**PUBLIC COMMENTS**

TRANSIT-ORIENTED DEVELOPMENT (TOD) HOUSING PROGRAM GUIDELINES

April 30, 2020

The California Department of Housing and Community Development (HCD) posted Draft Guidelines for the Transit-Oriented Development (TOD) Housing Program on March 13, 2020.

Public comments were received between March 13, 2020 and April 3, 2020. Webinars were held on March 19, 2020 and March 24, 2020. This document represents written comments HCD received during the public comment period and webinars along with HCD’s responses to those comments.

| **Item/Section** | **Public Comments** | **HCD Comments/**  **Recommendations** |
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| **100 Purpose and Scope** | | |
|  | No comments received. |  |
| **101 Program Overview** | | |
|  | No comments received. |  |
| **102 Definitions** | | |
| 102 Bus Hub | EAH believes the definition of a “Bus Hub” should be broadened slightly to provide TOD eligibility to locations not near fixed rail transit but with very active bus service.    The draft guidelines contain the following definitions:  “Transit Station” means a rail or light-rail station, ferry terminal, Bus Hub, or Bus Transfer Station.  “Bus Hub” means an intersection of three or more bus routes, with a minimum route headway of 10 minutes during Peak Hours.    We propose that the headway minimum be changed from 10 minutes to 15 minutes. EAH has seen projects in prime, high-resource neighborhoods with excellent bus service that would not meet the current Bus Hub definition. These locations include multiple local and regional bus lines allowing direct access to many employment hubs and other destinations as well as quick access to rail stations (BART) with several buses per hour for each line, but not quite resulting in 10 minute headways. The intersection of 3 bus lines at one bus stop signifies the location is well-served by transit with many destination options and we believe 15 minute headways are sufficient to ensure convenience. We would also like to clarify that the headway minimum represents the combined headways of the 3 routes, not that each route itself needs to meet the minimum.  (Tessa Quintanilla, EAH Housing) | The definition of a Bus Hub, with the minimum headway of 10 minutes, is aligned with Government Code 65460.1. |
| 102 Enforceable Funding Commitment | We request that HCD make three corrections to this section:  First, in Section 110(g) tax credit equity is not part of the enforceable financing commitment calculation. As a result, paragraph (1) should be deleted from this definition.  Second, consistent with MHP, other HCD programs, and the language of Section 110(g) of these guidelines, the language of paragraph (2) should additionally allow for “funding to be provided by another Department program awarded prior to final rating and ranking for the TOD application.”  Third, the first sentence should refer to “or a local fee waiver resulting in quantifiable cost savings for the Project where those fees fee waivers are not otherwise required by federal or state law.”  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The definition of the Enforceable Funding Commitment was modeled after the AHSC Program.  The Department would like to refer to the definition of Enforceable Funding Commitment provided in Section 102. The definition states that low income housing tax credit equity contributions will be considered an Enforceable Funding Commitment in this calculation if there is a proof of allocation from the California Tax Credit Allocation Committee (TCAC).  The Eligible Applicant must provide an award letter proving that they have secured Enforceable Funding Commitments for permanent financing of the Housing Development prior to the final rating and ranking of the Program application, per Section 110 (g).  The Program maintains the existing provision on fee waivers for consistency with other HCD programs. |
| 102 Infill Site | Can the definition of infill be expanded to include: “or if the site was developed previously for urban use”. This would expand the infill definition to include sites surrounded on two boundaries by urban uses and previously developed for urban use.  Can the program accept either/or:     * Allow for applicants to provide evidence that the local jurisdiction designated the site as infill; or      * Allow for applicants to produce their own evidence and documentation that the site meets infill criteria (75 percent of site surrounded by developed land). Some jurisdictions designate sites as infill but fail to designate other sites that would otherwise qualify as infill. This would give Applicants the opportunity to identify and build infill projects, without depending on the local jurisdiction designation process.   (Veronica Garcia, Peoples’ Self-Help Housing) | The Department would like to keep the definition of an Infill Site consistent with the AHSC Program.  While we are aware that some local jurisdictions use alternative definitions for Infill Sites, Eligible Applicants are required to use the Department’s definition for consistency across HCD’s Climate Change Programs.  The Guidelines allow the Eligible Applicants to identify the site as Infill and produce their own evidence and documentation for meeting criteria. The identification of an Infill Site does not require the jurisdiction’s designation outside of their participation in the Program application. In addition, the Department conducts spot verification via tools such as google maps. |
| 102 Infill Site | Allow for improved parks to count towards the 75 percent of the perimeter calculation. This exclusion penalizes infill sites adjacent to parks.  (James Corless, Sacramento Area Council of Governments) | Per Section 102, the infill determination calculation does not include navigable bodies of water or improved Parks. So, if 1,000 feet of the project site abuts a Park, 1,000 feet is subtracted from the denominator of the equation. The calculation actually benefits sites adjacent to Parks. |
| 102 Infill Site | For the reasons stated in the comment to Section 109(a)(8), we recommend deleting the infill requirement. If accepted, this definition is no longer necessary. If HCD chooses to maintain the infill requirement, we recommend that the definition, consistent with IIG and other infill-related programs, refer to “a site that has been previously developed or where at least three of four sides…”. This will ensure that previously developed sites, like the downtown Sacramento Railyards, are eligible areas even if the project site is not surrounded by parcels that are currently developed.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The definition of Currently Developed within the Infill Site definition speaks to a site having a history of development. If the site meets the requirements described in the definition of Currently Developed, including, “land use that would typically have required regulatory permitting to have been initiated,” it may be identified as an Infill Site. |
| 102 Key Destinations | Community amenities should include other entertainment and recreations attractions such as movie theaters or sports venues.  (Art May, Keystone Development Group, LLC) | The Department would like to keep the definition of Key Destinations developed by the California Air Resources Board (CARB) consistent with the AHSC Program. The goal is to ensure that Key Destinations are essential services to affordable housing and consistent across our programs. |
| 102 Large City Downtown | How is a core area defined?  (Anonymous, webinar) | A core area, referenced in the definition of a Large City Downtown is identified in the jurisdiction’s local planning documents. |
| 102 Large City Downtown | Is it fair to say that we need to consult local planning documents to determine if we are in a "Large City Downtown"? And we will need to rely on US Census on the Map to determine if we are in an "Urban Center"?  (Anonymous, webinar) | The area must be located one of the cities identified within the definition of Large City Downtown, and the area must be identified in local planning documents as described in the definition. |
| 102 Large City Downtown | Our agency services rural areas and many cities with populations under 300,000 (which seems to be the cut off for Large City Downtown and Urban Center definitions) so more detail would be much appreciated.  (Colleen Plevel, Peoples’ Self-Help Housing) | The Department believes that the population of 300,000 serves as a natural boundary to designate Large City Downtowns. The Department expanded the definition to include more jurisdictions in addition to those listed in TOD Round 3 Guidelines. |
| 102 Qualifying Transit Station | The definition, “Transit Station which qualifies a Housing Development for the award of Program funds.”, isn’t very clear. Is this definition expanded in Section 110(a)(1-4)? (Colleen Plevel, Peoples’ Self-Help Housing)  Based on your previous email and combing through the guidelines the criteria I can come up with is:     * Transit line must have 15 min increment pick-up/drop-off times * Transit station must be ¼ mile from the proposed project     Could you please verify this information and add any criteria I may be missing? Having a detail definition including these criteria would be very helpful in determining if we have a site that would qualify for this program.  (Colleen Plevel, Peoples’ Self-Help Housing) | The “Qualifying Transit Station” is the Transit Station that must be within ¼ mile of the affordable housing development. The provisions related to a Qualifying Transit Station are in the following sections of the Guidelines: 102, 103(a), 110(a), 110(e), 110(i), etc.  Research indicates that the closer a household is to a Transit Station, both in where they live and where they work, the more likely they will use it, with ¼ mile being a threshold at which fewer people will make other choices. |
| 102 Site Control | Consider loosening the requirements on site control – allow for properties in escrow to be considered “under control”  (Kathryn Avila, Avila Construction) | The definition of Site Control is consistent across HCD programs and the Uniform Multifamily Regulations (UMRs). |
| 102 Sponsor | In the “sponsor” definition – “A Sponsor with experience has substantial and successful experience in developing and owning ~~affordable~~ rental housing."  Strike “affordable”. Affordable housing is not special in form or function than typical housing, you just charge less for it.  (Kathryn Avila, Avila Construction) | The definition of a Sponsor is consistent with the UMRs, MHP and other HCD programs.  The TOD program establishing legislation (HSC Section 53562) requires “15% of the units to be made available at an affordable rent or at an affordable cost…” Further the Department’s mission is to “Promote safe, affordable homes and strong vibrant communities throughout California.” |
| 102 Substantial Rehabilitation | Given that TOD loans have a term of 55 years, requiring that rehabilitation projects “fully and efficiently address all of the physical needs of the Project for the term of the project Loan” is impossible. For example, neither roofs nor HCAC replacements will last for the term of the loan. We therefore request that HCD delete this sentence entirely. At a minimum, we urge the Department to apply the rule only to the project’s physical needs over the first 15 years since refinancing and recapitalization would typically occur at that time.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The existing definition of Substantial Rehabilitation is aligned with related HCD Programs. Since the Department’s Loan term is 55 years, it is expected that the Housing Development will fulfill its obligation to provide safe and affordable housing for 55 years. Projects have reserve accounts and are expected to perform routine maintenance to maintain the projects in good condition for the life of the Loan. |
| 102 Urban Center | Define “Mode of transit” as it relates to the definition for “Urban Center”:”  “*Urban Center” means an area other than a Large City Downtown and which is served by more than one mode of transit*. “  Do single rider personal vehicles such as bicycles/scooters/mopeds/etc. count as a mode of transit? If so, consider increasing requirement to read “…*which is served by more than two modes of transit*.”  (Kathryn Avila, Avila Construction) | Mode of transit typically includes ferry, rail, bus, bus rapid transit, etc.  For the purpose of the TOD Program, Micromobility addresses the first mile/last mile transport alternatives and is not meant to count as a mode of transit. |
| **103 Eligible Projects** | | |
| 103 Eligible Projects | For Round 3 of this program, a list of urbanized areas determined by the US Census Bureau was made available. Will there be a similar or updated list that will be coming out? Is that determined by the qualified employment area? I ask because we serve many rural areas.  Does this program only apply to the definitions covering “Large City Downtown” and “Urban Center”? This is why I mentioned the Round 3 list of urbanized areas.  (Colleen Plevel, Peoples’ Self-Help Housing) | The Department will post a list of US Census Bureau designated urbanized areas and urban clusters on the TOD program web page.  <https://tigerweb.geo.census.gov/tigerweb/>  The distinction between Urbanized Area and Large City Downtown does not impact threshold or scoring, so a project in a rural area could theoretically score as well as one in an Urbanized Area, with the possible exception that the rural transit may not the minimum required headway. |
| 103 (a) Eligible Projects: Housing Developments | While decreasing the minimum project size to 20 units increases funding availability for projects too small to be competitive for AHSC awards, smaller projects may not be cost-effective on a per-unit basis because high land costs are split across fewer units. Suggest tracking per-unit costs as applications are received and revisiting the minimum project size in future rounds if per-unit cost‑effectiveness is an issue.  Rather than defining the project setting (e.g., “Large City Downtown”) by population, suggest using a measure of transit quality or residential density to ensure that similar areas are subject to the same requirements and funding availability.  To support active transportation and first mile/last mile connections, suggest adding a requirement for bike parking sufficient to serve all residents.  (Laila Atalla, California Air Resources Board) | In this round of TOD Guidelines, the Department sought to expand the type and scope of Projects linked to transit. Large high-density projects may be most competitive in the Affordable Housing and Sustainable Communities program (AHSC). The TOD Program seeks to accommodate potentially successful projects that did not qualify for the Integrated Connectivity Project (ICP) component of the AHSC Program. While the AHSC Program generally awards large scale Housing Development Projects, the TOD Program can now serve similar goals from a different angle by awarding Housing Development Projects with fewer units.  Re-defining project setting would be a significant shift from the current policy. TOD program staff will be happy to engage with CARB and other interested stakeholders to consider this suggestion for future guidelines.  The rating criteria was modified to incentivize bicycle parking and storage. Bicycles are a great first mile/last mile alternative. In Section 110(e) of the Guidelines, 10 points are offered if the Qualifying Transit Station has bicycle access and provides secure bicycle storage facilities, the affordable Housing Development that has no less than one Secure Overnight Bicycle Parking spot for every two residential units that is not publicly accessible, and the transit service allows bicycle conveyance on-board. |
| 103 (a) Eligible Projects: Housing Developments | Given the relatively small amount of funding available for the TOD Program, we recommend that HCD continue funding applications only in regions with recurrent congestion and maintain the higher density threshold and point structure and 40-unit project size minimum.  (Richard Mandel, California Housing Partnership) | The requirement that a Housing Development must be located in an Urbanized Area with one or more freeway segments where there is recurrent congestion was removed to align with the AHSC Program methodology. The Department believes that TOD Projects are also needed in the areas not outlined in the areas affected by recurrent congestion. Additionally, the recurrent congestion map dates back to 2008 and an updated version is not available on the Department of Transportation website. |
| 103 (a) Eligible Projects: Housing Developments | While we are happy that the TOD program guidelines provide points for projects that include transit passes, we believe that the program should require transit passes for a set period of time. For example, AHSC requires that all projects include transit passes for at least 3 years. Requiring transit passes can encourage residents to use public transit instead of driving, especially for lower‐income populations. HCD could include points for projects that exceed the 3‐year term.  In our experience working on TOD projects in the AHSC program most developers can easily satisfy the minimum density requirement of 30 dwelling units/acre (du/acre). While we applaud the TOD program upping the ante by requiring 40 du/ac and 60 du/ac for urban centers and large city downtowns, we recommend evaluating whether a higher density requirement might be better. We recommend this for a variety of reasons. First, in our experience, developers, especially in highly urbanized areas, can generally exceed those 40 du/acre and 60 du/acre density requirements. For example, a 78‐unit project on a compact infill site in unincorporated L.A. County can easily achieve a density of 150 du/acre. In addition, more and more jurisdictions are creating density bonus incentive programs that make higher density projects easier to approve (for example, the City of L.A. TOC Program). Second, our AHSC work has taught us that higher density projects have higher greenhouse gas reductions. By increasing the density requirement, the TOD program could also help achieve the State’s GHG reduction goals.  Enterprise understands that HCD intentionally rewrote the TOD guidelines, as stated in the Summary document, to allow for smaller, innovative TOD projects. However, we noticed the 40‐unit minimum was also removed and replaced with a minimum 20‐unit requirement. Twenty units is low, and we believe larger, more dense projects should be incentivized in order to meet our housing supply shortage and GHG reduction goals. Regarding project location designations, “Large City Downtown” has the most prescriptive definition, while “Urban Center” is vague and “All Other Areas” has no definition. For the sake of consistency, we recommend the program utilize the same Project Area Types as the AHSC program, i.e., projects are designated as TOD (urban in nature), ICP (suburban in nature) or RIPA (rural‐designated). This will ensure the two programs are complementary and avoid confusion among what designation a project fits under when looking to use both programs.  (Alejandro Huerta, Enterprise Community Partners) | Providing transit passes for residents continues to be a valuable tool for increasing transit ridership in the AHSC program. However, unlike the AHSC program, TOD does not provide funding for transit pass programs. Accordingly, TOD encourages, but does not require Applicants to provide transit passes for residents.  As density is one of the backbone concepts of the Program, we appreciate your recommendation. Increasing requirements that have significant impact on project design is not something we can do without stakeholder engagement. We will continue to engage stakeholders in this issue for future guidelines updates.  In addition, we wanted to create more flexibility for projects on compact sites. Smaller developments can be as effective in encouraging transit use. While the AHSC Program generally awards large Housing Development Projects, the TOD Program can now serve similar goals from a different angle by awarding smaller Housing Development Projects. |
| 103 (a)(1) Eligible Projects: Housing Developments | In the Bay Area there are limited properties for residential development, especially denser developments of 20 or more units. This funding would be much more widely applicable to areas at premium for land if the 20 unit minimum was changed.  (Ashley Spooner-Choi, Habitat for Humanity Greater San Francisco) | The Department analyzed density requirements on the statewide basis to ensure that TOD Program serves all regions in California. |
| 103 (a)(2) Eligible Projects: Housing Developments | What are the criteria for a Qualifying Transit Station? Must the route nearest the project have certain pick up and drop off intervals?  (Colleen Plevel, Peoples’ Self-Help Housing) | A Qualifying Transit Station must be located within one-quarter mile of the Housing Development, measured in a straight line from the nearest boundary of the Housing Development parcel to the outer boundary of the Transit Station site.  Government Code 65460.1 defines a minimum route headway frequency during Peak Hours.  To incentivize headway but also make the rules more flexible for Projects located in areas that are not served with highest-frequency bus transit systems, partial points are assigned based on the peak period headway frequency. Scoring for all other applications will be determined by the best performing primary mode of transit demonstrating all day, on-time arrival/departure performance. |
| 103 (a)(2) Eligible Projects: Housing Developments | Please confirm that a “walkable route” includes walking through a commercial site, free of negative environmental conditions. Many times, in dense urban areas, pedestrians are required to walk through commercial sites in route to transit stops and we want to ensure this detail is clarified in the guidelines.  Pursuant the current Minimum Density Requirements, many worthwhile affordable housing developments would unfortunately be excluded from TOD funding. For instance, developments with challenging topographies are unable to build greater than a 2.0 FAR, yet may include other favorable features to a transit-oriented development, including but not limited to: being located close to public transportation, site amenities, and economic opportunities; high walkability; nearby recently approved and updated active transportation infrastructure; significant number and percentage of affordable units; and the support of local community partners and community members. We believe that these minimum density requirements should not be threshold requirements, but could instead be included in the scoring criteria, if deemed necessary.  Also note that a 2.0 FAR would likely kick most projects into a “Type III” construction which is a more expensive construction category than “Type V 1 hour” construction which runs counter to trying to control project costs. The Urban Center category should include a broader range of min. FAR to include more site configurations.  (Paul Hogge, Related California) | A walkable route must be publicly accessible. If it is a commercial site, access may be limited at certain times, or could cease if there is a change in use. A walkable route may be through a commercial site if the Applicant can demonstrate that access to the route is available while transit is operating.  Dense concentrations of people and jobs are critical to the success of transit. Higher densities supply more potential riders for transit, which, in turn, can support more frequent transit service and a greater variety of routes.  The Department’s requirement on FAR provides appropriate flexibility for eligible Projects. |
| 103 (a)(2)(A)(B) Eligible Projects: Housing Developments | Provide more clarity around or consider combining the two criteria that describe the required location of a development.  (James Corless, Sacramento Area Council of Governments) | The existing eligibility requirement in the Guidelines describes two different conditions. For instance, in Montclair, CA, a development was adjacent to a Metrolink station but still required a 4,100 foot walk to access the station. The city has since added a sidewalk to reduce this distance on Monte Vista by about 500 feet. However, if the Developer allowed for an access gate between the property and the Metrolink station, the walking distance for the same property would be about 300 feet from the station-adjacent area of this development and 2,500 fewer feet from possible adjacent developments. |
| 103 (a)(3) Eligible Projects: Housing Developments | Because of the urgent housing crisis, we need more affordable units throughout the state across building types. TOD projects are no exception. The draft guidelines propose that of the total  residential units, only 15 percent must be affordable. This seems  low, given that the State Density Bonus Law already allows  concessions/incentives for a project setting aside 15 percent very low income units. In other words, developers often put in the  minimum percentage of affordable units and still qualify for  concessions and incentives from the State Density Bonus Law.  The TOD program has an opportunity to go above and beyond  that by requiring a greater percentage of affordable units. In  addition, as AHSC has demonstrated, there is a greater chance  that low‐income residents in TOD projects will actually use public  transit. If the goals of the TOD program are to increase the supply of affordable housing, increase public transit ridership, and minimize automobile trips, Enterprise recommends that the TOD program increase the required percentage of the total residential units as affordable units from 15 percent to at least 20 percent. This increase would make the TOD program consistent with AHSC and hopefully better achieve the TOD’s program goals to encourage the use of public transit.  (Alejandro Huerta, Enterprise Community Partners) | According the Health and Safety Code section 53562, to be eligible for a Loan, at least 15 percent of the units in the proposed development shall be made available at an affordable rent or at an affordable housing cost to persons of very low or low income for at least 55 years. |
| 103 (a)(3) Eligible Projects: Housing Developments | How was the 15 percent minimum for restricted units set? Increasing the minimum percentage of restricted units would support equity and climate goals, given that low-income TOD residents are most likely to utilize transit and face the greatest displacement pressures.  (Laila Atalla, California Air Resources Board) | Please see the explanation above. |
| 103 (a)(4) Eligible Projects: Housing Developments | I am not sure I caught the webinar correctly, but I think there was mention of minimum densities well above 30 DU/acre. Consider altering minimum to be equal to max allowed by local zoning with some allowance for practicality of design/construction. Example – 30 DU/Acre might be max allowed. However, achieving exactly 30 DU/ acre on a randomly sized lot would prove impossible. Perhaps 27 du/acre would be acceptable (90 percent of 30; 10 percent tolerance).  (Kathryn Avila, Avila Construction) | The establishing legislation (HSC 53560) lists “higher density uses” as a key goal of the Program. Establishing minimum densities ensures that a sufficient level of development occurs to support transit use, walkability, local retail or other goals. The density requirements in Section 103 (a)(4) were developed through research and evaluation of award projects in the TOD, IIG and AHSC programs. |
| 103 (a)(4) Eligible Projects: Housing Developments | The current program builds in three different net density requirements depending on projection location (large downtown, urban center, all other areas). Can the program build in a lower threshold for transit headway requirements in “all other areas” where net densities have to be a min of 25 u/a? This puts projects anywhere outside a major metropolitan area such as LA or San Francisco at a significant disadvantage for desperately needed resources to promote higher density infill development.  (Veronica Garcia, Peoples’ Self Help Housing) | Please see the previous response regarding density thresholds. |
| 103 (b) Eligible Projects: Housing Developments | Please consider including ownership units. The benefits of homeownership are profound and effect not only the homeowners but also future generations. Habitat for Humanity builds 100 percent affordable ownership homes with decades long affordability restrictions, ensuring long term affordability and benefitting a larger number of low-income individuals and their families.  (Ashley Spooner-Choi, Habitat for Humanity Greater San Francisco) | Loans for homeownership developments is not available this round. However, TOD Program may still provide Grant funding for Infrastructure Projects related to homeownership developments. |
| 103 (c) Eligible Projects: Infrastructure Projects | We recommend two changes to this section:   * The expansion of the TOD program in paragraph (3) to pay for capital improvements to qualifying transit stations is inconsistent with the intent of the statute and is not the best use of scarce affordable housing funds. The TOD program statute (HSC 53562(a)) limits infrastructure grants to those costs “necessary for the development of higher density uses within close proximity to a transit station, or to facilitate connections between that development and the station.” The items listed in paragraph (3) generally do not meet this criterion. Of even greater concern is the fact that this proposal will divert precious affordable housing funds to purely transit purposes. In particular, item (A) “transit related equipment to increase service or reliability,” could allow transit agencies to use TOD program funds to purchase rolling stock, which could consume a significant portion of the available TOD funds with little benefit to the proposed housing development. Moreover, unlike AHSC, there are no metrics by which to measure the benefit or efficiency of any of the listed improvements in the TOD program. While transit improvements are worthwhile, they should be paid with transit funds or at least through the more broadly targeted and richer AHSC Program. Paragraph 3 should be deleted. * Paragraph (1) is superfluous and should be deleted. Under Section 105(b), TOD housing development loans already may pay eligible costs specified in MHP Section 7304, which in turn includes “offsite improvements, such as sewers, utilities and streets, directly related to, and required by the Rental Housing Development.”   (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | Per the received suggestion, Paragraph (3) was deleted from the Guidelines. This paragraph does not refer to infrastructure necessary for the development of higher density uses within close proximity to a Transit Station or to facilitate connections between that development and the Station.  Paragraph (1) was modified and parking spaces and structures were removed from the requirements for capital improvements required by a local governmental entity.  In addition, Subsection (d) was removed and purchasing transit-related vehicles, schools, and replacement parking were instead listed among ineligible costs in Section 105 (d).  Section 103 (c)(1) describes the types of Infrastructure Projects that are Eligible. Section 105 (b) references eligible costs specific to the Rental Housing Development. |
| 103 (c) Eligible Projects: Infrastructure Projects | To maximize funding for infrastructure that increases transit ridership and active transportation, suggest removing “parking spaces or structures” from the list of eligible capital improvements.  (Laila Atalla, California Air Resources Board) | TOD Guidelines were modified to incorporate this suggestion which is now more consistent with other Department climate programs. |
| **104 Eligible Applicants** | | |
| 104 Eligible Applicants | While we accept the need for a joint application when the locality or transit agency will construct the infrastructure in a combined Housing Development and Infrastructure Project, in other cases where the housing Developer can or will construct the Infrastructure Project, it would be much more cost efficient for all involved (including HCD) to allow the Developer to be the sole applicant, provided they include a letter of approval from the locality or transit agency. We recommend that the chart be revised accordingly.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | Per HSC 53565, “…the department shall make grants to cities, counties, cities and counties, or transit agencies for the provision of infrastructure necessary for the development of higher density uses…” Making Loans or Grants to the Developer for an Infrastructure Project would require modification the statute. |
| **105 Eligible Costs** | | |
| 105 (c) Eligible costs: Infrastructure Projects | For the reasons stated in our comment to Section 103(c), we strongly oppose the addition of Section 105(c). Unlike the IIG Program, the TOD program should and statutorily must be focused on the development of higher density uses within close proximity to a transit station and improvements to facilitate connections between that development and the station. To the extent any of the listed items are directly related to and required for the housing development, they may already be paid for with the housing loan. If not directly related and required, local government and transit agencies may seek funding for these improvements through the IIG Program. The TOD Program should not become an offshoot of the IIG Program. We strongly recommend that this paragraph be amended to allow only those costs described in Section 103(c)(2).  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The Guidelines were modified, and residential parking and mechanical parking lifts were removed from the list of eligible costs for Infrastructure Projects.  In addition, purchasing transit-related vehicles or vehicles used for supportive services as well as the costs related to capital improvements to public or private schools are listed among the ineligible costs for Infrastructure Projects.  The language in Section 103 (c) has been modified for consistency with statutory requirements. |
| 105 (c)(5/removed) Eligible costs: Infrastructure Projects | Strike “Permitted” as shown – “Residential parking and mechanical parking lifts. The minimum residential per unit parking spaces in parking structures, as required by local land-use entitlement approval, are not to exceed one parking space per residential unit, and are not to exceed $50,000 per ~~permitted~~ space; " (Kathryn Avila, Avila Construction) | The Guidelines were modified, and residential parking and mechanical parking lifts were removed from the list of eligible costs for Infrastructure Projects to maintain consistency with the legislative intent. |
| 105 (c)(5/removed) Eligible costs: Infrastructure Projects | Including residential parking as an eligible cost raises questions about how the TOD program is going to minimize automobile use. While we acknowledge that you have allocated points for projects that create parking alternatives, Enterprise recommends that you disallow residential parking as an eligible cost. First, because reducing the availability of parking encourages mode shift, and, secondly, because it would make the TOD program consistent with AHSC, which explicitly prohibits the use of AHSC funds for parking. If prohibiting the use of TOD funds is not an option, then perhaps HCD could consider covering residential parking costs for projects that utilize a lower parking ratio. Currently, the draft TOD Guidelines will pay for residential parking as long as the parking ratio is not more than one parking space for residential unit. However, this 1:1 parking ratio is standard in most traditional zoning codes. With density bonus programs and a new trend especially in downtown areas to remove parking minimums, parking ratios are going down. Therefore, HCD could further incentivize projects that meet the true mission of TODs by forcing developers to choose lower parking ratios like .5 parking spaces per unit.  (Alejandro Huerta, Enterprise Community Partners) | Please see the previous response. |
| **106 Assistance Terms and Limits** | | |
| 106 Assistance Terms and Limits | Based on our experience with AHSC NOFAs, Enterprise recommends increasing the maximum award amount of $15  million per award amount, as well as the corresponding NOFA amount. AHSC increased its maximum award from $20 million in Round 4 to $30 million in Round 5. Many developers asked for more than the $20 million in Round 5, demonstrating that there is a real need for more funding. In particular, we feel that the proposed max loan amount of $10 million is too low of an incentive, especially for TOD projects that are more expensive to construct. Furthermore, we  recommend the max loan amount be increased so that  developers are not forced to seek additional sources of funding, thus delaying project delivery. The maximum infrastructure grant amount of $5 million seems adequate based on our  experience developing transit station area improvements for AHSC applications, but more research could be done to calculate an average ask for infrastructure improvements to get a better sense of whether the proposed $5 million is enough of an  incentive for public partners.  (Alejandro Huerta, Enterprise Community Partners) | Department data indicates that large-scale high-density projects are most competitive within the AHSC Program. TOD Program seeks to expand the geographic range and scope of projects funded by TOD. The AHSC Program can better serve larger Housing Development Projects, while the TOD Program seeks to reach a similar, though slightly different niche of smart growth projects. |
| 106 (a) Assistance Terms and Limits: Loans for Rental Housing Developments | In announcing hiring loan limits for several programs in 2019, HCD clearly signaled its intent to allow project loans of sufficient size to serve as a single state gap funding source. This greatly reduces project costs as developers need not chase multiple competitive sources, and it assists HCD by reducing the number of projects that apply under multiple HCD programs. A $10 million TOD program cap for housing loans is unlikely to be sufficient for this purpose except for very small projects. Given the relatively small size of this TOD program NOFA, we can nonetheless accept that limit in this instance.  We do, however, recommend that HCD define units restricted up to 80 percent AMI as assisted units as long as average overall affordability will not exceed 60 percent AMI. Unlike MHP, the TOD Program has no statutory prohibition on assisting units above 60 percent AMI. This change will facilitate the financing of projects utilizing the relatively new TCAC income averaging election.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | Please see the previous response.  TOD Loans for Housing Developments are structured on the Department’s Multifamily Housing Program, which defines Eligible Household as “households whose incomes do not exceed 60 percent of AMI, calculated in accordance with the regulations and procedures governing the low-income housing tax credit program, as administered by TCAC…” |
| **107 Performance Requirements** | | |
| 107 Performance Requirements | While consistent with the IIG Program, the construction performance requirements in this Section are significantly stricter than more comparable HCD housing programs. The MHP guidelines have no construction deadlines. The AHSC guidelines use the same two-year construction start and five-year construction completion deadlines but also allow extensions of up to two years. Given that tax-exempt bonds (and therefore access to 4 percent tax credits) are now competitive, a developer’s ability to meet these strict deadlines may be outside his or her control. We recommend that HCD delete these timing requirements to make them consistent with MHP or, at a minimum, add the extension language of the AHSC Program.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | Disbursement extensions are subject to approval of the Department of Finance. The TOD Program is subject to the Budget Act and the Department does not have as much flexibility on Budget Act appropriations.  The following provisions were added to the Guidelines:  Recipients shall, within the time set forth in the Standard Agreement, but not more than 4.5 years from the date of the Program award, complete construction of the housing units which were used as the basis for calculating the Program award.  The Department may approve an extension to the commencement of construction milestone deadline if the Recipient demonstrates, to the satisfaction of the Department, that the Project will meet maximum disbursement deadlines specified in the Standard Agreement, provided the extension does not exceed the appropriation liquidation date.  Program funds must be fully disbursed within five years from the date of award, or, if an extended disbursement deadline is approved, the later disbursement deadline date. |
| 107 (e) Performance Requirements | Consider including language that enables the Recipient to request an extension in the event that construction of the residential units has not commenced within two years from the date of the Program Grant award.  (James Corless, Sacramento Area Council of Governments) | Please see the previous response. |
| **108 Application Process** | | |
| 108 (c) Application Process: Geographic Distribution | While we recognize the small size of the pending TOD NOFAs, we nonetheless encourage HCD to maintain the 50 percent set-aside for non-heavy rail locations. The AHSC program with its more stringent transit integration requirements is most appropriate for heavy-rail locations. Funding heavy-rail projects with TOD Program funds, as opposed to AHSC funds, likely will undermine the transit benefits next to heavy rail. Moreover, the more suburban ICP component of the AHSC program is the most oversubscribed in AHSC. These non-heavy-rail projects will truly be the lost generation if TOD funding is not available to them.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The requirement to award at least 50 percent of funds to Projects served by Qualified Transit Stations not served by heavy rail was reinserted in the Guidelines to expand the geographic range and scope of projects funded by TOD. |
| 108 (c) Application Process: Geographic Distribution | Modify Section 108(c) to allocate at least 15 percent of Program funds to projects in counties addressing an 8 percent or greater population increase in the 6th Housing Element Cycle, where TOD housing can produce significant GHG reduction along long commute routes.  (Daryl Halls, Solano Transportation Authority) | The existing criteria will achieve the same objectives suggested in the comment. |
| **109 Application Threshold Requirements** | | |
| 109 Application Threshold Requirements | To maximize transit ridership, new housing developments located near transit stations should support active transportation infrastructure so residents can comfortably and safety access transit. Suggest specifying how projects will support pedestrian and bicycle safety and provide supporting evidence for improvement, such as crash data.  Suggest adding minimum requirements for policies to prevent displacement of residents and small businesses (e.g., first right of return for residents, contracting with local businesses). See the [Transformative Climate Communities Program Round 3 Guidelines](about:blank) (Appendix C – Displacement Avoidance) for examples.  (Laila Atalla, California Air Resources Board) | Safe places to walk, bike, or travel by other human-powered means improves access to transit and provides more travel choices. One of the most vital goals of the Program is to “facilitate connections between the [sic] housing development and the transit station,” according HSC 53562.    Improvements to sidewalks and biking paths, and facilities that support pedestrian and bicycle traffic are identified as Eligible Costs in Section 105. Further, Projects that incorporate walkable corridors and bicycle feature will be awarded up to 50 points in Section 110 (e).    Requirements for supporting evidence will be identified in the TOD Supplemental Application.  Though preventing displacement of residents and businesses while encouraging equitable development is critical to the success of California communities, the Guidelines must maintain the integrity and focus of the legislative intent. While anti-displacement measures are not specifically identified, many of the selection criteria speak to the design of inclusive neighborhoods, including enhancements to transit infrastructure, public-private partnerships, and incentivizing deeper levels of affordability. |
| 109 (a)(5)(6) Application Threshold Requirements: Housing Developments | While we greatly value city and county compliance with housing element law, we recommend applying these threshold requirements only to applications involving city and county applicants. It is counterproductive to penalize a private developer for bringing affordable housing to a city or county that is not meeting affordable housing requirements.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The housing element is an important marker for jurisdictions that are adequately planning to address their fair share of the housing needs. Jurisdictions that comply are, among many other things, zoning sites at appropriate densities and removing barriers to housing production resulting in a smoother entitlement path for Applicants. Further, the requirement for an adopted housing element is consistent across HCD programs regardless of Applicant type. |
| 109 (a)(8) Application Threshold Requirements: Housing Developments | We recommend that HCD delete this requirement as it is counterproductive to require that the site be designated as infill when eligible projects must by definition be located within ¼ mile of a Qualifying Transit Station per Section 103(a)(2)(A). For example, if a light-rail station is coming to an approved new growth area, such as Delta Shores in Sacramento, HCD should facilitate rather than discourage the development of high-density affordable housing next to the station in spite of its greenfield nature.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | Infill development is a key component in revitalizing economically disadvantaged communities that benefit from existing infrastructure, while preserving natural resources and discouraging sprawl development. Infill makes communities more livable and sustainable by promoting walkability, housing and transportation choices, as well as access to schools, jobs, services, and key amenities—precisely the goals at the heart of this program. |
| 109 (a)(8) Application Threshold Requirements: Housing Developments | Modify Section 109(a)(8) to better promote TOD housing at rail stations by stating that projects within ¼-mile of an existing or programmed rail station site qualify as “infill”; or, alternatively, define rail stations and adjoining rail facilities as “urbanized development” for the purpose of qualifying sites and projects as infill locations.  (Daryl Halls, Solano Transportation Authority) | The definition of Infill is consistent across many HCD funding programs. Adjacency to a Transit Station does not speak to a site meeting the requirements of these definitions. |
| 109 (a)(11) Application Threshold Requirements: Housing Developments | Section 109 (11) reads ”(11) The Applicant must demonstrate the following experience:  “(A) For Rental Housing Developments, the Applicant **and/or team members of the applicant** must provide evidence that it has completed at least two projects that are similar to the proposed Housing Development Project in scope and size during the five years preceding the application due date.  (B) For Infrastructure Projects, the Applicant **and/or team members of the applicant** must provide evidence that it has completed at least two projects that are similar to the proposed Infrastructure Project in scope and size during the ten years preceding the application due date.”  See added bold text. The point of the experience qualification is to ensure a qualified team is created. An applicant may not be able to qualify alone but can compile a qualified team for the purpose of completing the project.  (Kathryn Avila, Avila Construction) | Applicant experience must extend beyond current staff. While a single person or part of a team may have well-rounded experience, the Department must evaluate the overall experience of the organization. The organization must have full end-to-end operational experience that is not reliant upon current staffing. |
| 109 (a)(11) Application Threshold Requirements: Housing Developments | We recommend that HCD use MHP or TCAC standards for scoring applicant experience instead of applying yet another different standard. The MHP and TCAC scoring criteria have a proven track record that has resulted in quality development. We therefore recommend the elimination of paragraphs (1)-(3).  (Richard Mandel, California Housing Partnership) | The Applicant experience requirements are consistent with AHSC, the program with which TOD is most closely aligned. |
| 109 (a)(b) Application Threshold Requirements | We urge HCD to retain the provisions on cost effectiveness of pedestrian crossings and the general requirement to replace demolished units. It is important to ensure that the number of units in a project is at least equal the number of existing units on a site and that infrastructure benefits are proportional to the housing benefit.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The provisions on cost effectiveness of pedestrian crossings and the exceptions to the affordable unit demolition requirements were removed to encourage a coexistence of pedestrians and bicyclists.  The application threshold requirement for the Projects involving the demolition and rehabilitation of existing units has been modified for consistency with the UMRs. |
| 109 (b)(8)(9) Application Threshold Requirements: Infrastructure Projects | For the same reasons described in the comments to Section 109(a)(5) and (6), we recommend that HCD apply these threshold requirements only to applications involving city and county applicants.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The housing element is an important marker for jurisdictions that are adequately planning to address their fair share of the housing needs. Jurisdictions that comply are, among many other things, zoning sites at appropriate densities and removing barriers to housing production resulting in a smoother entitlement path for Applicants and mitigated risk for HCD. Several other programs require a housing element regardless of Applicant type. Developers are not penalized by this requirement, especially when considering most jurisdictions comply with housing element law and are very unlikely to propose development in non-compliant jurisdictions. |
| **110 Application Selection Criteria** | | |
| 110 Application Selection Criteria | The threshold requirements do not require that an applicant be in good standing or free of negative points. As a result, HCD should keep negative points in the scoring criteria.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The Department is in the process of developing a negative points policy that would be consistent across the programs. However, no changes will be made for this round of TOD Guidelines. |
| 110 (a)(1) The extent to which the Project will increase public transit ridership and minimize automobile trips | We support the intent of this scoring criterion but recommend that HCD clarify how projects will be scored if the best performing mode has headways greater than 15 minutes and the project is therefore eligible only for partial points. Specifically, we recommend that HCD clarify the standards that will be used to score “best performing primary mode of transit demonstrating all day, on-time arrival/departure performance” and the number of partial points available for meeting lesser performance measures.  How may partial points will be available for meeting lesser performance measures?  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The points assigned to applications for the best performing mode of transit serving the Qualifying Transit Station were modified to allow flexibility by acknowledging the Projects located in the areas with lower performance measures. |
| 110 (a)(2&3) The extent to which the Project will increase public transit ridership and minimize automobile trips | Some areas’ transit providers do not provide real time updates on services. Instead, a fixed timetable with anticipated arrivals and departures is provided. Change wording of the following section 110 (a) (2 & 3) so that applicants are not deprived of potential points if real time arrival info is not available for posting.  “(2) Four points will be assigned to applications where electronic user information services provide information on schedules and real-time predicted arrival times at the Transit Station, Housing Development, area businesses or through wireless device access for the best performing primary mode of transit serving the Qualified Transit Station. “ - If real time predicated arrival times are not made available by the Transit provider, static timetables with scheduled times are acceptable in lieu of real time predicted arrival times.  “(3) One point will be assigned to Qualifying Transit Stations posting real time schedules and route maps at the Transit Station. “ - If real time predicated arrival times are not made available by the Transit provider, static timetables with scheduled times are acceptable in lieu of real time predicted arrival times.  (Kathryn Avila, Avila Construction) | Numerous studies demonstrate the value of real-time information to improve rider experience and increase transit ridership. One study found that riders who accessed real-time information on their cell phones not only perceived their wait to be shorter, but also were able to spend less time waiting because they could schedule their trips more precisely.  There are plenty of options for accessing real-time info; smartphones or a computer, or on dynamic message screens placed strategically at bus stops, transit hubs, or public spaces. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | Please define “high-density.” Also, please consider that the term “high-density” be dependent on proposed development’s local community. For example, high-density in a downtown urban center is quite different than a non-downtown urban center.  (Paul Hogge, Related California) | The Guidelines do not provide a specific definition for “high-density” for just the reason described in the comment. The Guidelines allow local jurisdictions to decide what is considered high-density in their community. Minimum densities are identified in Section 103 (a)(4). |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | Also include projects where the local government upzoned the land in the most recent community plan update (to recognize municipalities that are using the general plan/community plan process to provide greater density, as opposed to just spot-rezonings).  (Paul Hogge, Related California) | Section 110 (a)(4) provides up to 25 points for communities that encourage denser development by upzoning, awarding density bonus points for projects that exceed state density bonus criteria and consolidating smaller lots to create a larger housing development. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | Include ministerial projects that are eligible for the density bonus under local regulations (i.e. not just projects that have been “awarded” a density bonus approval as that would exclude ministerial projects which do not require a planning approval). Ministerial or “by right” projects should be encouraged.  (Paul Hogge, Related California) | While section 110(a)(4)(C) refers to an award of a density bonus, regardless of the jurisdiction’s process of granting a density bonus being ministerial or discretionary, a change was made for further clarification. The section provides points to a development that has received a density bonus and corresponds to receiving, or submitting all documents necessary to obtain, a density bonus as described in section 110(g). |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | Please define “mixed-use development” here. Many affordable housing developments will primarily function as a residential development but may have space that can be rented to local businesses or non-profit organizations.  (Paul Hogge, Related California) | The definition of Mixed-Use Development was added to section 102 for better understanding and consistency with the AHSC Program. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | While well intentioned, we recommend that HCD delete this scoring category as it inappropriately focuses on the history of a development rather than its current form and impacts. The program already has minimum density threshold requirements in 103(a). It should therefore not matter if the project achieved the minimum density with a zoning change in the last twelve months or a density bonus. Nor should it matter if a developer had to assemble sites rather than purchase a single site. It does not make sense to us that the points are additive such that a developer who assembled a site, got a rezoning, and used a density bonus would get 10 more points than a developer building the same project on a single parcel with unlimited density already allowed by the zoning. We further note that “high-density” in (A) must be defined if this category is retained.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The scoring criteria in Section 110 (a)(4)  focuses on communities where higher density development is encouraged.  The 12-month requirement for rezoning has been omitted. In addition, the language on density bonus was added for further clarification.  Feedback we received from the UCLA Luskin School of Public Affairs on densities supports incentivizing projects that have higher densities required for transit-supportive land use. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | We appreciate that the mixed-use points do relate to what the projects involves. Nonetheless, we recommend deleting these points because commercial spaces are notoriously difficult to underwrite, finance, and ultimately rent. If the space is not marketable, the added cost of construction and operation is born by the residential component, which squanders precious affordable housing resources.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The Department supports smart growth principles, one of which is incentivizing Mixed Use Developments, which are critical to walkability and transit-oriented communities. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | What is the reason for incentivizing only recent rezoning in Section 110(a)(4)(B)?  Suggest combining all points for high-density zoning in Section 110(a)(4)(A).  (Laila Atalla, California Air Resources Board) | The 12-month requirement for rezoning has been omitted. In addition, the language on density bonus was added for further clarification.  Assigning points for various categories provides incentives for a broader range of communities. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | Up to 25 points is available for this item with 5 points for each feature. Given the qualification that says, “which may include the following actions,” does this mean other factors could count or that an application does not need to meet each of the five listed subitems to achieve the maximum score? Additionally, several of the sub-categories seem to be favoring projects with fairly defined attributes, but these attributes may limit the scores of projects that have a higher probability of achieving the stated goal. For example:  (Art May, Keystone Development Group, LLC) | This section was modified to further clarify the requirement: 25 points (5 points for each feature) will be assigned to Projects that encourage higher densities, which includes one or more of the actions listed in section 110(a)(4) of the Guidelines. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | (B) What is the justification for limiting a rezoning within the last 12 months versus some other period (such as two years)? What if the existing zoning is already very high, is that not meeting the objective for this section?  (Art May, Keystone Development Group, LLC) | The 12-month requirement for rezoning has been omitted. In addition, the language on density bonus was added for further clarification. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | (C) What if the allowable density was truly very high (such as 300 units/area)? Why would HCD score such a project that is pushing that limit (where a density bonus is not needed) less than a project that receives a density bonus on a moderately high density such as an increase from 60 to 75 DUA?  (Art May, Keystone Development Group, LLC) | Section 110(a)(4)(C) refers to an award of a density bonus, regardless of the jurisdiction’s process of granting a density bonus being ministerial or discretionary. The intent is to provide points to a development that has received a density bonus and corresponds to receiving, or submitting all documents necessary to obtain, a density bonus as described in section 110(g). |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | (E) It appears that this item could be granting more points for a marginal project versus one that better achieves the stated goal which is increasing public transit ridership.  (Art May, Keystone Development Group, LLC) | This point category incentivizes the additional challenge of assembling parcels to design a larger scale project and ultimately more housing units. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | I encourage HCD to NOT prioritize larger projects over smaller ones. In our local area, lots in areas nearest transit are most often relatively small. Gaining control of enough adjacent lots to piece together a large-scale project would prove an insurmountable barrier to entry and would preclude the area from having successful applications.  (Kathryn Avila, Avila Construction) | Please see previous response. |
| 110(a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | Suggest adding definitions for terms used in Section 110(a)(4):  “Mixed-use development” (e.g., the [AHSC Program Round 5 Guidelines](about:blank#page=59) definition as “a building, combination of buildings, or building complex, designed to functionally and physically integrate non-residential uses such as retail, commercial, institutional, recreational, or community uses with residential uses, in a complementary manner.”)  (Laila Atalla, California Air Resources Board) | The definition of Mixed Use Development was added for better understanding and consistency with the Affordable Housing and Sustainable Communities (AHSC) Program. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | “Zoned for high-density multifamily residential development” (e.g., 60-100 dwelling units per acre, or a tiered definition based on project setting.)  (Laila Atalla, California Air Resources Board) | The Guidelines do not provide a specific definition for “high-density” so local jurisdictions can decide what is appropriately considered high-density in their community. Minimum densities are identified in Section 103 (a)(4). |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | Suggest only awarding points for density bonuses that exceed what cities are required to provide under State law.  (Laila Atalla, California Air Resources Board) | Guidelines were modified to state that points will be awarded to Projects if the local entity has awarded a density bonus to the Project that exceeds state density bonus criteria. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | The benefit of awarding points for projects that consolidate multiple small lots into a single parcel is unclear. Alternatively, consider points for projects that co-locate housing with public services.  (Laila Atalla, California Air Resources Board) | This point category incentivizes the additional challenge of assembling parcels to design a larger scale project and ultimately more housing units. |
| 110 (a)(4) The extent to which the Project will increase public transit ridership and minimize automobile trips | (A) and (B): Consider defining “zoned high density” and “higher density rezoning” to be the HCD default density standard  (C): Clarify if points are awarded only if the locality provides a density bonus beyond the density bonus allowed by State law  (D): Define “mixed use”, e.g. minimum commercial square footage, minimum commercial square footage as a percentage of total mixed-use square footage  (James Corless, Sacramento Area Council of Governments) | Please see the response above. |
| 110 (b)(2) Location in an area designated for infill or transit-oriented development, and where there is coordinated public and private investment | The way this criteria is stated it appears that any project that has public or private investment into the housing portion of the project (other than program funds) will receive the stated points; however, every project should meet this criteria.  (Art May, Keystone Development Group, LLC) | In review of this scoring criteria, the Department will consider the ratio of funds leveraged from sources other than the Program. Only projects that leverage an amount greater than the Program request will receive points. In order to receive full points a project must leverage three times the amount requested in the Program application. |
| 110 (b)(2) Location in an area designated for infill or transit-oriented development, and where there is coordinated public and private investment | The guidelines state that the intent of this provision is to award points where there is coordinated public and private investment in amounts that are sufficient to transform the area into a transit-oriented community. The current text of the provision, however, does not achieve the stated purpose. To incentivize coordinated investment beyond the applied for housing and infrastructure project, we recommend that HCD count other non-project investments in the last five years or committed that are located within ½ mile of the project. Alternatively, HCD could transform this provision into a traditional project leverage point category.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | This section was modified to include  expenditures or commitments of public and/or private funds during the five years preceding the application due date on transit-oriented infrastructure or housing. |
| 110 (c) The extent to which the Housing Development serves Eligible Households | While we appreciate the desire to serve lowest-income households, the proposed targeting is too deep to allow for projects to be sustainable without rental assistance. Both the 9 percent LIHTC and MHP programs provide maximum points to projects with an average affordability of 50 percent AMI. Under the proposed TOD targeting, a project with 80 percent of units affordable at 50 percent AMI and 20 percent of units at 30 percent AMI (which has an average AMI of 46 percent – significantly better than maximum points for TCAC and MHP) only receives 22 of 30 points. A project would have to provide 30 percent of units at 20 percent AMI or 42 percent of units at 30 percent AMI to receive maximum TOD points. This level of targeting is unlikely to allow a development to even cover operating costs. Even if that were possible, such deep targeting will almost surely preclude hard debt, which will increase loan amounts greatly and make the $10 million cap insufficient except for small projects. For these reasons, we recommend that HCD adopt the MHP income targeting point scale.  In addition to increasing project feasibility, maximizing consistency across programs will make it easier to move eventually towards a single multi-program award process. We also note that Section 110 (h) is no longer a leverage section, so the cross-reference should be deleted.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | While the Program’s goal is to incentivize deeper affordability, income targeting was modified to address possible feasibility issues while still addressing affordability.  A change was made to the Guidelines to remove the reference to the Leverage Section in the Round 3 Guidelines. |
| 110 (c) The extent to which the Housing Development serves Eligible Households | Revise Section 110(c) to better facilitate affordable housing development by:  a. Granting maximum qualifying points for housing units at 50 percent of median income and below (versus 30 percent) to encourage a greater number of affordable units per project,  b. Amending the scoring formula to use number of bedrooms (not units) to promote the full range of unit sizes needed by the community, and  c. Utilizing State Median Income (versus Area Median Income) to reflect the reality that housing choices are increasingly made on regional scales.  (Daryl Halls, Solano Transportation Authority) | The affordability scoring criteria in Section 110 (c) is consistent with the MHP Project Selection Section 7320 (b)(1). The MHP formula does not consider number of bedrooms and is based on Area Median Income. Consistency across programs is one of the key stated goals in the updating of Department programs. |
| 110 (c)(1) The extent to which the Housing Development serves Eligible Households | This section reads- “For Rental Housing Development(s), the points will be awarded on the following scale” and gives a table of income levels and points.  Is another scale to be used for for-sale product?  (Kathryn Avila, Avila Construction) | Loans for homeownership developments is not available this round. However, TOD may still provide Grant funding for Infrastructure Projects related to homeownership developments. |
| 110 (c)(1) The extent to which the Housing Development serves Eligible Households | Also, this section gives a table with very low-income limits. Consider an alternate scale for scoring projects developed in large part with private funds. Us private, for-profit developers cannot qualify for enough funding to accommodate such low-income levels, since we are precluded from most funding sources based on our tax structure.  (Kathryn Avila, Avila Construction) | The affordability scoring criteria in Section 110 (c) is consistent with the MHP Project Selection Section 7320 (b)(1). The MHP formula does not consider number of bedrooms and is based on Area Median Income. Consistency across programs is one of the key stated goals in the updating of Department programs. |
| 110 (d)(1) Transit-Supportive Land Use | Does this item provide credit for the improvements proposed as part of the project which will improve the walkability index?  (Art May, Keystone Development Group, LLC) | The Department cannot forecast if the Walkability Index will be improved by the proposed part of the project. We can only rely on what is determined by the US EPA Walkability Index at time of application. |
| 110 (d)(1) Transit-Supportive Land Use | The revised guidelines eliminated point incentives for different modes of transit and added up to 10 points for pedestrian connectivity, as determined by the US EPA Walkability Index. We appreciate the recognition of the importance of walkability in these areas. Unfortunately, this index has major gaps the Sacramento region, particularly along old freight corridors with larger street intersection density and lower existing diversity of uses. These conditions result in a lower walkability score and, thus, would be less competitive. However, these are also the station areas that require investment to catalyze future changes and create walkability. We recommend staff consider adjusting the guidelines to allow for suburban jurisdictions to be judged differently than urban ones, recognizing the existing urban form differences between these types of communities. If HCD is interested in the potential for using regional data derived from an adopted metropolitan transportation plan/sustainable communities’ strategy (MTP/SCS) as an alternative measure of station access, we would be happy to have a conversation about it.  (James Corless, Sacramento Area Council of Governments) | It is one of the Department’s goals to improve walkability across California, and specifically walkable access to transit in the TOD program. The US EPA Walkability Index provides objective methodology across California. Further, this methodology is consistent with the AHSC program.  We recognize that some areas are challenged in demonstrating the criteria utilized by the Index and the Department will continue to engage stakeholders to explore opportunities for equitable scoring. |
| 110 (d)(2) Transit-Supportive Land Use | First, will points be granted for Key Destinations that are part of the proposed project?  (Art May, Keystone Development Group, LLC) | Per Section 110 (d)(2), Key Destinations must be existing at time of application. |
| 110 (d)(2) Transit-Supportive Land Use | Many TOD projects are in urban areas where there are “office buildings” not “office parks” so expanding that term would be helpful. Furthermore, we suggest using the term “employment center” as there are good jobs in facilities that may not fit the other categories.  (Art May, Keystone Development Group, LLC) | The list of Key Destinations is consistent with the Key Destinations identified in the AHSC program developed by the California Air Resources Board.  Office Park speaks to scale, like a group of office buildings that employ a large number of people. Office Building could mean a single-story building employing a couple people, or it could mean a department store tower. We identify Office Park as a Key Destination because we expect it will present employment opportunities of a larger scale. We are exploring metrics to help identify office buildings that would rise to the scale of Office Parks. |
| 110 (d)(2) Transit-Supportive Land Use | This section reads “Up to 10 points will be given for projects that provide a map highlighting the location of existing Key Destinations within one-half mile from a Housing Development. Each type of Key Destination is worth 2 points and may only be counted once. Key Destinations include:  ▪ Bank or post office ▪ Grocery store which meets the Cal Fresh Program requirements ▪ Licensed child care facility ▪ Medical clinic that accepts Medi-Cal payments ▪ Office park ▪ Park accessible to the general public ▪ Pharmacy ▪ Place of worship ▪ Public elementary, middle or high school ▪ Public library ▪ University or junior college “  This requirement is a distinct disadvantage for historically rural, smaller, or “spread out” areas which are just transitioning into the world of embracing public transit. In largest part, the goal of this program is to ensure there is readily available transit to get people to and from any given service, including those listed above. The immediate location of the actual services, therefore, is less important. In Monterey, for instance, schools and churches are located near historically developed housing, and away from the City Center. Office parks and colleges are located outside of the main city center, where more land was available to build large facilities. Change this requirement so that places that were not historically “cities” with all services in a compact footprint are not disadvantaged.  (Kathryn Avila, Avila Construction) | While the Department acknowledges that rural locations may be challenged by a lack of accessibility to the Key Destinations, this component is one of the essential components of TOD Program. Research indicates access to Key Destinations increases transit ridership. |
| 110 (e)(3) The extent to which the Project incorporates walkable corridor and bicycle features | Does an application score full points if there are no gaps in the existing walkway to the Transit Station? If not, what is the rational for not seeing that as a benefit?  (Art May, Keystone Development Group, LLC) | This point section was modified to award 10 points if the proposed corridor improvements are closing any existing gaps in walkability. In addition, if no demonstrable gaps currently exist, the Applicant shall be awarded full points. |
| 110 (f) Parking Alternatives and Micromobility | While we are happy that the TOD program guidelines provide points for projects that include transit passes, we believe that the program should require transit passes for a set period of time. For example, AHSC requires that all projects include transit passes for at least 3 years. Requiring transit passes can encourage residents to use public transit instead of driving, especially for lower‐income populations. HCD could include points for projects that exceed the 3‐year term. | Providing transit passes for residents continues to be a valuable tool for increasing transit ridership in the AHSC program. However, unlike the AHSC program, TOD does not provide funding for transit pass programs. Accordingly, TOD encourages, but does not require Applicants to provide transit passes for residents. |
| 110 (f) Parking Alternatives and Micromobility | Regarding micromobility, we recommend that HCD reconsider giving points to this topic. First, this section of the guidelines states that points will be given to projects that include capacity for micromobility on‐site. However, it is not clear what “capacity” means. For example, does this mean providing parking spaces for scooters? Second, there is little empirical evidence of whether micromobility (e.g., Lyme, Jump, Razor) has a lasting impact on encouraging multi‐modal transit use. While we appreciate the innovative thinking, Enterprise recommends that micromobility not be assigned points until further research can be done about its long‐term impact.  (Alejandro Huerta, Enterprise Community Partners) | Cities across California have increasingly been investing in micromobility options that include station-based bike share systems, dockless bike share systems, electric-assist bike share, and electric scooters.  Micromobility has evolved rapidly, and new types of devices continue are introduced to the market every year. While the transit ridership impact of micromobility has not been researched by the Department, anecdotal evidence suggests micromobility provides good options for first mile / last mile challenges.  The TOD Application Workbook will clarify requirements for demonstrating capacity in Section 110 (f)(5). |
| 110 (f)(1)(a&b) Parking Alternatives and Micromobility | This section reads:  “(A) Ten points will be assigned to applications where Housing Developments provide to residents free transit passes or discounted passes priced at no more than half of retail cost for at least three years.  (B) Fifteen points will be assigned to applications where Housing Developments provide to residents free transit passes or discounted passes priced at no more than half of retail cost for more than four years. “  Change “provide” to “make available” – let’s not provide costly things needlessly to those who do not want them.  (Kathryn Avila, Avila Construction) | Section 110 (f)(1) provides full points for discounted passes (not just free passes). Charging residents at least a portion of the fare ensures passes go to residents who will use them. |
| 110 (f) Parking Alternatives and Micromobility | it is not possible to achieve the full 40 points as written. Item 4 reads “Maximum parking spaces (10 points). Ten points will be assigned to applications that propose zero parking spaces. Five points will be Department of Housing and Community Development 28 Transit-Oriented Development Housing Program Round 4 Draft Guidelines assigned to applications for Projects which provide for no more than the minimum number of parking spaces required by a jurisdiction.”  This is in direct conflict with item 3, which would require additional spaces to service the rideshare vehicles.  (Kathryn Avila, Avila Construction) | This Section was modified to resolve the conflict with item (3). |
| 110 (f) Parking Alternatives and Micromobility | Suggest specifying different parking types in Section 110 (f) (e.g., bicycle, EV, or LDV parking). All parking types should be included with preference to dedicated EV stalls and adequate bicycle parking to serve all residents.  (Laila Atalla, California Air Resources Board) | Section 110 (f) was updated from the Round 3 Guidelines to include various options to single-occupancy parking, including access to micromobility. Incentivizing Bicycle parking at the Qualifying Transit Station earns points in Section 110 (e). |
| 110 (f)(3) Parking Alternatives and Micromobility | Whereas applicants are already incentivized under (f)(4) to reduce residential parking down to zero, it seems unnecessary and counterproductive to award car share points only if there is no residential parking. Very few properties will be able to provide zero residential parking, and car share services have benefits to residents and the environment even when coupled with some amount of residential parking. We therefore recommend that HCD delete “and provides no residential parking.”  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | “…and provides no residential parking” was removed from this Section. |
| 110 (f)(3)(4) Parking Alternatives and Micromobility | Awarding points for charging infrastructure installation under Sections 110(f)(3) and (4) would incentivize developers to install and support EV charging infrastructure. The [2019 California Green Building Standards Code, Title 24, Part 11 Section 4.106.4](about:blank) discusses EV parking requirements and future charging capabilities, but does not specifically require charging infrastructure to be installed at the time of construction.  (Laila Atalla, California Air Resources Board) | While electric vehicles are a more favorable alternative to combustible engine single-occupancy vehicles, providing infrastructure for electric vehicles does not further the Program’s mandate to increase transit ridership. |
| 110 (f)(4) Parking Alternatives and Micromobility | Affordable housing developments in jurisdictions that no longer require a minimum number of parking spaces will be penalized for including any parking spaces, even if the number of parking spaces is below the typical amount required for most new residential developments. As a result, we propose including additional scoring metrics. As an example, one section could read “<1 parking space per dwelling unit will receive five (5) points.”  (Paul Hogge, Related California) | A slight modification was made to this item to resolve unintended conflicts with item (3). |
| 110 (g) Readiness of the Housing Development | Enterprise would like to urge HCD to make entitlement approval a requirement by application deadline. This would make the TOD program consistent with AHSC. Or, at the very least, HCD should define what a “reasonable period of time” means in the draft guidelines for acquiring entitlements, or  consider allocating points for projects that receive entitlements by a certain time. For example, the final MHP guidelines award the  most points for projects that have their entitlements by issuance of the building permit. Enterprise recommends clarifying or requiring this key readiness factor to ensure that projects are  built in a timely manner without any unforeseen hiccups like  lawsuits, etc.  (Alejandro Huerta, Enterprise Community Partners) | The deadline to secure necessary entitlements for Projects was defined. Eligible Projects can secure necessary entitlements from the local jurisdiction by application deadline. |
| 110 (g)(2) Readiness of the Housing Development | We recommend that HCD eliminate points for compliance with CEQA and NEPA to make TOD consistent with TCAC’s October 28, 2019 regulation changes. As TCAC stated in its statement of reasons, “These are federal and state requirements not specifically imposed by TCAC. As applicants are required by other agencies to comply with various environmental clearances, staff proposes to leave the documentation verification to those agencies. This change will eliminate application documentation requirements and reduce staff time during the application review process.” We further point out that 1) the TOD guidelines already provide points for obtaining all necessary entitlements, and local governments cannot approve an entitlement without finalizing CEQA compliance; and 2) NEPA clearance relates to the release of funds and does not affect a project’s ability to proceed to construction. As a result, the points for CEQA and NEPA compliance add no value with respect to determining a project’s readiness.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | This category provides points for projects that have obtained environmental clearances, but potentially have not yet secured all entitlements, offering a tiered approach to scoring projects. |
| 110 (g)(3) Readiness of the Housing Development | Items (A) through (D) need sub-scores to clarify how many points are awarded for each item. Having entitlements is most valuable and should garner more points than (B), which in turn should garner more points than (C). HCD should further clarify that the points in (A), (B), and (C) are mutually exclusive and not additive. We also recommend that (D) be worth no more than two points and be available in addition to points for the other items.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | This section was refined and modified to include sub-scores when awarding Projects that can secure necessary entitlements. |
| 110 (g)(3) Readiness of the Housing Development | Can applications be submitted prior to obtaining entitlements?  (Raoul Isaac, Transbay Real Estate) | Within the TOD Guidelines, entitlements are part of the “Readiness” scoring criteria and are not required for application. If the Applicants have required permits and approval they need from the Locality, they can earn points. If not, they earn fewer points.  HCD cannot dictate what the Localities should and should not require but can incentivize to have the project ready with any approvals required. |
| 110 (g)(3)(A) Readiness of the Housing Development | Allow for a sliding scale of points to be awarded, with (A) receiving the highest and (C) the lowest.  (James Corless, Sacramento Area Council of Governments) | This section was refined and modified to include sub-scores when awarding Projects that can secure necessary entitlements. |
| 110 (h) Adopted Economic Development Plan | We recommend that HCD delete (h) as we do not see the value in awarding points for an adopted economic development plan or for location in a targeted zone as neither relates to the need for affordable housing or to established benefits for the residents. Awarding points under Section 110(b)(2) for coordinated investment beyond the applied for housing and infrastructure project is a better way of leveraging community change and benefitting residents with actual investment. Moreover, rewarding location in the identified zones will increase the odds that projects will be in low opportunity areas, which is contrary to HCD’s efforts to affirmatively further fair housing as required by AB 686. Lastly, eliminating this scoring category will simplify the application as well as reduce applicant paperwork and HCD review time.  (Richard Mandel, California Housing Partnership + Andy Madeira, Eden Housing) | The intent of this scoring category is to promote long-term infrastructure and a diversity of investments in existing low opportunity areas. |
| 110 (h) Adopted Economic Development Plan | The most recent guidelines were revised to include five points for projects within federally designated opportunity zones. Additionally, we recommend HCD allow for the use of SACOG-identified (or MPO identified) Environmental Justice Areas, which we identified as a part of our recently adopted MTP/SCS.  (James Corless, Sacramento Area Council of Governments) | In considering various state and federal zones and designations, the Department seeks to objectively identify areas throughout the state that have opportunities for economic growth and job creation |
| 110 (h) Adopted Economic Development Plan | We request that you consider the following revision (underlined text below) to what may generate points for an "integrated economic development strategy,” as described in Section 110 (h)(2):  (2) Five points shall be awarded to applications for Projects located in jurisdictions that have integrated economic development strategies, are within a federally-designated Opportunity Zone, in an eligible New Markets Tax Credit (NMTC) census tract, in a Neighborhood Revitalization Strategy Area (NRSA), or an authorized Business Improvement District or Community Benefits District pursuant to the Property and Business Improvement District Law of 1994 (Sts. & Hy. Code, § 36600 et seq.).  We ask that HCD consider the idea of providing 5 points for economic development plans in local jurisdictions that go beyond their General Plans (there are 5 points in 110(h)(1) for General Plans) by adding additional local/neighborhood level economic development strategies, such as San Francisco's Invest in Neighborhoods Initiative, to the list of qualifying integrated economic development strategies in section 110(h)(2). For reference, see: https://oewd.org/sites/default/files/FileCenter/Documents/176-IIN%20Fact%20Sheet.pdf [oewd.org]  (Mara Blitzer, San Francisco Mayor's Office of Housing and Community Development) | The Department supports the addition of Neighborhood Revitalization Strategy Areas (NRSA) in the Adopted Economic Development category as long as the NRSA is approved by HUD. An approved NRSA affords CDBG grantees flexibility in undertaking economic development, housing and public service activities and supports the goals of the TOD program. Other economic development planning tools remain under consideration for future guidelines. |
| **111 Legal Documents** | | |
| 111(b)(1) Legal Documents: Infrastructure Projects | Regarding TOD funding, does this trigger prevailing wages?  (Andrew Yick, West Hollywood Community Housing Corp.) | Under the current Round 4 draft Guidelines, Section 111(b)(1)(E) states:    *TOD Program awards are subject to California’s prevailing wage law (Lab. Code, § 1720 et seq.), unless the Project or Project component falls within a statutory exception to that law’s requirements. Although the use of TOD Program funds does not require compliance with the federal Davis-Bacon Act, other funding sources may require compliance with the federal Davis-Bacon Act.*    The Department recommends you consult the State Labor Code and legal counsel for more clarification. |
| **Guidelines (general)** | | |
| Anti‐DisplacementProvisions | We recommend that HCD include anti‐displacement elements in the TOD program, similar to AHSC, in order to ensure that the production of new affordable housing does not displace those residents already living in TOD locations. Research indicates that TOD development can have the unfortunate unintended consequence of displacing residents of low‐income communities, who are often then forced to travel great distances, causing harm for themselves and great negative impacts to vehicle miles traveled. Therefore, to safeguard against this, we recommend that the TOD program requires that measures be implemented by the developers or public agency to mitigate against displacement of existing residents. The AHSC program offers strategies and a scoring system that has gone through multiple rounds of public input and could serve as a model for the TOD program.  (Alejandro Huerta, Enterprise Community Partners) | Though preventing displacement of residents and businesses while encouraging equitable development is critical to the success of California communities, the Guidelines must maintain the integrity and focus of the legislative intent. While anti-displacement measures are not specifically identified, many of the selection criteria speak to the design of inclusive neighborhoods, including enhancements to transit infrastructure, public-private partnerships, and incentivizing deeper levels of affordability. |