

PUBLIC COMMENTS RECEIVED DURING PUBLIC COMMENT PERIOD

Veterans Housing and Homelessness Prevention Program (VHHP) Program draft Guidelines

November 8, 2019

The California Department of Housing and Community Development (HCD) has revised guidelines for the Veterans Housing and Homelessness Program (VHHP) Program mainly to align with other HCD multifamily programs and clarify requirements.

Written public comments were received during the 30-day Public Comment Period, May 29, 2019 through June 29, 2019. Public workshops were held on June 11 in Santa Ana, June 19 in Sacramento, and June 19 in webinar-format. This document represents written comments HCD received during the public comment period and HCD’s responses to those comments.

Item #	Section	Public Comments	HCD Response
1	102(b)	<p>We would like to raise again the issue regarding the compatibility of VHHP and VASH vouchers, which have raised in past rounds’ comments. As part of the HUD regulations, VASH vouchers can be awarded to households earning up to 50% AMI, not 30% AMI. Therefore, placing VASH vouchers on an ELI (30% AMI) unit is not a possibility as sponsors must house veteran households referred by the local VA. The VA’s waitlist can include households earning up to 50% AMI, and they are not allowed to skip families on their waiting list to refer only ELI households. This is a significant issue since the VHHP program otherwise encourages the layering of VASH vouchers on VHHP-assisted units. VASH units must be regulated at 50% AMI, but this threshold requirement precludes the layering of VASH vouchers on VHHP-assisted units. To address this disconnect, we propose that units that are awarded VHHP funds and have VASH vouchers be scored and otherwise treated by the VHHP program as a 30% AMI unit but allow any VASH units to house veterans earning up to 50% AMI. This would bring the VHHP program into sync with the VASH program on a technical level. If this change is made, we ask that this change be made retroactively to other projects funded in previous VHHP rounds. Eden Housing: Andy Madeira, Senior Vice President of Real Estate Development</p>	<p>The current language in Section 102(b) of the proposed VHHP Program guidelines applies only to 45% of assisted units and does not imply usage of HUD-VASH vouchers. The decision to award vouchers to Veteran households earning income up to 50% AMI is decided by local housing authorities with approval from the U.S. Department of Housing and Urban Development (HUD). The VHHP program is committed to serving those Veterans who are most vulnerable and of highest need, earning extremely low income, by ensuring capacity throughout the state.</p> <p>Sponsors are required to specify the income targeted unit mix at application. Points are awarded based on the depth of targeting to very low income (VLI) or extremely low income (ELI) units. The higher the number of VLI or ELI units, the higher the point total. This is done to ensure deep targeting, which is the explicit goal of the program. Changing the requirement to allow higher affordability levels would be contrary to the program goals.</p> <p>No change will be made to the Round 5 VHHP guidelines.</p>

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2	102(l)	<p>The Department should not create a new requirement to provide a third-party market study. Through the application process, it is important to prevent undue burden to developers to provide information unless it is absolutely necessary for project review. Third-party market studies can take several months to prepare, have a limited shelf-life, and, in most instances, will not be prepared until after an application for HCD funds is submitted. The standing requirement to provide the identical market demand information, but not through a third party, remains appropriate.</p> <p>Recommendation: Remove the requirement to provide a third-party market study from Section 102(l). California Housing Partnership: Richard Mandel, Director of Financial Consulting.</p>	<p>HCD revised 102(l) to align with Section 7309 in the Multifamily Housing Program (MHP) Guidelines which states HCD may require a market study after application submission and prior to construction closing.</p>
3	103(e)(6)	<p>Oppose this change: In regard to years 30+: “Interest should be payable in an amount equal to... 2) the amount determined by the Department...” Lenders have concerns with HCD assessing a to-be-determined fee if the loan is paid off. As such, can HCD revise this section to include a clause that if the loan is paid off then the amount determined by the Department will be \$0 or no payment will be required?</p> <p>Century Housing Corporation: Brian D' Andrea, Senior Vice President</p>	<p>Monitoring costs continue through the life of the regulatory agreement, regardless of whether a loan is paid off. As a result, it is necessary for HCD to charge a monitoring fee to cover costs. However, projects that do pay off HCD loans will come through the Loan Portfolio Restructuring Program, and those LPR guidelines (under development now) will address the amount of monitoring payments that will be required after payoff.</p> <p>No change will be made to the Round 5 VHHP guidelines.</p>

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4	104(b)	<p>Oppose this section as this occupancy requirement may conflict with VA or other federal policies. Can HCD delete this section or revise to include a clause that projects are exempt if not allowed by federal regulation or policy?</p> <p>Century Housing: Brian D' Andrea, Senior Vice President</p>	<p>HCD agrees that there may be other funding sources with stricter occupancy requirements. Therefore, the guidelines have been updated to include: "Any applicable federal rental assistance or policy shall not impact the Program determination of an Assisted Unit."</p>
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5	104(d)	<p>Oppose this section as other regulations and statutory requirements prohibit prioritization. Can HCD remove this requirement or include that Supportive Housing VHHP Assisted Units are exempt from this requirement in situations where other regulations or statutory requirements prohibits any prioritization?</p> <p>Century Housing: Brian D' Andrea, Senior Vice President</p>	<p>HCD and CalVet are committed to assisting Veterans who are most vulnerable. Therefore, a minimum of 10 percent of Assisted Units shall be prioritized for occupancy by Veterans who are ineligible for VA health care and/or HUD-VASH.</p> <p>Veterans may have less-than honorable discharges for reasons that were deemed appropriate in the past but are no longer relevant because of a better present understanding of service-connected mental health issues. Many older Veterans experiencing homelessness may not be aware that they can upgrade their discharge status to become eligible for VA Health Care and other benefits and services. In addition, Veterans can be ineligible for VA Health Care for a variety of reasons, including length of time served.</p> <p>No change will be made to the Round 5 VHHP guidelines.</p>
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6	105(b)	<p>The Department should eliminate any transition reserve requirement for projects with rental subsidies. We understand that HCD has hired a consultant to perform a study on the necessity of transition reserves for properties with rent or operating subsidy contracts. However, the results of this study should not affect the determination that transition reserves are unnecessary. In the decade since VHHP was created, no Section 8 contract (PBRA or PBV) or VASH Rental Assistance contract in California has been terminated due to a failure of federal appropriations. The decades of successful experience have substantially altered the capital markets' view of risk posed by subsidy contracts, and it is now commonplace for lenders working in California to structure debt leveraged by Section 8 without requiring capitalized transition reserves. HCD is now a notable outlier in this regard. HCD's requirement results in the long-term sequestration of capital dollars that should be deployed to produce more affordable units today. Worse still, these large transition reserves may well be in jeopardy when LIHTC investors exit the ownership entity after 15 years. Many investors require payment for their share of all reserves upon exit, even if those reserves are controlled by HCD or other parties and cannot be liquidated. Large transition reserves are a tempting target, and banking capital dollars today to hedge against a risk that has been demonstrated to be remote only for those funds to be paid to an investor years later is not an outcome anyone should seek or abet. Recommendation: Eliminate the transition reserve requirement for developments with project-based rental assistance.</p> <p>California Housing Partnership: Richard Mandel, Director of Financial Consulting</p>	<p>The Transition Reserve requirement for a renewable subsidy is for one year and for a nonrenewable subsidy two years. HCD is studying transition reserve requirements but, consistent with other programs, will maintain them until such time as a department-wide decision is made. Note: TCAC regulations require transition reserves to remain with the project.</p> <p>No change will be made to the Round 5 VHHP guidelines.</p>
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7	107(a)(1)	<p>Oppose this change as it appears to be more restrictive than TCAC regulations and the UMRs & request for clarification from HCD. Can HCD please clarify the definition of “development funding sources,” which cannot exceed \$2mm for acquisition/rehabilitation projects and \$2.2mm for new construction. Do these caps refer to capitalized developer fee?</p> <p>Century Housing Corporation: Brian D' Andrea, Senior Vice President</p>	<p>Developer Fee paid from development funding sources refers to the cash out developer fee at permanent closing that is neither deferred nor contributed back to the project, i.e., the capitalized developer fee. The HCD limits are purposefully more restrictive than TCAC limits for 4% tax credits projects because HCD is contributing a limited resource to the project. The HCD limits proposed in this section are actually less restrictive than TCAC limits for 9% projects because they dampen the effect of the high cost adjuster for new construction projects.</p> <p>No change will be made to the Round 5 VHHP Guidelines.</p>
8	107(a)(1)(B)	<p>The Partnership strongly supports HCD's goal to create consistency and alignment of developer fee limits across HCD programs. HCD should make a technical correction to Section 107(a)(1)(B).</p> <p>Recommendation: Revise the language in Section 107 (a) (1) (B) to ensure consistency of developer fee limits across HCD programs:</p> <p>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) two and the project's high-cost ratio, as calculated pursuant to California Code of Regulations, Title 4, Section 103217(i) (6) or successor language and (ii) 100 percent.</p> <p>California Housing Partnership: Richard Mandel, Director of Financial Consulting</p>	<p>Thank you for your comment. This section will be updated to the following:</p> <p>For new construction projects, the base limit shall be the lesser of the amount that may be included in project costs or \$2,200,000. To arrive at the final limit on Developer Fee paid from development funding sources, the base limit shall then be multiplied by a ratio that is the average of (i) the difference between two and the project’s high-cost ratio, as calculated pursuant to California Code of Regulations, Title 4 , Section 10317(i)(6) or successor language and (ii) 100 percent. .</p>

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9	108(a)	<p>Oppose full developer fee being capped at \$3.5mm in this section and in the UMRs as it is more restrictive than TCAC regulations and will limit the amount of eligible basis generated on large 4% projects.</p> <p>Century Housing Corporation: Brian D' Andrea, Senior Vice President</p>	<p>Section 107(a)(1) allows a 4% project to have a developer fee in cost equal to the TCAC maximum, thereby maximizing equity. The \$3.5 million limit in this section refers to the aggregate amount of developer fee that may be paid from funding sources and taken as a priority cash flow distribution. Developer fee above \$3.5 million is allowed in cost but may only be paid from owner distributions.</p> <p>No change will be made to the Round 5 VHHP guidelines.</p>
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<p>10</p>	<p>108(c)</p>	<p>We ask that the maximum supportive services costs for “Chronically Homeless,” “Homeless with a Disability,” and “Other Homeless” be restricted at the same level, regardless of category. In general, we find that the maximum limits are not high enough to provide the level of supportive services we think is necessary to serve these households. Frequently, we are mixing VHHP-assisted units with other non-VHHP-assisted units within one development. The VHHP-assisted households must have their supportive services provided by a service provider experienced in working with veterans. The non-VHHP-assisted households also have supportive services needs provided by another services provider, such as one that has experience working with families or seniors; oftentimes there are also supportive services requirements imposed by other funders (such as TCAC or other HCD programs). As such, we often need to have at least two different supportive service contracts at each development, and the supportive service cost maximums are too low to pay for the level of services necessary.</p> <p>To address these issues, we propose that the maximum supportive services costs for “Chronically Homeless,” “Homeless with a Disability,” and “Other Homeless” are restricted at the “Chronically Homeless” maximum of \$4,245 per unit per year. Alternatively, we ask that the costs of the services maximums are increased by 50%. If this change is made, we ask that this change be made retroactively to other projects funded in previous VHHP rounds.</p> <p>Eden Housing Corporation: Andy Madeira, Senior Vice President of Real Estate Development</p>	<p>The limits are higher than the Uniform Multifamily Regulations (UMRs). The rate that the maximum amounts shall be increased has been updated in the guidelines to an annual rate 3.5 percent instead of 2 percent in the previous VHHP guidelines and 2.5 percent in the UMRs.</p> <p>We will continue to limit the allowable funds based on the level of service need for each category. While we do limit the amount of services funded from the operating budget, this limit does not apply to services funding from outside of the operating budget.</p> <p>..</p>
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11	109 (a)	<p>Request for HCD to consider if the DVBE Requirement can be a good faith effort similar to Section 109(b) given the difficulty our GC's have had with the DVBE subcontractors?</p> <p>Century Housing Corporation: Brian D' Andrea, Senior Vice President</p>	<p>HCD and CalVet are committed to supporting DVBEs. CalVet is actively engaging project sponsors and developers as they work to fulfill this requirement. In the event a sponsor or developer is unable to meet the DVBE requirements, specific language was added during Round 4 in Section 109(a)(2) which allows CalVet to grant a penalty waiver for sponsors who satisfy a review of methods and attempts to meet the requirement.</p> <p>This is not a new requirement. The change in Round 5 is intended to fairly assess negative points commensurate with the effort and achievement of DVBE utilization.</p> <p>No additional change will be made to the Round 5 VHHP guidelines.</p>
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12	111(a)(3) (B)	<p>We appreciate how important it is to include the DVBE community in the construction of affordable housing. However, we have found that the 5% participation goal is incredibly challenging to meet, particularly when VHHP-funded projects also include requirements such as Prevailing Wages, Project Labor Agreements, and Local Hiring. In our experience, working with DVBE firms and suppliers has added cost for many trades. As we grapple with the high cost of construction simultaneously with limited funding, we would prefer to see this requirement as a goal. The proposed updated application selection criteria that includes negative points for failing to meet the target level of DVBE participation is overly punitive. This is especially true given the fact that we also must abide by strict cost caps such as HCD's High-Cost Test. We would request that punitive measures contemplated correspond with a lack of an effort to meet the DVBE requirements, rather than the inability to meet them after a valiant effort. As an example, Alameda County has structured its Local Hiring requirements as a goal rather than a requirement. However, they have implemented a clear and stringent outreach process to local firms that steers developers and contractors toward meeting their ambitious goals. We prefer that HCD and CalVet increase guidance/support for developers trying to work with DVBE contractors/suppliers rather than jeopardizing the opportunity to pursue building more future VHHP homes.</p> <p>Eden Housing Corporation: Andy Madeira, Senior Vice President of Real Estate Development</p>	See response directly above.
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13	111(a)(3)(B)	<p>I am writing to comment on the proposed addition of Section 111.4(a)(3)(B)(1), which details assessment of Negative Points for not reaching a full 5% DVBE contractor participation rate - copy attached for easy reference - see page 23 (.pdf page 24). The assessment of negative points for not meeting the goal of 5% DVBE contractors is not a helpful or useful idea and could be detrimental.</p> <p>Many factors affecting compliance are beyond the developer's control, such as availability of DVBE bidders, relative location of available DVBE bidders in relation to the project site, and cost estimates in relation to project budgets, all of which affect ability to contract with DVBE contractors. It is not reasonable to punish a developer that has made good faith efforts that do not result in 5% compliance. Further, it is not reasonable to burden project budgets by forcing acceptance of higher bids to meet the 5% goal.</p> <p>Documented good faith efforts suffice for compliance with Section 3 and MBE-WBE contracting goals under federal labor standards laws and this standard should be acceptable to Cal-Vet for DVBE purposes. It also would go a long way toward supporting and encouraging good will and a teamwork approach. The negative point assessment seems punitive. No one wants to be punished after putting in the work needed to document a good-faith effort. It could result in fewer developers choosing to use VHHP funding to assist our veterans in need.</p> <p>I urge you to reconsider and drop the proposed negative point assessment related to DVBE compliance.</p>	See response to item 11 above. .
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14	111(a)(4)	<p>Request for HCD to consider revising the point score for Property Management experience. The Property Management Experience points section does not account for number of units managed, only the number of projects. Can HCD add or revise the Property Management Experience point tabulation the number of units, such as 600 units managed, which equates to approximately ten 60-unit deals.</p> <p>Century Housing Corporation: Brian D' Andrea, Senior Vice President</p>	<p>The purpose of scoring based on the number of projects is based on requirements across all programs. A change to include the number of units would unfairly weight the scoring toward larger developments.</p> <p>No change will be made to the Round 5 VHHP guidelines.</p>
15	111(f)(4)	<p>Oppose this change as by removing Section 111(f)(4) for 5 points, it will be very difficult for many applicants to meet the 10-point threshold point score under Readiness to Proceed. HCD to consider: Reducing threshold point score for Readiness to Proceed to 5 points; or Re-incorporate Section 111(f)(4). And, if so include PSA as a scoring option as a long escrow could save on acquisition costs and accrued interest to keep overall project costs down.</p> <p>Century Housing Corporation: Brian D' Andrea, Senior Vice President</p>	<p>The categories that included fee title ownership, a long-term leasehold, or 50% of completed working drawings did not demonstrate an influence on project readiness, and consequently was removed. HCD lowered the threshold from 13 to 10 points to account for this change, while ensuring more units will be available at a faster pace. Based on experience, readiness is a key factor in determining if projects will successfully move forward to construction and occupancy.</p> <p>No change will be made to the Round 5 VHHP guidelines.</p>

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<p>16</p>	<p>111(h)</p>	<p>Request for HCD to clarify and reconsider some Location Efficiency and Access to Destination point scores:</p> <p>Section 111(2&3) will benefit 9% LIHTC projects. Can HCD consider an alternative with less restrictive nearby amenities for proposed 4% LIHTC projects?</p> <p>Can HCD clarify and include transit points will be granted for a transit line that is currently under construction?</p> <p>Can HCD consider including up to two points for any project that is located within ¼ of a mile from a VA facility?</p> <p>Century Housing Corporation: Brian D' Andrea, Senior Vice President</p>	<p>HCD and CalVet are committed to assisting Veterans who are most vulnerable and will ensure access to certain amenities.</p> <p>Transit that is currently under construction cannot be reasonably assessed because there is not as predictable a measure for determining the actual completion date and the hours of operation.</p> <p>Section 111(h)(3)(B) has been changed to “(One point) Medical clinic that accepts Medi-Cal payments, or a Veterans Administration health facility”.</p>
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