funds equal 250 percent will receive fifteen points, and a Project where other funds equal 300 percent of requested Program funds will receive the maximum twenty points.**~~

(E) For other projects~~ not utilizing 9 percent low-income housing tax credits, not located in an area shown on the TCAC/HCD Opportunity Area Map as "High Resource" or "Highest Resource", and not including Supportive Housing Units~~, one point will be awarded for each full 5 percentage point increment above 50 percent. For example, a project where other funds equal 150 percent of ~~requested~~ MHP funds will receive 20 points.

(5) **Project Readiness – 15 points maximum, negative 5 points maximum.**

~~**2.5 points**~~ **Points** will be awarded to ~~**Projects**~~ **projects** for each of the following circumstances as documented in the application **and as indicated below**. If a particular category is not applicable, full points shall be awarded in that category.

(A) ~~**3Three**~~ **Four points will be awarded for** obtaining enforceable commitments for all construction financing, not including tax-exempt bonds, ~~**4%**~~ tax credits, and funding to be provided by another Department program. ~~**Funds from other Department programs proposed for construction financing for the Project must be**~~ awarded prior to final rating and ranking for the MHP application;

(B) ~~**completion of 3Three**~~ **Four points will be awarded for adoption or certification of** all necessary environmental ~~**clearances**~~ **reviews** (California Environmental Quality Act and National Environmental Policy Act)~~ **and of a Phase I Environmental Site Assessment**~~;

(C) Land use approvals~~.~~

i ~~3~~ **Three points will be awarded for** obtaining all necessary ~~and discretionary public~~ land use approvals **or entitlements necessary prior to issuance of a** ~~except~~ building permit~~s and other ministerial approvals;~~**, including any required discretionary approvals, such as site plan review or design review**;

ii ~~2~~ **Two points will be awarded for submission of a complete application to the relevant local authorities for land use approval under a nondiscretionary local approval process, where the application has been neither approved or disapproved;**

iii ~~1~~ **One point will be awarded for a letter signed by a planner certified by the American Institute of Certified Planners indicating that, in their opinion, the~~n~~ project meets all of the requirements for approval under a nondiscretionary local approval process, where an application has not been approved or disapproved by the local authorities.**

iv A "nondiscretionary local approval process" is one that includes little or no subjective judgement by the public official, and is limited to ensuring that the proposed development meets a set of objective zoning, design review and/or subdivision standards in effect at the time the application is submitted to the local government. A "nondiscretionary local approval process" includes Streamlined Ministerial Approval Processing under to Chapter 366, Statutes of 2017 (SB 35), By-Right Processing for Permanent Supportive Housing under Chapter 753, Statutes of 2018 (AB 2162)), housing element law (Government Code Section 65583.2(i), or other local process that meets the definition of non-discretionary approval process.

~~**(D) 3 Three points will be awarded if either:**~~

~~**(i) the Sponsor has fee title ownership to the site or a long-term leasehold securing the site meeting the criteria for Program site control; or**~~

(ii) ~~**the Sponsor can demonstrate subject to Department's approval in its sole discretion that the working drawings are at least 50% percent complete, as certified by the Project architect;**~~

~~**(iii) obtaining local design review approval to the extent such approval is required;**~~

(D) ~~3Three~~ **Four points will be awarded for** obtaining commitments for all deferred-payment financing, grants and subsidies, **excluding tax credits, and** in accordance with TCAC requirements and with the same exceptions as allowed by TCAC. Deferred-payment financing, grant funds and subsidies from other Department programs proposed for Project financing must be awarded prior to final rating and ranking for the MHP application.

(E) Five points will be subtracted for a Project utilizing 4 percent low-income housing tax credits that will be part of an application to TCAC seeking hybrid tiebreaker incentives.

(6) **Adaptive Reuse / Infill / Proximity to Amenities/ Sustainable Building Methods – ~~10~~ 15 points maximum.**

~~**The following criteria shall apply only to applications requesting funds appropriated pursuant to Section 53533(a)(1) of the Health and Safety Code.**~~

Except for Projects Large Family new construction projects located in "High Resource" or "Highest Resource" areas, which shall be scored in accordance with subsection (D) below, ~~A~~applications will receive **~~10~~ 5five** points for meeting **~~any~~ each** of the following **~~three~~ ~~four~~ three** conditions**, up to a maximum of ~~fifteen~~ 15 points**. ~~**Applications not meeting any one of these three conditions will not receive points pursuant to this criterion.**~~

~~**Adaptive reuse. The Project will be located in a developed area served with public infrastructure and shall consist of the rehabilitation of vacant or underused commercial or industrial buildings.**~~

(A) Infill development**. Five points will be awarded to infill development, including adaptive reuse of vacant and underutilized commercial or industrial building located in a developed area served with public infrastructure**. The Project will be**:**

i located ~~**in a developed area**~~ **on a site where either:**

a. ~~a~~At least 75 percent of the site was previously improved (including areas where improvements have been demolished) or used for any use other than open space, agriculture, forestry, or mining waste storage; or

b. ~~a~~At least 75 percent of the perimeter of the site's adjoining parcels that are developed with Urban Uses (residential, commercial, industrial, public institutional, transit or transportation passenger facility use, or retail use, or any combination of those uses, but not including lands used for agricultural uses or parcels in excess of 15,000 square feet in size and containing only one single family residence~~.~~, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved parks shall not be included; or

c. **~~t~~The combination of at least 50 percent of site area as previously improved (including areas where improvements have been demolished) or used for any use other than open space, agriculture, forestry or mining waste storage, and at least 50 percent of the perimeter of the site adjoining parcels that are developed with Urban Uses, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved parks shall not be included. and**

d. **~~d~~Developed at average residential Net Densities on the parcels to be developed that are equal to or greater than the densities described in Subparagraph (B) of Paragraph (3) of Subdivision (c) of Section 65583.2 of the Government Code, except that in a Rural Area the average residential Net Densities on the parcels to be developed shall be at least ~~ten~~10 units per acre. Minimum densities for localities that are not Rural Areas may be found at Appendix 1 of the Housing Element Law memorandum issued by the Department on "~~Inventory and Suitability of Sites/Default Densities (AB 2348)~~ Default Density Standard Option (2010 Census Update)", dated June ~~9, 2005~~ 20, 2012 and found at http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml. ""Net Density" means the total number of dwelling units per acre of land to be developed for residential or mixed use, excluding allowed deductible areas. Allowed deductible areas are public dedications of land which are for public streets, public sidewalks, public open space, and public drainage facilities. Non-allowed deductible areas include utility easements, setbacks, private drives and walkways, landscaping, common areas and facilities, off street parking, drainage facilities exclusive to a ~~d~~Development project, and any other related mitigation space required for development.**

(B) Proximity to amenities**. Five points will be awarded for projects achieving the maximum point score available for ~~The Project will be proximate to public transit, public schools, public parks, or public recreational facilities, as determined by TCAC regulations that would result in TCAC scoring points given thereto; or the Project will be located within one mile of a Job Center. A Job Center is a concentration of employment opportunities reasonably available to the tenants of the Project would be eligible to receive the maximum number of points available for~~ site amenities under TCAC regulation Title CCR, Division 17, Chapter 1, Section 10325(c)(4)(A) or successor regulation ~~(The maximum number of points available for 2019 is 15)~~.**

(C) Sustainable building methods. ~~5~~ Five points will be awarded for projects achieving the maximum possible score available for using sustainable building methods under the TCAC regulations, Section

10325(c)(5) or successor regulation.

(D) Large Family new construction projects located in "High Resource" or "Highest Resource" areas, as shown on the TCAC/HCD Opportunity Area Map, will receive five points plus five points for meeting each of the conditions described in subsections (B) and (C) above, up to a maximum of 15 points.

(7) **Tiebreaker**

In the event of tied point scores, the Department shall rank tied applications based on the lowest weighted average affordability of Restricted Units, which shall be computed as follows:

(A) Multiplying each income limit applicable to the Project by the number of Units restricted at that income level.

(B) Adding the products calculated pursuant to the previous subsection.

(C) Dividing the sum calculated pursuant to the previous subsection by the number of Restricted Units in the Project.

Article 4. Program Operations

Section 7321. Legal Documents.

(a) Upon the award of Program funds to a Project, the Department shall enter into one or more agreements with the Sponsor, ~~**which may be in the form of a conditional commitment letter issued by the Department and accepted by the Sponsor,**~~ **including a standard agreement,** which shall commit monies ~~**from the Fund**~~ in an amount sufficient to fund the approved loan amount. The agreement or agreements shall contain the following:

(1) ~~**a**~~**A** description of the approved Project and the permitted uses of Program funds;

(2) ~~**t**~~**The** amount and terms of the loan;

(3) ~~**t**~~**The** regulatory restrictions to be applied to the Project through the Regulatory Agreement;

(4) ~~**p**~~**Provisions** governing the construction work and, as applicable, the acquisition of the Project site, and the disbursement of loan proceeds;

(5) ~~**s**~~**Special** conditions imposed as part of Department approval of the Project;

(6) ~~**r**~~**Requirements** for the execution and the recordation of the agreements and documents required under the Program;

(7) ~~**t**~~**Terms** and conditions required by federal or state law;

(8) ~~r~~**Requirements** regarding the establishment of escrow accounts for the deposit of documents and the disbursement of loan proceeds;

(9) ~~t~~**The** approved schedule of the Project, including land acquisition if any, commencement and completion of construction or Rehabilitation work, and occupancy by Eligible Households;

(10) ~~t~~**The** approved Project development budget and sources and uses of funds and financing;

(11) ~~r~~**Requirements** for reporting to the Department;

(12) ~~t~~**Terms** and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;

(13) ~~p~~**Provisions** regarding tenant relocation;

(14) ~~p~~**Provisions** relating to the erection and placement on or in the vicinity of the Project site a sign indicating that the Department has provided financing for the Project. The Department may also arrange for publicity of the Program loan in its sole discretion; and

(15) ~~o~~**Other** provisions necessary to ensure compliance with the requirements of the Program.

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

(1) ~~t~~**The** number, type and income level of Assisted Units pursuant to **UMR** Section 8304 ~~**of this title**~~;

(2) ~~s~~**Standards** for tenant selection pursuant to **UMR** Section 8305 ~~**of this title**~~;

(3) ~~pr~~**Provisions** regulating the terms of the rental agreement pursuant to **UMR** Section 8307 ~~**of this title**~~;

(4) ~~p~~**Provisions** related to an annual operating budget approved by the Department pursuant to Section 7326;

(5) ~~p~~**Provisions** related to a management plan pursuant to Section 7324;

(6) ~~p~~**Provisions** related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to subsections (a) and (b) of Section 7312;

(7) ~~c~~**Conditions** and procedures for permitting Rent increases pursuant to Section 7312;

(8) ~~p~~**Provisions** for limitations on ~~D~~**distributions** pursuant to **UMR** Section 8314 ~~**of this title**~~;

(9) ~~p~~**Provisions** relating to annual reports, inspections and independent audits pursuant to Section 7325;

(10) ~~p~~**Provisions** regarding the deposit and withdrawal of funds to and from reserve accounts;

(11) ~~a~~**Assurances** that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to Section 7324;

(12) ~~d~~**Description** of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;

(13) ~~p~~**Provisions** governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with ~~P~~**program** requirements;

(14) ~~p~~**Provisions** relating to enforcement of ~~P~~**program** requirements by tenants;

(15) ~~s~~**Special** conditions of loan approval imposed by the Department;

(16) ~~p~~**Provisions** specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to Section 7322;

(17) ~~f~~**For** Projects serving Special Needs Populations and/or providing services to the general tenant population, provisions regarding the implementation and maintenance of services and facilities for the targeted Special Needs Population group and/or general tenant population; and

(18) ~~o~~**Other** provisions necessary to assure compliance with the requirements of the Program.

(c) All loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the Program. The note shall be secured by a deed of trust on **all of the sites comprising** the Project property naming the Department as beneficiary or by other security acceptable to the Department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of Sponsor's Program obligations.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.1, 50675.6 and 50675.8, ~~**Health and Safety Code**~~ **HSC**.

Section 7322. Sales, Transfers, ~~and~~ Encumbrances, and Loan Payoff~~.~~

(a) A Sponsor shall not sell, assign, transfer, or convey the Rental Housing Development, or any interest therein or portion thereof, without the express prior written approval of the Department. A sale, transfer or conveyance shall be approved only if all of the following requirements are met:

(1) **~~t~~The** existing Sponsor is in compliance with the Regulatory Agreement, or the sale, transfer or conveyance will result in the cure of any existing violations;

(2) **~~t~~The** successor-in-interest to the Sponsor agrees to assume all obligations of the existing Sponsor pursuant to the Regulatory Agreement and the **~~P~~program**;

(3) **~~t~~The** successor-in-interest is an eligible Sponsor and demonstrates to the Department's satisfaction that it can successfully own and operate the Rental Housing Development and comply with all Program requirements; and

(4) **~~n~~No** terms of the sale, transfer, or conveyance jeopardize either the Department's security or the successor's ability to comply with all Program requirements.

(b) If the Sponsor or its successor-in-interest is a partnership, the Sponsor shall not discharge or replace any general partner or amend, modify or add to its partnership agreement, or cause or permit the general partner to amend, modify or add to the organizational documents of the general partner, without the prior written approval of the Department. The Sponsor may transfer limited partnership interests without the prior written approval of the Department.

(c) The Department shall grant its approval of a sale, assignment, transfer, or conveyance subject to such terms and conditions as may be necessary to preserve or establish the Fiscal Integrity of the Project. Such conditions may include:

(1) **~~t~~The** deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;

(2) **~~t~~The** recapture of syndication proceeds or other funds in accordance with special conditions included in any agreement executed by the Sponsor; or

(3) **~~s~~Such** conditions as may be necessary to ensure compliance with the Program requirements.

(d) The Sponsor shall not encumber, pledge, or hypothecate the Rental Housing Development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the Rental Housing Development without the prior written approval of the Department. The Department may permit refinancing of existing liens or additional financing secured by the Rental Housing Development to the extent necessary to maintain or improve the Fiscal Integrity of the Project, to maintain Affordable Rents, or to decrease Rents.

(e) No MHP loan may be paid off prior to maturity without the prior written consent of the Department in its sole discretion, which consent shall be subject to conditions deemed necessary to ensure compliance with the Program requirements.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, **~~Health and Safety Code~~ HSC**. Reference: Sections 50675.1 and 50675.8, **~~Health and Safety Code~~ HSC**.

Section 7323. Defaults and Loan Cancellations.

(a) In the event of a breach or violation by the Sponsor of any of the provisions of the Regulatory Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the Project, the Department may give written notice to the Sponsor to cure the breach or violation within a period of not less than 15 days.

If the breach or violation is not cured to the satisfaction of the Department within the specified time ~~period~~, the Department, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default including the following:

(1) The Department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amounts in full, the Department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.

(2) The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to operate the Rental Housing Development in accordance with Program requirements.

(3) The Department may seek such other remedies as may be available under the relevant agreement or any law.

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

(c) The Department may cancel **~~L~~loan** commitments under any of the following conditions:

(1) **~~t~~The** objectives and requirements of the Program cannot be met;

(2) **~~i~~Implementation** of the Project cannot proceed in a timely fashion in accordance with the approved plans and schedules;

(3) **~~s~~Special** conditions have not been fulfilled within required time periods; or

(4) **~~t~~There** has been a material change, not approved by the Department, in the **Project or the** principals or management of the Sponsor or Project.

The Department, in writing and upon demonstration by the Sponsor of good cause, may extend the date for compliance with any of the conditions in this subsection.

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

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

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, ~~**Health and Safety Code**~~ **HSC**. Reference: Sections 50675.1, 50675.8 and 50675.10, ~~**Health and Safety Code**~~ **HSC**.

Section 7324. Management, ~~and~~ Maintenance, and Supportive Services~~.~~

(a) The Sponsor shall be responsible for all management functions of the Rental Housing Development including selection of the tenants, annual recertification of household income and size, evictions, and collection of Rent.

(b) The Sponsor is responsible for all repair and maintenance functions of the Rental Housing Development, including ordinary maintenance and replacement of capital items. The Sponsor shall ensure maintenance of residential ~~**Units**~~ **units**, Commercial Space and common areas in accordance with local health, building, and housing codes, and the management plan.

(c) The Sponsor shall ensure that the Rental Housing Development is managed by an entity approved by the Department that is actively in the business of managing low-income housing. Any management contract entered into for this purpose shall be subject to Department approval and contain a provision allowing the Sponsor to terminate the contract upon 30-days' notice. The Sponsor shall terminate said contract as directed by the Department upon determination that management does not comply with Program requirements.

(d) The Sponsor shall develop a management plan subject to Department approval prior to loan closing. Any change to the plan shall be subject to the approval of the Department. The plan shall be consistent with Program requirements and shall include the following:

(1) ~~**t**~~**The** role and responsibility of the Sponsor and its delegation of authority, if any, to the managing agent;

(2) ~~**p**~~**Personnel** policy and staffing arrangements;

(3) ~~**p**~~**Plans** and procedures for publicizing and achieving early and continued occupancy;

(4) ~~**p**~~**Procedures** for determining tenant eligibility and selecting tenants and for certifying and annually recertifying household income and size;

(5) ~~p~~**Plans** for carrying out an effective maintenance and repair program;

(6) Rent collection policies and procedures;

(7) ~~a~~**A** program for maintaining adequate accounting records and handling necessary forms and vouchers;

(8) ~~p~~**Plans** for enhancing tenant-management relations;

(9) ~~t~~**The** management agreement, if any;

(10) ~~p~~**Provisions** for periodic update of the management plan;

(11) ~~a~~**Appeal** and grievance procedures;

(12) ~~p~~**Plans** for collections for tenant-caused damages, processing evictions and terminations; and

(13) ~~f~~**For** Projects serving Special Needs ~~P~~**populations, including Supportive Housing** and/or providing ~~special~~ **Supportive** ~~s~~**Services** to the general tenant population, a supportive services plan, that includes:

(A) **A description of the specific population to be served;**

(B) ~~a~~**A** description of the **specific** services to be provided;

(C) A description of the evidence-based case management practices that will be employed;

(D) ~~a~~**A** preliminary services budget;

(E) ~~f~~**Funding** source(s);

(F) ~~i~~**Identification** of the organization(s) that will provide services;

(G) ~~a~~**A** preliminary staffing plan;

(H) ~~l~~**Location** of services to be provided off site**, and a description of public and private transportation options available to access these services, without walking more than one-half mile;** ~~and~~

(I) ~~any special e~~**Eligibility** requirements for the services~~.~~**;**

(J) A description of how service staff and property management staff will work together to prevent evictions and to implement reason~~s~~able accommodation policies for leasing units and ongoing operations, including communication protocols;

(K) Identification of outcome measures to be collected, and how they will be collected;

(L) A description of a quality assurance system focused on both processes and outcomes;

(M) Other information deemed necessary by the Department to evaluate the proposed services, which may differ by tenant population.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, **~~Health and Safety Code~~ HSC**. Reference: Sections 50675.1 and 50675.8, **~~Health and Safety Code~~ HSC**.

Section 7325. Reporting.

(a) No later than 90 days after the end of each Project fiscal year, the Sponsor shall submit an independent audit of the Rental Housing Development prepared by a certified public accountant in accordance with Department audit requirements, **~~as specified in the Department's Rental Housing Construction Program Information Memorandum dated August 14, 1995~~**, as periodically updated and incorporated by reference. Upon a determination that the cost of meeting this requirement exceeds the potential benefits from it to the Department and to the tenants of the Rental Housing Development, the Department may:

(1) **~~r~~Reduce** the required frequency of the audit;

(2) **~~a~~Accept** an audited financial statement in lieu of the audit; or

(3) **~~w~~Waive** this requirement completely.

(b) Projects with Supportive Housing units and units restricted to Homeless persons shall report client data on local Homeless Management Information Systems (~~"~~HMIS~~"~~), if such systems are available, and must comply with local continuum of care HMIS requirements.

(c) **Projects with Supportive Housing units and units restricted to people experiencing Homelessness ~~persons~~ shall also report annually to the Department on all occupants of these units, indicating for each their referral source, previous living situation, whether the occupant was experiencing Chronic~~ally~~ Homelessness or Homelessness, a military veteran, or senior, length of stay, residence after exiting, and similar information.**

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11~~,~~ **~~Health and Safety Code~~ HSC**. Reference: Sections 50675.1 and 50675.8, **~~Health and Safety Code~~ HSC**.

Section 7326. Operating Budget.

(a) Prior to loan closing, the Sponsor shall submit an initial operating budget to the Department. Such budget shall show all anticipated income; expenses for management, operations and maintenance; debt service; and reserve deposits for the Initial Operating Year.

(b) For as long as deemed necessary by the Department to ensure compliance with Program requirements, the Sponsor shall submit to the Department for its approval, 60 days prior to the end of each Project fiscal year, a proposed operating budget. The proposed operating budget shall set forth the Sponsor's estimate of the Project's Operating Income, Operating Expenses, debt service for the upcoming year, and any proposed Rent increases pursuant to Section 7312. In lieu of the requirement for submission of complete proposed operating budgets, the Department may require submission of limited budget information, such as a proposed Rent schedule, proposed management fees, and reserve deposit amounts. The Department may re-impose the requirement for submission of complete operating budgets where necessary to ensure compliance with **~~Program~~ program** requirements.

(c) The initial and subsequent proposed operating budgets, where required, shall be subject to the approval of the Department based on its determination that the budget line items are reasonable and necessary **~~in light of~~ considering** costs for comparable Rental Housing Developments and prior year budgets. Actual expenditures in excess of the approved budget amount shall be subject to Department approval.

(d) The initial operating budget and subsequent proposed operating budgets shall include periodic deposits to the operating reserve, replacement reserve, and any other reserve account required by the Department in accordance with the requirements of **UMR** Sections 8308 and 8309 **~~of this title~~**.

(e) For Projects with non-Assisted Units or Commercial Space, all budgets submitted pursuant to this section shall show income and uses of income allocated among Assisted Units, Restricted Units, non-Restricted Units, and Commercial Space. The allocation method used for each budget line item shall be subject to Department approval, and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the Project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, **~~Health and Safety Code~~ HSC**. Reference: Sections 50675.1 and 50675.8, **~~Health and Safety Code~~ HSC**.

~~Article 5. Rent Write-Down Loans~~

~~Section 7327. General.~~

~~(a) This Article 5 governs Program loans designated as Rent Write-Down (RWD) loans for the purpose of lowering income limits and corresponding Rent levels for Low Income Housing Tax Credit Program Projects that are otherwise feasible without the use of Program funds.~~

~~(b) This article will govern the award, terms, conditions and uses of RWD loans only. Except where specifically noted the provisions of Articles 1, 2,~~

~~3 and 4 do not govern RWD loans~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1, and 50675.11, Health and Safety Code. Reference: Sections 50675.2(c), 50675.4(c)(1), and 50675.5(b)(8), Health and Safety Code.~~

~~Section 7328. [Reserved]~~

~~Section 7329. Eligibility for RWD Loans.~~

~~(a) In order to receive an RWD loan, the Project must:~~

~~(1) have received an award of 9% or 4% tax credits from TCAC;~~

~~(2) include the new construction or Rehabilitation of a Rental Housing Development, or conversion of a nonresidential structure to a Rental Housing Development;~~

~~(3) have sufficient financing and funding commitments to demonstrate that the Project is feasible at marketable rents without the use of Program funds;~~

~~(4) not receive other funds from the Program; and~~

~~(5) not have completed construction at the time of the award of Program funds, as evidenced by the lack of a recorded notice of completion or comparable indicator of construction status.~~

~~(b) The Sponsor may be any entity qualified to receive a tax credit allocation from TCAC.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), and 50675.11, Health and Safety Code. Reference: 50675.2(d), 50675.4, 50675.7, Health and Safety Code.~~

~~Section 7330. Amounts and Terms for RWD Loans.~~

~~(a) RWD loan amounts shall be limited to the sum of a base amount per Assisted Unit plus the amount required to:~~

~~(1) reduce Rents from the rent structure for Assisted Units that would apply without RWD assistance to the proposed restricted Rents for Assisted Units, by either substituting Program funds for amortized debt or capitalizing a rent subsidy reserve; and~~

~~(2) preserve Project cash flow at the level that would be generated without participation in the RWD program.~~

~~The initial base amount shall be $3,000. The Department may periodically adjust the base amount to equal the lowest amount necessary to ensure sufficient demand for Program funds, taking into account factors such as the previous demand for RWD funds and the total amount of Program funds available for award under the RWD component.~~

(b) RWD funds may be used to capitalize a reserve only if it is not feasible to reduce Rents and maintain Project cash flow by substituting RWD funds for amortized debt. The amount of the capitalized reserve shall not exceed the amount needed to reduce Rents and preserve cash flow at the level that would apply without RWD assistance for a period of 20 years. Thereafter the Assisted Units shall continue to be occupied by eligible households at affordable Rents for the remaining term of the Regulatory Agreement. The Department shall disburse the funds in a manner to ensure the fiscal integrity of the Project for the 20-year period.

(c) Program funds shall be used for post-construction, permanent financing only, except under an agreement with California Housing Finance Agency to provide construction period financing to eligible projects receiving financing from both California Housing Finance Agency and the Program.

(d) The interest rate and loan repayment terms shall be as set forth in Section 7308.

(e) The initial term of the loan shall be 55 years, commencing on the date of recordation of the Program loan documents.

(f) Upon request by the Sponsor, the Department may approve a 10-year extension of the loan term if the Department determines both of the following are met:

(1) The Sponsor is in compliance with the Regulatory Agreement and other Program loan documents and agrees to continue to comply during the extended term.

(2) The extension is necessary to continue operations consistent with Program requirements.

The Department may condition the extension on such terms as it deems necessary to ensure compliance with the requirements of the Program.

(g) The Program loan shall be secured by the Project real property and improvements, subject only to liens, encumbrances and other matters of record approved by the Department.

NOTE: Authority cited: 50406(n), 50675.1(c), and 50675.11, Health and Safety Code. Reference: Sections 50675.6, 50675.8, Health and Safety Code.

Section 7331. Occupancy and Rent Requirements

(a) Upon initial occupancy, Assisted Units shall be restricted to one or more of the following income levels: 20%, 30%, 35%, or 40% of State Median Income, expressed as a percentage of Area Median Income. Rents for Assisted Units shall not exceed 30% of the applicable income limit.

(b) No more than 30% of the total Units in a Project assisted with a RWD loan

~~may be funded as Assisted Units.~~

~~(c) The Sponsor shall provide relocation benefits and assistance for tenants directly displaced as a result of RWD funds.~~

~~(d) Assisted Units shall not differ substantially in size or amenity level from non- Assisted Units with the same number of bedrooms, and Units shall not differ in size or amenity level on the basis of income-level restrictions. Assisted Units shall not be segregated from non-Assisted Units, and Units shall not be segregated from each other on the basis of income-level restriction. Within these limits, Sponsors may change the designation of a particular Unit from Assisted to non- Assisted or from one income-restriction to another over time. For Projects involving Rehabilitation or conversion, the Department may permit certain Units to be designated as exclusively market-rate Units where necessary for Fiscal Integrity and where all other Program requirements are satisfied.~~

~~(e) The number, size, type, and amenity level of Assisted Units shall not be fewer than the number nor different from the size, type and amenity level described in the Regulatory Agreement for the full loan term.~~

~~(f) Sponsors shall select only Eligible Households as tenants of Assisted Units, and shall annually recertify household income and size to determine continued eligibility. If, at the time of tenant recertification, a household's income exceeds the income limit designated for the household's Unit by more than 10% of State Median Income, the Sponsor shall increase the household's Rent to the level applicable to other households with similar incomes, and shall designate the next available Unit as an Assisted Unit restricted for occupancy by households at the income level formerly applicable to the first Unit until the mix required by the Regulatory Agreement is achieved.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), and 50675.11, Health and Safety Code. Reference: 50675.2(b) and (c) and 50675.8, Health and Safety Code.~~

~~Section 7332. Application Process.~~

~~(a) The Department may issue a NOFA limited to RWD loans and as authorized by Section 7317(c)(4). The NOFA shall specify the amount of RWD funds available, the period during which loan applications may be accepted and the specific requirements of the RWD loan application. The NOFA may establish a minimum point total for rating Projects pursuant to the criteria set forth in Section 7320(b) or similar TCAC criteria, and may provide that Projects meeting or exceeding that minimum score may be eligible for funding so long as funds are available.~~

~~(b) Projects shall not be eligible for an award of funds unless the application demonstrates that all of the following conditions exist:~~

~~(1) The application meets the eligibility requirements pursuant to Section 7329; and~~

~~(2) The application is complete. Applications shall be deemed complete when the Department is able to assess that the Project is eligible pursuant to Section 7329 and to rate the Project pursuant to Section 7332(a).~~

~~(c) The application shall be made on a form made available by the Department requesting the information required by the Multifamily Housing Program Regulations and shall include the proposed number of Assisted Units and the income and Rent levels to be achieved in the Assisted Units as a result of the RWD loan. The application shall also specify the proposed use of the proceeds of the RWD loan, which may include a capitalized rent reserve fund or a reduction in the approved permanent amortized financing for the Project.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.6, 50675.1(d), Health and Safety Code.~~

~~Section 7333. Legal Documents.~~

~~(a) The provisions of Section 7321(a) shall apply to loans made under this article.~~

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

~~(1) the number, type and income level of Assisted Units pursuant to Section 7331;~~

~~(2) provisions related to a management plan pursuant to Section 7324;~~

~~(3) provisions related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to subsections (a) and (b) of Section 7331;~~

~~(4) conditions and procedures for permitting Rent increases;~~

~~(5) provisions relating to annual reports, inspections and independent audits pursuant to Section 7325;~~

~~(6) provisions regarding the deposit and withdrawal of funds to and from reserve accounts;~~

~~(7) assurances that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to Section 7324;~~

~~(8) description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;~~

~~(9) provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with Program requirements;~~

~~(10) provisions relating to enforcement of Program requirements by tenants;~~

~~(11) special conditions of loan approval imposed by the Department;~~

~~(12) provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to Section 7322;~~

~~(13) for Projects serving Special Needs Populations and/or providing services to the general tenant population, provisions regarding the implementation and maintenance of services and facilities for the targeted Special Needs Population group and/or general tenant population; and~~

~~(14) other provisions necessary to assure compliance with the requirements of the Program~~

~~(c) All loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the Program. The note shall be secured by a deed of trust on the Project property naming the Department as beneficiary or by other security acceptable to the Department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of Sponsor's Program obligations.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.6 and 50675.8, Health and Safety Code.~~

~~Section 7334. Sales, Transfers, Encumbrances, Defaults, and Cancellations.~~

~~(a) the provisions of Sections 7322 and 7323 shall apply to this article.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.8, 50675.10, Health and Safety Code.~~

~~Section 7335. Management and Maintenance.~~

~~(a) the provisions of Section 7324 shall apply to this article.~~

~~**NOTE: Authority cited: Sections 50406(n), 50675.1(c), and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c) and 50675.8, Health and Safety Code.**~~

~~**Section 7336. Reporting.**~~

~~**(a) the provisions of Section 7325 shall apply to this article.**~~

~~**NOTE: Authority cited: Sections 50406(n), 50675.1(c), and 50675.11 Health and Safety Code. Reference: Sections 50675.1(c) and 50675.8, Health and Safety Code.**~~

~~**Article 6. Supportive Housing Loans**~~

~~**Section 7340. General.**~~

~~**(a) This Article 6 governs Projects funded pursuant to Health and Safety Code Sections 50675.14 and 53533(a)(3) for the purpose of providing loans to supportive housing Projects.**~~

~~**(b) The provisions of Articles 1, 2, 3 and 4 of this subchapter 4 apply to assistance made available pursuant to this Article 6 except as modified herein.**~~

~~**NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675, 50675.14, and 53533(a)(3), Health and Safety Code.**~~

~~**Section 7341. Definitions.**~~

~~**For the purposes of this Article, in addition to the definitions in Section 7301 and Section 8301, the following definitions shall apply:**~~

~~**(a) "Supportive Housing Unit" means a Unit of permanent housing linked to supportive services restricted to occupancy by an Eligible Household and which meets all of the following requirements:**~~

~~**(1) Occupancy is restricted to Eligible Households that are Homeless or At Risk of Homelessness and that include a Disabled Adult.**~~

~~**(2) It is operated as independent housing, in which each tenant:**~~

~~**(A) Holds a lease or rental agreement in his or her own name and is responsible for paying Rent;**~~

~~**(B) Has his or her own room or apartment and is individually responsible for arranging any shared tenancy, to the extent that shared tenancy is allowed under his or her lease; and**~~

~~**(C) May stay as long as he or she pays his or her share of Rent and complies with the terms of his or her lease.**~~

~~(3) The Unit is subject to applicable state and federal landlord-tenant laws.~~

~~(4) The tenant's participation in services or any particular service shall not be required as a condition of tenancy.~~

~~(5) At initial occupancy, the tenant household income, to the extent that it can be documented, shall not exceed 30 percent of the greater of State Median Income or Area Median Income.~~

~~(b) "Homeless" means:~~

~~(1) Moving from an emergency shelter; or~~

~~(2) Moving from Transitional Housing; or~~

~~(3) Currently Homeless which means:~~

~~(A) An individual who lacks a fixed, regular, and adequate nighttime residence; or~~

~~(B) An individual who has a primary nighttime residence that is:~~

~~(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and Transitional Housing for the mentally ill); or~~

~~(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or~~

~~(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~

~~(c) "At Risk of Homelessness" means:~~

~~(1) Households with incomes at or below the greater of 20 percent of State Median Income (SMI) or Area Median Income (AMI) with no rental subsidy available to the household; or~~

~~(2) Households with incomes above 20 percent but not exceeding 30 percent of the greater of SMI or AMI who:~~

~~(A) Face immediate eviction and have been unable to identify a subsequent residence; or~~

~~(B) Face imminent release from an institution (i.e.; jail, hospital or foster care system) where other housing placement resources are not available; or~~

(C) Reside in an overcrowded setting (more than two persons per living/sleeping area) in which the household does not hold a lease; or

(D) Reside in substandard housing subject to a current official vacation notice; or

(E) Pay more than 50 percent of income in housing costs.

(d) "High Risk of Homelessness" means the same as "Homeless" or "At Risk of Homelessness."

(e) "Disabled Adult" for the purposes of this Article 6 only shall mean a person 18 years of age or older, or an emancipated minor, with one of the following disabilities:

(1) Mental illness;

(2) HIV or AIDS;

(3) Substance abuse;

(4) Developmental disability; or

(5) Long-term chronic health condition that qualifies them for:

(A) Eligibility under either of two Medicaid Waiver programs, the Multipurpose Senior Services Program (MSSP) or the Assisted Living Waiver Pilot Project (or its successor);

(B) Eligibility for 20 or more personal care hours per week under the In-Home Supportive Services Program (IHSS); or

(C) Eligibility for services under the Program of All Inclusive Care for the Elderly (PACE).

Eligibility for these programs must be established by the agency responsible for determining eligibility for the benefits it provides.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.14(b) and (c), 53260(d), 53533(a)(3), Health and Safety Code.

Section 7342. Eligible Project.

In order to be eligible to apply for funding pursuant to this Article 6, in addition to the requirements of Section 7302, a proposed Project shall:

(a) Contain Supportive Housing Units at least equal to the greater of 5 Units or 35 percent of the total number of Units in the Project;

~~(b) Restrict Supportive Housing Units for permanent housing for Eligible Households that are Homeless or At-Risk of Homelessness and that include a Disabled Adult;~~

~~(c) In the event that the Department utilizes an over-the-counter selection process, meet or exceed the minimum points required by subsection (a) of Section 7346;~~

~~(d) Be linked to onsite or offsite services that assist the tenant in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community;~~

~~(e) Utilize a primary service provider (the entity responsible for overall implementation of the service plan, including coordination between service providers, where there are more than one) with at least 24 months' experience in the provision of the proposed services to the targeted population, and a successful history of securing funds for similar activities;~~

~~(f) Utilize a property management agent with at least 24 months' experience in managing a special needs or supportive housing Project that would qualify as a Rental Housing Development pursuant to Section 8301(o), except that if the proposed Project has fewer than 10 Units, the Department may approve a property management agent with experience managing projects that do not qualify as Rental Housing Developments, provided that the agent has at least 24 months' experience managing housing for the specific population targeted by the proposed Project; and~~

~~(g) Not be operated as either a health facility, as defined by Section 1250 of the Health and Safety Code, or an alcoholism or drug abuse recovery or treatment facility, as defined by Section 11834.02 of the Health and Safety Code.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.2(d), 50675.4, 50675.7, 50675.14(b), and 53533(a)(3), Health and Safety Code.~~

~~Section 7343. Eligible Sponsor.~~

~~In order to be eligible to apply for funding pursuant to this Article 6, in addition to the requirements of Section 7303, a Sponsor shall:~~

~~(a) Have at least 24 months experience in the ownership or operation of at least one Rental Housing Development with 5 or more Units that includes Units reserved for the disabled or other special needs group; and~~

~~(b) If the Department uses an over-the-counter application process, have sufficient experience to score at least 4 points under the development and ownership scoring criteria (pursuant to Section 7320(b)(3)), except that the score shall be based on experience acquired in the prior 10 years.~~

~~**NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.7(c)(3), 50675.14(e) and 53533(a)(3), Health and Safety Code.**~~

~~**Section 7344. Application Requirements.**~~

~~**In addition to the application requirements of Article 3, applications for funding under this Article shall include all the following information:**~~

~~**(a) Information sufficient to ascertain that the requirements of sections 7342 and 7343 have been met, and including at least one reference able to verify the role of the Sponsor in Projects submitted for experience;**~~

~~**(b) A supportive services plan that meets the requirements of Section 7345.**~~

~~**NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.6, 50675.7, 50675.14 and 53533(a)(3), Health and Safety Code.**~~

~~**Section 7345. Supportive Services Plan.**~~

~~**A supportive services plan shall be subject to the Department's approval and shall contain the following information and address the following topics:**~~

~~**(a) A description of the target population to be served including a narrative describing the tenant selection criteria, tenant eligibility verification process, tenant selection process, and expected sources of referrals. The tenant selection criteria and process shall be in accordance with applicable state and federal fair housing laws. The narrative shall also describe any reasonable accommodation policies as they relate to targeting and tenant selection of persons with disabilities.**~~

~~**(b) A description of the service needs of each target population that will be served.**~~

~~**(c) A description of the services that will be provided, where the services will be provided, who the provider will be, the provider's experience, and the provider's relationship to applicant.**~~

~~**(d) Documentation confirming the number of supportive service staff available to the Project and a narrative explaining staffing ratio and experience. Staffing levels must be documented as sufficient to make services available to meet the needs of the target population.**~~

~~**(e) A services line-item budget itemizing all expenses and listing the sources, amounts, and status (i.e., proposed or committed) of supportive service funds. The budget must demonstrate that the level of proposed funding is**~~

~~adequate to the types and levels of services to be provided and that all necessary costs are included.~~

~~(f) A narrative description of tenant engagement plan (i.e., plan to elicit voluntary tenant participation in services).~~

~~(g) Commitments or letters of intent to provide operational funding for a minimum of 25 percent of the total service budget. This requirement may be waived where the service provider documents a history of securing supportive service funding sufficient for the Department to make a determination that the proposed Project service funding needs will be attainable. (All Sponsors must document commitment of 100 percent of the approved services budget prior to the disbursement of MHP funds.)~~

~~(h) An assessment from a public or nonprofit funding or regulatory agency with oversight or monitoring responsibilities for the proposed supportive services for the proposed target population that verifies that:~~

~~(1) The proposed services and staffing levels are adequate and appropriate to meet the needs of the target population(s); and~~

~~(2) The applicant or proposed service provider is a viable provider of the proposed support services.~~

~~(i) If the Sponsor is applying for a competitive advantage in the Leverage scoring category based on collaborative relationships and a focus on measurable outcomes and a plan for evaluation pursuant to Section 7346(c), the following information:~~

~~(1) Evidence of its collaboration with an organization other than the Sponsor or affiliates of the Sponsor to provide a portion of the services to Project tenants, or evidence of collaboration among specialized intra- organizational programs, groups, or departments. The evidence of collaboration must: be in writing (e.g., contract, memorandum of understanding, letter of intent, letter of interest, or letter of understanding); clearly identify the entity it is from (e.g., on letter head paper); include the Project address; specify the services to be included in the collaborative effort; specify whether the services will be funded or provided, or both; include the estimated value of funds or in-kind services; include the term of the funding or service; and include a brief description and history of the entity providing the funding or services.~~

~~(2) A plan listing the projected outcomes and outcome measures that will be tracked and detailing how data will be collected, analyzed and evaluated.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.14(b) and 53533(a)(3), Health and Safety Code.~~

~~**Section 7346. Application Point Scoring.**~~

~~**Pursuant to Section 7317(c), the Department has the discretion to make funds under this Article 6 available on a competitive or over-the-counter basis.**~~

~~**(a) In the event that the Department utilizes an over-the-counter process, the following provisions shall apply, and in order to be considered for funding, an application shall:**~~

~~**(1) Score a minimum of 125 points utilizing the criteria set forth in Section 7320, except that Development and Ownership Experience (Section 7320(b)(3)) shall be scored based on experience acquired in the prior 10 years;**~~

~~**(2) Score a minimum of 4 points in the Development and Ownership Experience criterion (Section 7320(b)(3)) based on the Sponsor's experience acquired in the prior 10 years; and**~~

~~**(3) Score a minimum of 5 points in the Project Readiness criterion (Section 7320(b)(6)).**~~

~~**(b) Projects requesting both MHP Supportive Housing and MHP General funding shall be scored under the requirements specified in Section 7320(b)(7), Adaptive Reuse/Infill/Proximity to Amenities. Projects requesting only Supportive Housing funding, and not MHP General funding, shall receive the full 10 points available under this scoring criterion.**~~

~~**(c) Applications that demonstrate collaboration with programs that meet the needs of disabled tenants at High Risk of Homelessness and include a focus on measurable outcomes and a plan for evaluation will receive a competitive advantage in the Leverage Scoring Category (Section 7320(b)(5)) as follows:**~~

~~**(1) Applications will be deemed to meet the "collaboration" criterion if the application documents a commitment from an organization other than the applicant or affiliates of the applicant to provide a portion of the services to Project tenants. Cooperation among specialized intra-organizational programs, groups, or departments may also qualify as collaboration.**~~

~~**(2) Applications will be deemed to meet the focus on measurable outcomes criterion if the applicant establishes reasonable projected outcomes and outcome measures for residential stability, increased skills or income, and greater self-determination. Applications will be deemed to meet the requirement for a plan for evaluation if the applicant can reasonably describe the proposed system for tracking the data and agrees to collect and evaluate data on outcomes at least annually, with a baseline established at move-in. As specified**~~

~~in Subdivision (c)(3), further competitive advantage will be awarded to applications that track and evaluate pre- and post-occupancy service utilization data for tenants who were, or become during occupancy, incarcerated, hospitalized, housed in a residential treatment facility, or in homeless facilities, and include this in their evaluation.~~

~~(3) Applications will be scored based on the amount of non-MHP funds for permanent funding of the development costs attributable to the Restricted Units, as a percentage of the requested amount of MHP funds. The leverage advantage for qualifying Projects will be applied as follows:~~

~~(A) Projects containing at least the minimum 35%, but less than 75% of total Units as Supportive Housing Units will receive one half point for every full 5 percentage point increment of other funds as a percentage of MHP funds. These Projects will receive the first half point when the other funds are equal to 55% of MHP funds. The maximum point award (20 points) will be reached when the other funds are equal to 250% of MHP funds.~~

~~(B) Projects containing 75% or more of total Units as Supportive Housing Units will receive one full point for every full 5 percentage point increment of other funds as a percentage of MHP funds. These Projects will receive the first point when the other funds are equal to 55% of MHP funds. The maximum point award (20 points) will be reached when other funds are equal to 150% of MHP funds.~~

~~(C) An additional 2 points will be awarded to Projects that track and evaluate service utilization data, up to the maximum 20 points available under the leverage scoring criterion.~~

~~Applications that do not demonstrate both collaboration and a focus on measurable outcomes with a plan for evaluation shall be awarded leverage points solely pursuant to Section 7320(b)(5).~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.4, 50675.5, 50675.6, 50675.7, 50675.13, 50675.14 and 53533(a)(3), Health and Safety Code.~~

~~Section 7347. Reporting Requirements.~~

~~At the time the Sponsor submits the annual Project audit required by Section 7325, the Sponsor shall also submit a supplemental report including the following information:~~

~~(a) The length of occupancy by each supportive housing tenant.~~

~~(b) Changes in each supportive housing tenant's employment status during the previous year.~~

~~(c) Changes in each supportive housing tenant's source and amount of income during the previous year.~~

~~(d) Data on any measurable outcomes that the Sponsor agreed to collect pursuant to Section 7346(c)(2), along with an evaluation of the Project based on this data.~~

~~NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.1, 50675.8, and 50675.14, Health and Safety Code.~~