

Multifamily Housing Program

Draft Guidelines

AB 434 (Chapter XX, Statutes 2020)

Public Comment Version

June 2021

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Article 1. General

Section 7300. Purpose and Scope

- (a) These guidelines implement and interpret Health and Safety Code (HSC) Chapter 6.7 (commencing with Section 50675), Part 2, Division 31, which establishes the Multifamily Housing Program (MHP) administered by the California Department of Housing and Community Development (Department).
- (b) These guidelines establish terms, conditions, and procedures for funds awarded after the effective date of these guidelines, authorized by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1 of 2018).
- (c) These guidelines implement and interpret Assembly Bill 434 (September 28, 2020), an act to amend, repeal and replace HSC Section 50675.1, among others, which requires the Department to make funds available for designated programs available at the same time as MHP funds, authorizes the Department to rate and rank applications, and administer funds consistent with MHP.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50406 and 50675, HSC.

Section 7300.1. Uniform Multifamily Regulations (UMR).

- (a) Subchapter 19 of Title 25, Division 1, Chapter 7 (commencing with Section 8300) is hereby incorporated by reference into this subchapter and shall apply to rental housing developments receiving assistance under MHP.
- (b) In the event of a conflict between the provisions of Subchapter 19 and these guidelines, the provisions of these guidelines shall prevail.

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

Section 7301. Definitions

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

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

- (b) “Agricultural Employee” means the same as specified in subdivision (b) of Section 1140.4 of the Labor Code, but also includes any person who works on or off the farm in the processing of any agricultural commodity until it is shipped for distribution, whether or not this person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.
- (c) “Area Median Income” or “AMI” means the most recent applicable county median family income published by California Tax Credit Allocation Committee (TCAC).
- (d) “Article XXXIV” means Article XXXIV, section 1 of the California Constitution. This constitutional provision requires local voter approval before a state public body can develop, construct, or acquire a low-rent housing project in any manner.
- ~~“Article XXXIV” means the Article of the California Constitution (HSC Section 37000) that requires advance voter approval of certain publicly funded low-rent housing Projects.~~
- (e) “Assisted Unit” means a housing Unit that is subject to MHP Rent and/or occupancy restrictions as a result of financial assistance provided under the MHP Program.
- (f) “Case Manager” means a person who provides Comprehensive Case Management services. Resident services coordinators are not Case Managers.
- (g) “BIPOC” means Black, Indigenous, and Other People of Color. To be considered a qualifying BIPOC non-profit organization requires having a BIPOC Executive Director/Chief Executive Officer and 51% of the organization’s board must be BIPOC. For purposes of this paragraph, People of Color means “a person who checked the Black or African American, American Indian and Alaska Native, Asian, or Native Hawaiian and Other Pacific Islanders race category or who answered yes to the Hispanic Origin question on the 2020 United States Census or, if that data is not yet publicly available, the 2010 United States Census.”
- (h) “BIPOC Project” means a Qualified Residential Rental Project for which the sponsor entity is a BIPOC. A BIPOC Project may be a New Construction Project, Rural project, Preservation Project, or Other Rehabilitation Project. A BIPOC Project does not include a project for which the qualifying sponsor or sponsor entity is eligible to receive maximum General Partner Experience points pursuant to Section 10325(c) (1) (A) of the CTCAC regulations unless those points are awarded to a principle of the BIPOC who no longer is employed by the developer of, or has an ownership interest in, the project(s) which form the basis of the experience points.
- (i) “Comprehensive Case Management” means individualized services planning and the provision of connections to mental health, substance abuse, employment, health, housing retention, and similar services.
- (j) “Chronic Homelessness” means the condition experienced by people defined as “Chronically Homeless” under the federal Continuum of Care Program, at 24 Code of Federal Regulations (CFR) 578.3. It also includes the condition of individuals and families:
- (1) Residing in a place not meant for human habitation, emergency shelter, or safe haven, after experiencing chronic homelessness as defined in 24 CFR 578.3 and subsequently residing in a permanent housing project within the last year;
 - (2) Residing in transitional housing who were experiencing chronic homelessness as defined in 24 CFR 578.3 prior to entering the transitional housing; or

- (3) Residing and have resided in a place not meant for human habitation, a safe haven, or emergency shelter for at least 12 months in the last three years but have not done so on four separate occasions.
- (4) Residing in an existing supportive housing project receiving MHP funding for Rehabilitation or being replaced by an MHP-funded project, provided that, upon initial occupancy, they were experiencing chronic homeless as defined in 24 CFR 578.3 or qualified under subsections (1) through (3) above.
- (k) "Coordinated Entry System" or "CES" means a centralized or coordinated process developed pursuant to 24 CFR Section 578.7(a)(8), as that section read on May 1, 2016, designed to coordinate program participant intake, assessment, and provision of referrals. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.
- (l) "Deferred Costs" means costs deferred during the construction period, which are payable at the time of permanent loan closing. Deferred costs, which are included as a construction development source shall not exceed the sum of costs related to permanent financing and capitalized reserves.
- (m) "Developer Fee Contribution" means excess developer fee contributed to the project as equity pursuant to TCAC Regulations, Title 4 California Code of Regulations (CCR), Division 17, Chapter 1, Section 10327.
- (n) "Efficiency Unit" means a Unit containing only one habitable room. A room in a structure that is a single-family house at the time of application will not be considered to be an Efficiency Unit eligible for program funds.
- (o) "Eligible Households" means households whose incomes do not exceed 60 percent of AMI, as calculated in accordance with the regulations and procedures governing the low-income housing tax credit program, as administered by TCAC, or other, lower-income limits agreed to by a Project Sponsor and the Department.
- (p) Household income will be calculated based on Units in accordance with TCAC rules and procedures. (The rules and procedures set forth in 25 CCR Section 2510 et. seq., do not apply.)

~~In non-Special Needs Population projects, household income will be calculated on the basis of Units in accordance with TCAC rules and procedures (The rules and procedures set forth in 25 California Code of Regulations (CCR) Section 2510 et. seq. do not apply). In Special Needs Populations Projects, household income may be calculated on the basis of bedrooms within a single-family house and bedrooms within an apartment Unit, provided all Project Units are located on the same parcel or on contiguous parcels and the bedrooms are: (1) occupied by a single individual who is a member of a Special Needs Populations, or an individual member of a Special Needs Populations and his or her relatives or caretaker and (2) subject to an individual rental or occupancy agreement. In transitional Special Needs Populations Projects, household income may be calculated on the basis of each occupant of each bedroom provided all Project Units are located on the same parcel or on contiguous parcels and no more than two unrelated persons are occupying a bedroom.~~

- (q) "Fiscal Integrity" means that the total operating income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to: (1) pay all current

operating expenses; (2) pay all current debt service (excluding deferred interest); (3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and (4) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the permitted annual Distributions shall not be considered in determining Fiscal Integrity.

- (r) “Frail Elderly” means individuals who are:
- (1) Eligible under the Home and Community Based Services, the Multipurpose Senior Services Program (MSSP), or the Assisted Living Waiver Medicaid Waiver programs;
 - (2) Eligible for services under the Program of All Inclusive Care for the Elderly; or
 - (3) Eligible for 20 or more personal care hours per week under the In Home Supportive Services Program.
 - (4) Eligibility for these programs must be established by the agency responsible for determining eligibility for the benefits provided by them.
- (s) “General Partner Equity” or “GP Equity” means equity derived from the syndication of Low Income Housing Tax Credits (LIHTC), as based upon the GP interest in the partnership.
- (t) “Gross Income” means all income as defined in California Code of Regulations CCR Title 25, Section 6914.
- (u) “Homelessness” means the condition of individuals and households who meet the definition of “homeless” in 24 CFR Section 578.3. “Homelessness” includes “Chronic Homelessness”. Occupants of a development undergoing Rehabilitation with MHP funds, or being replaced by an MHP-funded development, shall be deemed to qualify under this definition if they qualified upon initial occupancy.
- (v) “Housing First” has the same meaning as in Welfare and Institutions Code Section 8255(d)(1), including all of the core components listed therein, and provided in Section 7301(f) of these guidelines.
- (w) “Indian country” refers to land located in Indian country as defined by 18 U.S. Code (USC) 1151.
- (x) “Initial Operating Year” means the initial period of operation of the Rental Housing Development, beginning at the time of the initial occupancy of the completed Project and ending on the last day of the fiscal year for the development.
- (y) “Intellectual disability” is defined as a disability, as verified by a qualified medical, behavioral health, or mental health professional, which is characterized by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills. This disability originates before the age of 18.
- (z) “Joint Venture” means an association of two or more persons, or entities who combine their property, skill or knowledge to carry out a single business enterprise for profit. A Sponsor formed as a joint venture in accordance with Section 7303(a) shall comply with the requirements of Section 7303(d). The Borrower limited partnership is not a joint venture within the meaning of Section 7303(a).

- (aa) "Large Family" refers to a housing type meeting the requirements of Section 7302(e)(1).
- (bb) "Lead Service Provider" or "LSP" means the organization that has overall responsibility for the provisions of supportive services and implementation of the supportive services plan in the project. The LSP may directly provide Comprehensive Case Management services or contract with other agencies that provide services. For HUD-VASH tenants, the LSP will enable the applicable VA Case Manager to administer services in accordance with the HUD-VA Supportive Housing (VASH) Program.
- (cc) "Manager's Unit" means a unit in which the onsite manager of the Project resides. A Manager's Unit will not be considered to be an MHP Assisted Unit, nor will it be considered to be a Restricted Unit for the purpose of calculating allowable Distributions. A Manager's Unit will be considered to be a Restricted Unit for the purpose of allocating development costs and may qualify for a loan amount up to the amount applicable to the 60 percent of AMI level.
- (dd) "NOFA" means the MHP Notice of Funds Available.
- (ee) "Nonprofit Corporation" means the same as defined in Section 50091 of the HSC.
- (ff) "Principal" means employees of the Sponsor who are in a position responsible for the oversight and management of development activities.
- (gg) "Refinance" means to pay off all or a portion of existing debt secured by the Project with the proceeds of a Program loan or other financing also secured by the Project.
- (hh) "Rehabilitation" means the term as defined in Section 50096 of the HSC, including improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.
- (ii) "Rent" means the same as "gross rent," as defined in accordance with the Internal Revenue Code (26 USC 42(g)(2)(B)). It includes all mandatory charges, other than deposits paid by the tenant, for use and occupancy of an Assisted Unit, plus a utility allowance established in accordance with TCAC regulations, if applicable. For units assisted under the Housing Choice Voucher (HCV) or similar rental or operating subsidy program, rent includes only the tenant contribution portion of the contract rent.
- (jj) "Rental Housing Development" means the same as defined in Section 50675.2 of the HSC, which describes it as, "a structure or set of structures with common financing, ownership, and management, and which collectively contain five or more dwelling units, including efficiency units. No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures." For the purpose of these guidelines, "Rental Housing Development" does not include any "health facility" as defined by Section 1250 of the HSC or any "alcoholism or drug abuse recovery or treatment facility" as defined by Section 11834.02 of the HSC.
- (kk) "Rent-Up Costs" means costs incurred in connection with marketing and preparing an Assisted Unit for occupancy while the unit is on the housing market but not yet rented to its first tenant.
- (ll) "Residential Hotel" means any building that contains six or more Residential Hotel Units, where a majority of the units are Residential Hotel Units. Single-family houses are not considered Residential Hotels.

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

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

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

(pp) "Special Needs" refers to a housing type meeting the requirements of Section 7302(e)(2)

(qq) "Special Needs Population(s)" means:

~~(1) Agricultural Employees;~~

(1) individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities;

(2) individuals living with intellectual disabilities, as defined in section 7301(y), or developmental disabilities;

(3) individuals living with serious mental illness;

(4) individuals with substance abuse disorders;

(5) individuals who are fleeing domestic violence, sexual assault, and human trafficking;

(6) individuals who are experiencing Homelessness, including Chronically Homeless with disability;

(7) individuals with chronic illness, including HIV;

(8) homeless youth as defined in Government Code (GC) Section (§) 12957(e)(2);

(9) families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county;

~~(10) frequent users of public health or mental health services, as identified by a public health or mental health agency;~~

(10) Frail Elderly persons; or

(11) other specific groups with unique housing needs as determined by the Department.

"Special Needs Populations" do not include seniors unless they otherwise qualify as a Special Needs Population.

(rr) "Supplant" or Supplantation" means to "replace" or "take the place of."

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

- (ss) "Supportive Services" means social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits.
- (tt) "Supportive Services Costs" means the costs of providing tenant service coordination, case management, and direct resident and Supportive Services. It includes:
 - (1) The cost of providing tenants with information on and referral to social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits; and
 - (2) salaries, benefits, contracted services, telecommunication expenses, travel costs, supplies, office expenses, staff training, maintenance of on-site equipment used in services programs, such as computer labs, incidental costs related to resident events, and other similar costs approved by the Department.

Supportive Services Costs shall be calculated in accordance with UMR 8314.

- (uu) "TCAC" means the California Tax Credit Allocation Committee, established by Revenue and Taxation Code Section 18410.2.
- (vv) "TCAC/HCD Opportunity Area Map" means the map or maps approved periodically by TCAC as the TCAC/HCD Opportunity Area Map.
- (ww) "Transitional Housing" means buildings configured as rental housing developments but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, but no longer than twenty-four (24) months. Projects serving persons experiencing Homelessness, including Chronic Homelessness, shall comply with the core components of Housing First set forth in Welfare and Institutions Code, Section 8255.
- (xx) "Tribal Entity" means a Tribe, or a tribally designated housing entity.
- (yy) "Tribe" means a federally recognized California Indian Tribe that meets the definition of Indian tribe under Section 4103 of Title 25 of the United State Code.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675, 50675.1(c), 50675.2, HSC.

Article 2. Program Requirements

Section 7302. Eligible Project.

Proposed Projects are eligible only if:

- (a) The Project includes the new construction or Rehabilitation of a Rental Housing Development or conversion of a nonresidential structure to a Rental Housing Development; for purposes of calculating Program loan amounts and for the purpose of determining compliance with Program

requirements that a Rental Housing Development contain five or more Units, a single-family house is considered to be one Unit, and an apartment Unit in an apartment building is considered to be one Unit regardless of the number of bedrooms within the apartment Unit;

- (b) Other development funding sources, including all tax credit equity generated by the Project, are insufficient to cover Project development costs;
- (c) At the time of the application due date, the construction or Rehabilitation work has not commenced, except for emergency repairs to existing structures required to eliminate hazards or threats to health and safety;

~~(d) The Project does not use federal 9 percent low income housing tax credits;~~

(d) The Project qualifies as one or more of the following project types:

- (1) Large Family, where of the Restricted Units at least 25 percent have three or more bedrooms, and at least an additional 25 percent have two or more bedrooms;
- (2) Special Needs, where at least ~~45~~ 25-percent of the Restricted Units are limited under Department Regulatory Agreements to occupancy by Special Needs Populations, and the Project complies with the integration requirements specified in subsection (g) below.

(A) The LSP must have at least three years' experience providing services to the specific target population;

(B) The Sponsor must have experience owning or operating at least one project with units restricted by a public agency to a Special Needs population; and,

(C) The property management agent must have at least one years' experience managing a project with units restricted by a public agency to a Special Needs Population.

~~(3) Supportive Housing, where at least 15 percent of the Restricted Units, and not less than 10 units, are limited under Department Regulatory Agreements to occupancy by people experiencing Chronic Homelessness, and where the Project meets the requirements set forth in subsections (f) and (g) below. Where the local Coordinated Entry System ("CES") prioritizes placements in supportive housing using an acuity measure that considers factors beyond chronic homelessness, the local measure may be employed, in lieu of requiring occupancy by people experiencing Chronic Homelessness.~~

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

(4) Farmworker Housing, where at least 25 percent of the units are available to, and occupied by, Agricultural Employees and their households. Farmworker Housing projects shall provide appropriate oral and written linguistic services.

- (5) At High Risk, meaning Projects that meet the requirements for At-risk projects set forth in TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325 and that meet all of the following additional characteristics:
- (A) They are currently owned by for-profit entities, or nonprofits that own no more than three publicly-assisted rental housing developments, or were owned by one of these entities prior to purchase with interim financing no more than five years before the application date by an entity described in the following subsection (B);
 - (B) They are under contract to be purchased by a nonprofit meeting the requirements of GC, § 65863.11(e), or a limited partnership where the sole general partner is a nonprofit that meets these requirements, or are owned by one of these entities; and
 - (C) They are not subject to rent restrictions associated with financial assistance that will survive the event that qualifies them for at-risk status under TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325, except where a project has been acquired by a qualified nonprofit organization within the five years preceding the date of application with interim financing in order to preserve its affordability and that meets all other requirements of this section.
 - (D) For Projects receiving financial assistance from HUD or Department of Agriculture, the Project is not assisted under either the HUD 811 or HUD 202 program or subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA); and either:
 - i The weighted average contract rent for units in the Project is less than or equal to 0.90 times the weighted average Small Area Fair Market Rent published by HUD for these units; or
 - ii The Project owner previously opted out of an agreement with a public agency that restricted tenant incomes and tenant-paid rents.
 - (E) For Projects not receiving federal assistance, the Department projects the owner could pay off all current secured debt with the proceeds of a new commercial mortgage, assuming that Rents were set at Small Area Fair Market Rent levels.
 - (F) For Projects receiving financial assistance from HUD or Department of Agriculture, and subject to restrictions associated with financial assistance from other sources, the Project must meet the requirements of both subdivision (D) and (E).
- (e) Additional requirements for Special Needs projects where Restricted Units are limited under Department Regulatory Agreements to occupancy by chronically homeless with disabilities:
- (1) Have an Eligible Sponsor (as specified in Section 7303) with at least two years' experience during the past five years owning or operating (under a long-term master lease or similar arrangement) a rental housing development with at least 10 units occupied by people experiencing Homelessness, with on-site Comprehensive Management services. Occupancy by persons experiencing Homelessness may be evidenced either by public agency restrictions requiring this occupancy or by documentation conclusively demonstrating occupancy for at least two years by people experiencing Homelessness upon initial move-in.

- (2) Be managed by a property manager that has managed for at least three years, rental housing developments with at least 10 units occupied by people experiencing Homelessness, with on-site Comprehensive Case Management services. Occupancy by persons experiencing Homelessness may be evidenced either by public agency restrictions requiring this occupancy or by documentation conclusively demonstrating occupancy for at least three years by people experiencing Homelessness upon initial move-in.
- (3) Utilize a lead service provider with at least three years of experience providing Comprehensive Case management to people experiencing homelessness in project or tenant-based housing, emergency shelters, transitional housing, or similar programs, or under contract with a public agency, in which Comprehensive Case Management Services were being provided to at least 20 persons at a time, and are not time-limited. A written agreement between the lead service provider and Sponsor or project owner satisfactory to the Department must be submitted with the Program application.
- (4) Follow tenant screening, property management, and service delivery practices for these ~~Supportive Housing~~ units in accordance with the core components of Housing First set forth in Welfare and Institutions Code, Section 8255. As of 2018, these core components are:
 - (A) Tenant screening and selection practices that promote accepting Applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.
 - (B) Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of “housing readiness” (perceived inability to live independently due to untreated mental health or substance abuse issues, or lack of life skills, such as impulse control or ability to manage personal finances). Applicants may be rejected for failure to qualify for a public rental assistance program that considers criminal history in determining eligibility.
 - (C) Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness.
 - (D) Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.
 - (E) Participation in services or program compliance is not a condition of permanent housing tenancy.
 - (F) Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in the Cal. Civ. Code, HSC, and GC.
 - (G) The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction unless such use may potentially result in the forfeiture of the real property to any governmental entity.

- (H) Case Managers and service coordinators who are trained in, and actively employ evidence-based practices for client engagement, including, but not limited to, motivational interviewing and client-centered counseling.
 - (I) Services are informed by a harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants' lives, where tenants are engaged in nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices, as well as connected to evidence-based treatment, if the tenant so chooses.
 - (J) The project and specific units may include special physical features that accommodate persons with disabilities, reduce harm, and promote health, community, and independence among tenants.
- (5) Fill vacancies for Special Needs ~~Supportive Housing~~ Units with referrals of people experiencing Chronic Homelessness or high acuity households from the local CES, where this system is actively referring households to supportive housing.
- (A) If the local CES fails to refer tenants within 60 days of written notification of a vacancy, these ~~Supportive Housing~~ Units may be filled by referrals from other sources, including homeless shelters.
 - (B) Where the local office of the U.S. Department of Veterans Affairs is not participating in a CES, vacancies may be filled by veterans experiencing Chronic Homelessness, which are referred directly by this office.
 - (C) If acuity (the severity of presenting issues) is used as the basis for selecting tenants, it must be measured using the VI-SPDAT or some other standardized assessment tool approved by the Department.
- (6) Provide on-site Comprehensive Case Management services, with a resident to Case Manager ratio for Supportive Housing Units not exceeding 20 to 1.
- (7) Be operated in accordance with property management and supportive service plans approved by the Department, initially at time of application and then at such later time or times prior to occupancy as the Department may require.
- (8) Comply with the integration requirements specified in subdivision (g) hereof.
- (9) Track and provide annual reports to the Department on tenant characteristics as specified in Section ~~7325~~ 7326.
- (f) Special Needs Projects must demonstrate integration of targeted populations with the general public by:
- (1) Physically integrating Department Assisted Units restricted to ~~Supportive Housing~~ or Special Needs target populations having disabilities, with other units, to the maximum extent feasible and subject to reasonable health and safety requirements, consistent with 24 CFR, Section 8.26.

- (2) In Projects with more than 20 units, have no more than 49 percent of total units restricted under any “Department Funding Sources”, as defined in Section 7302(i) below, to occupancy by Supportive Housing or disabled Special Needs Populations. This limitation shall not be interpreted to preclude occupancy of any Project Units by persons with disabilities, or restrictions by other funding sources, including but not limited to TCAC, that result in more than 49 percent of total Project Units being restricted to persons with disabilities. It shall also not apply to projects complying with alternative requirements for demonstrating Olmstead compliance adopted by counties and approved by the Department.
- (3) Disabled Special Needs Populations include individuals with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals with intellectual disabilities, or developmental disabilities; individuals with serious mental illness; Chronically Homeless; and individuals with chronic illness, including HIV.
- (g) Projects proposed by Tribal Entities must meet the following requirements:
- (1) Projects satisfy one of the following:
- (A) Located in Indian country as defined by 18 USC 1151 ; or
- (B) Located on fee land.
- (2) The Applicant meets the following conditions of award funding (which conditions are not, however, conditions to engaging in the competitive award process) as and to the extent applicable and set forth in a Standard Agreement:
- (A) BIA Consent. The Bureau of Indian Affairs (BIA) has consented to Applicant’s execution and recordation (as applicable) of all Department-required documents that are subject to 25 CFR sec. 152.34 or 25 CFR sec. 162.12, prior to award disbursement.
- (B) Personal and Subject Matter Jurisdiction. Personal and subject matter jurisdiction in regard to the Standard Agreement, Project, or any matters arising from either of them is in state court and the Department has received any legal instruments or waivers, all duly approved and executed, as are or may be legally necessary and effective to provide for such personal and subject matter jurisdiction in state court.
- (C) Title Insurance. The Department has received title insurance for the property underlying the Project that is satisfactory to the Department. Notwithstanding the foregoing sentence, upon a showing of good cause, for Applicants unable to provide a conventional title insurance policy satisfactory to the Department, this condition may be satisfied by a title condition report issued by the BIA Land Title and Records Office and pursuant to a title opinion letter issued for the benefit of the Department but paid for by the Applicant.
- (D) Recordation Requirements. Where recordation of instruments is a condition of award funding or otherwise required under or pursuant to the Standard Agreement, the subject instrument is recorded with the Land Titles and Records Office at the BIA or in the appropriate official records of the County in which the Project property is located, as may be applicable.

(h) Multiple Department Funding Sources

Use of multiple Department funding sources on the same Assisted Units is permitted, subject to the following limitation:

- (1) No more than two Department Funding Sources plus two infrastructure grants may be used on a single Project.

Infrastructure grants include Affordable Housing Sustainable Communities Housing Related Infrastructure, Transit Oriented Development Infrastructure, or Infill Infrastructure Grant program grants.

- (2) Funding limits set forth in subsection (1) shall not include Department funds awarded for purposes other than capital improvements, such as loans or grants for non-housing related infrastructure, transit amenities, programs, or rental and operating subsidies.

- (3) “Department Funding Sources” shall mean loan or grant funds awarded for permanent funding of development costs (which shall not include funds specifically designated for capitalized operating or operating subsidy reserves) under the following programs:

(A) Supportive Housing Multifamily Housing program;

(B) Multifamily Housing Program;

(C) Veterans Housing and Homelessness Prevention program;

(D) No Place Like Home Program, including funds awarded either by the Department or an Alternative Process County, but not grants or loans for capitalized operating subsidy reserves;

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

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

(G) Joe Serna, Jr. Farmworker Housing Grant program;

(H) Housing for a Healthy California program, including funds awarded either by the Department or a county, but not grants for operating reserves or rental assistance; and

(I) National Housing Trust Fund Program.

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

(i) Assisted Unit Requirements

- (1) The number of Assisted Units shall equal the number of Restricted Units to the extent allowed by the requirements of Article XXXIV of the California Constitution and UMR Section 8304(c).
- (2) Where multiple Department programs assist the Project and the jurisdiction does not have Article XXXIV authority, the Department's total regulatory authority shall not exceed 49 percent of the Project's total units. In jurisdictions having Article XXXIV authority, the Department's total regulatory authority shall not exceed the allocation of authority, up to 100 percent of the Project units.
- (3) The units regulated by the Department, including MHP Assisted Units, shall include those with the lowest income limits.

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

Section 7303. Eligible Sponsor.

- (a) A Sponsor shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited liability company, local public entity, or Tribal Entity, or any combination thereof which meets the requirements of subsection(c), below.
- (b) A Sponsor shall be organized on a for-profit, including limited profit, or nonprofit basis.
- (c) To be eligible for funding, a Sponsor must demonstrate experience relevant to developing and owning affordable rental housing through evidencing current capacity as set forth in the MHP application and NOFA, and both of the following:
 - (1) Successful prior development and ownership of affordable rental housing.
 - (2) Employment of a staff with demonstrated experience owning and developing affordable rental housing.
- (d) Evaluation of Sponsor capacity will be based upon certifications of the Sponsor at the time of application, demonstrated employment of skilled, knowledgeable staff, including qualified property management, and past performance of LIHTC and/or Department-funded projects. As deemed necessary by Program staff, additional information may be requested to determine Sponsor capacity.
- (e) If the Sponsor is a joint venture and qualifies as an eligible Sponsor under the preceding subsections based on the experience of only one joint venture partner, that partner must have a controlling interest in the joint venture and a substantial and continued role, for a minimum of 15 years, in the Project's ongoing operations, as evidenced in the documents governing the joint venture. Transfer of the controlling interest shall be subject to Department approval pursuant to Section 7323.
- (f) If a Sponsor relies upon the experience of its principal to meet the Sponsor eligibility requirements, documentation of the principal's experience is required as set forth in the application and NOFA.

- (g) Tribal Entities and BIPOC Developers may contract with an experienced developer who will not be a general partner to meet the requirements of subsection (c) provided that the contract is fully executed at time of application submission and shall be in effect at least until permanent loan closing and the issuance of 8609 tax forms, if applicable.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.6 and 50675.7(c)(3), HSC.

Section 7304. Eligible Uses of Funds.

- (a) Funds shall be used only for approved eligible costs that are incurred on the Project as set forth in this section, including the Refinance of interim loans used to pay such costs. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost consistent with the Project's scope and area as determined by the Department.
- (b) Eligible costs include the following:
- (1) Property acquisition;
 - (2) Refinancing of existing long-term debt, only in connection with a Project involving a Rehabilitation contract in an amount equal to or exceeding the amount specified in UMR Section 8312(a)(1), and only to the extent necessary to reduce debt service to a level consistent with the provision of Affordable Rents in Assisted Units and with the Fiscal Integrity of the Project;
 - (3) Land lease payments;
 - (4) Construction and Rehabilitation work;
 - (5) Offsite improvements, such as sewers, utilities and streets, directly related to, and required by the Rental Housing Development;
 - (6) Onsite improvements related to the Rental Housing Development;
 - (7) Architectural, appraisal, engineering, legal and other consulting costs and fees, which are directly related to the planning and execution of the Project and which are incurred through third-party contracts;
 - (8) Development costs of a residential Unit reserved for an onsite manager, childcare, after-school care, adult daycare, or social service and health amenities integrally linked to, and addressing the needs of the tenants of the Assisted Units.

Health amenities does not include any "health facility" as defined by Section 1250 of the Health and Safety Code (HSC) or any "alcoholism or drug abuse recovery or treatment facility" as defined by Section 11834.02 of the HSC.
 - (9) A reasonable Developer Fee subject to the provisions of Section 7305;
 - (10) Rent-Up Costs;

- (11) Reasonable carrying costs during construction, including insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the Rental Housing Development is under construction;
 - (12) Building permits and state and local fees;
 - (13) Capitalized operating and capitalized replacement reserves up to the amount of the initial deposit required by the Department pursuant to UMR Sections 8308(b) and 8309(b);
 - (14) Escrow, title insurance, recording and other related costs;
 - (15) Costs for items intended to assure the completion of construction, such as contractor bond premiums;
 - (16) Environmental hazard reports, surveys, and investigations;
 - (17) Costs of relocation benefits and assistance required by law; and
 - (18) Any other costs of Rehabilitation or new construction approved by the Department.
- (c) Except as provided in subsection (b)(8) above, no Program funds shall be used for costs associated exclusively with non-Restricted Units or Commercial Space. A Manager's Unit may be considered as a Restricted Unit for the purpose of allocating development costs. If only a portion of the Rental Housing Development consists of Restricted Units, the Program loan amount shall not exceed the sum of the following:
- (1) The costs of all items specified in subsection (b), above, associated exclusively with the Restricted Units;
 - (2) A share of the costs of common areas used primarily by residential tenants. This share shall be in direct proportion to the ratio between the gross floor area of the Restricted Units and the gross floor area of all residential units; and
 - (3) A share of the cost of other items such as roofs that cannot be specifically allocated to Restricted Units, non-Restricted Units, or Commercial Space. This share shall be in direct proportion to the ratio between:
 - (A) The gross floor area of the Restricted Units, plus a share of the gross floor area of common areas used primarily by residential tenants in direct proportion to the ratio between the gross floor area of the Restricted Units and the gross floor area of all units; and
 - (B) The total gross floor area of the structure or structures.

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

Section 7305. Cost Limitations.

- (a) Projects development costs must be reasonable, as specified in UMR 8311(a) and (b). The limits on development costs specified in UMR Section 8311 shall apply, except that:

- (1) For related party sales, property acquisition prices may be set at levels that allow for recovery of verified holding costs, the assumption of existing debt, and the maximization of acquisition tax credits. However, any proceeds realized by the seller, above their costs, shall be contributed back to the Project.
 - (2) The amount of funds set aside, borrowed, or applied to cover future land lease payments, must be discounted to the present value of these payments.
- (b) The limits on Developer Fee specified in UMR Section 8312 shall apply, except that:
- (1) For non-tax credit projects, the total Developer Fee shall not exceed \$2,200,000. In addition, the Developer Fee paid from development funding sources shall not exceed the per unit limit calculated in accordance with UMR Section 8312(a).
 - (2) For projects utilizing four percent tax credits, Developer Fee payments shall not exceed the amount that may be included in project costs pursuant to Title 4 CCR, Section 10327(c)(2)(A); and
 - (3) Section 8312(d) shall not apply.
 - (4) ~~In addition, the Developer Fee paid from development funding sources shall not exceed the following:~~
 - ~~(A) For acquisition and/or Rehabilitation projects or adaptive reuse projects, the lesser of the amount of Developer Fee in project costs or \$2,000,000.~~
 - ~~(B) For new construction projects, the base limit shall be the lesser of the amount that may be included in project costs or \$2,200,000. To arrive at the final limit on Developer Fee paid from development funding sources, the base limit shall then be multiplied by a ratio that is the average of (i) the difference between two and the project's high-cost ratio, as calculated pursuant to Title 4 CCR, Section 10317(i)(6) or successor language and (ii) 100 percent.~~

Section 7306. Type and Term of Loan.

- (a) Program funds shall be used for post-construction, permanent financing only.
- (b) The initial term of the loan shall be 55 years (50 years for projects located in Indian country, where external requirements preclude a 55 year term.), commencing on the date recordation of the Program loan documents.
- (c) The Program loan shall be secured by the Project real property and improvements, subject only to liens, encumbrances and other matters of record approved by the Department pursuant to UMR Section 8315. The Program loan shall have priority over loans provided by the Affordable Housing Program administered by the Federal Home Loan Bank.
- (d) For projects located in Indian country, the subject instrument shall be deemed sufficiently recorded if recorded with the Land Titles and Records Office at the BIA or if the subject instruments are recorded in the County recording system having jurisdiction over the property. If a Department loan is recorded on fee land then there must be a restriction preventing that land from being put into trust until the Department loan/grant term is complete.

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

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

Section 7307. Maximum Loan Amounts.

- (a) The MHP loan amount shall not exceed the total eligible costs required, when considered with other available financing and assistance, including the full amount of any tax credit equity generated by the Project, in order to:
- (1) Enable the acquisition, development and construction or Rehabilitation of the Rental Housing Development;
 - (2) Ensure that Rents for Assisted Units comply with Program requirements; and
 - (3) Operate in compliance with all other Program requirements.
 - (4) With the exception of deferred Developer Fee, Department funds shall not be used to supplant other available financing, including funds committed by local jurisdictions.
- (b) The MHP loan amount is further limited to the sum of:
- (1) A base amount per Restricted Unit; plus
 - (2) The amount per Restricted Unit required to reduce Rents from 30 percent of 60 percent of AMI to the actual maximum restricted Rent for the Unit, assuming that the Rent reduction will be achieved by substituting Program funds for private amortized debt, and calculated by the Department based on private market multifamily rental loan terms available at the time of issuance of each NOFA.
 - (3) For projects utilizing four percent (4%) tax credits, or no tax credits, the initial base amount shall be as follows:
 - (A) \$175,000 per Department Assisted Unit qualifying as Special Needs Supportive Housing;
 - (B) \$175,000 per Restricted Unit in a Large Family new construction project located in a “High Resource” or “Highest Resource” area on the TCAC/HCD Opportunity Map, regardless of unit size; and
 - (C) \$150,000 per other Restricted Unit and any Manager Units.
 - (4) For projects utilizing nine percent (9%) tax credits the initial base amount shall be as follows:

- (A) \$110,000 per Department Assisted Unit qualifying as Special Needs Housing;
 - (B) \$110,000 per Restricted Unit in a Large Family new construction project located in a “High Resource” or “Highest Resource” area on the TCAC/HCD Opportunity Map, regardless of unit size; and
 - (C) \$95,000, per other Restricted Unit and any Manager’s Unit.
- (5) The loan limits specified in subsection (3) and (4) shall be calculated based upon the type of tax credits selected in the MHP Application.
 - (6) The Department may periodically adjust this amount as necessary to ensure a sufficient volume of applications that meet the objectives of the Program, as evidenced by high rating scores received under Section 7320(b). When adjusting the base amount, the Department shall consider (A) demand evidenced in previous funding rounds; (B) the total amount of Program funds available for awards; (C) trends in Project development costs; and (D) trends in the terms and availability of supplemental development funding sources.
- ~~(c) For a Project required to be constructed as a condition of approval of one or more market rate developments pursuant to an inclusionary housing ordinance, or similar local requirement, units required under the ordinance or other requirement shall not be counted in determining applicable loan limits, except for units restricted under the Program at a lower rent level than required by the ordinance, in which case the loan amount shall be limited to the amount required to reduce rents from the level required under the ordinance or other requirement to the program-restricted amount, calculated using the loan limit tables published by the Department. For example, if the local requirement is to construct 60 percent AMI units and the Applicant requests MHP funds to provide 30 percent AMI units, the per-unit loan limit shall be the difference between amount shown in the loan limit tables published by the Department for 60 percent AMI units and the amount shown for 30 percent AMI units.~~
 - (c) For loan limit calculations, the Unit count shall include the number of single-family houses or the number of Units within an apartment building or Residential Hotel. ~~regardless of whether bedrooms are rented individually.~~
 - (d) The MHP loan limit will be calculated based upon the units’ level of income restriction and number of bedrooms per Unit.
 - (e) In each NOFA, the Department shall establish a maximum per Project loan amount. This maximum shall be set at a level that ensures sufficient demand for Program funds while meeting the Program’s geographic and other distribution goals, taking into account the demand evidenced in previous funding rounds, the availability of other sources of rental subsidy financing and the total amount of Program funds available for award.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1 and 50675.6(e), HSC.

Section 7308. Interest Rate and Loan Repayments.

- (a) Loans shall bear simple interest on the unpaid principal balance at a rate that is the lesser of:
 - (1) Three percent per annum; or,

- (2) if a project has received an allocation of tax credits, the maximum rate that allows the Program loan to be treated as debt for federal or state low-income housing tax credit purposes, or that avoids the inability to syndicate due to projected negative capital account balances, but not less than 0.42 percent, but only if the change in interest rate:
 - (A) Materially increases the feasibility of the Project; and
 - (B) Ensures long term affordability for the residents.

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

- (b) Interest shall accrue from the date that funds are disbursed by the Department to or on behalf of the Sponsor.
- (c) For the first 30 years of the loan term, payments in the amount of 0.42 percent of the outstanding principal loan balance shall be payable to the Department commencing on the last day of the Initial Operating Year and continuing on each anniversary date thereafter. The balance of accrued interest shall be payable out of Operating Income remaining after payment of approved Operating Expenses, debt service on other loans, reserve deposits, and Sponsor Distributions. Commencing on the 30th anniversary of the last day of the Initial Operating Year, interest shall be payable in an amount equal to the lesser of: (1) the full amount of interest accruing on the outstanding principal loan amount; or (2) the amount determined by the Department to be necessary to cover the costs of continued monitoring of the Project for compliance with the requirements of the Program. HUD Section 811 and 202 projects will be subject to the requirements of this subsection.
- (d) Except for the required payment of 0.42 percent of the outstanding principal loan balance, the Department shall permit the deferral of accrued interest for such periods and subject to such conditions as will enable the Sponsor to maintain Affordable Rents, maintain the Fiscal Integrity of the Project, and pay allowable Distributions pursuant to UMR Section 8314.
- (e) All Program loan payments (including the 0.42 percent loan payment) shall be applied in the following order: (1) to any expenses incurred by the Department to protect the property or the Department's security interest in the property, or incurred due to the Sponsor's failure to perform any of the Sponsor's covenants and agreements contained in the deed of trust or other loan documents; (2) to the payment of accrued interest; and (3) to the reduction of principal.
- (f) The total outstanding principal and interest, including deferred interest, shall be due and payable in full to the Department at the end of the loan term including any extension granted by the Department.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1 and 50675.6(c), HSC.

Section 7309. Appraisal and Market Study Requirements.

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

- (1) Establish a market value for the land to be purchased or leased as part of the Project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to Section 7304.
 - (2) Assist with establishing other reasonable development costs pursuant to Section 7304.
 - (3) Assess Fiscal Integrity.
 - (4) Verify an adequate tenant market.
- (b) Any appraisal required by the Department shall be prepared at the Sponsor's expense by an individual or firm which:
- (1) Has the appropriate license and the knowledge and experience necessary to competently appraise low-income residential rental property;
 - (2) Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;
 - (3) In reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property; and
 - (4) Is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.
- (c) Any market study required by the Department shall conform to the market study guidelines adopted by TCAC and be prepared at the Sponsor's expense by an individual or firm which:
- (1) Has the knowledge and experience necessary to conduct a competent market study for low-income residential rental property;
 - (2) Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study;
 - (3) In reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true market needs for low-income residential property; and
 - (4) Is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.
 - (5) For projects that serve Special Needs Housing Populations, the Sponsor shall provide supplemental market information supporting the demand for the target populations. Sources of supplemental information may include local agencies having experience with the target population, Regional Centers, local Veteran's Services Office, local rapid re-housing providers, local farm bureau, or other third-party source.
 - (6) For Special Needs Housing Projects that receive referrals from the local CES, market demand is assumed, so supplemental market information is not required.

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

Section 7310. [Reserved]

Section 7311. Rent and Unit Designation Adjustment. ~~Section 7311. Over-income Households.~~

For Assisted Units:

- (a) If, at the time of recertification, a tenant household's income exceeds the limit for an income level applicable to new tenants that is greater than the income limit designated for the household, and, to the extent a rent increase for the household is permitted by statutes and regulations governing the low income housing tax credit program, the Sponsor shall:
- (1) ~~Shall~~ re-designate the tenant's Unit as a Unit at the higher income level;
 - (2) ~~Shall~~ increase the tenant's Rent to the level applicable to Units at the higher income level; and
 - (3) ~~Shall~~ designate the next available comparable Unit as a Unit at the income level originally applicable to the household until the Unit mix required by the Program Regulatory Agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms as the original Unit.

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

- (b) If at the time of recertification a tenant household's income exceeds the income limit designated for the household's Unit, but does not exceed the limit for a higher income level applicable to new tenants, the Sponsor may increase the household's Rent to an amount not exceeding the Rent limit applicable to the household's income level at the time of recertification. For purposes of this subsection, income levels shall not be limited to those applicable to new tenants and shall consist of five percent increments of AMI. Continuing with the example described in the subsection (a), the income levels utilized to establish Rent limits upon recertification would be 20 percent, 25 percent, 30 percent, 35 percent, etc. A household occupying a Unit in this project with a 20 percent limit whose income, upon recertification, had increased to 32 percent of AMI could have their Rent increased to the Rent level applicable to the 35 percent income level. In accordance with Policy/Process Notice #2012-04, if a household income exceeds the income limit set for the highest restricted income band delineated in the Project's Regulatory Agreement, the unit restriction should be adjusted as appropriate for the household to qualify using five percent increments up to the maximum allowed by program regulations, e.g., 60 percent AMI, regardless, of the income bands specified in the Project's Regulatory Agreement Tenant Rent should be increased based on the new income level designation.

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

Section 7312. Rent Standards.

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

- (a) Rent limits for initial occupancy and for each subsequent occupancy by a new Eligible Household shall be based on Unit type, applicable income limit, and area in which the Project is located, following the calculation procedures used by TCAC and using income limits in five percent increments of AMI, including the income limits utilized by the Program for this purpose pursuant to Section 7320(b)(1). The maximum Rent limit shall be 30 percent of 60 percent of AMI for the appropriate Unit size.
- (b) Rents will be further restricted in accordance with Rent and income limits submitted by the Sponsor in its application for the Program loan, approved by the Department, and set forth in the Regulatory Agreement. Rents shall not exceed 30 percent of the applicable income eligibility level.
- (c) Rents in Assisted Units may be adjusted no more often than annually. The amount and method of adjustment for Assisted Units shall be in accordance with the regulations and procedures used by TCAC.
- (d) The Department may permit an annual Rent increase greater than that permitted by this Section if the Project's continued Fiscal Integrity is jeopardized due to factors that could not be reasonably foreseen.
- (e) For Units receiving HUD Section 8 or other similar rental assistance, the rules of the rental assistance program pertaining to Rent increases will prevail for as long as the rental assistance remains in place. Changes in the tenant contribution amounts may occur more often than annually as required by the rental assistance program.
- (f) Where a Project is receiving renewable Project-based rental assistance:
 - (1) The Sponsor shall in good faith apply for and accept all renewals available;
 - (2) The Sponsor shall fund a transition reserve to be used in the event the rental assistance contract is terminated. The transition reserve shall be in an amount sufficient to prevent, for one year, Rent increases for Units that formerly received rental assistance and were restricted to households with incomes not exceeding 30 percent of AMI. The transition reserve may be capitalized or funded from annual project cash flow in amounts to be approved by the Department. Use of funds in the reserve shall be subject to the review and approval of the Department; and
 - (3) If the Project-based rental assistance is terminated, the owner shall notify the Department in writing immediately upon notice of rental assistance contract termination and shall make every effort to find alternative subsidies or financing structures that would maintain the tenant income, rent, and special population targeting specified in the Department's Regulatory Agreement. Upon documenting to the Department's satisfaction unsuccessful efforts to identify and obtain alternative resources, and where the termination occurs through no fault of the owner:

- (A) Rents and income limits for Units previously covered by this rental assistance may be increased above the levels allowed pursuant to subsection (c), above, but only to the minimum extent required for Fiscal Integrity, as determined by the Department, with income limits not to exceed 60 percent of AMI and Rents not to exceed 30 percent of 60 percent of AMI.
 - (B) Restrictions for Units previously covered by this rental assistance requiring occupancy by special populations, including by Persons Experiencing Homelessness, Persons Experiencing Chronic Homelessness and Special Needs Populations, may be modified or eliminated, but only to the minimum extent required for Fiscal Integrity, as determined by the Department.
 - (C) Any increase in Rents and income limits pursuant to subsection (A) above, or modification of special population occupancy requirements pursuant to subsection (B), shall require advance Department approval. To the maximum extent possible, these changes shall minimize the impact on the lowest income Project residents and shall be phased in as gradually as possible.
 - (D) If, following any increase in Rents and income limits pursuant to subsection (A) above, or modification of special population occupancy requirements pursuant to subsection (B) above, new resources become available, or market demand changes, allowing reversion to the former income and Rent limits or special population occupancy requirements, the Department may re-impose these income and Rent limits or special population occupancy requirements, in whole or in part, subject to an analysis of Project feasibility.
- (4) Based on an analysis of the risk associated with specific rental assistance programs, the Department may modify the requirements of subsection (2) above by an amendment to these guidelines. This modification may include adjusting the amount of the required reserve, setting different amounts for different rental assistance programs to reflect the relative risk associated with these programs, allowing the reserve to be funded and controlled by a locality, establishing a reserve funded and held by the Department rather than the Sponsor, or adjusting the level to which Rents may be increased upon rental assistance contract termination.

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

Section 7313. Use of Operating Income.

- (a) Notwithstanding UMR Section 8314(a)(1), first-priority use of operating income remaining after payment of approved current and prior year operating expenses, reserve deposits and mandatory debt service shall be payment of any:
 - (1) Approved deferred Developer Fee, pursuant to Section 7305, provided that the aggregate of the Developer Fee paid from sources and paid as deferred shall not exceed \$3,500,000.
 - (2) Asset management, partnership management, and similar fees, including fees paid to investors, in an amount not to exceed the sum of:

- (A) An amount for the current year, equal to \$30,000 for 2016 and increased at the rate of 3.5 percent for each subsequent year, plus
 - (B) Unpaid asset management, partnership management, and similar fees accrued for a period not to exceed three project fiscal years following the year during which they are earned, up to the difference between the limit for the year and the amount paid for that year; and
- (3) Supportive Services Costs that the UMRs would allow to be paid as operating costs, but that other funding sources do not.
- (b) Any operating income remaining after the payments listed in the previous subsection (a) shall be applied in accordance with UMR Section 8314(a)(2).
- (c) The requirements of UMR Section 8314(b) through 8314(h) shall apply.

Section 7314. State and Federal Laws, Rules, Guidelines and Regulations

The Sponsor agrees to comply with all applicable state and federal laws, rules, guidelines and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Development, the Sponsor, its contractors or subcontractors, and any Loan activity.

(a) Fair Housing Act

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

(b) Americans with Disabilities Act and Accessibility

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

- (1) New Construction Projects: All new construction projects shall adhere to the accessibility requirements set forth in Chapter 11A and 11B of the California Building Code (CBC).
- (2) All new construction projects must provide a minimum of five percent (5%) of the units with features accessible to persons with mobility disabilities plus a minimum of two percent (2%) of the units with features accessible to persons with hearing or vision disabilities
- (3) Compliance and Verification: Prior to loan closing, the Sponsor shall provide a certification of compliance, signed by the Borrower and the project architect as well as third party documentation confirming compliance (by a CASP certified architect or someone with demonstrated experience meeting federal accessibility standards.)

(c) Violence Against Women Act

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

(d) California State Prevailing Wage Law

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

(e) Pet Friendly Housing Act

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

Section 7315. Relocation Requirements.

- (a) The Sponsor of a Project resulting in displacement of residential tenants shall be solely responsible for providing the assistance and benefits set forth in this section and in applicable state and federal law and shall agree to indemnify and hold harmless the Department from any liabilities or claims for relocation-related costs.
- (b) All tenants of a property who are displaced as a direct result of the development of a Project shall be entitled to relocation benefits and assistance as provided in Title 1, GC, Division 7, Chapter 16, commencing at § 7260, and Title 25 CCR, Subchapter 1, Chapter 6, commencing at Section 6000. Displaced tenants who are not replaced with Eligible Households under this Program shall be provided relocation benefits and assistance from funds other than Program funds.
- (c) The Sponsor shall prepare or update a relocation plan in conformance with the provisions of Title 25 CCR, Section 6038. The relocation plan shall be subject to the review and approval by the Department prior to the disbursement of Program funds.
- (d) All Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy Assisted Units meeting the tenant occupancy standards set forth in UMR Section 8305.
- (e) All in-Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy any available non-Assisted Units for which they qualify.

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

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Title 1, GC, Division 7, Chapter 16 (commencing with § 7260).

Section 7316. Construction Requirements.

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

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

- (1) Operating costs shall be minimized during the useful life of the Rental Housing Development.
 - (2) Tenant security shall be enhanced through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.
 - (3) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the Project.
- (b) The Sponsor shall ensure that the construction work for the Project is performed in a competent, professional manner at the lowest reasonable cost consistent with the Project's scope, design, and locality and not in excess of the total funds available.
- (c) The Sponsor shall enter into a written contract for the construction or Rehabilitation work with a contractor having the appropriate state license.
- (d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions and representations between the parties and shall specify a total contract price consistent with the Project budget approved by the Department.
- (e) The Sponsor shall ensure the construction contract requires compliance with state prevailing wage law (Labor Code, Chapter 1, Part 7, Division 2, commencing with Section 1720). The construction contract shall require the contractor to maintain labor records as required by law, and to make these records available to any enforcement agency upon request.

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

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.5 and 50675.7, HSC.

Article 3. Application Procedures

Section 7317. Application Process.

- (a) The Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, application requirements, the allocation of rating points, minimum eligibility threshold point scores, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible those Project applications for which the Department has issued, or concurrently will issue, a special NOFA pursuant to subsection (b)(4), below. Applications selected for funding shall be approved at loan amounts, terms, and conditions specified by the Department. For each Project selected for funding, the Department shall issue an award letter and standard agreement.
- (b) Substituting previously awarded Department funds is prohibited, except as provided herein. Applicants seeking to substitute previously awarded funds must request withdrawal of their prior award in writing and provide reasonable justification that the substitution is necessary to ensure project feasibility. Substitutions based solely upon Sponsor preference or convenience will not be permitted. Department approval of the withdrawal is required prior to the application due date without assurance of receiving a new award. This prohibition applies to funds awarded under any Department program, including a prior MHP award.
- (c) Applications for funding while a separate, concurrent application is pending shall not be considered. For example, if a Sponsor has submitted an Affordable Housing Sustainable Communities (AHSC) application prior to the MHP application deadline, the AHSC application is under review, the AHSC application does not include funding available under the applicable MHP NOFA and the MHP NOFA application does not include AHSC funding, the application will be deemed ineligible. Concurrent applications proposing the same Department funding sources is permitted.
- (d) In order to implement goals and purposes of the Program, the Department may adopt measures to direct funding awards to designated Project types including, but not limited to, Rural Area Projects, Projects located in areas needing additional funding to achieve a reasonable geographic distribution of Program funds, Projects preserving continued affordability, and Projects with specified funding characteristics. These measures may include, but are not limited to:
- (1) Issuing a special NOFA for designated Project types.
 - (2) Awarding bonus points within a particular NOFA to designated Project types.
 - (3) Reserving a portion of funds in the NOFA for designated Project types.
 - (4) Notwithstanding anything in these guidelines to the contrary, a special NOFA issued pursuant to this subsection may establish an over-the-counter application process, meaning the Department continuously accepts and rates applications according to minimum threshold criteria published in a NOFA for the process, and makes loans to Projects that meet or exceed these criteria until the funding available for the process is exhausted. At a minimum, a special NOFA shall include a description of the application process and funding conditions, shall require compliance with Section 7319 20(a), and

shall establish minimum funding threshold criteria based on the rating criteria set forth in Section 7320~~(b)~~.

- (e) Of the total MHP funds awarded and authorized by the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1), the share that is awarded to Senior Projects shall be not less than the percentage of lower income renter households in the state that are lower income elderly renter households.
 - (1) The required percentage shall be calculated using data from the American Community Survey or successor survey conducted by the U.S. Census Bureau, as defined and reported by HUD. The required percentage shall be calculated using HUD's most recent definitions and report of the data.
 - (2) In each funding round, to the extent the Department receives applications meeting the requirements of Section 7320, the amount of awards to Senior Projects will be sufficient to make the share of total cumulative Proposition 1 MHP awards to Senior Projects at least equal to the percentage calculated pursuant to the preceding subsection, less one percent.
 - (3) The required percentage as of the effective date of these guidelines is 18.3 percent.
- (f) The top ranked application submitted by an eligible Tribal Entity and meets all threshold requirements pursuant to Section 7319, will receive an award of funds available under each NOFA. Lower scoring applications will be ranked among all other applications and may receive an award of funds pursuant to Section 7320.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1(c), 50675.6, 50675.7, HSC.

Section 7318. Application Content and Application Eligibility Requirements

- (a) Application shall be made on a form(s) made available by the Department, without modification, requesting the information deemed necessary by the Department to evaluate compliance with the MHP guidelines and all applicable statutes, regulations, and similar rules.
- (b) An application shall be deemed complete when: ~~The Department is able to review the application and assess the proposed project's feasibility pursuant to UMR section 8310 and to determine from the information provided whether the Project is eligible for rating and ranking pursuant to Section 7320.~~
 - (1) The application includes a letter providing prior notification to the local legislative body, or tribal governing body, pursuant to HSC Section 50675.7(e).
 - (2) The application meets all threshold requirements, as set forth in Section 7319, the NOFA and the application.
 - (3) The application includes authorizing resolutions of the governing boards of both the Sponsor and a co-Sponsor, except where the Sponsor(s) are individuals.
 - (4) The Department is able to review the application and assess the proposed project's feasibility pursuant to UMR Section 8310.

- (5) Pursuant to Section 7320, applications shall be evaluated based solely upon the contents of the application. If documents required for scoring are not included, the application will not be deemed incomplete; however, failure to submit necessary documents, as set forth in the NOFA or application, may adversely affect the score of the application. Information or documents received after the application submission deadline will not be considered.
- (c) The Sponsor shall disclose on the MHP application whether the Project will be part of an application to TCAC seeking hybrid tiebreaker incentives. This election is irrevocable. Once awarded, the Department will not break up or combine project awards to accommodate a conversion to or from a hybrid project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.6 and 50675.7, HSC.

Section 7319: Reserved Threshold Requirements

Projects shall not be eligible for an award of funds unless the application demonstrates that all the following threshold requirements have been met:

- (a) The Applicant is an eligible Sponsor pursuant to Section 7303;
- (b) The application involves an Eligible Project pursuant to Section 7302;
- (c) All proposed uses of Program funds are eligible pursuant to Section 7304;
- (d) The application is complete pursuant to Section 7318;
- (e) The Project will maintain Fiscal Integrity consistent with proposed Rents in the Assisted Units and is feasible pursuant to the underwriting standards in UMR Section 8310;
- (f) The Project site is free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove or cannot be mitigated;
- (g) The Project site is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the Project tenants.
- (1) At a minimum, public transportation shall be accessible via a walkable route. The walkable route, after completion of the proposed Project, shall be free of negative environmental conditions that deter pedestrian circulation, such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials or highways without regulated crossings that facilitate pedestrian movement; stretches without shade or cover; or stretches without lighted streets.
- (2) Projects involving new construction, acquisition and Substantial Rehabilitation, or conversion of nonresidential structures to residential dwelling units must be capable of accommodating broadband service with at least a speed of 25 megabits per second for downloading and 3 megabits per second for uploading (25/3). Internet service and its ongoing fee is not required.
- (h) Projects with Special Needs Units shall provide services suitable to the needs of the target population; and, the application shall demonstrate a specific, feasible plan for delivery and

funding of those services, including identification of the LSP, service delivery partners and funding sources, pursuant to Section 7326;

- (i) Projects that do not include Special Needs Units, shall provide service amenities sufficient to achieve a minimum score of 7 points pursuant to CDLAC Regulations, Section 5230(i).
- (j) The Project complies with the restrictions on demolition as set forth in UMR Section 8302; and
- (k) The Project complies with the site control requirements as set forth in UMR Section 8303. For projects developed in Indian country, the following exceptions apply:
 - (1) Where site control is a ground lease, the lease agreement between the Tribal Entity and the project owner is for a period not less than 50 years; and
 - (2) An attorney's opinion regarding chain of title and current title status is acceptable in lieu of a title report.

Section 7320. Project Selection Scoring

Applications shall be reviewed by the Department to determine compliance with Section 7319, above, and shall be rated and ranked in accordance with this Section. Applications shall be ranked in the order of their point scores. The Department may establish a preliminary point score and ranking, based on reported self-scores for applications prior to determining their compliance with Section 7319. If an application will not be within a fundable range as indicated by the preliminary ranking, the Department is not required to determine the application's compliance with Section 7319. Additional or alternative scoring may be implemented in particular NOFAs for designated Project types as described above in Section 7317(b).

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

1 Table: Criterion Maximum Score

Criterion	Maximum Score
Serving Lowest Income Levels	35
Addressing Most Serious Local Housing Needs	10 <u>15</u>
Development and Ownership Experience	20 <u>40</u>
Leverage of Other Funds	20
Readiness	15 <u>20</u>
Adaptive Reuse / Infill / Proximity to Amenities/ Sustainable Building Methods	15 <u>20</u>
<u>Cost Containment</u>	<u>20</u>
<u>Exceeding Minimum Accessibility Requirements</u>	<u>10</u>
Total	150 <u>160</u>

(a) **Extent to which the Project serves households at the lowest income levels – 35 points maximum**

Applications will be scored based on the percentage of Restricted Units limited to various percentages of AMI, adjusted by household size, and as follows:

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

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

Only projects in Rural Areas may use the 55 percent of AMI column.

Lowest Income Points Table (maximum 25 points):

2 Table: Percent of AMI

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

*Available to Rural Area projects only

- (2) An additional 10 points will be awarded to projects where at least 20 percent of the Restricted Units are restricted as follows:
 - (A) To households with incomes not exceeding 25 percent of AMI, in counties where AMI exceeds 150 percent of median family income for California, as reported by HUD (currently San Francisco, Santa Clara, San Mateo and Marin counties); or
 - (B) To households with incomes not exceeding 30 percent of AMI, in other counties.

The units receiving points under this subsection (2) must be spread across the various bedroom-count units, starting with the largest bedroom count units (e.g. four-bedroom units), and working down to the smaller bedroom count units, assuring that at least 20 percent of the larger units are proposed at 25 percent or 30 percent of area median income, as applicable. If the Applicant meets the 20 percent standard project wide, the 20 percent standard is not required among all the smaller units.

In Projects that rely on renewable project-based rental assistance contracts to maintain Fiscal Integrity consistent with the targeted income limits (and associated tenant Rents), scores will be based on the income and Rent limits applicable as long as the rental assistance contract remains in place.

(b) Extent to which the Project addresses the most serious identified local housing needs – maximum of two categories, not to exceed 15 points maximum

Five points will be awarded for each of the following conditions met by the Project, except for condition (1), which will be awarded 10 points:

- (1) Large Family or Special Needs new construction Projects located in a “High Resource” or “Highest Resource” area as shown on the TCAC/HCD Opportunity Area Map.
- (2) Large Family new construction Projects located in a “Moderate (rapidly changing)” or “Moderate Resource” area as shown on the TCAC/HCD Opportunity Area Map.

For purposes of subparagraphs (1) and (2), a project located in a resource area designated on the CTCAC/HCD Opportunity Area Map as "Missing/Insufficient Data" shall be considered to have the designation of the adjacent resource area that shares the longest common boundary with the area in which the project is located.

- (3) ~~Qualifying as both a Senior and Special Needs Project.~~ Large Family, Farmworker or Senior Projects having at least 15 percent of the Restricted Units restricted under the Program Regulatory Agreement as Assisted Units limited to occupancy by special needs populations.
- (4) Projects having at least 10 percent, or for Special Needs Housing Projects having at least 25 percent, of the Restricted Units restricted under the Program a Department Regulatory Agreement as Assisted Units limited to occupancy by Chronically Homeless households, with vacancies filled by referrals from the local CES, when and where this system is actively referring households to housing.
- (5) Meeting one or more of the following conditions:
 - (A) Consisting of the new construction or acquisition and Rehabilitation of units not subject to income and rent restrictions at the time of application, unless the restrictions are associated with acquisition financing closed less than five years prior to this date.
 - (B) Qualifying as At High Risk or involving the conversion of single occupancy units without kitchens and bathrooms to units with kitchens and bathrooms.
 - (C) The Program loan amount is limited to the amount necessary to reduce rents below existing levels, to create new Restricted Units, or to make accessibility improvements necessary for occupancy by disabled persons.

(c) Development and ownership experience of the Project Sponsor – ~~20~~ 40 points maximum.

- (1) Applications will be scored based on the number of subsidized Rental Housing Developments (including tax credit Projects) that the Sponsor has completed and operated

over the last ten years and whether ~~the they have identified performance problems~~
Sponsor is subject to penalties pursuant to subsection (9) below.

- (A) For completed projects, a Sponsor may include the experience of its controlled affiliated entities or its principals (e.g. employed by, and under the control of the Sponsor and responsible for managing development activities), but not the experience of non-management board members.
- (B) A Sponsor may include the experience of a partner (e.g. Joint Venture partners pursuant to Section 7303(e)) to gain experience points; however, the experienced partner must have a controlling interest in the ~~partnership~~ Project's ownership and a substantial and continued role in the Project's ongoing operations, as evidenced in ~~partnership~~ the organizational documents for the owner. ~~In such cases, points will be awarded based only on the experience of the more experienced partner. Any dissolution of the partnership or withdrawal of the more experienced partner will~~ Experience among partners shall not be aggregated. Any change in the ownership that reduces the Sponsor's role shall require prior written approval and recordation by the Department.
- (C) If a Sponsor relies upon the experience of its principal for scoring, documentation of the principal's experience is required as set forth in the NOFA and application.
- (2) To be counted towards experience pursuant to Section (c)(1), above, completed Projects cited for experience points must contain 10 or more units, except if the proposed Project contains less than 15 units and at least 70 percent of the total units in the proposed Project are reserved for Special Needs Populations. Completed Projects submitted for experience points must contain at least five units.
- (3) ~~Four~~ Two points will be awarded for each Project completed in the ~~five~~ ten years preceding the application due date, ~~and two points will be awarded for each Project completed in the five years preceding that period~~ up to a maximum of 20 points.
- (4) Five points will be awarded to projects submitted by BIPOC Developers, or Joint Venture which include a BIPOC partner, or by BIPOC Developers which have contracted with an experienced developer pursuant to Section 7320(c)(8), below.
- (5) Two points will be awarded for each completed project which is currently owned and operated by the Sponsor or its controlled affiliate and has been in operation for at least three years, prior to the application due date, up to a maximum of 6 points; plus
- (6) Three points will be awarded for each completed project which is currently owned and operated by the Sponsor or its controlled affiliate for at least five years, up to a maximum of 6 points; plus
- (7) Three points will be awarded if at least one completed project which is currently owned and operated by the Sponsor or its controlled affiliate for ten or more years.

Double counting of Projects claimed in sections (5), (6) and (7) is not allowed. However, Sponsors may include projects, which exceed the minimums for one category in another qualifying category (e.g. a Sponsor may have many projects which have been operating for at least five years. Two of these projects may be claimed in (6) and up to three projects can be included in (5)).

To receive points for (5), (6) or (7), above the Sponsor must submit a certification from a third party certified public accountant (CPA) that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents, rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial statement has been prepared and have funded reserves in accordance with the partnership agreement and any applicable loan documents. All projects proposed for points in these sections must be specifically named in the CPA certification.

Further, for projects funded by Department programs, which are included in the CPA's certification, the project(s) must have demonstrated satisfactory past performance history and not currently subject to penalties, as described in paragraph (h), below.

- (8) Where at least 70 percent of the Units in the proposed Project are reserved for Special Needs Populations, or the Sponsor is a Tribal Entity, or BIPOC Developer the Sponsor may elect to have its application scored based on:
- (A) The number of subsidized Rental Housing Developments that the Sponsor's development consultant or contracted developer has completed in the last 10 years; and
 - (B) The number of subsidized Rental Housing Developments that the Sponsor, or affiliates or principals of the Sponsor either own or operate under a long-term lease or other arrangement that involves all responsibilities commensurate with ownership. For Tribal Entities, subsidized Rental Housing Developments includes housing developed utilizing HUD federal funding, or management of HUD conventional housing projects.

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

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

Additionally, up to 15 points may be awarded for ownership experience pursuant to (5), (6) and (7) above.

- (9) Performance penalties shall be assessed pursuant to Administrative Memo No. XXXXX, as may be amended from time to time.

~~Five points will be deducted for each occurrence or event in the following categories, with a maximum deduction of 10 points per category and a maximum total deduction of 50 points, which shall offset positive points awarded under subsections (1) through (7):~~

- ~~(A) Removal or withdrawal under threat of removal as general partner as a consequence of failing to comply with contractual obligations.~~

- (B) ~~Failure to submit, when due, compliance documentation required under the Department Program.~~
 - (C) ~~Use of reserve funds for Department-assisted Projects in a manner contrary to Program requirements, or failure to deposit reserve funds as required by the Department;~~
 - (D) ~~Failure to provide promised supportive services to a Special Needs population or other tenants of a publicly funded Project without just cause;~~
 - (E) ~~Failure to restrict occupancy of units to a Special Needs population or other target population as required by a Department program or Regulatory Agreement for any publicly assisted project;~~
 - (F) ~~Other significant violations of the requirements of Department programs or of the programs of other public agencies, such as the failure to adequately maintain a Project or the books and records thereof.~~
- (10) If, during the permanent loan closing conversion, a project is unable to provide units restricted to occupancy by target populations for which points were awarded at time of application, and Sponsor requests and receives a modification of the occupancy requirement, penalties may be assessed on future applications. If a modification reducing or eliminating these occupancy restrictions would result in a reduction of points awarded at time of application, the penalty assessed will be equal to the amount of the point score reduction and will be deducted the first time application(s) are submitted under a NOFA following the date the modification was granted. In addition, where the loan limit is based on Supportive Housing Units and the occupancy of these units is modified, the MHP award may be reduced and excess funds disencumbered.

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

Events shall not result in the deduction of points if they have been fully resolved as determined by, or to the satisfaction of, the Department as of the application due date.

(d) Project Readiness – 20 points maximum, negative 5 points maximum

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

- (1) Four points will be awarded for obtaining enforceable commitments for all construction financing, not including, ~~tax exempt bonds~~, tax credits. Commitment of bond financing shall be evidenced by a lender commitment; allocation of bonds is not required. To be awarded these points, funding to be provided by another Department program must be awarded prior to final rating and ranking for the MHP application;
- (2) Four points will be awarded for adoption or certification of all necessary environmental reviews (California Environmental Quality Act and National Environmental Policy Act). Where NEPA is required solely for rental assistance provided under HUD's Housing

Assistance Program (HAP) with no federal funding capital improvements, completion of the NEPA review prior to application is not required.

- (3) Land use approvals
- (A) Three points will be awarded for obtaining all necessary land use approvals or entitlements necessary prior to issuance of a building permit, including any required discretionary approvals, such as site plan review or design review; or
 - (B) Two points will be awarded for submission of a complete application to the relevant local authorities for land use approval under a nondiscretionary local approval process, where the application has been neither approved or disapproved; or
 - (C) One point will be awarded for a letter signed by a planner certified by the American Institute of Certified Planners indicating that, in their opinion, the project meets all of the requirements for approval under a nondiscretionary local approval process, where an application has not been approved or disapproved by the local authorities.
 - (D) A “nondiscretionary local approval process” is one that includes little or no subjective judgement by the public official and is limited to ensuring that the proposed development meets a set of objective zoning, design review and/or subdivision standards in effect at the time the application is submitted to the local government. A “nondiscretionary local approval process” includes Streamlined Ministerial Approval Processing under to SB 35 (Chapter 366, Statutes of 2017) , By-Right Processing for Permanent Supportive Housing under Chapter 753, Statutes of 2018 (AB 2162)), housing element law (GC § 65583.2(i), or other local process that meets the definition of non-discretionary approval process.
- (4) Four points will be awarded for obtaining commitments for all permanent financing, grants and operating subsidies, excluding tax credits. ~~and in accordance with TCAC requirements and with the same exceptions as allowed by TCAC. Commitment of bond financing shall be evidenced by a lender commitment; allocation of bonds is not required.~~ Deferred-payment financing, grant funds and operating subsidies from other Department programs proposed for Project financing must be awarded prior to the final rating and ranking for the MHP application.
- For projects proposing project-based rental assistance, commitments are preferred, but not required; however, a fully executed subsidy contract will be required prior to loan closing.
- (5) Five points will be awarded when the Borrower, including all affiliated entities, is fully formed and all required organizational documents are submitted with the application.
 - (6) Five points will be subtracted for a Project utilizing low-income housing tax credits that will be part of an application to TCAC seeking hybrid tiebreaker incentives.
- (e) **Adaptive Reuse / Infill / Proximity to Amenities/ Sustainable Building Methods –15 20 points maximum.**

Except for Large Family or Special Needs Supportive Housing new construction projects located in “High Resource” or “Highest Resource” areas, which shall be scored in accordance with subsection (4) below, applications will receive five points for each of the following three conditions, up to a maximum of 15 points.

- (1) Infill development. Five points will be awarded for infill development, including adaptive reuse of a vacant and underutilized commercial or industrial building located in a developed area served with public infrastructure. The Project must be:
 - (A) Located on a site where either:
 - i. At least 75 percent of the site was previously improved (including areas where improvements have been demolished) or used for any use other than open space, agriculture, forestry, or mining waste storage; or
 - ii. At least 75 percent of the perimeter of the site's adjoining parcels that are developed with Urban Uses (residential, commercial, industrial, public institutional, transit or transportation passenger facility use, or retail use, or any combination of those uses) but not including lands used for agricultural uses or parcels in excess of 15,000 square feet in size and containing only one single family residence, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved parks shall not be included; or
 - iii. The combination of at least 50 percent of site area as previously improved (including areas where improvements have been demolished) or used for any use other than open space, agriculture, forestry or mining waste storage, and at least 50 percent of the perimeter of the site adjoining parcels that are developed with Urban Uses, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved parks shall not be included.
 - (B) Developed at average residential Net Densities on the parcels to be developed that are equal to or greater than the densities described in Subparagraph (B) of Paragraph (3) of Subdivision (c) of § 65583.2 of the GC, except that in a Rural Area the average residential Net Densities on the parcels to be developed shall be at least 10 units per acre. Minimum densities for localities that are not Rural Areas may be found at Appendix 1 of the Housing Element Law memorandum issued by the Department on "Default Density Standard Option (2010 Census Update)", dated June 20, 2012, and found at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. "Net Density" means the total number of dwelling units per acre of land to be developed for residential or mixed use, excluding allowed deductible areas. Allowed deductible areas are public dedications of land which are for public streets, public sidewalks, public open space, and public drainage facilities. Non-allowed deductible areas include utility easements, setbacks, private drives and walkways, landscaping, common areas and facilities, off street parking, drainage facilities exclusive to a Development project, and any other related mitigation space required for development.
- (2) Proximity to amenities. Five points will be awarded for projects achieving the maximum point score available for site amenities under TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325(c)(4)(A) or successor regulation.
- (3) Broadband access. Five points will be awarded for projects meeting the following requirements:

- (A) Residential dwelling units are capable of accommodating broadband service with at least a speed of 100 megabits per second for downloading and 20 megabits per second for uploading. Internet service and its ongoing fee is not required; AND
- (B) The application includes a plan for reducing barriers to access for project residents. The plan should be tailored to the needs of the tenant population and may include programs providing free or reduce internet prices; reasonable access to project facilities, computers, and shared Wi-Fi; and computer and Wi-Fi literacy training and technical assistance.

- (4) Sustainable building methods. Five points will be awarded for projects which meet or exceed the minimum building requirements set forth in TCAC Regulations, Section 10325(f)(7) achieving the maximum possible score available for using sustainable building methods under the TCAC Regulations, Section 10325(c)(5) or successor regulation.
- (5) Large Family or Special Needs Housing new construction projects located in “High Resource” or “Highest Resource” areas, as shown on the TCAC/HCD Opportunity Area Map, will receive five points plus five points for meeting each of the conditions described in subsections (2), (3) and (4) above, up to a maximum of 20 ~~15~~ points.

(f) **Cost Containment—20 points maximum**

Where the Department adjusted threshold basis limit is less than or equal to 125 percent of the adjusted threshold basis limit, as calculated in the High Cost Verification form and pursuant to UMR 8311, 4 points will be awarded for each full 5 percent increment below 125 percent.

(g) **Extent to which the Project exceeds the minimum accessibility requirements set forth in Section 7314(b)--10 points maximum.**

- (1) Seven points will be awarded to new construction projects providing a minimum of ten percent (10%) of the Restricted Units with mobility features and a minimum of five percent (5%) of the Restricted Units with communications features, as defined in CBC 11B;
- (2) Ten points will be awarded to new construction projects providing a minimum of fifteen percent (15%) of the Restricted Units with mobility features and a minimum of ten percent (10%) of the Restricted Units with communications features, as defined in CBC 11B;
- (3) Ten points will be awarded to rehabilitation projects providing a minimum of ten percent (10%) of the Restricted Units with mobility features and a minimum of four percent (4%) of the Restricted Units with communications features, as defined in CBC 11B or where full compliance would be impractical or create an undue financial burden as supported by a Physical Needs/Capital Needs Assessment and architect’s certification.

(h) **Performance Penalties—up to minus 50 points maximum**

Performance penalties shall be assessed pursuant to Administrative Memo No. XXXXX, as may be amended from time to time.

(i) **Tiebreaker Score**

In the event of tied point scores, the Department shall rank tied applications based on ~~the lowest weighted average affordability of Restricted Units~~ three factors: the lowest weighted average affordability of all residential units, leverage of other funds, and percentage of Restricted units limited to occupancy by homeless households, which shall be computed as follows:

- (1) Lowest weighted average affordability of all residential units:
 - (A) Multiply each income limit applicable to the Project by the number of Units restricted at that income level (market rate units shall be designated 100 percent AMI)
 - (B) Add the products calculated pursuant to the previous subsection
 - (C) Divide the sum calculated pursuant to the previous subsection by the total number of residential units in the Project to obtain the average affordability, as a decimal
 - (D) Subtract (C) from 1.0
 - (E) Multiply the calculation in subsection (D) by 1.5.
- (2) Leverage of other funds:
 - (A) Applications will be scored based on the leverage of other soft funds, meaning local Public funds, including land donations or fee waivers to be used for permanent funding of the development costs attributable to the Restricted Units as a percentage of the total amount of Department funds.
 - (B) Land donations will be counted as leveraged funds where the value is established with a current appraisal, with the amount discounted to reflect any fees, or other reliably predictable payments required as a condition of the donation.
 - (C) Add the sum of all eligible soft funds as set forth in subsections (A) and (B).
 - (D) Add the sum of all Department funding sources (as set forth in Section 7304).
 - (E) Divide (C) by (D) and express as a decimal
 - (F) Multiply the calculation in subsection (E) by 1.5 for Large Family or Special Needs Housing new construction projects located in a "High Resource" or "Highest Resource" area as shown on the TCAC/HCD Opportunity Area map. For all other projects multiply by 1.25.
- (3) The percentage of Restricted Units limited under Department Regulatory Agreements to occupancy by homeless, including chronically homeless populations.

The final tie-breaker score is the sum of sections (1) through (3) divided by three and rounded to six decimal points.

Section 7321. Performance Deadlines

- (a) Upon receipt of an award of Program funds to a Project, the Sponsor shall be required to secure all permanent financing, including tax credits and bond allocation no later than 24 months after the date of award.
- (b) Failure to meet the requirement set forth in (1) above shall result in withdrawal of the Department's funding award.
- (c) An extension, not to exceed six months, may be granted by the Department, at its sole discretion, only if the Sponsor has demonstrated to the Department's satisfaction that the failure was due to circumstances entirely outside the Sponsor's control and offers reasonable assurance that all financing can be secured within the extension period.
- (d) Failure to compete successfully for TCAC or CDLAC awards, alone, is not sufficient basis to receive an extension.
- (e) If a previously awarded bond allocation and/or tax credit reservation is withdrawn by TCAC or CDLAC for failure to meet deadlines, the Department's award shall be withdrawn and no extensions will be granted.

Section 7324. Legal Documents

- (a) Upon the award of Program funds to a Project, the Department shall enter into one or more agreements with the Sponsor, including a standard agreement, which shall commit monies in an amount sufficient to fund the approved loan amount. The agreement(s) or agreements shall contain the following:
 - (1) A description of the approved Project and the permitted uses of Program funds;
 - (2) The amount and terms of the loan;
 - (3) Provisions governing other Department funding, including cross-defaults as set forth in Section 7324;
 - (4) The regulatory restrictions to be applied to the Project through the Regulatory Agreement;
 - (5) Provisions governing the construction work and, as applicable, the acquisition of the Project site, and the disbursement of loan proceeds;
 - (6) Special conditions imposed as part of Department approval of the Project;
 - (7) Requirements for the execution and the recordation of the agreements and documents required under the Program;
 - (8) Terms and conditions required by federal or state law;
 - (9) Requirements regarding the establishment of escrow accounts for the deposit of documents and the disbursement of loan proceeds;

- (10) The proposed schedule of the Project development, including land acquisition if any, construction loan closing, commencement and completion of construction or Rehabilitation work, occupancy by Eligible Households, and permanent loan closing;
 - (11) The approved Project development budget and sources and uses of funds and financing;
 - (12) Requirements for reporting to the Department;
 - (13) Terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;
 - (14) Provisions regarding tenant relocation;
 - (15) Provisions relating to the erection and placement on or in the vicinity of the Project site a sign indicating that the Department has provided financing for the Project. The Department may also arrange for publicity of the Program loan in its sole discretion; and
 - (16) Other provisions necessary to ensure compliance with the requirements of the Program.
- (b) The Department shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan, which shall be recorded against the Project property title prior to the disbursement of loan funds. The Regulatory Agreement shall include, but not be limited to, the following:
- (1) The number, type, income level and occupancy restrictions of Assisted Units pursuant to UMR Section 8304;
 - (2) Standards for tenant selection pursuant to UMR Section 8305;
 - (3) Provisions regulating the terms of the rental agreement pursuant to UMR Section 8307;
 - (4) Provisions related to an annual operating budget approved by the Department pursuant to Section ~~7327~~ 7326;
 - (5) Provisions related to a management plan pursuant to Section 7325;
 - (6) Provisions related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to subsections (a) and (b) of Section 7312;
 - (7) Conditions and procedures for permitting Rent increases pursuant to Section 7312;
 - (8) Provisions for limitations on distributions pursuant to UMR Section 8314;
 - (9) Provisions relating to annual reports, inspections and independent audits pursuant to Section ~~7326~~ 7325;
 - (10) Provisions regarding the deposit and withdrawal of funds to and from reserve accounts;
 - (11) Assurances that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to Section 7325;

- (12) Description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;
 - (13) Provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with program requirements;
 - (14) Provisions relating to enforcement of program requirements by tenants;
 - (15) Special conditions of loan approval imposed by the Department;
 - (16) Provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to Section 7323;
 - (17) For Projects serving Special Needs Populations and/or providing services to the general tenant population, provisions regarding the implementation and maintenance of services and facilities for the target population and/or general tenant population; and
 - (18) Other provisions necessary to assure compliance with the requirements of the Program.
- (c) All loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the Program. The note shall be secured by a deed of trust on all of the sites comprising the Project property naming the Department as beneficiary or by other security acceptable to the Department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of Sponsor's Program obligations.

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

Section ~~7322~~ 7323. Sales, Transfers, Encumbrances, and Loan Payoff

- (a) A Sponsor shall not sell, assign, transfer, or convey the Rental Housing Development, or any interest therein or portion thereof, without the express prior written approval of the Department. A sale, transfer or conveyance may ~~shall~~ be approved only if all of the following requirements are met:
- (1) The existing Sponsor is in compliance with the Regulatory Agreement, or the sale, transfer or conveyance will result in the cure of any existing violations;
 - (2) The successor-in-interest to the Sponsor agrees to assume all obligations of the existing Sponsor pursuant to the Regulatory Agreement and the program;
 - (3) The successor-in-interest is an eligible Sponsor and demonstrates to the Department's satisfaction that it can successfully own and operate the Rental Housing Development and comply with all Program requirements; and
 - (4) No terms of the sale, transfer, or conveyance jeopardize either the Department's security or the successor's ability to comply with all Program requirements.

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

(c) The Sponsor may transfer limited partnership interests without the prior written approval of the Department.

(d) If the Department approves a sale, assignment, transfer, or conveyance in accordance with the provisions of subparagraph (a) above, the Department shall grant its approval subject to such terms and conditions as may be necessary to preserve or establish the Fiscal Integrity of the Project. Such conditions may include:

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

- (1) The deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;
- (2) The recapture of syndication proceeds or other funds in accordance with special conditions included in any agreement executed by the Sponsor; or
- (3) Such conditions as may be necessary to ensure compliance with the Program requirements.

(e) The Sponsor shall not encumber, pledge, or hypothecate the Rental Housing Development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the Rental Housing Development without the prior written approval of the Department. The Department will not may permit refinancing of existing liens or additional financing secured by the Rental Housing Development except to the extent necessary to maintain or improve the Fiscal Integrity of the Project, to maintain Affordable Rents, or to decrease Rents and for no other purpose, including, but not limited to, cash payments to the Sponsor, repayment of general partner loans or of limited partner loans, or for limited partner buyouts. Notwithstanding the general provisions in UMR 8308(g), this special condition controls, in that no MHP reserve balance can fund a limited partner buyout or exit.

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

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1 and 50675.8, HSC.

Section 73234. Defaults and Loan Cancellations

- (a) In the event of a breach or violation by the Sponsor of any of the provisions of the Regulatory Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the Project, the Department may give written notice to the Sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time, the Department, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default including the following:
- (1) The Department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amounts in full, the Department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.
 - (2) The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to operate the Rental Housing Development in accordance with Program requirements.
 - (3) The Department may seek such other remedies as may be available under the relevant agreement or any law.
 - (4) In the event the Project is or has been awarded additional Department funding, any and all such funding will be cross-defaulted to and among one another in the respective loan or, where applicable, grant documents. A default under one source of Departmental funding shall be a default under any and all other sources of Department funding in the Project.
- (b) If the breach or violation involves charging tenants Rent or other charges in excess of those permitted under the Regulatory Agreement, the Department may demand the return of such excess Rents or other charges to the respective households. In any action to enforce the provisions of the Regulatory Agreement, the Department may seek, as an additional remedy, the repayment of such overcharges.
- (c) The Department may cancel loan commitments under any of the following conditions:
- (1) The objectives and requirements of the Program cannot be met;
 - (2) Implementation of the Project cannot proceed in a timely fashion in accordance with the approved plans and schedules;
 - (3) Special conditions have not been fulfilled within required time periods; or
 - (4) There has been a material change, not approved by the Department, in the Project or the principals or management of the Sponsor or Project.
- Upon Sponsor demonstration of good cause to comply with any or all of the conditions of this subsection, the ~~The Department~~ may extend the date for compliance and shall provide the extension in writing. ~~, in writing and upon demonstration by the Sponsor of good cause, may extend the date for compliance with any of the conditions in this subsection.~~
- (d) Upon receipt of a notice from the Department of intent to cancel the loan, the Sponsor shall have the right to appeal to the Director.

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

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1, 50675.8 and 50675.10, HSC.

Section 73245. Management and Maintenance and Supportive Services

- (a) The Sponsor shall be responsible for all management functions of the Rental Housing Development including selection of the tenants, annual recertification of household income and size, evictions, and collection of Rent.
- (b) The Sponsor is responsible for all repair and maintenance functions of the Rental Housing Development, including ordinary maintenance and replacement of capital items. The Sponsor shall ensure maintenance of residential units, Commercial Space and common areas in accordance with local health, building, and housing codes, and the management plan.
- (c) The Sponsor shall ensure that the Rental Housing Development is managed by an entity approved by the Department that is actively in the business of managing low-income housing. Any management contract entered into for this purpose shall be subject to Department approval and contain a provision allowing the Sponsor to terminate the contract upon 30-days' notice. The Sponsor shall terminate said contract as directed by the Department upon determination that management does not comply with Program requirements.
- (d) The Sponsor shall develop a management plan subject to Department approval prior to loan closing. Any change to the management plan shall be subject to the approval of the Department. The management plan shall be consistent with Program requirements and shall include the following:
- (1) The role and responsibility of the Sponsor and its delegation of authority, if any, to the managing agent;
 - (2) Personnel policy and staffing arrangements;
 - (3) Plans and procedures for publicizing and achieving early and continued occupancy;
 - (4) Procedures for determining tenant eligibility and selecting tenants and for certifying and annually recertifying household income and size;
 - (5) Plans for carrying out an effective maintenance and repair program;

- (6) Rent collection policies and procedures;
- (7) A program for maintaining adequate accounting records and handling necessary forms and vouchers;
- (8) Plans for enhancing tenant-management relations;
- (9) The management agreement, if any;
- (10) Provisions for periodic update of the management plan;
- (11) Appeal and grievance procedures; and
- (12) Plans for collections for tenant-caused damages, processing evictions and terminations.
and
- ~~(13) For Projects serving Special Needs populations, including Supportive Housing and/or providing Supportive Services to the general tenant population, a supportive services plan, that includes:~~
 - ~~(A) A description of the specific population to be served;~~
 - ~~(B) A description of the specific services to be provided;~~
 - ~~(C) A description of the evidence-based case management practices that will be employed;~~
 - ~~(D) A preliminary services budget;~~
 - ~~(E) Funding source(s);~~
 - ~~(F) Identification of the organization(s) that will provide services;~~
 - ~~(G) A preliminary staffing plan;~~
 - ~~(H) Location of services to be provided off site, and a description of public and private transportation options available to access these services, without walking more than one-half mile;~~
 - ~~(I) Eligibility requirements for the services;~~
 - ~~(J) A description of how service staff and property management staff will work together to prevent evictions and to implement reasonable accommodation policies for leasing units and ongoing operations, including communication protocols;~~
 - ~~(K) Identification of outcome measures to be collected, and how they will be collected;~~
 - ~~(L) A description of a quality assurance system focused on both processes and outcomes;~~
 - ~~(M) Other information deemed necessary by the Department to evaluate the proposed services, which may differ by tenant population.~~

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1 and 50675.8, HSC.

Section 73257326. Supportive Services Plans

Supportive Services Plans must address the needs of the target Special Needs Population served. Subsections (a) and (b) below, distinguish between projects requiring intensive services and those requiring less-intensive services.

Additionally, the types of required or optional services varies depending upon the target population served. While most populations have the same required services, the difference between intensive and less-intensive is the level and delivery of services. For example, in projects serving populations identified in subsection (b), certain intake, coordination and referral duties may be performed by a Resident Services Coordinator or other service specialist, rather than a Case Manager. Sponsors and/or Lead Service Providers are responsible to ensure that level of intensity and delivery of services is appropriate for the target population.

- (a) For Projects with Assisted Units serving Special Needs Populations that require intensive services, specifically including high acuity Homeless and Chronically Homeless populations, as well as other populations as determined by the Department, the Sponsor shall develop and implement a supportive services plan. A preliminary plan shall be submitted by the Sponsor at time of application and updated prior to the permanent closing of the MHP loan. It shall include:
- (1) A description of the specific population to be served.
 - (2) A description of the tenant selection criteria and process for the units serving the designated Special Needs Populations, in accordance with applicable state and federal fair housing laws. For projects serving Homeless, including Chronically Homeless populations, indicate how the Project will be connected to the local CES and conform to Housing First practices, except as provided in Section 7302(f)(5).
 - (3) A description of the specific services to be provided, to include at a minimum, on-site Comprehensive Case Management as well as on or off-site mental health care, physical health care and substance use services. Any off-site services should be easily accessible, with the on-site services provider being responsible for helping tenants to remove transportation, application, scheduling, and other common barriers to accessing services in the community.
 - (4) Identification of the organization(s) that will provide services.
 - (5) Location of services to be provided off site, a description of public and private transportation options available to access these services, without walking more than one-half mile and a viable plan (e.g., financial assistance) for assisting tenants to access those options.
 - (6) A description of the evidence-based case management practices that will be employed including, but not limited to SOAR, trauma informed care and critical time intervention.
 - (7) A tenant engagement plan (i.e., plan to encourage voluntary tenant participation in services as well as in community building, such as resident councils or similar forums).
 - (8) A description of plans to ensure the safety and security of residents and staff, including guest and visitor policies, policies on the violation of safety rules, staff training, building design features intended to promote security, and similar matters.

- (9) A services line-item budget itemizing all expenses and listing the sources, amounts, and status (i.e., proposed or committed) of supportive service funds. Only costs tied to serving tenants in Assisted Units may be included. Industry practice indicates an annual budget of at least \$5,000 per household is typically necessary.
 - (10) Funding source commitments, contracts, memorandum of understanding or letters of intent to provide operational funding for a minimum of 25 percent of the total service budget (excluding the project operating budgeted funds). This requirement may be waived where the lead service provider documents a history of securing supportive service funding similar to the total required in the project service budget, provided that past funding was secured for the same purpose.
 - (11) A staffing plan and line-item budget, with staffing levels sufficient to meet the needs of the target population. As specified in Section 7302, on-site Comprehensive Case Management services must be provided, with a resident to Case Manager ratio not exceeding 20 to 1.
 - (12) A statement from a public or nonprofit funder or regulatory agency having oversight or monitoring responsibilities for the proposed supportive services for the proposed target population that verifies that the proposed services and staffing levels are adequate and appropriate to meet the needs of the target population(s), and that the Sponsor or proposed service provider is a viable provider of the proposed supportive services.
 - (13) A description of how service staff and property management staff will work together to prevent evictions and to implement reasonable accommodation policies for leasing units and ongoing operations, including communication protocols.
 - (14) Identification of outcome measures to be tracked, description of the data to be collected for each measure, and explanation of the methods for data collection and entry.
 - (15) Other information deemed necessary by the Department to evaluate the proposed services, which may differ by tenant population.
- (b) For Projects serving Special Needs Populations that do not require intensive services, including but not limited to low-acuity homeless, individuals or households “At Risk of Homelessness”, as defined in (d) below, and other populations as determined by the Department, the Sponsor shall develop and implement a supportive services plan that includes:
- (1) A description of the specific population(s) to be served.
 - (2) A description of the tenant selection criteria and process for the units serving the designated Special Needs populations, in accordance with applicable state and federal fair housing laws.
 - (3) A description of the specific services to be provided.
 - (4) A tenant engagement plan (i.e., plan to encourage voluntary tenant participation in services as well as in community building, such as resident councils or similar forums).
 - (5) A services line-item budget itemizing all expenses and listing the sources, amounts, and status (i.e., proposed or committed) of supportive service funds. Only costs tied to serving tenants in Assisted Units may be included. Industry practice indicates an annual budget of at least \$3,000 to \$5,000 per household is typically necessary.

- (6) Funding source commitments, contracts, memorandum of understanding or letters of intent to provide operational funding for a minimum of 25 percent of the total service budget (excluding the project operating budgeted funds). This requirement may be waived where the lead service provider documents a history of securing supportive service funding similar to the total required in the project service budget, provided that past funding was secured for the same purpose.
 - (7) A services staffing plan and line-item budget, with staffing levels sufficient to meet the needs of the target population;
 - (8) Identification of the organization(s) that will provide services.
 - (9) Location of services to be provided off site, and a description of public and private transportation options available to access these services, without walking more than one-half mile and a viable plan (e.g., financial assistance) for assisting tenants to access those options.
 - (10) A description of plans to ensure the safety and security of residents and staff, including guest and visitor policies, policies on the violation of safety rules, staff training, building design features intended to promote security, and similar matters.
 - (11) A description of how service staff and property management staff will work together to prevent evictions and to implement reasonable accommodation policies for leasing units and ongoing operations, including communication protocols.
 - (12) A statement from a public or nonprofit funding or regulatory agency with oversight or monitoring responsibilities for the proposed supportive services for the proposed target population that verifies that the proposed services and staffing levels are adequate and appropriate to meet the needs of the target population(s), and that he proposed service provider is a viable provider of the proposed supportive services.
 - (13) Identification of outcome measures to be tracked, description of the data to be collected for each measure, and explanation of the methods for data collection and entry.
 - (14) Other information deemed necessary by the Department to evaluate the proposed services, which may differ by tenant population.
- (c) In lieu of a supportive service plan meeting the requirements of (a) and (b) above, the Department may accept a similar plan already approved by the Department.
- (d) “At Risk of Homelessness” means:
- (1) Households with physical or sensory disabilities and transitioning from care facilities; or
 - (2) Households fleeing domestic violence, sexual assault or human trafficking; or
 - (3) Households for which the absence of housing is a barrier to family reunification; or
 - (4) Homeless Youth, including Transition-Age Youth as defined in GC, § 12957; or
 - (5) Temporarily displaced households, which are eligible for placement under local rapid-rehousing or similar community service providers serving these populations.

Section 7325 7327. Reporting.

- (a) No later than 90 days after the end of each Project fiscal year, the Sponsor shall submit an independent audit of the Rental Housing Development prepared by a certified public accountant in accordance with Department audit requirements, as periodically updated and incorporated by reference. Upon a determination that the cost of meeting this requirement exceeds the potential benefits from it to the Department and to the tenants of the Rental Housing Development, the Department may:
- (1) Reduce the required frequency of the audit;
 - (2) Accept an audited financial statement in lieu of the audit; or
 - (3) Waive this requirement completely.
- (b) Projects with Special Needs Supportive Housing units and units restricted to Homeless, including Chronically Homeless persons shall report client data on local Homeless Management Information Systems (HMIS), if such systems are available, and must comply with local continuum of care HMIS requirements.
- (c) ~~Projects with Supportive Housing units and units restricted to people experiencing Homelessness shall also report annually to the Department on all occupants of these units, indicating for each their referral source, previous living situation, whether the occupant was experiencing Chronic Homelessness or Homelessness, a military veteran, or senior, length of stay, residence after exiting, and similar information. Projects with Special Needs Housing units shall report annually to the Department on all occupants of these units. The report must specifically identify the number of units rented to the elderly, and military veterans. The report must identify for all occupants of Units, their referral source, previous living situation, whether the occupant was experiencing Chronic Homelessness or Homelessness, length of stay, and residence after exiting.~~
- (d) Projects with Special Needs units shall report annually to the Department on the services provided to residents of these units, the qualifying characteristic of each resident, and similar information.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1 and 50675.8, HSC.

Section 7327 7328. Operating Budget and Schedule of Rental Income

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

- (a) Prior to loan closing, the Sponsor shall submit an initial operating budget and SRI to the Department. Such budget shall show all anticipated income; expenses for management, operations and maintenance; debt service and reserve deposits for the Initial Operating year. The initial operating budget shall show all anticipated income; expenses for management, operations and maintenance; debt service; and reserve deposits for the Initial Operating Year. The initial SRI shall show proposed Rents for individual units, gross rent floor date, rental and operating subsidy amounts, and similar information on both individual Units and the Project as a whole.
- (b) The Sponsor shall also submit to the Department for its approval, 60 days prior to the end of each Project fiscal year, a proposed operating budget and schedule of rental income, on the most current forms provided by the Department. The proposed operating budget shall set forth the Sponsor's estimate of the Project's Operating Income, Operating Expenses, debt service for the upcoming year, and any proposed Rent increases pursuant to Section 7312. The proposed schedule of rental income shall include information on individual tenant households, current and proposed rents, current rental and operating subsidy amount, and similar information. For the Initial Operating Year, Borrower shall operate the Development in accordance with the initial operating budget and SRI, which were approved by the Department prior to loan closing. Such budget shall show all anticipated Operating Income, debt service, Operating Expenses and amount payable to reserves for the Initial Operating Year. Such SRI shall set forth the rent roll, which will identify each tenant household (by unit number or other method of household identification that is acceptable to the Department), as well as the following information in connection with each tenant household: size, income, current Rent, and proposed Rent adjustments (including utility allowances, if applicable). Such SRI shall provide estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.
- (c) For as long as deemed necessary by the Department to ensure compliance with Program requirements, but for no less than the full-term of the recorded Regulatory Agreement, the Sponsor shall submit to the Department for its approval, 60 days prior to the end of each Project fiscal year, a proposed operating budget and SRI on forms provided by the Department. The proposed annual operating budget and SRI, together, shall set forth the Borrower's estimates for the upcoming year of Operating Income, Operating Expenses, debt service amounts payable to reserves, and proposed Rent adjustments pursuant to Section 7312. The Department, at its sole discretion, may request in situations, such as, but not limited to, re-syndication, change of ownership, or change of Project fiscal year, submission of limited budget information, such as a proposed Rent schedule, proposed management fees, and reserve deposit amounts. The Department may re-impose the requirement for submission of complete operating budgets where necessary to ensure compliance with program requirements.
- (d) The initial and subsequent proposed operating budgets shall be subject to the approval of the Department based on its determination that the budget line items are reasonable and necessary considering costs for comparable Rental Housing Developments and prior year budgets. Actual expenditures in excess of the approved budget amount shall be subject to Department approval.

- (e) The initial and subsequent proposed SRI shall be subject to approval of the Department based on its determination that the proposed rents are in accordance with these guidelines and applicable regulations and statutes.
- ~~(e) The initial operating budget and subsequent proposed operating budgets shall include periodic deposits to the operating reserve, replacement reserve, and any other reserve account required by the Department in accordance with the requirements of UMR Sections 8308 and 8309.~~
- (f) For Projects with non-Assisted Units or Commercial Space, all budgets submitted pursuant to this section shall show income and uses of income allocated among Assisted Units, Restricted Units, non-Restricted Units, and Commercial Space. The allocation method used for each budget line item shall be subject to Department approval and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the Project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, HSC. Reference: Sections 50675.1 and 50675.8, HSC.

~~Section 7328 (Reserved)~~