

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF STATE FINANCIAL ASSISTANCE**

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May 5, 2022

MEMORANDUM FOR: Interested Parties

FROM: Jennifer Seeger, Deputy Director

ADMINISTRATIVE NOTICE: Notice Number: 2022-03

SUBJECT: Notice of Program Guideline Amendments

Administrative Note: This notice establishes a formal written notification of administrative guidelines and policies that affect the operation of Department financing programs. This format is used to identify, clarify, and record administrative guidelines and interpretations of public interest.

This notice sets forth, clarifies, and repeals certain requirements under multiple multifamily financing programs, specifically Accelerator, the Multifamily Housing Program (MHP) and Homekey as described below:

WHEREAS the Department of Housing and Community Development (Department) is authorized to adopt, promulgate, amend, repeal and administer standards, requirements, procedures or guidelines (collectively Program Guidelines) for financial assistance offered pursuant to Department housing finance programs, through the notices of funding availability and related guidelines as identified below:

WHEREAS pursuant to the statutory authority for the programs referenced in the guidelines, solicitation, and NOFA's below, the Program Guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code;

WHEREAS the Department is issuing this interpretative guidance for the purposes of:

1. Addressing inconsistencies within the Guidelines related to differences in the administration of state and federal funding sources (Accelerator)
2. Clarify applicability of the Uniform Multifamily Regulations (Accelerator and MHP)
3. Augment the amount made available and establish a process for conditional awards pending availability of fund (Homekey).

THEREFORE, by the undersigned execution of the Department's director, the Department hereby adopts and amends into the Program Guidelines the following addendums thereto, as if such provision were originally set forth in each publication of the Program Guidelines as detailed below:

Accelerator (Section 50672 of Part 2 of Division of 31 of the Health and Safety Code)
Tier 1 Project Solicitation (effective October 5, 2021) is amended to add the following:

- *Part II. Program Requirements, Section B. Eligible Applicants:*
For federally funded programs, where the Sponsor is a subrecipient of a HCD commitment to a locality, where the locality loans those HCD funds to the Sponsor (e.g. CDBG-DR and HOME), said loan shall constitute an Existing HCD Commitment. To the extent necessary, if the prime recipient locality is unwilling or unable to amend its agreement and loan documents to incorporate the provisions of the Accelerator award consistent with this project solicitation, HCD will prepare its own Accelerator documents to memorialize the terms and requirements for the Accelerator funds. Such documents may include but are not limited to a promissory note, deed of trust, grant agreement, disbursement agreement, covenant, and regulatory agreement, all as may be applicable.
- *Part II. Program Requirements, Section E.6. Developer Fee Limits:*
Total developer fee for a Project shall not exceed the lesser of: (a) \$2,200,000; or (b) the sum of 15% of the project's unadjusted residential construction-related eligible basis, 5% of the project's unadjusted acquisition eligible basis and 15% of the eligible basis for the project's nonresidential costs or (c) the amount approved by HCD, pursuant to UMR Section 8312 (b) or (c), as payable from development funding sources under the terms of the Existing HCD Commitment or the federally funded program for which HCD is serving as a pass through entity.

Accelerator (Section 50672 of Part 2 of Division of 31 of the Health and Safety Code)
Tier 2 Project Solicitation (effective February 28, 2022) is amended to add the following:

- *Part II. Program Requirements, Section B. Eligible Applicants:*
For federally funded programs, where the Sponsor is a subrecipient of a HCD commitment to a locality, where the locality loans those HCD funds to the Sponsor (e.g. CDBG-DR and HOME), said loan shall constitute an Existing HCD Loan Commitment. To the extent necessary, if the prime recipient locality is unwilling or unable to amend its agreement and loan documents to incorporate the provisions of the Accelerator award consistent with this project solicitation, HCD will prepare its own Accelerator documents to memorialize the terms and requirements for the Accelerator funds. Such documents may include but are not limited to a promissory note, deed of trust, grant agreement, disbursement agreement, covenant, and regulatory agreement, all as may be applicable.

Multifamily Housing Program (Section 50675 of Part 2 of Division 31 of the Health and Safety Code) Program Guidelines (effective March 30, 2022) is amended to add the following:

- *Section 7300.1 Uniform Multifamily Regulations:*
(a) The Uniform Multifamily Regulations (UMR) (Cal. Code Regs., tit. 25, Section 8300 et seq), effective November 15, 2017, and as subsequently amended, are hereby incorporated by reference, with the exceptions of UMR Section 8304 (c) and any UMR provision that would be inconsistent with these guidelines, all of which are expressly not incorporated and shall not be applicable herein.

Homekey 2.0 (Section 50675.1.1 of Part 2 of Division 31 of the Health and Safety Code) Notice of Funding Availability and Program Guidelines (effective September 9, 2021 as amended January 14, 2022) is amended to add the following:

- Article I. Program Overview, Section 100. Notice of Funding Availability (NOFA):
In addition to the \$1.45 billion available in fiscal year 2021-22, the Department will conditionally make available up to an additional \$1.3 billion, appropriated for fiscal year 22-23, to fund eligible projects submitted by May 2, 2022. Projects conditionally awarded with funds from the 2022-23 appropriation will not receive Standard Agreements or have funds disbursed until after July 1, 2022.
- Article IV. Application Submission, Review and Award Process, Section 400:
At the Department's discretion, remaining funding appropriated for the 2021-22 fiscal year may be prioritized for eligible projects that must receive a formal award prior to July 1, 2022. Eligible projects that do not require a formal award prior to July 1, 2022 may receive conditional award letters. The Department, in its sole discretion, will determine which projects do or do not require a formal award prior to July 1. For the purposes of this section, formal award refers to a non-conditional award of HCD funds.



Gustavo Velasquez, Director
California Department of
Housing and Community
Development

5/3/2022

Date