

Mayor’s Office of Housing and Community Development
Underwriting Guidelines
Updated June 17, 2019

The following guidelines are intended to assist applicants for capital financing to prepare financing requests to the Mayor’s Office of Housing and Community Development (MOHCD). These guidelines will also be used by MOHCD staff for purposes of evaluating funding requests and presenting them to the Citywide Affordable Housing Loan Committee for consideration. The intent of these underwriting guidelines is to insure that final loan terms are consistent across projects and to insure that the long-term affordability and physical and financial sustainability is maximized during the loan term.

For supportive housing funded by the State of California’s No Place Like Home Program, MOHCD has developed an Addendum (Section VII) that summarizes key requirements of the NPLH Program. Please refer to these requirements and the full NPLH Program Guidelines Articles I and III.

The Loan Committee maintains the right to set final terms and conditions for commitment of funds based on the actual circumstances of each project. MOHCD reserves the right to review and approve any requests for variations to these Underwriting Guidelines. These guidelines are subject to change.

MOHCD Policies referenced herein:

MOHCD Ground Lease Policy	MOHCD Developer Fee Policy
MOHCD Operating Fees Policy	MOHCD Subordination Policy
MOHCD Residual Receipts Policy	MOHCD Commercial Space Policy & Underwriting Guidelines
MOHCD Guidelines for Architect and Engineering Basic Services	MOHCD Refinance, Restructure and Recapitalization of Existing Affordable Housing Developments Policy

I. GENERAL FINANCING TERMS

A. Term

1. Residual Receipts Loan or Grant Term: 40-75 years, depending on borrower’s request and source of funds. Typically 55 years.
2. Declaration of Restrictions/Regulatory Agreement Term: 55 years minimum, 75 years for HOME regardless of repayment unless tax credit project, then 55 years for HOME.
3. Ground Lease Term: Typically 55-99 years. See separate Ground Lease Policy for additional terms.
4. Predevelopment Loan: Typical term is 3 years; may be extended upon request with MOHCD approval to 55 years when rolled into other City permanent debt or beyond 3 years due to predevelopment period delays beyond developer’s control.

B. Affordability

1. Maximum: Typically MOHCD AMI (defined as the tri-county unadjusted AMI) up to average of 60% MOHCD AMI, but may vary depending on project’s financial feasibility and may include a 20% set-aside for extremely low-income households (30% MOHCD AMI and below) with

specific population goals to be determined by MOHCD subject to the availability of subsidies or other MOHCD policy goals.

2. Subordination: City will subordinate the terms of its Declaration of Restrictions in the event of an uncured default by a 1st mortgage lender; otherwise the City's Declaration of Restrictions must always be in senior position. See separate Subordination Policy.
3. Termination of Subsidies: Should rental subsidies terminate, rent levels may rise to cover debt service and operations to breakeven to the maximum of 60% AMI as defined by TCAC (tri-county adjusted AMI) to the extent necessary to maintain financial feasibility, except where further limited due to the source of funds (for example, HCD No Place Like Home funds administered by MOHCD, see NPLH Addendum to these Guidelines.)

C. Interest Rate

1. Predevelopment Loan Interest Rate

- a. Minimum: 0% simple interest
- b. Standard Rate: 3% simple interest
- c. Maximum: May be set at a rate appropriate to accommodate tax credit loss requirements for the project. (To be determined based on borrower's request and ability to repay.)
- d. At conversion or rollover to gap loan, the interest rate will be re-evaluated to conform to the gap or permanent loan rate.

2. Permanent Loan Interest Rate

- a. Minimum: 0% simple interest
- b. Standard Rate: 3% simple interest
- c. Maximum: the greater of Applicable Federal Rate if required for a project's financial feasibility (To be determined based on borrower's ability to repay.)
- d. Interest rate between 0 to 3% can be determined by demonstrated need if required for financial feasibility.

D. Lien Position/Subordination: MOHCD debt shall be subordinate to 1st mortgage debt and to federal and state provided loans if State loan is 10 times greater than City loan. All other subordination requests must be reviewed and approved by City. See separate Subordination Policy.

E. Cross-collateralization: No cross-collateralization now or in the future of MOHCD/OCII funded developments.

F. Annual Payments Due

1. Annual Payments due: Ground lease base rent payment is must pay expense and will be paid before any surplus cash distributions. Ground Leases and Loans typically require annual repayments from residual receipts (see separate Ground Lease Policy). Any unpaid principal and interest due under the loans is deferred but payable at the end of term.
2. Surplus Cash Waterfall: Surplus cash is the operating income remaining after the satisfaction of operating expenses, reserves and must-pay debt, including State HCD mandatory interest payments and Ground Lease Base Rent payable to MOHCD. City will apply its residual receipts share to City debt repayment first if required to meet back-end tax requirements in tax credit projects. The use of Surplus Cash is controlled by the City's Operating Fees Policy, which

identifies allowable operating budget fees and any applicable limits; annual payments payable to the City from Surplus Cash are described in the City's Residual Receipts Policy.

II. RESIDENTIAL DEVELOPMENT PROFORMA ASSUMPTIONS

All projects are required to get permanent loans to reduce the overall funding gap should the project cash flow support such debt.

A. Debt Service Coverage Ratio (DSC)

1. Minimum: 1.10:1 except when CalHFA has approved a 1.05:1 DSC.
2. Maximum: ratio sufficient to insure 1.0:1 in Year 17 for tax credit projects.
3. Calculation Method: DSC should be calculated after accounting for reserve deposits. In the case of subordinate amortized loans, DSC should be calculated using cash flow remaining after debt service on 1st mortgage. The goal in all cases is to maximize the amount of leveraged debt.

B. Reserves

All capitalized reserves must be funded prior to permanent conversion. All reserves will remain assets of the project and cannot be released at the end of the tax credit term to the Limited Partnership.

1. Capitalized Operating Reserves: Three months (and up to six months of the 1st full year if required by lender or investor) of operating expenses (including debt service, if any) in interest-bearing account with provision that annual deposits must also be made if the balance drops below the original amount. [Note: HOME and CDBG funds cannot be used for capitalized operating reserves.]
2. Operating Reserve Deposits: None unless balance drops below 25% of prior year's operating expenses (including debt service, if any). Any such required payments would be made from cash flow that remains after all other required payments are made (e.g. debt service, other reserve payments, etc.). The rate of replenishment would be three months (and up to six months of the 1st full year if required by lender or investor) of operating expenses (including debt service payments) to the extent there is available cash to make such deposits.
3. Capitalized Replacement Reserves
 - a. New Construction: None
 - b. Acquisition/Rehab: Up to \$1,000 per unit or based on a reserve study, including existing reserve, if any, at time of acquisition.
4. Replacement Reserve Deposits
 - a. New Construction: Lesser of 0.6% of unit construction cost, defined as all hard construction costs excluding cost of site work and podium foundations but including construction contingency, or the following amounts (expressed as per unit per year). After the first 10-years of operation, the sponsor may request adjustments to the above amounts every five (5) years based on a 20-year capital needs assessment (CNA).

Units	Family	SROs	Senior
<5	650	600	550
<20	550	500	450
<50	500	450	400
<100	450	400	350
100+	400	350	300

- b. Acquisition Rehab: The higher of the amount needed according to an approved 20-year CNA or the amounts listed in the table above as permitted by the available cash flow. May be updated every five (5) years based on a revised CNA acceptable to City.

5. Capitalized Rent Reserve Deposits

- a. Shelter Plus Care: Borrower may request funding of a Rent Subsidy Reserve only if required by other lenders.
- b. Section 8 Reserve: None allowed for contracts for 10 years or more, except if required by other lenders.
- c. LOSP: Capitalized reserves are not allowed because of the LOSP program-wide reserve.

C. Fees

1. Developer Fee: see separate Developer Fee Policy.
2. Partnership Management Fee: see separate Operating Fee Policy.
3. Asset Management Fee: see separate Operating Fee Policy.
4. LP Asset Management Fee: see separate Operating Fee Policy.
5. Accrued but Unpaid Fees: Any fees that accrue in one year but cannot be paid due to lack of surplus cash or any other reason can be paid in later years only AFTER the full amount due to the City for that year has been paid (i.e. accrued but unpaid fees must be paid out of the Owner Distribution portion of the surplus).

D. Contingencies

1. Bid Contingency (All Projects): 5% Bid Contingency to be removed at the earlier of construction contract signing or 30 days prior to construction start.
2. Design Contingency: 5% Design Contingency to be removed at 100% Construction Documents.
3. Plan Check Contingency: 5% Plan Check Contingency to be removed at receipt of Plan Check comments on building permit and major addenda.
4. Construction Contingency
 - Purpose: Contingency for unforeseen conditions, minor errors and omissions and voluntary owner upgrades. Any contingency remaining after completion of construction must be returned to the City and other lenders on a prorated basis.
 - New Construction: 5% of construction contract.
 - Rehabilitation: 15% of construction contract.
 - Limits on Voluntary Owner Upgrades: Voluntary owner upgrades are limited to an aggregate amount that does not exceed the amount returned to the City, if any.
3. Soft Cost Contingency: 10% of soft costs, excluding developer and administrative fees, construction loan interest, and reserves for projects costing \$5 million or more. May be increase for smaller projects.

E. Furnishings

1. Unit Furnishings: Not a permitted use of MOH/SFRA funds unless housing is designed to serve homeless households. Assume \$2,500 per unit for SROs or studios, and \$1,500 per bedroom for other units. Additional \$650 permitted per homeless unit for soft goods such as start-up kitchen equipment and linens.
2. Common Area Furnishings: For new construction, assume budget equal to \$2,000 per unit. For rehab, must be based on actual need but not to exceed above amount. This budget line item must also include any interior designer costs.
3. Property Management Start-Up Costs: Includes purchase of maintenance equipment and supplies and property management start-up costs. Excludes service office start-up costs.

F. Architect and Engineering Fees:

1. Basic Services: for architect contracts is defined in MOHCD Guidelines for Architect and Engineering Basic Services. Architect contracts should be full-service and include all consultants except for those excluded in MOHCD’s guidelines and design/build consultants and use standard AIA forms (or approved equivalent). Owner addenda are encouraged, including requiring the architect to design to a specified construction budget. Contracts should be signed as early in the process as possible, preferably no later than the completion of schematic design. Additional services will be allowed if there are significant changes in the A/E scope. Fees for Architecture/Engineering services should follow the guidance in the Guidelines for Architect and Engineering Basic Services document.
2. Peer Review: of the architect’s and/or the engineer’s work may be required at the discretion of the City but the cost of Peer Review is not included in Basic Services and is not subject to the fee cap.

G. Construction Management:

1. Staffing: Developer must identify specific staff or consultant(s) who will provide construction management functions on behalf of the owner, including permit applications and expediting, cost analysis, completion evaluations, change order evaluations, scope analysis and schedule analysis. A Construction Manager/Owner’s Representative is required for each MOHCD/OCII funded project.
2. Scope of Services: The Construction Manager/Owner’s Representative scope of services should generally follow the Scope of Services for Owner’s Representative document attached hereto.
3. Construction Management Fee: The Construction Manager/Owner’s Representative fee if using a third-party consultant should follow the tiered fee structure outlined below, depending on project size whether new construction or rehabilitation:

For a small size project (\$2.5M to \$8M construction contract):	<u>Monthly</u>	<u>Annual</u>
Preconstruction	average monthly fee: \$2,500	Max annual fee: \$30,000 (assumes Preconstruction will be less than 12 months)
Construction	average monthly fee: \$3,500	Max annual fee: \$42,000

For a medium size project (\$9M to \$18M construction contract):	Monthly	Annual
Preconstruction	average monthly fee: \$3,000	Max annual fee: \$36,000
Construction	average monthly fee: \$4,500	Max annual fee: \$54,000
For a large size project (\$19M and over construction contract):	Monthly	Annual
Preconstruction	average monthly fee: \$3,500	Max annual fee: \$40,000
Construction	average monthly fee: \$5,000	Max annual fee: \$60,000

H. General Contractor Fees/Price

1. Selection of contractor by RFP: When the developer selects the contractor through negotiated bid process, the RFP should require competitive cost proposals that specify Overhead, Profit and General Conditions percentages and identify all schedule of values line items that are excluded from these categories. The RFP should also specify the contractor's fee for pre-construction services. The fee is a criterion, but not the sole criterion for selection. Selection process and selection results must be approved by City/Agency with respect to LBE/SBE participation, wage requirements and proposed contract price.

2. Overhead, Profit and General Conditions Price: For New Construction, an overall cost limitation of fourteen percent (14%) of the cost of construction (site work and structures) shall apply to builder overhead, profit and general requirements, excluding builder's general liability insurance (or as modified by TCAC); for Rehabilitation, developer should compare these costs to comparable other recent developments. General contractor overhead and profit shall be tiered by total Hard Cost value (not including contingencies) based on the following contract amounts:
 - a. \$0-\$30MM = up to 4.75%
 - b. \$30MM-\$45MM = 4.5%
 - c. \$45MM + \$50MM = 4.25%
 - d. \$50MM + = 4%

3. Contract (or Contractor's) Contingency: Must be called out as a separate line item, tracked and documented.

4. Subcontractor's Prices: When determining final Contract Price and identifying dollar amounts of Contractor's fees, scheduled values should reflect when appropriate, actual subcontractor prices without any general contractor's markup. Subcontractor and sub-tier mark-up shall not exceed 15% in the aggregate, including on change orders. City/Agency reserve the right to review all bids.

5. Escalation: Escalation shall be included as a separate hard cost line item during the predevelopment phase. The amount of escalation shall be commensurate with the time period until expected construction start. Developer's escalation shall be removed from the budget of the first contractor estimate based on schematic design on the assumption that any escalation would already be carried in the contractor's cost estimate.

6. Change Orders: All change orders shall be reviewed and approved by the City. Mark-up on change orders shall be limited to 15% in the aggregate, inclusive of any general contractor's mark-up.
7. Early Release of Retention: Requests for early release of retention are subject to the City's approval. Subcontractors for whom retention will be released early should be identified in the owner - general contractor contract.

III. RESIDENTIAL OPERATING PROFORMA ASSUMPTIONS

- A. Vacancy Allowance: Use TCAC underwriting standards except for projects with rent subsidy contracts of five (5) or more years.
- B. Increases in Gross Income: 2.5% annually, or as modified by TCAC.
- C. Increases in Operating Expenses: 3.5% annually, or as modified by TCAC.

IV. OTHER UNDERWRITING GUIDELINES

- A. Organizational Capacity: Developers must have experience successfully completing at least three affordable housing development projects. At least one of the completed projects must be similar to the project for which funding is being sought. Developers may also joint venture with more experienced Developers in order to achieve threshold experience. Such joint ventures will be reviewed and approved by MOHCD. Developers will also be evaluated on their successful operating compliance with their properties in the MOHCD portfolio.
- B. Project Management Capacity: Developer's project manager must have experience with at least one comparable, successfully completed project or be assisted by a consultant or other staff person with greater experience and adequate time to commit. When using a consultant, the consultant's resume should demonstrate that the consultant has successfully completed managing all aspects of at least two (2) comparable development projects in the recent past. Project manager workload must also be taken into consideration.
- C. Asset Management Capacity: Development Teams must provide information requested by MOHCD to show how they monitor the financial performance and manage the capital needs of their existing affordable housing assets. Development Teams must also provide information describing current and future asset management staffing plans. MOHCD will use the information provided to verify that their approach to asset management meets the City's stewardship expectations particularly with regard to timely performance of Capital Needs Assessments, maintaining adequate Replacement Reserves and timely collection of tenant rents.

V. COMMERCIAL SPACE UNDERWRITING GUIDELINES

See separate Commercial Space Policy and Underwriting Guidelines.

VI. REFINANCE ASSUMPTIONS

See separate Refinance, Restructuring and Recapitalization of Existing Affordable Housing Developments Policy.

VII. ADDENDUM 1: KEY REQUIREMENTS OF NO PLACE LIKE HOME PROGRAM

For supportive housing funded by the State of California's No Place Like Home Program, MOHCD has developed this addendum to summarize key requirements of the NPLH Program. Sponsors of NPLH-funded supportive housing must comply with all relevant requirements of the NPLH Program Guidelines. The full program guidelines are available at the State of California Housing and Community Development Department's website: <http://www.hcd.ca.gov/grants-funding/active-funding/nplh.shtml#guidelines>.

The goal of MOHCD's NPLH Program is to facilitate acquisition, design, construction, rehabilitation, and preservation of affordable multifamily rental housing for persons with a serious mental illness who are homeless, chronically homeless, or at-risk of chronic homelessness. Qualifying multifamily structures must collectively contain five or more units and shall consist of scattered site housing and multifamily affordable developments. Shared housing is not an eligible development under MOHCD's guidelines.

Please disregard provisions of the HCD NPLH Program Guidelines in Article III, related to the Capitalized Operating Subsidy Reserve (COSR) and transition reserve requirements, as these are superseded by MOHCD's own guidelines found in the LOSP Policies and Procedures.

Eligible Uses of Funds. MOHCD will evaluate each qualified multifamily project for suitability for NPLH funding. Awarding NPLH funding is conditional on acceptance or eligibility for available state funding. The total amount of funds to be awarded to NPLH-assisted units shall not exceed the costs associated with assisted units. To determine these costs, the cost allocation rules from the State of California's Multifamily Housing Program Regulations (25 California Code of Regulations, Section 7304(c)) that govern eligible uses of funds shall apply.

http://www.hcd.ca.gov/grants-funding/already-have-funding/uniform-multifamily-regulations/docs/MHPandSHRegs5_14_05.pdf

Selection Criteria. MOHCD will evaluate the site's eligibility for NPLH funding utilizing the following criteria identified in the HCD NPLH Guidelines (section 301(a) 4-8 and 13-14), including, but not limited to:

- Suitability of each location for the NPLH residents, including proximity to transportation, services, and other amenities in a manner that ensures integration of the NPLH residents in the community;
- The Project site 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.
- All units must be on a permanent foundation and must meet all applicable 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.

- Readiness to proceed to construction;
- Capital, operating subsidy, and supportive services leverage;
- Compliance with applicable state and federal relocation laws including California Government Code Section 7260 et seq., and 25 CCR Section 6000 et seq.; and
- Compliance with Article XXXIV Section 1 of the California Constitution, as clarified by Public Housing Election Implementation Law (H&S Code Section 37000 et seq.).

Experience. MOHCD will evaluate the experience of the project team including the development sponsor, property manager, and lead service provider to ensure that the following minimum experience requirements are met:

- (1) Development and ownership of at least two affordable rental housing projects in the last ten years, with at least one of those projects containing at least one unit housing a tenant who qualifies as a member of the NPLH target population
- (2) Property management operation of at least two affordable rental housing projects in the last ten years, with at least one of those projects containing at least one unit housing a tenant who qualifies as a member of the NPLH target population
- (3) Lead services provider, which may be the County, shall have three or more years of experience serving persons who qualify as members of the NPLH target population. If this experience does not include experience serving persons in supportive housing, it must include experience helping persons address barriers to housing stability or providing other support services related to housing retention (from Section 202 (e) that details Project Threshold Requirements)

Integration. Proposed projects must demonstrate integration of the NPLH target population with the general public. In order to demonstrate compliance with this requirement, following conditions must be met:

- (1) Assisted units must be integrated with other units in the project and not separated onto separate floors or areas in the building
- (2) To promote integration of the target population with other project tenants, in projects of greater than 20 units, MOHCD will fund no more than 49 percent of the project's total units as NPLH 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 persons with disabilities
- (3) Sponsors must certify that they will facilitate or provide regular community building activities and architectural design features that promote tenant interaction, as feasible depending on the scope of the construction or rehabilitation activity
- (4) The service plan and property management plan submitted with the funding application must document policies that promote participation by tenants in community activities, and impose no restrictions 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. (from Section 202 (g))

A. Uses and Terms of NPLH Program Assistance (from Section 302 of NPLH Program Guidelines)

MOHCD will allocate NPLH funds to finance capital costs of supportive housing development including but not limited to acquisition, design, construction, rehabilitation, or preservation of affordable multifamily rental housing. (from Section 302 (a))

MOHCD will not allocate NPLH funds to capitalize operating subsidy reserves for assisted units. (from Section 302 (b))

NPLH funds may be provided as predevelopment, construction, or post-construction permanent financing. If funding is used as predevelopment or construction financing, NPLH funding must convert to post construction permanent financing. (from Section 302 (d))

NPLH allocations to multifamily rental housing of five or more units shall be provided in the form of a deferred payment loan that shall have an initial affordability period of 55 years or longer commencing on the date of recordation of the NPLH regulatory agreement. (Section 302 (e)) The loan may bear a zero percent interest rate. Any interest payment, loan repayments, or other return of funds must be returned to the State Department of Housing and Community Development pursuant to Welfare and Institutions Code Section 5849.4 (b) that governs the NPLH Program. (from Section 302 (e))

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=5849.4 (included as reference only)

Program funds shall be secured by the project's real property and improvements, and subject only to liens, encumbrances and other matters of record approved by MOHCD. (from Section 302 (f))

MOHCD may charge reasonable and customary annual monitoring fees to be used in conjunction with administration funds for compliance monitoring required under Section 311 of the NPLH Program Guidelines during the applicable period of affordability set forth in Section 302, paragraph (e). These fees must be based upon the average actual cost of performing the monitoring of the assisted units. The basis for determining the amount of the fee must be documented and the fee must be included in the costs of the project as part of the project underwriting analysis. (from Section 302 (g)). Currently, MOHCD has opted not to charge a separate NPLH monitoring fee. Any changes to this policy would be made to these Underwriting Guidelines.

NPLH funds not committed to projects within 24 months of award by the State Department of Housing and Community Development shall be returned to the State, and such funds shall be made available for award to applicants as part of the State's Competitive Allocations. Evidence of committed funds may include award letters, commitment letters, or other written agreements evidencing a commitment of funds. (from Section 302 (h))

B. Occupancy, Income and Rent Limit Requirements (from Section 303 of NPLH Program Guidelines)

Occupancy of all NPLH assisted units shall be restricted to households with at least one member who qualifies as a member of the target population. (from Section 303 (a)) The NPLH target population includes adults or older adults with a serious mental disorder or children or adolescents with serious emotional disturbance who are homeless, chronically homeless, or at-risk of chronic homelessness. This

includes persons with co-occurring mental and physical disabilities or co-occurring mental and substance use disorders. (from the State's Welfare and Institutions Code Section 5600.3 (a) and (b) that governs the Mental Health Services Act Program and the target population for the MHSA Program)

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=5600.3.&lawCode=WIC

Total household income at the time of move-in shall not exceed 30 percent AMI limit as published by the State Department of Housing and Community Development. (from Section 303 (a))

Income determination shall be made in accordance with the requirements in the State of California's Multifamily Housing Program Regulations that govern the calculation of gross income and net income for eligible households for assisted units (25 California Code of Regulations, Section 6914 and 25 CCR, Section 6916) (from Section 303 (b))

For assisted units, if at the time of recertification, a tenant household's income exceeds the 30 percent AMI level and this increase is based solely on the current SSI/SSP payment rate or cost of living adjustment, the household rent shall not exceed 30 percent of household income. These units shall continue to be designated as assisted units. (from Section 303 (c))

For assisted units, if at the time of recertification, a tenant household's income exceeds the 30 percent AMI level and this increase is based on factors other than or in addition to the current SSI/SSP payment rate or cost of living adjustment, to the extent a rent increase for the household is permitted by statutes and regulations governing the project's other financing sources, the sponsor:

- (1) Shall redesignate the tenant's unit as a unit at the higher income level, provided that there are non-assisted units restricted at the higher income level. These units shall not be designated as NPLH assisted units.
- (2) Shall increase the tenant's rent to the level applicable to units at the higher income level; and
- (3) Shall designate the next available comparable non-assisted unit as an assisted unit by the income level originally applicable to the household unit the unit mix required by the program regulatory agreement is achieved.
- (4) If all of the project units are assisted units, that project can continue with the over-income unit until such time as the over-income household(s) no longer reside in the project.
- (5) A unit shall be deemed comparable if it has the same number of bedrooms and reasonably similar square footage as the original unit. (from Section 303 (d))

For assisted units, if at the time of recertification, a tenant household's income exceeds the income limit designated for the household's unit, but does not exceed the limit for a higher income level applicable to new NPH tenants, the sponsor may increase the household's rent to an amount not exceeding the closest rent limit applicable to the household's income level at the time of recertification. (from Section 303 (e))

Projects shall maintain documentation of tenant eligibility consistent in all of the following ways, as applicable:

- (1) Documentation of an adult or older adult with a serious mental disorder or a child or adolescent with a serious emotional disturbance, as provided by a qualified mental health worker in

accordance with the requirements of WIC Section 5600.3 (from the State's Welfare and Institutions Code Section 5600.3 that governs the Mental Health Services Act Program and the target population for the MHSA Program)

- (2) Documentation of a person's status as homeless or chronically homeless as defined in Section 101 of the NPLH Program Guidelines and established through the local coordinated entry system or at-risk of chronic homelessness as defined in Section 101 of the NPLH Program Guidelines and established through the local coordinated entry system or other procedures for determining qualification
- (3) In no event shall a person be required to be a client of San Francisco County's behavioral health department or a recipient of mental health or other services in order to qualify for or remain in an assisted unit (from Section 303 (f))

These occupancy, income and rent limit requirements shall apply for the full term of the NPLH program loan (from Section 303 (g))

C. Underwriting Standards and Other Requirements (from Section 304 of NPLH Program Guidelines)

All assisted units shall have rents restricted to 30 percent AMI or below as specified in the project regulatory agreement with MOHCD, except as otherwise permitted in the above Occupancy, Income and Rent Limit Requirements (detailed in Section 303 (c) of NPLH Program Guidelines) (from 304 (a)).

Rent levels shall be expressed in five percent increments as a percentage of SMI (from 304 (b)).

Before committing funds to project, MOHCD must evaluate the project in accordance with underwriting standards it has chosen to use for this program. These standards must consider at a minimum, such things as: reasonableness of projected construction and operating expenses, income and expense escalators, vacancy rate assumptions, debt coverage ratio, operating reserves, replacement reserves, budgeted construction contingency, limits on development costs, developer fees, asset management and partnership fees, and use of operating cash flow (from 304 (c)).

The maximum amount of assistance per assisted unit shall take into account the number of bedrooms per unit or other measures of unit size, as well as the level of affordability provided per unit, with more affordable units being provided more subsidy (from Section 304 (d)).

The total amount of program assistance to a project shall not exceed the eligible costs associated with assisted units in accordable with a methodology that allocates costs among the assisted and non-assisted units in reasonable proportion to their anticipated share of costs (from Section 304 (e)). The total amount of NPLH funds per site will be determined at the sole determination of MOHCD, subject to funding availability and HCD limitations on State funds stacking, and in no case higher than the gap between the cost to build and the other available subsidies.

California Labor Code Section 1720 et seq. requires payment of prevailing wages for certain developments paid for in whole or in part from any public funding source, and exempts other developments from this requirement. All funds provided under this program are public funds within the meaning of these Labor Code sections. Program funding for a portion of a project shall not necessarily, in and of itself, be considered public funding of the entire project. MOHCD shall be responsible for determining on a case-by-case basis, the extent of the applicability of state prevailing wage law to each individual project. (from Section 304 (f)).

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB§ionNum=1720.

Projects of five or more units must meet the accessibility requirements specified in the California Tax Credit Allocation Committee 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), or a higher standard if required by MOHCD. Exemption requests, as provided for in the TCAC regulations, must be approved by MOHCD. 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, or a higher standard if required by MOHCD. All projects must also ensure that any other applicable federal, state, and local accessibility requirements are met. (from Section 304 (g)).

<https://www.treasurer.ca.gov/ctcac/programreg/2018/20180516/clean.pdf> (CCR governing CTCAC regulations)

Projects shall have a transition reserve (further described in the LOSP Policies and Procedures) in an amount established by the MOHCD in the event that any project-based rental assistance is not renewed and the project cannot secure other rental or operating subsidies to continue without immediately raising rents on the assisted units.

- (1) If rent increases on the assisted units are necessary after exhausting all transition reserve funds such increases shall only be permitted to the minimum extent required for financial feasibility, as determined by MOHCD. In addition, rents on assisted units shall not, in any event, be increased to an amount in excess of 30 percent of 50 percent of AMI, adjusted by number of bedrooms.
- (2) MOHCD shall notify the State Department of Housing and Community Development at least 12 months in advance of any rent increase on the assisted units due to exhaustion of the transition reserve.
- (3) If rent increases on the assisted units are necessary due to loss of rental or operating assistance, if it is determined that NPLH tenants will need to move after exhausting all transition reserve funds, a transition plan shall be implemented to identify other permanent housing options that may be more affordable to NPLH tenants who cannot afford the increased rent, and to assist those persons in accessing other available housing. Funds from the transition reserve may be used for these expenses. (from Section 304 (h))

D. Operating Budget Requirements

MOHCD shall review annually proposed annual operating budgets of funded projects to ensure that budget line items, including any proposed rent increases, are reasonable and necessary in light of costs for comparable permanent supportive housing projects and prior year budgets (from Section 306).

E. Supportive Services Requirements

Each application selected for funding must include a project-specific supportive services plan developed by the county in partnership with the project sponsor, supportive service providers, and the property manager. (from Section 203 (a))

The property management staff and service providers must make participation in supportive services by NPLH 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 NPLH tenants in a manner that is voluntary, flexible and individualized, so NPLH 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. (from Section 203 (b))

The following supportive services shall be made available to NPLH tenants based on tenant need. Available mental health services shall be provided directly by the County or through a subcontracted lead service provider. The County or the County's lead service provider for the Project shall coordinate the provision of or referral to services needed by individual tenants, including but not limited to substance use treatment services, for a minimum of 20 years. Except as otherwise noted below, the following required services can be provided onsite at the project or offsite at another location easily accessible to tenants:

- (1) Case management;
- (2) Peer support activities;
- (3) Mental health care, such as assessment, crisis counseling, individual and group therapy, and peer support groups;
- (4) Substance use services, such as treatment, relapse prevention, and peer support groups;
- (5) Support in linking to physical health care, including access to routine and preventive health and dental care, medication management, and wellness services;
- (6) Benefits counseling and advocacy, including assistance in accessing SSI/SSP, enrolling in Medi-Cal; and
- (7) Basic housing retention skills (such as Unit maintenance and upkeep, cooking, laundry, and money management). (from Section 203 (c))

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 NPLH Project that the Applicant wishes to undertake beyond what is permitted under the Target Population requirements. Any additional subpopulation targeting or occupancy preference for NPLH 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 and 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 NPLH tenants in order to provide them reasonable access to these services. Reasonable access is access that does not require walking more than ½ 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 NPLH 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. (from Section 203 (e))

Copies of draft written agreements or memoranda of understanding (MOUs) must be provided which identify the roles and responsibilities of the County, the project owner, other service providers, and the property manager. Specific organizations do not need to be identified unless those organizations are used to satisfy the experience requirements required to submit an application under NPLH Project Threshold Requirements. The draft written agreements or MOUs must be materially consistent with the information set forth in the supportive services plan. (from Section 203 (f))

MOHCD 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. (from Section 203 (g))

F. Tenant Selection, Rental Agreements and Grievance Procedure Requirements

Chronically homeless and homeless persons shall be referred to NPLH assisted units through the local coordinated entry system (from Section 307 (a)).

If San Francisco's coordinated entry system cannot refer persons at-risk of chronic homelessness, the County will first prioritize chronically homeless and homeless persons through the local coordinated entry system. Then, San Francisco will develop an alternate system to prioritize those with the greatest need who are at-risk of chronic homelessness for NPLH assisted units. (from Section 307 (b))

Projects utilizing MOHCD's Noncompetitive Allocation of NPLH funding shall first prioritize homeless individuals with a serious mental illness and then individuals at-risk of chronic homelessness with a serious mental illness. (from Section 307 (c))

MOHCD shall have reasonable standards for project rental agreements, property management plans, and tenant grievance procedures to ensure compliance with the State's Housing First requirements (from the State's Welfare and Institutions Code Section 8255(b) that detail the core components of Housing First), and compliance with basic tenant protections established under federal, state and local law. (from Section 307 (d))

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=8.&title=&part=&chapter=6.5.&article=

Tenants shall be accepted regardless of sobriety, participation in services or treatment, history of incarceration, credit, or history of eviction in accordance with practices permitted pursuant to the

State's Welfare and Institutions Code Section 8255 that details core components of Housing First, or other federal or state project funding sources. (from Section 307 (e))

G. Reporting Requirements

MOHCD and project owners shall comply with the reporting requirements listed in the NPLH Program Guidelines Section 214, except for subsections (a) and (b). (from Section 309 (a)) In the event of any conflicting reporting requirements, HCD NPLH Guidelines will prevail. These are listed below for reference:

- On an annual basis, the County shall submit the data elements listed below for each of its NPLH Assisted Units. The County shall work with each Project's property manager and lead service provider to gather the data. The data may be, but is not required to be, gathered from the local Homeless Management Information System (HMIS).
- The data shall be submitted in electronic format on a form provided by the Department of Housing and Community Development. The County, the property manager and the lead service provider shall work together to resolve any data quality concerns to the best of their ability prior to submission of the data to the Department.
- The data below shall be submitted to the Department no later than September 30 of each year for the previous State fiscal year of activity (July 1-June 30) and shall include all the following information for each Project:

Elements for reporting include:

- (1) Project location, services, and amenities;
- (2) Number of NPLH Assisted Units, total Units assisted by other government programs, and total non-Assisted Units;
- (3) Project occupancy restrictions;
- (4) Number of individuals and households served;
- (5) Homeless status, veteran status as requested in item (12) below, and mental health status. No information on specific mental health diagnoses will be collected; and
- (6) Average Project vacancy rate during the reporting period (12-month average).

For NPLH Units Only:

- (7) Average vacancy rate of NPLH Assisted Units during the reporting period (12-month average);
- (8) Head of Household gender, race, ethnicity, age;
- (9) Income levels of NPLH tenants as a percentage of AMI, (i.e., 10 percent of AMI, 15 percent of AMI, 20 percent of AMI, etc.);
- (10) The percentage of NPLH tenants who have lived in the building less than 12 months, 12 to 24 months, and longer than 24 months;
- (11) The number of tenants who moved into a NPLH Assisted Unit during the reporting period who, prior to Project entry, were (A) Chronically Homeless, (B) Homeless, or (C) At-Risk of Chronic Homelessness, as defined under Section 101 of these Guidelines;
- (12) The number of tenants who served on active duty in the armed forces of the United States (for tenants over age 18);

- (13) The number of tenants who continue to have a Serious Mental Disorder or the number who are Seriously Emotionally Disturbed Children or Adolescents, as defined in Welfare and Institutions Code Section 5600.3;
 - (14) Of those who moved in during the reporting period, the number of tenants who were referred from:
 - A. CES and/or;
 - B. The County behavioral health department or a service provider acting on its behalf;
 - C. A State Department of Developmental Services regional center, or
 - D. Another reported source.
 - (15) Of those who moved in during the reporting period, the length of time prior to moving in that they reported they were:
 - A. On the streets (including a vehicle or other place not meant for human habitation), or
 - B. In an emergency shelter, safe haven, or transitional or interim housing.
 - (16) Of those who moved in during the reporting period, and to the extent the information was available prior to referral to the Project, the number of tenants who had:
 - A. A physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post-traumatic stress disorder, or brain injury that:
 - (i) Is expected to be long-continuing or of indefinite duration;
 - (ii) Substantially impedes the individual's ability to live independently; and
 - (iii) Could be improved by the provision of more suitable housing conditions.
 - B. A developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or
 - C. The disease of acquired immunodeficiency syndrome (AIDS) or any condition arising from human immunodeficiency virus (HIV).
 - (17) For tenants who exited NPLH Assisted Units during the reporting period:
 - A. The number of tenants who exited during the reporting period to:
 - (i) other permanent housing,
 - (ii) the street, emergency shelter, transitional housing, or safe haven, or
 - (iii) an institutional destination, and the specific institutional destination, if known (including, but not limited to hospitalization or psychiatric hospitalization, residential substance use treatment facility, skilled nursing facility, jail or prison).
 - (18) The number of tenants who died during the reporting period.
 - (19) For tenants who leased or remained in NPLH Assisted Units during the reporting period:
 - A. Changes in employment income during the reporting period;
 - B. Changes in non-employment cash income during the reporting period; and
 - C. Changes in total cash income during the reporting period.
- Notwithstanding the above requirements, the Department of Housing and Community Development may modify the data collected over time to conform to changes in the specific data metrics required by HUD through CES, or required by another state or federal agency
 - If readily available, counties may also provide aggregate data on: (1) emergency room visits for NPLH tenants before and after move-in; (2) average number of hospital and psychiatric facility admissions and in-patient days before and after move-in; and (3) number of arrests and returns to jail or prison before and after move-in
 - Data collected annually will be compiled by the Department of Housing and Community Development and made available on the Department's website

- Where there is a difference between these guidelines and the Department of Housing and Community Development's current reporting requirements, the provisions of these guidelines shall prevail

For each project completed by June 30th of the reporting year, MOHCD shall submit to the State Department of Housing and Community Development a project completion report, no later than September 30th of that year, with evidence acceptable to the State that the project is complete, and that all assisted units in the project are occupied by persons meeting the occupancy, income, rent, and tenant eligibility requirements for the assisted units. This information shall be provided on forms made available by the State. (from Section 309 (b))

The State may extend the deadline for submission of a project completion report, if a project was completed less than 150 days prior to the deadline for submission of the report under the NPLH Program Guidelines Section 213 (e) in order to enable the project to submit occupancy information based on an initial rent-up period not to exceed 120 days. (from Section 309 (c))

H. Monitoring Requirements

MOHCD is responsible for ensuring that NPLH funds are used in accordance with all program requirements and Alternative Process County Program agreements (between the State Department of Housing and Community Development and MOHCD). MOHCD must take appropriate action when performance problems arise. The performance and compliance of each project must be reviewed as set forth in NPLH Program Guidelines Section 311 (b). (paragraph below) MOHCD must have and follow written procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring projects, to ensure developers, property managers, and service providers are meeting all program requirements. (from Section 311 (a))

To ensure that funded projects are completed, projects are able to meet long-term affordability, and project are meeting other program requirements as set forth in the NPLH Program Guidelines and relevant statutes, MOHCD must meet the following minimum requirements for project monitoring:

- (1) On-site physical inspections of all projects as needed during construction, at project completion, and at least once every three years during the term of the loan;
- (2) Annual review of project operating budgets, audits, or other certified financial statements.
- (3) Annual review of supportive services plans and outcome measures to ensure that the supportive services being offered are the most appropriate and effective for existing NPLH tenants and the NPLH tenants proposed to be served in the NPLH regulatory agreement (from Section 311(b))