Public Comment Draft

No Place Like Home Program

2020 Amended Guidelines

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INTRODUCTION

The No Place Like Home Program (NPLH) provides funding and tools that allow the California Department of Housing and Community Development (Department) to address affordability issues associated with creating housing units that are specifically set aside for persons with serious mental illness who are chronically homeless, homeless, or at-risk of being chronically homeless. Under the Program as defined in Section 100 below, the Department may make loans to reduce the initial cost of acquisition and/or construction or rehabilitation of housing, and may set funds aside to subsidize extremely low rent levels over time. The Guidelines as defined in Section 100 below for the Program are organized into four Articles as follows:

Article I. General Program Requirements: This section includes Program definitions and information on funding allocations and timing, including 1) Technical Assistance Allocation, 2) Noncompetitive Allocation, 3) Competitive Allocation, and 4) Alternative Process Allocation.

Article II. Noncompetitive and Competitive Allocations: This section describes the Program parameters for funding made pursuant to the Noncompetitive and Competitive allocation methods. Allocations, pursuant to these methods, will be administered by the Department.

1) Noncompetitive Allocation – the Department may distribute an amount not to exceed $200 million on an over-the-counter basis, awarded to all counties proportionate to the number of homeless persons within each County, with a minimum of $500,000 to each County. Counties may opt to use their Noncompetitive Allocation funds to provide shared housing if they are designated by the Department to do so by the deadline specified in the Guidelines.

2) Competitive and Alternative Process Allocations – the Department may distribute an amount not to exceed $1,800 million for the competitive program and through an alternative process directly to counties with at least 5 percent of the state's homeless population that demonstrate the capacity to directly administer Program funds.

Article III. Alternative Process Allocation: This section describes the Program parameters for funding made pursuant to the Alternative Process allocation method. Allocations pursuant to this method will be administered by the eligible Counties, under the oversight of the Department through reporting and monitoring requirements.

Article IV. Noncompetitive Allocation Shared Housing Requirements: This section describes the Program parameters for shared housing, including monitoring and reporting requirements. Counties may choose to use their Noncompetitive Allocation funds to provide shared housing if they are designated by the Department to do so by the deadline specified in the Guidelines. Allocations made for shared housing will be administered only by Counties that are approved by the Department to use their funding for this purpose.

NO PLACE LIKE HOME PROGRAM

Program Guidelines

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ARTICLE I. GENERAL PROGRAM REQUIREMENTS

Section 100. Purpose and Scope

(a) These Guidelines (hereinafter "Guidelines") implement, interpret, and make specific the No Place Like Home Program ("NPLH" or "Program") authorized by Government Code Section 15463, Part 3.9 of Division 5 (commencing with Section 5849.1) of the Welfare and Institutions Code, and Section 5890 of the Welfare and Institutions Code.

(b) These Guidelines establish terms, conditions and procedures for the award of funds under the Noncompetitive Allocation, the Competitive Allocation, and the Alternative Process Allocation (as defined in Section 101 below).

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Section 5849.5, Welfare and Institutions Code.

Section 101. Definitions

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meaning of terms described in Part 3.9 of Division 5 of the Welfare and Institutions Code (commencing with Welfare and Institutions Code Section 5849.1).

(a) "Alternative Process Allocation" means funds made available by the Department to an Alternative Process County pursuant to Welfare and Institutions Code Section 5849.8(b).

(b) "Alternative Process County" means a County designated to administer its Alternative Process Allocation of funds under Article III.

(c) "Applicant" means a County applying independently as a Development Sponsor, or a County applying jointly with another entity as Development Sponsor.

(d) "Area Median Income" or "AMI" means the most recent applicable county median family income published by the California Tax Credit Allocation Committee (TCAC) or the Department.

(e) "Assisted Unit" or "NPLH Assisted Unit" means a residential housing Unit that is subject to the Rent, occupancy and other restrictions specified in these Guidelines as a result of the financial assistance provided under the Program.

(f) "At-Risk of Chronic Homelessness" for this Program means an adult or older adult with a Serious Mental Disorder or Seriously Emotionally Disturbed Children or Adolescents who meet one or more of the criteria below. All persons qualifying under this definition must be prioritized for available housing by using a standardized assessment tool that ensures that those with the greatest need for Permanent Supportive Housing and the most barriers to housing retention are prioritized for the Assisted Units available to persons At-Risk of Chronic Homelessness pursuant to the terms of the Project regulatory agreement. Qualification under this definition can be done in accordance with established protocols of the Coordinated Entry System, or other alternate system used to prioritize those with the

greatest needs among those At-Risk of Chronic Homelessness for referral to available Assisted Units, that meet the requirements of these Guidelines, including but not limited to, Section 206 (Occupancy and Income Requirements), and Section 211 (Tenant Selection).

Persons qualifying under this definition are persons who are at high-risk of long-term or intermittent homelessness, including:

(1) Pursuant to Welfare and Institutions Code Section 5849.2, persons exiting institutionalized settings, such as jail or prison, hospitals, institutes of mental disease, nursing facilities, or long-term residential substance use disorder treatment, who were Homeless prior to admission to the institutional setting;

(2) Transition-Age Youth experiencing homelessness or with significant barriers to housing stability, including, but not limited to, one or more evictions or episodes of homelessness, and a history of foster care or involvement with the juvenile justice system; and others as set forth below;

(3) Persons, including Transition-Age Youth, who, prior to entering into one of the facilities or types of institutional care listed herein, had a history of being Homeless as defined under this subsection (f)(3): a state hospital, hospital behavioral health unit, hospital emergency room, institute for mental disease, psychiatric health facility, mental health rehabilitation center, skilled nursing facility, developmental center, residential treatment program, residential care facility, community crisis center, board and care facility, prison, parole, jail or juvenile detention facility, or foster care. Having a history of being Homeless means, at a minimum, one or more episodes of homelessness in the 12 months prior to entering one of the facilities or types of institutional care listed herein. The CES (as defined in Section 101(n)), or other local system used to prioritize persons At-Risk of Chronic Homelessness for available Assisted Units may impose longer time periods to satisfy the requirement that persons under this paragraph must have a history of being Homeless.

(4) The limitations in subsection (w)(a)(iii) pertaining to the definition of "Homeless" shall not apply to persons At-Risk of Chronic Homelessness, meaning that as long as the requirements in subsections (f)(1) - (3) above are met:

i. Persons who have resided in one or more of the settings described above in subsection (f)(1) or (f)(3) for any length of time may qualify as Homeless upon exit from the facility, regardless of the amount of time spent in such facility; and

ii. Homeless Persons who, in the 12 months prior to entry into any of the facilities or types of institutional care listed above, have resided at least once in any kind of publicly or privately operated temporary housing, including congregate shelters, transitional, interim, or bridge housing, or hotels or motels, may qualify as At-Risk of Chronic Homelessness.

(g) "Authority" means the California Health Facilities Financing Authority.

(h) "Capitalized Operating Subsidy Reserve" or "COSR" means the reserve established by the Department pursuant to the requirements of Section 209, or by an Alternative Process County or County administering Shared Housing funds pursuant to the requirements of Section 305 or 405, to address Project operating deficits attributable to Assisted Units.

(i) "Chronically Homeless" for this Program means an adult or older adult with a Serious Mental Disorder or Seriously Emotionally Disturbed Children or Adolescents who meet the criteria below according to 24 Code of Federal Regulations Section 578.3, as that section read on May 1, 2016:

a. A ''homeless individual with a disability,'' as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who

i. Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and

ii. Has been Homeless and living as described in paragraph (1) (A) of this definition continuously for at least 12 months, or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months, and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1). Stays in institutional care facilities for fewer than 90 days will not constitute a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;

b. An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

c. A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been Homeless.

(j) "Competitive Allocation" means funds made available pursuant to Welfare and Institutions Code Section 5849.8, except it does not include Alternative Process Allocations made available pursuant to Section 5849.8(b).

(k) "Comprehensive Housing Affordability Strategy" means annual data compiled by the United States Census Bureau for the U.S. Department of Housing and Urban Development (HUD) to document the extent of housing problems and housing needs, particularly for low-income households.

(l) “Consumer Price Index” or “CPI” measures changes in the price level of consumer goods and services purchased by households. The annual percentage change in a CPI is used as a measure of inflation.

(m) “Continuum of Care” is defined in 24 CFR Section 578.3 to mean the group organized to provide coordinated services to Homeless individuals. This group is composed of representatives of organizations such as nonprofit Homeless services providers, faith-based organizations, businesses, governments, public housing agencies, victim service providers, medical providers, advocates, law enforcement, social service providers, school districts, universities, mental health services providers, affordable housing developers, and organizations that serve Homeless and formerly Homeless veterans, and Homeless and formerly Homeless persons, to the extent they reside within the geographic area and are available to participate.

(n) “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.

(o) “County” or “Counties” includes, but is not limited to, a city and county, and a city receiving funds pursuant to Section 5701.5 of the Welfare and Institutions Code. Reference to County Board of Supervisors in these Guidelines shall also mean the governing body of a city receiving funds pursuant to Section 5701.5 of the Welfare and Institutions Code.

(p) “Department” means the California Department of Housing and Community Development.

(q) “Development Sponsor” or “Sponsor” as defined in Section 50675.2 of the Health and Safety Code and subdivision (c) of Section 50669 of the Health and Safety Code means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the Department as qualified to own, manage, and rehabilitate a Rental Housing Development. A Development Sponsor may be organized for profit, limited profit or be nonprofit, and includes a limited partnership in which the Development Sponsor or an affiliate of the Development Sponsor is a general partner.

(r) “Distributions” has the same meaning as under 25 CCR Section 8301.

(s) “Enforceable Funding Commitment” means a letter or other document to the satisfaction of the Department, evidencing a commitment of funds or a reservation of funds by a Project funding source, which contains the following:

a. The name of the Applicant or Development Sponsor,
b. The Project name,
c. The Project site address, assessor’s parcel number, or legal description; and
d. The amount, interest rate (if any), and terms of the funding source.

The Enforceable Funding Commitment may be conditioned on certain standard underwriting criteria, such as appraisals, but may not be generally conditional. Examples of unacceptable general conditions include phrases such as "subject to senior management approval", or a statement that omits the word "commitment", but instead indicates the lender's "willingness to process an application" or indicates that financing is subject to loan committee approval of the Project. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low-income housing tax credits will not disqualify a source from being counted as committed.

(t) "Fiscal Integrity" means, for any Project for any given period of time during the term of the NPLH Program Documents, that the total Operating Income for such Project for such period of time, plus funds released pursuant to the NPLH Program Documents from the Project's operating reserve account(s) during such period of time is sufficient to: (1) pay all current Operating Expenses for such Project for such period of time; (2) pay all current mandatory debt service (excluding deferred interest) coming due with respect to such Project for such period of time; (3) fully fund all reserve accounts established pursuant to the NPLH Program Documents for such Project for such period of time; and (4) pay other costs permitted by the NPLH Program Documents for such Project for such period of time. The ability to pay any or all of the permitted annual Distributions for a Project shall not be considered in determining Fiscal Integrity of a Project.

(u) "H&S" means the California Health and Safety Code.

(v) "HUD" means the U.S. Department of Housing and Urban Development.

(w) "Homeless" for this Program means adults or older adults with a Serious Mental Disorder or Seriously Emotionally Disturbed Children or Adolescents who meet the criteria below, according to 24 CFR Section 578.3, as that section read on May 1, 2016, which include:

a. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

i. An individual or family with a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground, or

ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals), or

iii. An individual who is exiting an institution where he or she resided for 90 days or less, and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

b. An individual or family who will imminently lose their primary nighttime residence provided that:

   i. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance,

   ii. No subsequent residence has been identified, and

   iii. The individual or family lacks the resources or support networks, such as family, friends, faith-based or other social networks, needed to obtain other permanent housing.

c. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless, but who:

   i. Are defined as homeless under Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), Section 637 of the Head Start Act (42 U.S.C. 9832), Section 41403 of the Violence Against Women Act of 1994 (U.S.C. 14043e-2), Section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), Section 17(b) of the Child Nutrition Act of 1966 (42 USC 1786 (b)), or Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a),

   ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60-day period immediately preceding the date of application for homeless assistance,

   iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance, and

   iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

d. Any individual or family who:

   i. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual‘s or family‘s primary nighttime residence or has made the individual or family afraid to return to their primary

nighttime residence,

ii. Has no other residence, and

iii. Lacks the resources or support networks, such as family, friends, and faith-based or other social networks, to obtain other permanent housing.

(x) "Housing First" has the same meaning as in Welfare and Institutions Code Section 8255, including all of the core components listed therein.

(y) "Method of Distribution" means the process approved by the Department, pursuant to the requirements of Sections 301 or 401, by which an Alternative Process County or a County funding Shared Housing through its Noncompetitive Allocation will select Projects to receive NPLH funds.

(z) "NOFA" means a Notice of Funding Availability.

(aa) "NPLH" means the No Place Like Home Program administered by the Department.

(bb) "NPLH Program Documents" means the documents executed by the Department and an Applicant governing Assisted Units, including but not limited to the Department's standard agreement, that includes provisions related to supportive services, regulatory agreement, deed of trust, and promissory note.

(cc) "Noncompetitive Allocation" means funds made available by the Department to a County pursuant to Welfare and Institutions Code Section 5849.9.

(dd) "Operating Expenses" has the same meaning as in 25 CCR Section 8301.

(ee) "Operating Income" has the same meaning as in 25 CCR Section 8301.

(ff) "Permanent Supportive Housing" has the same meaning as "supportive housing," as defined in Section 50675.14 of the Health and Safety Code, except that "Permanent Supportive Housing" shall include associated facilities if used to provide services to housing residents. Permanent Supportive Housing does not include "Community care facilities" as set forth in Section 1502 of the Health and Safety Code, "Mental health rehabilitation centers" as defined in Section 5675 of the Welfare and Institutions Code, or other residential treatment programs.

(gg) "Point-in-Time Count" means a count of sheltered and unsheltered homeless persons on a single night conducted by Continuums of Care as prescribed by HUD. In the event that HUD no longer requires that Point-in-Time Counts be conducted for unsheltered or sheltered homeless persons, the Department may use another methodology for determining the number of homeless persons residing within each County.

(hh) "Program" means the No Place Like Home Program.

(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" or "Project" means a multifamily structure or set of structures providing Supportive Housing with common financing, ownership, and management. For developments financed under Article II, Projects must collectively contain five or more Units. "Rental Housing Development" does not include any "health facility" as defined by Section 1250 of the Health and Safety Code or any "alcoholism or drug abuse recovery or treatment facility" as defined by Section 11834.02 of the Health and Safety Code. Rental Housing Developments or Projects also do not include "Community care facilities" as set forth in Section 1502 of the Health and Safety Code, "Mental health rehabilitation centers" as defined in Section 5675 of the Welfare and Institutions Code, or other residential treatment programs.

(kk) "Scattered Site Housing" means a Rental Housing Development that includes non-contiguous parcels and meets the requirements in Subsection 202 within these Guidelines.

(ll) "Serious Mental Disorder" has the same definition as in Welfare and Institutions Code Section 5600.3.

(mm) "Seriously Emotionally Disturbed Children or Adolescents" has the same definition as in Welfare and Institutions Code Section 5600.3(a) (1).

(nn) "Shared Housing" means a 1- to 4-Unit structure providing Supportive Housing shared by two or more households, where each household is in a separate bedroom in each Unit, and where at least one member of each household qualifies as a NPLH-eligible tenant. Single-family homes, condominiums, half-plexes, duplexes, triplexes and four-plexes will qualify as a Shared Housing development provided that they have a minimum of two bedrooms per Unit. Shared Housing must also meet the requirements of Article IV.

(oo) "SSI/SSP" means the California Department of Social Services' Supplemental Security Income/State Supplementary Payment pursuant to Welfare and Institutions Code Section 12000 et seq.

(pp) "Supportive Housing" has the same meaning as in Section 50675.14 of the Health and Safety Code, that is, housing with no limit on length of stay, that is occupied by the Target Population, and that is linked to onsite or offsite services that assist the Supportive Housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive Housing shall include associated facilities if used to provide services to housing residents. Supportive Housing does not include "health facility" as defined by Section 1250 of the Health and Safety Code or any "alcoholism or drug abuse recovery or treatment facility" as defined by Section 11834.02 of the Health and Safety Code or

"Community care facilities" as set forth in Section 1502 of the Health and Safety Code, "Mental health rehabilitation centers" as defined in Section 5675 of the Welfare and Institutions Code, or other residential treatment programs.

(qq) "TCAC" means the California Tax Credit Allocation Committee.

(rr) "Target Population" means members of the target populations identified in Welfare and Institutions Code Section 5600.3 (a) and (b) (adults or older adults with a Serious Mental Disorder or Seriously Emotionally Disturbed Children or Adolescents), who are Homeless, Chronically Homeless, or At-Risk of Chronic Homelessness. This includes persons with co-occurring mental and physical disabilities or co-occurring mental and substance use disorders.

(ss) "Technical Assistance Allocation" means the funds made available by the Department to a County pursuant to Welfare and Institutions Code Section 5849.10.

(tt) "Total Development Cost" means the sum of all eligible development costs associated with the acquisition, design, construction, rehabilitation, or preservation of Assisted Units.

(uu) "Transition-Age Youth" means unaccompanied youth under age 25, including youth with children.

(vv) "UMR" means the Uniform Multifamily Regulations commencing with 25 CCR Section 8300 as amended from time to time.

(ww) "Unit" means a residential unit that is used as a primary residence by its occupants, including individual units within Rental Housing Developments, including Shared Housing.

(xx) "WIC" means the California Welfare and Institutions Code.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.2, 5849.7(c), 5849.8, 5849.9, Welfare and Institutions Code.

Section 102. Funding and Formula Allocations

(a) Funding from the Program will be available under Technical Assistance Allocations, Noncompetitive Allocations, Competitive Allocations and Alternative Process Allocations.

(b) Technical Assistance Allocations. Technical Assistance Allocations shall be available in accordance with Welfare and Institutions Code Section 5849.10 and the most current Technical Assistance Allocation Guidelines separately adopted by the Department for these funds.

(c) Noncompetitive Allocations. Noncompetitive Allocations shall be available in accordance with Welfare and Institutions Code Section 5849.9 to every County in accordance with the requirements of Article II, Article III, or Article IV as applicable.

(1) The amount of funds awarded to each County shall be the greater of (1) $500,000 or (2) such County's proportionate share of the $200 million allocated to Noncompetitive Allocations under Section 5849.9 based on the proportionate number of Homeless persons residing within such County, (using the County's most recent Homeless Point-in-Time Count of both sheltered and unsheltered Homeless persons, as published by HUD), compared to the state's total Homeless population.

(2) Noncompetitive Allocation funds administered under Article II for which Project applications, that meet the requirements of Section 202 and 204, have not been submitted by a County to the Department within 30 months of the issuance of the Department's initial NOFA (by February 15, 2021) may be available for award to Applicants as Competitive Allocations under Welfare and Institutions Code Section 5849.8 unless an extension of this deadline has been granted pursuant to subparagraph (4).

(3) The Department may extend the application submission deadline by a total of up to 12 months in the aggregate where it is clear that granting an extension will result in submission of a Project application or completion of the Project.

(d) Competitive Allocations. Competitive Allocations will be available in accordance with Welfare and Institutions Code Section 5849.8 to Counties grouped together by population size as follows: (1) County of Los Angeles; (2) Large Counties with a population greater than 750,000; (3) Medium Counties with a population between 200,000 to 750,000; and (4) Small Counties with a population less than 200,000.

(1) Competitive Allocations shall be available in accordance with the requirements of Article II.

(2) The amount of funds available to each group of Counties as Competitive Allocations will be determined first using a formula that provides each group with a proportionate share of funds based on the following two factors:

A. The proportionate share of Homeless persons among the Counties within each group based on the most recent Point-in-Time Count of both sheltered and unsheltered Homeless persons as published by HUD, and as compared to the state's total Homeless population. This factor will be weighted at 70 percent; and

B. The proportionate share of Extremely Low-Income renter households that are paying more than 50 percent of their income for Rent using HUD's Comprehensive Housing Affordability Strategy dataset. This factor will be weighted at 30 percent.

(3) Notwithstanding the calculation made pursuant to subdivision (d)(2), the Small County Allocation shall be eight percent of the funds made available in the Competitive Allocation or the proportionate share of need attributable to Small Counties according to the above formula factors, whichever is greater.

(e) Alternative Process Allocations. Counties with at least 5 percent of the state's Homeless population, according to the sheltered and unsheltered Homeless Point-in-Time Count in either 2015 or in any year thereafter, as published by HUD, may apply for Alternative Process Allocations.

(1) Funds provided by the Department to the County shall be provided to the County in the form of a grant that is subject to the requirements of Welfare and Institutions Code Section 5849.4(b) described more fully below in section 302(f). The County shall make loans to individual Projects in accordance with the requirements of Article III.

(2) Alternative Process Counties may directly receive and administer available funds in proportion to their share of the percentage of the statewide Homeless population, as calculated by the Department under Welfare and Institutions Code Section 5849.6.

(3) These funds shall be awarded by the Department to Counties qualified to receive Alternative Process Allocations at least once annually in accordance with anticipated demand. The Department, in consulation with the Alternative Process Counties, will review and determine the anticipated demand for Projects based on documentation provided by the Alternative Process Counties as described in Welfare and Institutions Code Section 5849.8(b) and Section 300.

(4) Upon request, the Department may offer each Alternative Process County during Round 2 or Round 3 a one-time advance on future funding allocations in order to address documented unmet application demand. Funds advanced in a particular round will be deducted from the amount available to the Alternative Process County in the following funding round(s). The amount advanced shall not exceed 100 percent of the amount provided to the Alternative Process County in the funding round during which the request is made, and shall depend on the availability of funds.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, 5849.10, Welfare and Institutions Code.

Section 103. Funding Rounds

(a) NPLH funds shall be made available pursuant to multiple NOFAs. After the initial funding round, the Department shall issue at least three additional NOFAs, with each such additional round issued no later than one year after the issuance of award letters under each prior funding round.

Following the first four funding rounds, additional funding rounds shall occur annually, possibly in combination with other available compatible funding sources, until any remaining funds have been exhausted.

(b) Following the fourth funding round, the Department may provide notice that it is

discontinuing use of one or more of the following in connection with any additional funding rounds:

(1) The competitive groupings provided for in Welfare and Institutions Code Section 5849.6.

(2) The Alternative Process Allocations authorized by Welfare and Institutions Code Section 5849.8(b) for any funds not awarded by a County.

(3) The small county set aside authorized by Welfare and Institutions Code Section 5849.8(c).

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.8, Welfare and Institutions Code.

ARTICLE II. NONCOMPETITIVE AND COMPETITIVE PROGRAM ALLOCATIONS

Section 200. Uses and Terms of Noncompetitive and Competitive Allocations

(a) NPLH funds shall be used to finance capital costs of Assisted Units in Rental Housing Developments, including but not limited to, costs associated with the acquisition, design, construction, rehabilitation, or preservation of Assisted Units consistent with the eligible costs set forth under 25 CCR 7304(b) except that NPLH funds cannot be used to capitalize reserves other than as set forth in subsection (b).

(b) NPLH funds may be used to capitalize operating subsidy reserves for Assisted Units pursuant to the requirements of Section 209. For loans underwritten by the Department, NPLH funds may also be used to capitalize the operating reserve required under 25 CCR 8308.

(c) Projects may use NPLH funds to rehabilitate existing affordable housing Projects. Projects proposed for rehabilitation will be underwritten based on the number of NPLH tenants the Project will house upon completion of the rehabilitation. These can be vacant Units or Units currently occupied with tenants qualifying under Section 206.

(d) The total amount of Program funds awarded shall not exceed the eligible costs associated with Assisted Units. In determining these costs, the cost allocation rules in 25 CCR Section 7304(c) shall apply, but the term “Restricted Units” in such section shall be deemed to refer to “Assisted Units.”

(e) Use of multiple Department Funding Sources on the same Assisted Units (subsidy stacking) is prohibited.

(1) For purposes of this section and except as noted below, “Department Funding Sources” shall mean loan or grant funds awarded for permanent funding of development costs under the following programs, which shall not include funds specifically designated for capitalized operating reserves or rental assistance:

A. Supportive Housing Multifamily Housing Program
B. Veterans Housing and Homelessness Prevention Program
C. Multifamily Housing Program
D. Affordable Housing and Sustainable Communities Program Affordable Housing Development loan, except for grants for infrastructure, transportation-related amenities and program costs
E. NPLH funds provided to a Project by either the Department or an Alternative Process County
F. Transit Oriented Development Program rental housing development loan, except for grants for infrastructure
G. Joe Serna, Jr. Farmworker Housing Grant Program
H. SB 2 Farmworker Housing Program
I. Housing for a Healthy California Program, including funds awarded either by the Department or a County
J. National Housing Trust Fund Program.

(2) "Department Funding Sources" do not include the following:

A. Any other Department program not listed above
B. NPLH Competitive Allocation Funds and NPLH Noncompetitive Allocation funds in the same project or on the same Assisted Unit on loans made by the Department.
C. Existing loans or grants under any Department program that are at least 14 years old and will be assumed or recast as part of an acquisition and rehabilitation project.

(f) Projects shall comply with the Unit standards set forth in 25 CCR Section 8304, but the term "Restricted Units" in such section shall be deemed to refer to "Assisted Units."

(g) The Competitive Allocations and the Noncompetitive Allocations awarded to Projects of five or more Units shall be provided as post-construction, permanent loans underwritten and held by the Department as lender. These loans shall have an initial term of 55 years, or longer if necessary, to match the period of affordability restrictions under the tax credit program, commencing on the date of recordation of the Department NPLH regulatory agreement.

(h) All construction loan closings for the NPLH-funded Project shall occur no later than 36 months from the date of the Department's award letter to the Project.

(i) The Department's permanent loan closing shall occur no later than 72 months from the date of the Department's award letter to the Project.

(j) The Department may extend the deadlines in subsections (h) or (i) above a total of up to 24 months in the aggregate where it is clear that granting an extension will enable the Project to start construction or achieve 90 percent occupancy of the Assisted Units.

(k) Competitive Allocations shall be loans made by the Department and shall have the following terms:

(1) Mandatory Annual Monitoring Payment. For the first 30 years of the loan term, annual monitoring payments in the amount of 0.42 percent of the outstanding principal loan balance, not including the portion of the loan amount attributable to the COSR, shall be payable to the Department. The Department may defer payment in writing of this amount in any given year if necessary to maintain Project feasibility only after receiving a written request from the Sponsor. After 30 years, the Department may reset the required payment amount to cover its monitoring costs. The Department shall conduct an assessment of its monitoring costs and make such assessment public, no later than 30 years from the date of adoption of these Guidelines. The Mandatory Annual Monitoring Payment shall be required regardless of any pay-down or pay off of the Department's loan. Furthermore, the amount shall be based on the 0.42 percent of the original principal loan amount, not including the portion of the loan amount attributable to the COSR, or some other lesser amount approved by the Department as part of a Department debt-restructuring program, until the 30-year reset when the Department may reset the required payment amount to cover its monitoring costs.

(2) Interest Payment. The loans shall bear simple interest at a rate of 3 percent per annum on the unpaid principal balance. This interest payment is separate from the 0.42 monitoring fee. All accumulated interest and principal payments shall be deferred for the term of the loan.

(3) Security. The loans shall be secured by the Project's real property and improvements, subject only to liens, encumbrances and other matters of record approved by the Department.

(4) Subordination. The loans shall meet the subordination policy requirements described in 25 CCR Section 8315.

(5) Loan Payment. All Program loan payments (not including the 0.42 percent annual monitoring fee on the capital portion of the loan) 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.

(6) Term. The total outstanding principal and accumulated interest, including deferred interest, shall be due and payable in full to the Department at the end of the loan term. Upon request by the Sponsor, the Department may approve extensions to the loan term if the Department determines all of the following are met:

A. The Sponsor is in compliance with the regulatory agreement and all other NPLH Program Documents and agrees to continue to comply during the extended term;

B. Starting at the time of the extension of the loan term, the Project must achieve

Fiscal Integrity for at least 15 years, or the length of the extension if the extension is shorter than 15 years; and

C. The extension is necessary to continue operations consistent with Program requirements.

(l) Maximum per-Unit loan amounts for loans underwritten by the Department shall be published annually for each NOFA and determined as follows:

(1) Maximum per-Unit loan amounts shall not exceed the total eligible costs required, when considered with other available financing and assistance, in order to:

A. Enable the funds to be used for the eligible uses set forth in Section 200;

B. Ensure that Rents for Assisted Units comply with Program requirements; and

C. Operate in compliance with all other Program requirements.

(2) The capital portion of the loan amount is further limited to the sum of a base amount per Assisted Unit, plus the amount per Assisted Unit required to reduce Rents from 30 percent of the 60 percent of Area Median Income level to the actual maximum restricted Rent for the Assisted Unit, with loan limits increasing based on the level of affordability provided.

(3) For loan limit calculations, the Department shall include the number of Assisted Units within a Rental Housing Development and the number of bedrooms per Assisted Unit.

(4) For Assisted Units receiving rental assistance under renewable rental subsidy contracts, the loan amount will be based on the most restrictive level of income restriction that will apply following the closing of the Program loan.

(5) Base amounts for the portion of the loan that does not include a COSR are set at:

A. $125,000 per Assisted Unit for Projects using 9 percent low-income housing tax credits.

B. $175,000 per Assisted Unit for all other Projects.

C. The Department may periodically adjust the minimum amounts per Assisted Unit as necessary to ensure a sufficient volume of applications that meet the objectives of the Program. In making adjustments to the per-Unit subsidy limits the Department shall consider:

i. Demand for funds evidenced in previous funding rounds;
ii. The total amount of Program funds available for award;
iii. Trends in Project development costs;

iv. Trends in the terms and availability of supplemental development funding sources; and
v. Change to per-unit limits made by other Department programs

D. Annual per-Unit subsidy limits calculated based upon the above formula will be published on the Department's website.

(6) The COSR portion of the award shall be determined pursuant to the requirements of Section 209.

(7) The maximum award amount per Project, including all eligible capital and COSR costs, shall be the lesser of:

A. The amount permitted in accordance with the per-Unit subsidy limit calculations for the capital portion of the loan and for the COSR;
B. The amount necessary for the Project to maintain Fiscal Integrity; or
C. $20,000,000.

(m) Each Applicant shall elect and disclose whether or not the Project will be part of an application to TCAC seeking tiebreaker incentives for hybrid 4 percent and 9 percent tax credit projects. A Sponsor that will apply to TCAC seeking hybrid tiebreaker incentives may submit applications jointly with a County for NPLH funds for one or both hybrid component Projects, but each component Project must apply independently with a separate application.

(n) The hybrid election is irrevocable unless all of the following conditions are met as determined by the Department:

A. The 9 percent hybrid component is seeking to convert to a 4 percent Project so that both Projects will be receiving 4 percent tax credits;
B. No additional funding from the Department will be required, nor requested or awarded;
C. If the Project was approved in a competitive funding round, there will be no negative impact on Project scoring resulting from the conversion from 9 percent to 4 percent.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.7, 5849.8, 5849.9, Welfare and Institutions Code.

Section 201. Threshold Requirements for Noncompetitive Allocation

(a) Noncompetitive Allocations must be awarded within 18 months of the issuance of the Department's initial NOFA.

(b) To be eligible to receive a Noncompetitive Allocation, no later than 12 months following the issuance of Department's initial NOFA (by August 15, 2019) a County must:

(1) Submit a resolution of the County Board of Supervisors to the effect that the County will submit one or more Project applications within 30 months of the issuance of the Department's initial NOFA (by February 15, 2021) proposing to utilize any Noncompetitive Allocation awarded to the County.

(2) Submit a certification on a form created by the Department, or approved by the Department, certifying that prior to receiving its Noncompetitive Allocation, the Project(s) submitted by the County will have met all the requirements under Article II, III, or IV, as applicable.

(c) No later than the submission deadline for the County's first Project application, a County shall submit a plan that specifies the goals, strategies and activities both in process or to be initiated to reduce homelessness and make it non-recurring. Any plan that meets the following requirements is acceptable, including but not limited to Continuum of Care Plans, a County Mental Health Services Act fund expenditure plan that includes a section that specifically focuses on homelessness, or any other County plan specific to homelessness. Projects proposed by the County should be clearly connected to the goals and strategies outlined in the plan.

(A) The County plan must discuss all of the following:

(i) A description of homelessness County-wide, including a discussion of the estimated number of residents experiencing homelessness or chronic homelessness among single adults, families, and unaccompanied youth;

(ii) To the extent possible, the estimated number of residents experiencing homelessness or chronic homelessness who are also experiencing serious mental illness, co- occurring disabilities or disorders, or who are children with a Serious Emotional Disturbance;

(iii) Special challenges or barriers to serving the Target Population;

(iv) County resources applied to address homelessness, including efforts undertaken to prevent the criminalization of activities associated with homelessness;

(v) Available community-based resources;

(vi) An outline of partners in ending homelessness;

(vii) Proposed solutions to reduce and end homelessness;

(viii) Systems in place to collect the data required under Section 214,

including any planning efforts and barriers to collecting the data in Section 214 (g); and

(ix) Efforts that will be undertaken to ensure that access to CES, and any alternate assessment and referral system established for persons At-Risk of Chronic Homelessness pursuant to the requirements of these Guidelines, will be available on a nondiscriminatory basis. If it is unlikely that the procedures to be used to make this process known to persons seeking housing will reach persons of any particular race, color, religion, sex, age, national origin, familial status, disability, sexual orientation, or gender identity, the plan must discuss additional procedures to be established to ensure that those persons are made aware of the assessment and referral process to access available housing.

(B) The plan must have been developed in a collaborative process with community input that includes all of the following groups:

(i) County representatives with expertise from behavioral health, public health, probation/criminal justice, social services, and housing departments;

(ii) The local homeless Continuums of Care within the County;

(iii) Housing and Homeless services providers, especially those with experience providing housing or services to those who are Chronically Homeless;

(iv) County health plans, community clinics and health centers, and other health care providers, especially those implementing pilots or other programs that allow the County to use Medi-Cal or other non-MHSA funding to provide or enhance services provided to NPLH tenants, or to improve tracking of health outcomes in housing;

(v) Public housing authorities, and

(vi) Representatives of family caregivers of persons living with serious mental illness.

(C) The plan or the latest update to the plan shall be no older than five years old at the time of the County's application, and shall be easily accessible to the public.

NOTE: Authority cited: Sections 5849.5, 5849.9, Welfare and Institutions Code. Reference cited: Sections 5849.7(c), 5849.9, Welfare and Institutions Code.

Section 202. Project Threshold Requirements

To receive a Competitive Allocation award for loans underwritten by the Department, or a

disbursement of the awarded Noncompetitive Allocation loans underwritten by the Department, a Project must meet all the following minimum requirements:

Initial Threshold Evaluation

(a) Eligible Applicant. The application must be submitted by a single County independently as the Development Sponsor, or by a single County jointly with another entity as Development Sponsor. Two or more Counties may apply together as joint Applicants if there is a commitment to collaborate in the provision or coordination of supportive services or other resources to the Project and if NPLH tenants from each of the Applicant Counties are expected to reside in the Project.

(b) Eligible Use of Funds. The Project's use of the NPLH funds will be limited to the eligible uses described in Section 200.

(1) All Projects must be Rental Housing Developments with a minimum of five Units.

(2) All Projects must serve persons qualifying as members of the Target Population.

(3) Proposed Projects involving new construction and requiring the demolition of existing residential Units are eligible only if the number of bedrooms in the new Project is at least equal to the total number of bedrooms in the demolished structures. The new Units may exist on separate parcels provided that all parcels are part of the same Rental Housing Development and meet the requirements of "Scattered Site Housing" described in Subsection 202 (m). The Department may approve exceptions to the one-to-one replacement requirement in accordance with 25 CCR 8302 (b). For example, it may approve a reduction in the number of single room occupancy (SRO) Units where necessary to add private cooking and bathing facilities, or a reduction in the number of bedrooms in public housing necessary to meet federal requirements.

(c) Experience. Collectively, among the members of the Project team consisting of the Applicant County, any other Development Sponsor, the lead service provider, if not the County, and the property manager, all of the following minimum experience requirements must be met:

(1) For applications in Counties with a population of 200,000 or greater:

(A) Development, ownership, or operation of Permanent Supportive Housing or at least two affordable rental housing Projects in the last 10 years, with at least one of those Projects containing at least one Unit housing a tenant who qualifies as a member of the Target Population.

(B) The lead service provider, which may be the County, shall have three or more years of experience serving persons who qualify as members of the Target Population. If this experience does not include experience serving persons in Permanent Supportive Housing, it must include experience helping persons address barriers to housing stability or providing other support services related

to housing retention.

(C) The property manager shall have three or more years' experience serving persons who qualify as members of the Target Population.

(2) For applications in Counties with a population of less than 200,000, the minimum experience requirements of the Project team may be satisfied by the requirements in paragraph (e)(1), or collectively the Project team must meet all the following requirements:

(A) Development, ownership, or operation of Permanent Supportive Housing, or at least two affordable rental housing Projects in the last ten years, with at least one of those Projects containing at least one Unit housing a tenant who qualifies as a member of a special needs population that experiences housing barriers similar to those of the Target Population, including such barriers as difficulty retaining housing, and mental health or substance use issues;

(B) The lead service provider, which may be the County, shall have three or more years' experience serving persons who qualify as members of one or more special needs populations whose service needs are similar to those of the Target Population. If this experience does not include experience serving persons in Permanent Supportive Housing, it must include experience helping persons address barriers to housing stability or providing other support services related to housing retention; and

(C) The property manager shall have three or more years' experience serving persons who qualify as members of one or more special needs populations whose property management needs are similar to those of the Target Population, including having such barriers as difficulty retaining housing, and mental health or substance use issues.

(d) Site Control. The Development Sponsor must have site control of the proposed Rental Housing Development that meets the requirements of the Uniform Multi-Family Housing Regulation (UMR), 25 CCR Section 8303, which requires the Sponsor to have site control of the proposed Project property, in the name of the Sponsor or an entity controlled by the Sponsor.

(1) The ownership interest may be demonstrated by fee title, a leasehold interest, an enforceable option to purchase, a disposition and development agreement, an agreement giving the Sponsor exclusive rights to negotiate for acquisition, or a land sales contract. This includes compliance (if applicable) with UMR 25 CCR Section 8316 for a leasehold interest in the property.

(2) At the time of application, site control documented shall be for a time period no shorter than through the anticipated date of the award of NPLH funds by the Department, as set forth in the most current NPLH NOFA under which the Project is applying for funds.

(e) Integration. Proposed Projects must demonstrate integration of the Target Population with the general public. In order to demonstrate compliance with this requirement, the following conditions must all be met:

(1) Assisted Units must be integrated with other Units in the Project (including, for purposes of this paragraph (1), any other project of which the Project is a part or in which the Project is included for purposes of any other loan, grant, or other funds awarded by the Department, or by any other State or local agency, department, political subdivision, or other governmental entity, for funding of development, operating, or supportive services costs) and not separated, assigned, partitioned, or restricted to separate floors, doors, common areas, legal parcels, or other areas or portions of the Project or of the building or any other physical structure of which the Project is comprised or a part;

(2) To promote integration of the Target Population with other Project tenants, in Projects of greater than 20 Units, the Department will fund no more than 49 percent of the Project's total Units as NPLH Assisted Units. 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 the total Project Units being restricted to persons with disabilities;

(3) Notwithstanding paragraph (2), in a hybrid Project, the total number of Units may be allocated disproportionately to the 4 percent component of a hybrid transaction if all of the following conditions are met:

A. The hybrid transaction is a single building transaction and all of the NPLH Assisted Units will be located within the same physical structure;
B. If the building containing both components of the hybrid tax credit transaction has greater than 20 Units, the total number of NPLH Assisted Units within the building is equal to or less than 49 percent of the total Units within this building, and
C. The Applicant can demonstrate to the reasonable satisfaction of the Department that the NPLH Assisted Units will be reasonably distributed throughout the building to facilitate compliance with the other requirements of Section 202 (e).

(4) Applicants must certify that they will facilitate or provide regular community building activities and architectural design features that promote tenant interaction, (for example, indoor and outdoor community space within the Project, wide hallways), as feasible depending on the scope of the construction or rehabilitation activity; and

(5) The service plan and property management plan submitted with the application must document policies that promote participation by tenants in community activities, and impose no restrictions on guests that are not otherwise required by other project funding sources or would not be common in other unsubsidized rental housing in the community.

(f) Amenities. All Project sites must be reasonably accessible to public transportation,

shopping, medical services, recreation, schools, and employment in relation to the needs of the Project tenants and what is typically available in that County.

(g) Article XXXIV. All Projects shall comply with Article XXXIV Section 1 of the California Constitution, as clarified by Public Housing Election Implementation Law (H&S Code Section 37000 et seq.). Article XXXIV documentation for loans underwritten by the Department shall be subject to review and approval by the Department prior to the award of funds by the Department.

(h) Applications shall be on forms made available by the Department. In addition, applications must contain all of the following:

(1) A resolution from the County Board of Supervisors to make available to the Project's NPLH tenants, for a minimum of 20 years, mental health supportive services and to coordinate the provision or referral to other services as outlined in the County's supportive services plan for the Project, including but not limited to, substance use services. The County's obligations pursuant to this requirement shall begin when a Project receives its certificate of occupancy, or other evidence of Project completion for Projects already occupied. This resolution shall also contain other commitments related to the County's obligations as Applicant for the Project funds.

(2) If applicable, a resolution from the governing body of the Development Sponsor related to its obligations as co-Applicant for the Project funds.

(3) An initial plan for providing supportive services based on the anticipated needs of the Target Population proposed to be served by the Project. The supportive services plan must meet the requirements outlined in Section 203.

(4) A property management plan that:

A. Utilizes a low-barrier tenant selection process that prioritizes those with the highest needs for available housing;

B. Implements Housing First practices, consistent with the core components set forth in Welfare and Institutions Code Section 8255(b); and

C. Implements policies and practices to prevent evictions and to facilitate the implementation of reasonable accommodation policies.

(5) If not already submitted by the County, the County's plan to combat homelessness that meets the requirements of Section 201.

(6) The Department may request any other information as set forth in the NOFA or application in order to determine Project feasibility and compliance with Program requirements. This may include, but is not limited to, such things as:

(A) For Projects with Units that will not be assisted by NPLH, a market study

prepared in accordance with TCAC requirements which demonstrates a market for the non-Assisted Units, information on the anticipated need for the Assisted Units, and how referrals will be made in compliance with the requirements of Section 206 and Section 211;

(B) For Projects where 100 percent of the Units will be NPLH Assisted Units, information on the anticipated need for the Assisted Units, and how referrals will be made in compliance with the requirements of Section 206 and Section 211;

(C) An appraisal prepared in accordance with TCAC requirements at the Sponsor's expense by an individual or firm which: (A) has the appropriate license and the knowledge and experience necessary to competently appraise low-income residential rental property; (B) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal; (C) 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 (D) is an independent third party that has no interest themselves or through an affiliate, with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor;

(D) A preliminary title report;

(E) For new construction projects, the most recent Phase I Environmental Site Assessment prepared for the property, and a Phase II environmental report if recommended by the Phase I;

(F) For rehabilitation projects, lead-based paint, mold and asbestos reports;

(G) Documentation of service provider and property manager experience meeting the applicable requirements of Section 202 (c).

Financial Feasibility Evaluation and Related Requirements

(i) Financial Feasibility. The Project shall meet the requirements of Sections 206 and 207 and must prove Fiscal Integrity. Loans underwritten by the Department must also meet the requirements of Section 208 and have a minimum of five Assisted Units.

(j) Environmental Conditions. All Project sites must be free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove and that cannot be mitigated.

(k) Relocation. The Development Sponsor of any Project resulting in displacement of tenants shall be solely responsible for providing the assistance and benefits set forth in this subsection and in applicable local, state, and federal law.

(1) All tenants of a property who are displaced as a direct result of the development of an NPLH Project shall be entitled to relocation benefits and assistance as provided in Title 1, Division 7, Chapter 16 of the Government Code, commencing at Section 7260, and Subchapter 1 of Chapter 6 of Title 25 of the California Code of Regulations, commencing at Section 6000.

(2) The Development Sponsor shall prepare a relocation plan conforming with the provisions of California Code of Regulations, Title 25, Section 6038. For loans underwritten by the Department, the relocation plan or other relocation documentation shall be subject to the review and approval by the Department prior to the beginning of construction.

(3) If the Applicant determines that relocation requirements are not applicable to the Project, the application must explain and document why relocation does not apply. Additional certifications to this effect may also be requested by the Department.

(l) State and Local Requirements. All Assisted Units and other Units of the Project must be on a permanent foundation and must meet all applicable state and local requirements pertaining to rental housing, including but not limited to, requirements for minimum square footage, and requirements related to maintaining the property in a safe and sanitary condition.

(m) Scattered Site Housing is permitted provided that the following conditions are all satisfied prior to the closing of the loan. The requirements of this Section shall be interpreted in a manner consistent with the requirements of 25 CCR Section 8303 (b) pertaining to Scattered Site Housing.

(1) All Project sites in the Rental Housing Development must have a single owner and property manager;

(2) All Project sites shall be governed by one set of NPLH Program Documents, which among other things, shall include similar tenant selection criteria, serve similar tenant populations and have similar Rent and income restrictions;

(3) If the Rental Housing Development has a COSR, there shall only be one COSR for all sites in the Project;

(4) There may be at most one lender with required payments senior to the Department's loan;

(5) There must be a single audit and annual report that covers all Project sites;

(6) The Sponsor's obligations under the Department's NPLH Program Documents must be secured by all Project sites, with lien priority relative to local public agency lenders determined in accordance with 25 CCR Section 8315 and use of cash flow available for residual receipts loan payments determined in accordance with 25 CCR Section 8314; and

(7) The Department must be named on insurance policies covering all Project sites, with coverage meeting Department requirements.

NOTE: Authority cited: Sections 5849.5, 5849.7(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c), 5849.8, Welfare and Institutions Code.

Section 203. Supportive Services

(a) Each application selected for funding must include a Project-specific supportive services plan developed by the County in partnership with the Project Sponsor, supportive service providers, and the property manager.

(b) The property management staff and service providers must make participation in supportive services by NPLH tenants voluntary. Access to or continued occupancy in housing cannot be conditioned on participation in services or on sobriety. The supportive services plan must describe the services to be made available to NPLH tenants in a manner that is voluntary, flexible and individualized, so NPLH tenants may continue to engage with supportive services providers, even as the intensity of services needed may change. Adaptability in the level of services should support tenant engagement and housing retention.

(c) The following supportive services shall be made available to NPLH tenants based on tenant need. Available mental health services shall be provided directly by the County or through a subcontracted lead service provider. The County or the County's lead service provider for the Project shall coordinate the provision of or referral to services needed by individual tenants, including but not limited to, substance use treatment services, for a minimum of 20 years. Except as otherwise noted below, the following required services can be provided onsite at the Project or offsite at another location easily accessible to tenants:

(1) Case management;

(2) Peer support activities;

(3) Mental health care, such as assessment, crisis counseling, individual and group therapy, and peer support groups;

(4) Substance use services, such as treatment, relapse prevention, and peer support groups;

(5) Support in linking to physical health care, including access to routine and preventive health and dental care, medication management, and wellness services;

(6) Benefits counseling and advocacy, including assistance in accessing SSI/SSP, enrolling in Medi-Cal; and

(7) Basic housing retention skills (such as Unit maintenance and upkeep, cooking, laundry, and money management).

(d) The following supportive services are not required to be made available, but are encouraged to be part of a County's supportive services plan. These services may be provided directly by the County or a County-contracted service provider, or the County may coordinate the provision of or referral to these services as needed by individual tenants.

(1) Services for persons with co-occurring mental and physical disabilities or co-occurring mental and substance use disorders not listed above;

(2) Recreational and social activities;

(3) Educational services, including assessment, GED, school enrollment, assistance accessing higher education benefits and grants, and assistance in obtaining reasonable accommodations in the education process;

(4) Employment services, such as supported employment, job readiness, job skills training, job placement, and retention services, or programs promoting volunteer opportunities for those unable to work, and

(5) Obtaining access to other needed services, such as civil legal services, or access to food and clothing.

(e) The following additional information shall be provided in the supportive services plan:

(1) Description of the Target Population to be served, and identification of any additional subpopulation target or occupancy preference for the NPLH Project that the Applicant wishes to undertake beyond what is permitted under the Target Population requirements. Any additional subpopulation targeting or occupancy preference for an NPLH Project must be approved by the Department prior to construction loan closing and must be consistent with federal and state fair housing requirements;

(2) Description of tenant outreach, engagement and retention strategies to be used;

(3) Description of each service to be offered, how frequently each service will be offered or provided depending on the nature of the service, who is anticipated to be providing the services, and the location and general hours of availability of the services;

(4) For services provided off-site, the plan must describe what public or private transportation options will be available to NPLH tenants in order to provide them reasonable access to these services. Reasonable access is access that does not require walking more than one-half mile.

(5) Description of how the supportive services are culturally and linguistically competent for persons of different races, ethnicities, sexual orientations, gender identities, and gender expressions. This includes explaining how services will be provided to NPLH tenants who do not speak English, or have other communication barriers, including sensory disabilities, and how communication among the services providers, the

property manager and these tenants will be facilitated;

(6) Estimated itemized budget, and sources of funding for services;

(7) Description of how the supportive services staff and property management staff will work together to prevent evictions, to adopt and ensure compliance with harm reduction principles, and to facilitate the implementation of reasonable accommodation policies from rent-up to ongoing operations of the Project;

(8) General service provider and property manager communication protocols;

(9) Description of how the physical design of the Project fosters tenant engagement, onsite supportive services provision, safety and security, and sustainability of furnishings, equipment, and fixtures; and

(10) Other information needed by the Department to evaluate the supportive services to be offered consistent with the Program.

(f) Copies of draft written agreements or memoranda of understanding (MOUs) must be provided which identify the roles and responsibilities of the County, the project owner, other service providers, and the property manager. Specific organizations do not need to be identified unless those organizations are used to satisfy the experience requirements required to submit an application under Sections 202, 301 or 401. The draft written agreements or MOUs must be materially consistent with the information set forth in the supportive services plan.

(g) The Department may request that any necessary updates to the supportive services plan or related documents, including fully executed written agreements between the County, service providers, the Project owner, and the property manager, be provided prior to the beginning of the initial rent-up period or prior to permanent loan closing.

(h) For Projects funded under Article II of these Guidelines, changes in which entity is the lead service provider may be permitted after application submittal with prior approval from the Department, as long as all Program requirements of the lead service provider continue to be satisfied, and as long as the change in lead service provider would not result in a lower application score for Projects scored under the rating factors in Sections 205 (e) and 205 (f).

(i) For Projects funded under Articles III or IV of these Guidelines, changes in which entity is the lead service provider may be permitted with prior approval of the County, as long as all of the requirements of the lead service provider continue to be met.

NOTE: Authority cited: Sections 5849.5, 5849.9, Welfare and Institutions Code. Reference cited: Sections 5849.7(c), 5849.8, 5849.9, Welfare and Institutions Code.

Section 204. Application Process

(a) Competitive Allocation awards and Noncompetitive Allocation disbursements shall be

offered through an application process, as set forth in a NOFA. The Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, application requirements, award requirements, the allocation of rating points and minimum eligibility threshold point scores for applications for Competitive Allocations, the deadline for submittal of applications, and other general terms and conditions of funding commitments.

(b) Applications shall be on forms made available by the Department.

(c) Applications shall be evaluated for compliance with the threshold requirements set forth in Sections 201 and 202 (as applicable).

(d) The following applies to applications submitted for Competitive Allocations:

(1) If the total amount of funds requested in a County population group set forth under Section 102 exceeds the amount of funds available for that group, those applications will be scored based on the application selection criteria in Section 205.

(2) Within each County population group, the applications with the highest number of points shall be selected for funding, provided that all threshold and eligibility requirements are met. The Department may elect not to evaluate compliance with some or all eligibility requirements for applications that are not within the fundable range, as indicated by a preliminary point scoring.

(3) In the event of a tie between applications, funds will be awarded to the application with the highest overall readiness point score under Section 205(d). If a second tie-breaker is needed, funds will be awarded to the application with the lowest per Unit Total Development Cost pursuant to the calculation methodology under 25 CCR 8311.

(4) If requesting a COSR, the Applicant must comply with the requirements in Section 209 of these Guidelines.

(5) A city receiving funds pursuant to the Bronzan-McCorquodale programs under Welfare and Institutions Code Section 5701.5 shall not be funded for more than one Project per funding round for a Competitive Allocation unless that Project is being submitted by the county in which that city is located within the county's own population group.

(6) The Department reserves the right to do the following:

(A) Score an application as submitted in the event information is missing from the application;

(B) Request clarification of unclear or ambiguous statements made in an application and other supporting documents where doing so will not impact the competitive scoring of the application;

(C) If the total funds requested for a County population group is less than the amount made available in the NOFA, request missing information necessary to fund an application.

(D) If the total funds requested for a County population group(s) is less than the amount made available to that population group(s) in the NOFA, use funds from that population group(s) to fund other eligible unfunded applications in other population group(s). If the Department exercises this option, notwithstanding the provisions of Section 102 (d), the Department shall in the subsequent NOFA adjust the allocations for each population group to account for any such reallocation in compliance with Welfare and Institutions Code Section 5849.6.

(e) Application decisions are subject to appeal by the Applicant in accordance with the appeals process set forth in the NOFA.

(f) Applications selected for funding shall be approved at amounts, terms, and conditions specified by the Guidelines and NOFA. For each Project selected for funding, the Department shall issue an award letter.

NOTE: Authority cited: Sections 5849.5, 5849.6 5849.9, Welfare and Institutions Code. Reference cited: Sections 5849.6 5849.7(c), 5849.8, 5849.9, Welfare and Institutions Code.

Section 205. Competitive Allocation Application Rating Criteria

Applications submitted within a competitive funding round shall be evaluated using the following criteria. Total available points shall equal 200.

(a) Percentage of Total Project Units Restricted to the Target Population – 65 points maximum

(1) Projects will receive up to a maximum of 30 points as follows for up to 30 percent of their total Project Units restricted to the Target Population as Assisted Units.

Percentage of Projects Units that are Assisted Units	Point Score
5 - 9.9 percent	8
10 -14.9 percent	13
15 – 19.9 percent	18
20 – 24.9 percent	23
25 - 29.9 percent	28
30 percent and above	30

(2) Projects will receive 35 points if the Applicant commits to do either of the following for the term of the Department's loan:

A. Commit to use a Coordinated Entry System (CES) to fill all of the NPLH Assisted Units based on use of a standardized assessment tool which prioritizes those

with the highest need for Permanent Supportive Housing and the most barriers to housing retention.

B. If a separate alternate system must be used to refer persons At-Risk of Chronic Homelessness, a minimum of 40 percent of the NPLH Assisted Units must be reserved for persons who qualify as Chronically Homeless and a maximum of 30 percent of the NPLH Assisted Units may be reserved for persons who are At-Risk of Chronic Homelessness. All referrals must be based on a prioritization of those with the highest need for Permanent Supportive Housing, and the most barriers to housing retention.

(b) Leverage of Development Funding –20 points maximum

Applications will be scored based on the ratio of permanent development funding attributable to NPLH Assisted Units from sources other than the Competitive Allocation to the requested capital portion of the Program loan amount provided under the Competitive Allocation, not including any capitalized operating reserves, up to a maximum of 20 points.

To be counted, all sources of leverage must have an Enforceable Funding Commitment, unless otherwise specified below. The assistance will be deemed to be an Enforceable Funding Commitment if it has been awarded to the Project or if the Department approves other evidence that the assistance will be reliably available. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low-income housing tax credits will not disqualify a source from being counted as an Enforceable Funding Commitment.

(1) Deferred developer fees and funds deposited in a reserve to defray operating deficits will not be counted in this computation.

(2) All Projects utilizing tax-exempt bond and 4 percent low income housing tax credits will have these funds counted toward this calculation based on an estimate of syndication proceeds provided with the application, including the 4 percent component of TCAC hybrid Projects.

(3) Noncompetitive Allocations dedicated to the proposed Project will be counted in this computation if the requirements of Section 201 (b) have been met as determined by the Department.

(4) Noncompetitive and Competitive funds combined on the same Assisted Units will be subject to one per Unit cap as established under Section 200. If the proposed Project gets funded, the Noncompetitive funds will be included in the total award amount and subject to the total Project limit as established under Section 200.

(5) To receive credit for deferred payment financing, grant funds, or subsidies from other Department programs, these funds must be awarded prior to finalizing the preliminary point scoring of the NPLH application.

(6) Land donated or leased at a below market cost will be counted where the value of the donation or lease discount is established by an appraisal prepared in accordance

with TCAC requirements and the requirements set forth in Section 202 (h)(6). If the donation has already occurred or the lease has already been executed, the value of the donation or lease discount shall be established as of the date of the donation or lease. Appreciation to the Applicant shall not be counted. The value of land leased shall be discounted by the sum of upfront lease pre-payments, annual administrative fees, and all mandatory lease payments in excess of $100 per year over the term of the lease, exclusive of residual receipt payments.

(7) For Projects utilizing 9 percent competitive low-income housing tax credits, 0.08 points will be awarded for each percentage point of leveraged funds. For example, an application proposing other development funds equal to 100 percent of the NPLH capital portion of the loan, will receive 8 points. An application where other funds equal 250 percent of the NPLH capital portion of the loan will receive 20 points.

For other Projects, approximately 0.13 points will be awarded for each percentage point of leveraged funds. For example, an application proposing other development funds equal to 100 percent of the NPLH capital portion of the loan will receive 13 points, and an application where other funds equal 150 percent of the NPLH capital portion of the loan will receive 20 points.

(c) Leverage of Rental or Operating Subsidies– 35 points maximum

Applications will be scored based on the percentage of NPLH Assisted Units that have Enforceable Funding Commitments for operating assistance, or for Project-based or Sponsor-based rental subsidies with commitment terms substantially similar in terms to project-based Housing Choice Vouchers, 1.75 points will be awarded for each 5 percentage increment of committed assistance up to a maximum of 35 points.

The assistance must meet the requirements of an Enforceable Funding Commitment, and it must be allocated to the Project or to an affiliated rental-assistance sponsor, or the Department must approve other evidence that the assistance will reliably be available. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low-income housing tax credits will not disqualify a source from being counted as an Enforceable Funding Commitment.

(1) Rental assistance must be substantially similar in terms to Project-based or Sponsor-based Housing Choice Vouchers, including but not limited to Section 8 Housing Choice Vouchers, VASH vouchers, Family Unification Program vouchers, Continuum of Care Supportive Housing (previously known as Shelter Plus Care) rental subsidy, or locally funded rental assistance. Project-based assistance must ensure that the tenant pays no more than 30 percent of his/her income in Rent.

(2) Other local Enforceable Funding Commitments will also count toward this rating factor, including, but not limited to, contributions to any supplemental COSR established to address projected operating deficits attributable to the NPLH Assisted Units made by a local government, the Development Sponsor or another entity documented through an award letter, reservation of funds, commitment letter, or contract.

(3) To receive credit for deferred payment financing, grant funds, or subsidies provided for rental or operating assistance from other Department programs, these funds must be awarded prior to finalizing the preliminary point scoring of the NPLH application.

(d) Readiness to Proceed – 50 points maximum

Points will be awarded for each of the following categories as indicated below and as documented in the application. Any application demonstrating that a particular category is not applicable to Project readiness for the subject Project shall be awarded full points in that category.

(1) Obtaining Enforceable Funding Commitments for all needed construction financing, not including tax-exempt bonds, 4 percent low-income housing tax credits, and deferred developer fee.

A. The assistance will be deemed committed if it has been awarded to the Project or if the Department approves other evidence that the assistance will be reliably available. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low-income housing tax credits will not disqualify a source from being counted as committed.

B. To receive credit for funds from other Department programs, these funds must be awarded prior to finalizing the preliminary point scoring of the NPLH application.

C. Projects utilizing 9 percent low-income housing tax credits and Projects utilizing 4 percent low-income housing tax credits that will be part of an application to TCAC seeking hybrid tiebreaker incentives may receive up to 5 points for this rating factor. All other projects may receive up to 10 points for this rating factor.

(2) Obtaining Enforceable Funding Commitments for all deferred-payment permanent financing, grants, and subsidies, not including deferred developer fee, tax-exempt bonds, and 4 percent low-income housing tax credits, in accordance with TCAC requirements and with the same exceptions as allowed by TCAC.

A. The assistance will be deemed committed if it has been awarded to the Project or if the Department approves other evidence that the assistance will be reliably available. Contingencies in commitment documents based upon the receipt of tax-exempt bonds or low low-income housing tax credits will not disqualify a source from being counted as committed.

B. To receive credit for deferred payment financing, grant funds, or subsidies from other Department programs, these funds must be awarded prior to finalizing the preliminary point scoring of the NPLH application.

C. Projects utilizing 9 percent low-income housing tax credits and Projects utilizing 4 percent low-income housing tax credits that will be part of an application to TCAC

seeking hybrid tiebreaker incentives may receive up to 5 points for this rating factor. All other projects may receive up to 15 points for this rating factor.

(3) Completion of all necessary environmental clearances, (California Environmental Quality Act, and National Environmental Policy Act) (10 points).

(4) Land Use Approvals

A. 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; (15 points)

B. 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; (10 points)

A "nondiscretionary local approval process" is one that includes little or no subjective judgment 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 Chapter 366, Statutes of 2017 (SB 35), By-Right Processing for Permanent Supportive Housing under Chapter 753, Statutes of 2018 (AB 2162)), Housing Element Law (Government Code Section 65583.2(i), or other local process that meets the definition of non-discretionary approval process, as determined by the Department.

C. To receive points under subdivisions (A) or (B) above, for Projects located within the boundaries of an incorporated city, the Department will rely on the city's determination, and for Projects located in the unincorporated areas of a county, the Department will rely on the county's determination

(e) Extent of On-Site and Off-Site Supportive Services – 20 points maximum

Points will be awarded in each of the following categories as indicated below based on information provided in accordance with Section 203 (Supportive Services). A copy of the initial supportive services plan must be submitted with the application in order to score the application in this rating category.

(1) Case management services provided onsite (5 points). To receive points for this category, the case manager does not need to have offices located onsite, as long as they provide onsite visits;

(2) Implementing evidence-based practices to engage and assist tenants in addressing

behaviors that could lead to eviction, or to assist in accessing other housing, such as critical time intervention, trauma-informed care, motivational interviewing, assertive community treatment, cognitive behavioral therapy, voluntary "moving-on" strategies or other practices recognized as a promising or innovative strategy by the federal Substance Abuse and Mental Health Services Administration (SAMHSA), the California Department of Health Care Services (DHCS), HUD, or other federal or state public agency. One point will be awarded for each evidence-based or other recognized practice to be implemented, (up to 5 points);

(3) Offering services listed under Section 203 (d). Two points will be awarded for each category of services listed under Section 203 (d), (up to 8 points).

(4) Resident involvement, such as strategies to engage tenants in community building and services planning and operations, and tenant satisfaction surveys to inform and improve services provision, building operations, and property management, (up to 2 points).

(f) Past History of Evidence Based Practices – 10 points maximum

Up to 10 points will be awarded to Projects where the lead service provider, which may be the County behavioral health department or its equivalent County department, or another entity that has contracted with the County to be the lead service provider, can document past experience with implementing evidence-based best practices that have led to a reduction in the number of Chronically Homeless or At-Risk of Chronic Homelessness individuals within the Target Population. Similar experience with evidence-based practices for other special needs populations can also be included if this experience can be shown to be relevant to serving the Target Population. Examples of evidence-based practices include the items below. To receive points under this rating factor, all such experience provided must be verified in the manner set forth in the application.

(1) Use of a critical time Intervention or assertive community treatment model,

(2) Cognitive behavioral therapy,

(3) Trauma-informed care,

(4) Motivational interviewing and other tools to encourage engagement in services, and

(5) Other practices recognized as evidence-based by SAMHSA, DHCS, HUD, or other federal or state public agency.

(g) Bronzan-McCorquodale

Projects located in cities that are receiving funds pursuant to the Bronzan-McCorquodale programs under Welfare and Institutions Code Section 5701.5 that do not receive maximum points in any of the above rating factors in paragraphs (a) through (f) may receive a total of two additional points in the aggregate if the application was submitted through the county in which that city resides rather than by the city within its population

group under the Competitive Allocation.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.7(c), 5849.8, Welfare and Institutions Code.

Section 206. Occupancy and Income Requirements

(a) Total household income at the time of move-in shall not exceed the 30 percent AMI limit as published by the Department. Income determination shall be made in accordance with the requirements in 25 CCR Section 6914 and 25 CCR Section 6916. Income levels shall be expressed in 5 percent increments as a percentage of AMI.

(b) The Development Sponsor shall maintain documentation of tenant eligibility in all the following ways, as applicable. Tenant eligibility criteria must be satisfied prior to being referred to an NPLH Project.

(1) Documentation of a Serious Mental Disorder or of a Seriously Emotionally Disturbed Child or Adolescent must be done by a qualified mental health worker in accordance with the requirements of Welfare and Institutions Code Section 5600.3.

(2) Documentation of a person's status as Chronically Homeless, Homeless, or At-Risk of Chronic Homelessness as defined under these Guidelines must be done in accordance with procedures established through the local Coordinated Entry System or other procedures established by the County and approved by the local Continuum of Care for determining whether a person qualifies as Chronically Homeless, At-Risk of Chronic Homelessness, or Homeless. Acceptable procedures are those in which use of relevant third-party documentation establishes compliance with the applicable definition in Section 101.

(3) In no event shall a person be required to be a client of the County behavioral health department or a recipient of mental health or other services in order to qualify for or remain in an Assisted Unit.

(c) Occupancy requirements shall apply for the full term of the Program loan subject to the provisions of Section 207.

NOTE: Authority cited: Sections 5849.5, 5849.7(c), 5849.9, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

Section 207. Rent Limits and Transition Reserve

(a) All Assisted Units shall be restricted to no more than the 30 percent AMI Rent level or below as specified in the Project NPLH regulatory agreement, except as otherwise provided in paragraph (c).

(b) Rent levels shall be expressed in 5 percent increments as a percentage of AMI.

(c) For Assisted Units, if at the time of recertification a tenant household's income exceeds the 30 percent AMI income level and this increase is based solely on the current SSI/SSP payment rate or cost-of-living adjustment, the household rent shall not exceed 30 percent of household income. These Units shall continue to be designated as Assisted Units.

(d) For Assisted Units, if at the time of recertification a tenant household's income exceeds the 30 percent AMI income level and this increase is based on factors other than or in addition to the current SSI/SSP payment rate or cost-of-living adjustment, to the extent a rent increase for the household is permitted by statutes and regulations governing the Project's other financing sources, the Sponsor:

(1) shall re-designate the tenant's Unit as a Unit at the higher income level, if there are non-Assisted Units restricted at the higher income level;

(2) shall increase the tenant's Rent to the level applicable to Units at the higher income level, rounding to the nearest 5 percent increment. These Units shall not continue to be designated as NPLH Assisted Units, and

(3) shall designate the next available comparable non-Assisted Unit as an Assisted Unit at the income level originally applicable to the household until the Unit mix required by the Program regulatory agreement is achieved.

(4) If all of the Project Units are Assisted Units, that Project can continue with the over-income Unit (s) until such time as those over-income households no longer reside in the Project.

(5) A Unit shall be deemed "comparable" if it has the same number of bedrooms and reasonably similar square footage as the original Unit.

For example, in a Project where the income limits utilized to qualify new tenants are 15 percent, 20 percent, 25 percent, 30 percent and 50 percent of Area Median Income, if the income of a household occupying an Assisted Unit designated as a 20 percent Unit increases to 48 percent of Area Median Income, the Sponsor must re-designate the household's Unit as a non-Assisted 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 non-Assisted comparable Unit as an Assisted Unit at the 20 percent income level.

(e) For Assisted Units, 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 NPLH tenants, the Sponsor may increase the household's Rent to an amount not exceeding the closest Rent limit applicable to the household's income level at the time of recertification. Continuing with the example described above, the income levels utilized to establish Rent limits upon recertification would be 15 percent, 20 percent, 25 percent, and 30 percent. A household occupying a Unit in this project with a 20 percent limit whose income, upon recertification, had

increased to 28 percent of area median income could have their Rent increased to the Rent level applicable to the 30 percent income level. These Units at or below the 30 percent income level shall continue to be designated as Assisted Units.

(f) Projects shall have a transition reserve in the event that any Project-based rental assistance is not renewed, or in the event that the Project COSR is exhausted and the Project cannot secure sufficient other rental or operating subsidies to continue without immediately raising Rents on the Assisted Units. The minimum amount of the transition reserve shall be the amount sufficient to prevent Rent increases for one year following the loss of the rental assistance or exhaustion of the COSR. The transition reserve may be capitalized from sources other than NPLH funds, or funded from annual project cash flow in amounts to be approved by the Department. Withdrawal and the use of funds in the reserve shall be subject to the Department's prior review and written approval. NPLH funds shall not be used to fund a transition reserve.

(1) If Rent increases on the Assisted Units are necessary due to loss of rental or operating assistance and after exhausting all transition reserve funds, rent increases will only be permitted to the minimum extent required for Fiscal Integrity, as determined by the Department. In addition, Rents on Assisted Units shall not, in any event, be increased to an amount in excess of 30 percent of 60 percent of Area Median Income, adjusted by number of bedrooms in accordance with Department requirements.

(2) If Rent increases on the Assisted Units are necessary due to loss of rental or operating assistance, and if it is determined that NPLH tenants will need to move after exhausting all transition reserve funds, a transition plan shall be implemented to identify other permanent housing options that may be more affordable to NPLH tenants who cannot afford the increased Rent, and to assist those persons in accessing other available housing. Funds from the transition reserve may be used for these expenses.

(3) Based on an analysis of the risk associated with specific rental assistance programs or specific state or local operating assistance available to the Project, the Department may modify transition reserve requirements. These modifications may include adjusting the amount of the required transition reserve, setting different amounts for different rental assistance programs to reflect the relative risk associated with these programs, allowing the transition reserve to be funded and controlled by a locality, establishing a transition reserve funded and held by the Department rather than the Project, or adjusting the level to which rents may be increased upon subsidy termination and loss of other available rental or operating assistance. Increases to transition reserves shall only apply to Projects that are awarded Department funds after the effective date of these modifications.

NOTE: Authority cited: Sections 5849.5, 5849.7(c), 5849.9, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

Section 208. Underwriting Standards

(a) In analyzing Project feasibility, the Department shall follow the underwriting requirements of its Uniform Multifamily Regulations (UMRs) commencing with 25 CCR Section 8300 as amended from time to time, including, but not limited to, the following:

(1) 25 CCR 8302 (Restrictions on Demolition),

(2) 25 CCR Section 8303 (Site Control Requirements and Scattered Site Projects); site control documented at the time of application shall be for a time period no shorter than through the anticipated date of the award of NPLH funds by the Department as set forth in the most current NOFA under which the Project is applying for Program funds,

(3) 25 CCR Section 8308, (Operating Reserves),

(4) 25 CCR Section 8309, (Replacement Reserves),

(5) 25 CCR Section 8310 (Underwriting Standards),

(6) 25 CCR Section 8311 (Limits on Development Costs),

(7) 25 CCR Section 8312 (Developer Fee), except that Section 8312 (d) shall not apply and Section 8312 (c) is replaced with the following:

A. For Projects utilizing 4 percent tax credits, Developer Fee payments shall not exceed the amount that may be included in project costs pursuant to California Code of Regulations, Title 4, Section 10327. In addition, the Developer Fee paid from development funding sources shall not exceed the following:

i. 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.

ii. 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 the above amount in (C) and the project's high-cost ratio, as calculated pursuant to California Code of Regulations, Title 4, Section 10317(i) (6) or successor language and (ii) 100 percent.

(8) 25 CCR Section 8314 (Use of Operating Cash Flow), except as follows:

A. 8314 (a)(1)(A) is replaced with the following: Approved deferred Developer Fee, pursuant to Section 8312, provided that the aggregate of the Developer Fee paid from sources and paid as deferred shall not exceed $3,500,000;

B. The limits specified in 8314 (e) for supportive services costs paid as operating

expenses shall increase annually for Projects at a rate of 3.5 percent per year; and

(9) 25 CCR Section 8315 (Subordination Policy).

(b) Where there is a difference between the provisions of the UMRs and these Guidelines, the provisions of these Guidelines shall prevail.

(c) Notwithstanding the above, residential stabilized vacancy rates for NPLH Assisted Units shall be assumed to be 5 percent, unless use of a lower or higher rate is required by another funding source, including TCAC, or is supported by compelling market or other evidence.

(d) In addition to the operating reserve required by 25 CCR 8308, a Sponsor may establish a COSR for the Assisted Units meeting the requirements of Section 209.

NOTE: Authority cited: Sections 5849.5, 5849.9, Welfare and Institutions Code. Reference cited: Sections 5849.7(c), 5849.8, 5849.9, Welfare and Institutions Code.

Section 209. Capitalized Operating Subsidy Reserve

(a) For Projects receiving 9 percent low-income housing tax credits, not more than 100 percent of the total per-Unit as calculated below may be provided per-Unit for a COSR to address Project operating deficits attributable to the Assisted Units.

A. This calculation shall be based on the sum of a base amount per Assisted Unit, plus the amount per Assisted Unit required to reduce Rents from 30 percent of 30 percent of Area Median Income level to the actual maximum restricted Rent for the Assisted Unit, with per-Unit limits increasing based on the level of affordability provided.

B. This base amount for 2019 shall be $133,000. Beginning January 2020, for new awards, this amount will be adjusted annually, as published by the Department on the Program website, based upon increases in the Consumer Price Index.

(b) For Projects not receiving 9 percent low-income housing tax credits, not more than $175,000 per Unit may be provided for a COSR to address Project operating deficits attributable to the Assisted Units. Beginning January 2018, for new loans, this amount will be adjusted annually, as published by the Department, based upon increases in the Consumer Price Index.

(c) The Department may adjust the above per-Unit subsidy limits for the COSR portion of the loan from time to time as may be necessary to achieve Department policy objectives, including, but not limited to, adjustments based upon increases in the Consumer Price Index. Any adjustments to the COSR per-Unit subsidy limits will be published annually on the Program webpage. Any changes shall be applicable to new

awards and contracts subsequent to posting of adjustments, and not to existing contracts or loan agreements.

(d) In order to be eligible to receive a COSR, the Applicant must first demonstrate, and the Department must verify prior to issuing an award letter for the Project that, in lieu of relying in whole or in part on COSR assistance for Assisted Units, the Applicant or its development partners have provided documentation as required in either subsection (1) or (2) below.

(1)

A. Identified all possible federal, state, and local sources of rental assistance and other operating assistance to support the Assisted Units; and

B. Submitted applications or other written requests to the appropriate entity to secure Project-based rental or other operating assistance to support the Assisted Units; or

(2)

A. Identified all possible federal, state, and local sources of rental assistance and other operating assistance to support the Assisted Units; and

B. Can provide other evidence from the appropriate entities that rental assistance and other operating assistance is not available to support the Assisted Units.

(e) The COSR shall be sized to cover anticipated operating deficits attributable to the Assisted Units for a minimum of 20 years. The total amount of each Project COSR will be determined based upon the individual Project underwriting performed by the Department pursuant to the requirements of these Guidelines.

(f) In determining how to size each Project COSR, the Department shall consider individual Project factors such as: the maximum percentage of Project Units it will assist; anticipated Project vacancy rates; the anticipated percentage of Assisted Units that will have other operating or rental subsidy and the term of that operating or rental subsidy contract, the anticipated percentage of households that are expected to be receiving SSI/SSP or other sources of stable income; and operating expenses that the Department will consider ineligible for payment from the COSR under Subsection (j).

(g) The following standard assumptions will be used for the purpose of establishing the total amount of a Project COSR. The Department may modify these assumptions as necessary to maintain project feasibility or extend the term of the COSR.

(1) All Assisted Units, other than the proportionate share of the manager's Unit, shall be counted in calculating the amount of the COSR. An Assisted Unit receiving other rental assistance may receive assistance from the COSR.

(2) In Projects of greater than 20 Units, NPLH will assist no more than 49 percent of total Project Units.

(3) In Projects of 20 Units or less, up to 100 percent of the Units may be NPLH Units.

(4) The stabilized residential vacancy rate for the Assisted Units shall be assumed to be 5 percent, unless use of a lower or higher rate is required by another funding source, including TCAC, or is supported by compelling market or other evidence.

(5) For purposes of sizing the COSR, a first-year vacancy rate of 15 percent may be used if doing so will not cause the Project to exceed the current COSR limits as set forth in the current NOFA.

(h) The Department shall hold all Project COSR funds in a subaccount under the No Place Like Home Fund established pursuant to Welfare and Institutions Code Section 4849.4.

(i) The Department will make an annual disbursement to the Project from the COSR subaccount based on the results of an independent bifurcated audit for the Project prepared by a certified public accountant for the prior operating year, as reviewed and approved by the Department in accordance with the requirements noted in the Project's regulatory agreement and the Department's current audit requirements, which are posted to the Department's website and may be amended from time to time. The bifurcated audit must distinguish actual annual income and expenses for the Assisted Units and the other Project Units in order to determine the amount of any operating deficit specifically attributable to the Assisted Units. In the first year of the Department's loan, the Department may base the amount of the COSR payment on the Department's most recent underwriting of the Project.

(j) Notwithstanding the above, in order to sustain the availability of the COSR for a minimum of 20 years, distributions from the COSR shall be subject to all of the following:

A. The Department may not disburse more than 5 percent of the total COSR award made to a Project per year, except that in any given year where the operating deficit attributable to the Assisted Units exceeds this amount, the Department may, in its sole discretion, increase the disbursement to up to 7 percent of the total COSR award, in accordance with the COSR limits and applicable review processes described in this Section;

B. Asset management and partnership management fees and deferred developer fees shall only be paid in accordance with the requirements of Subsection (m).

(k) If, after review of the Project's annual bifurcated audit, the Department finds that the Project did not need as much from the COSR as it received for that year, the Department may:

(1) Provide less in COSR payments in a subsequent year to make up the difference between what the Project received and the actual amount of the operating deficit attributable to the Assisted Units in the prior year;

(2) Require the Project to return to the Department the amount provided that was in excess of the amount of the operating deficit attributable to the Assisted Units. Any such amount returned shall be deposited to the Project's COSR subaccount; or

(3) Recalculate the remaining amount of COSR funds available over the remaining years until the twentieth year and inform the Borrower of an allowable COSR withdrawal amount per year, with the intent of keeping the COSR available for the full 20 years.

(l) If, after review of the Project's first five years of annual bifurcated audits, the Department finds that the Project has used more than 25 percent of the total amount of the Project's COSR funds, the Department reserves the right, at its sole discretion, to impose annual limits for withdrawals of the remaining COSR funds. Such limits shall be determined by dividing the remaining COSR funds by the years remaining until the twentieth year.

(1) The Department reserves the right, at its sole discretion, to implement the same COSR review process at years 10 and 15 to determine if COSR withdrawals may be greater than 5 percent per year, or greater than the limits imposed at a previous fifth-year COSR review in order to determine if different limits on COSR withdrawals shall be imposed for the remaining years until the twentieth year.

(2) If there are funds remaining in the Project COSR after the twentieth year, the Department reserves the right, at its sole discretion, to implement a similar process for determining the amounts available for allocation.

(m) Operating expenses that are not eligible to be paid from the COSR include:

(1) Costs associated with non-Assisted Units;

(2) Any loan payments; however, the Department's 0.42 percent annual monitoring fee may be paid from the COSR;

(3) Ground lease payments;

(4) Sponsor distributions;

(5) Developer fees not paid in accordance with the requirements of subparagraph (6) below;

(6) Asset management fees, partnership management fees and deferred developer fees attributable to the Assisted Units that can be paid for out of cash flow from the non-Assisted Units. Asset management fees, partnership management fees and deferred developer fees attributable to the Assisted Units that cannot be paid for out of cash flow from the non-Assisted Units can only be paid out of the COSR if all other eligible Operating Expenses have been paid and the total amount of the COSR payment for that year does not exceed 5 percent of the total

COSR award;

(7) Deposits to reserves beyond those required by the Department under the UMRs, including reserves required by other Project financing sources;

(8) Vacancy loss beyond three months for a tenant who has left the Unit. Where vacancy loss is paid through the COSR, this amount shall not exceed 80 percent of the approved Rent for the Assisted Unit. If the Unit is receiving rental assistance, the requirements of the rental subsidy source shall apply.

(9) Supportive services costs not permitted as part of the Project budget under the UMRs.

(10) Under no circumstances may COSR funds be used for or in connection with a limited partner buyout, substitution, or assignment of ownership interest, neither during an operating (fiscal) year nor at any potential restructure or resyndication transaction.

(n) Any funds remaining in the COSR after the twentieth year shall continue to be disbursed by the Department to the Project in accordance with the requirements of this Section.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.4, 5849.7(c), 5849.8, 5849.9, Welfare and Institutions Code.

Section 210. Operating Budgets

The Sponsor shall submit proposed operating budgets to the Department prior to permanent loan closing, and annually thereafter. These budgets shall be subject to Department written approval, and shall comply with the requirements of 25 CCR Section 7326.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

Section 211. Tenant Selection

(a) Tenants shall be selected through use of a CES or other similar system for those At-Risk of Chronic Homelessness in accordance with the provisions of 25 CCR Section 8305 and in compliance with Housing First requirements consistent with the core components set forth in Welfare and Institutions Code Division 8 Chapter 6.5 Section 8255 subsection (b), and basic tenant protections established under federal, state, and local law. Tenant eligibility criteria must be satisfied prior to being referred to an NPLH Project. All referral protocol for NPLH Assisted Units must be developed in collaboration with the local Continuum of Care and implemented consistent with Program requirements.

(b) Pursuant to Welfare and Institutions Code Section 5849.9, Projects utilizing funds from a

County's Noncompetitive Allocation shall prioritize persons with mental health supportive service needs who are Homeless or At-Risk of Chronic Homelessness.

(c) Reasonable selection criteria, as referred to in 25 CCR Section 8305(a)(1), shall include priority status under a local CES developed pursuant to 24 CFR 578.7(a)(8).

(d) If the CES existing in the County cannot refer persons At-Risk of Chronic Homelessness, the alternate system used must prioritize those with the greatest needs among those At-Risk of Chronic Homelessness for referral to available Assisted Units.

(e) Sponsors shall accept tenants regardless of sobriety, participation in services or treatment, history of incarceration, credit, or history of eviction in accordance with practices permitted pursuant to WIC Section 8255 or other federal or state Project funding sources.

(f) The requirements of 25 CCR Section 8305 (a)(4)(A) and 25 CCR Section 8305 (a)(4)(D) shall be implemented as approved by the Department in a manner that is consistent with the requirements of the CES.

(g) Notwithstanding the requirement in subsection (a), the Department will not set the numbers or percentages of specific NPLH subpopulations to be served if a County is using its CES for all referrals to NPLH Assisted Units. For example, if a Project proposes to use its CES system for all of its NPLH referrals, it will not be restricted to a maximum of 30 percent of the Units for persons At Risk of Chronic Homelessness in accordance with the application rating factor in Section 205 (a) (2) (B).

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

Section 212. Rental Agreements and Grievance Procedures

Rental or occupancy agreements for Assisted Units shall comply with 25 CCR Section 8307. Tenants shall not be required to maintain sobriety, be tested for substances, or participate in services or treatment.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

Section 213. Other Requirements

(a) Labor Code Section 1720 et seq. requires payment of prevailing wages for certain developments paid for in whole or in part from any public funding source, and exempts other developments from this requirement. All funds provided under this Program are public funds within the meaning of these Labor Code sections. Program funding of a portion of a Project shall not necessarily, in and of itself, be considered public funding of the entire Project. Each Applicant shall be responsible for determining on a case-by-case basis the extent of applicability of state prevailing wage law to its individual Project. If applicable, prior to the close of the Program loan, the Development Sponsor shall provide

to the Department a written 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.

(b) Projects must meet the accessibility requirements specified in the TCAC regulations, as may be amended and renumbered from time to time, including those of 4 CCR Section 10325(f)(7)(K) and, for senior projects, those of 4 CCR Section 10325(g)(2)(B) and (C). Exemption requests, as provided for in the TCAC regulations, must be approved in writing by the TCAC. If a Project is not proposing use of tax credits, exemptions from these accessibility requirements must be approved by the Department prior to the start of construction. Projects must also provide a preference for accessible Units to persons with disabilities requiring the features of the accessible Units in accordance with Section 4 CCR 10337(b) (2) of the TCAC regulations. Projects must also ensure that any other applicable federal, state, and local accessibility requirements are met.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

Section 214. Reporting

(a) Not later than 90 days after the end of each Project's fiscal year, the Sponsor shall submit an independent audit for the Project prepared by a certified public accountant and in accordance with the requirements noted in the Project's regulatory agreement and the Department's current audit requirements, which are posted to the Department's website and which may be amended from time to time.

(b) For all Assisted Units from loans underwritten by the Department, Sponsors will be required to submit annual compliance reports similar to reports annually submitted to the Department under 40025 CCR Section 7300 et.seq.

(c) On an annual basis, the County shall submit the data listed in paragraph (e) below for each of its NPLH Assisted Units. The County shall work with each Project's property manager and lead service provider to gather the data. The data may be, but is not required to be, gathered from the local Homeless Management Information System (HMIS).

(d) The data shall be submitted in electronic format on a form provided by the Department. The County, the property manager and the lead service provider shall work together to resolve any data quality concerns to the best of their ability prior to submission of the data to the Department.

(e) The data below shall be submitted to the Department no later than September 30 of each year for the previous state fiscal year of activity (July 1-June 30) and shall include all the following information for each Project:

(1) Project location, services, and amenities;

(2) Number of NPLH Assisted Units, total Units assisted by other government programs, and total non-Assisted Units;

(3) Project occupancy restrictions;

(4) Number of individuals and households served;

(5) Homeless status, veteran status as requested in item (12) below, and mental health status. No information on specific mental health diagnoses will be collected; and

(6) Average Project vacancy rate during the reporting period (12-month average).

For NPLH Units Only:

(7) Average vacancy rate of NPLH Assisted Units during the reporting period (12-month average);

(8) Head of Household gender, race, ethnicity, age;

(9) Income levels of NPLH tenants as a percentage of AMI, (i.e., 10 percent of AMI, 15 percent of AMI, 20 percent of AMI, etc.);

(10) The percentage of NPLH tenants who have lived in the building less than 12 months, 12 to 24 months, and longer than 24 months;

(11) The number of tenants who moved into a NPLH Assisted Unit during the reporting period who, prior to Project entry, were (A) Chronically Homeless, (B) Homeless, or (C) At-Risk of Chronic Homelessness, as defined under Section 101 of these Guidelines;

(12) The number of tenants who served on active duty in the armed forces of the United States (for tenants over age 18);

(13) The number of tenants who continue to have a Serious Mental Disorder or the number who are Seriously Emotionally Disturbed Children or Adolescents, as defined in Welfare and Institutions Code Section 5600.3;

(14) Of those who moved in during the reporting period, the number of tenants who were referred from:

(A) CES and/or;

(B) The County behavioral health department or a service provider acting on its behalf;

(C) A State Department of Developmental Services regional center, or

(D) Another reported source.

(15) Of those who moved in during the reporting period, the length of time prior to moving in that they reported they were:

(A) On the streets (including a vehicle or other place not meant for human habitation), or

(B) In an emergency shelter, safe haven, or transitional or interim housing.

(16) Of those who moved in during the reporting period, and to the extent the information was available prior to referral to the Project, the number of tenants who had:

(A) A physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post-traumatic stress disorder, or brain injury that:

(i) Is expected to be long-continuing or of indefinite duration;

(ii) Substantially impedes the individual's ability to live independently; and

(iii) Could be improved by the provision of more suitable housing conditions.

(B) A developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

(C) The disease of acquired immunodeficiency syndrome (AIDS) or any condition arising from human immunodeficiency virus (HIV).

(17) For tenants who exited NPLH Assisted Units during the reporting period:

(A) The number of tenants who exited during the reporting period to:

(i) other permanent housing,

(ii) the street, emergency shelter, transitional housing, or safe haven, or

(iii) an institutional destination, and the specific institutional destination, if known (including, but not limited to hospitalization or psychiatric hospitalization, residential substance use treatment facility, skilled nursing facility, jail or prison).

(18) The number of tenants who died during the reporting period.

(19) For tenants who leased or remained in NPLH Assisted Units during the reporting period:

(A) Changes in employment income during the reporting period;

(B) Changes in non-employment cash income during the reporting period; and

(C) Changes in total cash income during the reporting period.

(f) Notwithstanding the requirements of paragraph (c), the Department may modify the data collected over time to conform to changes in the specific data metrics required by HUD through CES, or required by another state or federal agency.

(g) If readily available, Counties may also provide aggregated data on: (1) emergency room visits for NPLH tenants before and after move in; (2) average number of hospital and psychiatric facility admissions and in-patient days before and after move-in; and (3) number of arrests and returns to jail or prison before and after move-in.

(h) Data collected annually pursuant to subsections (c) through (g) will be compiled by the Department and made available on the Department's website.

(i) Where there is a difference between these Guidelines and the Department's current reporting requirements, the provisions of these Guidelines shall prevail.

NOTE: Authority cited: Section 5849.5, Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, 5849.11, Welfare and Institutions Code.

Section 215. Legal Documents

(a) Upon the award of Program funds to a Project, the Department shall enter into one or more agreements with the Applicant(s), which may include a conditional commitment letter and a standard agreement issued by the Department committing monies from the No Place Like Home Fund in an amount sufficient to fund the approved loan amount. The agreement or agreements shall contain the following:

(1) A description of the approved Project and the permitted uses of Program funds;

(2) The amount and terms of the loan;

(3) The regulatory restrictions to be applied to the Project through the regulatory agreement;

(4) Provisions governing the construction work and, as applicable, the acquisition of the Project site, and the disbursement of loan proceeds;

(5) Special conditions imposed as part of Department approval of the Project;

(6) Requirements for the execution and recordation of the agreements and documents required under the Program;

(7) Terms and conditions required by federal or state law;

(8) Requirements regarding the establishment of escrow accounts for the deposit of documents and disbursement of loan proceeds;

(9) The approved schedule for the Project, including land acquisition if any, commencement and completion of construction or rehabilitation work, and occupancy by eligible households;

(10) The approved Project development budget and sources and uses of funds and financing;

(11) Requirements for reporting to the Department;

(12) Terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;

(13) Provisions regarding tenant relocation;

(14) Provisions regarding compliance with Article XXXIV Section 1 of the California Constitution, as clarified by Public Housing Election Implementation Law (H&S Code Section 37000 et seq.);

(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 NPLH Program.

(b) The Department shall enter into a regulatory agreement with the County Applicant and/or a separate Development Sponsor for not less than the original term of the loan that shall be recorded against the Rental Housing Development prior to the disbursement of funds. The regulatory agreement shall include, but not be limited to, the following:

(1) The number, type and income level of Assisted Units pursuant to Sections 206, 207, and 208;

(2) Standards for tenant selection pursuant to Section 211, to ensure occupancy of Assisted Units by eligible households for the term of the agreement;

(3) Provisions regulating the terms of the rental and occupancy agreement pursuant to Section 212;

(4) Provisions related to an annual operating budget approved by the Department pursuant to Section 210;

(5) Provisions related to a management plan pursuant to Sections 202 and 217;

(6) Provisions to maintain affordable rent levels to serve eligible households;

(7) Provisions related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to Section 207;

(8) Conditions and procedures for permitting Rent increases pursuant to Section 207;

(9) Provisions for limitations on Distributions pursuant to Section 208 and Section 209;

(10) Provisions for periodic inspections and review of year-end fiscal audits and related reports by the Department including annual reports, inspections, independent audits and related reports;

(11) Provisions regarding the deposit and withdrawal of funds to and from reserve accounts;

(12) Assurances that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes pursuant to Section 202;

(13) Description of the conditions constituting breach of the regulatory agreement and remedies available to the parties thereto;

(14) Special conditions of loan approval imposed by the Department;

(15) Provisions specifying that the regulatory agreement shall be binding on all assigns and successors in interest of the Sponsor and binding on all sales, transfers, and encumbrances (subject to Section 216) of the Rental Housing Development regardless of any prepayment of the loan; and

(16) Other provisions necessary to assure compliance with the requirements of the NPLH Program.

(c) All loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and state the terms of the loan consistent with the requirements of the Program. The note shall be secured by a deed of trust on 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 suchliens, encumbrances and other matters of record approved by the Department and shallsecure the Department's financial interest in the Project and the performance of the Applicant's Program obligations.

NOTE: Authority cited: Section 5849.5, 5849.9, Welfare and Institutions Code. Reference cited: Sections 5849.7, 5849.8, 5849.9, Welfare and Institutions Code.

Section 216. Sales, Transfers, and Encumbrances

(a) An Applicant(s) 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 be approved only if all of the following requirements are met:

(1) The existing Sponsor is in compliance with the NPLH regulatory agreement, or the sale, transfer or conveyance will result in the cure of all existing violations;

(2) The existing Sponsor or the successor-in-interest to the Sponsor is in compliance with all Department program agreements, if any;

(3) The successor-in-interest to the Sponsor agrees to assume all obligations of the existing Sponsor pursuant to the NPLH regulatory agreement and the Program;

(4) 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

(5) No terms of the sale, transfer, or conveyance jeopardize or reduce either the Department's security or the successor's ability to comply with all Program requirements including, but not limited to, retaining Department approved reserve account balances.

(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 any organizational documents of the general partner, without the prior written approval of the Department. The Sponsor may transfer the limited partnership interests without the prior written approval of the Department.

(c) 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, back into the project 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.

(d) 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 may permit refinancing of existing liens or additional financing secured by the Rental Housing Development to the extent necessary to maintain or improve the Fiscal Integrity of the Project, to maintain affordable Rents, to

decrease Rents for the Target Population, or to fund Department approved improvements to the Project.

(e) If the Department permits refinancing of existing liens or additional financing secured by the Rental Housing Development, the Department may use the same process and procedures the Department currently uses for the same or similar activities under its other programs (such as the restructuring activities authorized by Section 50561 of the Health and Safety Code).

NOTE: Authority cited: Sections 5849.5, 5849.9 Welfare and Institutions Code. Reference cited: Section 5849.8, 5849.9, Welfare and Institutions Code.

Section 217. Management and Maintenance

(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 shall be 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. In addition, costs for materials must be necessary and must be consistent with the lowest reasonable cost in relation to the Project's scope and area as determined by the Department.

(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 Permanent Supportive 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 written approval prior to loan closing. Any change to the plan shall be subject to the written approval of the Department. The plan shall be consistent with Program requirements and shall include the following:

a. The role and responsibility of the Sponsor and its delegation of authority, if any, to the managing agent;

b. Personnel policy and staffing arrangements, including ongoing training of staff in best practices for serving the Target Population;

c. Plans and procedures for publicizing and achieving early and continued occupancy;

d. Procedures for determining tenant eligibility, and selecting tenants, and for certifying

and annually recertifying household status, income and size;

e. Plans for carrying out an effective maintenance and repair program;

f. Rent collection policies and procedures;

g. A program for maintaining adequate accounting records and handling necessary forms and vouchers;

h. Plans for enhancing tenant-management relations;

i. The management agreement, if any;

j. Provisions for periodic update of the management plan;

k. Appeal and grievance procedures;

l. Plans for collections for tenant-caused damages, and if necessary, processing evictions and terminations;

m. Description of how service staff and property management staff will work together to prevent evictions and to facilitate the implementation of reasonable accommodation policies;

n. Provisions for meeting all reporting requirements of this Program;

o. Provisions for addressing tenant exits; for example, placement in other permanent housing, referrals to other housing, as required by this Program; and

p. Other provisions necessary to assure compliance with the requirements of the NPLH Program.

NOTE: Authority cited: Sections 5849.5, 5849.9 Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

Section 218. Defaults and Loan Cancellations

(a) In the event of a breach or violation by the Applicant(s) of any of the provisions of the NPLH Program Documents, the Department may give written notice to the Applicant to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default, including the following:

(1) The Department may accelerate all amounts, including outstanding principal and interest and COSR, 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) 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.

(b) The Department may cancel loan awards prior to funding 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 writing, in the principals or management of the Sponsor or Project.

(5) The Department, in writing and upon demonstration by the Applicant(s) of good cause, may extend the date for compliance with any of the conditions in this Subsection.

(c) Upon receipt of a written notice from the Department of intent to cancel the loan, the Applicant(s) shall have the right to appeal to the Director.

(d) The Department may use any funds available to it to cure or avoid an Applicant'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 Applicant(s) 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 state funds to assist a Project to avoid threatened defaults or foreclosures, the Department shall take those actions necessary, including, but not limited to, foreclosure

or forced sale of the Project property, to prevent further, similar occurrences and ensure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Sections 5849.5, 5849.9 Welfare and Institutions Code. Reference cited: Sections 5849.8, 5849.9, Welfare and Institutions Code.

ARTICLE III. ALTERNATIVE PROCESS COUNTY ALLOCATIONS

Section 300. Alternative Process County Designation

To be designated as an Alternative Process County by the Department, the following requirements must be satisfied at least 30 days prior to issuance of the Department's annual NOFA in a given calendar year in which the Department determines allocation amounts pursuant to Section 102 (e) utilizing the sheltered and unsheltered Homeless Point-in-Time Count in either 2015 or in any year thereafter, as published by HUD. The Department shall solicit information related to qualifications to become an Alternative Process County no later than 90 days prior to issuance of the NOFA. All of the following requirements must be satisfied only once, unless the Alternative Process County designation has been revoked or relinquished. If the designation of an Alternative Process County has been revoked or relinquished, the requirements below must be satisfied 30 days prior to issuance of the next NOFA under which the County wishes to be re-designated as an Alternative Process County.

(a) The Alternative Process County's sheltered and unsheltered Homeless Point-in-Time Count in either 2015, or in any year thereafter, as published by HUD, must equal at least 5 percent of the state's total Homeless population;

(b) The Alternative Process County or its public agency subcontractor must have demonstrated ability to finance Permanent Supportive Housing, and monitor Program requirements for the required period of affordability as evidenced by documentation of all of the following:

(1) Administration of at least one local or federally funded affordable housing program that funded four or more multifamily rental Project loans in the past seven years, including at least one loan for Permanent Supportive Housing.

(2) A description of its proposed method of distributing NPLH funds that meets the requirements outlined in Section 301 and includes an estimate of how frequently awards will be made. At a minimum, awards shall be made on an annual basis until all funds available to the Alternative Process County have been committed.

(3) A description of the underwriting standards, financial management systems, reporting, and long-term monitoring systems currently in place that will be utilized in administering NPLH funds in compliance with these Guidelines and other Program requirements. This shall include standards for determining the amount of any COSR to be provided to a Project in accordance with the requirements of Section 305.

(c) The Alternative Process County or its public agency subcontractor must have a past

history of committing project- based vouchers or locally-funded rental assistance to Permanent Supportive Housing as evidenced by a list of projects along with the number of project-based vouchers or locally-funded rental assistance programs that the Alternative Process County public housing authority or its city public housing authorities or other local departments have committed to Homeless and other special needs populations in Permanent Supportive Housing in the last two years.

(d) Past performance delivering supportive services to the Target Population in housing as evidenced by a list of projects where the Alternative Process County or its public agency subcontractor is currently providing or coordinating the provision of supportive services to the Target Population. Along with this list, the Alternative Process County must include a description of the types of services offered, the financing sources for those services, and whether those services are provided onsite or offsite for the listed projects.

(e) Evidence of an operational CES, including a description of how the CES will prioritize the most vulnerable within the Target Population for available Assisted Units. The CES must be able to comply with these requirements by the time the Department designates the County as an Alternative Process County.

(f) If existing CES systems are not equipped to assess the needs of, provide housing navigation services to, or locate Supportive Housing for persons At-Risk of Chronic Homelessness, the Alternative Process County must also describe what alternate system it will put in place to ensure that the most vulnerable persons among this group will be prioritized for available housing. This system must be in place prior to rent-up of the Alternative Process County's first Project.

(g) The Alternative Process County must commit to provide mental health services, and to coordinate the provision of or referral to other supportive services, including but not limited to substance use treatment services, to NPLH tenants for a minimum of 20 years. The Alternative Process County's obligations pursuant to this requirement shall begin when a Project receives its certificate of occupancy, or other evidence of Project completion for Projects already occupied.

(h) The Alternative Process County must commit to implementing measures that promote integration of the Target Population into the community.

(1) In Projects of more than 20 Units, the Alternative Process County may choose to fund or otherwise restrict no more than 49 percent of a Project's total Units to the Target Population.

(2) If the Alternative Process County will fund or restrict more than 49 percent of a Project's total Units to the Target Population, it must document specific measures it will undertake to ensure that the requirements of Olmstead v. L.C. (527 U.S. 581 (1999)) are being met in its implementation of the Program.

(3) The Alternative Process County must describe the processes it has in place to ensure that funded Projects will meet federal, state, and local fair housing, accessibility, and nondiscrimination requirements, and to ensure they are not

excluding any potential tenants on the basis of disability.

(i) The Alternative Process County must have a plan to combat homelessness that meets the requirements of Section 201.

(j) The Department may impose restrictions on a County's designation as an Alternative Process County that are consistent with the County's experience level or proposed Program design.

(k) The Alternative Process County may contract with a city or other public agency to perform all of the functions of the Alternative Process County as set forth in this Article as long as that city or other public agency meets the experience requirements in paragraphs (b), (c), and (d) of this Section and the city or other public agency agrees to administer the Program county-wide.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 301. Method of Distribution

(a) Before committing funds to a Project, through an award letter, contract, or other written agreement, Alternative Process Counties shall evaluate the following:

(1) Whether the proposed use of Program funds is eligible as set forth under Section 302;

(2) The development team's capacity to develop, own, and operate Permanent Supportive Housing for the Target Population through examination of the experience and qualifications of the Sponsor, service providers, and property manager;

(3) Each Project's financial feasibility for the period of affordability based on an underwriting of the Project performed by the Alternative Process County. All Projects of five or more Units shall remain affordable for a minimum of 55 years. Shared Housing Projects shall remain affordable for a minimum of 20 years. All Projects shall meet the income, Rent, occupancy, and underwriting restrictions in Sections 303 and 304;

(4) Suitability of each Project's location for the Target Population, including proximity to transportation, services, and other amenities in a manner that ensures integration of the Target Population in the community;

(5) The Project site must be free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove and that cannot be mitigated.

(6) All Assisted Units and other Units of the Project must be on a permanent foundation and must meet all applicable state and local requirements pertaining to rental housing, including, but not limited to, requirements for minimum square footage, and

requirements related to maintaining the property in a safe and sanitary condition.

(7) Each Project's readiness to proceed to construction;

(8) Capital, operating subsidy, and supportive services leverage;

(9) The Project's proposed supportive services. Before awarding a Project funds, the Project must meet, at a minimum, the requirements of Section 203;

(10) Proposed measures for integrating the Target Population within the community. At a minimum:

A. Assisted Units must be integrated with other Units in the Project (including, for purposes of this paragraph (A), any other project of which the Project is a part or in which the Project is included for purposes of any other loan, grant, or other funds awarded by the Department, or by any other State or local agency, department, political subdivision, or other governmental entity, for funding of development, operating, or supportive services costs) and not separated, assigned, partitioned, or restricted to separate floors, doors, common areas, legal parcels, or other areas or portions of the Project or of the building or any other physical structure of which the Project is comprised or a part; and

B. Funded Projects must encourage social interaction through community-building activities, and architectural design as feasible depending on the scope of the construction or rehabilitation activity.

(11) Compliance with the requirements in Section 202 relating to property management practices;

(12) All Assisted Units in a Scattered Site or Shared Housing Project must have common ownership, financing, and property management. Prior to move-in, each tenant who is not a minor accompanied by an adult or two adults who constitute a single household must also sign a lease and shall have all the rights and responsibilities of tenancy, have a bedroom door with a workable lock, and be allowed choice of housemates in a manner consistent with Program requirements, and federal and state fair housing and nondiscrimination requirements. Each household must have a separate bedroom.

(13) All Projects shall comply with applicable state and federal relocation laws including Title 1, Division 7, Chapter 16 of the California Government Code Section 7260 et seq., and 25 CCR Section 6000 et seq.; and

(14) All Projects shall comply with Article XXXIV Section 1 of the California Constitution, as clarified by Public Housing Election Implementation Law (H&S Code Section 37000 et seq.);

(15) Compliance with the requirements of Section 302.

(b) The Method of Distribution must have been developed in a collaborative process with community input that includes all of the following groups:

(1) Alternative Process County representatives with expertise from behavioral health, public health, probation/criminal justice, social services, and housing departments;

(2) The local homeless Continuums of Care within the Alternative Process County;

(3) Housing and Homeless services providers, especially those with experience providing housing or services to those who are Chronically Homeless;

(4) County health plans or other health care providers, especially those implementing pilots or other programs that allow the Alternative Process County to use Medi-Cal or other non-MHSA funding to provide or enhance services provided to NPLH tenants, or to improve tracking of health outcomes in housing;

(5) Public housing authorities; and

(6) Representatives of family caregivers of persons living with serious mental illness.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 302. Uses and Terms of Program Assistance

(a) The Alternative Process County shall allocate NPLH funds for the same eligible uses identified in Section 200(a) for multifamily rental Projects of five or more Units, or for Shared Housing Projects.

(b) NPLH funds may be used to capitalize operating subsidy reserves for Assisted Units subject to the limitations specified in Section 305.

(c) The Alternative Process County may only use Program funds for Projects within its geographic boundaries.

(d) Program funds may be provided as predevelopment, construction, or post- construction permanent financing. If predevelopment or construction financing is provided, Program funds must convert to post construction permanent financing.

(e) Use of multiple Department Funding Sources on the same Assisted Units (subsidy stacking) is prohibited.

(1) For purposes of this section and except as noted below, “Department Funding Sources” shall mean loan or grant funds awarded for permanent funding of development costs under the following programs, which shall not include funds specifically designated for capitalized operating reserves or rental assistance:

A. Supportive Housing Multifamily Housing Program

B. Veterans Housing and Homelessness Prevention Program
C. Multifamily Housing Program
D. Affordable Housing and Sustainable Communities Program Affordable Housing Development loan, except for grants for infrastructure, transportation-related amenities and program costs
E. NPLH funds provided to a Project by either the Department or an Alternative Process County
F. Transit Oriented Development Program rental housing development loan, except for grants for infrastructure
G. Joe Serna, Jr. Farmworker Housing Grant Program
H. SB 2 Farmworker Housing Program
I. Housing for a Healthy California Program, including funds awarded either by the Department or a County
J. National Housing Trust Fund Program.

(2) "Department Funding Sources" do not include the following:

A. Any other Department program not listed above
B. NPLH Competitive Allocation Funds and NPLH Noncompetitive Allocation funds in the same project or on the same Assisted Unit
C. 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.

(f) Program funds for eligible uses in Projects of five or more Units shall be provided in the form of a deferred payment loan that shall have an initial affordability period of 55 years or longer commencing on the date of recordation of the regulatory agreement. The loan may bear a zero percent interest rate. Shared Housing Projects shall be provided in the form of a deferred payment loan that shall have an initial affordability period of 20 years or longer commencing on the date of recordation of the regulatory agreement. Pursuant to Welfare and Institutions Code Section 5849.4(b), any interest payment, loan repayments, or other return of funds must be returned to the Department and deposited in the No Place Like Home Fund established by Welfare and Institutions Code Section 5849.4.

(g) Program funds shall be secured by the Project's real property and improvements, and subject only to liens, encumbrances and other matters of record approved by the Alternative Process County.

(h) Up to 10 percent of Program funds awarded to the Alternative Process County by the Department may be used by the Alternative Process County for Program administration costs to carry out all administration responsibilities set forth under this Article for the term of the applicable period of affordability pursuant to subsection (e) above. The Alternative Process County may also charge reasonable and customary annual monitoring fees to be used in conjunction with Administration funds for compliance monitoring required under Section 311 during the applicable period of affordability set forth in paragraph (e). These fees must be based upon the average actual cost of performing the monitoring of the Assisted Units. The basis for determining the amount of the fee must be documented and the fee must be included in the costs of the Project as part of the Project underwriting

analysis.

(i) Alternative Process Allocations not committed to Projects within 24 months of award by the Department shall be returned to the Department, and such funds shall be made available for award to Applicants as part of the Competitive Allocations. Evidence of committed funds may include award letters, commitment letters, or other written agreements evidencing a commitment of funds.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 303. Occupancy, Income, and Rent Limit Requirements

(a) Occupancy of all Assisted Units shall be restricted to households with at least one member who qualifies as a member of the Target Population. Total household income at the time of move-in shall not exceed the 30 percent AMI limit as published by the Department.

(b) Income determination shall be made in accordance with the requirements in 25 CCR Section 6914 and 25 CCR Section 6916. Income levels shall be expressed in 5 percent increments as a percentage of AMI.

(c) For Assisted Units, if at the time of recertification a tenant household's income exceeds the 30 percent AMI income level and this increase is based solely on the current SSI/SSP payment rate or cost-of-living adjustment, the household rent shall not exceed 30 percent of household income. These Units shall continue to be designated as Assisted Units.

(d) For Assisted Units, if at the time of recertification a tenant household's income exceeds the 30 percent AMI income level and this increase is based on factors other than or in addition to the current SSI/SSP payment rate or cost-of-living adjustment, to the extent a rent increase for the household is permitted by statutes and regulations governing the Project’s other financing sources, the Sponsor:

(1) shall re-designate the tenant’s Unit as a Unit at the higher income level, rounding to the nearest 5 percent increment, provided that there are non-Assisted Units restricted at the higher income level. These Units shall not be designated as NPLH Assisted Units;

(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 non-Assisted Unit as an Assisted Unit at the income level originally applicable to the household until the Unit mix required by the Program regulatory agreement is achieved.

(4) If all of the Project Units are Assisted Units, that Project can continue with the over-income Unit(s) until such time as those over-income households no longer reside in

the Project.

(5) A Unit shall be deemed "comparable" if it has the same number of bedrooms and reasonably similar square footage as the original Unit.

For example, in a Project where the income limits utilized to qualify new tenants are 15 percent, 20 percent, 25 percent, 30 percent and 50 percent of Area Median Income, if the income of a household occupying an Assisted Unit designated as a 20 percent Unit increases to 48 percent of Area Median Income, the Sponsor must re-designate the household's Unit as a non-Assisted 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 non-Assisted comparable Unit as an Assisted Unit at the 20 percent income level.

(e) For Assisted Units, 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 NPLH tenants, the Sponsor may increase the household's Rent to an amount not exceeding the closest Rent limit applicable to the household's income level at the time of recertification.

Continuing with the example described above, the income levels utilized to establish Rent limits upon recertification would be 15 percent, 20 percent, 25 percent, and 30 percent. A household occupying a Unit in this project with a 20 percent limit whose income, upon recertification, had increased to 28 percent of area median income could have their Rent increased to the Rent level applicable to the 30 percent income level. These Units at or below the 30 percent income level shall continue to be designated as Assisted Units.

(f) Projects shall maintain documentation of tenant eligibility consistent in all the following ways, as applicable:

(1) Documentation of a Serious Mental Disorder or a Seriously Emotionally Disturbed Child or Adolescent must be provided by a qualified mental health worker in accordance with the requirements of WIC Section 5600.3.

(2) Documentation of a person's status as Chronically Homeless, Homeless, or At-Risk of Chronic Homelessness as defined under these Guidelines must be provided in accordance with procedures established through the local CES or other procedures established by the Alternative Process County and approved by the local Continuum of Care for determining whether a person qualifies as Chronically Homeless, At-Risk of Chronic Homelessness, or Homeless as defined in Section 101.

(3) In no event shall a person be required to be a client of the Alternative Process County behavioral health department or a recipient of mental health or other services in order to qualify for or remain in an Assisted Unit.

(g) These occupancy, income, and Rent limit requirements shall apply for the full term of the Program loan.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 304. Underwriting Standards and Other Requirements

(a) All Assisted Units shall have Rents restricted to 30 percent AMI or below as specified in the Project regulatory agreement with the Alternative Process County, except as otherwise permitted in Section 303 (c).

(b) Rent levels shall be expressed in 5 percent increments as a percentage of AMI.

(c) Before committing funds to a Project, the County must evaluate the Project in accordance with underwriting standards it has chosen to use for this Program. Alternative Process Counties may choose to use their own underwriting standards, or they may use the UMRs. If using their own underwriting standards, these standards must consider at a minimum such things as: the reasonableness of projected construction and operating expenses, income and expense escalators, vacancy rate assumptions, debt coverage ratio, operating reserves, replacement reserves, budgeted construction contingency, limits on development costs, developer fees, asset management and partnership fees, and the use of operating cash flow.

(d) The maximum amount of assistance provided per Assisted Unit shall take into account the number of bedrooms per Unit or other measures of Unit size, as well as the level of affordability provided per Unit, with more affordable Units being provided more subsidy. The Department may approve other methodologies for setting per-Unit subsidy limits as set forth by the Alternative Process County.

(e) The total amount of Program assistance to a Project shall not exceed the eligible costs associated with Assisted Units in accordance with a methodology that allocates costs among the Assisted and non-Assisted Units in reasonable proportion to their anticipated share of costs.

(f) Labor Code Section 1720 et seq. requires payment of prevailing wages for certain developments paid for in whole or in part from any public funding source, and exempts other developments from this requirement. All funds provided under this Program are public funds within the meaning of these Labor Code sections. Program funding for a portion of a Project shall not necessarily, in and of itself, be considered public funding of the entire Project. The Alternative Process County shall be responsible for determining on a case-by-case basis the extent of the applicability of state prevailing wage law to each individual Project.

(g) Projects of five or more Units must meet the accessibility requirements specified in the TCAC regulations, as may be amended and renumbered from time to time, including those of Section 10325(f)(7)(K) and, for senior Projects, those of Section 10325(g)(2)(B) and (C), or a higher standard if required by the Alternative Process County. Exemption requests, as provided for in the TCAC regulations, must be approved by the Alternative Process County. Projects must also provide a preference for accessible Units to persons

with disabilities requiring the features of the accessible Units in accordance with Section 10337(b)(2) of the TCAC regulations, or a higher standard if required by the Alternative Process County. All Projects must also ensure that any other applicable federal, state, and local accessibility requirements are met.

(h) Projects shall have a transition reserve in an amount established by the Alternative Process County in the event that any Project-based rental assistance is not renewed, or in the event that the Project COSR or other operating subsidy is exhausted and the Project cannot secure sufficient other rental or operating subsidies to continue without immediately raising Rents on the Assisted Units. Withdrawals from the transition reserve shall be subject to the County's prior review and written approval.

(1) If Rent increases on the Assisted Units are necessary after exhausting all transition reserve funds such increases shall only be permitted to the minimum extent required for financial feasibility, as determined by the Alternative Process County. In addition, Rents on Assisted Units shall not, in any event, be increased to an amount in excess of 30 percent of 60 percent of AMI, adjusted by number of bedrooms.

(2) The Alternative Process County shall notify the Department at least 12 months in advance of any Rent increase on the Assisted Units due to exhaustion of the transition reserve.

(3) If Rent increases on the Assisted Units are necessary due to loss of rental or operating assistance, and if it is determined that NPLH tenants will need to move after exhausting all transition reserve funds, a transition plan shall be implemented to identify other permanent housing options that may be more affordable to NPLH tenants who cannot afford the increased Rent, and to assist those persons in accessing other available housing. Funds from the transition reserve may be used for these expenses.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 305. Capitalized Operating Subsidy Reserve

(a) Not more than 100 percent of the total amount provided per-Assisted Unit for capital may be provided for a COSR to address Project operating deficits attributable to Assisted Units.

(b) In order to be eligible to receive a COSR, the Application must first demonstrate, and the Alternative Process County must verify prior to issuing an award letter for the Project that, in lieu of relying in whole or in part on COSR assistance for Assisted Units, that the applicant or its development partners have done as required in either subsection (1) or (2) below.

(1)

A. Identified all possible federal, state, and local sources of rental assistance and other operating assistance to support the Assisted Units; and

B. Submitted applications or other written requests to the appropriate entity to secure Project-based rental or other operating assistance to support the Assisted Units;

or

(2)

A. Identified all possible federal, state, and local sources of rental assistance and other operating assistance to support the Assisted Units; and

B. Can provide other evidence from the appropriate entities that rental assistance and other operating assistance is not available to support the Assisted Units.

(c) COSRs may be provided in the form of a zero-interest deferred payment forgivable loan with a term of not less than 20 years as evidenced by a promissory note secured by a deed of trust.

(d) The COSR shall be sized to cover anticipated operating deficits attributable to the Assisted Units for a minimum of 20 years. The total amount of a Project COSR will be determined based upon the individual Project underwriting performed by the Alternative Process County pursuant to the requirements of the Alternative Process County's Method of Distribution, as established under Section 301. The Alternative Process County may modify these assumptions as necessary to maintain project financial feasibility or extend the term of the COSR.

(1) In determining how to size Project COSRs, the Alternative Process County shall also consider such things as: (a) the maximum percentage of Units it will assist per Project; (b) anticipated Project vacancy rates; (c) the anticipated percentage of Assisted Units that will have other operating or rental subsidy and the term of that operating or rental subsidy contract; (d) the anticipated percentage of households that are expected to be receiving SSI/SSP or other sources of stable income; and (e) operating expenses that the Alternative Process County will consider ineligible for payment from the COSR.

(e) The Alternative Process County shall hold each Project COSR in a segregated interest-bearing account for the benefit of the Project's Assisted Units for as long as funds remain in the COSR, but for not less than 20 years.

(f) The Alternative Process County shall establish procedures for disbursement of amounts from the COSR to the Project based on the results of an independent audit bifurcated between Assisted Units and the other Project Units prepared by a certified public accountant which establishes the amount of Project operating deficit, if any, attributable to the Assisted Units.

(g) The Alternative Process County shall review each COSR balance at least once annually to determine if adjustments need to be made to disbursement levels in order to ensure the long-term sustainability of each COSR.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited:

Section 5849.8(b), Welfare and Institutions Code.

Section 306. Operating Budgets

The Alternative Process County shall review annually proposed annual operating budgets of funded Projects to ensure that budget line items, including any proposed Rent increases, are reasonable and necessary in light of costs for comparable Permanent Supportive Housing Projects and prior year budgets.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 307. Tenant Selection, Rental Agreements and Grievance Procedures

(a) Chronically Homeless and Homeless persons shall be referred to Assisted Units through the local CES.

(b) If the CES existing in the Alternative Process County cannot refer persons At-Risk of Chronic Homelessness, the alternate system used must prioritize those with the greatest needs among those At-Risk of Chronic Homelessness for referral to available Assisted Units.

(c) Pursuant to Welfare and Institutions Code 5849.9, Projects utilizing the Alternative Process County's Noncompetitive Allocation under Section 102(c) shall prioritize persons with mental health supportive service needs who are Homeless or At-Risk of Chronic Homelessness.

(d) Tenant eligibility criteria must be satisfied prior to being referred to an NPLH Project. All referral protocol for NPLH Assisted Units must be developed in collaboration with the local Continuum of Care and implemented consistent with Program requirements.

(e) The Alternative Process County shall have reasonable standards for Project rental agreements, property management plans, and tenant grievance procedures to ensure compliance with Housing First requirements consistent with the core components set forth in Welfare and Institutions Code Section 8255(b), and compliance with basic tenant protections established under federal, state, and local law.

(f) Tenants shall be accepted regardless of sobriety, participation in services or treatment, history of incarceration, credit, or history of eviction in accordance with practices permitted pursuant to WIC Section 8255 or other federal or state Project funding sources.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 308. Disbursement of Funds

(a) Of the amounts for Project activities awarded annually to the Alternative Process County under Section 102(e), the Department shall disburse funds in no more than four draws per

year to the Alternative Process County if the Department has received all of the following:

(1) An award letter or other evidence of commitment of NPLH funds by the Alternative Process County to the specific Project(s) for which funds are being requested;

(2) A cash flow analysis which indicates how much the Alternative Process County is projected to need for those Projects for the specific period of time for which funds are being requested;

(3) A certification that the Alternative Process County awarded the funds to the specific Project(s) in accordance with the Method of Distribution approved by the Department under Section 301.

(b) The amount of funds disbursed by the Department annually to the Alternative Process County for its Program administration costs shall not exceed 10 percent of the amount anticipated to be awarded annually by the Department to the Alternative Process County pursuant to Section 102(e). The Department shall disburse Program administration funds in no more than four draws per year, when amounts for Project activities are drawn. Administration funds shall be used for Program administration costs for the applicable period of affordability set forth in Section 302 (f).

(c) All requests for disbursement of funds shall be made by the Alternative Process County on forms provided by the Department.

Section 309. Reporting

(a) The Alternative Process County and Project owners shall comply with the reporting requirements of Section 214 except for subsections (a) and (b).

(b) For each Project completed by June 30 of the reporting year, the Alternative Process County shall submit to the Department a Project completion report, no later than September 30 of that year, with evidence acceptable to the Department that the Project is complete, and that all Assisted Units in that Project are occupied by persons meeting the occupancy, income, Rent, and tenant eligibility requirements for those Assisted Units. This information shall be provided on forms made available by the Department.

(c) The Department may extend the deadline for submission of a Project completion report, if a Project was completed less than 150 days prior to the deadline for submission of the report under Section 214 (e) in order to enable the Project to submit occupancy information based on an initial rent-up period not to exceed 120 days.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 310. Legal Documents

After the Alternative Process County is sent a letter providing notice of award and prior to

actual disbursement of funds pursuant to that award, the Department and Alternative Process County shall enter into a state standard agreement, which shall constitute a conditional commitment of said funds. The standard agreement shall require the Alternative Process County to comply with the requirements and provisions of the Program statutes, these Guidelines, and generally applicable state contracting rules and requirements. The standard agreement shall encumber state monies in an amount no more than is available to the Alternative Process County under Section 102, and said amount shall be consistent with the corresponding award letter. The standard agreement shall contain the terms necessary to ensure the Alternative Process County complies with all Program requirements, including, but not limited to, the following:

(a) Requirements for the execution of Project- specific contracts as may be applicable for the County to execute in compliance with Program requirements as the lender for Projects funded under this Article, including but not limited to loan documents, a regulatory agreement, and an operating reserve agreement.

(b) On all loans held by the Alternative Process County, requirements for a promissory note payable to the Alternative Process County in the principal amount of the loan. The promissory note shall be secured by a deed of trust on the fee estate in the Project or an acceptable leasehold security naming the Alternative Process County as the primary beneficiary. Such security shall be executed prior to the disbursement of funds to a Project.

(c) Requirements, where appropriate, for the execution and recordation of covenants, regulatory agreements, or other instruments restricting the use and occupancy of and appurtenant to a Project and the property thereunder (for the purposes of this Article III, all such documents are collectively herein referred to as the “AP Program Agreements”);

(d) The Alternative Process County’s responsibilities for timing of all local awards of funds, as well as any reporting requirements;

(e) Remedies available to the Department in the event of a violation, breach or default of the standard agreement; and

(f) Any and all other provisions necessary to ensure compliance with the requirements of the Program and applicable state and federal law.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 311. Monitoring

(a) The Alternative Process County is responsible for ensuring that NPLH funds are used in accordance with all Program requirements and Alternative Process County Program agreements. The Alternative Process County must take appropriate action when performance problems arise. The performance and compliance of each Project must be reviewed as set forth in paragraph (b). The County must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and Projects

and a system for monitoring Projects, to ensure developers, property managers, and services providers are meeting all Program requirements. While the Alternative Process County may use a public agency subcontractor to perform these functions, contracting out these functions will not relieve the Alternative Process County of its obligations under the Program.

(b) To ensure that funded Projects are completed, Projects are able to meet long-term affordability, and Projects are meeting other Program requirements as set forth in these Guidelines and in relevant statutes, the Alternative Process County must meet the following minimum requirements for Project monitoring:

(1) On-site physical inspections of all Projects as needed during construction, at Project completion, and at least once every three years during the term of the loan;

(2) Annual review of Project operating budgets, audits or other certified financial statements. All Projects that receive a COSR must submit a bifurcated annual audit. The bifurcated audit must distinguish actual annual income and expenses of Assisted Units that receive capitalized operating subsidies from those Units that do not receive the subsidies;

(3) Annual review of supportive services plans and outcome measures to ensure that the supportive services being offered are the most appropriate and effective for existing NPLH tenants and the NPLH tenants proposed to be served in the Project regulatory agreement;

(c) The Department will review the performance of each Alternative Process County in carrying out its Program responsibilities whenever determined necessary by the Department in order to assess the existence and use of Alternative Process County processes in meeting Program requirements such as:

(1) Award of funds in accordance with the approved Alternative Process County Method of Distribution pursuant to Section 301;

(2) Use of processes that address compliance with Program requirements on an ongoing basis, including but not limited to:

A. Use of underwriting standards to determine Project feasibility,

B. Uses and terms of Program assistance,

C. Occupancy requirements,

D. Documentation of local property inspections to assess compliance with accessibility standards, and habitability standards related to maintaining the property in a safe and sanitary condition,

E. Processes to assess the availability and appropriateness of the supportive services plan and the property management plan for the Target Population, and

F. Documentation of compliance with reporting requirements.

(d) In conducting performance reviews, the Department will rely primarily on information obtained from the Alternative Process County's records and reports, findings from Alternative Process County on-site physical monitoring, and Alternative Process County financial reports that the Alternative Process County shall make available upon request by the Department. Where applicable, the Department may also consider relevant information pertaining to an Alternative Process County's performance gained from other sources, including citizen comments, complaint determinations, government regulatory information referrals or determinations, and litigation.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Sections 5849.8(b), 5849.11, Welfare and Institutions Code.

Section 312. Defaults and Cancellations

(a) The Department may revoke an Alternative Process County designation if the Alternative Process County or its funded Projects have engaged in repeated violations of Program requirements that cannot be satisfactorily resolved to bring the Alternative Process County into compliance. This may include, but is not limited to, failure of the Alternative Process County to obtain substantial compliance from a Project Sponsor with Program requirements within a reasonable period of time. Prior to revoking an Alternative Process County designation, the Department will work with the Alternative Process County for a period of not less than 90 days to identify and implement measures that can be taken to bring the Alternative Process County into compliance as determined by the Department.

(b) With at least 30 days written notice to the Alternative Process County, the Department may cancel or reduce funding allocations to the Alternative Process County, recapture funds provided to the Alternative Process County but not yet disbursed to a Project, or terminate or amend standard agreements under any one of the following conditions:

(1) Implementation of the Alternative Process County NPLH Program is not in compliance with Program requirements;

(2) Implementation of the Alternative Process County NPLH Program is not in compliance with the time frames and goals stated in the standard agreement;

(3) Special conditions for funding as stated in the standard agreement have not been fulfilled; or

(4) The Department has been notified of a reduction in or elimination of NPLH bond proceeds.

(c) Upon notification by the Department that the funding allocation is canceled or reduced and the standard agreement is terminated or amended, the Alternative Process County shall:

(1) Complete all work affected by the cancellation or reduction that is in progress; and

(2) Terminate any other planned activities that cannot be paid for with NPLH funds as a result of the termination or reduction.

(d) Notwithstanding the above, the Alternative Process County shall continue to carry out all of its responsibilities under the Program to Projects it funded prior to discontinuing as an Alternative Process County. This includes, but is not limited to, loan servicing, Project monitoring, and submitting required reports.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

Section 313. Rescission of Alternative County Designation

(a) A County may discontinue receiving funds as an Alternative Process County with a minimum 180-day written notice to the Department.

(b) Following a written notice by the Alternative Process County to the Department, the amounts previously available to the Alternative Process County will be returned to the Department and shall be available for reallocation pursuant to Section 102(d) (Competitive Allocation) in the next funding round. The County will be able to apply for a Competitive Allocation pursuant to the requirements of Articles I and II in the next funding round.

(c) Notwithstanding the above, the County shall continue to carry out all of its responsibilities under the standard agreement and the Program Guidelines for Projects to which it made awards prior to discontinuing as an Alternative Process County.

(d) Once a County discontinues participating as an Alternative Process County, the County shall not be eligible to apply for recertification as an Alternative Process County for a minimum of three years.

NOTE: Authority cited: Section 5849.8(b) Welfare and Institutions Code. Reference cited: Section 5849.8(b), Welfare and Institutions Code.

ARTICLE IV. NONCOMPETITIVE ALLOCATIONS SHARED HOUSING REQUIREMENTS

Section 400. Noncompetitive Allocations Shared Housing Administration

(a) Shared Housing shall not be funded with Competitive Allocation funds administered by the Department under Article II.

(b) Counties may choose to administer their Noncompetitive Allocations to provide Shared Housing. Counties exercising this option may utilize up to 10 percent of the amount of their Noncompetitive Allocations utilized for Shared Housing for associated administration

costs in accordance with the requirements of Section 408(c). Counties may also charge a long-term monitoring fee not to exceed 0.42 percent of each Project loan to carry out Program monitoring for the period of affordability set forth under Section 401(c).

(c) Noncompetitive Allocations for Shared Housing for which Project applications have not been submitted to the County within 30 months of the Department's issuance of the initial NOFA (by February 15, 2021) may be made available for award to Counties as Competitive Allocations, unless an extension of this time period has been granted pursuant to paragraph (e).

(d) Funds for capital uses awarded as Noncompetitive Allocations used for capital assistance that are not expended within 60 months of the issuance of the Department's initial NOFA (by August 15, 2023) may be made available as Competitive Allocations unless an extension of this time period has been granted pursuant to paragraph (e).

(e) The Department may extend the application submission and expenditure deadlines by a total of up to 12 months in the aggregate where it is clear that granting an extension will result in submission of a Project application or completion of the Project.

(f) Counties wishing to fund Shared Housing Projects must commit to assume responsibility for all of the following for a minimum of 20 years:

(1) Project underwriting to ensure Project financial feasibility. Counties may use their own underwriting standards rather than those used by the Department for loans that they will underwrite;

(2) Monitoring of all work performed;

(3) Loan servicing;

(4) Making available to NPLH tenants mental health supportive services, and coordinating the provision or referral to other services, as outlined in the County's supportive services plan for the funded Project(s), including but not limited to, substance use services. The County's obligations pursuant to this requirement shall begin when a Project receives its certificate of occupancy, or other evidence of Project completion for Projects already occupied;

(5) Long-term monitoring of the assisted Projects to ensure compliance with NPLH income and Rent restrictions, physical condition in compliance with state and local codes, and compliance with all other NPLH Program requirements.

(g) To be designated to administer their Noncompetitive Allocations, Counties shall submit documentation of all of the following at least 30 days prior to issuance of the Department's initial NOFA. The Department shall solicit this information as necessary no later than 90 days prior to issuance of the NOFA:

(1) Demonstrated ability to finance proposed Shared Housing activities with local and

federal funds, and monitor Program requirements for a minimum of 20 years;

(2) A description of the proposed method of distributing NPLH funds that meets the requirements outlined in Section 401 and includes an estimate of how frequently awards will be made;

(3) A description of the underwriting standards, financial management systems, reporting, and long-term monitoring systems currently in place that will be utilized in administering NPLH funds in compliance with these Guidelines and other Program requirements. This shall include standards for determining the amount of any COSR to be provided to a Project in accordance with the requirements of Section 405;

(4) A description of the Project-based vouchers or locally funded rental assistance available to Assisted Units;

(5) Past performance of delivering supportive services to the Target Population, or other special needs populations that experience housing barriers similar to those of the Target Population, including such barriers as difficulty retaining housing, and mental health or substance use issues;

(6) Evidence of an operational CES, including a description of how the CES will prioritize the most vulnerable within the Target Population for available Assisted Units. The CES must be able to comply with these requirements by the time the Department designates the County to administer its Noncompetitive Allocation for Shared Housing. If existing CES systems are not equipped to assess the needs of, provide housing navigation services to, or locate supportive housing for persons At-Risk of Chronic Homelessness, the County must also describe what alternate system it will put in place to ensure that the most vulnerable persons among those At-Risk of Chronic Homelessness will be prioritized for available housing. This system must be in place prior to rent-up of the County's first Project;

(7) A plan to combat homelessness that meets the requirements of Section 201; and

(8) A plan for implementing measures that promote integration of the Target Population into the community in accordance with the requirements of Section 401.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 401. Shared Housing Noncompetitive Allocations Method of Distribution

Before committing funds to a Shared Housing Project, through an award letter, contract, or other written agreement, Counties shall evaluate all of the following.

(a) Whether the proposed use of Program funds is eligible as set forth under Section 402;

(b) The development team's capacity to develop, own, and operate Permanent Supportive Housing for the Target Population through examination of the experience and

qualifications of the developer, service providers, and property manager;

(c) Each Project's financial feasibility for the period of affordability based on an underwriting of the Project performed by the County. All Projects shall remain affordable for a minimum of 20 years and shall meet the income, Rent, occupancy, and underwriting restrictions in Sections 403 and 404;

(d) Suitability of each Project's location for the Target Population, including proximity to transportation, services, and other amenities in a manner that ensures integration of the Target Population in the community;

(e) Each Project's readiness to proceed with proposed development activity;

(f) Capital, operating subsidy, and supportive services leverage;

(g) The Project site must be free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove and that cannot be mitigated;

(h) All Assisted Units and other Units of the Project must be on a permanent foundation and must meet all applicable state and local requirements pertaining to rental housing, including, but not limited to, requirements for minimum square footage, and requirements related to maintaining the property in a safe and sanitary condition;

(i) The Project's proposed supportive services. Before awarding a Project funds, the Project must meet, at a minimum, the requirements of Section 203;

(j) Proposed measures for integrating the Target Population within the community. At a minimum:

(1) NPLH Projects must be integrated with other housing in the community; and

(2) Funded Projects must encourage social interaction through community-building activities, and architectural design as feasible depending on the scope of the construction or rehabilitation activity.

(k) Compliance with the requirements in Section 202 relating to property management practices;

(l) Prior to move-in, each tenant who is not a minor accompanied by an adult or two adults who constitute a single household must also sign a lease and shall have all the rights and responsibilities of tenancy, have a bedroom door with a workable lock, and be allowed choice of housemates in a manner consistent with Program requirements, and federal and state fair housing and nondiscrimination requirements. Each household must have a separate bedroom.

(m) All Projects shall comply with Article XXXIV Section 1 of the California Constitution, as

clarified by Public Housing Election Implementation Law (H&S Code Section 37000 et seq.).

(n) Compliance with the requirements of Section 402.

(o) The Method of Distribution must have been developed in a collaborative process with community input that includes all of the following groups:

(1) County representatives with expertise from behavioral health, public health, probation/criminal justice, social services, and housing departments;

(2) The local homeless Continuums of Care within the County;

(3) Housing and Homeless services providers, especially those with experience providing housing or services to those who are Chronically Homeless;

(4) County health plans or other health care providers, especially those implementing pilots or other programs that allow the County to use Medi-Cal or other non-MHSA funding to provide or enhance services provided to NPLH tenants, or to improve tracking of health outcomes in housing;

(5) Public housing authorities, and

(6) Representatives of family caregivers of persons living with serious mental illness.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 402. Uses and Terms of Program Assistance

(a) Counties shall allocate funds for Shared Housing for the same eligible uses identified in Section 200(a).

(b) NPLH funds may be used for a COSR for Assisted Units subject to the limitations specified in Section 405.

(c) Program funds may be provided as predevelopment, construction, or post-construction permanent financing. If predevelopment or construction financing is provided, Program funds must convert to post construction permanent financing.

(d) Use of multiple Department Funding Sources on the same Assisted Units (subsidy stacking) is prohibited.

(1) For purposes of this section and except as noted below, “Department Funding Sources” shall mean loan or grant funds awarded for permanent funding of development costs under the following programs, which shall not include funds specifically designated for capitalized operating reserves or rental assistance:

A. Supportive Housing Multifamily Housing Program
B. Veterans Housing and Homelessness Prevention Program
C. Multifamily Housing Program
D. Affordable Housing and Sustainable Communities Program Affordable Housing Development loan, except for grants for infrastructure, transportation-related amenities and program costs
E. NPLH funds provided to a Project by the Department, an Alternative Process County or another County designated by the Department to use their Noncompetitive Allocation for Shared Housing
F. Transit Oriented Development Program rental housing development loan, except for grants for infrastructure
G. Joe Serna, Jr. Farmworker Housing Grant Program
H. SB 2 Farmworker Housing Program
I. Housing for a Healthy California Program, including funds awarded either by the Department or a County
J. National Housing Trust Fund Program.

(2) "Department Funding Sources" do not include the following:

A. Any other Department program not listed above
B. 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.

(e) Program funds for eligible uses shall be provided in the form of a deferred payment loan that shall have an initial affordability period of 20 years or longer commencing on the date of recordation of the regulatory agreement. The loan may bear a zero percent interest rate. Pursuant to Welfare and Institutions Code Section 5849.4(b), any interest payment, loan repayments, or other return of funds must be returned to the Department and deposited in the No Place Like Home Fund established by Welfare and Institutions Code Section 5849.4.

(f) Program funds shall be secured by the Project's real property and improvements, and subject only to liens, encumbrances and other matters of record approved by the County.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 403. Occupancy Requirements

(a) Occupancy of all Assisted Units shall be restricted to households with at least one member who qualifies as a member of the Target Population. Total household income at the time of move-in shall not exceed the 30 percent AMI limit as published by the Department.

(b) Income determination shall be made in accordance with the requirements in 25 CCR

Section 6914 and 25 CCR Section 6916. Income levels shall be expressed in 5 percent increments as a percentage of AMI.

(c) For Assisted Units, if at the time of recertification a tenant household's income exceeds the 30 percent AMI income level and this increase is based solely on the current SSI/SSP payment rate or cost-of-living adjustment, the household rent shall not exceed 30 percent of household income. These Units shall continue to be designated as Assisted Units.

(d) For Assisted Units, if at the time of recertification a tenant household's income exceeds the 30 percent AMI income level and this increase is based on factors other than or in addition to the current SSI/SSP payment rate or cost-of-living adjustment, to the extent a rent increase for the household is permitted by statutes and regulations governing the Project's other financing sources, the Sponsor:

(1) shall re-designate the tenant's Unit as a Unit at the higher income level, if there are non-Assisted Units restricted at the higher income level, rounding to the nearest 5 percent increment. These Units shall not be designated as NPLH Assisted Units;

(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 non-Assisted Unit as an Assisted Unit at the income level originally applicable to the household until the Unit mix required by the Program regulatory agreement is achieved.

(4) If all of the Project Units are Assisted Units, that Project can continue with the over-income Unit(s) until such time as those over-income households no longer reside in the Project.

(5) A Unit shall be deemed "comparable" if it has the same number of bedrooms and reasonably similar square footage as the original Unit.

For example, in a Project where the income limits utilized to qualify new tenants are 15 percent, 20 percent, 25 percent, 30 percent and 50 percent of Area Median Income, if the income of a household occupying an NPLH Assisted Unit designated as a 20 percent Unit increases to 48 percent of Area Median Income, the Sponsor must re-designate the household's Unit as a non-NPLH 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 non-Assisted comparable Unit as an NPLH Assisted Unit at the 20 percent income level.

(e) For Assisted Units, 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 NPLH tenants, the Sponsor may increase the household's Rent to an amount not exceeding the closest Rent limit applicable to the household's income level at the time of recertification. These Units at or below the 30 percent income level shall continue to be designated as Assisted Units.

Continuing with the example described above, the income levels utilized to establish Rent limits upon recertification would be 15 percent, 20 percent, 25 percent, and 30 percent. A household occupying a Unit in this project with a 20 percent limit whose income, upon recertification, had increased to 28 percent of area median income could have their Rent increased to the Rent level applicable to the 30 percent income level.

(f) Projects shall maintain documentation of tenant eligibility consistent in all the following ways, as applicable:

(1) Documentation of a Serious Mental Disorder or a Seriously Emotionally Disturbed Child or Adolescent must be provided by a qualified mental health worker in accordance with the requirements of WIC Section 5600.3.

(2) Documentation of a person's status as Chronically Homeless, Homeless, or At-Risk of Chronic Homelessness as defined under these Guidelines must be provided in accordance with procedures established through the local CES or other procedures established by the County and approved by the local Continuum of Care for determining whether a person qualifies as Chronically Homeless, At-Risk of Chronic Homelessness, or Homeless as defined in Section 101.

(3) In no event shall a person be required to be a client of the County behavioral health department or a recipient of mental health or other services in order to qualify for or remain in an Assisted Unit.

(g) These occupancy, income, and Rent limit requirements shall apply for the full term of the Program loan.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 404. Underwriting Standards and Other Requirements

(a) All Assisted Units shall have Rents restricted to 30 percent AMI or below as specified in the Project regulatory agreement with the County, except as otherwise permitted in Section 403(c).

(b) Rent levels shall be expressed in 5 percent increments as a percentage of AMI.

(c) Before committing funds to a Project, the County must evaluate the Project in accordance with underwriting standards it has chosen to use for Shared Housing. These standards must consider at a minimum such things as: the reasonableness of projected development and operating expenses, income and expense escalators, vacancy rate assumptions, debt coverage ratio, operating reserves, replacement reserves, budgeted rehabilitation or construction contingency, limits on development costs, and the use of operating cash flow.

(d) The maximum amount of assistance provided per Assisted Unit shall take into account the number of bedrooms per Unit or other measures of Unit size, as well as the level of affordability provided per Unit, with more affordable Units being provided more subsidy. The Department may approve other methodologies for setting per-Unit subsidy limits as set forth by the County.

(e) The total amount of Program assistance to a Project shall not exceed the eligible costs associated with Assisted Units in accordance with a methodology that allocates costs among the Assisted and any non-Assisted Units in reasonable proportion to their anticipated share of costs.

(f) Labor Code Section 1720 et seq. requires payment of prevailing wages for certain developments paid for in whole or in part from any public funding source, and exempts other developments from this requirement. All funds provided under this Program are public funds within the meaning of these Labor Code sections. Program funding for a portion of a Project shall not necessarily, in and of itself, be considered public funding of the entire Project. The County shall be responsible for determining on a case-by-case basis the extent of the applicability of state prevailing wage law to each individual Project.

(g) All Projects shall comply with applicable state and federal relocation laws including Title 1, Division 7, Chapter 16 of the Government Code, commencing at Section 7260, and 25 CCR commencing at Section 600;

(h) All Projects shall comply with and maintain copies of local inspection records documenting evidence of compliance with all applicable federal, state, and local accessibility requirements.

(i) Projects shall have a transition reserve in an amount established by the County in the event that any Project-based rental assistance is not renewed, or in the event that the Project COSR or other operating subsidy is exhausted and the Project cannot secure sufficient other rental or operating subsidies to continue without immediately raising Rents on the Assisted Units. Withdrawals from the transition reserve shall be subject to the County's prior review and written approval.

(1) If Rent increases on the Assisted Units are necessary after exhausting all transition reserve funds such increases shall only be permitted to the minimum extent required for financial feasibility, as determined by the County. In addition, Rents on Assisted Units shall not, in any event, be increased to an amount in excess of 30 percent of 60 percent of AMI, adjusted by number of bedrooms.

(2) The County shall notify the Department at least 12 months in advance of any Rent increase on the Assisted Units due to exhaustion of the transition reserve.

(3) If Rent increases on the Assisted Units are necessary due to loss of rental or operating assistance, and if it is determined that NPLH tenants will need to move after exhausting all transition reserve funds, a transition plan shall be implemented

to identify other permanent housing options that may be more affordable to NPLH tenants who cannot afford the increased Rent, and to assist those persons in accessing other available housing. Funds from the transition reserve may be used for these expenses.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 405. Capitalized Operating Subsidy Reserve

(a) Not more than 100 percent of the total amount provided per-Assisted Unit for capital may be provided for a COSR to address Project operating deficits attributable to Assisted Units.

(b) In order to be eligible to receive a COSR, the Application must first demonstrate, and the County must verify prior to issuing an award letter for the Project that, in lieu of relying in whole or in part on COSR assistance for Assisted Units, that the applicant or its development partners have done as required in either subsection (1) or (2) below.

(1)

A. Identified all possible federal, state, and local sources of rental assistance and other operating assistance to support the Assisted Units; and

B. Submitted applications or other written requests to the appropriate entity to secure Project-based rental or other operating assistance to support the Assisted Units; or

(2)

A. Identified all possible federal, state, and local sources of rental assistance and other operating assistance to support the Assisted Units; and

B. Can provide other evidence from the appropriate entities that rental assistance and other operating assistance is not available to support the Assisted Units.

(c) COSRs may be provided in the form of a zero-interest deferred payment forgivable loan with a term of not less than 20 years as evidenced by a promissory note secured by a deed of trust. Pursuant to Welfare and Institutions Code Section 5849.4(b), any interest payment, loan repayments, or other return of funds must be returned to the Department and deposited in the No Place Like Home Fund established by Welfare and Institutions Code Section 5849.4.

(d) The COSR shall be sized to cover anticipated operating deficits attributable to the Assisted Units for a minimum of 20 years. The total amount of a Project COSR will be determined based upon the individual Project underwriting performed by the County pursuant to the requirements of the County's Method of Distribution, as established under Section 401. The County may modify these assumptions as necessary to maintain project financial feasibility or extend the term of the COSR.

(e) In determining how to size Project COSRs, the County shall also consider such things as: (1) the maximum percentage of Units it will assist per Project; (2) anticipated Project

vacancy rates; (3) the anticipated percentage of Assisted Units that will have other operating or rental subsidy and the term of that operating or rental subsidy contract; (4) the anticipated percentage of households that are expected to be receiving SSI/SSP or other sources of stable income; and (5) operating expenses that the County will consider ineligible for payment from the COSR.

(f) The County shall hold each Project COSR in a segregated interest-bearing account for the benefit of the Project's Assisted Units for as long as funds remain in the COSR, but for not less than 20 years.

(g) The County shall establish procedures for disbursement of amounts from the COSR to the Project based on the results of an independent audit bifurcated between Assisted Units and the other Project Units prepared by a certified public accountant which establishes the amount of Project operating deficit, if any, attributable to the Assisted Units.

(h) The County shall review each COSR balance at least once annually to determine if adjustments need to be made to disbursement levels in order to ensure the long-term sustainability of each COSR.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c), 5849.9, Welfare and Institutions Code.

Section 406. Operating Budgets

The County shall annually review proposed annual operating budgets of funded Projects to ensure that budget line items, including any proposed Rent increases, are reasonable and necessary in light of costs for comparable Permanent Supportive Housing Projects and prior year budgets.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 407. Tenant Selection, Rental Agreements and Grievance Procedures

(a) Chronically Homeless and Homeless persons shall be referred to Assisted Units through the local CES.

(b) If the CES existing in the County cannot refer persons At-Risk of Chronic Homelessness, the alternate system used must prioritize those with the greatest needs among those At-Risk of Chronic Homelessness for referral to available Assisted Units.

(c) Pursuant to Welfare and Institutions Code 5849.9, Shared Housing Projects shall prioritize persons with mental health supportive service needs who are Homeless or At-Risk of Chronic Homelessness.

(d) Tenant eligibility criteria must be satisfied prior to being referred to an NPLH Project. All referral protocol for NPLH Assisted Units must be developed in collaboration with the local Continuum of Care and implemented consistent with Program requirements.

(e) The County shall have reasonable standards for Project rental agreements, property management plans, and tenant grievance procedures to ensure compliance with Housing First requirements consistent with the core components set forth in Welfare and Institutions Code Section 8255(b), and compliance with basic tenant protections established under federal, state, and local law.

(f) Tenants shall be accepted regardless of sobriety, participation in services or treatment, history of incarceration, credit, or history of eviction in accordance with practices permitted pursuant to WIC Section 8255 or other federal or state Project funding sources.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 408. Disbursement Process.

(a) Of the amounts for Project activities provided under this Article, the Department shall disburse no more than two draws per Project to the County if the Department has received all of the following:

(1) An award letter or other evidence of commitment of NPLH funds by the County to the specific Project(s) for which funds are being requested;

(2) A certification that the County awarded the funds to the specific Project(s) in accordance with the Method of Distribution approved by the Department under Section 401.

(b) The initial request for disbursement may be an advance of up to 50 percent of the amount of NPLH funds awarded per Project. The remainder shall be disbursed when a Project completion report is received by the Department in accordance with paragraph (e) below.

(c) The Department shall disburse Program administration funds in an amount not to exceed 10 percent of the total amount of Project funds awarded by the County per year pursuant to the requirements of this Article. These funds shall be used for Program administration costs for the period of affordability set forth in Section 401(c).

(d) All requests for disbursement of funds shall be made by the County on forms provided by the Department.

(e) In order to receive the remainder of a Project's funds under paragraph (b), the County shall provide the Department with evidence acceptable to the Department that the Project has completed construction, and that all Assisted Units in that Project are occupied by persons meeting the occupancy, income, Rent, and tenant eligibility requirements for those Assisted Units. This information shall be provided on forms made available by the Department.

Section 409. Reporting

The County and Project owners shall comply with the reporting requirements of Section 214 except for subsections (a) and (b).

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, 5849.11 Welfare and Institutions Code.

Section 410. Legal Documents

After the County is sent a letter providing notice of award and prior to actual disbursement of funds pursuant to that award, the Department and County shall enter into a state standard agreement, which shall constitute a conditional commitment of said funds. The standard agreement shall require the County to comply with the requirements and provisions of the Program statutes, these Guidelines, and generally applicable state contracting rules and requirements. The standard agreement shall encumber state monies in an amount no more than is available to the County under Section 102, and said amount shall be consistent with the corresponding award letter. The standard agreement shall contain the terms necessary to ensure the County complies with all Program requirements, including but not limited to, the following:

(a) Requirements for the execution of an operating reserve agreement, or other Project-specific contracts as may be applicable;

(b) On all loans held by the County, requirements for a promissory note payable to the County in the principal amount of the loan. The promissory note shall be secured by a deed of trust on the fee estate underlying the Project or an acceptable leasehold security naming the County as the primary beneficiary. Such security shall be executed prior to the disbursement of funds to a Project.

(c) Requirements, where appropriate, for the execution and recordation of covenants, regulatory agreements, or other instruments restricting the use and occupancy of and appurtenant to a Project and the property thereunder (for the purposes of this Article IV, all such documents are collectively herein referred to as the “Noncompetitive Allocation Program Agreements”);

(d) The County’s responsibilities for timing of all local awards of funds, as well as any reporting requirements;

(e) Remedies available to the Department in the event of a violation, breach or default of the standard agreement; and

(f) Any and all other provisions necessary to ensure compliance with the requirements of the Program and applicable state and federal law.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.

Section 411. Monitoring

(a) The County is responsible for managing the day-to-day operations of the NPLH Project, ensuring that NPLH funds are used in accordance with all Program requirements and Noncompetitive Allocation Program Agreements. The County must take appropriate action when performance problems arise. The performance and compliance of each Project must be reviewed as set forth in paragraph (b). The County must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and Projects and a system for monitoring Projects, to ensure developers, property managers, and services providers are meeting all Program requirements.

(b) To ensure that funded Projects are completed, Projects are able to meet long-term affordability, and Projects are meeting other Program requirements as set forth in these Guidelines and in statute, the County must meet the following minimum requirements for Project monitoring:

(1) On-site physical inspections of all Projects as needed during construction or rehabilitation, at Project completion, and at least once every three years during the term of the loan;

(2) Annual review of Project operating budgets, audits or other certified financial statements. All Projects that receive a COSR must submit a bifurcated annual audit. The bifurcated audit must distinguish actual annual income and expenses of Assisted Units that receive capitalized operating subsidies from those Units that do not receive the subsidies;

(3) Annual review of supportive services plans and outcome measures to ensure that the supportive services being offered are the most appropriate and effective for existing NPLH tenants and the NPLH tenants proposed to be served in the Project regulatory agreement;

(c) The Department will review the performance of each County in carrying out its Program responsibilities whenever determined necessary by the Department in order to assess the existence and use of County processes in meeting Program requirements such as:

(1) Award of funds in accordance with the approved County Method of Distribution pursuant to Section 401.

(2) Use of processes that address compliance with Program requirements, on an ongoing basis including but not limited to:

A. Use of underwriting standards to determine Project feasibility,

B. Uses and terms of Program assistance,

C. Occupancy requirements,

D. Documentation of local property inspections to assess compliance with accessibility standards, and habitability standards related to maintaining the property in a safe and sanitary condition,

E. Processes to assess the availability and appropriateness of the supportive services plan and the property management for the Target Population, and

F. Documentation of compliance with reporting requirements.

(d) In conducting performance reviews, the Department will rely primarily on information obtained from the County's records and reports, findings from County on-site physical monitoring, and County financial reports that the County shall make available upon request of the Department. Where applicable, the Department may also consider relevant information pertaining to a County's performance gained from other sources, including citizen comments, complaint determinations, government regulatory information referrals or determinations, and litigation.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, 5849.11 Welfare and Institutions Code.

Section 412. Defaults and Cancellations

(a) The Department may revoke a County's ability to administer funds pursuant to this Article if the County or its funded Projects have engaged in repeated violations of Program requirements that cannot be satisfactorily resolved to bring the County into compliance. This may include, but is not limited to, failure of the County to obtain substantial compliance from a Project Sponsor with Program requirements within a reasonable period of time. Prior to revocation, the Department will work with the County for a period of not less than 90 days to identify and implement measures that can be taken to bring the County into compliance as determined by the Department.

(b) With at least 30 days written notice to the County, the Department may cancel or reduce funding allocations to the County, recapture funds provided to the County but not yet disbursed to a Project, or terminate or amend standard agreements under any one of the following conditions:

(1) Implementation of the County NPLH Program is not in compliance with Program requirements;

(2) Implementation of the County NPLH Program is not in compliance with the time frames and goals stated in the standard agreement;

(3) Special conditions for funding as stated in the standard agreement have not been fulfilled; or

(4) The Department has been notified of a reduction in or elimination of NPLH bond proceeds.

(c) Upon notification by the Department that the funding allocation is canceled or reduced and the standard agreement is terminated or amended, the County shall:

(1) Complete all work affected by the cancellation or reduction that is in progress; and

(2) Terminate any other planned activities that cannot be paid for with NPLH funds as a result of the termination or reduction.

(3) Return any unobligated NPLH funds to the Department.

(d) Notwithstanding the above, the County shall continue to carry out all of its responsibilities under the standard agreement and the Program Guidelines to Projects to which it made awards prior to discontinuing administering funds pursuant to this Article.

NOTE: Authority cited: Section 5849.9(c), Welfare and Institutions Code. Reference cited: Sections 5849.7(c)(4), 5849.9, Welfare and Institutions Code.