

# **Housing for a Healthy California (Chapter 777, Statutes of 2017) Final Guidelines Amended**



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The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations ... have the dignity of statutes ... [and] ... delegation of legislative authority includes the power to elaborate the meaning of key statutory terms ...

*Ramirez v. Yosemite Water Co.*, 20 Cal. 4th 785, 800 (1999)

Any regulations or guidelines that are adopted, amended, or repealed to implement this part shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Health and Safety Code Section 53598, subdivision (b).

## **INTRODUCTION**

The Housing for a Healthy California (HHC) Program (Program) provides funding that allows the California Department of Housing and Community Development (Department) to provide Supportive housing opportunities through grants to Counties for capital, rental assistance, and operating assistance, or operating reserve grants and capital loans to developers on a competitive basis. The guidelines for the Program are organized into two Articles as follows:

**Article I. National Housing Trust Fund Allocation.** This section includes Program definitions and requirements pursuant to the federal National Housing Trust Fund (NHTF) allocations. The Department will allocate these NHTF funds competitively to developers for operating reserve grants and capital loans.

**Article II. Building Homes and Jobs Trust Fund Allocation.** This section includes Program definitions and requirements pursuant to the Senate Bill 2 (SB 2) Building Homes and Jobs Act. The Department will utilize a portion of monies collected in calendar year 2018 and deposited into the Building Homes and Jobs Trust Fund for the HHC program. The Department will allocate these funds competitively to counties for acquisition, new construction, reconstruction, rehabilitation, administrative costs, capitalized operating subsidy reserves (COSR), and rental subsidies and rental assistance for existing and new Supportive housing opportunities to assist the HHC program's Target Population.

A Notice of Funding Availability (NOFA) will be released for each Article as funds are available.

# Housing for a Healthy California Program Final Guidelines

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## **Article I. National Housing Trust Fund Allocation**

### **Section 100. Purpose and Scope**

- (a) In September of 2017, AB 74 was signed into law. This legislation authorizes the California Department of Housing and Community Development (Department) to develop the Housing for a Healthy California (HHC) Program (Program) to create Supportive housing for individuals who are recipients of, or eligible for, health care provided through the California Department of Health Care Services (DHCS) Medi-Cal program. The goal of the HHC program is to reduce the financial burden on local and state resources due to the overutilization of emergency departments, inpatient care, nursing home stays and use of corrections systems and law enforcement resources as the point of health care provision for people who are Experiencing homelessness, or chronic homelessness, and a High-cost health user. The Department shall coordinate with the DHCS, consistent with state and federal privacy laws, to match Program participant data to Medi-Cal data to identify outcomes among participants, as well as changes in health care costs and utilization associated with housing and services provided under HHC.
- (b) AB 74 directs the Department to utilize federal National Housing Trust Fund (NHTF) allocations for years 2018 - 2021 for the HHC program. Starting in August 2018, and for the next three years, the Department must submit a federal NHTF allocation plan that aligns with federal NHTF and AB 74 requirements. The Department will allocate these NHTF funds competitively to developers for operating reserve grants and capital loans.

In addition to applicable state and federal laws and regulations, these guidelines (hereinafter "Guidelines") implement, interpret, and make specific the HHC program authorized by Part 14.2 (commencing with Section 53590) of Division 31 of the Health and Safety Code.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(2).

### **Section 101. Definitions**

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meaning of terms described in Part 14.2 of Division 31 of the Health and Safety Code (commencing with Section 53590).

- (a) "Applicant" means an organization, agency, or other entity (including a public housing agency, a for-profit entity, or a nonprofit entity) that is an owner or developer as defined by 24 CFR 93.2.
- (b) "Area Median Income" or "AMI" means the most recent applicable county median family income published by the U.S. Department of Housing and Urban Development (HUD).

- (c) “Assisted Unit” means a housing unit that is subject to the NHTF rent and/or occupancy restrictions as a result of the financial assistance provided under the Program.
- (d) “Case Manager” means a social worker or other qualified individual who works with a tenant to offer individualized service planning that is flexible and creative to help the tenant gain housing stability. It includes working in collaboration with the tenant to plan, assess, coordinate, and reassess the tenant’s needs, as well as providing referrals and advocacy, and connecting to community support to meet tenants’ Supportive Services needs. Services include, but are not limited to: tenancy support services, coordination of medical and behavioral health, and substance use disorder treatment, employment services, life skills training, peer support, and crisis management interventions. Resident service coordinators are not Case Managers.
- (e) “Continuum of Care” has the same meaning as 24 CFR Section 578.3.
- (f) “Coordinated Entry System” or “CES” means a centralized or coordinated process developed pursuant to 24 CFR Section 578.7(a)(8) designed to coordinate Program participant intake, assessment, and referrals. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.
- (g) “Department” means the California Department of Housing and Community Development.
- (h) “Development Sponsor” or “Sponsor”, as defined in Section 50675.2 of the Health and Safety Code and subdivision (c) of Section 50669 of the Health and Safety Code, means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian Reservation or Rancheria, or other legal entity, or any combination thereof, certified by the Department as qualified to own, manage, and rehabilitate a rental housing development. A Development Sponsor may be organized for profit, limited profit, or be nonprofit, and includes a limited partnership in which the Development Sponsor or an affiliate of the Development Sponsor is a general partner.
- (i) “Distributions” has the same meaning as under 25 CCR Section 8301.
- (j) “Experiencing chronic homelessness” means a person who is chronically homeless, as defined in 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2018, except that a person who was Experiencing chronic homelessness before entering an institution would continue to be defined as Experiencing chronic homelessness upon discharge, regardless of length of stay.
- (k) “Experiencing homelessness” means a person who is homeless, as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2018.
- (l) “Extremely Low Income” or “ELI” has the same meaning as in 24 CFR 93.2.

- (m) "Federal Housing Trust Fund" has the same meaning as the National Housing Trust Fund (NHTF) established pursuant to the Housing and Economic Recovery Act of 2008 (Public Law 110-289) and implementing federal regulations.
- (n) "Fiscal Integrity" means, for any project for any given period of time during the term specified in the Program's regulatory agreement, that the total Operating Income for such project for such period of time, plus funds released pursuant to the Program documents from the project's operating reserve account(s) during such period of time is sufficient to: (1) pay all current Operating Expenses for such project for such period of time; (2) pay all current mandatory debt service (excluding deferred interest) coming due with respect to such project for such period of time; (3) fully fund all reserve accounts established pursuant to the Program documents for such project for such period of time; and (4) pay other costs permitted by the Program documents for such project for such period of time. The ability to pay any or all the permitted annual distributions for a project shall not be considered in determining the Fiscal Integrity of a project.
- (o) "HHC" means the Housing for a Healthy California Program administered by the Department.
- (p) "High-cost health users" means people who have had either at least three emergency department visits or one hospital inpatient stay over the last year.
- (q) "Housing First" has the same meaning as in Welfare and Institutions Code Section 8255.
- (r) "HUD" means the federal U.S. Department of Housing and Urban Development.
- (s) "Lead Service Provider" or "LSP" means the organization that has the overall responsibility for the provisions of Supportive Services and implementation of the Supportive Services plan. The LSP may directly provide comprehensive case management services or contract with other agencies that provide services.
- (t) "NOFA" means a Notice of Funding Availability.
- (u) "Operating Expense" has the same meaning as in 25 CCR Section 8301.
- (v) "Operating Income" has the same meaning as in 25 CCR Section 8301.
- (w) "Operating Cost Assistance Reserves" has the same meaning as in 24 CFR Section 93.201(e).
- (x) "Permanent housing" means a housing unit where the landlord does not limit length of stay in the housing unit, the landlord does not restrict the movements of the tenant, and the tenant has a lease and is subject to the rights and responsibilities of tenancy, pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

- (y) “Point-in-Time Count” or “PIT” refers to an annual count of sheltered and unsheltered homeless persons on a single night in January.
- (z) “Program” means the Housing for a Healthy California Program.
- (aa) “Project Team” consists of the Applicant, the Lead Service Provider, and the property manager.
- (bb) “Recipient” means an Applicant who has been awarded NHTF funds and has the same meaning as in 24 CFR 93.2. A Recipient must:
  - (1) Make acceptable assurances that it will comply with all NHTF requirements during the entire affordability period;
  - (2) Demonstrate ability and financial capacity to undertake, comply, and manage the eligible activity;
  - (3) Demonstrate familiarity with requirements of state, federal, and any other housing programs used in conjunction with NHTF funds to ensure compliance; and
  - (4) Demonstrate experience and capacity to conduct the eligible NHTF activity in question as evidenced by relevant history.
- (cc) “Rural Area” has the same meaning as in Section 50199.21 of the California Health and Safety Code.
- (dd) “Supportive housing” means housing with no limit on length of stay, that is occupied by the Target Population, and that is linked to onsite or offsite services that assist the Supportive housing resident in retaining the housing, improving his/her health status, and maximize his/her ability to live and, when possible, work in the community.
- (ee) “Supportive Services” means social, health, educational, income support and employment services and benefits, coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits.
- (ff) “Target Population” means a person who is Experiencing homelessness, or chronic homelessness, and a High-cost health user upon initial eligibility, is a Medi-Cal beneficiary, or is eligible for Medi-Cal, is eligible to receive services under a program providing services promoting housing stability, and is likely to improve their health conditions with Supportive housing.
- (gg) “TCAC” means California Tax Credit Allocation Committee.
- (hh) “UMR” means the Uniform Multifamily Regulations commencing with 25 CCR Section 8300 as amended from time to time.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53590 and 53595.

## **Section 102. Minimum Requirements**

The Applicant shall comply with the requirements of HHC and all applicable federal and state laws. To be eligible to receive funding, projects must meet all the following minimum requirements:

(a) Eligible Applicants.

- (1) Owners or developers that meet the Recipient definition in 24 CFR 93.2.
- (2) Applicant with no members of the development team currently federally debarred or suspended.

(b) Financial Feasibility. The project shall meet the requirements of Sections 105 and 106 and must prove Fiscal Integrity.

(c) Experience. Collectively, among the members of the Project Team, all the following minimum experience requirements must be met:

- (1) Development, ownership, or operation of at least two permanent Supportive housing projects, or at least two affordable rental housing projects, in the last five years.
- (2) The Lead Service Provider, which may be the County, or a qualified contracted agency, shall have three or more years of experience serving persons who qualify as members of the Target Population, and includes comprehensive case management in Supportive housing, and can include scattered site housing.
- (3) The property manager shall have three or more years of experience serving persons who qualify as members of the Target Population in Supportive housing.
- (4) Experience must be documented through contracts with public agencies, housing owners, or foundations for services provided to at least 10 households at any one time in either housing projects subject to agreements with public agencies restricting rent and occupancy, or through tenant-based housing assistance programs. If the Lead Service Provider is not part of the ownership entity, the Applicant must have a written agreement with the Lead Service Provider to implement the Supportive Services plan and submit this agreement along with the application for funding. Only the Lead Service Provider may enter into written agreements for services under the provisions of the Supportive Services plan. All service providers must have a written agreement with the Lead Service Provider prior to commencement of services.

(d) Site Control. The Applicant must have site control of the proposed project that meets the requirements of the UMR 25 CCR Section 8303, which requires the Applicant to

have site control of the proposed project property, in the name of the Applicant or an entity controlled by the Applicant. The ownership interest may be demonstrated by fee title, a leasehold interest, an enforceable option to purchase, a disposition and development agreement, an agreement giving the Applicant exclusive rights to negotiate for acquisition, or a land sales contract. This includes compliance (if applicable) with UMR 25 CCR Section 8316 for a leasehold interest in the property.

- (e) Integration. Proposed projects must demonstrate integration of the Target Population with the general public. In order to demonstrate compliance with this requirement, the following conditions must all be met:
- (1) Assisted Units must be integrated with other units in the project and not separated onto separate floors or areas of the building;
  - (2) To promote integration of the Target Population with other project tenants, in projects of greater than 20 units, the Department will fund no more than 49 percent of the project's total units as Assisted Units. This limitation shall not be interpreted to preclude occupancy of any project units by persons with disabilities or restrictions by other funding sources, including, but not limited to, TCAC, that result in more than 49 percent of the total project units being restricted to the Target Population. It shall also not apply to projects complying with alternative requirements for demonstrating Olmstead compliance adopted by local jurisdictions and approved by the Department;
  - (3) Applicants must certify that they will facilitate or provide regular community building activities and architectural design features that promote tenant interaction. For example, indoor and outdoor community space within the project, and wide hallways as feasible, depending on the scope of the construction activity; and
  - (4) The Supportive Services plan and property management plan, submitted with the application, must document policies that promote participation by tenants in community activities and impose no restriction on guests that are not otherwise required by other project funding sources, or would not be common in other unsubsidized rental housing in the community.
- (f) Article XXXIV. All projects shall comply with Article XXXIV Section 1 of the California Constitution, as clarified by Public Housing Election Implementation Law (H&S Code Section 37000 et seq). Article XXXIV documentation for loans underwritten by the Department shall be subject to review and approval by the Department prior to the execution of the Department's Standard Agreement.
- (g) Scattered Site Housing. Projects are permitted to be on scattered sites provided that all of the below conditions are satisfied prior to the closing of the loan. The requirements of this section shall be interpreted in a manner consistent with the requirements of 25 CCR Section 8303(b) pertaining to scattered site housing.
- (1) All project sites in the rental housing development must have a single owner, Lead Service Provider, and property manager;

- (2) All project sites shall be governed by one set of Program documents, which, among other things, shall include similar tenant selection criteria, serve similar tenant populations, and have similar rent and income restrictions;
  - (3) If the rental housing development has an operating reserve, there shall only be one operating reserve for all sites in the project;
  - (4) There may be at most one lender with required payments senior to the Department's loan;
  - (5) There must be a single audit and annual report that covers all project sites;
  - (6) The Sponsor's obligations under the Department's Program documents must be secured by all project sites, with lien priority relative to local public agency lenders determined in accordance with 25 CCR Section 8315, and use of cash flow available for residual receipts loan payments determined in accordance with 25 CCR Section 8314; and
  - (7) The Department must be named on insurance policies covering all project sites, with coverage meeting Department requirements.
- (h) Environmental Conditions. All project sites must be free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove and that cannot be mitigated. See 24 CFR 93.301(f).
- (i) Federal, State and Local Requirements. All Assisted Units and other units of the project must be on a permanent foundation and must meet all applicable federal, state, and local requirements pertaining to rental housing, including, but not limited to, requirements for minimum square footage and requirements related to maintaining the property in a safe and sanitary condition.
- (j) Amenities. All project sites must involve a development site that has reasonable accessibility to public transit, public schools, public parks or other public recreational facilities, and is of reasonable proximity to services and amenities for the purposed tenant population as is typically available in that county. The development site must also be within reasonable proximity to employment opportunities available to the tenant population. The development must consider the hours that the services and amenities are available and the frequency, travel time, and cost of transportation to the tenants. The criteria used to establish reasonable accessibility and reasonable proximity are specified in Section 111(h) of the Guidelines.
- (k) Stacking Unit-Based Subsidies.
- (1) The Department does not allow stacking of multiple Department Development Funding Sources on an HHC Assisted Unit. Capitalized operating subsidy reserves or operating assistance is allowed for all units. The prohibition of subsidy stacking in HHC refers to the use of multiple funding sources on a single

HHC-assisted unit. "Department Development Funding Sources" shall mean loan or grant funds awarded for permanent funding of development costs under the following programs:

- a. Multifamily Housing Program
- b. Supportive Housing Multifamily Housing Program
- c. Veterans Housing and Homelessness Prevention Program
- d. No Place Like Home Program, including funds awarded either by the Department or an Alternative Process County
- e. Affordable Housing and Sustainable Communities Program Affordable Housing
- f. Development loan, except for grants for infrastructure, transportation-related amenities and Program costs
- g. Transit Oriented Development Program rental housing development loans, except for grants for infrastructure
- h. Joe Serna, Jr. Farmworker Housing Grant Program
- i. SB 2 Farmworker Housing Program
- j. National Housing Trust Fund Program

(2) As an exception to this Subsection (k)(1), a previously Department Assisted Unit is eligible for funding assistance from other Department programs upon resyndication, or 14 years from the Placed-in-Service date noted on the TCAC form 8609 (Placed in Service Package).

(l) Relocation. The Applicant of any project resulting in displacement of tenants shall be solely responsible for providing the assistance and benefits set forth in this subsection, and in applicable federal, state, and local law, whichever is more stringent.

(1) All tenants of a property who are displaced as a direct result of the development of an HHC project shall be entitled to relocation benefits and assistance as provided in 24 CFR 93.352.

(2) The Applicant shall prepare a relocation plan conforming with the provisions of 24 CFR 93.352. For loans underwritten by the Department, the relocation plan or other relocation documentation shall be subject to the review and approval by the Department prior to the beginning of construction.

(m) Applicant must comply with 2 CFR Part 200.

(n) Application shall be on forms made available by the Department. In addition, applications must contain:

- (1) A resolution from the Applicant's governing board to apply for NHTF funds for a requested amount that does not exceed the amount authorized.
- (2) A memorandum of understanding or commitment letter from either the Lead Services Provider or a County department to make available to the

project's HHC tenants case management and Supportive Services from one of the following:

- a. County's Whole Person Care Pilot,
  - b. Health Homes Program,
  - c. Managed care organization, or
  - d. Other community-based health care services.
- (3) A certification that residents of the housing development will be authorized to own or otherwise maintain one or more common household pets pursuant to the Pet Friendly Housing Act of 2017 (California Health & Safety Code, Section 50466).
- (4) An initial plan for providing Supportive Services based on the anticipated needs of the Target Population proposed to be served by the project must meet the requirements outlined in Section 112.
- (5) A property management plan that:
- a. Utilizes a low-barrier tenant selection process;
  - b. Accepts referrals of those with the highest needs for available housing;
  - c. Implements Housing First practices, consistent with the core components set forth in Welfare and Institutions Code Section 8255(b);
  - d. Implements policies and practices to prevent evictions and to facilitate the implementation of reasonable accommodation policies;
  - e. Implements policies and practices of trauma-informed care and harm reduction to prevent evictions; and
  - f. Implements policies and practices that comply with the Violence Against Women Act (Title VI-Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – Section 601 – 603 and 81 CFR 80724).

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

### **Section 103. Uses and Terms**

- (a) NHTF funds will be limited to the eligible uses described in 24 CFR 93.200 and 93.201.
- (1) Loans for acquisition and/or new construction.
- a. NHTF loans shall be used in accordance with 24 CFR Part 93 Subpart E.
  - b. Proposed projects involving new construction and requiring the demolition of existing residential units are eligible only if the number of bedrooms in the new project is at least equal to the total number of bedrooms in the demolished structures. The new units may exist on separate parcels provided that all parcels are part of the same project and meet the requirements of scattered site housing described in Section 102(g).
  - c. The total amount of NHTF assistance shall not exceed the maximum per-unit development subsidy amount established by the Department as stated in the NOFA.

- d. HHC loans shall be secured by the project's real property and improvements and subject only to liens, encumbrances and other matters of record approved by the Department, consistent with 25 CCR Section 8315. Projects with ground leases shall be subject to 25 CCR Section 8316.
- e. HHC assistance provided as post-construction permanent loans shall have an initial term of 55 years or longer to match the period of affordability restrictions under the tax credit program, commencing on the date of recordation of the HHC loan documents.

- (2) Grants for project-based operating assistance in the form of a Capitalized Operating Subsidy Reserve (COSR).

The project's COSR will be for at least 15 years to pay for operating costs of an apartment or apartments receiving capital funding to provide Supportive housing to the Target Population.

- (b) Maximum per-unit loan amounts for loans underwritten by the Department shall be published annually for each NOFA and determined as follows:

- (1) Maximum per-unit loan amounts shall not exceed the total eligible costs required, when considered with other available financing and assistance, in order to:
  - a. Enable the funds to be used for the eligible uses;
  - b. Ensure that rents for Assisted Units comply with Program requirements; and
  - c. Operate in compliance with all other Program requirements.
- (2) The capital portion of the loan amount is further limited to the sum of a base amount per Assisted Unit, plus the amount per Assisted Unit required to reduce rents from 30 percent of the 30 percent of AMI level to the actual maximum restricted rent for the Assisted Unit, with loan limits increasing based on the level of affordability provided.
- (3) For loan limit calculations, the Department shall include the number of Assisted Units within a rental housing development and the number of bedrooms per Assisted Unit.
- (4) For Assisted Units receiving rental assistance under renewable rental subsidy contracts, the loan amount will be based on the most restrictive level of income restriction that will apply following the closing of the Program loan.
- (5) Initial base amounts for the portion of the loan that does not include a COSR are set pursuant to the Department's Annual Action Plan.
- (6) The COSR portion of the loan shall be determined pursuant to the requirements of Section 108.
- (7) Beginning January 2020, the amounts in subparagraph (5), above, will be adjusted annually based upon increases in the Consumer Price Index. The maximum per-unit amounts for loans underwritten by the Department shall be updated annually and published in the NOFA.

- (c) Recipients shall ensure that all Assisted Units meet all applicable federal and state property standards. Compliance with 24 CFR 93.301(a)(1) and (2) must be maintained for the duration of the affordability period of 55 years, except projects developed on Indian Reservation or Native American lands, which will be for at least 50 years.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

#### **Section 104. Loan Terms**

(a) HHC loans shall have the following terms:

- (1) They shall bear simple interest at the rate of 3 percent per annum on the unpaid principal balance, unless the Department reduces this rate pursuant to Health and Safety Code Section 50406.7. Interest shall accrue from the date funds are disbursed to, or on behalf of, the borrower.
- (2) Pursuant to 24 CFR section 93.204(b)(1), the Department will charge fees to cover the cost of ongoing monitoring and physical inspection of NHTF rental projects during the state period of affordability and as determined in the NOFA.
- (3) Except for the required monitoring fee payment, and if the borrower is not in default, the Department shall permit the deferral of accrued interest for the term of the loan.
- (4) The Department may require a third-party tax professional to verify the necessity for reducing the interest rate below 3 percent, the cost of which shall be borne by the Sponsor.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

#### **Section 105. Occupancy and Income Requirements**

- (a) Household income shall be determined in accordance with the rules in 24 CFR 93.151. At the time of move-in, household income shall not exceed the established Extremely Low Income (ELI) limits, or families with incomes at or below the poverty line (whichever is greater), pursuant to 24 CFR 93.250(a). Income levels shall be expressed in 5 percent increments as a percentage of AMI. The income limits are posted on the Department's website. Assisted units will be restricted per the income limits set forth in the Project Regulatory Agreement.
- (b) The Recipient shall maintain documentation of tenant-income eligibility and how they meet the requirements for the Target Population the following ways, as applicable:
- (1) Documentation of enrollment in, or eligibility for, Medi-Cal benefits.

- (2) Documentation of a person's status as Experiencing chronic homelessness could be captured through any of the following:
  - a. A client's entry and exits documented in a Homeless Management Information System;
  - b. An outreach worker or Case Manager's written observations; or
  - c. A client's self-report of episodes of Experiencing homelessness and disability status. Such reports must be done in accordance with procedures established through the local Coordinated Entry System or other procedures established by the County for determining whether a person qualifies as Experiencing homelessness, or chronic homelessness, and High-cost health user.

- (3) Documentation of a person's status as a High-cost health user could be captured through any of the following:
  - a. Discharge summaries; or
  - b. An outreach worker's, case manager's, or local County's health department written observations.

(c) Occupancy requirements shall apply for the full term of the regulatory period.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

### **Section 106. Rent Limits**

(a) Assisted Unit rent will be restricted in accordance with the NHTF rent and income limits in 24 CFR 93.302.

- (1) ELI tenants. The rent plus utilities of an ELI tenant shall not exceed the greater of 30 percent of the federal poverty line, or 30 percent of the income of a family whose annual income equals 30 percent of the median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit. HUD will publish the NHTF rent limits on an annual basis. Rents will be further restricted in accordance with rent and income limits submitted by the Sponsor in its application for the Program loan, approved by the Department, and set forth in the Regulatory Agreement.

(b) The income of each tenant must be determined initially in accordance with 24 CFR 93.151. In addition, in each year during the period of affordability (up to 55 years), the project owner must reexamine each tenant's annual income in accordance with one of the options in 24 CFR 93.151(c), selected by the Recipient, and as identified in the tenant selection plan.

(c) Over-income tenants. Assisted Units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with 24 CFR Part 93.302(g) until the noncompliance is corrected.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

### **Section 107. Underwriting Standards**

(a) In analyzing feasibility, the Department shall follow the underwriting requirements of its UMRs commencing with 25 CCR Section 8300, and/or federal NHTF regulations, including the following:

- (1) 25 CCR Section 8303 (Site Control Requirements and Scattered Site Projects);
- (2) 24 CFR 93.201(e) (Operating Cost Assistance and Operating Cost Assistance Reserves);
- (3) 25 CCR Section 8309 (Replacement Reserves);
- (4) 25 CCR Section 8310 (Underwriting Standards) and 24 CFR 93.300(b). The more strict requirements shall apply;
- (5) 25 CCR Section 8311 (Limits on Development Costs);
- (6) 25 CCR Section 8312 (Developer Fee);
- (7) 25 CCR Section 8314 (Use of Operating Cash Flow), and 24 CFR Part 93. The stricter requirements shall apply; and
- (8) 25 CCR Section 8315 (Subordination Policy).

(b) Where there is a difference between the provisions of the UMRs and these Guidelines, the provisions of these Guidelines shall prevail.

(c) Notwithstanding the above, residential stabilized vacancy rates for Assisted Units shall be assumed to be 10 percent, unless use of a lower or higher rate is required by another funding source, including TCAC, or is supported by compelling market data or other evidence.

(d) In addition to the operating reserve required by 25 CCR 8308, a Sponsor may establish a COSR for the Assisted Units meeting the requirements of Section 108.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(2).

### **Section 108. Capitalized Operating Subsidy Reserves**

NHTF grant funds may be used to pay for COSR with the following conditions:

- (a) For projects, not more than 100 percent of the total per-unit amount for capital determined pursuant to Section 103 may be provided per unit for a COSR to address project operating deficits attributable to the Assisted Units.

- (b) The operating reserves shall be sized to cover anticipated operating deficits attributable to the Assisted Units for a minimum of 15 years. The total amount of each project's operating reserves will be determined based upon the individual project underwriting performed by the Department pursuant to the requirements of these Guidelines.
- (c) In determining how to size each project's COSR, the Department shall consider individual project factors, such as: the maximum percentage of Assisted Units it will assist; the anticipated project vacancy rates; the anticipated percentage of Assisted Units that will have other operating or rental subsidy, and the term of that operating or rental subsidy contract, and anticipated tenant incomes.
- (d) The following standard assumptions will be used for establishing the total amount of the project COSR. The Department may modify these assumptions as necessary to maintain project feasibility or extend the term of the COSR.
  - (1) All Assisted Units, other than the proportionate share of the manager's unit, shall be counted in calculating the amount of the COSR. An Assisted Unit receiving other rental assistance may receive assistance from the COSR.
  - (2) The stabilized residential vacancy rate for the Assisted Units shall be assumed to be 10 percent, unless use of a lower or higher rate is required by another funding source, including TCAC, or is supported by compelling market or other evidence.
- (e) Notwithstanding the above, in order to sustain the availability of the operating reserves for a minimum of 15 years, distributions from the COSR shall be subject to: The Department may not disburse more than 5 percent of the total COSR to a project per year, except that in any given year where the operating deficit attributable to the Assisted Units exceeds this amount, the Department may, in its sole discretion, increase the disbursement to up to 7 percent of the total COSR, in accordance with the operating reserves limits and applicable review processes;
- (f) Asset management and partnership management fees and deferred developer fees shall only be paid in accordance with the requirements of Section 107.
- (g) In accordance to 24 CFR 93.201(e)(1), Operating Expenses that are eligible to be paid from the COSR include:
  - (1) Insurance
  - (2) Utilities
  - (3) Real property taxes
  - (4) Maintenance
  - (5) Scheduled payments to a reserve for replacement of major systems

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(2).

### **Section 109. Award Limits**

- (a) The maximum loan limit per Applicant is \$20 million. The limit on the amount that can be used for the COSR will be one third of the total loan amount, in accordance with 24 CFR 93.200(a)(1).
- (b) NHTF funding will be made available to all jurisdictions in California. Pursuant to the Department's Annual Plan, the Department will set aside at least 20 percent of the funding for projects located in Rural Areas. In the event no projects target the 20 percent set-aside for projects located in Rural Areas, funds will be distributed according to the distribution methods of 24 CFR 91.320(d) and (k).

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(2).

### **Section 110. Application Process**

- (a) Contingent upon an annual federal NHTF allocation, the Department shall issue a competitive NOFA for NHTF funding that specifies, among other things, the amount of project funds available, any restrictions on uses of funds, general terms and conditions of funding applications, minimum requirements, timeframe for submittal of applications, application requirements, and rating metrics. Application requirements include, but are not limited to, the following:
  - (1) Identification of Applicants;
  - (2) Information on the proposed project;
  - (3) Adequate information to determine Applicant's eligibility;
  - (4) Adequate information to determine project's eligibility;
  - (5) Certification of compliance with federal and state requirements;
  - (6) Resolution by the governing board authorizing the application and execution of all documents;
  - (7) Adequate information to determine Applicant's experience;
  - (8) Site control;
  - (9) Compliance with the state's policy on Housing First;
  - (10) Project readiness to proceed;
  - (11) A Supportive Services plan, including staff-to-client ratio (1:20);

- (12) Commitment of services funding; and
  - (13) Adequate information to determine the project's feasibility.
- (b) Applications shall be on forms made available by the Department.
- (c) Applications shall be evaluated for compliance with the minimum requirements set forth in Section 102 and will be rated and ranked in accordance with the criteria outlined in Section 111. Applicants that do not meet the minimum requirements will be rejected and will not be rated. Applicants will be subject to the appeal process as detailed in the NOFA.
- (d) If requesting a COSR, the Applicant must comply with the requirements in Section 108 of these Guidelines.
- (e) The Department reserves the right to do the following:
- (1) Score an application as submitted in the event information is missing from the application; and
  - (2) Request clarification of unclear or ambiguous statements made in an application, and other supporting documents, when doing so will not impact the competitive scoring of the application. No additional information may be introduced into the application documentation.
- (f) Applications selected for funding shall be approved at amounts, terms, and conditions specified by these Guidelines and the NOFA.
- (g) Each project must achieve the minimum scores in the Development Team Experience, Supportive Services plan, and Readiness to Proceed scoring categories, as follows:
- (1) Development Team Experience: 18 points
  - (2) Supportive Services plan: 10 points
  - (3) Readiness to Proceed: 15 points

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

### **Section 111. Application Selection Criteria**

The criteria detailed below and summarized in the following table shall be used to rate applications. In the event of tied point scores, the following tiebreakers shall be used to determine which project is selected for funding, in the order listed:

- (1) The Readiness to Proceed point score, pursuant to Section 111(f) of these Guidelines; and

- (2) The Supportive Services plan point score, pursuant to Section 111(c) of these Guidelines

	<b>Maximum Applicable Points</b>
<b>Development Team Experience</b>	
Developer Experience	10
Applicant Ownership	5
Property Management	5
Lead Service Provider	15
<b>Total Development Team Experience</b>	<b>35</b>
Supportive Housing Units	25
Supportive Services plan	25
Utilization of Funds to Offset Requests	10
Leverage of Rent/Op Subsidies	15
Readiness to Proceed	30
Confirmation of Local Need	5
Location Efficiency and Access to Destinations	5
<b>TOTAL APPLICABLE POINTS</b>	<b>150</b>

- (a) Development Team Experience (35 points maximum). The Applicant must achieve a minimum of 18 points from this section to receive an award.

(1) Developer Experience (10 points maximum)

- . Applications will be scored based on the number of affordable rental housing developments completed by the project developer over the past five years, including Supportive housing projects completed in the last three years serving persons similar to the Target Population. Applicant should address whether these projects were completed timely and within budget. Delays and cost overruns should be explained.
- . Two points will be awarded for each completed development that was timely and within budget, up to a maximum of 10 points.

(2) Applicant Ownership and Operations Experience (5 points maximum)

- . Applications will be scored based on the experience of the Applicant in owning or operating (under a long-term master lease or similar arrangement) supportive and/or affordable rental housing developments.
  - . The Applicant's experience includes the experience of its affiliated entities or principals (including management-level staff), but not the experience of board members. If there are multiple entities that comprise the ownership entity of the proposed project, the score will be based on the experience of the entity with a controlling interest in the ownership entity and a substantial and continued role in the project's operations, as evidenced in the ownership entity's legal documents.
- c. One-half point will be awarded for each affordable housing project, and one point will be awarded for each Supportive housing project, up to a maximum of five points.

- (3) Property Manager Experience (5 points maximum)
  - a. Applications will be scored based on the number of affordable and Supportive housing developments managed by the designated property management agent at the time of application. One-half point will be awarded for each affordable housing development, and one point will be awarded for each Supportive housing development, up to a maximum of five points.
  - b. Points will be awarded for Supportive housing developments that have been in operation for at least two years with units restricted to people Experiencing homelessness.
  
- (4) Lead Service Provider Experience (15 points maximum)
  - a. Points will be awarded for experience in the last five years providing comprehensive case management and tenancy support to people Experiencing homelessness, and for demonstrated expertise working with the Target Population.
  - b. Experience must be documented through contracts with public agencies, housing owners, or foundations, for services in housing projects with at least 10 units subject to agreements with public agencies restricting rent or occupancy to people Experiencing homelessness persons or households, or in publicly funded tenant-based housing assistance programs serving at least 10 members of the Target Population.

Points will be awarded for the following:

1. Years of experience in permanent Supportive housing (3 points maximum).
  - i. One to two years (1 point)
  - ii. Three years to four years (2 points)
  - iii. Five years or more (3 points)
2. Number of projects or contracts in permanent Supportive housing (3 points maximum).
  - i. One to two projects (1 point)
  - ii. Three to four projects (2 points)
  - iii. Five or more projects (3 points)
3. Years of experience serving the Target Population (3 points maximum).
  - i. One to two years (1 point)
  - ii. Three years to four years (2 points)
  - iii. Five years or more (3 points)
4. Experience providing comprehensive case management, where members of the Target Population were at least 20 percent of the Lead Service Provider's clients during the years for which points are sought in any of the following (two points for either of the following):
  - i. Permanent Supportive housing restricted to members of the Target Population; or
  - ii. Permanent Supportive housing not restricted to members of the Target Population, with documented experience providing homeless services with documented retention rates of at least 85 percent after 12 months.

To receive points under subsection i. or ii. above, the Lead Service Provider must have current staff expertise and organizational experience:

- i. Connecting members of the Target Population and/or individuals Experiencing homelessness with community-based health care services, including linkage to primary care services and behavioral health care; and
  - ii. Staff expertise and experience must be documented through resumes, job descriptions, contracts, staff training descriptions, and letters from Continuums of Care or other Supportive Services organizations.
- . Experience of a partner agency if the following conditions are satisfied (2 points):
- i. An executed agreement between the two agencies must be submitted with the application for HHC assistance; and
  - ii. The agreement must have a term of at least five years and detail the cultural competency services to be provided by the partner agency. These services must include:
    - . Technical assistance with program development;
    - . Training and mentoring of Lead Service Provider leadership and staff for the proposed project;
    - c. Assistance with hiring project staff;
      - . Assistance with developing community linkages;
      - . Other technical assistance as needed; and
    - f. An agreement to provide services to members of the Target Population residing in the project that are referred by the Lead Service Provider.
- . Documented success in meeting or exceeding specified outcome measures for housing stability under a government contract for at least two years as a Lead Service Provider in Permanent Supportive housing serving persons Experiencing homelessness. (2 points)

(b) Supportive Housing (25 points maximum).

- (1) Applications will be scored based on the percentage of total project units restricted as Supportive housing in accordance with the table in subsection (2) below.

- (2) To receive any points in this category, a minimum of 5 percent of total project units must be restricted as Supportive housing.

The scoring table is as follows:

Percentage of Total Project Units Restricted as Supportive Housing	Points
5%	5
10%	9
15%	13
20%	17
25%	21
30% or more	25

- (c) Supportive Services Plan (25 points maximum). The Applicant must achieve a minimum of 10 points from this section to receive an award.

- (1) Applications for projects will be scored based on the following:

- . Quality and Quantity of Services (7 points maximum)
  1. The services provided are of appropriate quality and quantity for the Target Population. (2 points)
  - . Staff experience, credentials, and job duties include appropriate skills in cultural competency. (2 points)
  - . The service delivery model, tailored to persons Experiencing homelessness impacted with one or more chronic health or behavioral health conditions, that includes, but is not limited to, the following: (3 points)
    - i. Use of a critical time intervention or assertive community treatment model
    - ii. Cognitive behavioral therapy
    - iii. Trauma-informed care
    - iv. Motivational interviewing and other tools to encourage engagement in services
    - v. Other practices recognized as evidenced-based by the Substance Abuse and Mental Health Services Administration (SAMHSA), DHCS, HUD, or other federal or state public agencies
  - . The accessibility of services, whether they are on-site or in close proximity to the project, including the hours they are available, and the frequency, travel time and cost of transportation required to access them, including both public transportation and private transportation services (e.g., van owned by the provider), and how the service provider will assist in the expense of public transportation (e.g., provide tokens, negotiate discounts, provide their own shuttle service, etc.). (2 points)
- c. Adherence to Section 113, Housing First principles in the provision of services, including provision of flexible services that facilitate Permanent housing access and housing stability. (2 points)
  - . The degree to which the physical building space supports social interaction, the provision of services and ensures the safety of all residents, especially those more vulnerable, such as persons with a history of trauma, children, elderly, etc. (1 point)

- . The levels of linkages with local systems for ending homelessness and community-based health care resources for members of the Target Population, including: (5 points)
    1. Participation, verified by the local Continuum of Care, in a local CES that is fully established.
      - . The degree of coordination with primary care providers, behavioral health providers, and health care facilities.
- (2) Resident Involvement (3 points maximum)  
Points will be awarded based on the quality of:
- a. Strategies to engage residents to encourage participation in services (1 point);
  - b. Strategies to engage residents in services planning and operations (1 point); and
  - c. Tenant satisfaction surveys to inform and improve services, building operations, and property management. (1 point)
- (3) The adequacy of the services budget and the reliability over time of services funding (5 points maximum)  
Points will be awarded based on:
- a. The adequacy and accuracy of budgeted income sources, and uses and the consistency of these amounts with other sections of the services plan. (1 point)
  - b. The completeness, accuracy, specificity and clarity of the budget document. (1 point)
  - c. The extent to which the major services funding sources have been accessed by the designated service providers or Applicant in the past. (1 point)
  - d. The track record of the Applicant and providers in filling gaps in services funding left by the loss of major funding sources. (1 point)
  - e. The percentage of the total services budget that is committed at the time of application. (1 point)

(d) Utilization of Funds to Offset Requests (10 points maximum)

- (1) Applications will be scored based on the ratio of permanent affordable development funding attributable to Assisted Units from sources other than NHTF to the requested NHTF loan amount. Deferred developer fees and funds deposited in a reserve to defray scheduled operating deficits will not be counted in this computation. Land donations will be counted where the value is established by a current appraisal.
- (2) For projects utilizing 9 percent competitive low-income housing tax credits, 0.375 points will be awarded for each full 5 percentage point increment above 50 percent. For example, an application proposing other funds equal to 100 percent of the NHTF funds will receive 3.75 points. An application where other funds equal 250 percent of NHTF funds will receive 10 points.
- (3) For other projects not utilizing 9 percent competitive low-income housing tax credits, 0.75 points will be awarded for each 5 percent point increment

above 50 percent. For example, an application proposing other funds equal to NHTF funds will receive 7.5 points, and an application where other funds equal 150 percent of NHTF funds will receive 10 points.

(e) Leverage of Rental or Operating Subsidies (15 points maximum)

- (1) Applications will be scored based on the percentage of Assisted Units that either:
  - a. Have committed project-based rental or operating subsidies substantially similar in terms to project-based housing choice vouchers to indicate a high likelihood of receiving similar funding for the proposed project; or
  - b. Are restricted to rents not exceeding 30 percent of household income, with project feasibility determined based on the assumption that rents will be affordable to tenants of existing projects targeting populations Experiencing homelessness, as specified in the HHC application.
- (2) Project-based housing choice vouchers will be deemed committed if they have been allocated to the project and approved by HUD, or if the Department approves other evidence that they will reliably be available (such as a letter from the housing authority committing to project-based housing choice vouchers to the project).
- (3) One point will be awarded for each 5 percent point increment, up to a maximum of 15 points.

(f) Readiness to Proceed (30 points maximum). The Applicant must achieve a minimum of 15 points from this section to receive an award.

The Supportive Services must be fully implemented and available for use by the tenant at the time of occupancy. Points will be awarded as shown below to projects for each of the following circumstances as documented in the application. Any application demonstrating that a particular category is not applicable to project readiness for the subject project shall be awarded points in that category.

- (1) Obtained enforceable commitments for all construction financing, not including tax-exempt bonds, low-income housing tax credits, and funding to be provided by another Department program. Other Department funds must be awarded prior to the application deadline. (5 points)
- (2) Completion of the California Environmental Quality Act, if necessary, and not entitled to a streamlined review under AB 2162, and
  - a. Phase I Environmental Site Assessment (ESA-ASTM) for projects with NHTF only, or
  - b. If any other federal funding sources are utilized, the project must complete a Phase I Environmental Site Assessment with the National Environmental Policy Act. (5 points)

- (3) Obtained all necessary and discretionary public land use approvals, except building permits and other ministerial approvals, or documented to be an eligible project under AB 2162. (5 points)
- (4) 5 points will be awarded if either:
  - a. The Applicant has fee title ownership to the site or a long-term leasehold securing the site meeting the criteria for HHC site control; or
  - b. The Applicant can demonstrate that the working drawings are at least 50 percent complete, as certified by the project architect;
- (5) Obtained local design review approval to the extent such approval is required. (5 points)
- (6) Obtained commitments for all deferred-payment financing, grants and subsidies, in accordance with TCAC requirements and with the same exceptions as allowed by TCAC. Deferred payment financing, grant funds, and subsidies from other Department programs must be awarded prior to application deadline. (5 points)

(g) Local Need (5 points maximum)

More than 400 individuals are Experiencing homelessness in the Applicant's geographic jurisdiction using the latest PIT count and as stated in the NOFA.

(h) Location Efficiency and Access to Destinations (5 points maximum)

Location Efficiency and Access to Destinations refers to reasonable access and proximity to amenities, services, and public transportation that allows members of the Target Population to have choices in accessing resources for independent living.

Points may be awarded cumulatively across the categories below up to a total of five points. Applicants must provide a map demonstrating proximity for items (1) and (2) to be eligible for the respective points.

- (1) Projects located where there is a rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop within one-half mile (one mile for Rural Areas) from the site, with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7 a.m. - 9 a.m., and 4 p.m. – 6 p.m., Monday through Friday. (1 point)
- (2) Projects that provide a map highlighting the location of the existing and operational services within one-half mile of the project area (two miles for Rural Areas), as follows:
  - a. (1 point) Grocery store which meets the CalFresh Program requirements;
  - b. (1 point) Medi-Cal clinic that accepts Medi-Cal payments;
  - c. (1 point) Public elementary, middle or high school; and
  - d. (1 point) Licensed child care provider.

(i) Applicants will be subject to the appeal process as detailed in the NOFA.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

## **Section 112. Supportive Services**

- (a) Each application must include a project-specific Supportive Services plan. This plan is to be developed by the Lead Service Provider and the property manager and shall include information listed in (c) and (d) of this section. Recipients must utilize a Lead Service Provider.
- (b) The property management staff and service providers must make participation in Supportive Services by HHC tenants voluntary. Access to or continued occupancy in housing cannot be conditioned on participation in services or on sobriety. The Supportive Services plan must describe the services to be made available to HHC tenants in a manner that is voluntary, flexible and individualized, so HHC tenants may continue to engage with Supportive Services providers, even as the intensity of services needed may change. Adaptability in the level of services should support tenant engagement and housing retention.
- (c) Using evidence-based models, the following Supportive Services shall be made available to HHC tenants based on tenant need. Except as otherwise noted below, the following required services shall be provided onsite at the project or offsite at another location easily accessible to tenants, with the majority of case management services offered on-site:
  - (1) Assistance accessing and linking tenants to Medi-Cal enrollment, and enrollment in other benefits the tenant may be eligible for;
  - (2) Case management;
  - (3) Peer support activities;
  - (4) Support in linking to behavioral health care, such as assessment, crisis counseling, individual and group therapy, and peer support groups;
  - (5) Support in linking to primary care services, including access to routine and preventive health and dental care, medication management, and wellness services;
  - (6) Benefits counseling and advocacy, including assistance in accessing Supplementary Security Income/State Supplemental Payment (SSI/SSP);
  - (7) Basic housing retention skills (such as unit maintenance and upkeep, cooking, laundry, working with a landlord, getting along with neighbors, and money management); and
  - (8) Services for persons with co-occurring mental and physical disabilities or co-occurring mental and substance use disorders not listed above.

The following Supportive Services are not required to be made available but are encouraged to be part of a project's Supportive Services plan.

- (1) Recreational and social activities;
- (2) Educational services, including assessment, GED, school enrollment, assistance accessing higher education benefits and grants, and assistance in obtaining reasonable accommodations in the education process;
- (3) Employment services, such as supported employment, job readiness, job skills training, job placement, and retention services, or programs promoting volunteer opportunities for those unable to work; and
- (4) Obtaining access to other needed services, such as civil legal services, or access to food and clothing.

(d) The following additional information shall be provided in the Supportive Services plan:

- (1) Description of the Target Population to be served and identification of any additional subpopulation target or occupancy preference for the HHC project that the Applicant wishes to undertake beyond what is permitted under the Target Population requirements. Any additional subpopulation targeting or occupancy preference for the HHC project must be approved by the Department prior to construction loan closing and must be consistent with federal and state fair housing requirements;
- (2) Description of tenant outreach, engagement, and retention strategies to be used;
- (3) Description of each service to be offered, how frequently each service will be offered or provided depending on the nature of the service, who is anticipated to be providing the services, the location, and general hours of availability of the services;
- (4) For services provided off-site, the plan must describe what public or private transportation options will be available to HHC tenants in order to provide them reasonable access to these services. Reasonable access is access that does not require walking more than one-half mile;
- (5) Description of how the Supportive Services are culturally and linguistically competent for persons of different races, ethnicities, sexual orientations, gender identities, and gender expressions. This includes explaining how services will be provided to HHC tenants who do not speak English or have other communication barriers, including sensory disabilities, and how communication among the services providers, the property manager and these tenants will be facilitated;
- (6) Estimated itemized budget and sources of funding for services;

- (7) Description of how the Supportive Services staff and property management staff will work together to prevent evictions, to adopt and ensure compliance with harm reduction principles, and to facilitate the implementation of reasonable accommodation policies from rent-up to ongoing operations of the project;
  - (8) General service provider and property manager communication protocols;
  - (9) Description of how the physical design of the project fosters tenant engagement, onsite Supportive Services provision, safety and security, and sustainability of furnishings, equipment, and fixtures; and
  - (10) Other information needed by the Department to evaluate the Supportive Services to be offered consistent with the Program.
- (e) Copies of draft written agreements or memoranda of understanding (MOUs) that identify the roles and responsibilities of the Recipient, the project owner, other service providers, and the property manager must be provided. The draft written agreements or MOUs must be materially consistent with the information set forth in the Supportive Services plan.

The Department may request that any necessary updates to the Supportive Services plan or related documents, including fully executed written agreements between the county, service providers, the project owner, and the property manager, be provided prior to the beginning of the initial rent-up period or prior to permanent loan closing.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

### **Section 113. Housing First**

- (a) Projects shall employ Housing First practices that are documented in the application, property management plan, and Supportive Services plan and adhere to the Housing First core components pursuant to Welfare and Institutions Code Section 8255(b)
- (b) For all HHC funded projects, Housing First property management and services delivery practices shall be followed. Housing First practices include the following:
  - 1. Tenant selection practices shall be done in conjunction with the local Coordinated Entry System and promote the acceptance of Applicants regardless to their sobriety or use of substances, completion of treatment, or agreement to participate in services;
  - 2. Applicants are not rejected based on poor credit or financial history, poor or lack of rental history, or criminal convictions unrelated to tenancy, or behaviors that indicate a lack of "housing readiness";

3. Applicants are assisted in making application for tenancy and reasonable accommodation requests;
4. Supportive Services are flexible and voluntary and focus on housing stability, engagement, and problem solving over therapeutic goals; and
5. The lack of policies or practices regimenting daily activities or limiting privacy, visitors, or the individual's ability to engage freely in community activities, or to manage their own activities of daily living.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

### **Section 114. Tenant Selection**

Tenants must meet income requirements in Section 105 and Target Population requirements in Section 102.

Recipients shall accept referrals through use of a CES or other similar system in accordance with the provisions of 25 CCR Section 8305, and in compliance with Housing First requirements consistent with the core components set forth in Welfare and Institutions Code Division 8 Chapter 6.5 Section 8255 subsection (b), and basic tenant protections established under federal, state, and local law.

- (a) Reasonable selection criteria, as referred to in 25 CCR Section 8305(a)(1), shall include priority status under a local CES developed pursuant to 24 CFR 578.7(a)(8).
- (b) If the CES existing in the county cannot refer persons in the Target Population, the alternative system used must prioritize those with the greatest needs among those for referral to available Assisted Units.
- (c) Recipients shall accept tenants regardless of sobriety, participation in services or treatment, history of incarceration, credit, or history of eviction in accordance with practices permitted pursuant to WIC Section 8255 or other federal or state project funding sources.
- (d) Projects must also provide a preference for accessible units to persons with disabilities requiring the features of the accessible units in accordance with Section 10337(b)(2) of the TCAC regulations.

The requirements of 25 CCR Section 8305 (a)(4)(A) and 25 CCR Section 8305 (a)(4)(D) shall be implemented as approved by the Department in a manner that is consistent with the requirements of the CES.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

## **Section 115. Rental Agreements and Grievance Procedures**

Rental or occupancy agreements and grievance procedures for Assisted Units shall comply with 25 CCR Section 8307 and 24 CFR 93.303. Tenants shall not be required to maintain sobriety, be tested for substances, or participate in services or treatment.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

## **Section 116. Vulnerable Populations Best Practices**

The following best practices should be incorporated in the construction of projects that receive funding from HHC, to the extent possible. These best practices work to further the safety and physical and mental well-being of residents within a project.

(a) General best practices for all developments:

(1) Safety Features:

- a. Site selection and development of the project should consider the safety concerns of the prospective tenants.
- b. Building entrance and exit points should only allow admittance to residents, or guests that residents admit.
- c. Common areas within the project should be oriented so as to have:
  1. Two ways to enter or exit the area;
    - . Visibility to the area from outside of it, i.e., windows in walls or doors; and
    - . A centralized location, to the extent possible.
- d. Safety lighting that reduces or eliminates blind or dark spaces where people can hide.

(2) Property Management:

- a. Policies to support an on-call staff member or 24-hour availability of staff from the property management company.
- b. Post in common areas and annually review with tenants the project's grievance policy. The policy should include procedures for grievances with management staff or contractors and the process by which the tenant may elevate the complaint.

(b) For those populations that have a history of sexual trauma and/or domestic violence:

(1) Safety features that incorporate all the general best practices and include the following:

- a. For projects that will also be serving women with a history of domestic violence or sexual trauma:
  1. Designate at least 25 percent of the Assisted Units will be for women with a history of domestic violence or sexual trauma

- and/or women with children, thereby ensuring women are not a small minority of the tenancy.
  - . Design projects to provide separate and secure floors, wings, or buildings for women with a history of domestic violence or sexual trauma and/or women with children. These separate and secure areas should restrict access to only the residents in the secured area.
  - b. Security cameras:
    1. At entrances, exits and common areas (including hallways, elevators, and stair wells);
    - . Written policy on the use of the cameras to specify who has access to see the videos, who monitors the surveillance, and under what conditions footage would be released to the authorities; and
    - . Camera recordings should be maintained for at least 30 days.
- (2) Property Management:
- a. Policies to support an on-call staff member or 24-hour availability of staff from the property management company.
  - b. Post in common areas and annually review with tenants the project's grievance policy. The policy should include procedures for grievances with management staff or contractors and the process by which the tenant may elevate the complaint.

The project should have 24-hour security if it serves persons impacted by domestic violence, transition age youth, and other vulnerable populations.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2) and 53595.

### **Section 117. Reporting Requirements**

Recipient must collect and report data, as described in Section 53593, to the Department at annual and midyear intervals. Reporting of the following is required:

- (a) Not later than 90 days after the end of each project's fiscal year, the Recipient shall submit an independent audit of the development prepared by a certified public accountant and in accordance with the Department's current audit requirements and all other applicable requirements, as stated by law or included in the NOFA.
- (b) Recipients shall report on the sources of tenant referrals for the project and submit both client data and performance outcome data to the Department. Tenant data may include, but is not limited to, demographic information. Performance outcome data shall include, but is not limited to, information on housing stability, tenant satisfaction as measured in a survey, and changes in income and benefits received.
- (c) Recipients shall report the number of participants living in the Supportive housing project after 12 months, 24 months, and 36 months, as relevant.
- (d) Recipients shall report the number of participants and the type of interventions offered through the grant funds.

- (e) Recipients shall report on the number of participants who exited the project each year and where they exited to, including other Permanent housing, homelessness, or death.
- (f) To the extent available and feasible, Recipients shall provide data on the impact of the Program on participants' use of corrections systems and law enforcement resources.
- (g) If Recipient is a local government, must comply with 2 CFR Part 512, as outlined in the NOFA.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53593.

### **Section 118. Operating Budgets**

The Recipient shall submit proposed operating budgets to the Department prior to occupancy, and annually thereafter. These budgets shall be subject to Department approval and comply with the requirements in 25 CCR Section 7326.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(2).

### **Section 119. Federal and State Overlays**

(a) Federal Overlays. Activities funded with HHC funds are required to comply with 24 CFR Part 93.350 and 24 CFR Part 93.301. Compliance with these requirements include, but are not limited to, environmental provisions, federal Davis-Bacon Wage requirements and state prevailing wage laws, relocation, Equal Opportunity and Fair Housing, Fair Housing Amendments Act, Affirmative Marketing, Section 504 of the Rehabilitation Act and its implementing regulations, and the Americans with Disabilities Act and its implementing regulations, Section 3 (employment of low-income persons), Violence Against Women Act, and Single Audit report 2 CFR Part 200.512. Failure to comply with federal overlays could result in significant project cost increases, and rejection of the HHC application.

(b) State Overlays. Article XXXIV of the California Constitution requires local voter approval before any state public body can develop, construct, or acquire a low-rent housing project in any manner. However, the Public Housing Election Implementation Law (Health & Safety Code, §§ 37000 - 37002) provides clarification as to when Article XXXIV is applicable.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(2).

### **Section 120. Legal Documents**

After a Recipient is sent a letter providing notice of award pursuant to a NOFA, and prior to actual disbursement of funds pursuant to that award, the Department and Recipient shall enter into a state "Standard Agreement" that shall constitute a conditional

commitment of said funds. The Standard Agreement shall require the Recipient to comply with the requirements and provisions of these Guidelines, and generally applicable state contracting rules and requirements. The Standard Agreement shall encumber state moneys in an amount no more than as established in the NOFA and said amount shall be consistent with the application and corresponding award letter. The Standard Agreement shall contain the terms necessary to ensure the Recipient complies with all HHC-NHTF requirements, including, but not limited to, the following:

- (a) Requirements for the execution of a promissory note, operating reserve agreement, or other project-specific contracts as may be applicable;
- (b) Requirements set forth in the NOFA;
- (c) Requirements, where appropriate, for the execution and recordation of covenants, regulatory agreements, or other instruments restricting the use and occupancy of and appurtenant to the project and the property thereunder (for the purposes of these Guidelines, all such documents are collectively herein referred to as the HHC regulatory agreement);
- (d) Requirements for the execution of a Deed of Trust or other security instrument securing the debt owed by the borrower to the Department for the amount of the award. The Deed of Trust must be recorded against the fee estate underlying the property; leasehold security will not be accepted unless such security strictly meets the requirements set forth in 25 CCR Section 8316;
- (e) The Recipient's responsibilities for timing and completion of the project, as well as all reporting requirements;
- (f) Remedies available to the Department in the event of a violation, breach or default of the Standard Agreement; and
- (f) All other provisions necessary to ensure compliance with the requirements of HHC and applicable state and federal law.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2), 53593 and 53595.

### **Section 121. Defaults and Loan and/or Grant Cancellations**

- (a) In the event of a breach or violation by the Recipient of any of the provisions of HHC-NHTF requirements, the regulatory agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the project, the Department may give written notice to the Recipient to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time, the Department, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default, including, but not limited to, the following:
  - (1) The Department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a

failure to repay such accelerated amounts in full, the Department may proceed with a foreclosure in accordance with the provisions of the Deed of Trust and state law regarding foreclosures.

- (2) The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to operate the project in accordance with HHC-NHTF requirements.
  - (3) The Department may seek such other remedies as may be available under the relevant agreement or any law as it relates to both the loan and the COSR grant.
  - (4) Suspension from future Department funding awards.
  - (5) The Department may seek other remedies set forth in the relevant agreement or any other applicable legal or equitable remedies law.
- (b) If the breach or violation involves charging tenants rent or other charges in excess of those permitted under the regulatory agreement, the Department may demand the return of such excess rents or other charges to the respective households. In any action to enforce the provisions of the regulatory agreement, the Department may seek, as an additional remedy, the repayment of such overcharges.
- (c) The Department may cancel loan commitments or COSR grants under any of the following conditions:
- (1) The objectives and requirements of HHC cannot be met;
  - (2) Implementation of the project cannot proceed in a timely fashion in accordance with the approved plans and schedules;
  - (3) Special conditions have not been fulfilled within required time periods;
  - (4) There has been a material change, not approved by the Department, in the principals or management of the Recipient or project; or
  - (5) If the Recipient fails to apply for tax credit funding, which they relied on for project feasibility in their application, within 18 months of the HHC award date.

The Department, in writing and upon demonstration by the Recipient of good cause, may extend the date for compliance with any of the conditions in this subsection, as long as these extensions are within the established/agreed upon deadlines established in the NOFA.

- (d) Upon receipt of a notice from the Department of intent to cancel the loan or request to repay the grant, the Recipient shall have the right to appeal to the Director.
- (e) The Department may use any funds available to it to cure or avoid a Recipient's default on the terms of any loan or other obligation that jeopardizes the fiscal integrity of a project or the Department's security in the project. Such defaults may include defaults or impending defaults in payments on mortgages, failures to pay taxes, or failures to maintain insurance or required reserves. The payment or advance of funds by the Department pursuant to this subsection shall be solely

within the discretion of the Department and no Recipient shall be entitled to or have any right to payment of these funds. All funds advanced pursuant to this Subsection shall be part of the HHC loan or COSR grant and, upon demand, due and payable to the Department. Where it becomes necessary to use state funds to assist a project to avoid threatened defaults or foreclosures, the Department shall take those actions necessary, including, but not limited to, foreclosure or forced sale of the project property to prevent further similar occurrences and ensure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(2), 53593 and 53595.

## **Article II. Building Homes and Jobs Trust Fund Allocation**

### **Section 200. Purpose and Scope**

- (a) In September of 2017, AB 74 was signed into law. This legislation authorizes the California Department of Housing and Community Development (Department) to develop the Housing for a Healthy California (HHC) program to create Supportive housing for individuals who are recipients of or eligible for health care provided through the California Department of Health Care Services (DHCS) Medi-Cal program. The goal of HHC is to reduce the financial burden on local and state resources due to the overutilization of emergency rooms or incarceration as the first point of health care provision for people who are Experiencing homelessness, or chronic homelessness, and a High-cost health user. The Department shall coordinate with the DHCS, consistent with state and federal privacy law, to match Program participant data to Medi-Cal data to identify outcomes among participants, as well as changes in health care costs and utilization associated with housing and services provided under HHC.
- (b) AB 74 allows the Department to utilize revenues appropriated to the Department from other revenue sources for HHC purposes. As directed in the 2018-2019 state Budget Act, the Department will utilize a portion of moneys collected in calendar year 2018 and deposited into the Building Homes and Jobs Trust Fund for the HHC program. The Department will allocate these funds competitively to Counties for acquisition, new construction or reconstruction and rehabilitation, administrative costs, capitalized operating subsidy reserves (COSR), and rental subsidies for existing Supportive housing to assist HHC's Target Population. The Department has elected to incentivize utilizing locally committed funding in an amount at least equivalent to the requested HHC funding amount.
- (c) In addition to applicable state and federal laws and regulations, these guidelines (hereinafter "Guidelines") implement, interpret, and make specific the HHC program authorized by Part 14.2 (commencing with Section 53590) of Division 31 of the Health and Safety Code and for Fiscal Year 2018 Chapter 2.5 (commencing with Section 50470) of Part 2 of Division 31 of the Health and Safety Code.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53591(a)(1), 53594 and 50472.

### **Section 201. Definitions**

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meaning of terms described in Part 14.2 of Division 31 of the Health and Safety Code (commencing with Section 53590).

- (a) "Applicant" means a County, as defined below.
- (b) "Area Median Income" or "AMI" means the most recent applicable County median family income published by HUD.

- (c) “Assisted Unit” means a housing unit that is subject to the program’s rent and/or occupancy restrictions as a result of the financial assistance provided under the program.
- (d) “Case Manager” means a social worker or other qualified individual who works with a tenant to offer individualized service planning that is flexible and creative to help the tenant gain housing stability. It includes working in collaboration with the tenant to plan, assess, coordinate, and reassess the tenant’s needs, as well as referrals and advocacy and connection to community support to meet tenants’ Supportive Services needs. Services include, but are not limited to: tenancy support services, coordination of medical and behavioral health, substance use disorder treatment, employment services, life skills training, peer support, and crisis management interventions. Resident service coordinators are not Case Managers.
- (e) “Continuum of Care” is defined in 24 CFR Section 578.3.
- (f) “Coordinated Entry System” or “CES” means a centralized or coordinated process developed pursuant to 24 CFR Section 578.7(a)(8), designed to coordinate program participant intake, assessment, and provision of referrals. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.
- (g) “County” means a county, city and county, or a city collaborating with a county to secure services funding.
- (h) “DHCS” means the state Department of Health Care Services.
- (i) “Department” means the Department of Housing and Community Development.
- (j) “Development Sponsor” or “Sponsor”, as defined in Section 50675.2 of the Health and Safety Code and subdivision (c) of Section 50669 of the Health and Safety Code, means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian Reservation or Rancheria, or other legal entity, or any combination thereof, certified by the Department as qualified to own, manage, and rehabilitate a rental housing development. A Development Sponsor may be organized for profit, limited profit or be nonprofit, and includes a limited partnership in which the Development Sponsor, or an affiliate of the Development Sponsor, is a general partner.
- (k) “Distributions” has the same meaning as under 25 CCR Section 8301(h).
- (l) “Experiencing chronic homelessness” means a person who is chronically homeless, as defined in 578.3 of Title 24 of the Code of Federal Regulations as that section read on January 1, 2018, except that a person who was Experiencing chronic homelessness before entering an institution would continue to be defined as Experiencing chronic homelessness upon discharge, regardless of length of stay.

- (m) "Experiencing homelessness" means a person who is homeless, as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2018.
- (n) "Fair Market Rent" or "FMR" means the rent, including the cost of utilities, as established by HUD pursuant to Parts 888 and 982 of Title 24 of the Code of Federal Regulations, as those parts read on January 1, 2018, for units, by number of bedrooms, that must be paid in the market area to rent privately owned, existing, decent, safe, and sanitary rental housing of non-luxury nature with suitable amenities.
- (o) "Fiscal Integrity" means, for any project for any given period of time during the term specified in the program's regulatory agreement, that the total Operating Income for such project for such period of time, plus funds released pursuant to the Program documents from the project's operating reserve account(s) during such period of time is sufficient to: (1) pay all current Operating Expenses for such project for such period of time; (2) pay all current mandatory debt service (excluding deferred interest) coming due with respect to such project for such period of time; (3) fully fund all reserve accounts established pursuant to the Program documents for such project for such period of time; and (4) pay other costs permitted by the Program documents for such project for such period of time. The ability to pay any or all the permitted annual distributions for a project shall not be considered in determining the Fiscal Integrity of a project.
- (p) "Grantee" means an eligible Applicant that has been awarded funds under the program.
- (q) "HHC" means the Housing for a Healthy California Program administered by the Department.
- (r) "Health Homes Program" means the Health Homes Program, administered by the Department of Health Care Services, established pursuant to Article 3.9 (commencing with Section 14127) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.
- (s) "High-cost health users" means people who have had either at least three emergency department visits or one hospital inpatient stay over the last year.
- (t) "Housing First" has the same meaning as in Welfare and Institutions Code Section 8255.
- (u) "Lead Service Provider" or "LSP" means the organization that has the overall responsibility for the provision of Supportive Services and implementation of the Supportive Services plan. The LSP may directly provide comprehensive case management services or contract with other agencies that provide services.
- (v) "Long-term rental assistance" means a rental subsidy provided to a housing provider, including a developer leasing affordable housing or supportive housing, private-market landlord, or Sponsor master leasing private-market apartments, to assist a tenant to pay the difference between 30 percent of the tenant's income and

FMR or reasonable market rent as determined by the grant recipient and approved by the Department.

- (w) “NOFA” means a Notice of Funding Availability.
- (x) “Operating Expenses” has the same meaning as in 25 CCR Section 8301.
- (y) “Operating Income” has the same meaning as in 25 CCR Section 8301.
- (z) “Operating Reserves” has the same meaning as in 25 CCR Section 8308.
- (aa) “Permanent housing” means a housing unit where the landlord does not limit the length of stay in the housing unit, the landlord does not restrict the movements of the tenant, and the tenant has a lease and is subject to the rights and responsibilities of tenancy, pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.
- (bb) “Point-in-Time Count” or “PIT” refers to an annual count of sheltered and unsheltered homeless persons on a single night in January.
- (cc) “Program” means the Housing for a Healthy California Program created by this part.
- (dd) “Supportive housing” means housing with no limit on length of stay, that is occupied by the Target Population, and that is linked to onsite or offsite services that assist the Supportive housing resident in retaining the housing, improving his/her health status, and maximizes his/her ability to live, and when possible, work in the community.
- (ee) “Supportive Services” means social, health, educational, income support and employment services and, benefits; coordination of community building and educational activities, individualized needs assessment, and individualized assistance with obtaining services and benefits.
- (ff) “Target Population” means a person who is Experiencing homelessness, or chronic homelessness, and a High-cost health user upon initial eligibility, is a Medi-Cal beneficiary or is eligible for Medi-Cal, is eligible to receive services under a program providing services promoting housing stability and is likely to improve their health conditions with Supportive housing.
- (gg) “UMR” means the Uniform Multifamily Regulations commencing with 25 CCR Section 8300.
- (hh) “Whole Person Care” Pilot or “WPC” has the meaning as described in the Medi-Cal 2020 Waiver Special Terms and Conditions (STCs), Sections 110-126, as approved by the federal Centers for Medicare and Medicaid Services on December 30, 2015.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53590 and 53595.

## Section 202. Minimum Requirements

The Applicant shall comply with the requirements of HHC and all applicable federal and state laws.

(a) The Applicant shall meet all the following minimum requirements:

- (1) Has identified a source of funding for providing intensive services promoting housing stability. Funding for these services may include, but is not limited to, one of more of the following:
  - a. County general funds.
  - b. WPC pilot program funds, to the extent those funds are available, or the WPC program has been renewed
  - c. The Health Homes Program
  - d. MHSa program
  - e. Managed Care Organization
  - f. Other County-controlled funding to provide these services to eligible participants
- (2) Has designated a process for administering grant funds through agencies administering housing programs. The agency the Applicant is partnering with, or the applying housing agency, must have either administered rental assistance or funded an affordable or Supportive housing project within the past three years.
- (3) Agrees to collect and report data, as described in Section 219, to the Department.
- (4) Must be compliant with both the housing element and their annual progress report submittals.

(b) The Applicant shall submit an application that meets the following requirements:

- (1) The request for funding shall promote housing for persons who meet all the following requirements:
  - a. Is Experiencing homelessness or chronic homelessness and a High-cost health user upon initial eligibility
  - b. Is a Medi-Cal beneficiary or is eligible for Medi-Cal
  - c. Is eligible to receive services under a program providing services promoting housing stability, including, but not limited to, the following:
    1. The WPC pilot program, to the extent the WPC program is available or has been renewed
    2. The Health Homes Program
    3. A locally controlled service program funding or providing services in Supportive housing
  - d. Is likely to improve their health conditions with Supportive housing
- (2) The use of funds proposed by the Applicant shall be clearly connected to the goals and strategies pursuant to Section 53591(a)(1).

- (3) The amount requested shall not exceed the maximum amount specified in Section 208.
  - (4) The proposed projects shall be financially feasible for the duration of the HHC rental subsidy.
  - (5) A resolution from the County board of supervisors, or other controlling body, that authorizes the County to apply for funding and coordinate referrals and access to health care services to HHC tenants, such as a WPC pilot program, Health Homes Program, or other community-based program funding services.
  - (6) A County Application Plan as specified in Section 211.
- (c) A County subrecipient(s) of HHC funds cannot be debarred or suspended from any state programs.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Sections 53592 and 53595.

### **Section 203. Eligible Uses**

- (a) A County shall use grants awarded pursuant to this part for one or more of the following:
- (1) Long-term rental assistance in an amount the County identifies, but no more than two times the FMR for the market area where the County is providing long-term rental assistance, as referenced in the NOFA.
  - (2) Acquisition, new construction, gap funding, or reconstruction and rehabilitation of (a) project(s).
  - (3) Incentives to landlords to accept rental assistance for program participants, including security deposits and holding fees.
  - (4) Project based operating subsidies, which may include either or both of the following:
    - a. Operating subsidies for periods of up to five years.
    - b. A Capitalized Operating Subsidy Reserve (COSR) for at least 15 years to pay for operating costs of an apartment or apartments receiving capital funding to provide Supportive housing to people Experiencing homelessness.
  - (5) A County's administrative costs of no more than 5 percent of the grant awarded, or as determined by the Department NOFA.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

## **Section 204. Site and Neighborhood and Property Standard Requirements**

In carrying out the site and neighborhood standards with respect to new construction, the requirements of 24 CFR 983.57(e)(2) apply. These standards do not apply to rehabilitation projects. However, if project-based vouchers are used in an assisted rehabilitation unit, the site and neighborhood standards for project-based vouchers will apply. In addition, the requirements of 24 CFR Part 8 will apply, and specifically address the site selection with respect to accessibility for persons with disabilities.

The Applicant shall ensure that all Assisted Units meet all applicable federal and state property standards. All Assisted Units must also meet the requirements of 25 CCR Section 8304 for the duration of the affordability period. Projects must meet the accessibility requirements specified in the TCAC regulations, as may be amended and renumbered from time to time, including those of Section 10325(f)(7)(K) and, for senior projects, those of Section 10325(g)(2)(B) and (C). Exemption requests, as provided for in the TCAC regulations, must be approved by the Department.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

## **Section 205. Occupancy and Income Requirements**

(a) Household income shall be determined in accordance with the rules in 24 CFR 93.151. At the time of move-in, household income shall not exceed the established ELI limits, or incomes at or below the poverty line, whichever is greater.

(b) The County or subrecipients shall maintain documentation of tenant income eligibility and eligibility in all the following ways, as applicable:

(1) Documentation of enrollment in or eligibility for Medi-Cal benefits.

(2) Documentation of a person's status as Experiencing chronic homelessness could be captured through any of the following:

a. A client's entry and exits documented in a Homeless Management Information System;

b. An outreach worker or Case Manager's written observations; or

c. A client's self-report of episodes of Experiencing homelessness and disability status must be done in accordance with procedures established through the local Coordinated Entry System, or other procedures established by the County for determining whether a person qualifies as Experiencing homelessness, or chronic homelessness, and a High-cost health user.

(3) Documentation of a person's status as a High-cost health user could be captured through any of the following:

a. Discharge summaries; or

b. An outreach worker's, case manager's, or local County's health department written observations.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

### **Section 206. Rent Limits**

- (a) Assisted Unit rent shall not exceed the FMR or reasonable market rent as determined by the grant Recipient and approved by the Department. Tenants must meet the income determination requirements of Section 205.
- (b) Over-income tenants - if at the time of re-certification, a tenant household's income exceeds the ELI limit, or income at or below the poverty line, then the County/subrecipient:
  - (1) Shall re-designate the tenant's Assisted Unit as a non-Assisted Unit and designate the next available non-assisted comparable unit as an Assisted Unit until the unit mix required by the Program regulatory agreement is achieved.
  - (2) If all the project units are Assisted Units, that project can continue with the over-income unit(s) until such time as those over-income households no longer reside in the project.
  - (3) A unit shall be deemed "comparable" if it has the same number of bedrooms and reasonably similar square footage as the original unit.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

### **Section 207. Capitalized Operating Subsidy Reserves (COSR)**

HHC grant funds may be used to pay for a COSR with the following conditions:

- (a) The COSR shall be sized to cover anticipated operating deficits attributable to the Assisted Units for a minimum of 15 years. The total amount of each project's operating reserves will be determined based upon the individual project underwriting performed by the County pursuant to the requirements of these Guidelines.
- (b) In determining how to size each project's COSR, the County shall consider individual project factors, such as: the maximum percentage of Assisted Units it will assist; anticipated project vacancy rates; the anticipated percentage of Assisted Units that will have other operating subsidy, and the term of that operating subsidy contract, and anticipated tenant incomes.
- (c) The following standard assumptions will be used for establishing the total amount of a COSR. The Department may modify these assumptions as necessary to maintain project feasibility or extend the term of the operating reserves.

- (1) All Assisted Units, other than the proportionate share of the manager's unit, shall be counted in calculating the amount of a COSR. An Assisted Unit receiving other rental assistance may receive assistance from a COSR.
  - (2) In projects of greater than 20 units, HHC will assist no more than 49 percent of the total project units. This limitation shall not be interpreted to preclude occupancy of any project units by persons with disabilities or restrictions by other funding sources, including, but not limited to, TCAC, that result in more than 49 percent of the total project units being restricted to the Target Population. It shall also not apply to projects complying with alternative requirements for demonstrating Olmstead compliance adopted by local jurisdictions and approved by the Department.
  - (3) In projects of 20 units or less, up to 100 percent of the units may be Assisted Units.
  - (4) The stabilized residential vacancy rate for the Assisted Units shall be assumed to be 10 percent, unless use of a lower or higher rate is required by another funding source, including TCAC, or is supported by compelling market or other evidence.
- (d) Notwithstanding the above, in order to sustain the availability of a COSR for a minimum of 15 years, distributions from a COSR shall be subject to the following:

The County may not disburse more than 5 percent of the total COSR award made to a project per year, except that in any given year where the operating deficit attributable to the Assisted Units exceeds this amount, the Grantee may, in its sole discretion, increase the disbursement to up to 7 percent of the total COSR award, in accordance with the operating reserves limits and applicable review processes.

- (e) Operating expenses that are eligible to be paid from a COSR include:

- (1) Insurance
- (2) Utilities
- (3) Real property taxes
- (4) Maintenance
- (5) Supportive Services costs

- (f) The statute/Guidelines do not preclude use of HHC funds on other Supportive housing opportunities using capital and operating assistance, as long as the use of the funds is consistent with the requirements of Part 14.2 of Division 31 of the Health and Safety Code, as well as all other state, federal laws and regulations.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

## **Section 208. Maximum Award Limits**

The maximum grant limit is \$20 million per Applicant for new construction, acquisition, rehabilitation, rental subsidies, incentives to landlords, gap funding, reconstruction, and including security deposits and holding fees, operating subsidies, administrative costs and/or operating assistance (COSR and/or rental assistance). The actual award amounts may be adjusted for project size and the number of households served.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

## **Section 209. Fee Limits**

A County may use up to 5 percent of the grant, or as reflected in the NOFA, to fund administrative costs for the HHC program.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

## **Section 210. Use of Operating Cash Flow**

Regarding allowable uses of operating cash flow for capital or operating subsidies, including a COSR, the County shall follow the requirements commencing with 25 CCR Section 8314, as applicable.

Where there is a difference between the provisions of the UMRs and these Guidelines, the provisions of these Guidelines shall prevail.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

## **Section 211. County Application Plan**

Any plan that meets the following requirements is acceptable, including, but not limited to, Continuum of Care plans, or any other County plan specific to homelessness. Applicant's proposed uses of funds should be clearly connected to the goals and strategies outlined in the plan.

Applicants should include in their application plan the following:

- (a) A description of homelessness County-wide, including a discussion of the estimated number of residents Experiencing homelessness or chronic homelessness among single adults, families, and unaccompanied youth;
- (b) Special challenges or barriers to serving the Target Population;

- (c) County resources applied to address homelessness, including efforts undertaken to prevent the criminalization of activities associated with homelessness;
- (d) Available community-based resources, including partnerships with community-based organizations and nonprofits;
- (e) Identification of other partners tasked with addressing homeless needs;
- (f) Systems in place to collect the data required under Section 219;
- (g) Efforts that will be undertaken to ensure that access to a CES, and any alternate assessment and referral system established for the Target Population pursuant to the requirements of these Guidelines, will be available on a nondiscriminatory basis;
- (h) Applicants may propose an alternative definition of High-cost health user than defined in Section 201 of these Guidelines.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53592 and 53595.

### **Section 212. Application Process**

- (a) The Department shall issue a NOFA that details the application process for Applicants that specifies, among other things, the amount of funds available, application requirements, threshold requirements, award requirements, the allocation of rating points, the deadline for submittal of applications, and other general terms and conditions of funding commitments.
- (b) The Department shall evaluate applications for compliance with the minimum requirements set forth in Section 202, and score based on the criteria outlined in Section 213.
- (c) Applicants that do not meet the minimum requirements will be rejected and will not be rated.
- (d) The Department reserves the right to do the following:
  - (1) Score an application as submitted in the event information is missing from the application; and
  - (2) Request clarification of unclear or ambiguous statements made in an application and other supporting documents where doing so will not impact the competitive scoring of the application.
- (e) Applications selected for funding shall be approved at amounts, terms, and conditions specified by the Guidelines and the NOFA.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1).

## Section 213. Application Selection Criteria

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

	<b>Maximum Applicable Points</b>
<b>Need</b>	
Number of individuals Experiencing homelessness and impact of housing costs (H&S Code 53591(a)(1)(A))	10
Applicant's commitment to address homelessness needs (H&S Code 53591(a)(1)(D))	15
<b>Total Need Points</b>	<b>25</b>
<b>Proposed Uses and Process for Using Funds</b>	
Project(s) Description (H&S Code 53591(a)(1)(F))	10
Process for Using Grant Funds (H&S Code 53591(a)(1)(B))	10
Funding Coordination (H&S Code 53591(a)(1)(C))	10
<b>Total Uses of Funds Points</b>	<b>30</b>
<b>Experience</b>	
Applicant's experience in rental subsidies, funding, underwriting, or administering Supportive housing projects	15
Applicant's experience with projects comparable in scope/services to proposed project	15
Barriers encountered and addressed	5
Identify any best practices that could be used by other program participants	5
<b>Total Experience Points</b>	<b>40</b>
<b>Funding Sources</b>	
Description of plan to sustain funding	30
<b>Total Funding Sources Points</b>	<b>30</b>
<b>Incentive Points</b>	
Applicant has Whole Person Care Pilot Program available or renewed, or has Health Homes Program, or has other County-controlled funding that provides similar services to the Target Population. H&S Code 53591(a)(1)(E)	10
Projects with locally committed funding for projects in an amount at least equivalent to requested HHC funding	10
<b>Total Incentive Points</b>	<b>20</b>
<b>TOTAL APPLICABLE POINTS</b>	<b>145</b>

(a) Need (25 points maximum)

Consideration will be given to the number of individuals experiencing homelessness and the impact of housing costs in the County. Estimated need will be based on the number of Homeless individuals established at the latest PIT Count and rent burden in the Applicant's geographic jurisdiction according to the Comprehensive Housing Affordability Strategy (CHAS) data. Points will be awarded as follows:

- (1) Estimated Need (10 points maximum)
  - a. More than 400 individuals are homeless in the Applicant's geographic jurisdiction as stated in the NOFA (10 points); or
  - b. More than half of the ELI population in the Applicant's geographic jurisdiction pay more than 50 percent of their income towards rent. (5 points)
- (2) Describe the Applicant's demonstrated commitment to address the needs of people experiencing homelessness. Applicant has demonstrated successful outcomes in implementing federal and state programs addressing the needs of people experiencing homelessness, along with local commitment of resources. (15 points maximum)
  - a. The Applicant has dedicated local resources to provide Permanent housing to residents experiencing homelessness over the last three years and has a plan to address homelessness. The plan has been successful and has been implemented for at least one year (15 points); or
  - b. The Applicant has administered programs with successful outcomes in moving people from homelessness to Permanent housing, but has not dedicated resources consistently over the last three years. The Applicant has a plan to address homelessness and has been implementing it over the last year (10 points); or
  - c. The Applicant proposes to implement some actions in the next 12 months, including implementation of a plan to address homelessness and dedication of local resources. (5 points)

(b) Proposed Uses and Process for Using Funds (30 points maximum)

- (1) Project Description. Applicant's description of the specific uses of the grant funds. For each specific planned use of the grant funds, the Applicant must respond to the required items to receive full points: (10 points)
  - a. If the Applicant intends to use funding for development, project(s)' location and target date(s) for completion (10 points); or
  - b. If the Applicant intends to use funding for rental assistance or a COSR, project(s)' total number of units and the total number of households who will receive Permanent housing and/or rental subsidies under the project (10 points).
- (2) Process for Using Grant Funds. The Applicant's description of the following: (10 points maximum)
  - a. The Applicant's or agency or agencies responsible for the distribution of the HHC grant funds and the proposed selection criteria and process to identify project(s) and/or sub-recipient(s) (6 points);

- b. The timeline with clearly delineated milestones (1 point); and
- c. The proposed funding source for the services (3 points)

(3) Funding Coordination. The Applicant's description of how the proposed HHC funding will supplement existing federal, state, and local funding. (10 points maximum)

- a. Regarding service provision, the Applicant's description of the following:
  - 1. The funding source(s) (2 points);
  - 2. The amount of funding per participant, per month, the Applicant intends to commit (1 point);
  - 3. The length of time services will be provided (1 point); and
  - 4. The process for selecting the homeless service provider (2 points).
- b. The description of the Applicant's partnerships with affordable and Supportive housing providers to address homelessness (2 points).
- c. The description of the Applicant's partnerships with healthcare providers who provide dental, mental health, primary care and substance abuse services (2 points).

(c) Experience (40 points maximum)

(1) The Applicant's experience, for the last three years, in funding and underwriting Supportive housing projects; and/or the Applicant's experience administering Supportive housing projects; and/or the Applicant's experience working with agencies that administer rental subsidies. (15 points maximum)

- a. If the Applicant intends to use funding for development or a COSR, the Applicant has developed and/or administered four or more projects in the last three years. If the Applicant intends to use funding for rental assistance, the administering agency has administered rental subsidies for at least 500 households in the last three years. (15 points)
- b. If the Applicant intends to use funding for development or a COSR, the Applicant has developed and/or administered at least two to three projects in the last three years. If the Applicant intends to use funding for rental assistance, the administering agency has administered rental subsidies for at least 300 households in the last three years. (10 points)
- c. If the Applicant intends to use funding for development or a COSR, the Applicant has developed and/or administered one project in the last three years. If the Applicant intends to use funding for rental assistance, the administering agency has administered rental subsidies for at least 100 households in the last three years. (5 points)

(2) The Applicant's development funding, rental assistance, or other operating assistance to the Target Population that is comparable in scale and scope to the number of projects or rental assistance the Applicant has proposed for the Program. (15 points maximum)

- a. If the Applicant intends to use funding for development or a COSR, the Applicant has developed and/or administered four or more projects comparable in scale and scope to the proposed project and Target Population. If the Applicant intends to use funding for rental assistance,

- the administering agency has administered rental subsidies for at least 500 clients similar to the Target Population. (15 points)
- b. If the Applicant intends to use funding for development or a COSR, the Applicant has developed and/or administered at least two to three projects comparable in scale and scope to the proposed project and Target Population. If the Applicant intends to use funding for rental assistance, the administering agency has administered rental subsidies for at least 300 clients similar to the Target Population. (10 points)
  - c. If the Applicant intends to use funding for development or a COSR, the Applicant has developed and/or administered one project comparable in scale and scope to the proposed project and Target Population. If the Applicant intends to use funding for rental assistance, the administering agency has administered rental subsidies for at least 100 clients similar to the Target Population. (5 points)

(3) Description of barrier(s) the Applicant encountered in the implementation of its homeless strategy or funding and how barriers were resolved. (5 points)

(4) Description of any best practices developed by the Applicant that could be used for other program participants. (5 points)

(d) Funding Sources (30 points maximum)

- (1) The Applicant's description of the plan to sustain funding for the program/project. The Applicant may commit to using funding from the Building Homes & Jobs Act allocations to score points in this category. (30 points)

(e) Incentive Points (20 points maximum)

- (1) The Applicant has a Whole Person Care Pilot Program or is working with managed care organizations to make available Health Homes Program benefits to people Experiencing homelessness. (10 points)
- (2) Evidence demonstrating locally committed funding in an amount at least equivalent to requested HHC funding. (10 points)

In the event of tied point scores, the following tiebreakers shall be used to determine which project is selected for funding, in the order listed:

- (1) Applicant relevant experience
- (2) Need
- (3) Application Plan

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1).

## **Section 214. Supportive Services**

- (a) Each application must include a County-specific Supportive Services plan that will identify how the County plans to provide or subcontract to provide Supportive Services to participants in the Program.
- (b) The County must ensure services are provided to participants, but that participants are not required to participate in services. Access to or continued occupancy in housing cannot be conditioned on participation in services or on sobriety. The Supportive Services plan must describe the services to be made available to HHC tenants in a manner that is voluntary, flexible, and individualized, so HHC tenants may continue to engage with Supportive Services providers, even as the intensity of services needed may change. The level of services should support tenant engagement and housing retention.
- (c) Using evidence-based models, the following Supportive Services shall be made available to HHC tenants based on tenant need. Except as otherwise noted below, the following required services shall be provided onsite at the project or offsite at another location easily accessible to tenants, with the majority of case management services offered on-site:
  - (1) Housing navigation to assist people experiencing homelessness to establish relationships with private landlords, if the County is using funding for rental assistance, and to apply for housing;
  - (2) Case management and tenancy support services;
  - (3) Peer support activities;
  - (4) Services to link participants, as needed, to behavioral health care, such as assessment, crisis counseling, individual and group therapy, and peer support groups, and to coordinate care;
  - (5) Services to link participants, as needed, to substance abuse disorder treatment;
  - (6) Support in linking to primary care services, including access to routine and preventive health and dental care, medication management, and wellness services;
  - (7) Benefits advocacy, including assistance or linkage to services in accessing Medi-Cal and Supplemental Security Income/State Supplementary Payment(SSI/SSP);
  - (8) Housing retention skills, including working with landlords and neighbors, unit maintenance and upkeep, and money management; and
  - (9) Services for persons with co-occurring mental and physical disabilities or co-occurring mental and substance use disorders not listed above.

The following Supportive Services are not required to be made available, but are encouraged to be part of an Applicant's plan to provide Supportive Services to participants.

- (1) Recreational and social activities;
- (2) Educational services, including assessment, GED, school enrollment, assistance accessing higher education benefits and grants, and assistance in obtaining reasonable accommodations in the education process;
- (3) Employment services, such as supported employment, job readiness, job skills training, job placement, and retention services, or programs promoting volunteer opportunities for those unable to work; and
- (4) Obtaining access to other needed services, such as civil legal services, or access to food and clothing.

(d) The following additional information shall be provided in the Applicant's plan to provide Supportive Services:

- (1) Description of tenant outreach, engagement, and retention strategies to be used;
- (2) Description of each service to be offered, how services will be offered or provided depending upon who is anticipated to be providing the services, the location, and general hours of availability of the services;
- (3) For services provided off-site, the plan must describe what public or private transportation options will be available to HHC tenants in order to provide them reasonable access to these services. Reasonable access is access that does not require walking more than one-half mile. Case management services should largely be provided on-site;
- (4) Description of how the Supportive Services are culturally and linguistically competent for persons of different races, ethnicities, sexual orientations, gender identities, and gender expressions. This includes explaining how services will be provided to HHC tenants who do not speak English, or have other communication barriers, including sensory disabilities, and how communication among the services providers, the property manager, and these tenants will be facilitated;
- (5) Estimated itemized budget, and sources of funding for services;
- (6) Description of how the supportive services staff, and property management staff or landlord, will work together to prevent evictions, adopt and ensure compliance with harm reduction principles, and facilitate the implementation of reasonable accommodation policies from rent-up to ongoing operations of the project;

- (7) General service provider and property manager communication protocols;
- (8) Provider-to-client staff ratio (1:20);
- (9) Description of how the physical design of the project fosters tenant engagement, onsite Supportive Services provision, safety and security, and sustainability of furnishings, equipment, and fixtures; and
- (10) Other information needed by the Department to evaluate the Supportive Services to be offered consistent with the Program, as specified in the NOFA.

The Department may request that any necessary updates to the plan to provide Supportive Services, or related documents, including fully executed written agreements between the County, service providers, the project owner(s), if relevant, and the property manager, if relevant, be provided prior to the beginning of the initial rent-up period, or prior to permanent loan closing, or after participants move into private-market apartments.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53595.

### **Section 215. Housing First**

- (a) Projects shall employ Housing First practices that are documented in the Applicant's plan to provide Supportive Services in the application. Projects must adhere to the Housing First core components pursuant to Welfare and Institutions Code Section 8255(b).
- (b) Housing First practices include the following:
  - (1) Tenant selection practices that adhere to Section 216 of these Guidelines and promote the acceptance of Applicants regardless of their sobriety or use of substances, completion of treatment, or agreement to participate in services;
  - (2) Tenants are not rejected on the basis of poor credit or financial history, poor or lack of rental history, or minor criminal convictions;
  - (3) Tenants are assisted in making application for tenancy and reasonable accommodation requests;
  - (4) Supportive Services are flexible and voluntary and focus on housing stability, engagement, and problem-solving over therapeutic goals; and
  - (5) Landlords or property managers do not impose restrictions on daily activities or limiting privacy, visitors, or the individual's ability to engage freely in community activities.
- (c) Management and services practices emphasize tenant retention and offer flexibility and services to prevent and resolve lease violations and evictions. Subsidy-only units

shall follow Housing First property management and services practices described in subsection (b) above, or implement modified Housing First practices that, at a minimum, incorporate:

- (1) Tenant selection practices that promote the acceptance of Applicants regardless of their sobriety or use of substances, completion of treatment, or agreement to participate in services;
- (2) Applicants are seldom rejected on the basis of poor credit or financial history, poor or lack of rental history, or minor criminal convictions;
- (3) Applicants are assisted in making application for tenancy and reasonable accommodation requests;
- (4) Assistance shall be provided in obtaining Permanent housing as rapidly as possible and without preconditions, such as participation in services, length of stay, or successful completion of a transitional housing program. Upon exit to Permanent housing, follow up services shall be provided for no less than six months to ensure that tenants retain Permanent housing; and

(d) Services are voluntary unless required by a public agency funding source.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53595.

### **Section 216. Tenant Selection**

- (a) Tenants must meet income requirements in Section 205 and Target Population requirements in Section 202.
- (b) Tenants shall be selected through use of a CES, in accordance with the provisions of 25 CCR Section 8305 and in compliance with Housing First requirements consistent with the core components set forth in Welfare and Institutions Code Division 8.

Chapter 6.5 Section 8255 subsection (b) and basic tenant protections established under federal, state, and local law.

- (1) Reasonable selection criteria, as referred to in 25 CCR Section 8305(a)(1), shall include priority status under a local CES developed pursuant to 24 CFR 578.7(a)(8).
- (2) If the CES existing in the County cannot refer persons in the Target Population, the alternative system used must prioritize those with the greatest needs among those for referral to available Assisted Units.
- (3) Sponsors shall accept tenants regardless of sobriety, participation in services or treatment, history of incarceration, credit, or history of eviction in accordance with practices permitted pursuant to WIC Section 8255 or other federal or state project funding sources.

- (c) The requirements of 25 CCR Sections 8305 (a)(4)(A) and 8305 (a)(4)(D) shall be implemented as approved by the Department in a manner that is consistent with the requirements of the CES.
- (d) In communities that are not yet referring people experiencing homelessness to programs through CES, Applicants should describe the process of referring residents based on eligibility for the Program.
- (e) Projects must also provide a preference for accessible units to persons with disabilities requiring the features of the accessible units be in accordance with Section 10337(b)(2) of the TCAC regulations.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53595.

### **Section 217. Rental Agreements and Grievance Procedures**

Rental or occupancy agreements and grievance procedures for Assisted Units shall comply with 25 CCR Section 8307 and 24 CFR 93.303. Tenants shall not be required to maintain sobriety, be tested for substances, or participate in services or treatment.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53594.

### **Section 218. Vulnerable Populations Best Practices**

The following best practices should be incorporated in the construction of projects that receive funding from HHC, to the extent possible. These best practices work to further the safety and physical and mental well-being of residents within a project.

- (a) General best practices for all developments:
  - (1) Safety features:
    - a. Site selection and development of the project should consider the safety concerns of the prospective tenants.
    - b. Building entrance and exit points should only allow admittance to residents or guests that residents admit.
    - c. Common areas within the project should be oriented so as to have:
      - 1. Two ways to enter or exit the area;
      - 2. Visibility to the area from outside of it, i.e., windows in walls or doors; and
      - 3. A centralized location, to the extent possible.
    - d. Safety lighting that reduces or eliminates blind or dark spaces.
  - (2) Property Management:
    - a. Policies to support an on-call staff member, or 24-hour availability of staff from the property management company.
    - b. Post in common areas and annually review with tenants the project's

grievance policy. The policy should include procedures for grievances with management staff or contractors and the process by which the tenant may elevate the complaint.

(b) For those populations that have a history of sexual trauma and/or domestic violence:

- (1) Safety features incorporate all of the general best practices and include the following:
  - a. For projects that will also be serving women with a history of domestic violence or sexual trauma:
    1. Designate at least 25 percent of the Assisted Units for women with a history of domestic violence or sexual trauma and/or women with children, thereby ensuring women are not a small minority of the tenancy.
    2. Design projects to provide separate and secure floors, wings, or buildings for women with a history of domestic violence or sexual trauma and/or women with children. These separate and secure areas should restrict access to only the residents in the secured area.
  - b. Security cameras:
    1. At entrances, exits and common areas (including hallways, elevators, and stair wells);
    2. Written policy on the use of the cameras to specify who has access to see the videos, who monitors the surveillance, and under what conditions footage would be released to the authorities; and
    3. Camera recordings should be maintained for at least 30 days.
- (2) Property Management:
  - a. Policies to support an on-call staff member or 24-hour availability of staff from the property management company.
  - b. Post in common areas and annually review with tenants the project's grievance policy. The policy should include procedures for grievances with management staff or contractors and the process by which the tenant may elevate the complaint.

(c) The project should have 24-hour security if it serves persons impacted by domestic violence, transition age youth and other vulnerable populations.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53595.

## **Section 219. Reporting Requirements**

The County shall, at annual and midyear intervals, report all of the following data to the Department:

- (a) Not later than 90 days after the end of each project's fiscal year, the Grantee shall submit an independent audit of the development prepared by a certified public accountant, and in accordance with the Department's current audit requirements, and all other applicable requirements, as stated by law or included in the NOFA.

- (b) The County shall submit the data as required by the Department to measure the costs and outcomes for each of its Assisted Units. The County shall work with service providers or other sub-recipients to gather the data.
- (c) The County shall report on the sources of tenant referrals for the project and submit both client data and performance outcome data to the Department. Tenant data may include, but is not limited to, demographic information. Performance outcome data shall include, but is not limited to, information on housing stability, tenant satisfaction as measured in a survey, and changes in income and benefits received.
- (d) The County shall also report on the following:
  - (1) The number of participants who have received assistance through the Program in that year, and the type of intervention the participant received with HHC funds;
  - (2) The number of participants living in Supportive housing or other Permanent housing with HHC funds, and exits from the program, and the reasons for the exits; and
  - (3) To the extent available and feasible, the County shall provide data on the impact of the Program on participant's use of corrections systems and law enforcement resources.
- (e) Recipient must comply with 2 CFR Part 512, as outlined in the NOFA.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53593.

### **Section 220. Operating Budgets**

The County shall submit proposed operating budgets to the Department prior to award and annually thereafter. These budgets shall be subject to Department approval and comply with the requirements in 25 CCR Section 7326.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53594.

### **Section 221. State Overlays**

- (a) State Overlays. Article XXXIV of the California Constitution requires local voter approval before any state public body can develop, construct, or acquire a low-rent housing project in any manner. However, the Public Housing Election Implementation Law (Health & Safety Code, §§ 37000 – 37002) provides clarification as to when Article XXXIV is applicable.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53594 and 50472.

## **Section 222. Legal Documents**

Grants shall be governed by a Standard Agreement or other agreement with the County on a form prescribed by the Department. The agreement shall ensure that the provisions of these Guidelines are applicable to the project(s) covered by the agreement and enforceable by the Department. The agreement will contain such other provisions as the Department determines are necessary to meet the requirements and goals of the program, including, but not limited to, the following:

- (a) Requirements for the execution of a promissory note, operating reserve agreement, or other project-specific contracts as may be applicable;
- (b) Requirements set forth in the NOFA;
- (c) Requirements, where appropriate, for the execution and recordation of covenants, regulatory agreements, or other instruments restricting the use and occupancy of and appurtenant to the project and the property thereunder (for the purposes of these Guidelines, all such documents are collectively herein referred to as the HHC regulatory agreement);
- (d) The County's responsibilities for timing and completion of projects, if applicable, as well as any and all reporting requirements;
- (e) Remedies available to the Department in the event of a violation, breach or default of the Standard Agreement; and
- (f) Any and all other provisions necessary to ensure compliance with the requirements of HHC and applicable state and federal law.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53594 and 50472.

## **Section 223. Defaults and Grant Cancellations**

In the event the Department becomes aware of a breach or violation by the Grantee or its participating entities engaged in the delivery of HHC, any of the provisions of HHC-SB 2 requirements or the Standard Agreement, or the locally executed HHC loan or grant pertaining to the project, the Department may give written notice to violators to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default, including but not limited to, the following:

- (a) Termination of the Standard Agreement and full or partial repayment of the awarded amount.
- (b) Suspension from future Department funding awards.

(c) The Department may seek other remedies set forth in the Standard Agreement or any other applicable legal or equitable remedies.

If the breach or violation involves charging tenants rent or other charges in excess of those permitted under the Standard Agreement, the Department may demand the return of such excess rents or other charges to the respective households. In any action to enforce the provisions of the Standard Agreement, the Department may seek, as an additional remedy, the repayment of such overcharges.

NOTE: Authority cited: Health and Safety Code Section 53598(b). Reference cited: Health and Safety Code Section 53591(a)(1) and 53594 and 50472.