STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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May 18, 2023

MEMORANDUM FOR: POTENTIAL APPLICANTS

FROM: Jennifer Seeger, Deputy Director
Division of State Financial Assistance

SUBJECT: **2023 Multifamily Finance Super Notice of Funding Availability**

The California Department of Housing and Community Development (Department or HCD) is pleased to announce the release of its 2023 Multifamily Finance Super Notice of Funding Availability (Multifamily Finance Super NOFA) for approximately $576 million in funds available under the following Programs:

- Multifamily Housing Program (MHP)
- Infill Infrastructure Grant Program of 2019 (IIG-2019)
- Joe Serna, Jr. Farmworker Housing Grant (FWHG) Program
- Veterans Housing and Homelessness Prevention (VHHP) Program

This marks the second Multifamily Finance Super NOFA that provides applicants the opportunity to apply for any combination of the available funding programs at the same time and within the same round. The Multifamily Finance Super NOFA makes funds more accessible to developers (including Emerging and Community-Based Developers), enables the funding to further serve the lowest-income Californians, and increases the range of potential applicants and target populations to achieve better outcomes in health, climate, and household stability.

Application materials must be submitted electronically via the Super NOFA Application Portal no later than 4:00 p.m. Pacific Daylight Time on Wednesday, July 12, 2023. Application portal application upload and submittal instructions will be released with the application documents. Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, or walk-in application packages will be accepted.

The Multifamily Finance Super NOFA Application, online workshop details, and guidelines are posted on HCD's website Multifamily Finance Super NOFA. The Multifamily Finance Super NOFA application will be available and posted to the website no later than June 1, 2023. To receive information regarding online workshops and other updates, please subscribe to the Multifamily Finance Super NOFA email list.

If you have further questions, please contact SuperNOFA@hcd.ca.gov.

MULTIFAMILY HOUSING DEVELOPMENT FUNDING

2023 Multifamily Finance
Super Notice of Funding Availability
(Multifamily Finance Super NOFA)

Gavin Newsom, Governor
State of California

Lourdes Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency

Gustavo Velasquez, Director
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May 18, 2023

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I. Overview

A. Funds Available

The Department of Housing and Community Development (Department or HCD) is pleased to announce the release of this Multifamily Finance Super Notice of Funding Availability for approximately $576 million in funds, which may be augmented based on availability of funds. Since this NOFA consolidates four housing and infrastructure Programs, it is also referred to as a Multifamily Finance Super NOFA. The Multifamily Finance Super NOFA is issued to distribute funds through a combination of HCD-administered multifamily rental housing and infrastructure Programs. The Multifamily Finance Super NOFA and Guidelines for these Programs implement the requirements of California Assembly Bill 434 (AB 434) (Chapter 192, Statutes of 2020). AB 434 amends, repeals, and adds sections to the Health and Safety Code (HSC) and to the Military and Veterans Code in relation to the Designated Programs.

Programs providing funding pursuant to this Multifamily Finance Super NOFA include the following:

- **Multifamily Housing Program (MHP),** which provides loans to assist the new construction, Rehabilitation, and conversion of permanent and transitional rental housing for Lower Income households.

- **Veterans Housing and Homelessness Prevention (VHHP) program,** which provides funds for acquisition, construction, Rehabilitation, and preservation of affordable multifamily housing for Veterans and their families to allow Veterans to access and maintain housing stability.

- **Joe Serna, Jr. Farmworker Housing Grant (FWHG) program,** which provides construction loans or deferred loans for multifamily housing, new construction, or Rehabilitation to serve Agricultural Workers with a priority for Lower Income households.

- **Infill Infrastructure Grant Program of 2019 (IIG-2019),** which provides grant assistance available as gap funding for infrastructure improvements necessary for specific residential or mixed-use infill development projects. Under IIG, eligible infrastructure improvements are referred to as Capital Improvement Projects (CIPs). [1] They are associated with specific residential or mixed-use infill development projects, or Qualified Infill Projects (QIPs).

[1] *For IIG, "Project" or "Capital Improvement Project" or "CIP" means the construction, Rehabilitation, demolition, relocation, 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 or Qualifying Infill Area. Projects that may be funded under the Program include, but are not limited to, those described in Section 200 of IIG Guidelines.*

Unless otherwise indicated by context, the term “Project” should be interpreted to mean “Capital Improvement Project” when considered in connection with IIG-2019 funding.

Funding for this Multifamily Finance Super NOFA is provided by a combination of funding sources as outlined below:

- Housing and Emergency Shelter Trust Fund Act of 2002 (Proposition 46): Provides funding for MHP and FWHG.
- Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C): Provides funding for MHP and FWHG.
- Veterans Bond Act of 2008, as amended by the Veterans Housing and Homeless Prevention Bond Act of 2014 (Proposition 41): Provides funding for VHHP.
- Veterans and Affordable Housing Bond Act of 2018 (Proposition 1): Provides funding for MHP.
- General Fund (as appropriated in the 2022-23 Budget Act): Provides funding for FWHG, VHHP, and IIG.

Funding Program[2]	Approximate Funding Available
Multifamily Housing Program (MHP)	$236 million
Infill Infrastructure Grant Program (IIG-2019)	$168 million
Joe Serna, Jr. Farmworker Housing Grant (FWHG) Program	$110 million
Veterans Housing and Homelessness Prevention (VHHP) Program	$62 million
Total Multifamily Finance Super NOFA fund available:	**$576 million***

**Total funds awarded maybe augmented based on the availability of funds.*

AB 434 requires the Department to harmonize the other Designated Programs with MHP in four respects: 1) the Department is to make Designated Program funds available at the same time as it makes any MHP funds available; 2) it is to rate and rank Designated Program applications in a manner consistent with MHP applications; 3) it is to administer Designated Program funds consistent with MHP; and 4) to the extent applicable, it is to make the terms of any Designated Program loan consistent with MHP loan terms.

[2] *Please note that the Housing for a Healthy California Program (HHC) and the Transit-Oriented Development Implementation Program (TOD) are also identified as Programs subject to AB 434 but are not included in this Super NOFA as there is no Program funding available at this time.*

The Multifamily Finance Super NOFA and the Guidelines for each Designated Program (Designated Program Guidelines or Guidelines) implement AB 434. The MHP Guidelines provide a central set of "general" rules and standards that govern the distribution and administration of all Designated Program funds subject to the requirements of AB 434. The separate sets of VHHP, FWHG, and IIG Guidelines incorporate relevant MHP rules and standards, and maintain the distinctive features of their respective Programs by establishing Program-specific threshold criteria and other Program-specific provisions.

The loan funds awarded under this Multifamily Finance Super NOFA will be allocated as permanent financing for affordable new construction, construction financing (FWHG), Rehabilitation, preservation, conversion of nonresidential structures to affordable rental housing or Transitional Housing for households with incomes at or below 60 percent of Area Median Income (AMI), unless the Program-specific Guidelines state otherwise (i.e., for FWHG this is 80 percent AMI). The funds awarded under IIG will be in the form of infrastructure grants.

B. Timeline

NOFA Release	May 18, 2023
Application Release	June 1, 2023
Application Portal Opens	June 1, 2023
Application Due Date	July 12, 2023 by 4:00 p.m. PDT
Award Announcement	Winter 2023/2024

C. Authorizing Legislation and Regulations

Applications submitted under this Multifamily Finance Super NOFA are subject to the applicable Program Guidelines, all applicable statutory requirements, and this Multifamily Finance Super NOFA. Section references in this Multifamily Finance Super NOFA refer to Program Guidelines unless otherwise noted. Capitalized terms in this Multifamily Finance Super NOFA are either defined herein or in the Designated Program Guidelines. The Guidelines and Multifamily Finance Super NOFA are available at Multifamily Finance Super NOFA.

The administration of the Designated Programs is governed by the Guidelines that implement, interpret, or make specific the following laws:

- Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the HSC (MHP).

- Article 3.2 (commencing with Section 987.001) and Article 5y (commencing with Section 998.540) of Chapter 6 of Division 4 of the Military and Veterans Code (VHHP).

- Chapter 3.2 (commencing with Section 50515.2) of Part 2 of Division 31 of the HSC (FWHG). The FWHG Guidelines referenced in this Multifamily Finance Super NOFA apply only to Rental Housing Developments.

- Part 12.5 (commencing with Section 53559) of Division 31 of the HSC (IIG-2019). The IIG Guidelines referenced in this Multifamily Finance Super NOFA apply to QIPs in Large Jurisdictions. IIG QIPs in Small Jurisdictions, IIG Qualifying Infill Areas, and IIG Catalytic Qualifying Infill Areas are governed by separate Guidelines, and they are not part of this Multifamily Finance Super NOFA.

II. Program Requirements

The following paragraphs establish parameters that are legally required to be included in the Multifamily Finance Super NOFA and provide a summary of program requirements. Applicants are responsible for independently reviewing the MHP, VHHP, FWHG, and IIG Guidelines, as applicable, for a comprehensive discussion of the rules, standards, and requirements that are relevant to their proposed Projects.

A Project is not eligible for an award unless it meets all the threshold requirements of all applicable Designated Program(s) from which funding is being sought. Please review the individual Program Guidelines of each Program for complete information. Further, Sponsors/Applicants must achieve a minimum point score of 85 points in Universal Scoring Criteria to be considered for a funding award.

A. Eligible Sponsor/Applicant

An Applicant is the entity or entities applying to the Department for the Program funding. When receiving an award of funds, the Applicant or co-Applicants will, both individually and collectively, be referred to as the “Sponsor” in the Department’s legal documents relative to an award of a loan, or as the “Recipient” in the Department’s legal documents relative to an award of a grant. Refer to the following sections of all applicable Designated Program Guidelines for complete description and requirements:

- MHP Section 7303: Eligible Sponsor
- FWHG Section 203: Eligible Sponsor
- VHHP Section 203: Eligible Sponsor
- IIG Section 201: Eligible Applicant

B. Eligible Projects

Eligible Projects must meet the requirements set forth in the following sections of all applicable Designated Program Guidelines:

- MHP Guidelines Section 7302: Eligible Project
- VHHP Guidelines Section 201: Eligible Project
- FWHG Guidelines Section 202: Eligible Project
- IIG Guidelines Section 200: Eligible Capital Improvement Projects

C. Eligible Use of Funds

MHP, VHHP, and FWHG funds shall be used only for approved eligible costs that are incurred on the Project as set forth in the relevant Designated Program Guidelines sections indicated below. Such eligible costs include any 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 the Department.

- MHP Guidelines Section 7304: Eligible Use of Funds
- VHHP Guidelines Section 204: Eligible Uses of Funds
- FWHG Guidelines Section 205: Eligible Use of Funds
- IIG Guidelines Section 203: Eligible Use of Funds

IIG funds shall be used only for approved eligible costs that are incurred on the CIP as set forth in the IIG Guidelines. 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.

D. Site Control

Projects shall comply with the site control requirements as set forth in the relevant Designated Program Guidelines sections indicated below. If an Applicant’s site control documentation (e.g., option) will or may expire prior to the anticipated date of the Program Award as specified in the NOFA, the Applicant will satisfy the threshold site control requirement so long as evidence of a valid extension is submitted during the application review period. For purposes of this paragraph, “evidence of a valid extension” means an option (and/or other applicable site control documentation) that is fully executed prior to the expiration of the site control documentation, and that extends the term of the site control documentation through the actual date of the Program award.

- MHP Guidelines Section 7303.1(n)
- VHHP Guidelines Section 202(n)
- FWHG Guidelines Section 204(m)
- IIG Guidelines Section 202(m)

E. Program Funding Amounts, Terms, and Limits

1. MHP, VHHP, FWHG Loans

   Program loan funding shall be sized and awarded subject to the following:

   a. Per Unit Loan Limits

   Per Unit loan limits will be calculated based upon the Unit's level of income restriction. Manager Units, if requested by the Applicant will be included in the per Unit loan limit calculation at the 60 percent AMI level.

   For MHP loan limit calculations, the Unit count may include the number of Restricted Units within the Rental Housing Development (Restricted Units include Units with long-term, affordability or occupancy restrictions imposed by HCD, the California Tax Credit Allocation Committee (TCAC), or other public agencies and restricted at no greater than 60 percent AMI). Please refer to NOFA Section E.3. below for additional information and limitations on MHP funding of Restricted Units. Notably, Units assisted by a FWHG or VHHP award under the Multifamily Finance Super NOFA will not be additionally assisted by MHP.

   For VHHP and FWHG loan limit calculations, the Unit count shall include the number of Assisted Units within the Rental Housing Development.

   For FWHG, Assisted Units may be restricted at levels to not exceed 80 percent AMI. However, Units restricted above 60 percent AMI are funded at 60 percent loan limits amounts.

   b. Per Unit Loan Limit Calculation

   The amount per Assisted Unit (Restricted Unit for MHP) shall be the amount required to reduce Rents from 30 percent of 60 percent AMI (80 percent AMI for FWHG) to the actual maximum restricted Rent for the Unit, provided that the Rent reduction will be achieved by substituting Program funds for private amortized debt and calculated by the Department based on private market multifamily rental loan terms available at the time of issuance of this Multifamily Finance Super NOFA.

   The initial per unit base loan amount shall be the following when the Project meets the threshold requirements of Section H. below:

   - $250,000 per Assisted Unit (Restricted Unit for MHP), or
   - $300,000 per FWHG or VHHP Assisted Unit.

   The initial base per Unit loan limit is inclusive of all requested Multifamily Finance Super NOFA program loan funds and all Department loan awards made prior to the Multifamily Finance Super NOFA award date. Total prior

Department loan awards will be deducted from the total per Unit calculation in the aggregate (rather than individually on each Unit).

The HCD Repeal of Stacking Prohibition of Multiple Department Funding Sources Administrative Notice Number: 21-06 (as may be amended) is applicable to any prior Department loan awards that are identified in that Administrative Notice, with the exception of Permanent Local Housing Allocation (PLHA) Program – Competitive which will NOT count towards the maximum funding limitations as noted in that Administrative Memo as the awards are made to a Local Government versus a Sponsor or Developer. The foregoing Administrative Notice is hereby incorporated by this reference to this Multifamily Finance Super NOFA as if set forth in full herein and shall apply with equal force as all other provisions set forth herein.

The following applications will have the initial base increased by a max $25,000 per Assisted Unit (Restricted Unit for MHP):

- Joint applications from an experienced Sponsor and an Emerging Developer (a Community-Based Developer or a Tribal Entity may also be an Emerging Developer).

- Projects eligible for High/Highest Resource Area points under the Universal Scoring Criteria set forth at Article IV of this Multifamily Finance Super NOFA; or

- Projects requesting Multifamily Finance Super NOFA funds in MHP or VHHP where at least 45 percent of the total Restricted Units are restricted by a Department Regulatory Agreement to Special Needs Populations (as defined in Appendix A of the Designated Program Guidelines) or to any VHHP Target Population.[3]

Note: The requirement for an increased base loan amount is greater than the minimum required 25 percent of Restricted Units for eligibility as a Special Needs Project type.

Even if more than one of the above applies, the base loan amount may only be increased by $25,000 per Assisted Unit (Restricted Unit for MHP).

c. Terms of the Proposed Award

Program loans shall have an initial term of 55 years or longer to match the period of affordability restrictions under the Low-Income Housing Tax Credit (LIHTC) Program. Permanent loans and FWHG construction financing shall be secured by the Project's real property and improvements, which may be subject only to liens, encumbrances, and other matters of record approved

[3] *For the purposes of this paragraph, total Restricted Units means all units at or below 60% AMI as well as all FWHG Units at or below 80%.*

by HCD, and which are consistent with Uniform Multifamily Regulations (UMR) Section 8315. The Department shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan, and that Regulatory Agreement shall be duly recorded prior to the disbursement of funds and in accordance with the relevant Designated Program Guidelines and shall remain in effect for such term notwithstanding the prepayment of the loan and the release and reconveyance of the deed of trust securing the same.

Program loans for Projects located in Indian Country shall have an initial term of 50 years if an initial term of 55 years is deemed infeasible as determined by the Department and may be secured by a security instrument acceptable to the Department.

d. Performance Deadlines

Eligible Projects must meet the performance deadlines set forth in the following sections of all applicable Designated Program Guidelines:

- MHP Guidelines Section 7321
- FWHG Guidelines Section 404
- VHHP Guidelines Section 404

Pursuant to the Department's Disencumbrance Policy (Administrative Notice 22-03), upon receipt of an award of Department program funds to a project, the Sponsor shall be required to secure all permanent financing, including tax credits and bond allocations, no later than 24-months after the date the initial funds were awarded by the Department. Program funds must be disbursed by the Program liquidation date of June 30, 2028. The Sponsor must submit final disbursement requests no later than March 31, 2028.[4]

2. IIG Funding Amounts and Terms

a. Funding Amounts

IIG funding shall be sized in accordance with the grant limits listed below:

For a QIP, the minimum Program grant award is $1 million in urban areas and $500,000 in Rural Areas. The total Program grant award to any QIP is limited to $10 million under this Multifamily Finance Super NOFA.

Pursuant to Section 205 of the IIG Guidelines, the total grant amount shall be determined by the number of Units in the QIP, the bedroom count of these Units, and the density and affordability of the housing to be developed. The

[4] *At the Department's sole discretion and based on the funding source, there may be some flexibility for a later liquidation date. Awardees will be subject to all performance deadlines and to the Department's Disencumbrance Policy.*

total eligible grant amount shall be based upon the lesser of the amount necessary to fund the CIP or the maximum amount permitted by the IIG Grant Amount Calculation table, whichever is less. See the IIG Grant Amount Calculation table below:

IIG Grant Amount Calculation (Amounts are represented on a per QIP Unit basis)					
Income Level & Tenure	**0-Bdrm**	**1-Bdrm**	**2-Bdrm**	**3-Bdrm**	**4-Bdrm**
IIG Unrestricted[5]	$4,300	$8,500	$12,700	$16,900	$21,200
60% AMI Rental	$36,600	$40,800	$49,200	$57,600	$63,400
50% AMI Rental	$42,300	$47,900	$54,900	$66,000	$70,400
30% AMI Rental	$49,200	$52,100	$59,100	$76,000	$80,200

**Increases based on December Consumer Price Index per U.S. Bureau of Labor Statistics (BLS).*

Grant amounts established by the IIG Grant Amount Calculation table may be increased based on proposed housing Units per acre, as represented in the following Net Density Adjustment Factor table below.

Net Density Adjustment Factor	
Net Density (Housing Units per acre)	**Adjustment Factor**
Fewer than 45	1
45 – 49.9	1.04
50 – 54.9	1.08
55 – 59.9	1.12
60 – 64.9	1.16
65 – 69.9	1.20
70 – 74.9	1.24
75 – 79.9	1.28
80 – 84.9	1.32
85 – 89.9	1.36
90 – 94.9	1.40
95 – 99.9	1.44
100 – 104.9	1.48
105 and above	1.52

[5] *IIG Unrestricted: An unrestricted unit for the purposes of calculating grant amounts in IIG is any Unit that is not income- or Rent-restricted according to the AMI levels specified in any of the Designated Program Guidelines.*

b. Terms of the Proposed Award

Grant terms will be outlined in the Standard Agreement. Grant funds will be disbursed as progress payments for approved eligible costs incurred subject to the requirements of these guidelines.

In consideration for the IIG award to the Recipient, there shall be a Covenant[6] recorded against the fee interest of the real property site(s) of the QIP, which shall impose development, use, and affordability restrictions upon the real property. The Covenant shall be binding, effective and enforceable commencing upon its execution and shall continue in full force and effect for a period of not less than 55 years for Rental Housing Developments after a certificate of occupancy or its equivalent has been issued for the Affordable Housing Development by the local jurisdiction or, if no such certificate is issued, from the date of initial occupancy of the Affordable Housing Development. With respect to land located in Indian Country, the Covenant shall be binding, effective and enforceable for a period of 50 years.

Additional requirements are set forth in Section 205 of the Multifamily Finance Super NOFA IIG Guidelines.

c. Performance Deadlines

i. The QIP shall complete construction of the housing Units which were used as the basis for calculating the Program award within three years of securing all permanent financing. Completion of construction must be evidenced by a certificate of occupancy or equivalent documentation submitted to the Department.

ii. Program funds must be disbursed by the Program liquidation date of June 30, 2027.[7] The Recipient must submit final disbursement requests no later than March 31, 2027.

Pursuant to the Department's Disencumbrance Policy (Administrative Notice 22-03), upon receipt of an award of Department program funds to a project, the

[6] *"Covenant" or "Affordability Covenant" means an instrument which imposes development, use, and affordability restrictions on the real property site(s) of the Qualifying Infill Project, and which is executed by all Recipients and the fee owner of such real property and recorded against the fee interest in such real property site(s). In the case of tribal trust or restricted land, the Covenant is executed by all Recipients and other necessary parties, and is approved by and recorded with the Bureau of Indian Affairs (BIA) against the leasehold estate. In all cases, the subject instrument is recorded in the relevant county recording system. The Covenant is executed as consideration for the IIG Program award to the Recipient.*

[7] *At the Department's sole discretion and based on the funding source, there may be some flexibility for a later liquidation date. Awardees will be subject to all performance deadlines and to the Department's Disencumbrance Policy.*

Sponsor shall be required to secure all permanent financing, including tax credits and bond allocations, no later than 24-months after the date the initial funds were awarded by the Department.

3. Funding Limits

   a. Use of multiple HCD funding sources on the same Assisted Units is permitted, subject to the following limitations (as well as the limitations of sections E.1. and 2. above):

      i. No more than $50,000,000 in total Rental Housing Development loans may be used per Project.

      ii. Funding limits set forth in section b. (below) shall not include grants.

   Exceptions to this funding limit include loans for non-housing related infrastructure, transit amenities, programs, capitalized operating reserves, or operating subsidy reserves.

   b. Each Sponsor/Applicant is limited to no more than $80,000,000 in Multifamily Finance Super NOFA grant or loan awards of any type, excluding any applications awarded in which the Sponsor is a co-Applicant with an Emerging Developer or Tribal Entity. The per-Sponsor/Applicant Multifamily Finance Super NOFA award cap is not applicable beyond an individual Super NOFA competition and it is not a cumulative per-Sponsor/Applicant cap across other HCD NOFA funding opportunities.

   c. The HCD Repeal of Stacking Prohibition of Multiple Department Funding Sources (Administrative Notice: 21-06) 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, with the exception that Permanent Local Housing Allocation (PLHA) Program – Competitive is excluded from this limitation. Housing-related infrastructure grants include those grants provided through the Affordable Housing Sustainable Communities (AHSC) Program (e.g., Housing Related Infrastructure (HRI) grants), the Transit-Oriented Development (TOD) Implementation Program - Infrastructure, the Infill Incentive Grant Program of 2007 (IIG-2007), and the Infill Infrastructure Grant Program of 2019 (IIG-2019).

   d. Within the Multifamily Finance Super NOFA, the Department will offer loan funding from only one Designated Program (MHP, VHHP, or FWHG) per eligible Unit. The Department will, however, offer funding on previously funded units (i.e. the Department may make a new MHP award on a Unit that has previously received an FWHG award.) However, projects must still comply with the “two-loan, two-grant per Project” rule articulated in the

HCD Repeal of Stacking Prohibition of Multiple Department Funding Sources Administrative Notice Number: 21-06. Additionally, the Department will not award funding from a specific Multifamily Finance Super NOFA Designated Program to a Unit that previously received funding from the same program funding source. For example, the Department will not provide MHP funding under the Multifamily Finance Super NOFA to Units that were awarded MHP funding in a prior MHP round.

e. For Projects assisted by MHP, the number of MHP Assisted Units shall equal the number of Restricted Units to the extent allowed by the requirements of Article XXXIV of the California Constitution, with the exception that Units assisted by a VHHP or FWHG award under the Multifamily Finance Super NOFA will not be additionally assisted by MHP.

   Notwithstanding the above limitations on stacking, at the Department's sole discretion, in order to promote Project feasibility, Units assisted by VHHP or FWHG awarded under the Multifamily Finance Super NOFA may be additionally assisted by MHP in instances where Article XXXIV restrictions limit the Department's regulatory role. Such stacking will occur only in consultation with Project Applicant during the application review period.

   For the purpose of calculating loan limits, MHP will loan on any Units restricted to occupancy by households 60% AMI or lower, unless that Unit is also receiving an FWHG or VHHP award under the Multifamily Finance Super NOFA, in which case the more restrictive AMI targeting will be applicable.

f. Although the exact balance will be driven by the Applicant pool, the Department will strive to ensure that no single MHP Project-type exceeds roughly 50 percent of the total NOFA funds.

F. Funding Targets, Statutory Set-Asides, and Geographic Distribution of Funds

1. Funding Targets and Statutory Set-Asides

   To promote equitable distribution of Program funds, to the extent eligible applications are available to fund, this Multifamily Finance Super NOFA shall have the following targets and set-asides listed below:

   a. Emerging Developers: To the extent possible, approximately 7.5 percent of the total Multifamily Finance Super NOFA funds, or approximately $43,200,000. Experience points will not be considered in the ranking of this target. Refer to the Ranking Overview, section I.2. below for additional funding information.

b. Community-Based Developers: To the extent possible, approximately 7.5 percent of the total Multifamily Finance Super NOFA funds, or approximately $43,200,000.

c. IIG Adaptive Reuse Set-Aside: To the extent possible, approximately $30 million of IIG funds will be awarded to CIPs on single sites that directly support the development of QIPs associated with the planned reuse of an existing commercial, retail, or office structure for housing.

d. MHP Senior Set-Aside: To the extent possible, approximately 20 percent of MHP funds will be awarded for Senior housing Projects in accordance with MHP Guidelines Section 7317(g).

Emerging Developers are encouraged to engage with the Department in a pre-application consultation session. The Department will provide Emerging Developers with the opportunity to engage in pre-application technical assistance with HCD staff prior to applying. Please refer to the Multifamily Finance Super NOFA website for additional information at the following link: Pre-Application Technical Assistance.

In the event that any funding target described under (a) or (b) above is undersubscribed, any remaining funds will be used to assist remaining eligible applications in this NOFA that do not meet the target requirements. In the event that the statutory set-asides set forth in (c) or (d) above are undersubscribed, those funds will roll over to a future NOFA. See Scoring and Ranking section below for additional funding information.

Although no funding target or loan limit increase is provided in this funding round for applications that are not utilizing low-income housing tax credit financing, the Department continues to encourage developers to submit applications without tax credit financing. Due to the continued oversubscription of the CDLAC and TCAC programs, the ability to finance Department-funded Affordable Housing Developments without the use of tax-exempt bond or tax credit financing supports the Department’s efforts to make awards to projects ready to commence construction.

2. Geographic Distribution of Funds

To the extent possible, the Department will target 44 percent of the total funds to Projects in Southern California, 28 percent to Northern California, and 18 percent to Projects in Rural Areas. Ten percent shall not be subject to a specific geographic distribution. The geographic distribution targets will be based on the amount of total funds awarded under this NOFA.

For the purpose of geographic distribution:

a. Targets are based on the percent of Extremely Low Income and Very Low-Income renters in California, based on the HUD-released data from the American Community Survey (ACS) for the 2015-2019 period.

b. "Rural Area" is defined by Appendix A of the Designated Program Guidelines to be consistent with the definition used by the TCAC for the tax credit program. A list of Rural Areas, as well as the methodology to determine Rural Area or non-Rural Area status, can be found on TCAC's website or by clicking this link: [2023 Methodology for Determining Rural Status of Project Site (ca.gov)].

Northern	Alameda, Butte, Contra Costa, El Dorado, Fresno, Kings, Madera, Marin, Merced, Monterey, Napa, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Stanislaus, Sutter, Tulare, Yolo, Yuba
Southern	Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Ventura
Rural	Rural areas, including but not limited to the following 100 percent rural counties: Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Sierra, Siskiyou, Tehama, Trinity, Tuolumne

3. Discretionary Funds

Approximately 10 percent of the total Multifamily Finance Super NOFA funds, or $57,600,000, shall be held back as discretionary to facilitate full gap funding of Projects pursuant to this Multifamily Finance Super NOFA and to achieve a balance of state policy goals.

G. Cost Limitations

The limits on developer fee are set forth in the applicable Designated Program Guidelines. References to specific provisions are set forth below:

- MHP Guidelines Section 7305: Cost Limitations
- VHHP Guidelines Section 205: Cost Limitations
- FWHG Guidelines Section 206: Cost Limitations

H. Threshold

A Project is not eligible for an award unless it meets all the threshold requirements of the applicable Designated Program(s). Please review the individual Program Guidelines of each Program for complete threshold requirements information.

Additional threshold requirements pursuant to this NOFA are:

1. All Sponsors/Applicants must achieve a minimum point score of 85 points in Universal Scoring Criteria to be considered for a funding award.

2. For FWHG applications each of the following requirements must also be met:

    a. At least 25 percent of the Units shall be restricted to Agricultural Households. Sponsors must ensure that the Project is able to meet this requirement as well as comply with the Program funding calculation of FWHG Guidelines Section 202(e)(1)(A) or (B), as applicable.

    b. Farmworker Need- The maximum number of Projects awarded per County under this Multifamily Finance Super NOFA shall be based on the presence of farmworkers in the County in which the Project is located based on the most recent U.S. Census of Agriculture (hired farm labor).

Counties	Percentage of Statewide Hired Farm Labor	Maximum Awards Per County
Fresno, Monterey, Tulare, Santa Barbara, Ventura, Kern, San Joaquin, Santa Cruz, Madera, Merced, Sonoma, Stanislaus, San Diego, San Luis Obispo, Riverside	3% or more	3
All others	Less than 3%	2

I. Scoring and Ranking

1. Scoring Overview

    For the purposes of the Multifamily Finance Super NOFA, all scoring criteria have been outlined in Article IV – Universal Scoring Criteria of this NOFA. This section describes the rationale for the scoring criteria and the Department's evaluative process.

    The proposed rating and ranking system aims to accomplish the following goals:

    - Ensure high-quality Projects are awarded, regardless of funding sources requested,

- Minimize incentive to apply to multiple programs solely to increase funding levels,
- Minimize the number of partially funded Projects,
- Ensure that VHHP and FWHG funds are utilized,
- Eliminate subjectivity in rating, ranking, award levels, or award types, and
- Support more efficient use of time and resources, for both Applicants and HCD.

Applications that pass the initial threshold review will be scored using the Universal Scoring Criteria. In the event of tied point scores, HCD shall rank tied applications based on three factors pursuant to the tie-breaker system detailed in the Universal Scoring Criteria: the lowest weighted average affordability of all residential Units, leverage of other funds, and cost containment.

Incomplete applications or others not expected to receive an award of funds due to relatively low scores or ranking may not be fully evaluated.

The scoring and tiebreaker contained in the Universal Scoring Criteria is being updated from that used in the 2022 Multifamily Finance Super NOFA. Review the criteria closely to ensure your application maximizes the scoring priorities.

2. Ranking Overview

This section provides an overview of the application ranking process and funding order. All applications meeting all the threshold requirements of the applicable Designated Program(s) and achieving a minimum point score of 85 points in Universal Scoring Criteria will be considered for funding pursuant to the process described below. Please note, however, that targets and set-asides will only be funded to the extent that eligible applications (those meeting all threshold requirements including minimum point score) exist. If the Department receives fewer eligible applications than funding available, any unawarded funds within the targets may be used to fund remaining eligible applications based on ranked score.

a. Beginning with the top-ranked Projects eligible for the Emerging Developer target (according to the Universal Scoring Criteria including tiebreakers as applicable), followed by those eligible for the Community-Based Developer target, the highest scoring applications will be awarded (provided all applicable threshold, minimum point score, and underwriting criteria are met) until approximately 7.5 percent or approximately $43.2 million has been allocated to each target. Applicable limits that could result in Department awards below requested levels include but are not limited to maximum allowable loan limits (per Unit, per Project and per Sponsor) and available funding in the 2023 Multifamily Finance Super NOFA. If the next-ranked application is requesting more than half of what remains in the target, the next highest-ranking Projects will be funded until at least 6 percent of the funds are used for each target or there are no more eligible Projects for the target.

Applicants that are eligible can compete in both targets if unsuccessful in one due to oversubscription. However, applications that qualify for both will only count towards the target under which they are funded.

Experience points will not be considered in the ranking of the Emerging Developer target; however, the experience point category will be applicable if an application is unsuccessful in the Emerging Developer target and is then ranked with the remaining unfunded applications.

i. Within the Emerging Developer target, priority will be given to Emerging Developers that are not applying jointly for the funds (i.e., with experienced co-Applicants).

ii. Projects funded through the targets and set-asides are accounted for in the regions' percentage targets.

b. The Universal Scoring Criteria points for location in High/Highest Resource Areas will no longer apply when 48 percent of Multifamily Finance Super NOFA funds have been allocated to Projects located in High/Highest Resource Areas. Additionally, the Universal Scoring Criteria points for location in High/Highest Resource Areas will no longer apply if the next eligible Project in line for an award would bring the cumulative allocation of Multifamily Finance Super NOFA funds allocated to Projects located in High/Highest Resource Areas to over 52 percent. All remaining Applicants will be awarded based upon their ranking without points for the High/Highest Resource Area location.

c. Next, the remaining Projects will be ranked according to their Universal Scoring Criteria point score and tie-breaker score. However, if the next ranked application according to the Universal Scoring Criteria is requesting more than half of what remains in program funding, the then the application will be skipped.

d. To achieve the statutorily required MHP allocation to Senior housing and the geographic targets, the Department may skip projects in the ranked list.

e. After any of the Program funds are largely depleted, if the next-ranked application requests more Program funds than remain in the requested programs, at the sole discretion of the Department, that Project may receive an augmentation of funds and be fully funded if the augmentation would be $5 million or less. If the augmentation required to fully fund the request would be more than $5 million, the application may be skipped, or the remaining funds will be made available in a future NOFA which includes such Program funding.

f. If there are insufficient applications for MHP, VHHP, FWHG, or IIG funds that meet threshold, scoring, and underwriting requirements, any remaining funds will be made available in a future NOFA.

K. Negative Points and Disencumbrance Policies

The Department's Negative Points Policy (Administrative Notice Number 2022-01) and Disencumbrance Policy (Administrative Notice Number 2022-02), dated March 30, 2022 (as may be amended from time to time) and published on the Department's website, are hereby incorporated by this reference to this Multifamily Finance Super NOFA as if set forth in full herein, and shall apply with equal force as all other provisions set forth herein.

If the Sponsor/Recipient/Applicant is subject to a negative points assessment based on the criteria outlined in the Department's Negative Points Policy or is determined to be ineligible for funding, HCD shall notify the Sponsor/Recipient/Applicant in writing in the initial point score or threshold letter(s).

III. Application Submission and Review Procedures

A. Application Submission Process

Applications must meet eligibility requirements upon submission (except as expressly indicated in the Guidelines). See Designated Program Requirements above for general information on eligible Sponsors/Applicants, eligible Projects, and eligible uses of funds. See the Designated Program Guidelines for all specific requirements.

Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on HCD's forms, and such forms cannot be altered or modified by the Applicant. It is the Applicant's responsibility to ensure the application is clear, complete, accurate, and timely. Excel forms must be submitted in Excel format, not as a PDF document.

B. Electronic Submission

Application materials must be submitted electronically via the Application Portal.

Requirements for uploading the universal Multifamily Finance Super NOFA application and required supporting documentation, including naming conventions, are described in the Multifamily Finance Super NOFA application instructions page. Applicants must upload all application materials to the Application Portal no later than 4:00 p.m. Pacific Daylight Time on July 12, 2023.

C. Application Workshops and Pre-Application Consultation

HCD will conduct in-person workshops and also make available a recorded webinar for the Multifamily Finance Super NOFA. Please visit the Multifamily Finance Super

NOFA website for the dates and registration information. Pre-application consultations may also be available and can be requested by contacting SuperNOFA@hcd.ca.gov.

D. Disclosure of Application

Information provided in the application will become a public record available for review by the public pursuant to the California Public Records Act (Gov. Code, § 7920.00 et seq.). As such, any materials provided are subject to disclosure to any person making a records request under this Act. HCD cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers and home addresses. By providing this information to HCD, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

E. Concurrent Applications

Due to the unique circumstances of the current challenging funding environment, the Department will allow Multifamily Finance Super NOFA Applicants to pursue more than one funding scenario. This means that a separate, concurrent application to other HCD Program funding source(s) is permitted under this Multifamily Finance Super NOFA. These Applicants, however, MUST submit within each application a disclosure of all HCD applications under review or anticipated to be submitted. All anticipated applications with NOFAs subsequent to the Multifamily Finance Super NOFA application due date must be disclosed to Multifamily Finance Super NOFA staff no later than **September 30, 2023**. In addition, Applicants must notify Super NOFA Program staff via the Multifamily Finance Super NOFA mailbox at the time the second application is submitted (SuperNOFA@hcd.ca.gov). Submission of concurrent Multifamily Finance Super NOFA applications proposing 4 percent and 9 percent tax credits is prohibited.

In instances where such Applicants are competitive for an award, the Department will also engage in consultation with Applicants to discern which funding scenario(s) are optimal for Project feasibility while balancing cost containment. If a concurrent application is for HCD-administered federal program funding and the Project receives a federal program award, this will result in a reduction of the MFSN award amount.

The Department’s approach for Multifamily Finance Super NOFA Applicants will be to reduce the Multifamily Finance Super NOFA award commensurately with any amounts awarded under another HCD program NOFA.

F. Prior Awards

Applicants seeking to substitute previously awarded funds, including but not limited to substitutions in order to increase the amount of an award, must first reject their previous award in writing prior to submitting the Multifamily Finance Super NOFA application, and provide a reasonable written justification that the substitution is necessary to ensure Project feasibility. A consultation with Department Program staff is required before any substitution will be permitted. Substitutions based solely upon Sponsor/Applicant preference or convenience of the funding source will not be permitted.

However, it is allowable for Applicants that wish to retain their previous award to apply for another funding source available within this Multifamily Finance Super NOFA, so long as the previous award is unmodified. In this case, the Department will also allow previously awarded Projects to lower their proposed income targets from one application to the next, so long as the total Unit count remains the same. The Department will restrict Units to the lowest targeting across all awarded funds and will require Projects awarded from a Program with prioritized Target Populations to maintain the special population Units (increasing Target Population and/or Restricted Units is permitted). However, for Projects proposing a reduction to AMI levels on the Unit mix, the awardee must engage with Program staff of their prior award and confirm the change does not impact Project feasibility and would not cause a reduction in awarded funds pursuant to that Program's requirements. This consultation process must begin no later than June 15, 2023.

G. Significant Changes in Project After Application

The Department will review the information provided in the application and score the application accordingly. If there is a significant departure from the application, the Department may re-evaluate the Project's score, reduce the loan or grant amount, or assign negative points to the Sponsor/Applicant.

IV. Universal Scoring Criteria

A. Summary

The criteria detailed below and summarized in the following table shall be used to rate applications:

Universal Point Score Criteria (Used in Project ranking separate from Threshold Review)		
Criterion		**Maximum Score**
Universal Scoring Criteria	Extent to Which the Project Serves Households at the Lowest Income Levels	30
	State Policy Priorities	18
	Project Sponsor and Property Management Experience	20

	Project Readiness	20
	Adaptive Reuse / Infill / Proximity to Amenities / Sustainable Building Methods	20
	Cost Containment	5
Total Possible Universal Points		113

B. Extent to which the Project serves households at the lowest income levels (30 points maximum)

Applications will be scored based on the percentage of Restricted Units limited to various percentages of AMI, adjusted by household size, and as follows:

1. A maximum of 30 points will be awarded based on the Lowest Income Points Table below.

2. Each "Percent of AMI" category (column) may be used only once. (Please see the Lowest Income Points Table below.) For instance, 50 percent of Restricted Units at 50 percent of AMI cannot be used twice for 100 percent of Units at 50 percent AMI and receive 25 points, nor can 50 percent of Restricted Units at 50 percent of AMI for 12.5 points and 40 percent of Restricted Units at 50 percent of AMI be used for an additional 10 points. However, each "Percent of Restricted Units" category (row) may be used multiple times. For example, 50 percent of Restricted Units at 50 percent of AMI for 12.5 points may be combined with another 50 percent of Restricted Units at 40 percent of AMI to achieve the maximum points.

Lowest Income Points Table

		Percent of AMI							
		55%	**50%**	**45%**	**40%**	**35%**	**30%**	**25%**	**20% & below**
Percent of Restricted Units	**50%**	5*	12.5*	16.9	17.5	18.75	30	30	30
	45%	5*	11.25*	16.9	17.5	18.75	30	30	30
	40%	5*	10	15	17.5	18.75	27.5	30	30

	35%	4.4*	8.75	13.15	17.5	18.75	25	27.5	30
	30%	3.75*	7.5	11.25	15	18.75	22.5	25	30
	25%	3.15*	6.25	9.4	12.5	15.65	18.75	21.9	25
	20%	2.5*	5	7.5	10	12.5	15	17.5	20
	15%	1.9*	3.75	5.65	7.5	9.4	11.25	13.1	15
	10%	1.25*	2.5	3.75	5	6.25	7.5	8.75	10

3. Point values that are only available to Projects in Rural Areas are marked with an asterisk.

4. To receive any points in this category, at least 10 percent of the Restricted Units must be restricted to households with incomes not exceeding 30 percent of AMI.

   Deeply Affordable Units - those Units with up to 30 percent AMI targeting - cannot be concentrated among a Project's smaller Units. They must be distributed proportionately across all Unit sizes, or, alternately, more heavily represented among larger Units. To ensure a proportional spread of deeply Affordable Units, at least 10 percent of the larger Units in the Project must be provided at 30 percent of AMI, as applicable. So long as the Applicant meets the 10 percent standard Project-wide, the 10 percent standard need not be met among all the smaller Units.

   Example:

60 Total Units in Project	Required ELI Units (30% AMI)
18 three-bedroom	2 Units
21 two-bedroom	3 Units
21 one-bedroom	1 Unit
Total (10%)	6 Units

C. State Policy Priorities (18 points maximum)

1. Five points will be awarded for Projects located in a "High Resource" or "Highest Resource" Area as shown on the TCAC/HCD Opportunity Area Map

   Only new construction and Adaptive Reuse Projects will qualify for these points.

   MHP Senior Projects do not qualify for High/Highest Resource Area points unless they also qualify as MHP Special Needs Projects with at least 25 percent Department-restricted Special Needs Units. These may also qualify under the MHP Senior set-aside if they meet the eligibility requirements under MHP Guidelines section 7302(e)(2).

   Once Projects receiving 5 points pursuant to paragraph (1) have been fully ranked according to all scoring criteria and recommended for Awards, and once those Awards comprise 48 percent of all Program funds available in a NOFA, any remaining Projects shall *not* receive 5 points for meeting the requirements of this paragraph. Additionally, the points for location in High/Highest Resource Areas will not apply to the next eligible Project in line for an award if such Project would bring the cumulative allocation of Super NOFA funds allocated to Projects located in High/Highest Resource Areas to over 52 percent of all Program funds available through the NOFA.

   An Applicant may choose to utilize the applicable census tract, or census block group, or resource designation from the TCAC/HCD Opportunity Area Maps in effect when the initial site control (pursuant to UMR section 8303(a)) was obtained up to seven calendar years prior to the application.

2. Total Percentage of Multifamily Finance Super NOFA-funded[8] Units Serving Special Needs Populations, Agricultural Households (10 points maximum)

Chronically Homeless, Homeless via CES[9] Other Special Needs, Agricultural Households	
Total percent of Super NOFA-funded Units	Points
25%+	10 points
16-24%	9 points
10-15%	8 points

[8] *Super NOFA-funded Units means Units that are anticipated to receive Designated Program funding under this Super NOFA. This does not include any Units funded under a prior NOFA or Super NOFA round.*
[9] *Coordinated Entry System (CES)*

Note: Each FWHG Project shall restrict at least 25 percent of the Units to Agricultural Households. Also see VHHP Guidelines Section 201(f) through (i) for VHHP subpopulation threshold percentages.

Under this category, applications requesting IIG Program funds only and no other Multifamily Finance Super NOFA funds will automatically receive 10 points.

Under this category, Rehabilitation Projects are scored differently from new construction. Rehabilitation Projects will automatically receive 10 points. To receive these points, the Project shall maintain any Chronically Homeless, Homeless, At Risk of Homelessness, Special Needs, and Agricultural Households population restrictions pursuant to an existing Regulatory Agreement, deed restriction, or similar encumbrance. Any existing income, Rent, and population restrictions must be documented in the application. No permanent relocation shall be permitted unless and until a relocation plan is reviewed and approved by the Department.

Rehabilitation Projects must also meet the following conditions:

a. The Project qualifies as At High Risk or involves the conversion of single occupancy Units without kitchens and/or bathrooms to Units with kitchens and bathrooms; and

b. The contract for Rehabilitation work equals or exceeds $60,000 per Unit in hard construction costs. Hard construction costs mean the costs for labor, material, equipment, and services that directly relate to the physical construction or Rehabilitation of the Project. Such costs do not include general requirements, profit and overhead.

3. Public Excess Lands (3 points maximum)

Three points will be awarded if a new construction Project is located on a site selected under Executive Order N-06-19 to enter into a ground lease with the state to create affordable housing on excess state-owned property, and must be documented as described in the application.

Two points will be awarded if a new construction Project is located on a site designated as surplus land by a local government. This land can be provided under a long-term below market ground lease (lease rent of $100 or less per year and lease administrative fees of $15,000 or less per year) or through a different Department approved ownership transfer, and must be documented as described in the application.

D. Project Sponsor/Applicant and Property Management Experience (20 points maximum)

NOTE: For applications requesting IIG funds only, Applicant experience is evaluated. For applications requesting IIG plus another Designated Program funds (e.g., MHP), Applicant experience is evaluated for IIG, and Sponsor experience is evaluated for MHP (in this example, Applicant and Sponsor may or may not be the same entity).

"Projects" as used in paragraph (1) and (2) below means Rental Housing Developments of over ten Affordable Units that are subject to a recorded Regulatory Agreement, or, in the case of housing on Indian Country, where federal HUD funds have been utilized in affordable rental developments. Points in paragraphs (1) and (2) will be awarded in the highest applicable category and are not cumulative. For points to be awarded in paragraph (2), an enforceable management agreement for the proposed Project executed by both parties must be submitted at the time of application.

By applying for and receiving points in these categories, Applicants certify that the property shall be owned and managed by entities with equivalent experience scores for the entire affordability period.

1. <u>Development and Ownership Experience</u>. Applications will be scored based on the number of subsidized rental housing Projects (including tax credit Projects) that the Sponsor/Applicant has developed, owned, and operated and whether the Sponsor/Applicant is subject to penalties pursuant to paragraph (3) below.

   For completed Projects, a Sponsor/Applicant may include the experience of its controlled affiliated entities or its principals (e.g., employed by, and under the control of the Sponsor/Applicant and responsible for managing development and ownership activities), but not the experience of non-management board members. For joint applications under this NOFA, only one co-Applicant need qualify for these experience points. Experience among co-Applicants shall not be aggregated. Any change in the ownership that reduces the Sponsor's/Applicant's role shall require prior written approval by the Department.

   If a Sponsor/Applicant relies upon the experience of its principal for scoring, documentation of the principal's experience is required to be included with the application.

   The experience of an Emerging Developer's principal shall not be used to qualify an Emerging Developer Sponsor/Applicant for maximum development and ownership experience points. An Emerging Developer cannot have developed, owned, or operated more than four (4) Rental Housing Developments. If the experience of an Emerging Developer's principal is used for scoring and exceeds four (4) Rental Housing Developments, the Sponsor/Applicant does not meet the qualifications of an Emerging Developer.

   To receive points under this paragraph the following conditions must be met:

a. Submit a certification that each Rental Housing Development has maintained Fiscal Integrity since the date of the last prepared financial statement, has maintained a positive operating cash flow from typical residential income alone, and has funded all reserves in accordance with the partnership agreement and any applicable loan documents.

   To obtain development and ownership points for Projects previously developed, owned and operated, a certification must be submitted with respect to the last full year of ownership by the Sponsor/Applicant, along with verification of the number of years that the Project was owned by that Sponsor/Applicant. To obtain points for Projects previously owned, the ending date of ownership or participation must be no more than ten years from the application deadline.

   Points are available as follows:

3-4 projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	10 points
5 or more projects in service more than 3 years, of which 1 shall be in service more than 5 years and 2 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	15 points
For Special Needs Projects or Community-Based Developers only with experience serving Target Population(s) proposed to be served in the application, points are available as described above or as follows:	
For Special Needs projects: • 4 or more <u>Special Needs</u> Projects in service more than 3 years, of which 1 shall be Department-regulated or a project utilizing low-income housing tax credits allocated by TCAC. For Community-Based Developers: • 4 or more projects in service more than 3 years, of which 1 shall be Department-regulated or a project utilizing low-income housing tax credits allocated by TCAC. The property manager shall have three or more years' experience serving the Target Population(s) proposed to be served in the application.	15 points

2. Property Management Company Experience. To receive points under this paragraph, the property management company must meet the following conditions:

   a. To obtain points for previous management experience, the ending date of the property management role must be no more than ten years from the application deadline. In addition, property management experience is only qualifying to the extent it was accrued after the completion of construction.

   Points are available as follows:

6-10 projects managed over 3 years, of which 2 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	3 points
11 or more projects managed over 3 years, of which 2 shall be Department-regulated or projects utilizing low-income housing tax credits allocated by TCAC	5 points
For Special Needs Projects and for Community-Based Developers, points are available as described above or as follows:	
For Special Needs projects: • 4 or more Special Needs Projects in service more than 3 years, of which 1 shall be Department-regulated or a project utilizing low-income housing tax credits allocated by TCAC. For Community-Based Developers: • 4 or more projects in service more than 3 years, of which 1 shall be Department-regulated or a project utilizing low-income housing tax credits allocated by TCAC.	5 points

For completed Projects, a property management company may include the experience of its principals (e.g., employed by, and under the control of the Sponsor/Applicant and responsible for managing operational activities) responsible for property management activities, but not the experience of non-management board members. If a property management company relies upon the experience of its principal for scoring, documentation of the principal's experience is required to be included with the application.

3. Negative Points – An application will be assessed negative points based on performance penalties assessed pursuant to the Department's Negative Points Policy (Administrative Notice Number 2022-01), dated March 31, 2022, as amended April 3, 2023 and which may be further amended from time to time.

Negative points will be assessed as a reduction to the total experience score earned under paragraphs (1) and (2) above. For example, if a Project earns 15 points under paragraph (1) Development and ownership experience and 5 points under paragraph (2) Project Management Company Experience but the Project is assessed 3 negative points, then the final score for the experience criterion would be 17 (15 + 5 - 3).

If the Sponsor/Applicant is subject to a negative points assessment, HCD shall notify the Sponsor/Applicant in writing within the point score letter and will provide opportunity to appeal the negative points assessment pursuant to the appeals process as set forth in the NOFA.

E. Project Readiness (20 points maximum, negative 5 points maximum)

Points will be awarded to Projects under each of the following rating factors as documented in the application and as indicated below. If a particular rating factor is not applicable, full points shall be awarded in that category.

1. Financing Commitments (10 points maximum)

   a. Five points will be awarded for evidencing Enforceable Funding Commitments for all construction financing, excluding: funds applied for under this NOFA, an allocation of tax-exempt bonds, and 4 percent or 9 percent tax credits. For Projects with bond financing, lender commitment of bond financing is required for these points.

   b. Five points will be awarded for evidence of Enforceable Funding Commitments for all permanent financing, grants, and for commitments of project-based rental assistance and operating subsidies, excluding: funds applied for under this NOFA, an allocation of tax-exempt bonds, and 4 percent or 9 percent tax credits. For Projects with bond financing, any applicable permanent lender commitment of bond financing is required for these points.

   For both construction financing commitments and permanent financing commitments, the assistance will be deemed to be an Enforceable Funding Commitment as this term is defined in Appendix A of the Guidelines, if it has been awarded to the Project or if the Department approves other evidence that the assistance will be reliably available. Contingencies in commitment documents based upon the receipt of an allocation of tax-exempt bonds, 4 percent tax credits or 9 percent tax credits will not disqualify a source from being counted as committed.

   To receive points under paragraphs (a) and (b) above for deferred payment financing, grant funds, or subsidies from other Department programs, these funds must be awarded prior to September 30, 2023.

2. Local and Environmental Approvals (7 points maximum)

a. Land use approvals (5 points maximum) – Points will be awarded under either item i, ii, or iii below.

   i. Five points will be awarded for obtaining all land use approvals or entitlements necessary prior to issuance of a building permit, including any required discretionary approvals. Notwithstanding this requirement, design review, variances, and development agreements are not required to be completed. Project sites where applications for streamlined ministerial approval have been submitted to the necessary local governmental entities (including but not limited to the Senate Bill 35 (2017) Streamlined Ministerial Approval Processing) are eligible for these points. To be eligible for these points, the Applicant must submit a legal opinion and certification that the project reasonably meets the eligibility requirements for streamlined, ministerial approval and that all necessary applications and notices have been submitted for review.

      For Projects located within city limits where a FEMA Major Disaster Declaration has been made up to one year preceding the application due date, these 5 points will be awarded for certification that all necessary land use approvals or entitlements necessary prior to issuance of a building permit will be completed prior to the construction loan closing.

      FEMA Major Disaster Declarations that include more than 20 counties will not count for these points.

      For Projects located outside of city limits where a FEMA Major Disaster Declaration has been made and the local government responsible for land use approvals or entitlement review is not a city, the Applicant must, in addition to providing this certification, demonstrate to the Department's satisfaction that the Project contributes to providing housing for disaster-impacted households.

      For Projects located in Indian country, Tribal Entity applicants will be awarded five points for obtaining all land use approvals or entitlements required by tribal law.

   ii. Four points will be awarded for submission of a complete application to the relevant local authorities for land use approval under a Nondiscretionary Local Approval Process, where the application has been neither approved nor disapproved. For Projects located in Indian country, Tribal Entity applicants will be awarded four points for submission of a complete application to the relevant tribal authority exercising jurisdiction over the project for land use approval.

iii. One point will be awarded for a letter signed by a planner certified by the American Institute of Certified Planners (AICP) indicating that, in their opinion, the Project meets all of the requirements for approval under a Nondiscretionary Local Approval Process, where an application has not been approved or disapproved by the local authorities. For Projects located in Indian country, Tribal Entity applicants will be awarded one point for a letter signed by a planner certified by AICP, or by an equivalent tribal or non-tribal authority subject to the Department's satisfaction, indicating the Project meets all of the requirements for approval under tribal law for a tribal nondiscretionary local approval process.

b. Environmental Approvals (2 points maximum) – Points will be awarded for local certification of CEQA (California Environmental Quality Act) exemption or completion.

   For Projects located within city limits where a FEMA Major Disaster Declaration has been made up to one year preceding the application due date, these 2 points will be awarded for certification that the Project is exempt from CEQA or that the CEQA review will be completed prior to the issuance of the Department's standard agreement for funds under this NOFA. For Projects located outside of city limits where a FEMA Major Disaster Declaration has been made and the local government responsible for environmental review is not a city, the Applicant must, in addition to providing this certification, and demonstrate to the Department's satisfaction that the Project contributes to providing housing for disaster-impacted households.

   FEMA Major Disaster Declarations that include more than 20 counties will not count for these points.

   For Projects receiving federal funds subject to review under the National Environmental Policy Act (NEPA), a copy of the Project's Authority to Use Grant funds must be provided prior to the construction loan closing. It is not necessary to have the Authority to Use Grant Funds at application stage.

   For Projects located in Indian country, Tribal Entity applicants will not be penalized for not obtaining local certification of CEQA exemption or completion and will be awarded two points for obtaining all environmental clearances required under tribal or federal law, if applicable.

3. <u>Organizational Documents</u> (3 points maximum) – Points will be awarded if the ultimate borrowing entity or the IIG-only Recipient, including all affiliated entities, is fully formed and a full set of organizational documents (and all amendments) is submitted, with the application, for the ultimate borrowing entity or the IIG-only Recipient and all constituent tier entities of same.

4. TCAC Hybrid Projects Five points will be subtracted for a Project utilizing low-income housing tax credits that will be part of an application to TCAC seeking hybrid tiebreaker incentives.

F. Adaptive Reuse / Infill / Proximity to Amenities / Sustainable Building Methods (20 points maximum)

Applications will receive 5 points for each of the following four (4) point categories, up to a maximum of 20 points as defined below:

- Infill development and Net Density
- Proximity to amenities
- Broadband access
- Sustainable building methods

1. Infill development and Net Density. Five points will be awarded for infill development, including Adaptive Reuse. The Project must meet one of the following requirements of (a) or (b) below:

   a. Located on a site where either:

      i. At least 75 percent of the site was previously improved (including areas where improvements have been demolished) or used for any use other than Open Space, agriculture, forestry, or mining waste storage; or

      ii. At least 75 percent of the perimeter of the site's adjoining parcels that are developed with Urban Uses (residential, commercial, industrial, public institutional, transit or transportation passenger facility use, or retail use, or any combination of those uses) but not including lands used for agricultural uses or parcels in excess of 15,000 square feet in size and containing only one single family residence, or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage, perimeters bordering navigable bodies of water and improved Parks shall not be included; or

      iii. The combination of at least 50 percent of site area as previously improved (including areas where improvements have been demolished) or used for any use other than Open Space, agriculture, forestry, or mining waste storage, and at least 50 percent of the perimeter of the site adjoining parcels that are developed with Urban Uses or is separated from parcels that are developed with Urban Uses only by an improved public right-of-way. In calculating this percentage perimeters bordering navigable bodies of water and improved Parks shall not be included.

b. Developed at average residential Net Densities on the parcels to be developed that are greater than the densities described below[10]:

   i. For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 20 Units per acre.

   ii. For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 15 Units per acre.

   iii. For a suburban jurisdiction: sites allowing at least 25 Units per acre.

   iv. For a jurisdiction in a metropolitan county: sites allowing at least 45 Units per acre.

   v. For a Rural Area: sites allowing at least 15 Units per acre.

2. Proximity to amenities. Points will be awarded based on the following (up to a maximum of 5 points):

   Projects will receive 1/3 point per site amenity point that would be awarded under TCAC Regulations, Title 4 CCR, Division 17, Chapter 1, Section 10325(c)(4)(A) or successor regulation (In TCAC regulations, this is a 15-point category, however, achieving all 15 points under TCAC translates to 5 points under this category).

   Transit points must be for a Transit Station or Major Transit Stop and distance must be measured by a Walkable Route.

3. Broadband access. Five points will be awarded for Projects meeting the following requirements:

   a. Residential dwelling Units that can accommodate broadband service with at least a speed of 100 megabits per second for downloading and 20 megabits per second for uploading; and

   b. The application includes a plan for reducing barriers to access for Project residents. The plan should be tailored to the needs of the tenant population and may include Programs providing free or reduce internet prices; reasonable access to Project facilities, computers, and shared Wi-Fi; and computer and Wi-Fi literacy training and technical assistance.

4. Clean energy and sustainable building methods. Points will be awarded based on the following (up to a maximum of 5 points):

[10] *Please see Government Code section 65583.2, subdivisions (d) – (f) for the defining criteria for a metropolitan county, a nonmetropolitan county, a nonmetropolitan county with a micropolitan area, and a suburban jurisdiction.*

a. 2.5 points will be awarded if the Project supports the implementation of a sustainable community's strategy or alternative planning strategy that has been determined by the California Air Resources Board to achieve the region's greenhouse gas emissions target or other adopted regional growth plan intended to foster land use. Consistency with such plans must be demonstrated by a letter or resolution executed by an officer or an equivalent representative from the metropolitan planning organization, regional transportation agency, planning, or local transportation commission.

b. If a sustainable community's strategy is not required for a region by law, 2.5 points will be awarded if the Project supports a regional plan that includes policies and programs to reduce greenhouse gas emissions. Evidence of consistency with such plans must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization or regional transportation planning agency or local transportation commission.

c. A Project in which not less than 50 percent of the land area is within a Transit Priority Area shall receive 2.5 points. Evidence of Project location within, or partially within, a Transit Priority Area must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization, regional transportation planning agency, or local transportation commission.

d. Five points will be awarded for a Project that is designed to achieve energy efficiency and green building status beyond State mandatory building code requirements as verified upon construction completion by a certified LEED Green rater, certified Green Point rater, or licensed engineer. Applicants may select from the following green building certification programs:

Program	**Minimum Required Tier or Designation**
CalGreen	Tier 2
U.S. Green Building Council LEED Certification	Gold
Green Point Rated	New Construction: Gold Rehabilitation: Whole Building
ENERGY STAR	Certified Home
Living Future Challenge	Living Building

e. Three points for Projects that achieve near electrification – Projects where two out of three of the major energy appliances (cook stoves, space heating, water heating) are electric, promoting clean energy. Projects must be wired to be electric-ready, defined as having 240 volts outlets near each gas appliance.

f. Five points will be awarded for Projects that are powered entirely through electricity with no connections to natural gas infrastructure.

G. Cost Containment—5 points maximum

A Project shall receive 1 point for each full percent that the Project's eligible basis is less than the Project's adjusted threshold basis limit, up to a maximum of 5 points. The percentage is calculated by dividing the Project's eligible basis by the Project's adjusted threshold basis limit.

$$\frac{\text{Total Eligible Basis per the Development Budget}}{\text{Adjusted Threshold Basis Limit}}$$

(Per California Debt Limit Allocation Committee (CDLAC) Regulation Section 5230)

For purposes of this subdivision, a Project's adjusted threshold basis limit shall be the Project's threshold basis limit, as if it were a 4 percent LIHTC project, as determined pursuant to Section 10327(c)(5) of the TCAC regulations, except that the increase for deeper targeting pursuant to Section 10327(c)(5)(C) of the TCAC regulations that is multiplied by the unadjusted threshold basis limit shall be limited to 80 percent. Section 10327(c)(5)(C) of the TCAC regulations states that for Projects financed through CDLAC, "an increase of one percent (1%) in the threshold basis limits shall be available for every 1% of the project's Low-Income and Market Rate Units that will be income and rent restricted at or below 50 percent (50%) but above 35 percent (35%) of AMI. An increase of 2 percent (2%) shall be available for every 1% of the project's Low-Income and Market Rate Units that will be restricted at or below 35% of AMI." The Department, however, will only restrict to income levels in 5 percent increments.

Any Project may be subject to performance penalties if the Project's total eligible basis determined upon construction completion exceeds the revised total adjusted threshold basis limits for the year the Project completes construction (or the original total eligible threshold basis limit if higher) by 40 percent.

H. Tiebreaker Score

In the event of tied point scores, the Department shall rank tied applications based on three factors which will be added together for a final tiebreaker score. The three factors are: (1) the lowest weighted average affordability of all residential Units, (2) leverage of other funds, and (3) additional cost containment. The tiebreaker scoring calculation is explained below. Although the exact balance will be driven by the Applicant pool, the Department will strive to ensure that no single MHP Project-type exceeds roughly 50 percent of the total NOFA funds.

1. <u>Lowest weighted average affordability of all residential Units</u>.

a. Multiply each income limit applicable to the Project by the number of adjusted residential Units restricted at that income level (market rate Units, which do not include Units subject to Rent and/or occupancy restrictions at 70 percent or 80 percent AMI, shall be designated 100 percent AMI). Unrestricted Manager's Unit(s) are excluded from this calculation.

To calculate adjusted residential Units, multiply the residential Units of a Unit Type (bedroom count) by the following adjustment factors:

Unit Type	Adjustment Factor
Studio/SRO	0.90
1-Bedroom	1.00
2-Bedroom	1.25
3-Bedroom	1.50
4-Bedroom or larger	1.75

For purposes of this calculation:

- Units with federal project-based rental assistance shall be assigned targeted Rent levels no lower than 30 percent AMI regardless of their actual income targeting; and

- If the average affordability of all unadjusted residential Units, exclusive of Units with rental assistance, is less than 40 percent AMI, then the calculation shall assume a targeted Rent level of 40 percent AMI for each residential Unit that does not have rental assistance.

b. Add the products calculated pursuant to the previous paragraph.

c. Divide the sum calculated pursuant to the previous paragraph by the total number of adjusted residential Units in the Project to obtain the average affordability.

d. Subtract (c) from 1.0.

2. Leverage of other funds.

a. Leverage of other funds will be calculated as the amount of funds other than Multifamily Finance Super NOFA funds to be used for permanent funding of the development.

- Project based housing vouchers, including Faircloth to RAD conversions, will be valued at the amount of permanent amortizing debt that is financed by the additional project income received.

b. Local public land donations will be counted as leveraged funds where the value is established with a current appraisal, with the amount discounted to reflect any fees, or other reliably predictable payments required as a condition of the donation.

c. State Low Income Housing Tax Credits will be removed from the calculation of leverage of other funds.

d. Previously awarded HCD funds will be removed from the calculation of leverage of other funds as follows:

- Round 1 Multifamily Finance Super NOFA partial awards will not be removed
- HCD awards with federal disbursement deadlines prior to 12/31/2026 will not be removed
- 50 percent of all other HCD awards will be removed

e. Add eligible leverage funds in paragraphs (a) and (b) and subtract those excluded in paragraphs (c) and (d).

f. Divide (e) by total Project development cost and express as a decimal.

3. Additional Cost Containment.

The "additional cost containment" category for the Tiebreaker follows the same methodology as the Cost Containment scoring category above, in Scoring Category G. This factor is calculated by dividing the Project's eligible basis by the Project's adjusted threshold basis limit as illustrated below:

$$\frac{\text{Total Eligible Basis per the Development Budget}}{\text{Adjusted Threshold Basis Limit}}$$

(Per CDLAC Regulation Section 5230)

For purposes of this subdivision, a Project's adjusted threshold basis limit shall be the Project's threshold basis limit, as if it were a 4 percent LIHTC Project, as determined pursuant to Section 10327(c)(5) of the TCAC regulations, except that the increase for deeper targeting pursuant to Section 10327(c)(5)(C) of the TCAC regulations that is multiplied by the unadjusted threshold basis limit shall be limited to 80 percent. Section 10327(c)(5)(C) of the TCAC regulations states that for Projects financed through CDLAC, "an increase of one percent in the threshold basis limits shall be available for every one percent (1%) of the Project's Low-Income and Market Rate Units that will be income and rent restricted at or below 50 percent (50%) but above thirty-five percent (35%) of Area Median Income (AMI). An increase of two percent (2%) shall be available for every 1% of the Project's Low-Income and Market Rate Units that will be restricted at or below 35% of AMI." The Department, however, will only restrict to income levels in 5 percent increments.

Percentages shall not include any percentage points requested or awarded (up to 5 percent) pursuant to the Cost Containment point category. The maximum percentage shall be 25 percent.

Note: Any Sponsor may be subject to future performance penalties if the Project's total eligible basis determined upon construction completion exceeds the revised total adjusted threshold basis limits for the year the Project completes construction (or the original total eligible threshold basis limit if higher) by 40 percent.

The calculation in this paragraph (3) is multiplied by 0.75.

V. Appeals

A. Basis of Appeals

1. Applicants may appeal the Department's written determination that an application is incomplete, has failed threshold review, or has otherwise been determined to provide an insufficient basis for an award (including point scoring and tie breaker).

2. At the sole discretion of the Department, the Department's written determination may include a request for clarifying and/or corrective information. For purposes of this section, "clarifying information" includes information and/or documentation that resolves ambiguities in any application materials that will inform the Department's threshold, scoring and feasibility determinations.

3. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's application (e.g., eligibility, award).

4. Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with the applicable Guidelines and this Multifamily Finance Super NOFA. All decisions rendered shall be made by the Director of the Department or his/her designee. The decision shall be final, binding, and conclusive, and shall constitute the final action of the Department.

5. The appeal process provided herein applies solely to decisions of the Department made pursuant to this Multifamily Finance Super NOFA.

B. Appeal Process and Deadlines

1. **Process:** To file an appeal, Applicants must submit to the Director of the Department or their designee, by the deadline set forth below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed reference to the

area or areas of the application that provide substantiation for the basis of the appeal. Once the written appeal is submitted to HCD, no further information of materials will be accepted or considered thereafter. Appeals are to be submitted to HCD at SuperNOFA@hcd.ca.gov according to the deadline set forth in HCD determination letters.

2. **Filing Deadline:** Appeals must be received by HCD no later than five business days from the date of HCD's threshold review, or initial score letters, as applicable, representing HCD's decision made in response to the application.

C. Decision

Any request to appeal HCD's decision regarding an application shall be reviewed for compliance with the Guidelines and this Multifamily Finance Super NOFA. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of HCD.

VI. Award Announcements and Contracts

A. Award Announcements

HCD will announce Program awards on the Multifamily Finance Super NOFA website.

B. Contracts

Successful Sponsors/Applicants (awardee(s)/Recipient(s)) will enter into one or more Standard Agreements with HCD. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed.

To facilitate efficient processing of Standard Agreements, a condition of the award will be the delivery of a duly adopted and legally sufficient authorizing resolution and any duly filed or adopted organizational documents not included in the application, within sixty (60) calendar days of HCD's issuance of the conditional award letter. The Department has set a goal to deliver Standard Agreements to the Awardee(s) within ninety (90) days following the receipt of these documents. The awardee(s) shall remain a party to the Standard Agreement for the entire term of the Standard Agreement; removal of the awardee(s) without the Department's prior written consent is prohibited and will result in a default.

Once a Project is awarded HCD funds, the Sponsor/Recipient acknowledges and agrees that the completed Project will be substantially the same as what the Sponsor proposed in its application. HCD may nullify the award(s) of a proposed Project that is rendered infeasible through division into separately financed or held portions. Such a Project's awards cannot be transferred or assigned to another Project or Sponsor.

VII. Other State Requirements

The Sponsor/Recipient 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 Rental Housing Development, the Sponsor/Recipient, its contractors or subcontractors, and any loan or grant activity, including without limitation the following:

- MHP Guidelines Section 7314: State and Federal Laws, Rules, Guidelines and Regulations
- VHHP Guidelines Section 303: State and Federal Laws, Rules, Guidelines and Regulations
- FWHG Guidelines Section 303: State and Federal Laws, Rules, Guidelines and Regulations
- IIG Guidelines Section 300: State and Federal Laws, Rules, Guidelines and Regulations

At any time, the Department may seek an opinion of legal counsel that evaluates a Project’s compliance with the nondiscrimination and fair housing laws listed under the above Guidelines’ Sections. The Department may reject an application or decline to fund the Project based on the opinion.

A.B. 1010 (Stats. 2019, Ch. 660) codified at Health and Saf. Code, section 50406 subd. (p) (AB 1010), allows the Department to modify state financing requirements to ensure program compatibility when provisions of tribal law, tribal governance, tribal charter, or difference in tribal entity or agency legal structure would cause a violation or not satisfy the requirements of any state financing. AB 1010 also allows the Department to waive state financing requirements to avoid an unnecessary administrative burden when provisions of tribal law, tribal governance, tribal charter, or difference in tribal entity legal structure or agency create minor inconsistencies with state financing requirements. Tribal Entities are encouraged to submit AB 1010 requests if provisions of tribal law, tribal governance, tribal charter, or difference in tribal entity or agency legal structure would cause the Tribal Entity to fail to satisfy any of the requirements set forth in this NOFA or any of the rules, standards, or criteria set forth in the Designated Program Guidelines.

A. Article XXXIV

All Projects subject to Article XXXIV shall comply with Article XXXIV, Section 1 of the California Constitution, as clarified by the Public Housing Election Implementation Law (PHEIL) (Health & Safety Code, § 37000 - 37002). Article XXXIV documentation for loans underwritten by HCD shall be subject to review and approval by HCD prior to the announcement of award recommendations.

Article XXXIV requires local voter approval before any state public body can develop, construct, or acquire a low-rent housing project in any manner. However, the PHEIL provides clarification as to when Article XXXIV is applicable. HSC section 37001, for example, lists a number of project types that are not considered “low-Rent housing projects.”

Applicants must submit documentation that shows the Project’s compliance with or exemption from Article XXXIV. If a Project is subject to Article XXXIV, the Applicant must submit an allocation letter from the Local Public Entity that shows that there is Article XXXIV authority for the Project. A local government official with authority should prepare the allocation letter, and it should include the following:

1. The name and date of the proposition and the number of Units that were approved,

2. A copy of the referendum and a certified vote tally,

3. The number of Units that remain in the Local Public Entity’s “bank” of Article XXXIV authority (i.e., the number of Units that are still available for allocation); and

4. The number of Units that the Local Public Entity will commit to this Project, including the Manager’s Unit.

If a Project is statutorily exempt from Article XXXIV, then the Applicant must submit an Article XXXIV opinion letter from the Applicant’s legal counsel. The Article XXXIV opinion letter must demonstrate that the Applicant has considered both the legal requirements of Article XXXIV and the relevant facts of the Project (e.g., all funding provided by public bodies, including state, county, or city sources; the number of Low-Income restricted Units; and the general content of any regulatory restrictions). Any conclusion that a Project is exempt from Article XXXIV must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law. For Projects located in Indian country, Tribal Entity applicants are not required to comply with Article XXXIV.

B. California’s Preservation Notice Law

All Applicants, Sponsors, co-Sponsors, owners, and special purpose entities must, at all times, comply with, and not be in violation of, California’s Preservation Notice Law (Gov. Code, §§ 65863.10, 65863.11, 65863.13).

C. Relocation

The Sponsor/Recipient 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 the Designated Program Guidelines section indicated below, and in applicable state and federal law, and shall agree to indemnify and hold harmless HCD from anyliabilities or claims for relocation-related costs. In addition, before Standard Agreements from a Multifamily Finance Super NOFA award will be executed, Sponsor must have either: (1) a Department-approved relocation plan; or (2) a Department-issued Certification Regarding Non-

Application of Relocation Benefits and Indemnification Agreement, which has been duly executed and approved by the Department.

- MHP Guideline Section 7315: Relocation Requirements
- VHHP Guideline Section 304: Relocation Requirements
- FWHG Guidelines Section 304: Relocation Requirements
- IIG Guidelines Section 301: Relocation Requirements

VIII. Other Terms and Conditions

A. Right to Modify or Suspend

HCD reserves the right, at is sole discretion, to suspend, amend, or modify the provisions of this Multifamily Finance Super NOFA at any time, including without limitation, the amount of funds available hereunder. If such an action occurs, HCD will notify all interested parties via HCD's email list and will post the revisions to the IIG website. Please be sand subscribe to HCD's email list here.

B. Conflicts

It is the duty and responsibility of the Applicant and Sponsor to review any funding source they obtain for a Project to ensure each of the requirements for those funding sources are compatible with HCD program requirements

Applicants are deemed to have fully read and to understand all applicable state and federal laws, regulations, and guidelines pertaining to the Designated Programs, and to understand and agree that HCD shall not be responsible for any errors or omissions in the preparation of this Multifamily Finance Super NOFA. In the event of a conflict between the terms of this Multifamily Finance Super NOFA, and any state or federal law, the state or federal law shall prevail and be controlling.