DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF STATE FINANCIAL ASSISTANCE
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DATE:	**March 27, 2023**
MEMORANDUM FOR:	Multifamily SuperNOFA Stakeholders and Interested Parties
FROM:	Gina Ferguson, Branch Chief Program Design and Development Division of State Financial Assistance
SUBJECT:	Request for Public Comment Summary of Proposed Changes to Multifamily Super NOFA

The Department of Housing and Community Development (Department or HCD) is soliciting comments on proposed amendments to the Multifamily Super NOFA (MFSN) Guidelines for the following programs:

- Multifamily Housing Program
- Joe Serna Jr. Farmworker Housing Grant Program (FWHG)
- Veterans Housing and Homeless Prevention Program (VHHP)
- Infill Infrastructure Grant Program (IIG) – Qualifying Infill Projects

Amendments would modify the guidelines that went into effect March 30, 2022. Changes to the scoring criteria and other requirements of the 2022 Multifamily Finance Super NOFA would be reflected in the next Multifamily Finance Super NOFA. When final, these changes will become effective in the second MFSN funding round scheduled for release in late April 2023.

Comments may be submitted in writing through **April 10, 2023** using the form provided at this link: Multifamily Super NOFA Public Comments. The form fields will reference the numbering and lettering sequences below.

All comments must be submitted electronically <u>by no later than 4:00 p.m. on Monday, April 10th</u>. To the extent possible, please include the Guidelines or NOFA section and subsection number applicable or general topical description to each comment.

BACKGROUND

In accordance with Assembly Bill 434 (Chapter 192, Statutes 2020), the Multifamily Finance Super NOFA (MFSN or Super NOFA) streamlined four of HCD's state housing financing programs through consistency among program guidelines, consolidated defined terms, alignment with CDLAC and TCAC, and a single scoring system.

The Department published the first Super NOFA and Guidelines on March 30, 2022 (with MHP Guidelines amended on May 5, 2022 and the NOFA amended on June 10, 2022).

Prior to the 2023 Super NOFA release, the Department intends to make changes to the current Guidelines and NOFA based on lessons learned, stakeholder feedback and continued advancement state policy priorities. As part of this process, the Department is soliciting stakeholder feedback on substantive proposed changes as summarized below.

Please note that this list of proposed changes is not exhaustive and the Department retains the right to make additional changes – both substantive and nominal – prior to the release of the final Program Guidelines. Public comment will be accepted on the specific items below but commenters are encouraged to provide additional comments on other portions of the Round 1 Guidelines and/or NOFA.

For reference, current Round 1 Program Guidelines and the 2022 Super NOFA are available on the Department's website at the following link: Super NOFA | California Department of Housing and Community Development. Please refer to the Program Guidelines for complete definitions of any capitalized terms used throughout this document.

As the round 2 final Program Guidelines are published, a strike-out underline version comparing Round 1 and Round 2 will also be available.

SUMMARY OF PROPOSED CHANGES

This document serves to summarize the more notable proposed changes for the Round 2 Multifamily Finance Super NOFA Program Guidelines. These changes advance the goals of producing critically needed affordable housing, reducing time and cost to develop housing, and prioritizing equitable State policy objectives.

For reference, each proposed change is identified by the Program Guidelines it will impact and, where applicable, a Section or page number reference for the 2022 Round 1 Program Guidelines. For the reader's clarity, the most significant proposed changes are highlighted in grey.

1. **Threshold Requirements**

   All MFSN Program Guidelines (MHP, VHHP, Serna, IIG):

   a. Sponsor experience: simplify threshold experience by requiring a minimum of one affordable housing development (similar to the standard under MHP's 2019 Guidelines). The intent is to eliminate the need to contract for threshold experience. In addition, staff proposes to either remove or revise the ability of an Emerging Developer or Community-Based Developer to contract for the purposes of Sponsor/Applicant experience points (see below). MHP Section 7303(d)

b. Require documentation of land use approvals by the local agency as a threshold requirement including any applicable SB35 approvals. MHP Section 7303.1

MHP and VHHP Guidelines:

c. Consistent with recent statutory changes (AB 977 (Chapter 397, Statutes 2021)), addition of language requiring awardees to enter required collected data elements on the individuals and families it serves into its local Homeless Management Information System (HMIS) system.

MHP Guidelines:

d. While AB 2483 (Chapter 655, Statutes 2022) made it possible for HCD to offer capitalized reserves for operations and supportive services, additional time is needed to implement the bill and determine appropriate reserve levels, which will occur in Super NOFA's third round. Guidelines will be updated no later than December 2023.

Serna Guidelines:

e. Clarification of whether assisting more than 49% of restricted units where there is no Article XXXIV authority is permissible.

IIG Guidelines:

f. Consistent with recent statutory changes (SB 197 (Chapter 70, Statutes of 2022)), removal of the requirement for an IIG letter of support from the governing body of the city or county that has jurisdiction over the project. IIG Section 206(a)(2)(A)

2. Defined Terms

All MFSN Program Guidelines (MHP, VHHP, Serna, IIG):

a. Emerging Developer: staff proposed to increase the experience maximum from 3 to 4 projects to better align with experience scoring, which provides maximum scoring points for 5 or more projects. This will allow developers with 4 projects experience to qualify and eliminates the current 1-project gap between emerging and experienced developer qualifications in terms of maximum experience scoring (a developer with experience of 4 projects currently is neither an Emerging Developer nor can that entity score competitively in the experience point category).

b. Community-Based Developer: staff proposes to make several changes with the overall goal of ensuring requirements are more clearly stated and can be fairly and objectively evaluated. These changes include:

- defining "community" and reducing the maximum distance between corporate headquarters and the proposed project site;

- identifying what is required to demonstrate community knowledge, commitment to long-term community investment, and population-specific cultural competency and clarifying what combination of options is required (2022 NOFA does not specify this); and
- requiring an array of community benefit programs (more than one of the 2022 NOFA's six categories).

In addition, staff proposes to require experience developing, owning, or operating at least one affordable housing development, to align the minimum experience of Emerging and Community-Based Developers and with the proposed threshold requirement change.

c. Sponsor: staff proposes to further clarify (in guidelines and application materials) what is required to demonstrate sponsor capacity, sponsor control, and site control as it relates to a sponsor's control of a site. A number of application disqualifications occurred for deficiencies in these areas. To address this, updates are being made in Guidelines, FAQs, application materials, and the application review process.

Serna Guidelines

d. Restricted Unit: staff proposes to clarify that Serna Restricted Units are restricted at levels of 80 percent AMI and below.

3. **Scoring Criteria**

State Policy Priorities

a. Limit high/highest resource area points to new construction projects (including adaptive reuse) only. This change eliminates this point option for rehabilitation projects. The requirement that MHP senior housing projects must also qualify as MHP special needs to receive these points will continue. The 50% soft cap employed in the first round will also continue to be employed in the 2023 NOFA (when approximately 50% of Super NOFA funds have been allocated to projects located in High/Highest Resource Areas, points for location in High/Highest Resource Areas will no longer apply). NOFA Section IV.C.

b. Increase Public Excess Lands points to a 5-point category. In addition, include a local surplus land option for these 5 points (requirements similar to those in the IIG Catalytic Solicitation). NOFA Section IV.C.

c. Add scoring incentives for projects partially funded under MFSN round 1, and for projects receiving federal funding through HCD, including but not limited to CDBG-DR. (This change is being considered either as a point option under State Policy Priorities, or as a tiebreaker factor.) NOFA Section IV.C. or H.

d. Add a scoring incentive for maximizing VHHP or FWHG assisted units when requesting VHHP or FWHG program funds. Incentive points would be available to those projects that propose over the minimum number of required VHHP or FWHG units, or alternatively a sliding scale of points may be considered depending on the percentage of units proposed to serve the targeted populations. As a result, VHHP and FWHG programs would no longer receive a ranking priority within the MFSN. (This change is being considered either as a point option under State Policy Priorities, or as a tiebreaker factor.) NOFA Section IV.C. or H.

e. Add a scoring reduction for projects requesting state tax credits with tax-exempt bond financing. The oversubscription rate for state tax credits in both 2022 and 2023 has resulted in several projects requesting state tax credits to not receive Private Activity Bond allocations from CDLAC and delaying commencement of construction. (This change is being considered either as a point decrease under State Policy Priorities, or as a tiebreaker decrease). NOFA Section IV.C. or H.

Project Sponsor/Applicant and Property Management Experience

f. Simplify the experience points section for greater ease of use by eliminating provisions added from TCAC and CDLAC for alignment purposes but that are rarely utilized: contracting vs. partnering for experience points, and provisions related to employing multiple property management companies. NOFA Section IV.D.

g. Add a provision allowing property management companies to rely on the experience of principals, similar to the option available for Sponsor/Applicant experience points. NOFA Section IV.D.

Project Readiness

h. The 2022 NOFA awarded five points for evidence of enforceable funding commitments for all permanent financing, grants, project-based rental assistance, and operating subsidies. However, the MFSN FAQ document provided inconsistent guidance related to commitments for project-based rental assistance. Both rental and operating subsidy commitments will be required to be committed at time of application in order to achieve these Readiness points. NOFA Section IV.E.

Adaptive Reuse / Infill / Proximity to Amenities / Sustainable Building Methods

i. Removal of the Proximity to Amenities 1-point transit option for being within 1/4 mile of a transit station/stop. NOFA Section IV.F.

j. Update to broadband access points: to receive points, the guidelines would be updated to require high speed broadband internet service to be made available to each Restricted Unit for a minimum of 5 years, free of charge to the tenants, and available within 6 months of the project’s placed-in-service date. (This change is being considered either as a point category or as a threshold requirement). NOFA Section IV.F.

Tiebreaker

k. Staff proposes to change the leveraging component to measure leverage of funds other than Super NOFA funds to be used for permanent funding as a percent of total development cost. NOFA Section IV.H.

4. Ranking System

a. HCD will employ a single ranked list based on point and tiebreaker scoring without VHHP or FWHG ranking priorities utilized in Round 1. NOFA Section II.J.

b. Partial funding of projects will not occur. Once all of each program's funds are fully allocated to the highest ranked projects, no other projects requesting funds from that program will be awarded. For example, a lower ranking project requesting both MHP and VHHP will not be funded when all available MHP has been allocated to higher ranking projects, even if VHHP funds remain available. In this scenario, when there are lower scoring projects requesting only VHHP, higher scoring projects requesting MHP with VHHP will be skipped. NOFA Section II.J.

5. Targets

a. The 2023 NOFA will have separate funding targets for Emerging Developers and Community-Based Developers, and a non-tax credit project target smaller than the 2022 NOFA. There will be no set aside for Tribal Entities, since a separate Tribal MFSN is under development. Tribal set-aside funds remaining from Round 1 will roll over to the Tribal MFSN. NOFA Section II.F.

6. Funding and Loan Limits

a. Staff proposes to increase the per unit loan limits to lessen the need for projects to layer on state tax credits. The limits will be increased to ensure that most projects will be viable without additional gap financing from state tax credits. NOFA Section II.D.

b. Staff proposes to remove the difference in per unit loan limits by tax credit type. All tax credit types will have the same initial base loan amount. NOFA Section II.D.

c. No changes to the $35 million limit in total rental housing development loans per project are anticipated. 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. NOFA Section II.G.

7. Application Process, Application Content, and Application Eligibility Requirements

a. Guidelines currently permit staff to request clarifying information, provided it does not affect the competitive scoring. Stakeholders have petitioned the Department to allow application errors and omissions to be corrected, including those related to scoring documentation. Staff proposes to allow documentation that existed in the public realm prior to the application deadline that can be reasonably verified to the satisfaction of the Department to be accepted. No new or additional information will be considered. MHP Section 7318

8. Additional Information

The following information provides stakeholders and potential applicants with updates to program requirements. Please note that the Department is NOT soliciting public comment on the following items as this information is provided only to assist in assessing the competitiveness of potential pipeline projects for the 2023 NOFA. This list is not exhaustive.

a. The 2023 NOFA will indicate that the IIG 2007 program funds have been fully expended, and all applicants must comply with IIG 2019 program eligibility requirements.

b. Guidelines will reflect Health and Safety Code section 50468 (added by Stats. 2022, ch. 667, § 1) and implementation of HCD's Pooled Transition Reserve Policy.

c. MHP statute requires HCD to award a proportional percentage of total MHP assistance to units restricted to senior households, based on the state's percentage of lower income senior households, as defined in Health and Safety Code Section 50675.1. The first round of MFSN funded fewer than the identified 20 percent target. As a result, the second round of funding will increase the amount of MHP funds targeting senior project types to ensure statutory requirements are met in the aggregate.

d. The Round 2 MFSN will reflect applicability of an updated Negative Points Policy. The March 31, 2022 Negative Points Policy is currently being revised based on lessons learned from Round 1 SuperNOFA. The Department anticipates the release of the updated policy before April 2nd and potential Round 2 MFSN applicants will have the opportunity to submit requests for information in order to identify and cure deficiencies prior to the MFSN application due date. As part of the Negative Points Policy revision, the Department is considering the following modifications:

    - Greater clarity on what items are curable and the corresponding cure periods to ensure negative points are not assessed;

    - Changing the "look back" period from 5 years to 2 years for most items. Preliminary Notices of Default and subsequent actions taken by the

Department in response to significant compliance issues will result in a longer "look back" period;

- Clarity on when the assessment period for any negative points begins and ends;
- Clarity on how a negative-point assessment will affect the final application score;
- Providing greater transparency in potential negative points to potential applicants PRIOR to the application due date;
- Exemptions for negative points assessed for disencumbrance of funds to partially funded Round 1 SuperNOFA projects if unable to secure necessary funds as required under the Department's Disencumbrance Policy; and
- Clarification of appeals process for assessment of negative points.