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MEMORANDUM FOR: AB 434 Stakeholders and Potential Applicants for HCD Multifamily Development Funding Programs

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

SUBJECT: 2022 Draft Guidelines for AB 434 Implementation

The Department of Housing and Community Development (HCD) is inviting comments on proposed amendments to the following program guidelines:

- Multifamily Housing Program (MHP)
- Joe Serna, Jr. Farmworker Housing Grant (Serna or FWHG)
- Veterans Housing and Homelessness Prevention (VHHP)
- Infill Infrastructure Grant (IIG) (2007)

This memo offers guidance for stakeholders, particularly developers interested in applying for future rounds of multifamily affordable housing development funding from HCD, in reviewing and providing comments on the draft guidelines including an overview of important changes to programs, rating and ranking criteria, and proposed funding allocation methodology.

These proposed amendments modify the guidelines currently in effect. When final, the changes will be in effect for the "Super NOFA" scheduled for release in February 2022.

HCD will accept public comments on the draft guidelines through January 10, 2022. Comments must be submitted via this Public Comment Form no later than 5 p.m. PST on the final day of public comment.

HCD will host a series of webinars to present the key changes in the draft guidelines, solicit feedback, and answer questions. The sessions will explain alignment changes, the rating and ranking system, and the program funding allocation method. Interested parties can register for the sessions through links on HCD's AB 434 webpage. Sessions will be recorded and posted on the AB 434 webpage approximately 48 hours after the scheduled session.

BACKGROUND

On September 28, 2020, Governor Gavin Newsom signed Assembly Bill 434 (AB 434), which requires HCD to consolidate and streamline its funding process for six multifamily housing programs:

- Multifamily Housing Program (MHP)
- Housing for Healthy California (HHC)

- Infill Incentive Grant Program (IIG)
- Joe Serna Jr., Farmworker Grant Program (Serna or FWHG)
- Transit Oriented Development Program (TOD)
- Veterans Housing and Homelessness Prevention Program (VHHP)

Please note that only those programs with multifamily funding available in 2022, specifically MHP, IIG (2007), Serna, and VHHP, are the subject of this stakeholder memo and public comment period.

Under AB 434, HCD must make funds for these programs available at the same time as MHP, rate and rank applications consistent with MHP, and administer the funds consistent with MHP. Thus, the MHP Guidelines become "general" guidelines governing the competition and use of all program funds. However, distinctive features of IIG, Serna, and VHHP are retained in our proposal through program-specific threshold criteria, some additional program-specific guidelines content, and supplemental point categories.

On June 22, 2021, HCD issued draft MHP Guidelines for a public comment period ending August 6. In July 2021, HCD conducted five stakeholder engagement webinars. In August, more than 200 comments on individual guidelines sections were received from more than 90 stakeholders. During this time, staff worked to develop a more comprehensive rating and ranking system for the programs, including review and consideration of the public comments received. As a result, the draft MHP Guidelines have been revised and have been re-issued for a second public comment period. Draft guidelines for IIG (2007), Serna, and VHHP have also been prepared for public comment and will have concurrent, simultaneous public comment periods. Consultation with stakeholder groups, CDLAC and TCAC have been ongoing and will continue throughout the rollout of AB 434.

SUMMARY OF CHANGES

To the extent practical, guidelines documents have been reordered and reorganized, standardizing section content with the goal of increasing alignment and ease of use. To assist in ease of review, text that is consistent across all multifamily funding programs is represented in red font.

For the purposes of public comment, the rating and ranking system is an Appendix document to each of the guidelines. The draft guidelines aim to streamline and maximize consistency between the programs affected by AB 434 and to improve compatibility with CDLAC and TCAC criteria. Draft guidelines also aim to reflect HCD's ongoing commitment to affordability, access to opportunity, equity, and housing Californians experiencing homelessness.

Based on the stakeholder recommendations and feedback received from the draft MHP Guidelines published in June, staff continued work on a common rating and ranking system for all programs, while also updating and aligning the IIG, Serna, and VHHP guidelines. This memo summarizes the most substantive changes to guidelines and scoring.

A common point scoring and tiebreaker system is proposed that is applicable to all Super NOFA programs: MHP, IIG, Serna, VHHP. Since the non-MHP programs have unique scoring criteria applicable to their population and funding types, program-specific categories are also contained within the rating and ranking system. However, when feasible, previously existing IIG and VHHP

scoring criteria were integrated into the general MHP scoring system or converted into threshold requirements for those specific programs.

1. <u>Balancing of Scoring Criteria</u>

   To achieve a balanced scoring method that works for all programs, these core departmental goals are emphasized in the proposed general MHP scoring system:
   - Serving Lowest Income Levels – there are multiple incentives for each project to have a minimum level of deeply affordable units, including an incentive for housing people experiencing or at risk of homelessness
   - Addressing Local Housing Needs – prioritizing high/highest resource areas while incorporating a 50% soft cap[1] also currently proposed for CDLAC's 2022 scoring system
   - Readiness – additional time is provided for sites in disaster areas
   - Infill/Proximity to Amenities/Sustainable Building Methods – addition of state and local surplus land, broadband access; alignment with the Affordable Housing and Sustainable Communities Program (AHSC) in sustainable building and energy efficiency

   A revised tiebreaker calculation includes three factors: Affordability, Leverage, and Additional Cost Containment.
   - Projects will be measured on their tiebreaker performance against other applicants in their project category. There will be three project categories: Family, Special Needs and Homelessness, and Other (including Farmworker and Senior).
   - Projects are given an affordability "floor" to encourage a balance between affordability and operationally sustainable rent and income targeting. Homeless and Special Needs Projects, assumed to be more deeply income-targeted, may count per-unit area median income (AMI) targeting down to 30% AMI toward their tiebreaker score, and count more project-based voucher commitments toward their leverage score.
   - Cost Containment will be measured in terms of total development costs and will be adjusted for regional construction cost differences using the Threshold Basis Limits established by TCAC.
   - With Leverage and Cost Containment, the tiebreaker seeks to balance the resources available to high cost, highly urban areas with those areas that do not have these resources but may have lower construction costs.

2. <u>Promoting Equity in Development and Reducing Barriers</u>

   To promote equity and provide additional opportunity for Emerging and Community-Based Developers and Tribal Entities, the following changes have been made:
   - Addition of definitions of Emerging Developer, Community-Based Developer
   - Incorporating an alternate scoring method for Tribal Entities, Emerging Developers, and Community-Based Developers lacking competitive development experience
   - Adding incentives for experienced developers to partner with Tribal Entities, Emerging Developers, and Community-Based Developers Ventures, including increased cash-out developer fee and loan limits

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[1] *A 50% soft cap means that additional points provided to high and highest resource areas are "turned off" once 50% of all program funds available in a NOFA have been reserved for high/highest resource area projects. When the points are "turned off," all resource areas types compete on equal footing in this point category.*

Tribal Entities, Emerging Developers, and Community-Based Developers set-asides are contemplated for the Super NOFA, but are not included in guidelines, as these are typically established per-NOFA round.

3. Alignment with HCD Programs

The structure and organization of MHP, Serna, and VHHP Guidelines are aligned in terms of content and text ordering, with as much common content across programs becoming word-for-word identical. This includes:
- Added or revised definitions for consistency
- Uniform table of contents, format, and flow of guidelines for MHP, VHHP, Serna
- Standardized guidelines sections on Program and General Requirements, Application Procedures, and Operations, with program-specific content identified within these sections
- Inclusion of point scoring options of IIG and VHHP into Experience, Readiness, Infill, Amenities, and those of IIG and AHSC in Sustainable Building Methods
- Addition of Farmworker Housing as a project type to better align with both Joe Serna, Jr. Farmworker Housing Grant (FWHG) Program and TCAC Farmworker Housing tax credits

4. Alignment with CDLAC and TCAC

- Consolidated "Supportive Housing" with Special Needs project type and increased minimum percentage of units
- Joint venture incentives for experienced and emerging/community-based developers
- Scoring criteria for Sponsor/Developer and Property Management Experience
- Cost Containment scoring method
- Elimination of the prohibition of 9% tax credits to provide developers more options and flexibility in financial structuring

5. Stacking of Multiple HCD Funding Sources

As noticed in the Repeal of Stacking Prohibition memo, HCD previously repealed the stacking prohibition of multiple HCD funding sources for multifamily housing programs. The draft guidelines include these changes intended to disincentivize stacking within projects. In addition, the draft guidelines propose the following:
- Total HCD multifamily program funds capped at $35 million per project, regardless of number of programs awarded. The ability to maximize funding without layering promotes more efficient use of time and resources, for both applicants and HCD. Additionally, fewer program funds correspond to fewer agreements, monitoring, and reporting requirements.
- Funding limit excludes HCD funds awarded for purposes other than capital improvements, such as loans or grants for non-housing related infrastructure, transit amenities, ridership programs, or rental and operating subsidies.
- A per-sponsor funding limit of $70 million per Super NOFA.
- Program-specific per-unit loan limits will be identical to the HCD-wide per-unit loan limit to remove the need and incentive to stack multiple programs on individual units. Existing programmatic per-unit limits will be increased and streamlined, with the details to be

provided in the Super NOFA.

6. Creating Opportunities and Incentives to Fund Projects Without CDLAC and TCAC Funding

- Current limits on Developer Fee act as a disincentive for non-tax credit projects. To address this disincentive, the maximum Developer Fee allowed is now $2.2 million for most projects. A scaled increase over this limit is provided for projects exceeding 100 units, with a cap at $3.5 million (in excess of $2.2 million must be deferred).
- A non-tax credit set-aside is also anticipated.

7. Funding Strategy and Goals

The proposed rating and ranking system aims to accomplish the following goals:
- Minimize incentive to apply to multiple programs solely to increase funding levels
- Minimize the number of partially funded projects
- Ensure that VHHP and Serna funds are utilized
- Ensure high-quality projects are awarded, regardless of funding sources requested
- Eliminate reviewer subjectivity in rating, ranking, award levels, or award types
- More efficient use of time and resources, for both applicants and HCD

Details of the funding strategy are included in the Consolidated Scoring Appendix.