VETERANS HOUSING AND HOMELESSNESS PREVENTION PROGRAM

Public Comment Draft Guidelines

AB 434 (Chapter 192, Statutes 2020)

To ease in review, language identified in red text throughout this document represents text that is consistent across all multifamily funding programs subject to AB 434.

Please refer to the Department’s [AB 434 website](https://www.hcd.ca.gov/grants-funding/ab434.shtml) for copies of all AB 434 Designated Program draft guidelines and applicable appendicies

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**December 14, 2021**

**Veterans Housing and Homelessness Prevention (VHHP) Program**

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## **Article 1. General**

## **Section 100.** **Purpose and Scope**

1. These Guidelines establish standards, rules, and procedures for the Veterans Housing and Homelessness Prevention (VHHP) Program authorized under Military and Veterans Code §§ 987.001 et seq.
2. These guidelines establish terms, conditions, and procedures for funds awarded after the effective date of these guidelines, and are pursuant to the Veterans Housing and Homeless Prevention Act of 2014 (the Act), as set forth in Article 3.2 (commencing with Section 987.001) of Chapter 6 of Division 4 of the Military and Veterans Code. The Guidelines interpret and make specific the following provisions of the Military and Veterans Code: Sections 987.005, 987.007, 987.008. The Act relies on and references provisions of the Veterans Housing and Homeless Prevention Bond Act of 2014 (the VHHP Bond Act), as set forth in Article 5y (commencing with Section 998.540) of Chapter 6 of Division 4 of the Military and Veterans Code. The Act and the VHHP Bond Act were enacted pursuant to Statutes 2013, chapter 727, sections 1 and 3 (AB 639). The Act relies on and references provisions of Sections 4, 5, 6, 7, and 8 of AB 639, which amend the following sections of the Health and Safety Code: 50408, 50501, 50505, 50510, and 50512. The Guidelines should be interpreted in accordance with all the foregoing references to provisions of AB 639 (even those that are not part of the Act itself) to the extent that the Act relies on those provisions.
3. Nothing in these guidelines is intended to be, nor should be, interpreted to amend or repeal rules, regulations or requirements set forth in prior versions of VHHP guidelines or their amendments; these guidelines shall have no retroactive application. These guidelines shall, however, supplant and replace all prior versions of guidelines for the purposes of applying to the funding offered subsequent to their publication.
4. These guidelines implement and interpret AB 434 (Chapter 192, Statutes 2020), which amends, repeals and adds HSC Section 50675.1 and 50675.7, along with various statutes related to the Designated Programs. AB 434 requires the Department to harmonize the Designated Programs with MHP in four (4) respects: The Department is to make Designated Program funds available at the same time as it makes any MHP funds available; it is to rate and rank Designated Program applications in a manner consistent with MHP applications; it is to administer Designated Program funds consistent with MHP; and, to the extent applicable, it is to make the terms of any Designated Program loan consistent with MHP loan terms.

## **Section 101. Uniform Multifamily Regulations**

1. The Uniform Multifamily Regulations (UMRs) (Cal. Code Regs., tit. 25, § 8300 et seq), effective November 15, 2017, and as subsequently amended, are hereby incorporated by reference.
2. In the event of a conflict between the provisions of the UMRs and these guidelines, the provisions of these guidelines shall prevail.

## **Section 102.** **Definitions**

All capitalized terms used throughout these guidelines which are not defined below shall, unless their context suggests otherwise, be given the same meanings of terms as defined in the Multifamily Housing Program Guidelines (see appendix XX for a list of these defined terms) or as ascribed in the UMRs (Chapter 7, Subchapter 19, Section 8301).

In the event of a conflict between the following definitions and those cited above, the following definitions prevail for the purposes of these guidelines. The defined terms will be capitalized as they appear in the guideline text. References to sections herein refer to sections of these guidelines unless otherwise noted.

1. “Emergency Shelter” has the meaning set forth in 24 CFR 578.3.
2. “Program” means the Veterans Housing and Homelessness Prevention Program, authorized by Proposition 41, the Veterans Housing and Homeless Prevention Bond Act of 2014.
3. “Safe Haven” has the meaning set forth in 24 CFR 578.3.
4. “Supportive Housing” means the same as defined under Health and Safety Code Section 50675.14(b)(2), and refers to Assisted Units.
5. “Supportive Services for Veteran Families Program” (SSVF) means the program established pursuant to 38 C.F.R. Part 62 and operated by the VA.
6. “Target Population” has the same definition as stated in Health & Safety Code 50675.14(b)(3)(A).
7. “VA” means the United States Department of Veterans Affairs.
8. “Veteran” means any person who actively served withinone or more of the military services of the United States who was called to and released from active duty or active service, for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period. This includes all Veterans regardless of discharge status.
9. “Veterans with a Disability Experiencing Homelessness” refers to Veterans experiencing the same condition as individuals experiencing “Chronic Homelessness” excluding the requirement of having experienced Homelessness for a defined period of time, and as defined in 42 U.S.C. 11360(9)(A) and as determined by a medical doctor or nurse practitioner.
10. “VHHP Eligible Household” means a household whose composition includes at least one Veteran, as defined in subsection (h) above, who meets the criteria of Target Populations, as defined subsection (f), and whose Gross Incomes do not exceed the income limit specified by TCAC.

## **Article 2. Administration of Funds.**

## **Section 201.** **Eligible Project.**

Proposed Projects are eligible for funding only if:

1. The Project includes the new construction or Rehabilitation of a Rental Housing Development or Transitional Housing, or conversion of a nonresidential structure to a Rental Housing Development.
2. The Project must contain 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;
3. Other development funding sources, including all tax credit equity generated by the Project, are insufficient to cover Project development costs;
4. 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;
5. Projects meets the accessibility requirements specified in the TCAC regulations, as may be amended and renumbered from time to time, including those of CCR, title 4, section 10325(f)(7)(K) and, for senior Projects, those of Section 10325(g)(2)(B) and (C). Exemption requests, as provided for in the TCAC regulations, must be approved by the Department. Projects must also provide a preference for accessible units to persons with disabilities requiring the accessibility features of those units in accordance with CCR, title 4, section 10337(b)(2).
6. Occupancy is restricted to the greater of 25 percent of total units in the Project or 10 units to VHHP Eligible Households. However, if a Project is determined to be rural as defined in Health and Safety Code Section 50199.21, then a minimum of five units must be restricted.
7. Restrict occupancy for at least 50 percent of Assisted Units to Extremely Low Income Veterans, with rents not exceeding 30 percent of 30 percent of Area Median Income (AMI), calculated in accordance with TCAC regulations and procedures. TCAC utilizes the information published by HUD to calculate maximum rents and income limits for California Low Income Housing Tax Credit (LIHTC) Projects.
8. For Projects qualifying as Supportive Housing:
   * 1. 25 percent of Assisted Units must be restricted targeting those experiencing Chronic Homelessness; or
     2. 20 percent of Assisted Units must be restricted targeting those experiencing Chronic Homelessness and 10 percent targeting those with a Disability Experiencing Homelessness; or
     3. 20 percent of Assisted Units must be restricted targeting those experiencing Chronic Homelessness and 15 percent targeting those with other Homelessness; or
     4. 20 percent of Assisted Units must be restricted targeting those with a Disability Experiencing Homelessness and 30 percent targeting those with other Homelessness
9. For Projects qualifying as Supportive Housing or Transitional Housing:
   1. Utilize a LSP with at least four years of experience providing services to individuals and households experiencing Homelessness that includes comprehensive case management (individualized services planning, and the provision of connections to mental health, substance abuse, employment, health, housing retention, and similar services).
10. This experience must include two years of experience providing services that include comprehensive case management in affordable rental or Transitional Housing, which can include scattered site housing with multiple owners.
11. Experience must be documented through contracts with public agencies, housing owners or foundations for services provided to at least 10 households at any one time, either in housing Projects subject to agreements with public agencies restricting rent and occupancy, or through tenant-based housing assistance programs.
12. If the LSP is not part of the ownership entity, the Sponsor must have a written agreement with the LSP to implement the supportive services plan, and submit this agreement along with the application for funding. Only the LSP may enter into written agreements for services under provisions of the supportive services plan. All service providers must have a written agreement with the LSP prior to commencement of services.
13. A contract with the LSP is not required for HUD-VASH case management services provided directly by the VA that are consistent with the HUD-VASH Program requirements.
14. Any change of the LSP or change to the supportive services plan throughout the life of the loan requires prior written approval by the California Department of Veterans Affairs (CalVet) and notification by the Sponsor to the Department of such approval.
    1. Certify adherence to Housing First property management and tenant selection practices, as described in Sections 211, 212 and 213 of these Guidelines.
    2. Satisfy the requirements of Section 214 of these Guidelines regarding supportive services.
    3. For Projects with more than 20 units, the VHHP Regulatory Agreement shall restrict no more than half of the total Project units to occupancy by disabled VHHP Eligible Households. These households shall include Chronic Homelessness or Veterans with a Disability Experiencing Homelessness. (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 half of the 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.)
15. For Projects with Assisted Units other than Supportive Housing and Transitional Housing, utilize an organization to provide resident services coordination that has at least 24 months experience in providing this service in publicly assisted affordable housing.
16. For new construction of Transitional Housing, Projects shall have a physical configuration that allows for ready conversion of the Transitional Housing to permanent housing, at minimal costs.
17. The Sponsor must demonstrate to the satisfaction of the Department that all applicable sources of public assistance to the Project comply with the requirements of Article XXXIV of the California Constitution. Although public assistance to the Project provided pursuant to the VHHP Program is exempt from Article XXXIV, pursuant to Health and Safety Code §37001.5(h) (the “VHHP Exception”), Sponsors must demonstrate that other public funding separately satisfies Article XXXIV. The Department will not regard the VHHP Exception as the basis for Article XXXIV compliance for other public funding sources provided to a VHHP Project, even where those sources are used along with VHHP funds toward the same Project related support, activities, or development components.
18. The Sponsor must demonstrate confirmation of local need for the Project by including in the application:
    1. A letter from the local VA office (Network Homeless Coordinator or similar official) describing the population to be served by the Project, the type of housing to be provided (transitional, permanent supportive, or affordable), and why it will meet a high priority local need; and
    2. A letter from the local Continuum of Care addressing the same points described in the preceding subsection.
19. In analyzing the feasibility of Transitional Housing, factors to be considered shall include:
    1. The experience of the Sponsor and its partners with similar Projects, and the current financial viability of these Projects.
    2. The experience of the Sponsor and its partners with obtaining government contracts to cover operations and services costs for similar Projects, and with the specific government funding sources identified for the proposed Project.
    3. The likelihood of identified funds to cover operating costs and services, and particularly government contracts, will continue to be available for the proposed Project over time.
    4. The financial condition of the Sponsor as measured by indicators such as amounts and trends in organizational net income, net assets, unrestricted net assets, and current ratio.
    5. The reliability of Project operating projections, including the adequacy of projected Operating Expenses, as compared to other similar Projects, and whether they show at least breakeven operation over time.
20. Assisted Unit Requirements
    1. Where multiple Department programs assist the Project and the jurisdiction does not have Article XXXIV authority, the Department’s total non-VHHP regulatory authority shall not exceed 49 percent of the Project’s total units unless the project otherwise has an exemption.
    2. In jurisdictions having Article XXXIV authority, the Department’s total regulatory authority shall not exceed the allocation of authority, up to 100 percent of the Project’s total units.
    3. The units regulated by the Department, including MHP Assisted Units, shall include those with the lowest income limits.
21. Projects proposed by Tribal Entities must meet the following requirements:
    1. Projects satisfy the following:
22. Located in Indian country as defined by 18 USC 1151 or located on fee land; and
23. Occupancy will be legally limited to tribal households, except that up to 20% of Low-Income Units may serve non-tribal households if required by the HOME Program.
    1. The applicant meets the following conditions of award funding (which conditions are not, however, conditions to engaging in the competitive award process) as and to the extent applicable and set forth in a Standard Agreement:
24. BIA Consent. The Bureau of Indian Affairs (BIA) has consented to Applicant’s execution and recordation (as applicable) of all Department-required documents that are subject to 25 CFR sec. 152.34 or 25 CFR sec. 162.12, prior to award disbursement.
25. Personal and Subject Matter Jurisdiction. Personal and subject matter jurisdiction in regard to the Standard Agreement, Project, or any matters arising from either of them is in state court and the Department has received any legal instruments or waivers, all duly approved and executed, as are or may be legally necessary and effective to provide for such personal and subject matter jurisdiction in state court.
26. Title Insurance. The Department has received title insurance for the property underlying the Project that is satisfactory to the Department. Notwithstanding the foregoing sentence, upon a showing of good cause, for Applicants unable to provide a conventional title insurance policy satisfactory to the Department, this condition may be satisfied by a title status report issued by the BIA Land Title and Records Office and pursuant to a title opinion letter issued for the benefit of the Department but paid for by the Applicant.
27. Recordation Requirements. Where recordation of instruments is a condition of award funding or otherwise required under or pursuant to the Standard Agreement, the subject instrument is recorded with the Land Titles and Records Office at the BIA or in the appropriate official records of the County in which the Project property is located, as may be applicable.
28. Multiple Department Funding Sources

Use of multiple Department funding sources on the same Assisted Units, as defined by 25 C.C.R. § 8301(a), is permitted, subject to the following limitation:

* 1. No more than $35,000,000 in Department Funding Sources may be used on a single Project. Per unit loan limits shall be determined in a NOFA. Total Department funding, including VHHP, shall not exceed 75% of the total development cost. In a SuperNOFA, each Sponsor is limited to no more than $70,000,000.
  2. Funding limits set forth in subsection (1) shall not include Department funds awarded for purposes other than capital improvements, such as loans or grants for non-housing related infrastructure, transit amenities, programs, or rental and operating subsidies.
  3. “Department Funding Sources” shall mean loan or grant funds awarded for permanent funding of multifamily development costs (which shall not include funds specifically designated for capitalized operating or operating subsidy reserves) under the following programs:
     1. Supportive Housing Multifamily Housing Program;
     2. Multifamily Housing Program;
     3. Veterans Housing and Homelessness Prevention program;
     4. No Place Like Home Program, including funds awarded either by the Department or an Alternative Process County, but not grants or loans for capitalized operating subsidy reserves;
     5. Affordable Housing and Sustainable Communities (AHSC) 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 AHSC program guidelines;
     6. Infill Infrastructure Grant Program – grant funds used for site work and residential structured parking (as defined in the IIG guidelines);
     7. Transit Oriented Development Program - rental housing development loans, but not grants for offsite infrastructure;
     8. Joe Serna, Jr. Farmworker Housing Grant Program;
     9. Permanent Local Housing Allocation – Competitive program
     10. Housing for a Healthy California program, including funds awarded either by the Department or a county, but not grants for operating reserves or rental assistance;
     11. Homekey;
     12. Home Investment Partnerships Program;
     13. Community Development Block Grant Program; and
     14. National Housing Trust Fund Program.

“Department Funding Sources” do not include: offsite infrastructure funds; or 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.

1. Once a project is awarded Department funds, the Sponsor/Awardee is acknowledging the project as submitted and approved is the project that is to be funded and built. Any bifurcation would make that award null and void, as the awarded project is no longer feasible as originally submitted and  awarded funds are unable to be assumed or assigned.

## **Section 202. Eligible Sponsor.**

1. A Sponsor shall be any individual, joint venture, partnership, limited partnership, limited partnership in which the Sponsor or an affiliate is a general partner, trust, corporation, cooperative, local public entity, Tribal Entity, or other legal entity, or any combination thereof, which meets the requirements of subsection (d), as applicable.
2. Sponsor shall be the recipient or co-recipient of the Department’s award of funds.
3. A Sponsor shall be organized on a for-profit, including limited profit, or nonprofit basis.
4. The Sponsor with a long-term, controlling interest in the Project must have successful prior experience developing and owning at least three affordable rental or Transitional Housing developments that are subject to agreements with public agencies restricting rent and occupancy. If at least 35 percent of the Assisted Units in the proposed Project will be Supportive Housing and/or Transitional Housing, the developments must have been in operation for at least two years with units restricted to those experiencing Homelessness (defined in a manner substantially similar to the VHHP’s definition) and that include substantial supportive services.
   1. If at least 35 percent of the Assisted Units in the proposed Project will be Supportive Housing and/or Transitional Housing, this requirement may be satisfied if the Sponsor has a developer partner with the required development experience, and if the Sponsor has owned or operated at least two affordable rental or transitional housing developments that are subject to agreements with public agencies restricting rent and occupancy.
5. Notwithstanding the foregoing, and solely for the purpose of applying to the Emerging Developer set-aside, an Emerging Developer shall qualify on its own as a Sponsor so long as the Emerging Developer meets the experience requirements set forth in its Section 7301 definition above.
6. Notwithstanding the foregoing, and solely for the purpose of applying to the Community-Based Developer set-aside, a Community-Based Developer shall qualify on its own as a Sponsor so long as the Community-Based Developer meets the experience requirements set forth in its Section 7301 definition above, as well as satisfies the application requirements set forth in Section 7318 hereof.

1. Tribal Entities, Emerging Developers, and New Community-Based Developers may satisfy this experience requirement by contracting with an entity that meets the requirements of this subdivision (d). Such contract or partnership agreement must be fully executed at the time of application submittal, and it must remain in effect until permanent loan closing and the issuance of any required tax forms.
2. If a joint venture Sponsor relies upon the experience of one of the members to meet the Sponsor eligibility requirements, the joint venture Sponsor must meet the following requirements:
   * 1. The partner with experience must document that experience in the application as required by the NOFA.
     2. The partner with experience must retain a controlling interest in the joint venture for at least seven (7) consecutive years from the date of full occupancy of the Rental Housing Development. Any transfer of this interest requires the Department’s advance written approval.
     3. The partner with experience must perform a substantial management role in the joint venture for at least seven (7) consecutive years from the date of full occupancy of the Rental Housing Development. Such role shall include the substantial management duties set forth at UMR Section 8313.2.
     4. The partnership agreement must, for the duration of the joint venture Sponsor’s partnership, do the following:

* + - 1. The inexperienced partner must complete training pursuant to TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325(c)(1)
      2. Allocate a share of developer fee, Distributions, and net sales proceeds to the partner without experience that is no less than 50 percent of the total; and
      3. Provide the partner without experience with an option to purchase the Rental Housing Development.

1. Sponsor shall demonstrate capacity to acquire, develop, and own affordable rental housing. For purposes of this subdivision, an entity has “capacity” if it has adequate staff, capital, assets, and other resources to efficiently meet the operational needs of the Rental Housing Development; to maintain the Fiscal Integrity of the Rental Housing Development; and to satisfy all legal requirements and obligations in connection with the Rental Housing Development. Evidence of capacity must be reasonably acceptable to the Department in form and substance. Sponsor shall satisfactorily demonstrate capacity at the time of its application for the funds.
2. Sponsor shall maintain direct and continuing control of the Rental Housing Development. Alternatively, if the Department’s funding disbursement is structured with or through a special purpose entity, the Sponsor shall exercise direct and continuing control over such special purpose entity in accordance with UMR Section 8313.2 and throughout the full term of the Department’s use restriction on the Rental Housing Development. Sponsor shall certify that it will abide by this control requirement at the time of its application for the funds.

## **Section 203. Threshold Requirements.**

Projects shall be eligible for an award of funds as long as the application demonstrates that all the following threshold requirements have been met:

1. The applicant is an eligible Sponsor pursuant to Section 202;
2. The application involves an Eligible Project pursuant to Section 201;
3. All proposed uses of Program funds are eligible pursuant to Section 204;
4. The application is complete pursuant to Sections 401 and 402;
5. The Project, as proposed in the application, must be financially feasible as evidenced by documentation such as, but not limited to, Enforceable Funding Commitments, market study, project proforma, sources and uses statement, or other feasibility documentation that is standard industry practice for the type of proposed housing development
6. The Project will maintain Fiscal Integrity consistent with proposed Rents in the Assisted Units and is feasible pursuant to the underwriting standards in UMR Section 8310;
7. The Project site is free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove or cannot be mitigated;
8. 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.
9. Projects involving new construction, acquisition and Substantial Rehabilitation, or conversion of nonresidential structures to residential dwelling units must be physically capable of accommodating broadband service with at least a speed of 25 megabits per second for downloading and 3 megabits per second for uploading (25/3). Internet service and its ongoing fee are not required.
10. Projects shall provide services suitable to the needs of the target population; and the application shall demonstrate a specific, feasible plan for delivery and funding of those services, including identification of the LSP, service delivery partners and funding sources, pursuant to Section 214;
11. The Project complies with the restrictions on demolition as set forth in UMR Section 8302.
12. The Project complies with the site control requirements at the time of application as detailed in 25 C.C.R. § 8303, with the exception that the Sponsor shall maintain site control through the term of the proposed award, as stated in the NOFA, and with the option to extend.

Where site control is in the name of another entity, the Sponsor shall provide documentation, in form and substance reasonably satisfactory to the Department, which clearly demonstrates that the Sponsor has some form of right to acquire or lease the project property (e.g, the entity’s organizational documents).

1. For projects developed in Indian Country, the following exceptions apply:
2. Where site control is a ground lease, the lease agreement between the Tribal Entity and the project owner is for a period not less than 50 years; and
3. An attorney’s opinion regarding chain of title and current title status is acceptable in lieu of a title report.
4. Ensure compliance with the Disabled Veteran Business Enterprise (DVBE) and Veteran hiring requirements set forth in Section 217 of these Guidelines
5. Each Project must achieve the minimum scores in the supportive services plan scoring category, as follows:
   * 1. 15 for Projects that include Supportive Housing or Transitional Housing; and
     2. 7 for Projects that do not include Supportive Housing or Transitional Housing.

## **Section 204. Eligible Use of Funds.**

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.

1. Funds shall only be used for capital asset related expenses as required by section 16727 of the Government Code.
2. Eligible costs include the following:
3. Property acquisition;
4. Refinancing of existing long-term debt, only in connection with a Project involving a Rehabilitation contract in an amount equal to or exceeding $35,000 per unit (which may be adjusted based on the current Consumer Price Index (CPI)), 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;
5. Land lease payments;
6. New construction and rehabilitation of Assisted Units;
7. Offsite improvements, such as sewers, utilities and streets, directly related to, and required by the Rental Housing Development when other infrastructure funding is unavailable and inaccessible;
8. Onsite improvements related to the Rental Housing Development;
9. 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;
10. Development costs of a residential Unit reserved for an onsite manager, childcare facilities, and after-school care, adult daycare, or social service and health amenities integrally linked to, and addressing the needs of the tenants of the Assisted Units;
    * 1. Health amenities does not include any “health facility” as defined by Section 1250 of the Health and Safety Code (HSC) or any “alcoholism or drug abuse recovery or treatment facility” as defined by Section 11834.02 of the HSC.
11. A reasonable Developer Fee subject to the provisions of Section 205;
12. Rent-Up costs;
13. Reasonable 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;
14. Building permits and state and local fees;
15. Capitalized operating reserves 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);
16. Escrow, title insurance, recording, and other related costs;
17. Costs for items intended to assure the completion of construction, such as contractor bond premiums;
18. Environmental hazard reports, surveys, and investigations;
19. Costs of relocation benefits and assistance required by law; and
20. Any other costs of Rehabilitation or new construction approved by the Department.
21. Except as provided in subsection (b)(8) above, no Program funds shall be used for costs associated exclusively with non-Assisted Units or Commercial Space. A Manager’s Unit supporting the Assisted Units 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 Assisted Units, the Program loan amount shall not exceed the sum of the following:
22. The costs of all items specified in subsection (b), above, associated exclusively with the Assisted Units;
23. 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 Assisted Units and the gross floor area of all residential units;
24. A share of the cost of other items such as roofs that cannot specifically be allocated to Assisted Units, non-Assisted Units, or Commercial Space. This share shall be in direct proportion to the ratio between:
25. The gross floor area of the Assisted 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 Assisted Units and the gross floor area of all Units; and
26. The total gross floor area of the structure or structures.

## **Section 205. Cost Limitations.**

1. Project development costs must be reasonable, as specified in UMR Section 8311(a) and (b). 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, and remain with, 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.
2. The limits on Developer Fee specified in UMR Section 8312 shall apply, except that:
   1. UMR Section 8312(d) shall not apply.
   2. For non-tax credit new construction projects, the total Developer Fee shall not exceed the following:
      1. For Projects with 49 or fewer Restricted Units (excluding units restricted at levels above 60 percent of AMI): the greater of $40,000 per Restricted/Manager’s Unit or $1,200,000;
      2. For Projects with between 50 and 100 Restricted Units (excluding units restricted at levels above 60 percent of AMI): $2,200,000; and
      3. For Projects with more than 100 Restricted Units (excluding units restricted at levels above 60 percent of AMI) exceed 100 units: $2,200,000 plus $20,000 per Restricted Unit in excess of 100 up to a maximum of $3,500,000. The Developer Fee in excess of $2,200,000 must be deferred. Payment of deferred Developer Fee shall be in compliance with UMR Section 8314.
3. For projects utilizing four 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(c)(2); and
4. Joint ventures that include a Community-Based Developer, an Emerging Developer, or a New Community-Based Developer or that rely on partner to meet the experience requirements of an eligible Sponsor, shall have their allowable total Developer Fee increased according to the following:

* + 1. For non-tax credit projects, an increase of $300,000 over the limits set forth in (b)(2) (a)-(c) above. Additionally, for projects with more than 100 units as defined above in (b)(2)(c), the Developer Fee paid from sources may increase up to $2,640,000.
    2. For projects utilizing four percent tax credits, an increase consistent with Title 4 CCR, Section 10327(c)(2)(E).

1. Except where required to secure local government approvals essential to completion of the Project, or where necessary to receive tax credits for historic preservation, construction materials and amenities not typically found in modestly designed rental housing are ineligible costs.

## **Section 206. Type and Term of Loan.**

1. Program funds shall be used for post-construction, permanent financing only.
2. The initial term of the loan shall be 55 years, commencing on the date of recordation of the Program loan documents.
   1. The initial term of the loan may be 50 years if the Project is located in Indian country and if a 55-year term is not feasible. The 50-year term shall commence on the date of recordation of the Program loan documents.
3. 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 UMR Section 8315. The Program loan shall have priority over loans provided by the Affordable Housing Program administered by the Federal Home Loan Bank.
4. For projects located in Indian country, the subject instrument shall be deemed sufficiently recorded if recorded with the Land Titles and Records Office at the BIA or if the subject instruments are recorded in the county recording system having jurisdiction over the property. If a Department loan is recorded against a fee interest, then there must be a restriction preventing that land from being put into trust until the affordability term of the Department loan/grant term has run.
5. 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 guidelines, the requirements of these 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 guidelines as deemed necessary to avoid an unnecessary administrative burden. Any such modifications or waivers shall be recorded in the Regulatory Agreement or other documents governing the loan.

## **Section 207. Maximum Loan Amounts.**

1. When sizing the loan, the Department will consider all other available financing and assistance, including the full amount of any tax credit equity generated by the Project. In addition, the loan amount shall not exceed the total eligible costs required to do the following:
   1. Acquire, develop, and construct or Rehabilitate the Rental Housing Development;
   2. Ensure that Rents for Assisted Units comply with Program requirements; and
   3. Operate the Rental Housing Development in compliance with all other Program requirements.
   4. With the exception of deferred Developer Fee, Department funds shall not be used to supplant other available financing, including funds committed by local jurisdictions.
2. The per unit loan limit shall be defined in the NOFA. For loan limit calculations, the Unit count shall include the number of Units within the Rental Housing Development.
3. The MHP loan limit will be calculated based upon the units’ level of income restriction a number of bedrooms per Unit.
4. In each 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.
5. Joint partnerships between an experienced Sponsor and an Emerging Developer, Community-Based Developer, or New Community-Based Developer will have increased maximum loan limits by $25,000 per unit.

## **Section 208. Interest Rate and Loan Repayments.**

Loans shall have the following terms:

* 1. Loans shall bear simple interest on the unpaid principal balance at a rate that is the lesser of:
     1. Three (3) percent per annum; or
     2. If the Project has received an allocation of tax credits 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:

1. Materially increases the feasibility of the Project; and
2. 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 3 percent, pursuant to subdivision (a)(2) above, the cost of which shall be borne by the Sponsor.

* 1. Interest shall accrue from the date that funds are disbursed by the Department to or on behalf of the Sponsor.
  2. For the first 30 years of the loan term, payments in the amount of 0.42 percent of the original 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 payment shall remain constant for the first 30 years regardless of any paydown of the original loan amount. The balance of accrued interest shall be payable out of Operating Income remaining after payment of approved Operating Expenses, debt service on other loans, and reserve deposits. Commencing on the 30th anniversary of the last day of the Initial Operating Year, and continuing annually thereafter, interest shall be payable annually in an amount equal to the lesser of: (1) the full amount of interest accruing on the original 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 which amount shall in no event be less than that in effect for the immediately preceding year. HUD Section 811 and 202 projects will be subject to the requirements of this subsection.
  3. 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 Title 25 CCR Section 8314.
  4. 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.
  5. 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.

## **Section 209. Appraisal and Market Study Requirements.**

1. As a condition of funding, the Department will require an appraisal or market study, or both, to:
   1. 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 204.
   2. Assist with establishing other reasonable development costs pursuant to Section 204.
   3. Assess Fiscal Integrity.
   4. Verify an adequate tenant market.
2. Any appraisal required by the Department shall be prepared at the Sponsor's expense by an individual or firm which:
   1. Has the appropriate license and the knowledge and experience necessary to competently appraise low-income residential rental property;
   2. Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;
   3. 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. 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.
3. 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. Has the knowledge and experience necessary to conduct a competent market study for low-income residential rental property;
   2. Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study;
   3. 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. 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.
4. Demonstrate clear market demand for the proposed Project and target population, through waiting lists and low vacancy rates for comparable Projects serving similar tenants, statistical information from the VA, the local Continuum of Care, or other similar information.

The remaining sections of Article 2 below apply only to VHHP-funded Projects

## **Section 210.** **VHHP Occupancy Requirements.**

1. Occupancy of all Assisted Units shall be restricted to VHHP Eligible Households, with Gross Incomes at time of move-in not exceeding the limits approved by the Department and specified in the VHHP Regulatory Agreement. The Department shall not approve incomes at move-in in excess of 60 percent of Area Median Income.
2. If the Veteran who qualified for a household for occupancy moves out or passes away, and household members remain, the unit shall still be considered an Assisted Unit, unless the qualifying Veteran’s occupancy was for less than three months, or there is evidence that the Veteran’s occupancy was intended to be for a short duration. In such a case, the Department reserves the right to require redesignation of the units, not dependent on assistance received from other agencies.
3. If the Veteran who qualified and was approved for occupancy passes away or is otherwise justifiably incapable of moving-in prior to occupying the unit, the household shall be considered still qualified for the unit, as long as the Veteran’s occupancy was not postponed due to delays caused by the household. In such a case, the Department reserves the right to require redesignation of the units, not dependent on assistance received from other agencies. The Sponsor shall be responsible for tracking the identified household throughout their tenancy, and may be required to redesignate the unit as non-assisted and rent the next available unit as a VHHP-Assisted Unit to restore the HCD-approved unit mix.
4. Occupancy of units designated as Supportive Housing or Transitional Housing shall be further restricted to households that include Veterans who are experiencing Homelessness, Veterans with a Disability Experiencing Homelessness, or Veterans experiencing Chronic Homelessness, as approved by the Department and specified in the VHHP Regulatory Agreement. Sponsor shall maintain documentation of eligibility consistent with federal regulations implementing the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.
5. Any occupancy restrictions based on conditions of separation from military service are subject to Department approval.
   1. Projects may only restrict occupancy to Veterans who separated from military service under certain conditions (e.g., under other than dishonorable conditions), or who qualify for VA health care, when required by a public agency funding source.
   2. In any case, a minimum of 10 percent of Supportive Housing Assisted Units shall be prioritized for occupancy by Veterans who are ineligible for VA health care and/or HUD-VASH.
6. Occupancy requirements shall apply for the full term of the VHHP loan. In the event the Department determines, and CalVet concurs, that there are no longer sufficient Veterans eligible for one or more categories of households eligible for Supportive Housing or Transitional Housing, based on evidence from the local Continuum of Care, the VA, the local Point-in-Time count of persons experiencing Homelessness, and similar sources, the Department may adjust the occupancy requirements for these units, but only to the minimum extent required for Project feasibility, and not sooner than five years from the date of the VHHP loan closing. The Department shall periodically evaluate the need for continuing any adjustments made to the original occupancy requirements, and may modify these adjustments over time or reinstate the original requirements.

## **Section 211. VHHP Housing First Practices.**

1. Sponsors must follow tenant screening, property management, and service delivery practices for 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:
   1. Tenant screening and selection practices that promote the accepting applicants regardless of their sobriety or use of substances, completion of treatment, or agreement to participate in services;
   2. 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.
   3. Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness.
   4. Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.
   5. Participation in services or program compliance is not a condition of permanent housing tenancy.
   6. Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in the Cal. Civ. Code, HSC, and GC.
   7. 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.
   8. Case 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.
   9. 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.
   10. The Project and specific units may include special physical features that accommodate persons with disabilities, reduce harm, and promote health, community, and independence among tenants.

## **Section 212. VHHP Tenant Selection.**

1. Sponsors shall select tenants in accordance with the provisions of Title 25 CCR Section 8305.
   1. Reasonable selection criteria, as referred to in Title 25 CCR Section 8305(a)(1), shall include priority status under a local CES developed pursuant to 24 CFR 578.7(a)(8);
   2. Potential tenants shall not be rejected based on the type of their military service discharge, unless specifically required by a public agency funding source for the Project.
2. For Supportive Housing, tenants shall be selected using the local CES.
3. For units restricted to the those experiencing Chronic Homelessness or Veterans with a Disability Experiencing Homelessness, Projects shall prioritize highly vulnerable households referred for permanent supportive housing by the local CES.
4. Where the CES is not yet operational, Projects shall coordinate directly and accept referrals from VA homeless programs for Veterans experiencing Homelessness, Emergency Shelters, Safe Havens, drop-in centers, and street outreach programs frequented by vulnerable persons experiencing Homelessness.
5. For Transitional Housing, occupants shall be selected using the local CES.
6. For units restricted to the those experiencing Chronic Homelessness or Veterans with a Disability Experiencing Homelessness, Projects shall accept referrals and prioritize highly vulnerable households as referred by the local CES.
7. Where the local CES is not yet operational, Projects shall coordinate directly and accept referrals from VA programs for Veterans experiencing Homelessness, Emergency Shelters, Safe Havens, drop-in centers, and street outreach programs frequented by vulnerable people experiencing Homelessness.
8. For Projects without Supportive Housing or Transitional Housing, Projects shall coordinate directly and accept referrals from SSVF and other programs that serve high need Veterans.

## **Section 213. VHHP Rental Agreements and Grievance Procedures.**

Rental or occupancy agreements and supplemental occupancy forms (such as the Appeal and Grievance Procedure or House Rules) for Assisted Units shall comply with Title 25 CCR Section 8307 and must be approved in writing, in advance, by the Department. Any change to the template rental or occupancy agreement must be submitted to the Department no later than 60 days prior to permanent conversion and must be approved in advance, in writing, by the Department. Tenants shall not be required to maintain sobriety, be tested for substances, or participate in services or treatment, pursuant to the Housing First model in accordance with Section 211(c)(1) and 211(c)(5) of these Guidelines.

## **Section 214. VHHP Supportive Services Requirements.**

1. Projects limited to Supportive Housing and/or Transitional Housing must comply with requirements of subsection (b) below. Projects without Supportive Housing or Transitional Housing must comply with the requirements of subsection (c) below. Projects combining Supportive Housing and Transitional housing with other unit types must comply with both (b) and (c) below.
2. Projects including Supportive Housing and/or Transitional Housing must:
   1. Utilize a LSP meeting the experience requirements described in section 201(h)(1) of these Guidelines. A formal agreement must be provided between the LSP and the Sponsor. The agreement must detail roles and responsibilities and other components typically found in a formalagreement in the implementation of all elements of the supportive services plan and must be consistent with organizational charts and the property management plan. The agreement must be submitted to the Department with the application, but no later than the Standard Agreement execution date. In the event of a change to the LSP, the Sponsor will provide the formal agreement to CalVet and the Department no later than 30 days after the date that the new LSP begins services. If the LSP and Sponsor are the same organization, provide a document signed by an authorized signatory defining roles and responsibilities in implementing all elements of the supportive services plan. Designated supportive services staff must not be combined with property management staff. The Sponsor shall apply to the Department in advance, in writing, if any change to the LSP or the services provided is proposed. The Sponsor shall not implement any changes until Department and CalVet approval is given.
3. LSP organization shall not be the same as the Property Manager organization without prior approval from the Department and CalVet. Any approval will require a formal agreement between the Sponsor and the organization providing both roles that describes how property management-related activities and interests will be separate from tenant services/advocacy-related activities and interests throughout the term of the agreement. The agreement can be part of that which is required through Sections 201(h)(1)(C) and 214(b)(1) of these Guidelines and must be supported by an organizational chart and other supporting documentation.
   1. Provide services that are flexible and responsive to individual resident needs, culturally specific, and linguistically appropriate. Culturally specific includes the culture shared by Veterans.
4. The supportive services plan must be fully implemented and the supportive services available for use by the tenant at the time of occupancy.
   1. Provide comprehensive case management on site with appropriate ratios of full-time Case Managers directly providing services to residents, as indicated below or as otherwise approved by the Department based on justification provided by the Sponsor.

|  |  |
| --- | --- |
| Population | Minimum Ratio |
| Chronic Homelessness | 1:20 |
| Disability Homelessness | 1:25 |
| Other Homelessness | 1:40 |

For tenants with U.S. Department of Housing and Urban Development - Veterans Affairs Supportive Housing (HUD-VASH) vouchers, the Case Manager for services in accordance with the HUD-VASH Program will be the applicable Department of Veterans Affairs (VA) Case Manager (or third-party provider selected by the VA

For each Project, at least one Case Manager directly providing services shall possess a master’s degree in appropriate disciplines. Supervisory staff does not count for this purpose, or for the purpose of satisfying the minimum Case Manager to resident ratios set forth above. If the Sponsor is relying on VA staff to fulfill this educational requirement, then the Sponsor will be responsible for maintaining satisfaction of this educational requirement regardless of any changes initiated by the VA and must provide to CalVet and the Department, the name and credentials of the Case Manager satisfying this requirement throughout the effective period of loan terms.

* 1. Provide appropriate transportation so residents can access off-site services.
  2. Provide training to services staff on the specific culture, needs and issues of Veterans, and on the resources available to address their needs.
  3. Employ strategies to engage residents in services, building operations, and services planning and operations. A tenant satisfaction survey shall be conducted at least annually to inform and improve services, building operations, and property management.
  4. Have written policies and procedures covering:
     1. Retention of tenants regardless of their use of substances and steps to assist relapsing residents to ensure their ability to remain in housing.
     2. Payment of rent by residents during periods of hospitalization.
     3. Privacy and confidentiality of residents, while ensuring appropriate communication between property management and service providers to preserve tenancies. Communications between the resident and service provider must be kept confidential, absent consent of the tenant to disclose information.
     4. Ensuring the safety and security of residents and staff (including, but not limited to, violations committed by residents, visitors and/or staff).
     5. Grievance procedures, including assistance provided to tenants in making a grievance including the option for an informal hearing and formal hearing, neither of which will impact their ability to pursue legal action if a resolution is not reached. The Sponsor shall not cause undue burden to or retaliate against the tenant for seeking a hearing. Grievance procedures (and subsequent changes to the approved grievance procedure) must be approved in advance, in writing, by the Department.
     6. Initial and periodic staff training in all of the above, in appropriate responses to tenant crises, and in the operator’s program philosophy, values, and principles.
     7. Coordination with property management for resolution of complaints from tenants or on behalf of tenants.
     8. Reasonable accommodations for prospective and existing tenants.
  5. Provide the following minimum services, either directly or through commitment letters or formal agreements with other agencies. The letters and agreements documenting the availability of these services must be included in the application for VHHP funds:
     1. Intensive case management to engage with each Veteran and jointly develop an individual service plan.
     2. Benefits counseling and advocacy, including assistance in enrolling in Medi-Cal and obtaining other mainstream services, as well as VA system navigation, and assistance in obtaining discharge upgrade and Veterans benefits.
     3. Mental health care, such as assessment, crisis counseling, individual and group therapy, and support groups.
     4. Physical health care, including access to routine and preventative health and dental care.
     5. Substance use services, such as treatment, relapse prevention, and support groups.
     6. For transitional Projects, permanent housing location and placement assessment services to move households to permanent housing as quickly as possible, and linkages to HUD-VASH and SSVF.
  6. Provide the following enhanced services to residents, either directly or through commitment letters or formal agreements, unless the Department approves justification from the Sponsor as to why these services are not needed. The letters and agreements documenting the availability of these services must be provided before occupancy and release of VHHP funds, but are encouraged to be included with the application.
     1. Educational services, including assessment, GED, school enrollment, assistance accessing higher education and GI bill benefits and grants, and assistance in obtaining reasonable accommodations in the education process.
     2. Employment services must include job skills training, job readiness, job placement, and job retention services.
     3. Linkage to potential out-placements, should they become appropriate alternatives for current residents, either because they require a higher level of care (i.e., residential treatment facilities and hospitals), or because they no longer require permanent Supportive Housing (i.e., other affordable housing or market rate housing).
     4. Life skills training, such as financial literacy, household maintenance, interpersonal communications, grooming, nutrition, cooking, and laundry.
     5. Representative payee.
     6. Peer support and advocacy.
     7. Legal assistance.
     8. On-site medication management.
     9. Attendant care.
     10. Adult day care.
     11. Parenting education, childcare, and family legal and counseling services including, but not limited to, family reunification.
     12. Social and recreational activities.
     13. Financial counseling.
     14. Domestic violence support.
     15. Food insecurity/meal support.
  7. Prepare a supportive services plan that is appropriate for the target population(s), and consistent with the property management plan. The supportive services plan shall be included in the application for VHHP funds, and may be subject to review and updating prior to VHHP loan funding and throughout the effective period of the loan terms. In the event of a change to the supportive services plan or LSP, additional review and revisions to the supportive services plan may be required. It shall include:

1. A narrative description of target population needs, services provision (what, who, where provided, and supportive services model), staff training and education, resident engagement, and expected outcomes with supporting documents including:
   * + 1. Services staffing chart.
       2. Services delivery chart listing each service, its provider, location, and type of commitment.
       3. Description of service delivery model practices identified in section 403 of these Guidelines.
       4. Description of policies and procedures to ensure tenant safety and security.
2. Budget to show funding is adequate, including:
   * + 1. Line item budget that is consistent with the supportive services plan narrative. Any reduction of budgeted amounts will require prior approval by the Department and CalVet.
       2. Services staffing chart that is consistent with the supportive services plan narrative.
3. Documentation supporting the line item budget, including the agreement with the LSP and agreements or commitment letters from other service providers included in this budget, with details about the scope, value and duration of the services they will provide. Documentation must also include a plan and track record of the Sponsor and LSP in filling gaps in Supportive Services funding, due to loss of funding source(s) and increases in services costs.
4. A description of LSP responsibilities with regard to tenant selection, tenant retention and eviction prevention, reasonable accommodation procedures, and coordination with property management.
5. Identification of the parties responsible for the Homeless Management Information System (HMIS), and other reporting, including local CES, which must also be reflected in the required agreements and commitment letters.
6. Projects including Assisted Units other than Supportive Housing and Transitional Housing must provide resident service coordination services. At a minimum, these Projects must:
7. Utilize an organization to provide resident services coordination that has at least 24 months of experience in providing this service in publicly assisted affordable housing. If this service is provided by a third party, there must be a formal agreement between the Sponsor or Project owner and this third party.
8. Provide services that are flexible and responsive to individual resident needs, culturally specific, and linguistically appropriate. Culturally specific includes the culture shared by Veterans.
9. Provide services coordination on-site with at least one full-time services coordinator per 80 residents, unless otherwise approved by the Department based on justification provided by the Sponsor. The services coordinator must have a bachelor’s degree or equivalent work experience.
10. Provide peer support and advocacy services.
11. Provide for appropriate transportation so residents can access off-site services.
12. Provide training to services staff on the specific culture, needs and issues of Veterans, and on the resources available to address their needs.
13. Employ strategies to engage residents in services, building operations, and services planning and operations.
14. Have written policies and procedures covering:
    * 1. Drug and/or alcohol use on-site and off, including steps to deal with relapsing residents to ensure their ability to remain in housing.
      2. Payment of rent by residents during periods of hospitalization.
      3. Privacy and confidentiality of residents, while ensuring appropriate communication between property management and service providers to preserve tenancies.
      4. The safety and security of residents and staff (including, but not limited to, violations committed by residents, visitors and/or staff).
      5. Grievance procedures, including assistance provided to tenants in making a grievance.
      6. Initial and periodic staff training in all of the above, in the appropriate response to tenant crises, and in the operator’s program philosophy, values and principles.
      7. Coordination with property management for resolution of complaints from tenants or on behalf of tenants.
    1. Prepare a resident services coordination plan that is appropriate for affordable housing residents and consistent with the property management plan. Projects with mixed tenant populations must address the services needs of all tenants, including any differences in service delivery or staffing ratios between the different populations. The supportive services plan must include:
       1. A narrative description of affordable housing population need, services provision (what, who, where provided), staffing, resident engagement, and outcomes with supporting documents including:
          1. Services staffing chart.
          2. Services delivery chart listing each service, its provider, location, and type of commitment.
          3. Budget to show funding is adequate, including:
             * Line item budget.
             * Services staffing chart.
       2. Documentation supporting the line item budget, including the agreement with the resident services coordinator agency, and agreements or commitment letters from other service providers impacting this budget, with details about the scope, value and duration of the services they will provide.
       3. A description of resident service coordinator responsibilities with regard to tenant selection, tenant retention, eviction prevention, reasonable accommodation procedures, and coordination with property management, all consistent with the property management plan.

## **Section 215. VHHP Vulnerable Populations Best Practices.**

The following best practices should be incorporated in the construction of Projects that receive funding from VHHP as much as possible. These best practices work to further the safety and physical and mental well-being of residents within a Project.

Veterans experiencing low income or Homelessness are already vulnerable and, within this population, there are those still more vulnerable than others, such as children,

elderly, and/or persons with a history of trauma (e.g., military sexual trauma, domestic violence).

1. General best practices for all developments:
   1. Safety features:
      1. Site selection and development of the Project should consider the safety concerns of the prospective Veteran tenants.
      2. Building entrance and exit points should only allow admittance to residents or guests that residents admit.
      3. Common areas within the Project should be oriented so as to have:
2. Two ways to enter or exit the area;
3. Visibility to the area from outside of it, i.e., windows in walls or doors; and
4. A centralized location, to the extent possible.
5. Safety lighting that reduces or eliminates blind or dark spaces where people can hide.
   * 1. Property management:
6. Policies to support an on-call staff member or 24-hour availability of staff from the property management company.
7. Post in common areas and annually review with tenants the Project’s grievance policy. The policy should include procedures for grievances with management staff or contractors and the process by which the tenant may elevate the complaint.
8. Most vulnerable population best practices – this is for those populations that have a history of trauma or are more easily taken advantage of such as, children, elderly, and domestic violence and military sexual trauma survivors.
   1. Safety features incorporate all of the general best practices and include the following:
      1. The Project is designed in such a way as to provide separate and secure floors, wings, or buildings for this tenant population. These separate and secure areas should restrict access to only the residents in the secured area.
      2. For mixed-gender Projects that will also be serving women with a history of suffering any form of domestic violence or sexual abuse or trauma, or intimidation or harassment:
         1. Designate at least 25 percent of the Assisted Units for women with a history of domestic violence or sexual trauma, and or women with children, thereby ensuring women are not a small minority of the tenancy.
         2. Design Projects to provide separate and secure floors, wings, or buildings for women with a history of domestic violence or sexual trauma and/or women with children. These separate and secure areas should restrict access to only the residents in the secured area.
      3. Security cameras:
         1. At entrances, exits and common areas (including hallways, elevators, and stair wells);
         2. Written policy on the use of the cameras to specify who has access to see the videos, who monitors the surveillance, and under what conditions the footage would be released to the authorities; and
         3. Camera recordings should be maintained for at least 30 days.
      4. Visitor policy that clearly defines the policies for visitors, to include the hours visitors are allowed on the property and physical spaces visitors may access. This policy is to be posted in public areas for resident awareness and reviewed with the resident at the time the lease is signed.
   2. Property management:
      1. Policies to support an on-call staff member or 24-hour availability of staff from the property management company.
      2. Post in common areas and annually review with tenants the Project’s grievance policy. The policy should include procedures for grievances with management staff or contractors, and the process by which the tenant may elevate the complaint.
      3. The Project should have 24-hour security and, for Projects serving female Veterans, female security guards to the extent possible.

## **Section 216. Transitional Housing Funds.**

The following provisions apply only if funding by the Legislature is set aside for Transitional Housing Projects. This only applies to funds appropriated for the Program for 2016. Assembly Bill 1622 amended the Budget Act of 2016 and set aside Round 3 funds that could be used to support Transitional Housing or Emergency Shelter facilities:

1. Eligible Projects are limited to Transitional Housing and Emergency Shelter facilities that provide services for Veterans experiencing Homelessness.
2. Eligible Borrowers are limited to nonprofit corporations and counties or combinations of these entities.
3. VHHP funds may be used for either the construction of new facilities or the rehabilitation of existing ones.
4. In addition to the application selection criteria specified in Section 403 of these Guidelines, applications will be eligible to receive up to 20 points based on the extent to which they:
   1. Demonstrate high need for the specific population targeted, as indicated by large numbers of Veterans turned away from similar nearby shelters or Transitional Housing facilitates, local surveys of Veterans experiencing Homelessness, and other quantified data;
   2. Focus on long-terms solutions, including reliable funding for mental health and addictions services; and
   3. Are sponsored by organizations that demonstrate proven long-term effectiveness, as measured by indicators of housing stability and recovery.
5. For Emergency Shelter Projects, the following provisions of these Guidelines shall apply as modified below:
   1. “Assisted Unit” as originally defined in Section 7301 of the MHP guidelines and as detailed in Appendix 1 of these guidelines shall mean a bed in an Emergency Shelter facility restricted to occupancy by Veterans.
   2. VHHP loans shall be limited to $50,000 per bed.
   3. Sponsors shall not charge rent or other program fees or occupancy charges (see Section 301).
   4. Application selection criteria will be applied as if the Project was Transitional Housing (See Section 403).
6. For Emergency Shelter Projects, the following sections of these Guidelines shall not apply: 201(a), 201(e), 201(f), 201(h), 205, 210(b), 210(c), 211, 213, and 302.
7. For Emergency Shelter Projects, the following additional requirements shall apply:
   1. The owner of the Project, and the Borrower, shall:
      1. Be either a nonprofit corporation or a county, and
      2. Have a consistent record (average of the last three years) in other shelters they operate of at least 35 percent of admitted clients exiting to permanent housing, and less than 23 percent moving into permanent housing having returned to Homelessness within one year.
   2. The Project shall not require, as a condition of client housing, participation by clients in any religious or philosophical ritual, service, meeting, or rite.
   3. The Sponsor shall not deny benefits on the basis of race, religion, age, sex, marital status, ethnicity, place of origin, physical or mental disability, or any other arbitrary basis. This section shall not be construed to preclude the provision of client housing designed to accommodate women or men only.
   4. The Project must be financially feasible as determined by the Department, and based on an evaluation of development funding and operating subsidies committed to the Project at time of application, and the Sponsor’s track record of securing operating subsidies for similar Projects over an extended period.
8. For Transitional Housing, the following requirements shall apply:
   1. Maximum per-bed loan amounts shall be $65,000 for all Round 3 awards, including supplemental awards.
   2. Leverage of development funding point scores shall be computed in accordance with Section 403 of these Guidelines.

## **Section 217.** **Additional VHHP Requirements.**

1. Entities certified by the California Department of General Services as DVBEs shall receive an amount at least equal to 5 percent of total construction costs for work performed or supplies provided for each Project.
   1. As part of the application for VHHP funds, applicants shall submit a utilization plan describing how the 5 percent minimum requirement will be satisfied, including:
      1. Identification of a plan administrator responsible for implementing the plan and ensuring achievement of the 5 percent minimum requirement; and
      2. Description of all known methods to be used to ensure DVBE participation, including advertising, solicitations and preferences. Applicants and their DVBE Plan Administrator must contact CalVet for assistance in locating DVBEs.
   2. Prior to the commencement of construction, the Sponsor shall submit a report to the Department and CalVet on DVBE plan implementation. This report will include:
2. The total amount budgeted for construction costs;
3. The names and addresses of DVBE contractors, subcontractors and suppliers that have received or are scheduled to receive payment, together with the amount paid or scheduled to be paid to each; and
4. If the report does not show achievement of the 5 percent minimum requirement, documentation that the Sponsor has requested assistance with recruiting DVBEs from CalVet, and documentation of all of its attempts and methods used to ensure DVBE participation.
5. If the Sponsor fails to achieve the 5 percent minimum requirement, the Department may award negative points for subsequent applications pursuant to Section 401(g) of these Guidelines. To avoid the assessment of the negative point penalty, the Sponsor must be granted a waiver from CalVet.
   1. Upon completion of construction, and prior to the VHHP loan closing, the Sponsor shall submit a report similar to the one described in the preceding subsection, detailing actual payments to DVBEs. If the 5 percent requirement has not been met, the Sponsor must provide documentation of its requests for assistance with recruiting DVBEs from CalVet, and all of its attempts and methods used to ensure DVBE participation.
6. Sponsors shall make good faith efforts to hire Veterans for development, construction, and related jobs associated with the Project.
7. As part of the application for VHHP funds, applicants shall submit a plan describing how this requirement will be satisfied. The plan may include registering with Helmets to Hardhats, working with local Homeless Veteran Reintegration Programs, entering into First Source Hiring Agreements with local America’s Job Centers of California Agencies (formerly One Stop Centers), or subcontracting with DVBEs and other entities that hire Veterans.
8. Upon completion of construction, and prior to the VHHP loan closing, the Sponsor shall submit a report on plan implementation, including the number of Veterans hired.
9. Labor Code Section 1720 et seq. requires payment of prevailing wages for certain developments paid for in whole or in part from any public funding source, and exempts other developments from this requirement. All funds provided under VHHP are public funds within the meaning of these Labor Code sections. VHHP funding of a portion of a Project shall not necessarily, in and of itself, be considered public funding of the entire Project. Each applicant shall be responsible for determining, on a case-by-case basis, the extent of applicability of state prevailing wage law to its individual Project.

## **Article 3. General Requirements.**

## **Section 301.** **Rent Standards.**

The Department shall establish Rent standards for Assisted Units in each Project as follows:

1. Rent limits for initial occupancy and for each subsequent occupancy by a new VHHP 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 income limits in 5 percent increments of AMI, including the income limits utilized by the Program for this purpose. The maximum Rent limit shall be 30 percent of 60 percent of AMI for the appropriate Unit size with the exception of subsidized units.
2. 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. In the event the Unit is subsidized, the tenant-paid portion of the rent shall not exceed 30 percent of the applicable income eligibility level. Rents shall not exceed 30 percent of the applicable income eligibility level with the exception of subsidized units.
3. 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 and using income limits in 5 percent increments of AMI, as approved by the Department.
4. 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. In this case, the Department will require the Sponsor to submit a feasibility plan to be approved by CalVet and the Department prior to approval of any Rents above the allowed Rent limits.
5. 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.
6. Where a Project is receiving renewable Project-based rental assistance:
   1. The Sponsor shall in good faith apply for and accept all renewals available;
   2. The Sponsor shall fund a transition reserve to be used in the event the rental assistance contract is terminated. The minimum amount of the transition reserve for renewable Project-based rental assistance shall be the amount sufficient to prevent Rent increases for one year following the loss of the rental assistance. The minimum amount of the transition reserve for non-renewable Project-based rental assistance or operating subsidies shall be the amount sufficient to prevent Rent increases for two years following the loss of the rental assistance. Transition reserves 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 prior review and approval of the Department; and
   3. If the Project-based rental assistance is terminated, the Sponsor shall notify the Department in writing immediately, upon notification that rental assistance will be terminated, and shall make every effort to find alternative subsidies or financing structures that would maintain the tenant income, rent, and Supportive Housing targeting specified in the recorded 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 Sponsor:
7. 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.

Restrictions for Units previously covered by this Project-based rental assistance requiring occupancy by Supportive Housing Target Populations may be modified or eliminated, but only to the minimum extent required for Fiscal Integrity, as determined by the Department, and only through natural attrition/vacancies.

1. Any increase in rents and income limits pursuant to subsection (A), above, or modification of Supportive Housing occupancy requirements pursuant to subsection (B), shall require advance Department approval. To the maximum extent possible, these changes shall minimize the impact on residents with the lowest income, and shall be phased in as gradually as possible.
2. If, following any increase in Rents and income limits pursuant to subsection (A) above, or modification of special population occupancy requirements pursuant to subsection (B) above, new resources become available, or market demand changes, allowing reversion to the former income and Rent limits or special population occupancy requirements, the Department may re-impose these income and Rent limits or special population occupancy requirements, in whole or in part, subject to an analysis of Project feasibility.
   1. Based on an analysis of the risk associated with specific rental assistance programs, the Department may modify the requirements of subsection (2) above by an amendment to these guidelines. This modification may include adjusting the amount of the required transition reserve, setting different amounts for different rental assistance programs to reflect the relative risk associated with these programs, allowing the transition reserve to be funded and controlled by a locality, establishing a transition reserve funded and held by the Department rather than the Sponsor, or adjusting the level to which rents may be increased upon rental assistance contract termination.

## **Section 302. Use of Operating Income.**

1. 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 205, 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:
      1. 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
      2. 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.
2. Where there is a difference between the provisions of the UMR (Title 25 CCR Section 8300 et seq.) and these Guidelines, the provisions of these Guidelines shall prevail in the use of operating cash flow. Any operating income remaining after the payments listed in the previous subsection (a) shall be applied in accordance with UMR Section 8314(a)(2).
3. The requirements of UMR Section 8314(b) through 8314(h) shall apply.
4. For 2021, supportive service coordination and case management costs paid as a Project operating expense shall not exceed the following amounts:
   1. $4,639 per unit per year for Supportive Housing units restricted to Veterans who are experiencing Chronic Homelessness, and units restricted to persons who are experiencing Chronic Homelessness by another public agency program.
   2. $3,480 per unit per year for Supportive Housing units restricted to Veterans with a Disability Experiencing Homelessness, and other units restricted to persons who are Veterans with a Disability Experiencing Homelessness.
   3. $1,508 per unit per year for units restricted to Extremely Low-Income households, but not to Veterans who are experiencing Chronic Homelessness or Veterans with a Disability Experiencing Homelessness
   4. $869 per unit per year for other units.
   5. These maximum amounts shall be increased each year after 2021 at the rate of 3.5 percent per year.

## **Section 303. State and Federal Laws, Rules, Guidelines and Regulations.**

The Sponsor agrees to comply with all applicable state and federal laws, rules, guidelines and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Development, the Sponsor, its contractors or subcontractors, and any Loan activity, including without limitation the following:

1. Fair Housing Act

The Sponsor shall comply with all state and federal fair housing laws. At the Department’s election, Sponsor must submit an attorney’s opinion acceptable to the Department describing the intended occupancy restrictions and how they comply with the California Unruh Civil Rights Act (Civ. Code, §§ 51 - 53), the California Fair Employment and Housing Act (FEHA) (GC, § 12900 et seq.) and the FEHA regulations, Title 2, CCR Sections 12005-12271. Occupancy restrictions must be carried out in a manner which does not violate state or federal fair housing laws.

1. Americans with Disabilities Act and Accessibility

The Sponsor shall ensure compliance with all applicable state and federal building codes and accessibility laws and standards. In addition, the Sponsor shall ensure that the Project meets the following requirements:

* 1. New Construction Projects: All new construction projects shall adhere to the accessibility requirements set forth in Chapter 11A and 11B of the California Building Code (CBC).
  2. All new construction projects must provide a minimum of fifteen percent (15%) of the units with features accessible to persons with mobility disabilities plus a minimum of ten percent (10%) of the units with features accessible to persons with hearing or vision disabilities.
  3. Compliance and Verification: Prior to loan closing, the Sponsor shall provide a certification of compliance, signed by the Borrower and the project architect as well as third party documentation confirming compliance (by a Certified Access Specialist (CASp) or someone with demonstrated experience meeting federal accessibility standards.)
  4. Accessible Units: All new and existing projects with fully accessible units for occupancy by persons with mobility impairments or hearing, vision or other sensory impairments shall provide a preference for those units as follows.
     1. First, to a current occupant of another unit of the same project having a disability requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then
     2. Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

1. When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.
2. Owners and managers shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with a disability, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit.
3. Violence Against Women Act

Where applicable, Sponsors shall ensure individuals are not denied assistance, evicted, or have their assistance terminated because of their status as survivors of domestic violence, dating violence, sexual assault, or stalking, or for being affiliated with a victim, pursuant to 34 USC § 12491.

1. Pet Friendly Housing Act

Sponsor shall authorize residents of the housing development to own or otherwise maintain one or more common household pets pursuant to the Pet Friendly Housing Act of 2017 (California Health & Safety Code, Section 50466).

1. California State Prevailing Wage Law

Projects receiving funding under the Program are subject to California’s prevailing wage law (Lab. Code, § 1720 et seq.). The Sponsor should seek professional legal advice about the law’s requirements. Prior to closing the Program Loan, the Department will require a certification of compliance with California’s prevailing wage law. The certification must verify that prevailing wages have been paid and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and the Sponsor.

## **Section 304. Relocation Requirements.**

The Sponsor of a Project resulting in displacement of persons, businesses or farm operations 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.

* 1. All persons, businesses or farm operations that are displaced as a direct result of the development of a Project shall be entitled to relocation benefits and assistance as provided in Title 1, GC, Division 7, Chapter 16, commencing at § 7260, and Title 25 CCR, Subchapter 1, Chapter 6, commencing at Section 6000. Displaced tenants who are not replaced with VHHP Eligible Households under this Program shall be provided relocation benefits and assistance from funds other than Program funds.
  2. The Sponsor shall prepare or update a relocation plan in conformance with the provisions of 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 and prior to the relocation of tenants and prior to the actual displacement of persons, businesses, or farm operations.
  3. 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 occupancystandards set forth in UMR Section 8305.
  4. All ineligible 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.
  5. Notwithstanding the preceding subparagraphs, 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.

## **Section 305. Construction Requirements.**

1. 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.

1. 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.
2. The Sponsor shall enter into a written contract for the construction or Rehabilitation work with a contractor having the appropriate state license.
3. 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.
4. The Sponsor shall ensure the construction contract requires compliance with state prevailing wage law (Labor Code, Chapter 1, Part 7, Division 2, 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.

## **Article 4. Application Procedures**

## **Section 401.** **Application Process.**

1. The Department shall periodically issue a 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 (d)(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. With respect to any NOFA involving VHHP funding and funding from one or more Designated Programs, the Department may require Applicants to specify all sources and amounts of funding for which the applicant is applying. This requirement may be set forth in either the NOFA or the application.
2. Substituting previously awarded Department funds is prohibited, except as provided herein. Applicants seeking to substitute previously awarded funds must request withdrawal of their prior award in writing and provide reasonable justification that the substitution is necessary to ensure project feasibility. Substitutions based solely upon Sponsor preference or convenience will not be permitted. Department approval of the withdrawal is required prior to the application due date without assurance of receiving a new award. This prohibition applies to funds awarded under any Department program, including a prior VHHP award.
3. Applications for funding while a separate, concurrent application is pending shall not be considered. For example, if a Sponsor has submitted an Affordable Housing Sustainable Communities (AHSC) application prior to the VHHP application deadline, the AHSC application is under review, the AHSC application does not include funding available under the applicable VHHP NOFA and the VHHP NOFA application does not include AHSC funding, the application will be deemed ineligible. Concurrent applications proposing the same Department funding sources are permitted. This paragraph is not applicable to or intended to prevent an application for multiple Department Program funds available under a single NOFA as contemplated by AB 434.
4. 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, Projects located in areas needing additional funding to achieve a reasonable geographic distribution of Program funds, and Projects with specified funding characteristics. 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 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 203, and shall establish minimum funding threshold criteria based on the rating criteria set forth in Section 403; and
   5. Establishing set-asides for specific projects and project types that serve specific target populations.
5. Applications selected for funding shall be approved subject to conditions specified by the Department.
6. The Department may adjust this procedure as follows:
7. It may elect to not evaluate compliance with some or all eligibility requirements for applications that are not within a fundable range, as indicated by a preliminary point scoring.
8. Applications will be reviewed, and negative points assessed, consistent with the Department’s negative points policy.

## **Section 402. Application Content and Application Eligibility Requirements.**

1. Application shall be made on a form(s) made available by the Department, without modification, requesting the information deemed necessary by the Department to evaluate compliance with these guidelines and all applicable statutes, regulations, and similar rules. Without limiting the generality of the foregoing, with respect to any NOFA involving VHHP funding and funding from one or more Designated Programs, the application may require the Applicant(s) to specify all sources and amounts of funding for which they are applying .
2. An application shall be deemed complete when:
   1. The application includes a letter providing prior notification to the local legislative body, or tribal governing body, pursuant to HSC Section 50675.7(e).
   2. The application meets all threshold requirements, as set forth in Section 7319, the NOFA and the application.
   3. The application includes authorizing resolutions of the governing boards of both the Sponsor and a co-Sponsor, except where the Sponsor(s) are individuals.
   4. The Department is able to review the application and assess the proposed project’s feasibility pursuant to UMR Section 8310.
   5. Pursuant to Section 403, applications shall be evaluated based solely upon the contents of the application. If documents required for scoring are not included, the application will not be deemed incomplete; however, failure to submit necessary documents, as set forth in the NOFA or application, may adversely affect the score of the application. Information or documents received after the application submission deadline will not be considered.
3. Applications shall be evaluated for compliance with the threshold and eligibility requirements of these Guidelines, and applicable statutes, and scored based on the application selection criteria listed in Section 7320 of these Guidelines. The applications with the highest number of points shall be selected for funding, provided that they meet all threshold and eligibility requirements and achieve specified minimum scores as identified in the NOFA.
4. The Sponsor 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.
5. For Applicants applying as Community-Based Developers, the entity must demonstrate in their application that they have community knowledge, commitment to long-term community investment, and population-specific cultural competency, all through a combination of the following: receipt of grant funds for services within the relevant neighborhood or community, cultural and linguistic competency on staff, a record of hiring from the community, and membership in or recruitment from a local Urban League (or substantially equivalent) organization. The sufficiency of the foregoing demonstration shall be evaluated in the reasonable discretion of the Department. The entity shall be allowed to define their served community within reason, for example by specifying a neighborhood geography of a specific number of square miles within the location of their central office, which area should include the proposed project.

## **Section 403.** **Scoring and Selection Criteria – see Appendix A.**

**For the purposes of these Draft AB 434 Program Guidelines all scoring criteria have been pulled out and placed in an appendix. This appendix details the scoring criteria appliable to all programs subject to AB 434. Additional detail on the rating and ranking process is also included in the stakeholder memo.**

1. Any reference outside of these Guidelines and Appendix, including references in the guidelines or regulations for any AB 434 Designated Program, to the ranking and rating or the administration of funds in a manner consistent with MHP shall not be interpreted as authorizing funding criteria or requirements that conflict with those approved by the voters through a statewide initiative or referendum.

## **Section 404. Performance Deadlines.**

1. Upon receipt of an award of Program funds to a Project, the Sponsor shall be required to secure all permanent financing, including tax credits and bond allocation no later than 24 months after the date of award.
2. Failure to meet the requirement set forth in (a) above shall result in withdrawal of the Department’s funding award.
3. An extension, not to exceed six months, may be granted by the Department, at its sole discretion, only if the Sponsor has demonstrated to the Department’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.
   1. Failure to compete successfully for TCAC or CDLAC awards, alone, is not sufficient basis to receive an extension.
4. If a previously awarded bond allocation and/or tax credit reservation is withdrawn by TCAC or CDLAC for failure to meet deadlines, the Department’s award shall be withdrawn and no extensions will be granted.

## **Article 5. Operations**

## **Section 500.** **Legal Documents**

* + 1. Upon the award of Program funds to a Project, the Department shall enter into one or more agreements with the Sponsor, including a Standard Agreement, which shall commit funds from the Program, subject to specified conditions, in an amount sufficient to encumber the approved Program Loan amount. The Standard Agreement shall require the Sponsor to comply with the requirements and provisions of the Act, these Guidelines, and generally applicable state contracting rules and requirements, and all other applicable laws. The agreement or agreements shall contain the following:
  1. A description of the approved Project and the permitted uses of Program funds;
  2. The amount and terms of the Program loan;
  3. The regulatory restrictions to be applied to the Project through the Regulatory Agreement as consideration for the Program Loan;
  4. Provisions governing the construction work and, as applicable, the acquisition of the Project site, and the disbursement of Loan proceeds;
  5. Special conditions imposed as part of Department approval of the Project;
  6. Requirements for the execution and the recordation of the agreements and documents required under the Program;
  7. Terms and conditions required by federal or state law;
  8. Requirements regarding the establishment of escrow accounts for the deposit of documents and the disbursement of Program loan funds ;
  9. 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. The approved Project development budget and sources and uses of funds and financing;
  11. Requirements for reporting to the Department;
  12. Terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;
  13. Provisions regarding compliance with California’s Relocation Assistance Law (Gov. Code, § 7260 et seq.) and the implementing regulations adopted by the Department (Cal. Code Regs., tit. 25, § 6000 et seq.), or to the extent applicable, compliance with federal Uniform Relocation Act requirements;
  14. Provisions regarding compliance with article XXXIV, section 1 of the California Constitution;
  15. Provisions relating to the placement of a sign on or in the vicinity of the Project site a sign indicating that the Department has provided financing for the Project: or provisions relating to the Department’s arrangement, in its sole and absolute discretion, for publicity of the Program Loan; and
  16. Other provisions necessary to ensure compliance with the requirements of the Program and applicable state and federal laws.

1. The Department shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan that shall be recorded against the property of the Project prior to the disbursement of funds. The Regulatory Agreement shall include, but not be limited to, the following:
2. The number, type and income level of Assisted Units pursuant to UMR Section 8304;
3. Standards for tenant selection pursuant to UMR Section 8305;
4. Provisions regulating the terms of the rental agreement pursuant to UMR Section 8307;
5. Provisions related to an annual operating budget approved by the Department pursuant to Section 505;
6. Provisions related to a management plan pursuant to Section 503;
7. 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 301;
8. Conditions and procedures for permitting Rent increases pursuant to Section 301;
9. Provisions for limitations on distributions pursuant to UMR Section 8314; and on developer fees pursuant to UMR Section 8312;
10. Provisions relating to annual reports, inspections and independent audits pursuant to Section 504;
11. Provisions regarding the deposit and withdrawal of funds to and from reserve accounts in accordance with UMR Section 8308 and 8309;
12. 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 503;
13. Description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;
14. Provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with program requirements;
15. Provisions relating to enforcement of program requirements by tenants;
16. Special conditions of Loan approval imposed by the Department;
17. 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 501;
18. 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
19. Other provisions necessary to assure compliance with the requirements of the Program.
20. All Program 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.

## **Section 502. Sales, Transfers, Encumbrances and Loan Payoff.**

1. A Sponsor shall not directly or indirectly 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 may be approved only if all of the following requirements are met:
   1. The existing Sponsor is in compliance with the Regulatory Agreement and other loan documents or the sale, transfer or conveyance will result in the cure of any existing violations;
   2. The successor-in-interest to the Sponsor agrees to assume all obligations of the existing Sponsor pursuant to the Regulatory Agreement and other loan documents and the program;
   3. 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. 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.
2. 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.
3. The Sponsor may transfer limited partnership interests without the prior written approval of the Department.
4. If the Department approves a sale, assignment, transfer, or conveyance in accordance with the provisions of subparagraph (a) above, the Department shall grant its approval 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. The deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;
   2. The recapture of syndication proceeds or other funds in accordance with special conditions included in any agreement executed by the Sponsor; or
   3. Such conditions as may be necessary to ensure compliance with the Program requirements.
5. 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 will not permit refinancing of existing liens or additional financing secured by the Rental Housing Development except to the extent necessary to maintain or improve the Fiscal Integrity of the Project, to maintain Affordable Rents, or to decrease Rents and for no other purpose, including, but not limited to, cash payments to the Sponsor, repayment of general partner loans or of limited partner loans, or for limited partner buyouts. Notwithstanding the general provisions in UMR Section 8308(g), this special condition controls, in that no reserve balance can fund a limited partner buyout or exit.
6. No 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.

## **Section 503.** **Defaults and Loan Cancellations.**

* 1. 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 VHHP requirements.
     3. The Department may seek such other remedies as may be available under the relevant agreement or any law.
     4. In the event the Project is or has been awarded additional Department funding, any and all such funding will be cross-defaulted to and among one another in the respective loan or, where applicable, grant documents. A default under one source of Departmental funding shall be a default under any and all other sources of Department funding in the Project.
  2. 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.
  3. The Department may cancel loan commitments under any of the following conditions:
     1. The objectives and requirements of VHHP cannot be met;
     2. Implementation of the Project cannot proceed in a timely fashion in accordance with the approved plans and schedules;
     3. Special conditions have not been fulfilled within required time periods;
     4. There has been a material change, not approved by the Department, in the principals or management of the Sponsor or Project, or

Upon Sponsor demonstration of good cause to comply with any or all of the conditions of this subsection, the Department may extend the date for compliance and shall provide the extension in writing.

* 1. 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.
  2. The Department may use any funds available to it 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 VHHP loan and, upon demand, due and payable to the Department. Where it becomes necessary to use state funds 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.

# **Section 504. Management and Maintenance**

1. 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.
2. The Sponsor is responsible for all repair and maintenance functions of the Rental Housing Development, including ordinary and routine maintenance, replacement of capital items, and extraordinary and/or unforeseen repairs and replacement necessary to maintain the health and safety of the Project and residents. The Sponsor shall ensure maintenance of residential units, Commercial Space and common areas in accordance with local health, building, and housing codes, and the management plan.
3. The Sponsor shall ensure that the Rental Housing Development is managed by an entity approved in writing by the Department that is actively in the business of managing low-income housing. Any management contract or management activities 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.
4. The Sponsor shall develop a management plan subject to Department approval prior to loan closing. Any change to the management plan shall be subject to the approval of the Department. The Department may review and request updates to the management plan as necessary and appropriate. The management plan shall be consistent with Program requirements and shall include the following:
   1. The role and responsibility of the Sponsor and its delegation of authority, if any, to the managing agent;
   2. Personnel policy and staffing arrangements;
   3. Plans and procedures for publicizing and achieving early and continued occupancy including marketing plans and application intake;
   4. Procedures for determining tenant eligibility and selecting tenants and for certifying and annually recertifying household income and size;
   5. Plans for carrying out an effective maintenance and repair program;
   6. Rent collection policies and procedures;
   7. A program for maintaining adequate accounting records and handling necessary forms and vouchers;
   8. Plans for enhancing tenant-management relations including maximizing tenant retention;
   9. The management agreement, if any;
   10. Provisions for periodic update of the management plan;
   11. Appeal and grievance procedures; and
   12. Plans for collections for tenant-caused damages, processing evictions and terminations.

## **Section 505.** **Reporting Requirements.**

1. No later than 90 days after the end of each Project fiscal year, the Sponsor shall submit the following:
   1. an independent audit of the Rental Housing Development prepared by a certified public accountant in accordance with Department audit requirements, as periodically updated and incorporated by reference.
   2. a complete annual compliance report, including tenant demographics pursuant to Department defined reporting requirements.
2. No later than 60 days prior to the end of each Project fiscal year, the Sponsor shall submit the proposed annual budget and Schedule of Rental Income as detailed in Section 505 below.
3. For Assisted Units that are Supportive Housing and Transitional Housing:
   1. Sponsors shall report client data in the local Homeless Management Information System (HMIS), if such systems are available, and must comply with the local Continuum of Care’s HMIS requirements.
   2. Sponsors shall report annually to the Department on all occupants of these units. Specifically the report must indicate tenant referral source, previous living situation, demographic characteristics, length of stay, housing exit, budgets, progress on outcome measures, and changes in income, benefits, and education, and veteran-specific information such as disability rating, type of discharge, branch and era of service, and VA healthcare eligibility, and similar information.
   3. Sponsors shall report annually to the Department on the services provided to residents of these units, the qualifying characteristic of each resident, and similar information.
4. Sponsors shall submit to CalVet directly any additional information as requested by CalVet, including staffing levels and training, and tenant survey results.

## **Section 506. Annual Operating Budgets and Schedule of Rental Income.**

The Sponsor shall submit proposed operating budgets and Schedule of Rental Income (SRI) to the Department for prior approval prior to occupancy and annually thereafter. These operating budgets and SRI shall be subject to Department approval, be consistent with related and supporting documentation, and comply with the following requirements:

1. Prior to loan closing, the Sponsor shall submit an initial operating budget, SRI, and other documents as requested to the Department. Such budget and SRI shall show all anticipated income; expenses for management, operations and maintenance; debt service; and reserve deposits for the Initial Operating Year. The initial SRI shall show proposed Rents for individual units, gross rent floor date, rental and operating subsidy amounts, and similar information on both individual Units and the Project as a whole.
2. For the Initial Operating Year, Borrower shall operate the Rental Housing Development in accordance with the initial operating budget and SRI, which were approved by the Department prior to loan closing. Such budget shall show all anticipated Operating Income, debt service, Operating Expenses and amount payable to reserves for the Initial Operating Year. Such SRI shall set forth the rent roll, which will identify each tenant household (by unit number or other method of household identification that is acceptable to the Department), as well as the following information in connection with each tenant household: size, income, current Rent, and proposed Rent adjustments (including utility allowances, if applicable). Such SRI shall provide estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.
3. For as long as deemed necessary by the Department to ensure compliance with Program requirements, but for no less than the full-term of the recorded Regulatory Agreement, 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 and SRI on forms provided by the Department. The proposed annual operating budget and SRI, together, shall set forth the Borrower’s estimates for the upcoming year of Operating Income, Operating Expenses, debt service amounts payable to reserves, and proposed Rent adjustments pursuant to Section 301. The Department, at its sole discretion, may request in situations, such as, but not limited to, re-syndication, change of ownership, or change of Project fiscal year, 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 requirements.
4. The initial and subsequent proposed operating budgets shall be subject to the approval of the Department based on its determination that the budget line items are reasonable and necessary 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.
5. The initial and subsequent proposed SRI shall be subject to approval of the Department based on its determination that the proposed rents are in accordance with these guidelines and applicable regulations and statutes.

The initial and subsequent proposed SRI shall be subject to approval of the Department based on its determination that the proposed rents are in accordance with these guidelines and applicable regulations and statutes.

1. 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.

# Appendicies

## Appendix A - Consolidated Scoring Matrix

Please refer to the Consolidated Scoring Matrix by clicking at here.

## Appendix B – MHP Defined Terms

All capitalized terms used throughout these guidelines which are not defined below shall, unless their context suggests otherwise, be given the same meanings of terms as defined in the Multifamily Housing Program Guidelines or as ascribed in the UMRs (Chapter 7, Subchapter 19, Section 8301).

A list of MHP Defined Terms can be found in the MHP Guidelines here.