

Joe Serna, Jr. Farmworker Housing Grant Program – Multifamily Final Guidelines

Adopted pursuant to AB 434 (Chapter 192, Statutes of 2020)

To ease in review, language identified in red text throughout this document represents text that is consistent across all multifamily funding programs subject to AB 434.

Please refer to the Department's [Multifamily Finance Super NOFA](#) webpage to view all Designated Program guidelines, including the Defined Terms appendix.



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Article 1. General.

Section 101. Purpose and Scope.

- (a) These guidelines implement and interpret California Health and Safety Code (HSC) Chapter 3.2 (commencing with Section 50515.2), Part 2, Division 31, which establishes the Joe Serna, Jr. Farmworker Housing Grant Program (Program or FWHG) administered by the California Department of Housing and Community Development (HCD).
 - (1) These guidelines apply only to Rental Housing Developments. Single-family development uses will be governed under a separate set of program guidelines.
- (b) These guidelines implement and interpret AB 434 (Chapter 192, Statutes of 2020), which amends, repeals, and adds HSC Sections 50517.5, 50675.1 and 50675.7, in addition to various other statutes related to the Designated Programs. AB 434 requires HCD to harmonize the AB 434 Designated Programs with Multifamily Housing Program (MHP) in four respects: 1) Designated Program funds are to be made available at the same time as MHP funds; 2) Designated Program applications are to be rated and ranked in a manner consistent with MHP applications; 3) Designated Program funds are to be administered consistent with MHP; and 4) Designated Program loan terms are to be consistent with MHP loan terms to the greatest extent possible
- (c) Nothing in these guidelines is intended to be, nor should be, interpreted to amend or repeal rules, regulations or requirements set forth in prior versions of FWHG guidelines or their amendments; these guidelines shall have no retroactive application. These guidelines shall, however, supplant and replace all prior versions of guidelines for the purposes of applying to the funding offered subsequent to their publication.
- (d) Pursuant to Assembly Bill (AB) 101 (2019-2020, Reg. Sess.), Chapter 159, signed into law on July 31, 2019, the matching share requirement of the Program is no longer required.
- (e) Program funding is prohibited for use in housing H-2A workers, see AB 1783 (2019-2020, Reg. Sess.), as modified by AB 107 (2019-2020, Reg. Sess.). See HSC Section 50517.10.

Section 102. Uniform Multifamily Regulations

- (a) The Uniform Multifamily Regulations (UMRs) (California Code of Regulations (CCR), Title 25, Section 8300 et seq), effective November 15, 2017, and as subsequently amended, are hereby incorporated by reference, except to the extent any UMR provision would be inconsistent with these guidelines.

Article 2. Administration of Funds.

Section 201. Definitions.

In addition to the definitions found in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the HSC Section 50675.2, and in the UMR, the definitions in the Appendix A shall apply to these guidelines.

In the event of a conflict, the definitions in the Appendix A shall prevail for the purposes of these guidelines and application to the Designated Programs. The defined terms will be capitalized as they appear in the guideline text. References to sections herein refer to sections of these guidelines unless otherwise noted.

Section 202. Eligible Project.

Proposed Projects are eligible for funding only if:

- (a) The Project includes the new construction or Rehabilitation of a Rental Housing Development or the conversion of a nonresidential structure to a Rental Housing Development. Rehabilitation Projects with existing Department restrictions must comply with loan restructuring requirements pursuant to HSC Sections 50560 through 50562 and current restructuring guidelines. Restructuring transaction fees are set forth in UMR Section 8317. Proposed increases to rent restrictions as well as corresponding operating budget underwriting assumptions in an application may be evaluated for reasonableness by the Department. All occupied or partially occupied Rental Housing Developments must comply with the rent rules of paragraphs (G) through (I) of MHP guidelines Section 7302 (e)(4).
 - (1) For purposes of calculating Program loan amounts and compliance with Program requirements a Rental Housing Development is to contain five (5) or more Units, a single-family house or an apartment Unit in an apartment building is considered to be one Unit regardless of the number of bedrooms within the apartment Unit.
- (b) Other development funding sources, including all tax credit equity generated by the Project, are insufficient to cover Project development costs.
- (c) At the time of the application due date, the construction or Rehabilitation work has not commenced, except for emergency repairs to existing structures required to eliminate hazards or threats to health and safety.
- (d) The Projects meets the accessibility requirements pursuant to Section 303 below. Projects must also provide a preference for Accessible Housing Unit(s) to persons with disabilities requiring the accessibility features of those units in accordance with CCR Title 4, Section 10337(b)(2).
- (e) Program funds may only be expended for Rental Housing Developments that meet the following criteria:
 - (1) The Rental Housing Development must contain Assisted Units to be occupied by Agricultural Workers.
 - (A) When Program funds amount to less than 25 percent (25%) of the total development/Rehabilitation cost or value of a Project, whichever is applicable, for every 1 percent (1%) of the total development/Rehabilitation cost or value which Program funds constitute, a minimum of 2 percent (2%) of the total number of units of the Rental Housing Development shall be designated as Assisted Units restricted to occupancy by Agricultural Workers.

- (B) When the Funds amount to 25 percent (25%) or more of the total development/Rehabilitation cost or value of a Rental Housing Development, the number of Assisted Units restricted to occupancy by Agricultural Workers shall be directly proportional to the percentage of Program Funds awarded to the total development/Rehabilitation costs, but not less than 50 percent (50%) of the total number of units in the Rental Housing Development.
- (C) To the greatest extent possible consistent with Fiscal Integrity, at least 10 percent (10%) of the Assisted Units shall be reserved for Agricultural Workers with incomes no greater than 30 percent (30%) of area median income (AMI). These units shall be distributed reasonably among bedroom sizes. The remaining ninety percent (90%) of Assisted Units shall be reserved for Agricultural Workers with incomes no greater than 80% of AMI.

- (2) To the greatest extent possible, any non-assisted units are to be occupied by Agricultural Workers.

To the “greatest extent possible” as used in these guidelines, means that the Awardee must exercise due diligence as a fiduciary to the Project, to meet Program requirements and objectives. For example, to the extent there are two otherwise equally qualified tenants on a waitlist, and one is an Agricultural Worker, the Agricultural Worker gets the unit.

- (3) Assisted units in a Rental Housing Development required to be made available to lower-income households pursuant to Section 301 are to be made available at affordable rents as defined in [HSC Section 50053](#).
- (4) Rent limits for initial occupancy and for each subsequent tenancy by a new eligible household shall apply to all Assisted Units in accordance with subdivision (b) of HSC Section 50053.

(f) Assisted Unit Requirements

- (1) Where multiple HCD programs assist the Project and the jurisdiction does not have Article XXXIV authority, HCD’s total non-VHHP regulatory authority shall not exceed 49 percent of the Project’s total units, unless the Project otherwise has an exemption.
- (2) In jurisdictions having Article XXXIV authority, HCD’s total regulatory authority shall not exceed the allocation of authority, up to 100 percent of the Project’s total units.
- (3) The units regulated by HCD, including FWHG Assisted Units, shall include those with the lowest income limits.

(g) Projects proposed by Tribal Entities must meet the following additional requirements:

- (1) Located in Indian country or located on fee or trust land within the state of California;
- (2) Project occupancy will be limited to tribal households to the greatest extent possible; and

- (3) The Applicant meets the following conditions of award funding to the extent applicable, and, subject to any modifications or waivers as provided for in HSC Section 50406, subdivision (p) (AB 1010 (Chapter 660, Statutes of 2019) that shall be set forth in a Standard Agreement. It is noted that these same conditions do not need to be satisfied initially to engage in the competitive award process.
- (A) Bureau of Indian Affairs (BIA) Consent. BIA has consented to Applicant's execution and recordation (as applicable) of all HCD-required documents that are subject to the Code of Federal Regulations, 25 C.F.R. Parts 152.34 or 162.12, prior to award disbursement.
 - (B) Personal and Subject Matter Jurisdiction. Personal and subject matter jurisdiction in regard to the Standard Agreement, Project, or any matters arising from either of them is in state court and HCD has received any legal instruments or waivers, all duly approved and executed, as are or may be legally necessary and effective to provide for such personal and subject matter jurisdiction in state court.
 - (C) Title Insurance. HCD has received Title insurance for the property underlying the Project that is satisfactory to HCD. Notwithstanding the foregoing sentence, upon a showing of good cause, for Applicants unable to provide a conventional Title insurance policy satisfactory to HCD, this condition may be satisfied by a Title status report issued by the BIA Land Title and Records Office and pursuant to a Title opinion letter issued for the benefit of HCD but paid for by the Applicant.
 - (D) Recordation Requirements. Where recordation of instruments is a condition of award funding or otherwise required under or pursuant to the Standard Agreement, the subject instrument is recorded with the Land Titles and Records Office at the BIA or in the appropriate official records of the County in which the Project property is located, as may be applicable.

(h) Multiple HCD Funding Sources

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

- (1) **HCD Repeal of Stacking Prohibition of Multiple HCD Funding Sources Memo** shall remain applicable. A maximum of four HCD Funding Sources comprised of no more than two development loans and two housing-related infrastructure grants may be used on a single Project. Housing related infrastructure grants are those grants provided through the Affordable Housing Sustainable Communities program - Housing Related Infrastructure (HRI) grants, Transit Oriented Development (TOD) Implementation program - Infrastructure grants, and infill infrastructure grant programs (IIG-2007 and IIG-2019).
- (2) "Department Funding Sources" do not include: offsite infrastructure funds; or existing loans or grants under any HCD funding source listed above that are at least 14 years

old and that will be assumed or recast as part of an acquisition and Rehabilitation project.

- (3) Additional limitations on use of multiple HCD funding sources may be specified in the Notice of Funding Availability (NOFA).
 - (4) Limits on HCD Funding, including loan or grant funds, on a per-unit, per-project, and/or per-Sponsor basis, may be further specified in the NOFA.
- (i) Once a project is awarded HCD funds, the Sponsor/Awardee acceptance of these HCD funds is acknowledging the project as submitted and approved by HCD and is the project that is to be funded and built. Any bifurcation of the Project would make that award null and void, as the awarded project is no longer feasible as originally submitted and approved and because the awarded funds are unable to be assumed or assigned.

Section 203. Eligible Sponsor.

- (a) A Sponsor shall be any individual, Joint Venture, partnership, limited partnership, limited partnership in which the Sponsor or an affiliate is a general partner, trust, corporation, cooperative, Local Public Entity, Tribal Entity, or other legal entity, or any combination thereof, which meets the requirements of subsections (b) through (e) below, as applicable.
- (b) The Sponsor shall demonstrate to HCD's satisfaction that the Sponsor is independent from any direction of, or control by, a for-profit entity, and shall meet the requirements of HSC Section 50517.5.
 - (1) Non-profit corporations include a Tribally Designated Housing Entity HSC Section 50091.
- (c) Sponsor shall be the recipient or co-recipient of HCD's award of funds.
- (d) Except as abrogated below in this subdivision, Sponsor shall demonstrate that it has successfully developed, operated, and owned at least four (4) affordable rental housing developments of equivalent size, scale, and occupancy, one (1) of which must be a development that includes agricultural households. Sponsor shall have satisfied this experience requirement at the time of its application for the funds.
 - (1) Notwithstanding the foregoing, and solely for the purpose of applying to the Emerging Developer set-aside, an Emerging Developer shall qualify on its own as a Sponsor so long as the Emerging Developer meets the experience requirements set forth in the Definitions Appendix.
 - (2) Notwithstanding the foregoing, and solely for the purpose of applying to the Community-Based Developer set-aside, a Community-Based Developer shall qualify on its own as a Sponsor so long as the Community-Based Developer meets the experience requirements set forth in the Appendix A, as well as satisfies the application requirements set forth in Sections 401 and 402 hereof.

- (3) Tribal Entities, Emerging Developers, and New Community-Based Developers may satisfy this experience requirement by contracting with an entity that meets the requirements of this subdivision (d). Such contract or partnership agreement must be fully executed at the time of application submittal, and it must remain in effect until permanent loan closing and the issuance of any required tax forms.
- (4) If a Joint Venture Sponsor or co-Sponsor relies upon the experience of one of the Joint Venture partner or co-Sponsor to meet the Sponsor eligibility requirements, the following requirements must be met:
 - (A) The Joint Venture partner/co-Sponsor with experience must document that experience in the application as required by the NOFA.
 - (B) The Joint Venture partner or co-Sponsor with experience must retain a controlling interest in the borrowing entity for at least seven (7) consecutive years from the date of full occupancy of the Rental Housing Development, as evidenced by the applicable organizational documents. Any transfer of this interest requires HCD's advance written approval.
 - (C) The Joint Venture partner or co-Sponsor with experience must perform a substantial management role in the borrowing entity for at least seven (7) consecutive years from the date of full occupancy of the Rental Housing Development, as evidenced by the applicable organizational documents. Such role shall include the substantial management duties set forth at UMR Section 8313.2.
 - (D) The partnership agreement or other applicable organizational documents must be for the duration of the borrowing entity and, do the following:
 - i. The inexperienced partner must complete training pursuant to the California Tax Credit Allocation Committee (TCAC) Regulations, Title 4 CCR Division 17, Chapter 1, Section 10325(c)(1)
 - ii. The experienced Sponsor must share the Project's total Developer Fee in equal portion with and to all other members of the Joint Venture or co-Sponsor. For example, if there are two entities, then allocate a share of Developer Fee, Distributions, and net sales proceeds to the partner without experience that is no less than 50 percent of the total. These requirements will be included as a special condition in the projects respective Standard Agreement, as well as in its Regulatory Agreement (or Covenant where applicable); and
 - iii. Provide the partner without experience with an option to purchase the Rental Housing Development.
- (e) Sponsor shall demonstrate capacity to acquire, develop, and own affordable rental housing. For purposes of this subdivision, an entity has "capacity" if it has adequate staff, capital, assets, and other resources to efficiently meet the operational needs of the Rental Housing Development; to maintain the Fiscal Integrity of the Rental Housing Development; and to satisfy all legal requirements and obligations in connection with the Rental Housing

Development. Evidence of capacity must be reasonably acceptable to HCD in form and substance. Sponsor shall satisfactorily demonstrate capacity at the time of its application for the funds.

- (f) Sponsor shall maintain direct and continuing control of the Rental Housing Development throughout the full term of HCD's use restriction on the Rental Housing Development. Alternatively, if HCD's funding disbursement is structured with or through a special purpose entity, the Sponsor shall exercise direct and continuing control over such special purpose entities in accordance with UMR Section 8313.2 and throughout the full term of HCD's use restriction on the Rental Housing Development. Sponsor shall certify that it will abide by this control requirement at the time of its application for the funds for the full term set forth in the Standard Agreement.

Section 204. Threshold Requirements.

Projects shall be eligible for an award of funds when the application demonstrates that all the following threshold requirements have been met:

- (a) The applicant is an eligible Sponsor pursuant to Section 203;
- (b) The application involves an Eligible Project pursuant to Section 202;
- (c) All proposed uses of Program funds are eligible pursuant to Section 205;
- (d) The application is complete pursuant to Sections 401 and 402; and
- (e) Achieve a minimum point score for universal scoring criteria as set forth in the Notice of Funding Availability (NOFA);
- (f) The Project, as proposed in the application, is financially feasible as evidenced by documentation such as, but not limited to, Enforceable Funding Commitments, market study, project proforma, sources and uses statement, or other feasibility documentation that is standard industry practice for the type of proposed housing development
- (g) The Project will maintain Fiscal Integrity consistent with proposed Rents in the Assisted Units and is feasible pursuant to the underwriting standards in UMR Section 8310;
- (h) The Project site is free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove or cannot be mitigated;
- (i) The Project site is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the Project tenants.
- (j) Projects involving new construction, acquisition and Substantial Rehabilitation, or conversion of nonresidential structures to residential dwelling units, must be physically capable of accommodating broadband service with at least a speed of 25 megabits per second for downloading and 3 megabits per second for uploading (25/3). Internet service and its ongoing fee are not required.

- (k) Projects that do not include Special Needs Units shall provide service amenities sufficient to achieve a minimum score of 7 points pursuant to TCAC Regulations, as set forth in CCR Title 4 Section 10325(c)(4)(B).
- (l) The Project complies with the restrictions on demolition as set forth in UMR Section 8302;
- (m) The Project complies with the site control requirements as set forth at UMR Sections 8303 and 8316, with the additional requirement that the Applicant shall maintain site control through the award date, as stated in the NOFA.
 - (1) Where site control is in the name of another entity, the Applicant shall provide documentation, in form and substance reasonably satisfactory to the Department (e.g. a purchase and sale agreement, an option, a leasehold interest/option, a disposition and development agreement, an exclusive right to negotiate with a public agency for the acquisition of the site), which clearly demonstrates that the Applicant has some form of right to acquire or lease the Project property.
 - (2) Where site control will be satisfied by a long-term ground lease, the Department will require the execution and recordation of the Department's form lease rider, which shall be entered into by and among the ground lessor, the ground lessee, the Department, and any other applicable parties. In all cases, the lease rider shall be recorded against the fee interest in the Project property.
 - (3) For projects developed in Indian country, the following exceptions apply:
 - (A) Where site control is a ground lease, the lease agreement between the Tribal Entity and the project owner is for a period not less than 50 years; and
 - (B) An attorney's opinion regarding chain of Title and current Title status is acceptable in lieu of a Title report.
- (n) Funding is prohibited for use in funding predevelopment of developing or operating any housing that is rented, sold, or subleased to an agricultural employer, as defined in Section 1140.4 of the Labor Code, or its agent, or a farm labor contractor, as defined in Section 1682 of the Labor Code, or its agent, who employs at least one H-2A worker as defined in 50205, as more fully described in HSC Section 50517.10(b).
- (o) The project shall meet the minimum percent of Agricultural Households units as defined in each NOFA.
- (p) Project funding may be limited based on the presence of farmworkers in the County in which the project is located. The funding limit per County is based on the most recent U.S. Census of Agriculture (hired farm labor), as defined in each NOFA.
The applicant shall document that there is sufficient demand for Agricultural Household units in the area in which the project is or will be located as evidenced by a market study.
- (q) The Project complies with accessibility and fair housing obligations in Section 303.

Section 205. Eligible Use of Funds.

Funds shall be used only for approved eligible costs that are incurred on the Project as set forth in this section, including interim or bridge loans used to pay such costs. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost consistent with the Project's scope and area as determined by HCD.

- (a) Funds shall only be used for capital asset related expenses as required by Government Code (GC) Section 16727.
- (b) Eligible costs include the following:
 - (1) Property acquisition;
 - (2) Refinancing of existing long-term debt, only in connection with a Project involving a Rehabilitation contract in an amount equal to or exceeding \$35,000 per unit (which may be adjusted based on the current Consumer Price Index (CPI)), and only to the extent necessary to reduce debt service to a level consistent with the provision of Affordable Rents in Assisted Units and with the Fiscal Integrity of the Project;
 - (3) Land lease payments;
 - (4) Construction and Rehabilitation work;
 - (5) Offsite improvements, such as sewers, utilities, and streets, directly related to, and required by the Rental Housing Development when other infrastructure funding is unavailable and inaccessible;
 - (6) Onsite improvements related to the Rental Housing Development;
 - (7) Architectural, appraisal, engineering, legal and other consulting costs, and fees, which are directly related to the planning and execution of the Project, and which are incurred through third-party contracts;
 - (8) Development costs of a residential Unit reserved for an onsite manager, childcare, after- school care, adult daycare, or social service and health amenities integrally linked to, and addressing the needs of the tenants of the Assisted Units.
 - (A) Health amenities does not include any "health facility" as defined by Section 1250 of the HSC or any "alcoholism or drug abuse recovery or treatment facility" as defined by Section 11834.02 of the HSC.
 - (9) A reasonable Developer Fee subject to the provisions of Section 205;
 - (10) Rent-Up Costs;
 - (11) Reasonable carrying costs during construction, including insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the Rental Housing Development is under construction;

- (12) Building permits and state and local fees;
 - (13) Capitalized operating reserves and capitalized replacement reserves up to the amount of the initial deposit required by HCD pursuant to UMR Sections 8308(b) and 8309(b);
 - (14) Escrow, Title insurance, recording, and other related costs;
 - (15) Costs for items intended to assure the completion of construction, such as contractor bond premiums;
 - (16) Environmental hazard reports, surveys, and investigations;
 - (17) Costs of relocation benefits and assistance required by law; and
 - (18) Any other costs of Rehabilitation or new construction approved by HCD.
- (c) Except as provided in subsection (b)(8) above, no Program funds shall be used for costs associated exclusively with **non-Assisted Units** or Commercial Space. A Manager's Unit maybe considered an **Assisted Unit** for the purpose of allocating development costs. If only a portion of the Rental Housing Development consists of **Assisted Units**, the Program loan amount shall not exceed the sum of the following:
- (1) The costs of all items specified in subsection (b), above, associated exclusively with the **Assisted Units**;
 - (2) A share of the costs of common areas used primarily by residential tenants. This share shall be in direct proportion to the ratio between the gross floor area of the Restricted Units and the gross floor area of all residential units; and
 - (3) A share of the cost of other items such as roofs that cannot be specifically allocated to **Assisted Units**, **non-Assisted Units**, or Commercial Space. This share shall be in direct proportion to the ratio between:
 - (A) The gross floor area of the **Assisted Units**, plus a share of the gross floor area of common areas used primarily by residential tenants in direct proportion to the ratio between the gross floor area of the **Assisted Units** and the gross floor area of all units; and
 - (B) The total gross floor area of the structure or structures.
- (ci) Migrant farmworker assistance as permitted under subdivision (a) of Section [50517.10](#) of the HSC.

Section 206. Cost Limitations.

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

- (1) For related party sales, property acquisition prices may be set at levels that allow for recovery of verified holding costs, the assumption of existing debt, and the maximization of acquisition tax credits. However, any proceeds realized by the seller, above their costs, shall be contributed back to, and remain with, the Project.
- (2) The amount of funds set aside, borrowed, or applied to cover future land lease payments, must be discounted to the present value of these payments.
- (b) The limits on Developer Fee shall be set forth in the program NOFA and application.
- (c) Except where required to secure local government approvals essential to completion of the Project, or where necessary to receive tax credits for historic preservation, construction materials and amenities not typically found in modestly designed rental housing are ineligible costs.

Section 207. Type and Term of Loan.

- (a) Program funds shall be used for construction period financing or post-construction, permanent financing only.
 - (1) For construction period financing, all the following shall apply:
 - (A) Program funds shall only be disbursed for payment of obligations which are due for reimbursement of expenditures previously approved by HCD.
 - (B) The Awardee must request disbursements of Program funds on a form prescribed by HCD and such requests must be in accordance with authorized amounts set forth in the budget approved by HCD. With the prior approval of HCD, the Awardee may transfer any allocations or portions thereof set forth in the approved budget to other allocated items of said budget.
 - (C) Right of Inspection. HCD may, through its agents or employees, with prior notice inspect the site during construction.
- (b) The initial term of the loan shall be 55 years, commencing on the date of recordation of the Program loan documents.
 - (1) The initial term of the loan may be 50 years if the Project is located in Indian country and if a 55-year term is not feasible as determined by HCD. The 50-year term shall commence on the date of recordation of the Program loan documents.
- (c) The Program loan shall be secured by the Project real property and improvements, subject only to liens, encumbrances and other matters of record approved by HCD pursuant to UMR Section 8315. The Program loan shall have priority over loans provided by the Affordable Housing Program administered by the Federal Home Loan Bank.
- (d) For projects located in Indian country, the subject instrument shall be deemed sufficiently recorded if recorded with the Land Titles and Records Office at the BIA or if the subject instruments are recorded in the county recording system having jurisdiction over the

property. If an HCD loan is recorded against a fee interest, then there must be a restriction preventing that land from being put into trust for the Tribe with BIA until the affordability term of HCD loan/grant term has run.

- (e) Where the requirements of federal funding for a project, or the requirements of the low-income housing tax credits used in a project, would cause a violation of the requirements of these guidelines, the requirements of these guidelines may be modified as necessary to ensure program compatibility **where not prohibited by state law**. Where the requirements of federal funding or tax credits create what are deemed to be minor inconsistencies as determined by HCD's Director, HCD may waive the requirements of these guidelines as deemed necessary to avoid an unnecessary administrative burden. Any such modifications or waivers shall be recorded in the Regulatory Agreement or other documents governing the loan.

Section 208. Maximum Loan Amounts.

- (a) When sizing the loan, HCD will consider all other available financing and assistance, including the full amount of any tax credit equity generated by the Project. In addition, the loan amount shall not exceed the total eligible costs required to do the following:
 - (1) Acquire, develop, and construct or Rehabilitate the Rental Housing Development;
 - (2) Ensure that Rents for Assisted Units comply with Program requirements; and
 - (3) Operate the Rental Housing Development in compliance with all other Program requirements.
 - (4) With the exception of deferred Developer Fee, HCD funds shall not be used to supplant other available financing, including funds committed by local jurisdictions.
- (b) The per unit loan limit shall be defined in the NOFA. For loan limit calculations, the Unit count shall include the number of Units within the Rental Housing Development.
- (c) The loan limit will be calculated based upon the units' level of income restriction and number of bedrooms per Unit.
- (d) For a project required to be constructed as a condition of approval of one or more market-rate developments pursuant to an inclusionary housing ordinance, or similar local requirement, units required under the ordinance or other requirements shall not be counted in determining applicable loan limits, except for the following:
 - (1) Units restricted under the Program at a lower rent level than required by the ordinance.
 - (2) Units developed under a land dedication to the local government agency in which the project is located.
- (e) Projects developed pursuant to an inclusionary housing ordinance applying for any HCD funds, including those meeting one of the above three exceptions, must disclose such at

application.

- (f) In each NOFA, HCD shall establish a maximum per-Project loan amount. This maximum shall be set at a level that ensures sufficient demand for Program funds while meeting the Program's geographic and other distribution goals, taking into account the demand evidenced in previous funding rounds, the availability of other sources of rental subsidy financing and the total amount of Program funds available for award.

Section 209. Interest Rate and Loan Repayments.

Loans shall have the following terms:

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

The Department may require a third-party tax professional to verify the necessity for reducing the interest rate below three percent, pursuant to subdivision (a)(1) above, the cost of which shall be borne by the Sponsor.

- (b) Interest shall accrue from the date that funds are disbursed by the Department to or on behalf of the Sponsor.
- (c) For the first 30 years of the loan term, payments in the amount of 0.42 percent of the original principal loan balance shall be payable to HCD commencing on the last day of the Initial Operating Year and continuing on each anniversary date thereafter. The payment shall remain constant for the first 30 years regardless of any paydown of the original loan amount. The balance of accrued interest shall be payable out of Operating Income remaining after payment of approved Operating Expenses, debt service on other loans, reserve deposits. Commencing on the 30th anniversary of the last day of the Initial Operating Year, and continuing annually thereafter, the monitoring fee shall be payable annually in an amount equal to the lesser of the following, regardless of whether the loan has been prepaid in full or in part:
 - (1) The amount equal to the full amount of interest accruing on the original principal loan amount; or
 - (2) The amount determined by the Department to be necessary to cover the costs of continued monitoring of the Project for compliance with the requirements of the

Program which amount shall in no event be less than that in effect for the immediately preceding year. HUD Sections 811 and 202 projects will be subject to the requirements of this subsection.

- (d) Except for the required payment of 0.42 percent of the original principal loan balance, HCD shall permit the deferral of accrued interest for such periods and subject to such conditions as will enable the Sponsor to maintain Affordable Rents, maintain the Fiscal Integrity of the Project, and pay allowable Distributions pursuant to UMR Section 8314.
- (e) All Program loan payments (including the 0.42 percent loan payment) shall be applied in the following order:
 - (1) to any expenses incurred by HCD to protect the property or HCD's security interest in the property or incurred due to the Sponsor's failure to perform any of the Sponsor's covenants and agreements contained in the deed of trust or other loan documents;
 - (2) to the payment of accrued interest; and
 - (3) to the reduction of principal.
- (f) The total outstanding principal and interest, including deferred interest, shall be due and payable in full to the Department at the end of the loan term including any extension granted by the Department.

Section 210. Appraisal and Market Study Requirements.

- (a) With the application submission (and prior to permanent loan closing if necessary), HCD will require an appraisal or market study, or both to:
 - (1) Establish a market value for the land to be purchased or leased as part of the Project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to Section 204;
 - (2) Assist with establishing other reasonable development costs pursuant to Section 204;
 - (3) Assess Fiscal Integrity; and
 - (4) Verify an adequate tenant market.
- (b) Any appraisal required by HCD shall be prepared at the Sponsor's expense by an individual or firm which:
 - (1) Has the appropriate license and the knowledge and experience necessary to competently appraise low-income residential rental property;
 - (2) Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;

- (3) In reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property; and
 - (4) Is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.
- (c) Any market study required by HCD shall conform to the market study guidelines adopted by TCAC and be prepared at the Sponsor's expense by an individual or firm which:
- (1) Has the knowledge and experience necessary to conduct a competent market study for low-income residential rental property;
 - (2) Is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study;
 - (3) In reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true market needs for low-income residential property; and
 - (4) Is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.
 - (5) The market study must address, in separate subsections, each housing type and specific population to be served by the development. For example, if a development is intended to house Farmworker households, the study must address the population/ household trends, the demand estimate and absorption rate for this population type.



Section 211. FWHG Limited Partnership Eligibility Requirements.

- (a) To be eligible to apply for funding, a Limited Partnership shall demonstrate to HCD's satisfaction that it is controlled by a Nonprofit Corporation, Limited Liability Company, or a combination of both. If the Limited Partnership is controlled by a Limited Liability Company, the Limited Liability Company shall demonstrate to HCD's satisfaction that it is controlled by a Nonprofit Corporation.
- (b) In making its determination, HCD shall consider the Limited Partnership agreement, any limited liability company operating agreement, the articles and bylaws of any Nonprofit Corporation, and any pertinent side agreements between limited and general partners relating to the management and operations of the Limited Partnership (collectively, "organizational documents").

- (c) In order to demonstrate control, a Nonprofit Corporation or Limited Liability Company must have the authority to perform substantially all of the following functions, as shown in the organizational documents:
- (1) Employ and maintain a staff that has the experience and ability to perform the responsibilities and functions of the partnership.
 - (2) Rent, maintain, and repair the Rental Housing Development or, if such duties are delegated to a property management agent, hire, and oversee the work of the property management agent.
 - (3) Hire and oversee the work of all persons necessary to provide services for the management and operation of the Limited Partnership business.
 - (4) Execute and enforce all contracts executed by the Limited Partnership.
 - (5) Execute and deliver all partnership documents on behalf of the Limited Partnership.
 - (6) Prepare or cause to be prepared all reports to be provided to the partners and lenders on a monthly, quarterly, or annual basis consistent with the requirements of the Limited Partnership agreement.
 - (7) Coordinate all present and future development, construction, or Rehabilitation of the Rental Housing Development that is the subject of the Limited Partnership agreement.
 - (8) Monitor compliance with all government regulations and file or supervise the filing of all required documents with government agencies.
 - (9) Acquire, hold, assign, or dispose of partnership property or any interest in partnership property.
 - (10) Borrow money on behalf of the Limited Partnership, encumber limited partnership assets, place Title in the name of a nominee to obtain financing, prepay in whole or in part, refinance, increase, modify or extend any obligation.
 - (11) Pay organizational expenses incurred in the creation of the partnership and all operational expenses.
 - (12) Determine the amount and timing of distributions to partners and establish and maintain all required reserves.

Section 212. FWHG Nonprofit Corporation Eligibility Requirements.

For all Sponsors where a Nonprofit Corporation is part of the ownership structure, the involved Nonprofit Corporation shall meet the following requirements:

- (a) The articles and by laws shall clearly demonstrate that the corporation's authorized mission includes the provision of affordable or low-income housing.

- (b) Any fees earned as a general partner shall remain with the corporation. No fees shall be assigned to a for-profit organization.
- (c) The partnership agreement shall be structured to permit the Nonprofit Corporation to eventually purchase the Rental Housing Development.

Article 3. General Requirements.

Section 301. Rent Standards.

The Department shall establish Rent standards for Assisted Units in each Project as follows:

- (a) Rent limits for initial occupancy and for each subsequent occupancy by a new Eligible Household shall be based on Unit type, applicable income limit, and area in which the Project is located, following the calculation procedures used by TCAC and using income limits in 5 percent increments of AMI, including the income limits utilized by the Program for this purpose. The maximum Rent limit shall be 30 percent of 80 percent of AMI for the appropriate Unit size.
- (b) Rents will be further restricted in accordance with Rent and income limits submitted by the Sponsor in its application for the Program loan, approved by HCD, and set forth in the Regulatory Agreement. Rents shall not exceed 30 percent of the applicable income eligibility level. In the event the Unit is subsidized, the tenant-paid portion of the rent shall not exceed 30 percent of the applicable income eligibility level.
- (c) Rents in Assisted Units may be adjusted no more often than annually. The amount and method of adjustment for Assisted Units shall be in accordance with the regulations and procedures used by TCAC and using income limits in five percent (5%) increments of AMI, as approved by the Department.
- (d) The Department may permit an annual Rent increase greater than that permitted by this section if the Project's continued Fiscal Integrity is jeopardized due to factors that could not be reasonably foreseen.
- (e) For Units receiving HUD Section 8 or other similar rental assistance, the rules of the rental assistance program pertaining to Rent increases will prevail for as long as the rental assistance remains in place. Changes in the tenant contribution amounts may occur more often than annually as required by the rental assistance program.
- (f) Where a Project is receiving renewable Project-based rental assistance:
 - (1) The Sponsor shall in good faith apply for and accept all renewals available;
 - (2) The Sponsor shall fund a transition reserve to be used in the event the rental assistance contract is terminated. The minimum amount of the transition reserve for renewable Project-based rental assistance shall be the amount sufficient to prevent Rent increases for one year following the loss of the rental assistance. The minimum amount of the transition reserve for non-renewable Project-based rental assistance or operating subsidies shall be the amount sufficient to prevent Rent increases for

two years following the loss of the rental assistance. Transition reserves may be capitalized or funded from annual Project cash flow in amounts to be approved by HCD. Use of funds in the reserve shall be subject to the prior review and approval of HCD; and

- (3) If the Project-based rental assistance is terminated, the owner shall notify HCD in writing immediately upon notice of rental assistance contract termination and shall make every effort to find alternative subsidies or financing structures that would maintain the tenant income, rent, and special population targeting specified in HCD's Regulatory Agreement. Upon documenting to HCD's satisfaction unsuccessful efforts to identify and obtain alternative resources, and where the termination occurs through no fault of the Sponsor:
 - (A) Rents and income limits for Units previously covered by this rental assistance may be increased above the levels allowed pursuant to subsection (c), above, but only to the minimum extent required for Fiscal Integrity, as determined by HCD, with income limits not to exceed 80 percent of AMI and Rents not to exceed 30 percent of 80 percent of AMI.
 - (B) Restrictions for Units previously covered by this rental assistance requiring occupancy by special populations, including by Persons Experiencing Homelessness, Persons Experiencing Chronic Homelessness and Special Needs Populations, may be modified, or eliminated, but only to the minimum extent required for Fiscal Integrity, as determined by HCD and only through natural attrition/vacancies
 - (C) Any increase in Rents and income limits pursuant to subsection (A) above, or modification of special population occupancy requirements pursuant to subsection (B), shall require advance HCD approval. To the maximum extent possible, these changes shall minimize the impact on the lowest-income Project residents and shall be phased in as gradually as possible.
 - (D) If, following any increase in Rents and income limits pursuant to subsection (A) above, or modification of special population occupancy requirements pursuant to subsection (B) above, new resources become available, or market demand changes, allowing reversion to the former income and Rent limits or special population occupancy requirements, HCD may re-impose these income and Rent limits or special population occupancy requirements, in whole or in part, subject to an analysis of Project feasibility.
- (4) Based on an analysis of the risk associated with specific rental assistance programs, HCD may modify the requirements of subsection (2) above by an amendment to these guidelines. This modification 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 HCD rather than the Sponsor, or adjusting the level to which Rents may be increased upon rental assistance contract termination.

Section 302. Use of Operating Income.

- (a) Notwithstanding UMR Section 8314(a)(1), first-priority use of operating income remaining after payment of approved current and prior year operating expenses, reserve deposits and mandatory debt service shall be payment of any:
- (1) Approved deferred Developer Fee, pursuant to Section 205, provided that the aggregate of the Developer Fee paid from sources and paid as deferred shall not exceed \$3,500,000.
 - (2) Asset management, partnership management, and similar fees, including fees paid to investors, in an amount not to exceed the sum of:
 - (A) An amount for the current year, equal to \$36,878 for 2022 and increased at the rate of 3.5 percent for each subsequent year, plus
 - (B) Unpaid asset management, partnership management, and similar fees accrued for a period not to exceed three project fiscal years following the year during which they are earned, up to the difference between the limit for the year and the amount paid for that year; and
 - (C) Supportive Services Costs that the UMRs would allow to be paid as operating costs, but that other funding sources do not.
- (b) Where there is a difference between the provisions of the UMR (Title 25 CCR Section 8300 et seq.) and these guidelines, the provisions of these guidelines shall prevail in the use of operating cash flow. Any operating income remaining after the payments listed in the previous subsection (a) shall be applied in accordance with UMR Section 8314(a)(2).
- (c) The requirements of UMR Section 8314(b) through 8314(h) shall apply.

Section 303. State and Federal Laws, Rules, Guidelines and Regulations.

The Sponsor agrees to comply with all applicable state and federal laws, rules, guidelines, and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Development, the Sponsor, its contractors or subcontractors, and any Loan activity, including without limitation the following:

- (a) Nondiscrimination and Fair Housing Requirements

The Sponsor shall comply with all state and federal fair housing laws. At HCD's election, Sponsor must submit an attorney's opinion acceptable to HCD describing the intended occupancy restrictions and how they comply with the California Unruh Civil Rights Act (Civ. Code, Sections 51 - 53), the California Fair Employment and Housing Act (FEHA) (GC Section 12900 etseq.) and the FEHA regulations, Title 2, CCR Sections 12005-12271. Occupancy restrictions must be carried out in a manner which does not violate state or federal fair housing laws Sponsors shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry,

familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Program funds. Sponsors shall adopt written policies for providing reasonable accommodations, reasonable modifications, and auxiliary aids and services for effective communications with residents and applicants with disabilities.

Sponsors shall comply with all applicable state and federal law, including, without limitation, the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); the Americans with Disabilities Act of 1990; the Fair Housing Act; the Fair Housing Amendments Act of 1988; the California Fair Employment and Housing Act; the Unruh Civil Rights Act; Government Code section 11135; Section 504 of the Rehabilitation Act of 1973; and all regulations promulgated pursuant to those statutes (including 24 C.F.R. § 100, 24 C.F.R. § 8, and 28 C.F.R. § 35).

(b) Americans with Disabilities Act and Physical Accessibility Requirements

The Sponsor shall ensure compliance with all applicable state and federal building codes and accessibility laws and standards. All developments shall adhere to the accessibility requirements set forth in: (i) California Building Code Chapters 11A and 11B; (ii) the federal Fair Housing Act (42 U.S.C. § 3601 et seq.) and its regulations at 24 Code of Federal Regulations part 100 (particularly 24 C.F.R. § 100.205), and its design and construction requirements, including: ANSI A117.1-1986, and the Fair Housing Accessibility Guidelines, March 6, 1991, in conjunction with the Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, June 28, 1994; and (iii) the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and its Title II and Title III regulations at 28 Code of Federal Regulations parts 35 and 36; and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and the implementing HUD regulations at 24 Code of Federal Regulations part 8. In addition, developments shall adhere to either the Uniform Federal Accessibility Standards (UFAS) (24 C.F.R. § 8.32), or HUD's Alternative Accessibility Standard. In addition, the Sponsor shall ensure that the Project meets the following requirements:

- (1) New Construction Projects: All new construction projects must provide a minimum of fifteen percent (15%) of the Restricted Units with mobility features, and a minimum of ten percent (10%) of the Restricted Units with hearing and vision features.
- (2) Rehabilitation Project: All rehabilitation projects must provide a minimum of ten percent (10%) of the Restricted Units with mobility features, and a minimum of four percent (4%) of the Restricted Units with hearing and vision features. At least one of each common area facility type and amenity, as well as paths of travel between Accessible Housing Units accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing California Builder's Code (CBC) Chapter 11(B) as a design

standard. In all other respects, applicable building code will apply. The Director may approve a partial or full exemption to the requirements for the number of Accessible Housing Units accessible units in excess of those required by the ADA, Section 504, or CBC Chapter 11B provided:

- (A) The exemption does not pertain to any accessibility features required by applicable building codes, the CBC Chapter 11B, or federal law, including the required minimum five percent (5%) Units with mobility features and two percent (2%) Units with hearing and vision features. These CBC Chapter 11B and federal law minimums are calculated on all units in the project, not just restricted units, and
 - (B) The Sponsor and Project's architect demonstrate that full compliance with requirements that exceed those otherwise required by building codes or state or federal law would be infeasible or create an undue financial and administrative burden. Accessibility must be provided to the maximum extent feasible.
- (3) Senior Projects: Senior new construction projects must provide a minimum of fifty percent (50%) of all Restricted Units with mobility features. Senior rehabilitation projects must provide a minimum of twenty-five percent (25%) of all Restricted Units. The Executive Director may approve a waiver for a senior rehabilitation project pursuant to the provisions stated in the previous paragraph.
 - (4) All projects with elevators must comply with CBC Chapter 11(B) accessibility requirements for elevators.
 - (5) All Project owners with adaptable dwelling Units must provide adequate and visible notice to tenants of their ability to request conversion of adaptable features in their units to more accessible versions.
 - (6) Percentage requirements shall be calculated based on the number of Restricted Units (as defined in UMR) in the building and rounded up to the nearest whole number. However, CBC Chapter 11B and federal laws requiring a minimum five percent (5%) Units with mobility features and two percent (2%) Units with hearing and vision features are calculated on all units in the project, not just restricted units. The required number of units shall be the higher of these two calculations.
 - (7) Accessible Housing Units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities so that an individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible for housing assistance under the same project consistent with 24 CFR part 8.26.
 - (8) Compliance and Verification: Prior to loan closing but after construction completion, the Sponsor shall provide a certification of compliance, signed by the borrowing entity and the project architect as well as third party documentation confirming compliance (by a Certified Access Specialist (CASp) with demonstrated experience meeting

federal accessibility standards, or by an architect with demonstrated experience meeting federal accessibility standards.

- (9) Accessible Housing Units: All new and existing projects with fully Accessible Housing Units shall adopt suitable means to assure that information regarding the availability of Accessible Housing Units reaches eligible individuals with disabilities and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit. Such information shall be included in marketing plans. To this end, when an Accessible Housing Unit accessible unit becomes vacant, before offering such unit to an applicant who does not need the features of the unit, the Project shall offer such unit:
- (A) First, to a current occupant of another unit of the same project having a disability requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then
 - (B) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.
 - (C) If no applicant meeting the criteria in subsections (A) or (B) is available, the Accessible Housing Unit accessible unit may be offered to a tenant or applicant who does not need the unit's accessibility features.
 - (D) When offering an Accessible Housing Unit to an applicant not having a disability requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree to move to a non-accessible unit when comparable unit is available. This agreement shall be incorporated in the lease or a lease addendum.

(c) Violence Against Women Act

Where applicable, Sponsors shall ensure individuals are not denied assistance, evicted, or have their assistance terminated because of their status as survivors of domestic violence, dating violence, sexual assault, or stalking, or for being affiliated with a victim, pursuant to 34 U.S. Code Section 12491. Sponsors and owners have an obligation to inform prospective and existing tenants who are survivors of the rights and protections available to them under federal law by providing them with a Notice of Occupancy Rights Form HUD-5380 and VAWA Self-Certification Form HUD-5382. Notice must be given at the time an applicant is denied housing, at the time an applicant is admitted to housing, or when a tenant is notified of eviction or termination. Sponsors and owners are also required to comply with additional protections afforded to survivors under state law pursuant to California Civil Code Section 1946.7 (early lease termination without penalty) and California Civil Code Sections 1941.5 and 1941.6.

(d) Pet Friendly Housing Act

Sponsor shall authorize residents of the housing development to own or otherwise

maintain one or more common household pets pursuant to the Pet Friendly Housing Act of 2017 (California HSC Section 50466).

(e) California State Prevailing Wage Law

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

Section 304. Relocation Requirements.

The Sponsor of a Project resulting in displacement of persons, businesses or farm operations shall be solely responsible for providing the assistance and benefits set forth in this section and in applicable state and federal law and shall agree to indemnify and hold harmless HCD from any liabilities or claims for relocation-related costs.

- (a) All persons, businesses or farm operations that are displaced as a direct result of the development of a Project shall be entitled to relocation benefits and assistance as provided in Title 1, GC, Division 7, Chapter 16, commencing at Section 7260, and Title 25 CCR, Subchapter 1, Chapter 6, commencing at Section 6000. Additionally, to the extent applicable, local relocation law as well as the Federal Uniform Relocation Assistance and Real Property Acquisition Act, 49 C.F.R. Part 24, including Appendix A to Part 24, shall apply. To the extent of any variation in the applicable relocation laws, the stricter standard shall apply. Displaced tenants who are not replaced with Eligible Households under this Program shall be provided relocation benefits and assistance from funds other than Program funds.
- (b) The Sponsor shall prepare or update a relocation plan in conformance with the provisions of Title 25 CCR Section 6038, and any other application relocation laws. The relocation plan shall be subject to the review and approval by HCD prior to the disbursement of Program funds and prior to actual displacement of persons, businesses, or farm operations.
- (c) All Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy Assisted Units meeting the tenant occupancy standards set forth in UMR Section 8305.
- (d) All ineligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy any available non-Assisted Units for which they qualify.
- (e) Notwithstanding the preceding subparagraphs, tenants who are notified in writing prior to their occupancy of an existing Unit that the Unit may be demolished as a result of funding provided under the Program shall not be eligible for relocation benefits and assistance

under this section. The form of any notices used for this purpose shall be subject to HCD approval.

Section 305. Construction Requirements.

- (a) The Department may review Project plans and specifications to ensure the following objectives:
- Maintenance, repair, and replacement costs shall be minimized during the useful life of the Rental Housing Development through use of durable, low-maintenance materials, and equipment and design features that minimize wear and tear.
- (1) Operating costs shall be minimized during the useful life of the Rental Housing Development.
 - (2) Tenant security shall be enhanced through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.
 - (3) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the Project.
- (b) The Sponsor shall ensure that the construction work for the Project is performed in a competent, professional manner at the lowest reasonable cost consistent with the Project's scope, design, and locality and not in excess of the total funds available.
- (c) The Sponsor shall enter into a written contract for the construction or Rehabilitation work with a contractor having the appropriate state license.
- (d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions, and representations between the parties and shall specify a total contract price consistent with the Project budget approved by HCD.
- (e) The Sponsor shall ensure the construction contract requires compliance with state prevailing wage law (Labor Code, Chapter 1, Part 7, Division 2, commencing with Section 1720). The construction contract shall require the contractor to maintain labor records as required by law, and to make these records available to any enforcement agency upon request.
- Prior to the close of the Program loan, the Sponsor shall provide to HCD a certification that prevailing wages have been paid or will be paid, and that the records shall be available consistent with the requirements of this subsection.
- (f) The Sponsor will ensure that the project complies with the accessibility requirements in Section 303.

Article 4. Application Process.

Section 401. Application Process.

- (a) HCD shall periodically issue a NOFA that specifies, among other things, the amount of funds available, application requirements, the allocation of rating points, minimum eligibility threshold point scores, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible those Project applications for which HCD has issued, or concurrently will issue, a special NOFA pursuant to subsection (d)(4), below. Applications selected for funding shall be approved at loan amounts, terms, and conditions specified by HCD. For each Project selected for funding, HCD shall issue an award letter and Standard Agreement. With respect to any NOFA involving MHP funding and funding from one or more Designated Programs, HCD may require Applicants to specify all sources and amounts of funding for which the Applicant is applying. This requirement may be set forth in either the NOFA or the application.
- (b) Substituting previously awarded HCD funds is prohibited, except as provided below:
- (1) Applicants seeking to substitute previously awarded funds must request withdrawal of their prior award in writing and provide reasonable justification that the substitution is necessary to ensure project feasibility. Substitutions based solely upon Sponsor preference or convenience will not be permitted. Department approval of the withdrawal is required prior to the application due date without assurance of receiving a new award. This prohibition applies to funds awarded under any Department program, including a prior FWHG award.
- (c) In order to implement goals and purposes of the Program, HCD may adopt measures to direct funding awards to designated Project types including, but not limited to, Rural Area Projects, Projects located in areas needing additional funding to achieve a reasonable geographic distribution of Program funds, Projects preserving continued affordability, and Projects with specified funding characteristics. These measures may include, but are not limited to:
- (1) Issuing a special NOFA for designated Project types.
 - (2) Awarding bonus points within a particular NOFA to designated Project types.
 - (3) Reserving a portion of funds in the NOFA for designated Project types.
 - (4) Notwithstanding anything in these guidelines to the contrary, a special NOFA issued pursuant to this subsection may establish an over-the-counter application process, meaning HCD continuously accepts and rates applications according to minimum threshold criteria published in a NOFA for the process, and makes loans to Projects that meet or exceed these criteria until the funding available for the process is exhausted. At a minimum, a special NOFA shall include a description of the application process and funding conditions, shall require compliance with Section 203, and shall establish minimum funding threshold criteria based on the rating criteria set forth in Section 403.

- (d) Applications selected for funding shall be approved subject to conditions specified by the Department.
- (e) The Department may adjust these procedures as follows:
 - (1) It may elect to not evaluate compliance with some or all eligibility requirements for applications that are not within a fundable range, as indicated by a preliminary point scoring.
- (f) Applications will be reviewed, and negative points assessed, consistent with the Department's Negative Points Policy. The Negative Points Policy, Administrative Notice Number 2022-01 dated March 30, 2022, and as published on the Department's [website](#), is hereby incorporated by this reference to these Guidelines as if set forth in full herein, and shall apply with equal force as all other provisions set forth herein.

Section 402. Application Content and Application Eligibility Requirements.

- (a) Application shall be made on a form(s) made available by HCD, without modification, requesting the information deemed necessary by HCD to evaluate compliance with the MHP guidelines and all applicable statutes, regulations, and similar rules. Without limiting the generality of the foregoing, with respect to any NOFA involving MHP funding and funding from one or more Designated Programs, the application may require the Applicants to specify all sources and amounts of funding for which they are applying.
- (b) An application shall be deemed complete when:
 - (1) The application includes a letter providing prior notification to the local legislative body, or tribal governing body, pursuant to HSC Section 50675.7(e).
 - (2) The application meets all threshold requirements, as set forth in the Section 203, the NOFA, and the application.
 - (3) HCD is able to review the application and assess the proposed project's feasibility pursuant to UMR Section 8310.
 - (4) During the application review, HCD staff may request clarifying information, provided it does not affect the competitive scoring. If documents required for scoring are not included, the application will not be deemed incomplete; However, failure to submit necessary documents, as set forth in the NOFA or application, may adversely affect the score of the application. Information or documents received after the application submission deadline will not be considered unless specifically requested by HCD.
- (c) Authorizing resolutions of the governing boards of both the Sponsor and a co-Sponsor (except where the Sponsor(s) are individuals) shall be provided, and must be approved by the Department, prior to issuance of a Standard Agreement.
- (d) Applications shall be evaluated for compliance with the threshold and eligibility requirements of these guidelines, and applicable statutes, and scored based on the application scoring criteria listed in the Universal Scoring Appendix to the NOFA. The

applications with the highest number of points shall be selected for funding, provided that they meet all threshold and eligibility requirements and achieve specified minimum scores as identified in the NOFA.

- (e) The Sponsor shall disclose on the application whether the Project will be part of an application to TCAC seeking hybrid tiebreaker incentives. This election is irrevocable. Once awarded, HCD will not break up or combine project awards to accommodate a conversion to or from a hybrid project.
- (f) For Applicants applying as Community-Based Developers, the entity must demonstrate in their application that they have community knowledge, commitment to long-term community investment, and population-specific cultural competency, all through a combination of the following: receipt of grant funds for services within the relevant neighborhood or community, cultural and linguistic competency on staff, a record of hiring from the community, and membership in or recruitment from a local Urban League (or substantially equivalent) organization. The sufficiency of the foregoing demonstration shall be evaluated in the reasonable discretion of HCD. The entity shall be allowed to define their served community within reason, for example by specifying a neighborhood geography of a specific number of square miles within the location of their central office, which area should include the proposed project.
- (g) Applicants applying as Community-Based Developers must meet the following two eligibility criteria:
 - (1) maintain their corporate headquarters within ten miles of the proposed project or have three deed-restricted affordable housing projects within ten miles of the proposed project; and
 - (2) directly provide at least two community benefit programs accessible to the general public within ten miles of the proposed project.

Section 403. Project Scoring and Selection

- (a) All scoring criteria are found in the Universal Scoring Appendix to the NOFA.
- (b) Any reference outside of these guidelines and Scoring Appendix in the current NOFA, including references in the guidelines or regulations for any Designated Program, to the ranking and rating or the administration of funds on a manner consistent with MHP shall not be interpreted as authorizing funding criteria or requirements that conflict with those approved by the voters through a statewide initiative or referendum.

Section 404. Performance Deadlines.

- (a) Upon receipt of an award of Program funds to a Project, the Sponsor shall be required to secure all permanent financing, including tax credits and bond allocation no later than 24 months after the date of award.
- (b) Failure to meet the requirement set forth in (a) above shall result in withdrawal of the Department's funding award.

- (c) An extension, not to exceed six (6) months, may be granted by the Department, at its sole discretion, only if the Sponsor has demonstrated to the Department's satisfaction that the failure was due to circumstances entirely outside the Sponsor's control and offers reasonable assurance that all financing can be secured within the extension period.
 - (1) Failure to compete successfully for TCAC or CDLAC awards, alone, is not sufficient basis to receive an extension.
- (ci) If a previously awarded bond allocation and/or tax credit reservation is withdrawn by TCAC or CDLAC for failure to meet deadlines, HCD's award shall be withdrawn, and no extensions will be granted.
- (cii) In addition to (a) through (d), all awardees will be subject to the Department's Disencumbrance Policy. The Disencumbrance Policy, Administrative Notice Number 2022-02 dated March 30, 2022, and as published on the Department's [website](#), is hereby incorporated by this reference to these Guidelines as if set forth in full herein, and shall apply with equal force as all other provisions set forth herein.

Article 5. Operations.

Section 501. Legal Documents.

- (a) Upon the award of Program funds to a Project, HCD shall enter into one or more agreements with the Sponsor, including a Standard Agreement, which shall commit funds from the Program, subject to specified conditions, in an amount sufficient to encumber the approved Program Loan amount. The Standard Agreement shall require the Sponsor to comply with the requirements and provisions of these guidelines, and generally applicable state contracting rules and requirements, and all other applicable laws. 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 Program loan;
 - (3) The regulatory restrictions to be applied to the Project through the Regulatory Agreement as consideration for the Program loan;
 - (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 HCD approval of the Project;
 - (6) Requirements for the execution and the 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 the disbursement of Program loan funds;

- (9) The approved schedule of 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 HCD;
 - (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 compliance with California's Relocation Assistance Law (GC Section 7260 et seq.) and the implementing regulations adopted by HCD (CCR Title 25, Section 6000 et seq.), or to the extent applicable, compliance with federal Uniform Relocation Act requirements;
 - (14) Provisions regarding compliance with Article XXXIV, Section 1 of the California Constitution;
 - (15) Provisions relating to the placement of a sign on or in the vicinity of the Project site indicating that HCD has provided financing for the Project, or provisions relating to HCD's arrangement, in its sole and absolute discretion, for publicity of the Program loan;
 - (16) Remedies available to HCD in the event of a violation, breach, or default of the agreement; and
 - (17) Other provisions necessary to ensure compliance with the requirements of the Program and applicable state and federal laws.
 - (18) Provisions identifying any modifications or waivers of state housing finance for Tribal Entities pursuant to HSC Section 50406 subdivision (p).
- (b) HCD shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan that shall be recorded against the property of the Project 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 UMR Section 8304;
 - (2) Standards for tenant selection pursuant to UMR Section 8305;
 - (3) Provisions regulating the terms of the rental agreement pursuant to UMR Section 8307;
 - (4) Provisions related to an annual operating budget approved by HCD pursuant to Section 506;

- (5) Provisions related to a management plan pursuant to Section 504;
 - (6) Provisions related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to subsections (a) and (b) of Section 301;
 - (7) Conditions and procedures for permitting Rent increases pursuant to Section 301;
 - (8) Provisions for limitations on distributions pursuant to UMR Section 8314; and on developer fees pursuant to UMR Section 8312;
 - (9) Provisions relating to annual reports, inspections, and independent audits pursuant to Sections 504 and 505;
 - (10) Provisions regarding the deposit and withdrawal of funds to and from reserve accounts in accordance with UMR Section 8308 and 8309;
 - (11) Assurances that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to Section 504;
 - (12) Description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;
 - (13) Provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with program requirements;
 - (14) Provisions relating to enforcement of program requirements by tenants;
 - (15) Special conditions of Loan approval imposed by HCD;
 - (16) Provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to Section 502;
 - (17) For Projects serving Special Needs Populations and/or providing services to the general tenant population, provisions regarding the implementation and maintenance of services and facilities for the targeted Special Needs Population group and/or general tenant population;
 - (18) Other provisions necessary to assure compliance with the requirements of the Program.
 - (19) HSC Provisions identifying the modification or waiver of state housing finance requirements for Tribal entities pursuant to HSC Section 50406, subdivision (p).
- (c) All Program loans shall be evidenced by a promissory note payable to HCD in the principal amount of the Loan and stating the terms of the Loan consistent with the requirements of the Program. The note shall be secured by a Deed of Trust on all of the sites comprising the Project property naming the Department as beneficiary or, in the

case of Tribal Entities that cannot satisfy this security requirement, by other security acceptable to the Department. This Deed of Trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of Sponsor's Program obligations.

Section 502. Sales, Transfers, Encumbrances and Loan Payoff.

- (a) A Sponsor shall not directly or indirectly sell, assign, transfer, or convey the Rental Housing Development, or any interest therein or portion thereof, without the express prior written approval of HCD. 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 Regulatory Agreement and other loan documents, or the sale, transfer or conveyance will result in the cure of any existing violations;
 - (2) The successor-in-interest to the Sponsor agrees to assume all obligations of the existing Sponsor pursuant to the Regulatory Agreement and other loan documents and the program;
 - (3) The successor-in-interest is an eligible Sponsor and demonstrates to HCD's satisfaction that it can successfully own and operate the Rental Housing Development and comply with all Program requirements; and
 - (4) No terms of the sale, transfer, or conveyance jeopardize either HCD's security or the successor's ability to comply with all Program requirements.
- (b) If the Sponsor or its successor-in-interest is a partnership, the Sponsor shall not discharge or replace any general partner or amend, modify, or add to its partnership agreement, or cause or permit the general partner to amend, modify or add to the organizational documents of the general partner, without the prior written approval of HCD.
- (c) The Sponsor may transfer limited partnership interests without the prior written approval of HCD.
- (d) If HCD approves a sale, assignment, transfer, or conveyance in accordance with the provisions of subparagraph (a) above, HCD shall grant its approval subject to such terms and conditions as may be necessary to preserve or establish the Fiscal Integrity of the Project. Such conditions may include:
 - (1) The deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;
 - (2) The recapture of syndication proceeds or other funds in accordance with special conditions included in any agreement executed by the Sponsor; or
 - (3) Such conditions as may be necessary to ensure compliance with the Program requirements.

- (e) The Sponsor shall not encumber, pledge, or hypothecate the Rental Housing Development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the Rental Housing Development without the prior written approval of HCD. HCD will not permit refinancing of existing liens or additional financing secured by the Rental Housing Development except to the extent necessary to maintain or improve the Fiscal Integrity of the Project, to maintain Affordable Rents, or to decrease Rents and for no other purpose, including, but not limited to, cash payments to the Sponsor, repayment of general partner loans or of limited partner loans, or for limited partner buyouts. Notwithstanding the general provisions in UMR Section 8308(g), this special condition controls, in that no reserve balance can fund a limited partner buyout or exit.
- (f) No loan may be paid off prior to maturity without the prior written consent of HCD in its sole discretion, which consent shall be subject to conditions deemed necessary to ensure compliance with the Program requirements. All of the loan documents, including the Regulatory Agreement and deed of trust, shall continue in full force and effect notwithstanding any prepayment, in whole or in part, or the loan.

Section 503. Defaults and Loan Cancellations.

- (a) In the event of a breach or violation by the Sponsor of any of the provisions of the Regulatory Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the Project, HCD may give written notice to the Sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of HCD within the specified time, HCD, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default including the following:
 - (1) HCD may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amounts in full, HCD may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.
- (b) HCD 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.
- (c) HCD may seek such other remedies as may be available under the relevant agreement or any law.
- (d) In the event the Project is or has been awarded additional HCD funding, any and all such funding will be cross defaulted to and among one another in the respective loan or, where applicable, grant documents. A default under one source of HCD funding shall be a default under any and all other sources of HCD funding in the Project.
- (b) If the breach or violation involves charging tenants Rent or other charges in excess of those permitted under the Regulatory Agreement, HCD 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, HCD may seek, as an additional remedy, the

repayment of such overcharges.

(c) HCD may cancel loan commitments under any of the following conditions:

- (1) The objectives and requirements of the Program cannot be met;
- (2) Implementation of the Project cannot proceed in a timely fashion in accordance with the approved plans and schedules;
- (3) Special conditions have not been fulfilled within required time periods; or
- (4) There has been a material change, not approved by HCD, in the Project or the principals or management of the Sponsor or Project.

Upon Sponsor demonstration of good cause to comply with any or all of the conditions of this subsection, HCD may extend the date for compliance and shall provide the extension in writing.

(d) Upon receipt of a notice from HCD of intent to cancel the loan, the Sponsor shall have the right to appeal to the Director.

(e) HCD may use amounts in the Housing Rehabilitation and Loan Fund to cure or avoid a Sponsor's default on the terms of any loan or other obligation that jeopardizes the Fiscal Integrity of a Project or HCD'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 HCD pursuant to this subsection shall be solely within the discretion of HCD and no Sponsor shall be entitled to or have any right to payment of these funds. All funds advanced pursuant to this subsection shall be part of the Program loan and, upon demand, due and payable to HCD. Where it becomes necessary to use the Housing Rehabilitation and Loan Fund to assist a Project to avoid threatened defaults or foreclosures, HCD 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.

Section 504. 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 is responsible for all repair and maintenance functions of the Rental Housing Development, including ordinary and routine maintenance, replacement of capital items, and extraordinary and/or unforeseen repairs and replacement necessary to maintain the health and safety of the Project and residents. The Sponsor shall ensure maintenance of residential units, Commercial Space, and common areas in accordance with local health, building, and housing codes, and the management plan.

(c) The Sponsor shall ensure that the Rental Housing Development is managed by an entity approved in writing by HCD that is actively in the business of managing low-income

housing. Any management contract or management activities entered into for this purpose shall be subject to HCD 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 HCD upon determination that management does not comply with Program requirements.

- (d) The Sponsor shall develop a management plan subject to HCD approval prior to loan closing. Any change to the management plan shall be subject to the approval of HCD. HCD may review and request updates to the management plan as necessary and appropriate. The management plan shall be consistent with Program requirements and shall include the following:
- (1) The role and responsibility of the Sponsor and its delegation of authority, if any, to the managing agent;
 - (2) Personnel policy and staffing arrangements;
 - (3) Plans and procedures for publicizing and achieving early and continued occupancy including marketing plans and application intake;
 - i. The Sponsor's plan must include a policy for marketing, matching, and leasing Accessible Housing Units that complies with 24 CFR Section 8.27.
 - (4) Procedures for determining tenant eligibility and selecting tenants and for certifying and annually recertifying household income and size;
 - (5) The Sponsor's tenant screening and selection policy must comply with UMR Section 8305. Notwithstanding these provisions, tenants qualifying under a Special Needs Population must be selected through a tenant referral system which prioritizes based on need and barriers to housing stability. Tenants qualifying as Chronically Homeless or Homeless must be selected through a Coordinated Entry System (CES), where operational. Where a CES is not operational, another similar system must be utilized which prioritizes based on need and barriers to housing stability.
 - (6) Plans for carrying out an effective maintenance and repair program;
 - (7) Rent collection policies and procedures;
 - (8) A program for maintaining adequate accounting records and handling necessary forms and vouchers;
 - (9) Plans for enhancing tenant-management relations including maximizing tenant retention;
 - (10) The management agreement, if any;
 - (11) Provisions for periodic update of the management plan;
 - (12) Appeal and grievance procedures; and

- (13) Plans for collections for tenant-caused damages, processing evictions and terminations.
- (e) Linguistic Services. The Awardee shall provide linguistically appropriate services and publications to the occupants of the Rental Housing Development.
- (f) HCD reserves the right to require use of specific materials developed to facilitate compliance with Housing First requirements and best practices.

Section 505. Reporting Requirements.

- (a) No later than 90 days after the end of each Project fiscal year, the Sponsor shall submit the following:
 - (1) An independent audit of the Rental Housing Development prepared by a certified public accountant in accordance with HCD audit requirements, as periodically updated and incorporated by reference.
 - (2) A complete annual compliance report, including tenant demographics pursuant to HCD defined reporting requirements.
- (b) No later than 60 days prior to the end of each Project fiscal year, the Sponsor shall submit the proposed annual budget and Schedule of Rental Income as detailed in Section 506 below.

Section 506. Annual Operating Budget and Schedule of Rental Income

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

- (a) Prior to loan closing, the Sponsor shall submit an initial operating budget, SRI, and other documents as requested to HCD. Such budget and SRI shall show all anticipated income; expenses for management, operations, and maintenance; debt service; and reserve deposits for the Initial Operating Year. The initial SRI shall show proposed Rents for individual units, gross rent floor date, rental and operating subsidy amounts, and similar information on both individual Units and the Project as a whole.
- (b) For the Initial Operating Year, the borrowing entity shall operate the Rental Housing Development in accordance with the initial operating budget and SRI, which were approved by HCD prior to loan closing. Such budget shall show all anticipated Operating Income, debt service, Operating Expenses and amount payable to reserves for the Initial Operating Year. Such SRI shall set forth the rent roll, which will identify each tenant household (by unit number or other method of household identification that is acceptable to HCD), as well as the following information in connection with each tenant household: size, income, current Rent, and proposed Rent adjustments (including utility allowances, if applicable). Such SRI shall provide estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.

- (c) For as long as deemed necessary by HCD to ensure compliance with Program requirements, but for no less than the full-term of the recorded Regulatory Agreement, the Sponsor shall submit to HCD for its approval, 60 days prior to the end of each Projectfiscal year, a proposed operating budget and SRI on forms provided by HCD. The proposed annual operating budget and SRI, together, shall set forth the borrowing entity's estimates for the upcoming year of Operating Income, Operating Expenses, debt service amounts payable to reserves, and proposed Rent adjustments pursuant to Section 301. HCD, at its solediscretion, may request in situations, such as, but not limited to, re-syndication, change of ownership, or change of Project fiscal year, submission of limited budget information, such as a proposed Rent schedule, proposed management fees, and reserve deposit amounts. HCD may re-impose the requirement for submission of complete operating budgets where necessary to ensure compliance with program requirements.
- (d) The initial and subsequent proposed operating budgets shall be subject to the approval of HCD based on its determination that the budget line items are reasonable and necessary considering costs for comparable Rental Housing Developments and prior year budgets. Actual expenditures in excess of the approved budget amount shall be subject to HCD approval.
- (e) The initial and subsequent proposed SRI shall be subject to approval of HCD based on its determination that the proposed rents are in accordance with these guidelines and applicable regulations and statutes.
- (f) For Projects with non-Assisted Units or Commercial Space, all budgets submitted pursuant to this section shall show income and uses of income allocated among Assisted Units, Restricted Units, non-Restricted Units, and Commercial Space. The allocation method used for each budget line item shall be subject to HCD approval and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the Project.

Appendix A – Defined Terms

All capitalized terms used throughout these guidelines which are not defined below shall, unless their context suggests otherwise, be given the same meanings of terms as defined in the Multifamily Housing Program Guidelines or as ascribed in the UMRs (Chapter 7, Subchapter 19, Section 8301).

This appendix includes combined definitions for all AB 434 program guidelines and replaces former guidelines definitions sections: 7301 (MHP), 103 (Serna), 102 (VHHP), and 102 (IIG). Definitions specific to a particular set of program guidelines are identified by the color coding noted below:

IIG Guidelines Definition – Purple

MHP Guidelines Definition - Black

Serna Guidelines Definition – Green

VHHP Guidelines Definition - Blue

AB 434 -Chapter 192, Statutes of 2020.

Accessible Housing Unit(s) - refers collectively to “Housing Units with Mobility Features” and “Housing Units with Hearing/Vision Features” as defined below:

- 1) A “Housing Unit with Mobility Features” means and refers to a housing unit that is located on an accessible route and complies with the requirements of 24 CFR Section 8.22 and all applicable provisions of Uniform Federal Accessibility Standards (UFAS) or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Sections 809.2 through 809.4 of the 2010 Standards for Accessible Design. A Housing Unit with Mobility Features can be approached, entered, and used by persons with mobility disabilities, including individuals who use wheelchairs. Such units must also comply with CBC 11B.
- 2) A “Housing Unit with Hearing/Vision Features” means and refers to a housing unit that complies with 24 CFR Section 8.22, and all applicable provisions of UFAS or the comparable provisions of the Alternative Accessibility Standard, including but not limited to Section 809.5 of the 2010 Standards for Accessible Design. Such units must also comply with CBC 11B.

Affirmatively Furthering Fair Housing - is defined, in accordance with GC Section 8899.50, subdivision (a)(1), to mean taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, Affirmatively Furthering Fair Housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining

compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development.

Affordable Housing Development - has the same meaning as "Rental Housing Development" defined below.

Affordable Rents - Rents established for Assisted Units in accordance with Section 7312 of the MHP guidelines.

Affordable Unit - a unit that is made available at an affordable rent, as defined in HSC Section 50053, to a household earning no more than 60 percent of the AMI or, for ownership projects, at an affordable housing cost, as defined in HSC Section 50052.5, to a household earning no more than 120 percent of the AMI. Rental Units shall be subject to a recorded covenant ensuring affordability for a duration of at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household and shall be subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

Agricultural Employment - means employed in the cultivation and tillage of the soil; the production, cultivation, growing and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, furbearing animals, or poultry; dairying, forestry, and lumbering operations; and any work on a farm as incident to or in conjunction with such farming operations, including the delivery and preparation of commodities for market or storage. Agricultural Employment also includes work done by any person who works on or off the farm in the processing of any agricultural commodity until it is shipped for distribution, whether or not such person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

Agricultural Household - an Agricultural Worker or workers and other persons who reside or will reside with an Agricultural Worker in an Assisted Unit.

Agricultural Worker - an individual who derives, or prior to retirement or disability derived, a substantial portion of his/her income from Agricultural Employment.

Alternative Accessibility Standard - also referred to as the HUD Deeming Notice (HUD-2014-0042-0001), means the alternative accessibility standard for accessibility set out in HUD's notice at 79 CFR Section 29671 (May 23, 2014), when used in conjunction with the requirements of 24 CFR part 8, 24 CFR Section 8.22, and the requirements of 28 CFR part 35, including 28 CFR Section 35.151 and the 2010 Standards for Accessible Design as defined in 28 CFR Section 35.104.

Applicant - the entity or entities applying to the Department for the Program funding. Such entity or entities may also be the Sponsor, defined in Section 7303 of the MHP Guidelines. Upon receiving an Award of funds, the Applicant or co-Applicants will, both individually and collectively, be referred to as the "Recipient" in the Department's legal documents relative to an Award of a grant, or as "Sponsor" in the Department's legal documents relative to an Award of a loan. For the purpose of Designated Program guidelines,

an Applicant or co-Applicant that only receives an Award of grant funding will, both individually and collectively, be referred to as the “Recipient.”

Area Median Income or AMI - means the most recent applicable county median family income published by California Tax Credit Allocation Committee (TCAC). For Tribal applicants, if the HUD income for a county/parish located within a Tribal Entity’s service area is lower than the United States median, the Tribal Entity may use the United States median income limit.

Article XXXIV - Article XXXIV, Section 1 of the California Constitution. This constitutional provision requires local voter approval before a state public body can develop, construct, or acquire a low-rent housing project in any manner.

Assisted Unit - a housing Unit that is subject to Program Rent and/or occupancy restrictions as a result of financial assistance provided under the Program.

At Risk of Homelessness - the condition of individuals or households who meet the definition of at risk of homelessness in 24 CFR Part 578.3.

Award - a commitment of money in the form of a Program grant or a loan that is made by HCD to an Applicant.

Bus Hub - an intersection of three or more bus routes, where one route or a combination of routes has a minimum scheduled headway of ten minutes or at least six buses per hour during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider in the twelve (12) months preceding the Application due date.

Bus Transfer Station - an arrival, departure, or transfer point for the area’s intercity, intraregional, or interregional bus service having a permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

Capital Asset - a tangible physical property with an expected useful life of 15 years or more. Capital Asset also means a tangible physical property with an expected useful life of 10 to 15 years for costs not to exceed ten percent of the Program grant. Capital Asset includes major maintenance, reconstruction, demolition for purposes of reconstruction of facilities, and retrofitting work that is ordinarily done no more often than once every 5 to 15 years or expenditures that continue or enhance the useful life of the Capital Asset. "Capital Asset" also includes equipment with an expected useful life of two years or more. Costs allowable under this definition include costs incidentally but directly related to construction or acquisition, including, but not limited to, planning, engineering, construction management, architectural, and other design work, environmental impact reports and assessments, required mitigation expenses, appraisals, legal expenses, site acquisitions, and necessary easements.

Capital Improvement Project or CIP - the construction, rehabilitation (as that term is defined below in Appendix A), demolition, relocation, preservation, acquisition, or other physical improvement of a Capital Asset that is an integral part of, or necessary to facilitate the development of, a Qualifying Infill Project. Capital Improvement Projects that may be funded

under the Program include, but are not limited to, those described in Section 200 of the IIG guidelines.

Case Manager - a social worker or other qualified person who assists in individualized service planning, and the assessment, coordination, monitoring, referral, and advocacy of services to meet tenants' supportive services needs, including, but not limited to, access to medical and mental health services, substance abuse services, vocational training, employment, home and community-based services and crisis management and interventions. Resident service coordinators are not Case Managers.

CDLAC - the California Debt Limit Allocation Committee.

Chronic Homelessness - the condition experienced by people defined as "Chronically Homeless" under the federal Continuum of Care Program, at 24 CFR Part 578.3.

It also includes the condition of individuals and families:

- (1) Residing in a place not meant for human habitation, emergency shelter, or safe haven, after experiencing chronic homelessness as, defined in 24 CFR Section 578.3, and subsequently residing in a permanent housing project within the last year.
- (2) Residing in transitional housing who were experiencing chronic homelessness as defined in 24 CFR Section 578.3 prior to entering the transitional housing; or
- (3) Residing in an existing supportive housing project receiving MHP funding for Rehabilitation or being replaced by an MHP-funded project, provided that, upon initial occupancy, the individuals were experiencing chronic homeless as defined in 24 CFR Section 578.3 or qualified under Section 7303(f).

Commercial Space - any nonresidential space located in or on the property of an Affordable Housing Development that is, or is proposed to be, rented, or leased by the owner of the Project and that is or will be used to serve clients or customers. The income from the Commercial Space shall be included as Operating Income.

Community-Based Developer - a nonprofit and/or for-profit entity, as required by the Designated Program (including a Tribal Entity), that has, for the past twenty-four (24) consecutive months, been located and operating exclusively from or primarily in a Low or Moderate Resource or High Segregation & Poverty area (their community), as designated in the most recently updated TCAC/HCD Opportunity Area Map or such other map as federal designations may issue that have been approved by HCD for this purpose. The entity must have at least five (5) years of experience in the delivery of culturally competent services and/or community development programs to low- or lower-income households in their community (or census tract). For the purposes of these guidelines, "culturally competent services" means services that respect diversity in the community and respond effectively across cultures, regardless of differences in language, communication styles, abilities, disabilities, beliefs, attitudes, and behaviors. Please note Community-Based Developers are subject to additional application requirements as set forth in Section 7318 of the MHP guidelines.

Comprehensive Case Management - individualized services planning and the provision of connections to mental health, substance abuse, employment, health, housing retention, and similar services.

Coordinated Entry System or CES - 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.

Department or HCD - the California Department of Housing and Community Development.

Designated Programs - the Infill Incentive Grant Program of 2007 (IIG-2007), the Joe Serna, Jr. Farmworker Housing Grant Program (FWHG or Serna), the Multifamily Housing Program (MHP), the Housing for Healthy California Program (HHC), the Transit Oriented Development Housing Program (TOD), and the Veterans Housing and Homelessness Prevention Program (VHHP) to the extent that AB 434 requires that funds from such programs be made available at the same time as funds are made available under MHP, that the applications for funding under such programs are to be rated and ranked in a manner consistent with MHP and that the administration of funds made available under such programs shall be consistent with MHP.

Disability - meeting the definitions of disability in the Americans with Disabilities Act (42 U.S. Code Section 12102) or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the GC) and shall be broadly construed to include:

- 1) individuals with a mental or physical disability that limits a major life activity;
- 2) individuals regarded or perceived as having a mental or physical disability that limits a major life activity. This includes being perceived as having or having had a disorder or condition that has no present disabling effect but may become a mental or physical disability;
- 3) individuals having a record of a mental or physical disability that limits a major life activity. A “record” of mental or physical disability includes previously having, or being misclassified as having, a record or history of a mental or physical disability; and/or
- 4) individuals who are, or are perceived as, associated with a person who has, or is perceived to have, a mental or physical disability.
- 5) For purposes of this definition:
 - (A) “Mental disability” includes, but is not limited to, having any mental or psychological disorder or condition, intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, and chronic or episodic conditions that limits a major life activity. This includes disabilities such as, autism spectrum disorders, schizophrenia, clinical depression, bipolar disorder, post-traumatic stress disorder, and obsessive-compulsive disorder.

- (B) “Physical disability” includes, but is not limited to, having any physiological disease, disorder, condition, cosmetic disfigurement, anatomical loss that affects one or more of the following body systems or the operation of an individual organ within a body system: neurological; immunological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; circulatory; skin; endocrine; brain; and normal cell growth; and that limits a major life activity.
- (C) “Major life activity” shall be construed broadly and includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and social activities.
- (D) “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A mental or physical disability “limits” a major life activity if it makes the achievement of the major life activity difficult.
- (E) Disabilities also include Intellectual/Developmental Disabilities as defined in Designated Program guidelines and acquired brain injuries (which have both a physical and mental disability component); chronic and recurring disabilities, and medical conditions as defined in GC Section 12926(i), such as cancer.

Efficiency Unit - a Unit containing only one habitable room. A room in a structure that is a single-family house at the time of application will not be considered to be an Efficiency Unit eligible for program funds.

Eligible Households - households whose incomes do not exceed 60 percent of AMI, as calculated in accordance with the regulations and procedures governing the low-income housing tax credit program, as administered by TCAC, or other, lower-income limits agreed to by a Project Sponsor and HCD. Household income will be calculated based on Units in accordance with TCAC rules and procedures. (The rules and procedures set forth in 25 CCR Section 6932 et. seq., do not apply.)

Emergency Shelter - has the meaning set forth in 24 CFR 578.3.

Emerging Developer - as determined by HCD in its reasonable discretion, means an entity, including a Tribal Entity, that has developed, owned, or operated at least one (1) but not more than three (3) Affordable Housing Developments that are equivalent to the proposed Affordable Housing Development in size, scale, amenity, and target population. HCD may determine experience by evaluating the experience of the entity itself, the experience of senior staff within the organization, or in compliance with MHP guidelines Section 7303 subdivision (d)(3) permitting an entity to contract with another entity that meets the experience requirements.

Enforceable Funding Commitment - a letter or other document evidencing, to the satisfaction of HCD, a commitment of funds or a reservation of funds by a Project funding source for construction or permanent financing, including, but not limited to, the following:

- (1) Private financing from a lender other than a mortgage broker, the Applicant, or an entity with an identity of interest with the Applicant, unless the Applicant is a lending institution actively and regularly engaged in residential lending;
- (2) Deferred-payment financing, residual receipts payment financing, grants, and subsidies from public agencies;
- (3) Funds awarded by another HCD program. Proof of award must be issued prior to final rating and ranking of the Program application.
- (4) A land donation in fee for no other consideration that is supported by an appraisal and/or purchase/sale agreement, or some other instrument of Title transfer (Land Donation), or a local fee waiver resulting in quantifiable cost savings for the Project where those fee waivers are not otherwise required by federal or state law (Local Fee Waiver), shall be considered a funding commitment. The value of the Land Donation will be the greater of either the original purchase price or the current appraised value as supported by an independent third-party appraisal prepared by a Member Appraisal Institute-qualified appraiser within one year prior to the application deadline. A funding commitment in the form of a Local Fee Waiver must be supported by written documentation from the local public agency. A below market lease that meets the requirements of UMR section 8316 would be considered a land donation (\$1 per year).
- (5) Owner equity contributions or developer funds. Such contributions or funds shall not be subsequently substituted with a different funding source or forgone if committed in the application, except that a substitution may be made for up to 50 percent of the deferred developer fee. HCD may require the Applicant to evidence the availability of the proposed amount of owner equity or developer funds.
- (6) Funds for transportation projects, if an eligible use of a Designated Program. Funds must be programmed for allocation and expenditure in the applicable Project plan consistent with the terms and timeframes of the Standard Agreement.
- (7) Enforceable Funding Commitment Letters must contain 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 assistance will be deemed to be an Enforceable Funding Commitment if it has been awarded to the Project or if HCD approves other evidence that the assistance will be reliably available. 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.

Extremely Low Income - households with Gross Incomes not exceeding 30 percent of Area Median Income as set forth in HSC Section 50106.

Farmworker Housing - a Rental Housing Development where at least 25 percent of the units are reserved for Agricultural Households.

Fiscal Integrity - that the total operating income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to:

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

Fund - the Joe Serna, Jr. Farmworker Housing Grant Fund.

Gross Income - all income as defined in CCR Title 25 Section 6914.

Homeless or Homelessness - the condition of individuals and households who meet the definition of “homeless” in 24 CFR Part 578.3. “Homelessness” includes “Chronic Homelessness” as defined in these guidelines. Occupants of a development undergoing Rehabilitation with Designated Program funds, or being replaced by an MHP-funded development, shall be deemed to qualify under this definition if they qualified upon initial occupancy.

Housing First - is defined in accordance with Welfare and Institutions Code section (WIC) Section 8255.

HUD - the U.S. Department of Housing and Urban Development.

Indian country - all land located in “Indian country” as defined by 18 U.S. Code (USC) 1151.

Initial Operating Year - the initial period of operation of the Rental Housing Development, beginning at the time of the initial occupancy of the completed Project and ending on the last day of the fiscal year for the development.

Intellectual/Developmental Disability - a disability that is covered under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 USC Sections 15001 and 15002(8) and implementing regulations at 45 CFR section 1325.3) or WIC 4512(a), and disabilities that make a person eligible for services from the California Regional Center System. It includes a severe, chronic disability that:

- (1) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) manifests before the age of 22;
- (3) is likely to continue indefinitely;
- (4) results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - (A) self-care,
 - (B) receptive and expressive language,
 - (C) learning,
 - (D) mobility,
 - (E) self-direction,
 - (F) capacity for independent living, or
 - (G) economic self-sufficiency; and
- (5) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

The definition includes Intellectual Disabilities, cerebral palsy, epilepsy, and autism spectrum disorder. It also includes conditions that are closely related to intellectual disability or that require similar treatment (WIC Section 4512(a)).

Intellectual Disability - is a condition characterized by either significant limitations in intellectual functioning (reasoning, learning, problem-solving) or adaptive behavior (everyday social and practical skills).

Joint Venture - an association of two or more persons, or entities who combine their property, skill, or knowledge to carry out a single business enterprise for profit. A Sponsor formed as a Joint Venture in accordance with Section 7303(a) shall comply with the requirements of MHP guidelines Section 7303(d)(4). The borrowing entity Limited Partnership is not a joint venture within the meaning of Section 7303(a).

Large Family - a housing type meeting the requirements of MHP guidelines Section 7302(e)(1).

Large Jurisdiction - a county that is not a Small Jurisdiction, or any city within that county.

Lead Service Provider or LSP - the organization that has overall responsibility for the provisions of supportive services and implementation of the supportive service plan in the project. The LSP may directly provide Comprehensive Case Management services or contract with other agencies that provide services. For HUD-VASH tenants, the LSP will enable the applicable Veterans Affairs Case Manager to administer services in accordance with the HUD-VA Supportive Housing (VASH) Program.

Limited Liability Company - a limited liability company where all the members are nonprofit public benefit corporations. Limited Liability Company eligibility requirements are specified in Section 210 of the Serna guidelines.

Limited Partnership - a "Limited Partnership" as defined in the Corporations Code Section 171.5.

Limited Partnership - a Limited Partnership as defined in Section 171.5 of the Corporations Code and in which all of the general partners are either nonprofit public benefit corporations, Limited Liability Companies, or a combination of nonprofit public benefit corporations and Limited Liability Companies. Limited Partnership eligibility requirements are specified in Section 210 of the Serna guidelines.

Local Public Entity - any county, city, city and county, Tribal Entity, a community redevelopment agency, or successor agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low income. It also includes two or more local public entities acting jointly.

Local Support - support of local public agencies.

Lower Income or Low-Income - households with Gross Incomes not exceeding 80 percent of Area Median Income as set forth in HSC Section 50079.5.

Major Transit Stop - a site containing any of the following:

- (1) An existing rail or bus rapid transit station.
- (2) A ferry terminal served by either a bus or rail transit service.
- (3) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider in the 12 months preceding the application due date.

Manager's Unit - a unit in which the onsite manager of the Project resides. A Manager's Unit will not be considered to be an Assisted Unit, nor will it be considered to be a Restricted Unit for

the purpose of calculating allowable Distributions. A Manager's Unit will be considered to be a Restricted Unit for the purpose of allocating development costs and may qualify for a loan amount up to the amount applicable to the 60 percent of AMI level.

Net Income - the same as defined in CCR Title 25, Section 6916.

Net Density - the total number of dwelling units per acre of land to be developed for residential or mixed use, excluding allowed deductible areas. Allowed deductible areas are public dedications of land which are for public streets, public sidewalks, public Open Space, and public drainage facilities. Non-allowed deductible areas include utility easements, setbacks, private drives and walkways, general landscaping, common areas and facilities, off street parking, traditional drainage facilities exclusive to a development project. Mitigations required for development will not be included in the allowed deductible areas.

NOFA - the Notice of Funding Availability issued by HCD to announce that funds are available and that applications for that funding may be submitted.

Nondiscretionary Local Approval Process - means a process for development approval involving no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "objective zoning standards", "objective subdivision standards", or "objective design review standards" in effect at the time that the application is submitted to the local government but uses no special discretion or judgment in reaching a decision. A nondiscretionary process involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. "Objective Zoning Standard, Objective Subdivision Standard, and Objective Design Review Standard" means standards that involve no personal or subjective judgment by a public official and that are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

Nonprofit Corporation - the same as defined in HSC Section 50091.

Older Adults in Need of Supportive Services - individuals who are age 55 or older and who need Supportive Services to maintain and stabilize their housing, including individuals meeting the following criteria:

- (1) Eligible under Medi-Cal 1915(c) waiver programs including the Home and Community-Based Alternatives Waiver, the Multipurpose Senior Services Program (MSSP), the AIDS Waiver, the Assisted Living Waiver, the Home and Community-Based Services for the Developmentally Disabled (HCBS-DD) Waiver, and the Self-Determination Program (SDP) Waiver;
- (2) Eligible for services under the Program of All-Inclusive Care for the Elderly or Community-Based Adult Services (CBAS);

- (3) Eligible for services through Enhanced Care Management or Community Supports (also known as “In Lieu of Services”) provided through Cal-AIM or similar programs;
- (4) Eligible for services through the In-Home Supportive Services Program;
Eligible for services similar to those listed in (1)-(4) above through HCD of Development Services (DDS) or the Regional Centers, including Independent Living Services and Supported Living Services;
- (5) Older veterans who need services similar to those listed in (1)-(5) above but are served through the VA; and/or
- (6) Older adults at risk of institutionalization and eligible for long term care.

Eligibility for these programs must be established by the agency responsible for determining eligibility for the benefits provided by them.

Open Space - a parcel or area of land or water that is essentially unimproved and dedicated to one or more of the following purposes:

- (1) The preservation of natural resources;
- (2) The managed production of resources;
- (3) Public and/or residential outdoor recreation; or
- (4) Public health and safety.

Operating Expenses - the same as defined in UMR Section 8301(k).

Operating Income - all income generated in connection with operation of the Affordable Housing Development including rental income for Assisted Units and non-Assisted Units, rental income for Commercial Space or commercial use, laundry and equipment rental fees, rental subsidy payments, and interest on any accounts, other than approved reserve accounts, related to the Affordable Housing Development. "Operating Income" does not include security and equipment deposits, payments to the Sponsor for Supportive Services not included in HCD-approved operating budget, cash contributed by the Sponsor, or tax benefits received by the Sponsor.

Park - a facility that provides benefits to the community and includes, but is not limited to, places for organized team sports, outdoor recreation, and informal turf play; nonmotorized recreational trails; permanent play structures; landscaping; community gardens; places for passive recreation; multipurpose structures designed to meet the special recreational, educational, vocational, and social needs of youth, senior citizens, and other population groups; recreation areas created by the redesign and retrofit of urban freeways; community swim centers; regional recreational trails; and infrastructure and other improvements that support these facilities.

Permanent Supportive Housing or Supportive Housing - means the same as defined under HSC Section 50675.14(b)(2) and refers to Assisted Units.

Program – in the MHP guidelines, the term ‘Program’ is defined as the Multifamily Housing Program (MHP). Each Designated Program guidelines defines Program separately.

Program – in the Serna guidelines, the term ‘Program’ is defined as the Joe Serna, Jr. Farmworker Housing Grant Program.

Program – in the VHHP guidelines, the term ‘Program’ is defined as the Veterans Housing and Homelessness Prevention Program, authorized by Proposition 41, the Veterans Housing and Homeless Prevention Bond Act of 2014.

Program – in the IIG guidelines means two separate infill infrastructure grant programs: the Infill Incentive Grant Program of 2007 (IIG-2007) and the Infill Infrastructure Grant Program of 2019 (IIG-2019) as implemented by IIG guidelines.

Project - an Affordable Housing Development for which funding is being requested, and includes the development, the construction or rehabilitation, and the operation thereof, and the financing structure and all agreements and documentation approved in connection therewith.

Principal - employees of the Sponsor who are in a position responsible for the oversight and management of development activities.

Qualifying Infill Area (QIA) - a contiguous area located within an urbanized area that has been previously developed, or where at least 75 percent of the perimeter of the area adjoins parcels that are developed with urban uses, and in which at least one development application has been approved or is pending approval for a residential or mixed-use residential project that meets the definition and criteria in this section for a qualifying infill project.

Qualifying Infill Project or QIP - a residential or mixed-use residential development project designated in the Program application that is located within an Urbanized Area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with Urban Uses. A property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way. QIP applications from tribal entities may request an exemption to the requirement to be located within an Urbanized Area.

Recipient - the eligible applicant as defined in section 201 of the IIG guidelines receiving a commitment of Program funds for an approved Capital Improvement Project.

Regulatory Agreement - the written agreement between HCD and the Sponsor that will be recorded as a lien on the Affordable Housing Development to control the use and maintenance of the Project, including restricting the rent and occupancy of the Assisted Units.

Rehabilitation - the term as defined in HSC Section 50096, including improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.

Related Support Facilities - include but are not limited to:

- (1) water and sewer facilities and other utilities directly related to the proposed Rental Housing Development.
- (2) physical improvements for childcare services, recreational activities, meeting room(s) all of which are intended for use of Project residents.
- (3) solar and other alternative energy efficient systems.

Rent - the same as “gross rent,” as defined in accordance with the Internal Revenue Code (IRC) (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.

Rental Housing Development - a structure or set of structures with common financing, ownership, and management, and which collectively contain five or more dwelling units, including efficiency units as defined in HSC Section 50675.2, subdivision (d). No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures. For the purpose of Designated Program guidelines, “Rental Housing Development” does not include any “health facility” as defined by HSC Section 1250 or any “alcoholism or drug abuse recovery or treatment facility” as defined in HSC Section 11834.02. A Rental Housing Development includes, without limitation, the real property, the improvements located thereon, and all fixtures and appurtenances related thereto.

Rent-Up Costs - costs incurred in connection with marketing and preparing an Assisted Unit for occupancy while the unit is on the housing market but not yet rented to its first tenant.

Residential Hotel - any building that contains six or more Residential Hotel Units, where a majority of the units are Residential Hotel Units. Single-family houses are not considered Residential Hotels.

Residential Hotel Unit - also referred to as a single room occupancy unit or an “SRO,” means an Efficiency Unit that:

- (1) Is occupied as a primary residence; and
- (2) Is subject to state landlord-tenant law pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. The term also includes a unit in an “SRO Project” as described in Title 4 CCR Section 10325(g)(3).

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

Rural Area - has the meaning set forth in HSC Section 50199.21.

Rural Development or RD - the United States Department of Agriculture acting through the Rural Housing Service, formerly known as the Farmers Home Administration.

Safe Haven - has the meaning set forth in 24 CFR 578.3.

Schedule of Rental Income or SRI - is submitted to and approved by HCD prior to permanent financing closing and as required by the Regulatory Agreement. The SRI sets forth the rent roll, which identifies each tenant household in a form and manner that is reasonably acceptable to HCD; includes information requested by HCD (e.g., tenant household size, income, current rent, proposed rent adjustments); and provides estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.

Senior - a housing type meeting the requirements of MHP guidelines Section 7302(e)(3).

Small Jurisdiction - a county with a population of less than 250,000 as of January 1, 2019, or any city within that county.

Special Needs - a housing type meeting the requirements of MHP guidelines Section 7302(e)(2).

Special Needs Population(s) - means one or more of the following groups who need Supportive Services to maintain and stabilize their housing:

- (1) people with disabilities;
- (2) At Risk of Homelessness, as defined above in Appendix A;
- (3) Individuals with substance use disorders;
- (4) Frequent users of public health or mental health services, as identified by a public health or mental health agency;
- (5) Individuals who are fleeing domestic violence, sexual assault, and human trafficking;
- (6) Individuals who are experiencing Homelessness and individuals experiencing Chronic Homelessness as defined above in Appendix A;
- (7) Homeless youth as defined in Government Code Section 12957, subdivision (e)(2);
- (8) Families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county;
- (9) Individuals exiting from institutional settings or at risk of placement in an institutional setting;
- (10) Older Adults in Need of Supportive Services; or
- (11) Other specific groups with unique housing needs as determined by HCD.

Special Needs Populations does not include “seniors or veterans” unless they otherwise qualify as a “Special Needs Population” as required by other statutory laws.

Sponsor - the same as defined in Section 7303 of the MHP guidelines.

Structured Parking - a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking, residential garages, or carports, including solar carports.

Super NOFA - a NOFA issued by HCD announcing availability of funding for one or more Designated Programs as required by AB 434.

Supportive Housing - 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 their health status, and maximizing their ability to live and, when possible, work in the community.

Supportive Services - social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits (UMR Section 8301(t)).

Supportive Services for Veteran Families Program (SSVF) - the program established pursuant to 38 CFR Part 62 and operated by the VA.

Supportive Services Costs - the costs of providing tenant service coordination, case management, and direct resident and Supportive Services. It includes:

- (1) The cost of providing tenants with information on and referral to social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits; and
- (2) Salaries, benefits, contracted services, telecommunication expenses, travel costs, supplies, office expenses, staff training, maintenance of on-site equipment used in services programs, such as computer labs, incidental costs related to resident events, and other similar costs approved by HCD.

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

Target Population – this definition in the Serna guidelines has the same meaning as *Agricultural Worker*.

Target Population – this definition in the VHHP guidelines has the same definition as stated in HSC Section 50675.14(b)(3)(A).

TCAC - the California Tax Credit Allocation Committee.

TCAC/HCD Opportunity Area Map - the most recently approved TCAC/HCD Opportunity Map that measures and provides a graphical representation of place-based characteristics linked to critical life outcomes, such as educational attainment, earnings from employment, and economic mobility. For projects on federal land, and properties not identified on the TCAC/HCD

Opportunity Area Map, the Applicant may use the TCAC/HCD Opportunity Area Map's census tract nearest to the Project. <https://treasurer.ca.gov/ctcac/opportunity.asp>

Transitional Housing - buildings configured as rental housing developments but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, but no longer than twenty-four (24) months. Projects serving persons experiencing Homelessness, including Chronic Homelessness, shall comply with the core components of Housing First set forth in Welfare and Institutions Code, Section 8255.

Transit Priority Area - an area within one-half mile of a Major Transit Stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a transportation improvement program adopted pursuant to Title 23 of CFR Section 450.216 or 450.322.

Transit Station - a rail or light-rail station, ferry terminal, Bus Hub, or Bus Transfer Station. Included in this definition are planned Transit Stations otherwise meeting this definition whose construction is programmed into a regional or state transportation improvement program to be completed no more than five years from the deadline for submittal of applications set forth in the NOFA.

Tribal Entity – Tribe or a tribally designated housing entity. An Applicant that is any of the following:

- (1) An Indian Tribe as defined under USC Section 4103(13)(B) of Title 25.
- (2) A Tribally Designated Housing Entity under 25 USC 4103 (22).
- (3) If not a federally recognized tribe as identified above, either:
 - (A) Listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to CFR Section 83.1 of Title 25; or
 - (B) Indian Tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of consultation pursuant to GC Section 65352.3.

Unit - has the same definition as UMR Section 8301(x).

Urban Uses - any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

Urbanized Area - an incorporated city or an Urbanized Area or urban cluster as defined by the United States Census Bureau. For unincorporated areas outside of an urban area or urban cluster, the area must be within a designated urban service area that is designated in the local general plan for urban development and is served by public sewer and water systems.

VA - the United States Department of Veterans Affairs.

Very Low Income - households with Gross Incomes not exceeding 50 percent of Area Median Income as set forth in Health and Safety Code Section 50105.

Veteran - any person who actively served within one or more of the military services of the United States who was called to and released from active duty or active service, for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period. This includes all Veterans regardless of discharge status.

Veterans with a Disability Experiencing Homelessness - Veterans experiencing the same condition as individuals experiencing “Chronic Homelessness” excluding the requirement of having experienced Homelessness for a defined period of time, and as defined in 42 U.S. Code 11360(10)(A) and as determined by a medical doctor or nurse practitioner.

VHHP Eligible Household - a household whose composition includes at least one Veteran, as defined in subsection (h) of the VHHP guidelines, who meets the criteria of Target Populations, as defined subsection (f) of the VHHP guidelines, and whose Gross Incomes do not exceed the income limit specified by TCAC.

Walkable Route - a route which, after completion of the proposed Project, shall be free of negative environmental conditions that deter pedestrian circulation, such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials or highways without regulated crossings that facilitate pedestrian movement; or stretches without adequate lighting.

Workforce Housing Opportunity Zone or Zone - an area of contiguous or noncontiguous parcels identified on a city or county’s inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of GC Section 65583 established pursuant to Section 65621.