



State of California

**Department of General Services
Department of Housing and Community Development**

Submission Guidelines – Affordable Housing Proposals

**Excess Sites Program
Executive Order N-06-19**

Dated: October 1, 2024

INTRODUCTION

Executive Order N-06-19 (the “EO”) was signed by Governor Gavin Newsom on January 15, 2019, as part of a larger effort to address the housing affordability crisis in the State of California. Governor Newsom ordered the Department of General Services (DGS) and the Department of Housing and Community Development (HCD) (collectively, the State) to identify and prioritize excess State-owned property, enter into low-cost, long-term ground lease(s) with housing developers, and accelerate affordable housing development on State-owned land for public benefit.

In accordance with the EO, the State, acting by and through DGS, with the consent of and in consultation with HCD, is pleased to accept proposal submissions for all sites listed as “Accepting proposals” on the Excess Sites map (published on July 1, 2024, and updated every four years hereafter).

The State is seeking entities qualified to design, entitle, develop, and operate affordable housing on excess State-owned land that supports the Program Objectives contained in these Submissions Guidelines (“Guidelines”).

IMPORTANT AUTHORITIES, REFERENCES, and DISCLAIMER

Government Code Section 14671.2

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14671.2

Executive Order N-06-19

<https://www.dgs.ca.gov/-/media/Divisions/RESO/Images/Projects/Executive-Order-N-06-19/Executive-Order-N-06-19-v2C.pdf?la=en&hash=700D7E6C8EB702CE5BE6586B90E54EDA913A0E4F>

Project Website

<https://www.dgs.ca.gov/RESO/Projects/Page-Content/Projects-List-Folder/Executive-Order-N-06-19-Affordable-Housing-Development>

Privacy of Records Disclaimer

The California Public Records Act provides the right to access public records unless the records are exempt from disclosure by law. The State presumes documents prepared, owned, used, or retained by a state agency are public records and therefore accessible by the public. Any attempt to withhold or exempt submitted documentation from disclosure shall be the sole responsibility of the Respondent Team.

TABLE OF CONTENTS

I. SUBMISSION, EVALUATION, AND AWARD PROCESS	4
II. SPECIAL INSTRUCTIONS, REQUIREMENTS, AND GUIDANCE	7
III. EMERGING DEVELOPERS	11
IV. TECHNICAL SUBMISSION PROCESS	12
EXHIBIT 1 – PROGRAM OBJECTIVES.....	14
EXHIBIT 2 – GENERAL EXPECTATIONS FOR THE PROGRAM	15
EXHIBIT 3 – SUMMARY OF THE EVALUATION/AWARD PROCESS.....	16
EXHIBIT 4 – OWNERSHIP, LEASE OPTION, GROUND LEASES, AND RELATED INFORMATION	17
EXHIBIT 5 – ADDITIONAL RELEVANT DOCUMENTS AND RESOURCES	18

I. SUBMISSION, EVALUATION, AND AWARD PROCESS

1. Existence and Composition of the Respondent Team

Proposals submitted to the State pursuant to this program shall be submitted under the direction of a developer entity (Respondent) with experience developing affordable housing in California. When proposals are submitted under the direction of more than one such developer entity, one entity shall be designated in the proposal as the Lead Respondent.

As part of any response, it is expected that the Respondents will indicate those team members that they expect to be part of the project (the Respondent Team). Examples of possible Respondent Team members who are not the Lead Respondent or developer entity could include, but are not limited to, architecture or engineering firms, general contractors, or financial consultants.

Respondents are also made aware that the substitution or elimination of listed Respondent Team members, post-award, will be subject to State review. **In the event of a proposed substitution or elimination of a listed entity**, the State may require written notification from the Lead Respondent(s) justifying the change. Failure to comply could result in revoking the award of the excess State-owned property.

Note: in the event that an Emerging Developer is involved in the project, or if a Joint Venture is contemplated, please refer to **Section III. Emerging Developers and Joint Ventures** for definitions and additional requirements.

2. Submittal Deadline(s)

All sites listed as “Accepting proposals” on the [Excess Sites map](#) are open for submission. There are no deadlines for submissions, unless otherwise noted on the map, and any deadlines that are listed are site-specific.

In its sole discretion, the State reserves the right to set a deadline for a given site when either of the two scenarios occur:

- a. When the State receives at least one proposal that is complete, is compliant with Government Code (GC) 14671.2, and that meets the minimum scoring requirements, the State reserves the right to set a deadline for that site. Alternatively, the State reserves the right to issue a notice of selection to that Respondent, rather than allow further submissions.

- b. If the State receives multiple submissions for the same site and determines that it is in the best interests of the State to set a deadline.

In either case, once a deadline is set, proposals received after the deadline shall not be considered for award.

3. Completeness, Rejection, and Revision of Proposals

It is the Respondent's sole responsibility to ensure that the proposal is received by the State before the deadline (if applicable) and that the information provided in the proposal is complete. The omission of information may cause the proposal to be deemed non-responsive and may result in the State rejecting the Respondent's submission.

However, because sites are available for submission without respect to a deadline (unless one is noted), this affords an opportunity to work with potential Respondents to address deficiencies in their submissions, rather than rejecting them entirely. As such, the State reserves the right to address deficiencies as follows:

- a. If the State receives a proposal **prior** to setting a deadline for a specific site, and if the State reviews the proposal and determines that it is incomplete, does not meet the requirements of GC 14671.2, and/or does not meet the minimum scoring requirements, the State, in its sole discretion, may provide notice to the Respondent of the identified deficiencies. If this occurs, the respondent may revise their proposal and resubmit.
- b. If the State receives a proposal **after** having set a deadline for a specific site, and if the State reviews the proposal and determines that it is incomplete, does not meet the requirements of GC 14671.2, and/or does not meet the minimum scoring requirements, the State, in its sole discretion, may provide notice to the Respondent of the identified deficiencies. If this occurs, the respondent may revise their proposal and resubmit, though such resubmission must occur prior to the submission deadline.

Please note that the State makes **no** representations or promises that proposals will be reviewed in such a way as to allow a Respondent to cure identified deficiencies.

4. Evaluation Process

In the event that the State receives more than one submission for a given site, the State shall comparatively evaluate the proposals. Any resulting notice of selection will be issued to the highest ranked submission.

The State, in its sole and absolute discretion, reserves the right to evaluate proposals in the manner it deems appropriate. This may or may not include shortlisting, interviews, requests for additional information, or anything else that the State deems helpful in order to fairly determine the best overall proposals. Further, the State, in its sole and absolute discretion, reserves the right to select zero, one, all, or any number of Respondents for a specific site, including the right to reject any or all proposals at any time for any reason.

II. SPECIAL INSTRUCTIONS, REQUIREMENTS, AND GUIDANCE

1. Breakdown of Submission Requirements, Scoring, and Reviewer Guidance

The State has provided a detailed breakdown of the submission requirements, the possible points awardable for each requirement, and an explanation as to how the State intends for its reviewers to evaluate the same.

This breakdown is referred to as the *Excess Sites Framework: Objectives, Scoring, Submission Requirements, and Reviewer Guidance Table* (“Table”).

The Table can be accessed through the **Developer Interest Portal**, which can be found on the [Project Website](#).

Respondents are highly encouraged to refer to the Table prior to submitting any proposal. Respondents are also advised that the information in the Table is subject to change at any time.

2. Minimum Standards for Submissions

Proposals which fail to meet the following requirements shall not be awardable:

- a. All required documentation has been submitted.
- b. The proposal includes a project that is compliant with all of the applicable requirements in Government Code 14671.2.
- c. The proposal meets the minimum scoring requirements for each Program Objective as listed within the *Minimum Score Table*.

<i>Minimum Score Table</i>		
Program Objective	Percentage of Max Possible Points	Minimum Points Score
Affordability	75%	225
Speed of Delivery	75%	180
Financial Feasibility	75%	195
Racial Equity & Inclusive Practices	75%	75
Sustainability & Accessibility	75%	75

Percentages of points are rounded down to the nearest whole number.

3. Proposals with Multiple Scenarios

In prior solicitations, the State has received responses that show two or more development scenarios. In some cases, these scenarios are variations on a theme, whereas in others, they represent entirely different development concepts.

In order to streamline evaluations and for equity in scoring, the State will NOT accept submissions with more than one development scenario. Respondents are advised to submit one development scenario, and supporting documentation, that they commit to developing in the event they are awarded the site.

4. Evaluation of Non-Standard Proposals

Generally, the State expects to receive single-phase proposals for available State-owned land (a “standard” submission). Recognizing however that specific sites, locations, and development possibilities might result in alternative proposal schemes, including multiple-phased submissions (“Multi-phased Proposals”) and submissions that involve assembling parcels owned by non-State entities (“Assemblages”), the State is willing to accept such “non-standard” submissions.

However, the State has found that these “non-standard” submissions prove difficult to fairly evaluate compared to more standard submissions, especially in instances where future phases are more conceptual.

As such, the following procedures and requirements will apply to “non-standard” submissions.

a. *Multi-phased Proposals*

- i. The State will only evaluate and score the first phase (“Phase 1”) of Multi-phased Proposals. Subsequent phases will NOT be scored.
- ii. In the event that an award is made to a Respondent that submitted a Multi-phased Proposal, the award shall generally be specific to Phase 1.
- iii. At its sole discretion, the State reserves the right to permit the awarded developer to implement the subsequent phases, to make the balance of the property available for further submissions, or any other path forward that the State, in its sole discretion, determines is in the best interests of the State

b. *Proposals with Assemblages*

- i. A response proposing an Assemblage of excess State-owned property with additional, adjacent property(ies) will be evaluated and scored based on the excess State-owned property **only**.
- ii. Proposals that integrate non-State-owned property into the development in such a way that the project is infeasible without the additional property will be rejected.
 - 1) For example, a submission that shows a single-phase development, with the housing structure crossing the property line, would be rejected. So too would a submission that shows necessary programmatic elements (integral to the success of the housing project) on non-State property.
- iii. The State shall treat development concepts that rely on a proposed easement, access agreement, unrelated planned project, or any other, similar dependency as an Assemblage.
- iv. Submissions that propose an Assemblage must include an acceptable form of site control for all proposed assemblage parcels at the time of proposal submission. While the State reserves the right to determine acceptable forms of demonstrating site control, examples include existing ownership, an enforceable purchase option, a leasehold option, exclusive negotiation agreement, or development agreement.
- v. Submissions that propose an Assemblage involving property owned by a local agency, including but not limited to cities, counties, and transit districts, should consult HCD's [Surplus Land Act guidelines](#). Respondents and local agencies interested in proposing an Assemblage may request technical assistance from HCD's Surplus Land Act team via the [Surplus Land Act Portal](#).
- iv. At its sole discretion, the State reserves the right to permit, or deny, the awarded developer to implement the proposed Assemblage.

5. Tiebreaking

In the event of an exact tie between one or more proposals, the State will apply the process described in the then-current version of the Table.

Respondents are advised that there is NO protest right with respect to the award of any property for affordable housing development. Respondents are further advised that this tiebreaking process is intended to be an automatic (non-discretionary) calculation and should ensure that any proposals submitted take the tiebreaking calculation into consideration. Given the non-discretionary nature of the tiebreaking process, the State cannot accept arguments that one project should be awarded over another on its merits.

III. EMERGING DEVELOPERS

1. **Definition of an Emerging Developer:** in accordance with the most recently published HCD Multifamily Housing Program (MHP) Guidelines, or as determined by the State at its reasonable discretion, an “Emerging Developer” refers to an entity, which can also be a Tribal Entity, with experience as the developer, owner, or operator of a minimum of one (1) but not more than four (4) Rental Housing Developments with unit types, project sizes, and occupancy comparable to the proposed project.
 - a. **Note:** a state or local government agency (public entity) or non-profit controlled by a public entity **cannot** qualify as an Emerging Developer.
2. **Experience Requirements:** in evaluating the experience requirement to qualify as an Emerging Developer, the State may consider either the experience of the entity itself or the experience of the entity’s principal(s) (“Principal”), subject to the following:
 - a. Principals must be employed by the Respondent’s developer entity as senior management personnel and be authorized to execute and bind the entity to agreements.
 - b. If the experience requirement is fulfilled by one or more Principals of the Emerging Developer, the Respondent(s) must promptly notify the State in writing if any of these principals leave or are terminated by the entity.
 - c. The experience of a consulting firm who is member to the Respondent Team or hired by an Emerging Developer **cannot** be used to meet any experience requirement.
3. **Reservation of Rights:** the State reserves the right to take all reasonable steps to verify the Respondent’s status as an Emerging Developer. Respondents are hereby made aware that the misrepresentation of Emerging Developer status may result in rejection of the Proposal.

IV. TECHNICAL SUBMISSION PROCESS

Respondents shall submit proposals through the following process.

1. Navigate to the Excess Sites Map and log the Consolidated Site ID(s) for the site(s) of interest.
2. Click the “Developer Interest Portal” button on the top right of the screen to navigate to the Submission Portal.
3. The Submission Portal landing page will have a button for New Users to register. Complete the registration process by selecting a username and password. A user account is necessary for tracking your submissions and corresponding with Excess Sites staff regarding your submission.
4. After creating a user account, select New Submission to start a submission for a site.
5. The first page of the submission contains the following sections:
 - a. A Submission Materials Acknowledgement which is required to proceed with submitting
 - b. Site Identification (look up Consolidated Site ID(s) logged in Step 1) and an acknowledgement that the site shown is the site of interest
 - c. Respondent Information (enter contact information for Lead Respondent and, if applicable, any partner development entities)
6. The second page of the submission contains a series of uploads. All required document uploads are noted by an asterisk.
7. The third page of the submission provides an overview of all information provided and requests acknowledgement that all information is true and accurate to the best of the respondent’s knowledge. Once this box is checked, the respondent may click submit to formally complete their submission.

Submission Guidelines –Affordable Housing Proposals
Excess Sites Program – EO N-6-19



EXHIBIT LIST

- EXHIBIT 1. Program Objectives
- EXHIBIT 2. General Expectations for the Program
- EXHIBIT 3. Summary of the Evaluation/Award Process
- EXHIBIT 4. Ownership, Ground Leases, and Related Information
- EXHIBIT 5. Additional Relevant Documents and Resources

EXHIBIT 1 – PROGRAM OBJECTIVES

The lack of affordable housing across California is a matter of vital statewide importance and the State is working to expand housing opportunities through a new level of innovation and cooperation between the public and private sectors. While housing affordability is paramount, the State recognizes that this program presents an opportunity to leverage development for multi-benefit outcomes.

To help solve the affordable housing crisis in alignment with other priorities, the State is seeking proposals from Respondents who can demonstrate the capacity, creativity and commitment needed to support the following Program Objectives.

- 1) **Affordability:** Maximize depth and breadth of affordability while maintaining financial feasibility. Maximizing the number of lower income (80% AMI and below) units should be considered as the primary goal, while remaining in conformance with California Government Code Section 14671.2.
- 2) **Speed of Delivery:** Demonstration of a feasible path to meeting the timing goals of the EO, including a clear CEQA and entitlement strategy under the framework of state sovereignty that supports the timely advancement of funding applications. Commitment to exceed all deadlines within developer control, prioritize this project within broader portfolio of developer projects, and proactively seek technical assistance pre- and post-application for any Federal, State or Local funding program.
- 3) **Financial Feasibility:** Demonstration that the proposed project is not only financially feasible but is also financially probable. Developer indicates that the project has ability to be competitive in proposed and applicable funding programs, including no negative points or mitigation plan to resolve negative points. Developer willingness to apply for additional funding if needed.
- 4) **Racial Equity and Inclusive Practices:** A clear commitment, vision, and strategy to advance racial equity and inclusive practices aligned with the California Statewide Housing Plan. This should lead to measurable, achievable, and quantifiable outcomes and progress in all aspects of housing development and operations to bring about significant positive change and reduce disparities in access to opportunities.
- 5) **Sustainability and Accessibility:** Commitment, where practical and feasible, to pursue sustainability and accessibility practices beyond the requirement of the California Building Code as part of the development, particularly those that will advantage the project in major funding programs through advancement of the State's climate and special needs population goals.

EXHIBIT 2 – GENERAL EXPECTATIONS FOR THE PROGRAM

The Respondent selected by the State shall:

1. Accept the excess State-owned property in its present state and condition, as-is, without any expressed or implied warranties.
2. Enter into a nominal cost, long-term ground lease, with regulatory agreement(s), with the State.
3. Be responsible for applying for financing, conduct all due diligence and obtain necessary permits and utility connection approvals (including, but limited to: building, grading, and construction permits) from the State and any applicable additional authorities having jurisdiction.
4. Be responsible for all on-site and off-site costs and expenses associated with the development including but not limited to: site security and maintenance; site improvement and remediation; construction, ownership, management, and operation of the proposed project(s); as well as any additional planning, design, environmental clearance, permit fees, utility charges; and any other cost associated with the project as more specifically set forth in the applicable agreements with the State.
5. Ensure payment of state prevailing wage to the extent applicable.
6. Assist DGS (the Lead Agency) with compliance with the California Environmental Quality Act (CEQA), including exploring the applicability of streamlining and exemption provisions, and the preparation of any necessary environmental documents.¹
7. Be responsible for payment of applicable local fees, if any.
8. Be responsible for meeting all milestones identified in any contractual documents between the Respondent(s) selected by the State and the State.

¹ The cost of all required environmental review and compliance shall be the responsibility of the Selected Respondent(s). If the Selected Respondent(s) seeks any federal subsidy or funding, they shall also be responsible for facilitating compliance with the National Environmental Policy Act (NEPA).

EXHIBIT 3 – SUMMARY OF THE EVALUATION/AWARD PROCESS

Activity	Timing
1. State allows proposals for available sites.	Ongoing
2. Respondent submits a proposal for a given site.	Ongoing
3. State evaluates proposal to ensure that all required documentation has been submitted.	Ongoing
4. State evaluates proposal to ensure it meets GC 14671.2 requirements.	Ongoing
5. State evaluates proposal to determine if it meets the minimum scoring requirements.	Ongoing
6. If State determines ² that the proposal includes all required documentation, is compliant with GC 14671.2, and meets the minimum scoring requirements, the State may issue a notice of selection or will set a submission deadline for that specific site.	45 days after at least one proposal has been received that is complete, is compliant with GC 14671.2, and meets the minimum scoring requirements.
7. In the event that the State received multiple submissions, ³ the State shall evaluate proposals comparatively.	Varies – dependent on the number of submissions and complexity of the proposals.
8. State selects a Respondent and issues a notice of selection and invitation to enter into a lease option agreement. ⁴	Within 10 days of completing proposal evaluations.
9. State and Selected Respondent Team execute the lease option (LOA). ⁵	Within 60 days following notification of selection, unless a longer timeline is determined.
10. If the lease option is executed within the necessary timeframe, the State will consider the site awarded to the Selected Respondent and note it on the map.	Within 5 business days following execution of the LOA.

² The State, in its sole and absolute discretion, reserves the right to evaluate proposals in the manner it deems appropriate. This may or may not include shortlisting, interviews, requests for additional information, or anything else that the State deems helpful in order to fairly evaluate proposals.

³ Should only one proposal be received by the deadline, the State shall determine whether to proceed to the next steps or extend the deadline.

⁴ Subsequently, the State expects the execution of one or more Ground Lease Agreements.

⁵ The State expects that the Selected Respondent(s) will at all times be responsive to the State's requests and to the obligations as prescribed in this document, the LOA and any subsequent GLAs. The State reserves the option at all times of rescinding a selection in its sole and absolute discretion.

EXHIBIT 4 – OWNERSHIP, LEASE OPTION, GROUND LEASES, AND RELATED INFORMATION

1. Lease Option Agreements

No project will directly enter into a ground lease agreement upon award. As indicated in Exhibit 3, the immediate step after the notice of selection is issued is the negotiation/execution of a lease option agreement (or, in very rare instances, an exclusive negotiating agreement). Ground lease agreements are only intended to be entered into when all necessary environmental approvals, entitlements, and financing are secured, and the project is reasonably ready to break ground.

2. Property Ownership and Property Leases

Unless otherwise stated, all State-owned properties made available are owned by the State and will remain under state ownership. Provided the Selected Respondent satisfies all requirements and obligations imposed by the State concerning development of the state-owned property, it is expected that the Selected Respondent will enter into a long-term ground lease of no more or less than 99 years.

Only the leasehold interest can be used as security for financing. All references to the excess State-owned property must clearly define the leasehold interest, including the legal description.

3. Applicable Government Code

DGS leases State property on behalf of State government, with the consent from HCD. DGS's leasing authority for affordable housing developments can be found in California Government Code ("GC") Section 14671.2. Absent alternative leasing authority, any ground lease agreements for housing development must conform to the parameters found within this section of statute as written at the time of the lease(s). Respondents are advised to carefully review these statutory requirements.

4. Sub-Leases and Lease Assignments

Sub-leasing of ground lease agreements will not be permitted. For the purposes of a phased development or multiple projects at the excess State-owned property, the State assumes that the Selected Respondent(s) may create wholly independent entities for each phase/project and will structure site control agreements accordingly via assignments.

EXHIBIT 5 – ADDITIONAL RELEVANT DOCUMENTS AND RESOURCES

The following documents are templates that the State intends to utilize for the purpose of the development of state property for affordable housing.

- Lease Option Agreement – Template
- Assignment of the Lease Option Agreement-Template
- Ground Lease Agreement – Template
- Regulatory Agreement – Template
- Right of Entry Agreement – Template

These documents may be amended from time to time. Instructions for obtaining these documents can be found through the **Developer Interest Portal** that can be accessed through the [Project Website](#).