


**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF STATE FINANCIAL ASSISTANCE**

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DATE: March 30, 2022

TO: Interested Parties

FROM: Jennifer Seeger, Deputy Director
Division of State Financial Assistance 

SUBJECT: Disencumbrance Policy

ADMINISTRATIVE NOTICE: Notice Number 2022-02

This Administrative Notice establishes a formal written notification of administrative guidelines and policies that affect the operation of Department programs. This format is used to identify, clarify, and record administrative guidelines and interpretations of public interest.

This advisory notice sets forth and establishes the California Department of Housing and Community Development (HCD/Department) disencumbrance policy applicable to HCD state funded multifamily rental housing programs. A complete list of applicable programs, which may be amended from time to time as new programs are designed and implemented, is included as Attachment A.

Background

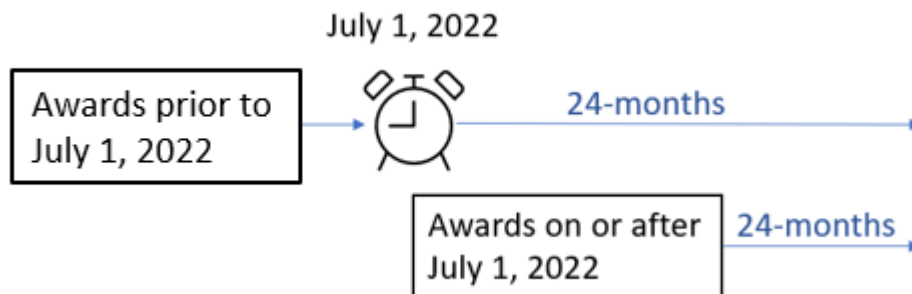
In its effort to proactively address California's ongoing affordable housing crisis and be a responsible steward of public funds, it is imperative that the Department establish a clear, fair, and comprehensive policy to disencumber awards from stalled projects and to reallocate those funds to projects that are ready to proceed. After the Department makes awards from any of its multifamily affordable housing financial assistance programs, many projects are ready to commence construction and proceed on schedule. Unfortunately, there are also projects that are unable to move forward and languish far too long before the award is finally relinquished.

Without an effective disencumbrance policy in place, stalled projects are allowed to retain the commitment of Department funding beyond reasonable limits. Resources to support the creation of affordable housing are scarce, and the Department is charged to ensure they are used efficiently to increase California's affordable housing supply. The commitment of funds to stalled projects prevents this efficiency by effectively tying up needed funds to development that is unlikely to occur. An effective disencumbrance policy is therefore necessary to redeploy funds as swiftly as possible for their intended purposes.

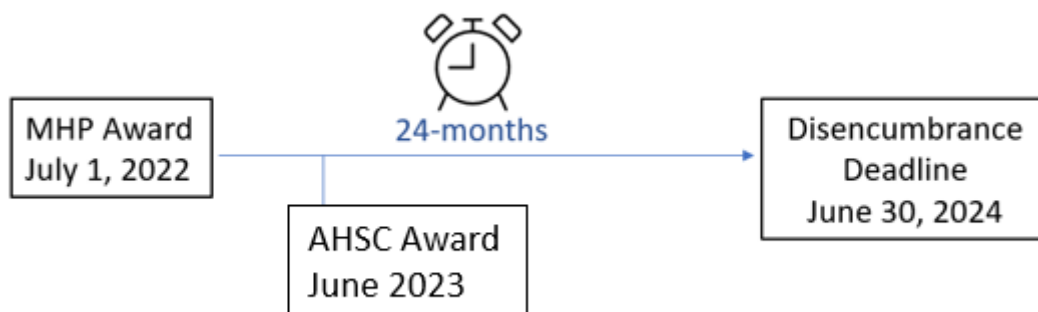
As of the date of this notice, the Department's disencumbrance policy, to be promulgated in Notices of Funding Availability (NOFAs), guidelines and regulations as applicable, will be as follows:¹

¹ Prior to promulgating the amendments and the authorities set forth in exhibit A, the Department retains the right and discretion to disencumber awards where awardees have failed to make sufficient progress in meeting applicable milestones and deadlines. Such determination will be on a case-by-case basis, and may use the enumerated criteria set forth in this notice when making such decisions.

1. Upon receipt of an award of Department program funds to a project, the Sponsor shall be required to secure all permanent financing, including tax credits and bond allocations, no later than 24-months after the date the initial funds were awarded by the Department.
2. Failure to meet the requirement set forth in (1), above, shall result in immediate withdrawal of the initial Department funding award and any subsequent funds awarded to the project.
3. An extension, not to exceed six months, may be granted by the Director or his/her/their designee, at its sole discretion, only if the Sponsor has demonstrated to the Director or his/her/their designee's satisfaction that the failure was due to circumstances entirely outside the Sponsor's control and offers reasonable assurance that all financing can be secured within the extension period.
4. Failure to compete successfully for California Tax Credit Allocation Committee (TCAC) and California Debt Limit Allocation Committee (CDLAC) awards, alone, is not sufficient basis to receive an extension.
5. If a previously awarded tax credit reservation and/or bond allocation is withdrawn by TCAC or CDLAC for failure to meet deadlines, the Department's funding award(s) will be immediately withdrawn, and no extensions will be granted.
6. For awards made prior to July 1, 2022; the 24-month period shall begin on July 1, 2022. For awards made on or after July 1, 2022, the 24-month period will begin as of the date of the initial program funding awarded to the project.



7. If the project subsequently receives an additional HCD state-funded multifamily program award, the 24-month period will NOT be revised.



Appendix A

Listing of Applicable Programs

Multifamily Funding Disencumbrance Policy

Last Updated March 30, 2022

The following is a list of all programs implemented by the California Department of Housing and Community Development that are subject to the Negative Points Policy as adopted on March 30, 2022.

- Affordable Housing and Sustainable Communities Program (AHSC)
- Infill Incentive Grant (IIG) Program of 2007 (IIG-2007)
- Infill Infrastructure Grant (IIG) Program of 2019 (IIG-2019)
- Joe Serna, Jr. Farmworker Housing Grant (FWHG) Program
- Multifamily Housing Program (MHP)
- Multifamily Housing Program – Supportive Housing (SHMHP)
- No Place Like Home (NPLH) Program – HCD administered competitive and non-competitive allocations
- Competitive Permanent Local Housing Allocation (PLHA) Program
- Transit Oriented Development (TOD) Implementation Program
- Veterans Housing and Homelessness Prevention (VHHP) Program