



## Notice of Funding Availability

### Community Development Block Grant Disaster Recovery Multifamily Housing Program (CDBG-DR MHP)

#### COUNTY OF YUBA

September 10, 2021,

**Final Date to Submit:  
October 11, 2021 at 5 pm**

YUBA COUNTY COMMUNITY DEVELOPMENT AND SERVICES AGENCY  
915 8<sup>TH</sup> STREET, SUITE 123  
MARYSVILLE, CA 95918  
(530) 749-5674

Approved for Solicitation

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Kevin Perkins  
Planning Manager

## I. Overview

The County of Yuba (the “County”) is pleased to issue this Notice of Funding Availability (NOFA) for Community Development Disaster Recovery Multifamily Housing Program (“CDBG-DR MHP”) allocated to the County by the State of California Department of Housing and Community Development (“HCD”). The County of Yuba shall act as the “Awarding Authority,” and shall award and enter into agreements for the CDBG-DR MHP allocation.

The County shall make approximately \$1,561,306.00 in federal CDBG-DR MHP grant funding available and will award these funds to one or more projects meeting qualifying criteria as described in this NOFA. To be eligible for an award of CDBG-DR MHP funds from the County, projects must be located in the 95901-zip code in Yuba County limits, as the 95901-zip code was designated as a “Most Impacted and Distressed Area” by the United States Department of Housing and Urban Development (HUD). Properties located within 0.5 miles of the zip code boundaries may submit an application; however, preference will be given to applications located within the boundaries of the zip code.

All applicants are strongly advised to review the following documents provided by the State of California Department of Housing and Community Development as administrative guidelines and regulatory requirements associated with CDBG-DR MHP funding.

- CDBG-DR MHP Policies and Procedures (version 2.0, September 2020 and as may be amended) (CDBG-DR MHP P&P):  
[https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2017/docs/17dr\\_mhp\\_pp\\_v2.pdf](https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2017/docs/17dr_mhp_pp_v2.pdf)
- State HCD Multi-Family Housing Program Guidelines and Regulations:  
<https://www.hcd.ca.gov/grants-funding/active-funding/mhp/docs/round-1-mhp-final-guidelines.pdf>

A. **Terminology.** Capitalized terms not defined herein have the meaning given to them in the CDBG-DR MHP Policies and Procedures (P&P). The term Applicant in this NOFA is generally defined as the “Developer” in the CDBG-DR MHP P&P.

B. **Objective.** CDBG-DR funds are required to be used to finance the development of affordable multifamily rental housing to meet unmet rental housing needs resulting from the 2017 Yuba Country fire. All projects must meet the CDBG low to moderate income housing (LMH) national objective, which requires 51% of units are occupied by low- and moderate-income households (LMI). Proposed developments that do not contain 51% or more of the total units as Affordable Units may only be funded for the proportional amount of assisted units that qualify as LMI, subject to additional conditions discussed in Section III, below. While proposed developments may be mixed income, CDBG-DR MHP funds are limited to those Affordable Units restricted for occupancy by Low-to-Moderate Income Households in accordance with Section 2.6 of the CDBG-DR MHP P&P.

C. **Funding.** CDBG-DR funding shall be provided as 0% interest, forgivable Loans, with a minimum term of 20 years and a maximum term of 30 years.

IMPORTANT: CDBG-DR funds are provided as “Gap” funding and can only cover 40% of total project funding, the remaining 60% must come from other funding sources.

Payments will be made to developers as reimbursements, based on the documented completion of agreed upon Project milestones.

**D. Selected Applicant Responsibilities.** Applicants awarded CDBG-DR MHP funding shall be responsible for ensuring compliance with all requirements of the CDBG-DR MHP Program including, but not limited to the functions described in section 4.6 of the CDBG-DR MHP P&P.

**E. Timeline.**

Date	Milestone
September 10, 2021	NOFA published
October 01, 2021	Last day to submit questions to the County related to the NOFA by 3:00 P.M.
October 11, 2021	Applications due by 5:00 P.M.  All applications received by this date will be reviewed and competitively ranked per the Scoring Criteria in this NOFA
October 12- December 1, 2021	Pending availability of funds, applications will be accepted over the counter for consideration until all CDBG-DR MHP funds are reserved
November 2021	Notification to all applicants of award recommendations
November 2021	Funding recommendations for County CDBG-DR MHP funding submitted to the Board of Supervisors for approval
November 2021	Submission of successful applications by the County to HCD for review/approval
December 2021	HCD approval or rejection within 60 days
December 2021-March 2022	Notices to proceed issued by HCD
December 31, 2021	Deadline to submit applications to HCD for consideration
January 31, 2025	Final date to submit certificate(s) of occupancy for all developments funded with CDBG-DR MHP
April 30, 2025	Final date to complete and fully occupy a development.

## **F. Public Records**

As a general rule all documents received by an Awarding Authority are considered public records and are subject to disclosure to the public under the requirements of the California Public Records Act (California Government Code Sections 6250, et seq.). There are two exceptions to the general rule that are relevant to this NOFA that authorize the Awarding Authority to refuse to disclose Awarding Authority records to the public for: (1) the “deliberative process”; and (2) “Confidential – Official Information”.

**Deliberative Process:** Each team submitting proposal packages is hereby informed that, upon submittal of its package to the Awarding Authority in accordance with this NOFA, the package contents are the property of the Awarding Authority.

- 1) Unless otherwise compelled by a court order, the Awarding Authority will not disclose any submission under this NOFA while the Awarding Authority conducts its “deliberative process” of reviewing the submissions. However, when staff submits a recommendation to the County Administrator of the Awarding Authority, the Awarding Authority shall consider all application materials to be subject to public disclosure, unless there is a legal exception to disclosure. (See, *Michaelis v Superior Court* (2006) 38 Cal.4th 1065).

**Confidential – Official Information:** One potential exception from public disclosure is “official information” submitted to the Awarding Agency in confidence, where the necessity for preserving the confidentiality of the information outweighs the necessity for disclosure in the interests of justice. (See California Government Code Section 6254(k) and Evidence Code Section 1040). The Awarding Authority anticipates that some portions of the application will be appropriately designated as exempt from disclosure based on their status as “official information”.

- 1) If an applicant asserts that any portion of its submission is subject to a legal exception to public disclosure, the applicant must: (1) clearly mark the relevant portions of its application “Confidential – Official Information” (using the separate envelope described in Section Part II.D); (2) provide additional information regarding the legal basis for exception from disclosure under the Public Records Act, including citations to state or federal law; and (3) the applicant shall defend, indemnify, and hold harmless the County regarding any claim by any third party for the public disclosure of the “Confidential” portion of the submission.
- 2) If the Awarding Authority receives a request for disclosure of records identified by an applicant as “Confidential – Official Information,” the Awarding Authority shall take one of the following actions:
  - a) If the Awarding Authority determines there is a legal basis to withhold the records from disclosure, the Awarding Authority shall not disclose those records unless compelled by a court order; provided that, upon request by the Awarding Authority, the Applicant shall defend, indemnify, and hold harmless the

Awarding Authority regarding any claim or litigation by any third party for the public disclosure of the “Confidential – Official Information” portion of the submission.

- b) If the Awarding Authority does not identify a legal basis to withhold the records from disclosure, the Awarding Authority shall provide written notice of the request for disclosure to the Applicant, and the Applicant shall be given an opportunity to seek a protective order from the court prior to the Awarding Authority’s disclosure of the documents.

## II. Award Process

1. **Competitive Awards:** Complete applications received on or before October 11, 2021 at 5:00 p.m. will compete against each other for funding. Awards will be made among acceptable applications in decreasing order of point score. To be funded, applications must achieve a minimum point score of 75 points.

2. **Over-the-Counter Awards.** If there are funds available after the Awarding Authority has awarded projects through the competitive award process, applications that meet the requirements of this NOFA and have a point score of at least 60 points, will be accepted over the counter by the Awarding Authority. All acceptable applications received by 5:00 p.m. on the last day of each month, beginning on October 12, 2021, will compete against any other application(s) received during the month and will be funded in decreasing order of point score. If no applications are received that meet the minimum point score, developments not meeting the minimum point score may be funded at the Awarding Authority’s sole discretion.

3. **Point System.** Points will be awarded in accordance with the Scoring Criteria described in Section IV of this NOFA.

4. **Local Appeals Process.** If an applicant wishes to appeal the Awarding Authority’s funding decision, an appeal must be submitted in writing as follows: County Appeals, must be submitted must be submitted within five days, by email to [kperkins@co.yuba.ca.us](mailto:kperkins@co.yuba.ca.us)

Appeals must include the name, address, and telephone number of the party appealing the decision, the signature of the authorized representative of the appealing party, and a detailed and specific statement of the legal and/or factual grounds for the appeal and the form of relief requested.

For the County, appeals shall first be reviewed administratively by the Community Development and Services Agency Director (CDSA Director). If the CDSA Director agrees to grant the appeal, this decision can be made administratively. However, if the CDSA Director recommends denying the appeal, this recommendation, along with the appeal, shall be submitted to the County Administrator for review and final determination. The County shall provide a response within five calendar days of receipt of the appeal. The County Administrator’s determination shall be final.

## 5. HCD Approval

After review and selection of the application(s) by the Awarding Authorities, selected application(s) shall be submitted to HCD for review and approval by HCD's CDBG-DR MHP Review Board. Projects selected by the Awarding Authorities are not considered fully approved until HCD approval is received.

HCD's approval may be in the form of a conditional commitment or a commitment. If a project receives a conditional commitment, it must work with the Awarding Authority to satisfy the conditions placed on it by HCD. If HCD rejects a project, the Awarding Authority may, but is not required to, appeal the decision in accordance with CDBG-DR MHP P&P.

Once HCD has approved the Awarding Authority's commitment of funds to a project, HCD shall issue a Notice to Proceed. The Notice to Proceed is a binding commitment which commits funds to a specific project.

After HCD has issued a Notice to Proceed, the Awarding Authority shall separately execute, and record as applicable, the Development Agreement, including HCD's Development Agreement Rider, Regulatory Agreement, and other loan documents for the project.

**6. Potential Supplemental Funding.** In the event that HCD increases the funds allocated to the CDBG-DR MHP, the Awarding Authority reserves the right to increase the number of CDBG-DR MHP assisted units in the project(s) selected for funding or to reconsider applications submitted for funding consideration in the competitive or over-the-counter rounds which were not previously funded without the need of reopening a new NOFA.

### III. Threshold Eligibility

CDBG-DR MHP P&P require that the local selection process must include the following:

**A. Eligible Activities.** Because the CDBG-DR MHP funding was allocated to replace housing units lost in the qualifying 2017 disaster in order to increase the supply of affordable housing, the Awarding Authorities will only accept applications for the development of new affordable rental units. This may include new construction, conversion of property not previously used as housing into rental housing, or rehabilitation in conjunction with conversion of market rate rental housing into affordable rental housing. It does not include the development of ownership units.

CDBG-DR funds, may only be used to fund the development of new units of rental Housing, affordable to households at or below 80% of area median income adjusted for household size.

The units funded under this NOFA must provide permanent housing. Transitional housing and emergency shelters are not eligible for funding under this NOFA. Additionally, housing types that are in violation of federal or State Fair Housing laws are also not eligible for assistance.

Developments may include market rate units or non-residential uses. However, CDBG-DR MHP funds may only be used to develop the portion of the development attributed to the income-restricted, affordable residential units.

Scattered site developments are eligible provided the applicant can demonstrate they have the ability to adequately supervise and maintain the properties.

**B. Eligible Applicants.** Applications are accepted from non-profit and for-profit housing corporations, joint ventures, limited liability companies, partnerships, and local governmental entities that have met the Applicant Thresholds. All applicants seeking funding must include a nonprofit managing general partner, or request a waiver of this requirement.

Proposed Project Teams must meet CDSA's qualification requirements and be determined to have the experience and capacity to complete the proposed property.

**Ineligible Applicants include:**

- Any person or entity on the federal debarred list, or an organization representing such person or entity on that list.
- Any person or entity (or affiliate thereof) that received notice that they are currently out of program compliance for LIHTC, HOME or CDBG.
- Any person or entity (or affiliate thereof) who is in default on any CDSA program loan.

**C. Applicant Thresholds.** An applicant applying for CDBG-DR MHP funding must meet the following qualifications listed below. If the developer entity is a joint venture, the leading developer must meet these qualifications. If the developers equally share the partnership interest, both developers must qualify.

1. A developer must have experiences in developing multifamily housing similar in size, scale, tenure, type, target population and complexity (both from a physical and financial standpoint) to the one being proposed, as stated below:
  - a. Either the General Partner or the Developer is required to have experience developing at least three (3) multifamily HUD-funded properties in which that member was the owner and developer of at least one (1) multifamily development is affordable housing.
  - b. Either the General Partner or the Developer entity currently owns and operates three (3) HUD-funded properties in which that member was the owner and developer of at least two (2) multifamily housing developments being affordable housing.
  - c. Either the General Partner or the Developer entity currently owns and operates at least three (3) Multifamily CDGB-DR-funded properties in which that member was the owner and developer of at least two (2) multifamily housing developments being affordable housing.

2. A developer will be required to disclose whether it, any of its principals, or any affiliated entity, has been an adverse party in litigation involving any county, city, redevelopment agency or other public entity within the past ten years.
3. A developer will be required to disclose all judgments and outstanding claims against it, its principals or any affiliated entity, involving, but not limited to, defaults on financial obligations, construction safety, landlord/tenant disputes, or negligence.
4. A developer will be required to disclose that it, any of its principals, or any affiliated entity, has filed for bankruptcy at any time within the past ten years.
5. A developer must demonstrate its experiences in gaining support from respective communities for its affordable housing projects.
6. Applications are not accepted from entities that have been notified that they are not in compliance with their current obligations on any loans issued by the County. Noncompliance, at the discretion of the Awarding Authority, may consist of any monetary or non-monetary provisions, such as failure to submit required financial statements in a timely manner, failure to comply with the requirements of the regulatory agreement, including but not limited to resident service and property management obligations, and failure to correct in a timely manner any building deficiency noted by any government agency.
7. The entities comprising the applicant must not have received negative points from the California Tax Credit Allocation Committee (CTCAC) or the California Debt Limit Allocation Committee (CDLAC) within the past three (3) years.
8. If the applicant is seeking 9% tax credits, the applicant entity must meet the standard for maximum general partner experience points under California Qualified Allocation Plan.
9. The applicant is willing to designate a principal available through the entire course of development and construction of the project if the developer track record relies on that principal.
10. The Awarding Authority reserves the right to deny funding assistance to any applicant based on the information provided by said disclosures.

**D. Minimum and Maximum Project Size.** Projects must have at least eight residential rental units. There is no maximum project size.

**E. Minimum and Maximum CDBG MHP Awards.** The minimum CDBG-DR MHP award shall be \$200,000 and the maximum amount shall be the lesser of:

1. 40% of the Total Development Costs; or



2. The Per Unit CDBG-DR MHP Subsidy Limit. The current per unit subsidy limit by bedroom size in California (as of July 1, 2020) is:

Bedrooms	Home Funding Limit/Unit National (June 2020)	Home Funding Limit/Unit California (June 2020)	CDBG-DR Per Unit Limit
0	\$63,881	\$153,314	\$153,314
1	\$73,230	\$175,752	\$175,752
2	\$89,049	\$213,718	\$213,718
3	\$115,201	\$276,482	\$276,482
4+	\$126,454	\$303,490	\$303,490

**F. Eligible Project Types.** To be eligible for funding, a project must meet all requirements for one of the following project types, as defined in Section 7302(e) of the 2019 multifamily Housing Program Guidelines published by HCD:

1. Large Family
2. Special Needs
3. Senior Project
4. Supportive Housing

**G. Project Priority Criteria.** Proposed projects must meet one of the Project Priority Criteria identified by HCD in Section 2.4 of the CDBG-DR MHP P&P as follows:

1. Projects providing housing for Extremely Low Income (ELI) households.
2. Projects providing a greater ratio of affordable rent units to total units (i.e. a project where 51% or more of the total units are affordable).
3. Projects accommodating “Deep Affordability” with at least 10% of units below 30% AMI.
4. Projects providing permanent supportive housing (PSH) units. The 2019 Multifamily Housing Program Guidelines define supportive housing as a housing type that meets the requirements of Article 2, Section 7302(e)(4).
5. Projects providing residential units for Elderly Persons.
6. Projects providing residential units for people with at least one Disability. Disabled people are among the groups considered as most vulnerable and at risk of suffering negative effects from natural disasters.
7. Projects providing residential units for Low-Income Immigrants. Post-disaster Low-Income Immigrants face additional barriers to disaster relief based on immigration status, Limited English Proficiency, and fear of compromising future efforts for permanent legal status.

**H. Most Impacted Distressed Area.** Projects requesting county funding must be located in the 95901-zip code, which was designated as a Most Impacted and

Distressed Area by HUD.

**I. Site Control.** Applicants must demonstrate site control of the property at the time of application.

**J. Affordable Rent and Income Requirements.** During the full 20 or 30-year CDBG-DR MHP affordability period, maximum rents (inclusive of tenant-paid utilities) on the affordable units may not exceed the High HOME rents as published by HUD for Yuba County. Units may be leased to households with an annual income that is at or below 80% AMI as published by HCD for Yuba County.

Currently (effective July 1, 2020), the High HOME rents for Yuba County are:

Bedroom Size	High HOME Rent
0	\$775
1	\$832
2	\$1,001
3	\$1,147
4	\$1,260
5	\$1,371

**K. Affordability Period.** The project must commit to a minimum affordability period of 30 years for new construction or 20 years for rehabilitation projects, which shall be enforced by a Regulatory Agreement to be supplied by the CDBG-DR MHP program. The Awarding Authority shall monitor funded projects for compliance for the period of affordability. For specific information on the County's monitoring policies, please see Appendix 6.

If a project is also receiving non-CDBG-DR MHP funding from an Awarding Authority, the affordability period for those local funds shall be 55 years. This shall be enforced by a separate Regulatory Agreement with the Awarding Authority. This is separate and independent from the enforcement of the CDBG-DR MHP affordability requirements.

**L. CDBG-DR MHP Eligible Costs.** CDBG-DR MHP funds may only be used to pay for eligible costs. Eligible costs include costs for architectural and engineering, permitting fees, developer fees, mobilization, site preparation and clean up, and construction costs. Other costs are eligible to be included in the development budget, but they must be paid for with other funds.

**M. CDBG-DR MHP Ineligible Costs.** CDBG-DR MHP funds may not be used to pay for ineligible costs. Ineligible costs include pre-application costs and application development costs, land and building acquisition costs, advances of any type, including construction, and facility operating or maintenance expenses.

N. **Underwriting Requirements.** Underwriting requirements are summarized in Appendix 1 of this NOFA.

O. **Duplication of Benefits.** In accordance with Section 2.7 of the CDBG-DR MHP P&P, the Awarding Authority will review application materials to ensure there is no Duplication of Benefits. Projects selected for funding will also be reviewed for Duplication of Benefits by the Awarding Authority at the time the loan documents are executed and at project close-out.

The Project application must document all funds obtained from any source from the date of the disaster until the date of the application. This includes all benefits available to a person or entity, including cash and other resources such as insurance proceeds, grants, FEMA, SBA, other local, state, or Federal programs, and private or nonprofit charity organizations.

P. **Non-compliance in Federal or Other Agency Programs.** Applicants (including affiliates) cited for non-compliance in federal housing programs or in a development program administered by an Awarding Authority shall not receive a reservation of CDBG-DR MHP funds unless or until such non-compliance is cleared to the satisfaction of the Awarding Authority in each entity's sole discretion.

Q. **Article 34.** Because there is not currently Article 34 authority within Yuba County, each applicant must demonstrate, to the satisfaction of the Awarding Authority and HCD that the project falls within one or more of the statutory carve outs set forth by California's Public Housing Election Implementation Law (PHEIL) (Health & Safety Code, Sections 37000-37002) for Article XXXIV, section 1 of the California Constitution ("Article 34").

Specifically, applicants must provide a legal opinion letter from an attorney, which explains the legal basis for the project's exemption. The letter must consider and discuss the legal requirements of Article 34, the PHEIL's statutory exceptions to those requirements, and the relevant facts of the project. Importantly, the Article 34 opinion must address each "state public body" source of permanent funding, demonstrating that the proposed housing development is exempt from Article 34. Blanket statements that the project is exempt will not be accepted. The opinion letter must provide specific evidence and/or specific facts supporting the conclusion. Applicants that cannot demonstrate an acceptable exemption cannot be approved for funding.

#### **IV. Application Scoring Criteria**

In order to be scored, an applicant must meet all threshold requirements. These include:

1. The application is complete including all required disclosures.
2. The applicant meets the Applicant Threshold requirements identified in this NOFA.
3. The application provides the required Article 34 exemption opinion letter.
4. The project meets one or more of the proposed priorities.
5. The applicant has demonstrated site control.
6. The project is located in the 95901 zip code.

Applications meeting the above threshold requirements shall be scored competitively based upon the following criteria:

A. **95901-Zip Code** (20 points). Projects located within the 95901-zip code shall be awarded 20 points. Please note that, as described above, location within the 95901-zip code is a threshold application requirement for County CDBG-DR MHP funding.

B. **Project Readiness** (40 points).

1. **Firm commitment of All Other Funding Necessary to Complete the Project** (15 points). Applicants will be scored based upon the percentage of the total development cost represented by funding commitments already received as well as the funding commitments anticipated to be received before October 11, 2021. For commitments not yet received, points are awarded at the Awarding Authority's discretion. An explanation of the funding source and the Applicant's ability to obtain the funds by this date must be provided to be considered for points.

2. **Compliance with the General Plan, Zoning and Permit Readiness** (15 points). Points will be awarded as follows:

- a. 10 points for demonstrated compliance with General Plan and Zoning of existing site.
- b. 5 points for demonstration of permits pulled or permit ready projects.

3. **Review Readiness** (5 points). Applicants in receipt of all necessary land use approvals or entitlements prior to issuance of building permit, including any required discretionary approvals, such as site plan review or design review; or completion of HUD and NEPA-compliant Environmental Review Record and adoption or certification of CEQA review.

4. **Market Assessment** (5 points). Applicants in receipt of required Market Assessment, verifying current market demand in neighborhood of Project location. The level of review of the market assessment and HCD's determination of its sufficiency shall account for Project scale and complexity.

C. **Leveraging of Financing** (15 points). Projects that provide the greatest benefit per dollar of funds spent shall be viewed favorably.

D. **Experience** (15 points). Each application will start with 7 points. Points will be added for developers with experience with similar affordable housing projects including previous experience managing projects involving with federal funding such as HOME, CDBG, National Housing Trust Fund, etc. Points will be deducted if an applicant has negative findings on past awards from an Awarding Authority or with other State or federal agencies. For applicants without previous experience with the County, demonstration of successful state/federal funding contracts, including references, will be

required. The number of points deducted will be based upon the number and severity of negative findings at Awarding Authority's discretion.

**E. Site and Neighborhood Standards (15 points).** The full points will be awarded to developments proposed outside of areas of minority concentration. No points will be awarded to developments proposed within areas of minority concentration.

**F. Permanent Supportive Housing Units (15 points).** Points will be awarded as follows:

1. Full points will be awarded to projects that include at least 20% of the units set aside as permanent supportive housing shall in order to comply with CDBG-DR MHP P&P.
2. Partial points will be awarded for projects that include some, but less than 20% of the total units, set asides as permanent supportive
3. No points will be awarded if a project does not include any units set-aside as permanent supportive housing.

## **V. CDBG-DR Award Process**

**A. Questions Regarding This NOFA.** Potential applicants may submit questions by e-mail to [kperkins@co.yuba.ca.us](mailto:kperkins@co.yuba.ca.us). The Awarding Authority will respond directly to persons submitting questions and will post a Q&A with all questions asked on their respective websites. Staff will do its best to respond to questions within five (5) calendar days. The last date for submission of questions related to this NOFA is 3:00 p.m. PST on October 01, 2021.

### **B. Process for Reviewing Applications.**

1. **Communication with Contact Person.** The Awarding Authority will communicate only with the contact person(s) listed in the application. Information received from persons other than the contact person shall be disregarded.
2. **Completeness.** The review process will begin with review for completeness. Applications that are not complete shall be rejected without further review or opportunity to complete the application during the competitive award process. If funds remain available for over-the-counter awards, the Awarding Agency may, but is not required to, accept missing information in order for the application to be deemed complete.
3. **Threshold Review.** After verifying completeness, the Awarding Authority review applications to ensure all threshold requirements are met. Applications that are determined to not meet threshold requirements will be rejected without further review or opportunity to complete the application during the competitive award process. The Awarding Authority may, but is not required to, accept updated

material in order for the application to meet threshold requirements during the over-the-counter award period.

**4. Potential Requests for Clarification.** The Awarding Authority may but shall not be obligated to follow-up with an applicant during the review process to obtain clarification if the Awarding Authority determines it is necessary. Applicants should provide thorough applications as they may not have the opportunity for subsequent communications.

#### **5. Order of Award**

a. During the competitive application period, complete applications that meet threshold requirements and comply with the requirements hereof, will be awarded in descending order of point score (subject to availability of CDBG-DR MHP funding). The Awarding Authorities reserve the right to reduce requested awards and number of CDBG-DR MHP assisted units at their sole discretion.

b. During the over-the-counter application process, complete applications that meet threshold requirements and comply with the requirements hereof and achieve a minimum score of 60 points, will be awarded in the order they were received. The Awarding Authorities reserve the right to reduce requested awards and number of CDBG-DR MHP assisted units at their sole discretion.

**C. Rejected Applications.** If an application is rejected by the Awarding Authority, (for example for failure to submit a complete application or to meet threshold requirements), a new application for the same site may be resubmitted during the over-the-counter application period.

### **VI. CDBG-DR Compliance Requirements**

Funding for CDBG-DR MHP is provided through the United States Department of Housing and Urban Development and HCD. Applicants and their counsel should be familiar with the full range of CDBG-DR MHP compliance requirements. The following is a summary of certain aspects of some of these compliance requirements:

**A. Accessibility.** Developments will be subject to accessibility requirements under Section 504 of the Rehabilitation Act of 1973.

**B. Affirmative Marketing Plan.** Developers must advertise developments and units to fill vacant units or to develop a waiting list of interested applicants for the subsidized housing. CDBG-DR MHP applications must include an Affirmative Marketing Plan developed using the Affirmative Fair Housing Marketing Plan Form HUD-935.2A. Affirmative Marketing involves special outreach and advertising efforts designed to communicate the availability of CDBG DR-MHP assisted housing to those groups or individuals who might otherwise be unlikely to apply.

Those groups are identified through analysis of local housing market area demographics using statistics readily available from the U.S. Census Bureau and determining appropriate advertising and outreach efforts to be followed by Applicants to reach out to those least likely to apply for the housing opportunity. Affirmative marketing efforts must begin at least 90 days prior to initial or renewed occupancy.

HCD has determined that in addition to the required demographic analysis, individuals and families that were impacted by the disasters and Section 8 Housing Choice Voucher holders are least likely to apply. Examples of renters impacted by the disasters include renters that have lost rental units or have been displaced due to the impacts of DR-4344 and DR-4353.

All Applicants shall prepare the Affirmative Marketing Plan in compliance with Section 2.12 of the CDBG-DR MHP Policies and Procedures.

### C. Construction Requirements

1. **California Building Codes.** All residential construction developments shall comply with the housing construction codes of the State of California, including all units developed under CDBG-DR MHP. Housing construction codes for building in California follow federal and state laws, regulations, and adaptations for construction of single family and multifamily units.

2. **California Green Buildings Standards Code (CALGreen).** CALGreen is California's first green building code, enacted as mandatory in 2011, and adopted to address five divisions of building construction and improve public health, safety and general welfare. HCD determined that CALGreen meets the standards as equivalent comprehensive green building program per 84 FRN 4836, Section VI: "Meaning of Green Building Standard" and has received HUD concurrence. As a mandatory standard, all Applicants are required to follow CALGreen requirements for construction permits and approvals. Applicants shall provide verifications that demonstrate CALGreen compliance in the Development plans and in the constructed Development at construction close out. More information may be reviewed in the CDBG-DR MHP Policies and Procedures, Section 2.10(E).

- The CALGreen requirements <https://www.hcd.ca.gov/building-standards/calgreen/index.shtml> and checklist <https://www.hcd.ca.gov/building-standards/calgreen/cal-green-forms.shtml> are available at the following websites.

3. **Sustainability Requirements.** All rehabilitation, reconstruction, and new construction must be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Wherever feasible, Developments shall follow best practices, such as those provided by the U.S. Department of Energy, Home Energy Professionals: Professional Certifications and Standard work specifications. More information may be reviewed in the CDBG-DR MHP Policies and Procedures, Section 2.10(F).

**4. National Floodplain Elevation Standards.** The Awarding Authority, and Developers must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to residential structures in flood hazard areas. All structures designed for residential use within a 100-year (or one percent annual chance) floodplain will be elevated with the lowest floor at least two feet above the base flood elevation level and comply with the requirements of 83 FR 5850 and 83 FR 5861 as well as Executive Order 11988 and 24 CFR Part 55. Additionally, Developers with Developments approved to build within a 100-year floodplain must obtain and maintain flood insurance in perpetuity, per part 24 CFR Part 58.6, as a condition of federal assistance.

**5. Wildland-Urban Interface Building Codes (WUI).** California continues to be a national leader in implementing statewide policy to both prepare for climate change and reduce greenhouse gas emissions, and has dedicated substantial resources to mitigating the impacts of climate change. Housing resilience measures are set forth in state legislation, including requirements for local building codes, such as the Wildland-Urban Interface building codes (WUI codes) addressing wildfire risk since 2005. Therefore, all eligible multifamily housing under this program that is located in a CAL FIRE high fire zone must comply with WUI codes, found in Title 24, Chapter 7a of the California Building Code, which offer specific material, design and construction standards to maximize ignition resistance. All Applicants must adhere to WUI standards.

**6. Broadband Infrastructure.** Per 83 FRN 40314, any Substantial Rehabilitation or new construction of a building with more than four rental units must include installation of broadband infrastructure, except where the Applicant documents that: 1) The location of the new construction or Substantial Rehabilitation makes installation of broadband infrastructure infeasible; 2) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or 3) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

**7. Resilient Home Construction Standards.** Applicants are strongly encouraged to incorporate Resilient Home Construction Standards, meaning that all non-substantial or Substantial Rehabilitation or new construction meet an industry-recognized standard such as those set by the FORTIFIED Home Silver and Bronze levels.

**D. Environmental Clearance.** Applicants selected for funding will be required to submit an Environmental Review Record (ERR) pursuant to 24 CFR Part 58. The ER will be reviewed by the Awarding Authority. Upon approval by the Awarding Authority, the ERR will be submitted to HCD for review and approval prior to issuance of an Authority to Use Grant Funds by HCD.

Applicants are strongly encouraged to review Section 2.14 of the CDBG-DR MHP Policies and Procedures for additional information on the ERR and Choice Limiting Actions. Applicants are also encouraged to review the County's Summary of NEPA Requirements (see Appendix 8).



**E. Labor Standards.** Applicants shall comply with all applicable labor standards, including but not limited to:

1. **Davis-Bacon.** For properties of eight (8) units or more, construction will be subject to Davis Bacon wage and record-keeping requirements.
2. **California Prevailing Wages**
3. **Copeland Anti-Kickback Act**
4. **Contract Work Hours and Safety Standards Act**
5. **Fair Labor Standards Act**

**Attention of Bidders:** For more information, please see Section 2.10(A) of the CDBG-DR MHP Policies and Procedures. Also, see the County's Summary of Davis Bacon and Other Wage Requirements in Appendix 5.

**F. Lead Based Paint.** CDBG-DR MHP activity (ies) are subject to lead-based paint hazard regulations contained in Title 8 (Industrial Relations) and Title 17 (Public Health) of the CCR and 24 CFR, Part 35 (Lead Disclosure). Developments are subject to the provisions for the elimination or mitigation of lead-based paint hazards under these regulations. The Applicant shall be responsible for the notifications, inspections, and clearance certifications required under these regulations. Applicants should be aware that neither compliance with the requirements of the State agency responsible for environmental regulation, nor compliance with the requirements of OSHA, is sufficient to meet HUD's Part 35 requirements. The HUD regulations require, among other things, that lead hazard evaluation and reduction activities be carried out for buildings originally constructed before 1978 and receiving CDBG-DR MHP assistance. Capitalized terms in this paragraph are as defined in 24 CFR Part 35.

For any property, that includes acquisition/rehab and/or demolition of an existing building that was completed prior to January 1, 1978, the application must include a discussion that establishes whether each such building is Target Housing (as defined in Part 35).

1. Prior to commencement of rehab on an existing building or demolition, an Inspection (to determine the location of any lead-based paint) is required. The Inspection must identify the components that contain lead paint in sufficient detail to permit construction personnel to formulate a hazard control plan.
2. Prior to demolition and/or during any proposed rehab, any Lead Hazards (that were identified in the Risk Assessment), must be Abated, and this Abatement work must be performed by State-licensed Abatement Contractors.
3. A lead hazard clearance report, based on Dust Testing by a State-accredited Risk Assessor or Inspector, is required after completion of demolition and/or rehabilitation. Dust Testing, must be carried out and evaluated, in accordance with HUD's regulations at 24 CFR Part 35.

4. The application must include a line item for the costs of lead hazard abatement and control, with an explanation that adequately supports the estimated cost, based on the risk assessment and inspection.

5. Applicants must determine whether compliance with the requirements of the Awarding Authority will be sufficient to satisfy any applicable lead-based paint requirements of the State and/or OSHA.

**G. Minority and Women Business Enterprise (MBE/WBE).** Applicants and their contractors/vendors must take all necessary affirmative steps to ensure that minority businesses and women's business enterprises are used whenever possible. See Section 2.10(B) for additional information.

**H. Recapture Requirements.** In compliance with Section 4.5 of the CDBG-DR MHP P&P, Applicants may be required to repay all, or a portion of, CDBG-DR MHP funds received in the event of noncompliance. Reasons for recapture include, but are not limited to:

1. The Applicant does not comply with the terms of the loan documents;
2. The funded project fails to meet a National Objective;
3. The funded project fails to remain affordable for the period specified in the loan documents (20 and 30 years according to Project type);
4. CDBG-DR MHP funds are used for ineligible activities or costs;
5. Applicants do not report the receipt of additional funding that impact the Duplication of Benefits analysis; or
6. Funds remain undisbursed after the project is completed or beyond the expenditure deadline.

**I. Section 3.** Section 3 is a provision of the HUD Act of 1968 (implementing regulation at 24 CFR Part 75) that helps foster local economic development, neighborhood economic development, and individual self-sufficiency. Section 3 requires recipients of HUD housing and community development financial assistance to provide job training, employment and contracting to the greatest extent feasible, for low- or very low-income residents in connection with projects and activities in their neighborhoods. Projects assisted with DR-MHP funds Contracts in excess of \$200,000 trigger Section 3 requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these minimum numeric goals: (1) Twenty-five percent (25%) of the total hours worked on a Section 3 project must be worked by Section 3 workers; and (2) Five percent (5%) of the total hours worked on a Section 3 project must be worked by Targeted Section 3 workers.

The Applicant/Developer ("Developer") shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulation at 24 CFR, Part 75. The responsibilities outlined in 24 CFR Part 75.19 include:

Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.

Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts

1. For additional information concerning Section 3, see [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3](https://www.hud.gov/program_offices/field_policy_mgt/section3)
2. The Section 3 requirements can be viewed in Appendix 2 (Section 3 Requirements).

#### **J. Uniform Relocation Assistance and Real Property Acquisition Act (“URA”).**

The URA contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a development in which HUD financial assistance is provided. The implementing regulations, 49 CFR Part 24, include steps, which must be taken with tenant occupants, including those who will not be impacted by the HUD assisted activity. Section 104(d). The one for one-replacement provisions of Section 104(d) of the Housing and Community Project Act of 1974 as amended are not applicable. The remaining requirements of Section 104(d) are applicable. See the Summary of Property Acquisition Requirements in Appendix 4. If acquisition and/or relocation is required, Applicants shall make every effort to minimize displacement of families from their home and/or neighborhood, according to the HCD’s Residential Anti-displacement and Relocation Assistance Plan. Additionally, compliance with Federal Acquisition and Relocation laws will be required. Please reference the HCD’s CDBG-DR Grant Administration Manual, Section XIV for additional acquisition and relocation procedures and requirements. Also, see the Summary of Relocation Requirements in Appendix 4.

#### **K. Equal Opportunity Requirements and Responsibilities**

1. **Title VI of the Civil Rights Act of 1964:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
2. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act):** This act prohibits discrimination in housing based on race, color, religion, sex and/or national origin. This law also requires actions, which affirmatively promote fair housing.
3. **Restoration Act of 1987:** This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution, which receives federal financial assistance, is prohibited from discriminating based on race, color, national origin, religion, sex, Disability or age in a program or activity which does not directly benefit from such assistance.

**4. Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 53091]:** This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.

**5. The Fair Housing Amendment Act of 1988:** This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.

**6. The Age Discrimination Act of 1975:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.

**7. Section 504 of the Rehabilitation Act of 1973:** It is unlawful to discriminate based on Disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her Disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains design and construction accessibility provisions for multifamily dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.

**8. The Americans with Disabilities Act of 1990 (ADA):** This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a Disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

**9. Executive Order 11063:** This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.

**10. Executive Order 11259:** This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.

**11. The Equal Employment Opportunity Act:** This act empowers the Equal

Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.

**12. The Immigration Reform and Control Act (IRCA) of 1986:** Under IRCA, employers may hire only persons who may legally work in the U.S., i.e., citizens and nationals of the U.S. and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9).

**13. The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978:** This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.

**14. The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002):** This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.

**15. Executive Order 11246:** This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against based on race.

**L. Prohibition Against Eminent Domain.** An Applicant may not undertake any involuntary acquisition of property in connection with an eligible development unless the Awarding Authority has given its advance written consent.

## Appendix 1

### Underwriting Requirements

Projects funded with CDBG-DR MHP funding must comply with the following requirements:

<b>Part V: Project Underwriting Guidelines</b>	
<b>A. Terms and Conditions</b>	
<b>1. Amount of CDBG-DR MHP Funding</b>	<p>The CDBG-DR funding shall be in the form of a grant.</p> <p>The CDBG-DR MHP funding is limited to the amount necessary to address the gap between development costs and the sum of all other funding commitments.</p> <p>The minimum CDBG-DR MHP funding for a project is \$200,000.</p> <p>The maximum amount is the lesser of:                      (1) 40% of total development costs; or                      (2) The CDBG-DR MHP subsidy limit.</p>
<b>2. Comparable Development Costs</b>	<p>The cost per unit for the proposed development must be in line with the average cost per development of comparable developments factoring in such things as inflation, prevailing wages, and non-comparable project amenities.</p>
<b>3. Contingency</b>	<p>Project contingencies must be included at the following levels: new construction hard costs of 5% to 10%; rehabilitation hard costs of 10% to 15%; soft cost contingency of 3% to 5%.</p>
<b>B. Private Permanent Financing – Terms and Conditions</b>	
<b>1. Debt Service Coverage Ratio</b>	<p>Target                      4% LIHTC: 1.15 – 1.20                      9% LIHTC: 1.15 – 1.20</p> <p>The stabilized debt service coverage ratio (after the first 18 months) must be at least 1.15 for years 2 through 20. A lower minimum ratio may be used if allowed by other development lenders. The debt service coverage ratio generally should not be over 1.20.</p> <p>“Debt Service Coverage Ratio” means the ratio of (1) Operating Income less the sum of Operating Expenses and required reserves to (2) debt service payments, excluding voluntary prepayments and non-mandatory debt service.</p>

	In calculating Debt Servicing Coverage Ratio, the County may include all Operating Income and may exclude Operating Income that cannot be reasonably underwritten by lenders making amortized loans or that is approved by the County to be deposited into a reserve account to defray projected operating deficits.
<b>2. Interest Rate</b>	The interest rate on the senior bank debt must be competitive with the prevailing market interest rate for similar financing structures with similar risk characteristics.
<b>C. Cash Flow Projections (including Annual Reserves, Services, and Fees)</b>	
<b>1. Income</b>	
<b>a. Positive Cash-Flow</b>	The operating pro-forma must reflect a projected positive cash-flow during the 20-year or 30-year CDBG-DR MHP affordability period.
<b>b. Initial Rents</b>	The rents shown in Year 1 of the pro-forma must be in compliance with the High HOME rents for Yuba County.
<b>c. Rent Inflation Factor</b>	The operating pro-forma must reflect projected annual rent increases of no more than 2% per year for affordable units and not more than 6% for market rate units.
<b>d. Other Income-Description and Justification</b>	The applicant should show the details of any miscellaneous income expected to be generated from the project. This income could include laundry machine income, storage, or other non-housing related income sources.
<b>e. Other Income Inflation Factor</b>	Not to exceed rent inflation factor and justification of inflation factor to be provided.
<b>f. Lease-up Income</b>	Lease-up income is defined as cash flow from the project operations prior to the conversion of the primary construction loan to a permanent loan. Lease-up income should not be shown as a source of funds for budgeting purposes; however, borrower must submit details of lease-up income amounts prior to conversion to permanent loan.
<b>2. Expenses</b>	
<b>a. Operating Expenses</b>	Operating expenses must meet the minimum standards set by CTCAC, and must not exceed the industry standards.
<b>b. Vacancy Rates</b>	Vacancy rates will be set at not more than 7% per year for the affordable units and not more than 12% for supportive housing/special needs units.
<b>c. Operating Expense Inflation Factor</b>	3.5% annually: The pro-forma operating expenses (excluding property taxes and replacement reserves) should not be inflated by less than one percent (1%) higher than the pro-forma revenues.

<p><b>d. Replacement Reserves</b></p>	<p>For new construction projects, annual deposits shall be funded at a minimum of 0.6% of the replacement cost of the structure, up to a maximum annual deposit of \$500 per unit.</p> <p>For rehabilitation projects, reserve levels must be supported by a capital needs assessment. Applicants will be required to meet capital needs assessment standards set forth by the State of California Tax Credit Allocation Committee. Annual deposits shall be funded based on the capital needs assessment, up to \$500 per unit.</p> <p>In the absence of lender requirements, the replacement reserves must be consistent with CTCAC standards.</p>
<p><b>e. Operating Reserves</b></p>	<p>For projects without tax credits, the project’s operating pro-forma should reflect an operating reserve equal to 4 months of projected operating expenses (excluding the cost of on-site Supportive Services coordination), four months of required replacement reserve deposits, and 4 months of non-contingent debt service unless a senior lender requires a different amount.</p> <p>For projects with tax credits, the requirements shall be 3 months for these items.</p>
<p><b>f. Limited Partner Asset Management Fee</b></p>	<p>Paid during years 1-15 from project cash flow after debt service prior to payment of a deferred developer fee or distribution of residual receipts. Potential range at Year 1: \$5,000 - \$10,000. May escalate annually at the minimum of CPI or 3%.</p>
<p><b>g. General Partner Asset Management Fee</b></p>	<p>Paid during years 1-20 from project cash flow after debt service and payment of deferred developer fee before distribution of residual receipts. Potential range at Year 1: \$10,000 - \$25,000 (Limited Partner and General Partner Asset Management Fees combined not to exceed \$35,000 in Year 1.) May escalate annually at the minimum of CPI or 3%.</p>
<p><b>3. Developer Compensation</b></p>	
<p><b>a. Deferred Developer Fee</b></p>	<p>First draw on cash flow. Subject to repayment with interest within 15 years from date in service. Interest on deferred fees should be payable from the developer’s share of residual receipts, and the rate shall not exceed 3%.</p>
<p><b>b. Other Developer Compensation</b></p>	<p>Any other proposed developer compensation shall be evaluated on a case-by-case basis.</p>
<p><b>c. Social and Supportive Services Budget</b></p>	<p>Evaluated on a case-by-case basis. Budgets are to be accompanied by breakdown of costs, including salary, transportation, and supplies.</p>
<p><b>d. Developer Compensation and Requirements</b></p>	
<p><b>Maximum Developer fees</b></p>	<p>Developer fees for multifamily projects include all funds paid at any time as compensation for developing the proposed project. This includes funds disbursed to the developer for administrative costs, provision of guarantees, or fees for</p>



	<p>services and payment of fees guaranteeing against operating deficits. Payments into reserves required by lenders are not included. Specific examples of items to be treated as developer fees (in addition to any fees charged by the developer) include: administration; staff costs, including development consultants (but not historic preservation, environmental or syndication consultants); net worth guarantee fees; real estate brokerage fees paid to a related party; processing agent fees; developer profit and overhead; compensation for construction management oversight provided by the developer; the cost of any personal guarantees; and reserves in excess of those customarily required by multifamily housing lenders.</p> <p>The maximum developer fee allowed by the identified leveraging source may be included in project costs. The maximum developer fee that may be eligible for payment from construction or permanent financing sources shall be consistent with CTCAC regulations.</p> <p>For projects not using bonds and/or tax credits, such as small supportive housing developments or small rehabilitation projects, the maximum developer fee shall be determined on a per unit basis: \$25,000 per unit for the first ten units, \$15,000 per unit for units 11 through 30, and \$12,000 per unit for units 31 and above. In no case shall the developer fee exceed 15% of the total development costs.</p>
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## Appendix 2

### Section 3 Requirements

Section 3 is a provision of the HUD Act of 1968 (implementing regulation at 24 CFR Part 75) that helps foster local economic development, neighborhood economic development, and individual self-sufficiency. Section 3 requires recipients of HUD housing and community development financial assistance to provide job training, employment and contracting to the greatest extent feasible, for low- or very low-income residents in connection with projects and activities in their neighborhoods. Projects assisted with DR-MHP funds Contracts in excess of \$200,000 trigger Section 3 requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these minimum numeric goals: (1) Twenty-five percent (25%) of the total hours worked on a Section 3 project must be worked by Section 3 workers; and (2) Five percent (5%) of the total hours worked on a Section 3 project must be worked by Targeted Section 3 workers.

The Applicant/Developer (“Developer”) shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulation at 24 CFR, Part 75. The responsibilities outlined in 24 CFR Part 75.19 include: Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.

Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts.

#### Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3

preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75. The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

The Developer's Project Completion Report shall also include a Section 3 Summary Report of the total number of labor hours worked by all contractors and subcontractors, the total number of labor hours worked by Section 3 workers, and the total number of labor hours worked by Targeted Section 3 workers, as required pursuant to 24 CFR 75.25(a). In the event that the number of Section 3 worker labor hours divided by the total labor hours worked by all workers on a Section 3 project does not meet or exceed HUD's Twenty-five percent (25%) standard, and/or that the number of Section 3 targeted worker labor hours divided by the total labor hours worked by all workers on a Section 3 project does not meet or exceed HUD's Five percent (5%) standard, Subrecipient shall provide additional reporting on the qualitative nature of its activities and those its contractors and subcontractors pursued, as defined at 24 CFR 75.25(b). The standards for hours worked by Section 3 Workers and Targeted Section 3 Workers are subject to change by HUD as published in the Federal Register.

## EXHIBIT A

### **Examples of Efforts to Award Contracting Opportunities to Section 3 Business Concerns and Minority and Women-Owned Business Enterprises (MBE/WBEs) & to Hire Section 3 Residents**

#### Section 3 and MBE/WBE Business Enterprises

The following are some examples of efforts to award contracting opportunities to Section 3 Businesses and minority-owned and women-owned business enterprises (MBE/WBE Businesses):

1. Utilize business registry on HUD's website (<https://www.hud.gov/Section3>)
2. Contacting business assistance agencies, minority contractors' associations and community organizations to inform them of contracting opportunities and request their assistance in identifying Section 3 Business Concerns, MBE/WBE Businesses which may solicit bids or proposals for contracts for work. (Contact at least 15 calendar days prior to proposal/bid due date. For proposals/bids with a two-week response time, contact must be made at least seven calendar days prior to due date.)
3. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 Business Concerns. (Advertise at least 15 calendar days prior to proposal/bid due date. For proposals/bids with a two-week response time, contact must be made at least 7 calendar days prior to due date.)
4. Placing qualified Section 3 Business Concerns and MBE/WBE Businesses on solicitation lists.
5. Providing written notice to all known Section 3 Business Concerns of the contracting opportunities. The notice should be in sufficient time to allow Section 3 Business Concerns to respond to the bid invitation or request for proposal. (Notify at least 15 calendar days prior to proposal/bid due date. For proposals/bids with a two-week response time, notification must be provided at least seven calendar days prior to due date.)
6. Assuring that Section 3 Business Concerns and MBE/WBE Businesses are solicited whenever they are a potential source.
7. Coordinating pre-bid meetings at which Section 3 Business Concerns and MBE/WBE Businesses could be informed of upcoming contracting and subcontracting opportunities.
8. When economically feasible, breaking out contract work items into smaller tasks or quantities to permit maximum participation by Section 3 Business Concerns and MBE/WBE Businesses.

9. Advertising the contracting opportunities through trade association papers and newsletters, and through local media, such as newspapers of general circulation and radio advertisement. (Advertise at least 15 calendar days prior to proposal/bid due date. For proposals/bids with a two-week response time, advertisements must be at least seven calendar days prior to due date.)

10. Using the services and assistance of the U.S. Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce <http://www.mbda.gov/>. (Use services at least 15 calendar days prior to proposal/bid due date. For proposals/bids with a two-week response time, use services at least seven calendar days prior to due date.)

It is important to document efforts and incorporate this information into the required reporting submitted to the Awarding Authority for Section 3-covered contracts.

#### Section 3 Residents:

The following are examples of efforts to hire Section 3 residents:

1. Post-employment opportunities through HUD's Section 3 website portal: <https://www.hud.gov/Section3>
2. Contact resident organizations, local community development and employment agencies such as EDD, and local non-profit agencies that work with lower income residents.
3. Distribute flyers in neighborhoods
4. Post signs about employment opportunities at the project site
5. Place ads in local newspapers and on social media targeted to local community

It is important to ensure each newly hired employee has certified whether or not they qualify as a Section 3 Resident prior to hire. It is also important to document efforts made to hire Section 3 residents when new employees are required. This should be documented in the reports required to be submitted to the Awarding Authority for Section 3-covered projects.

## **Appendix 3**

### **Property Acquisition for Projects Involving Federal Funds**

For projects with federal funding that include property acquisitions, the developer must inform the seller, in writing, before making an offer or entering into a purchase and sales agreement that they do not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement. They also must provide a written estimate of the fair market value of the property. A sample notice is provided as Exhibit A to this Appendix.

If the developer already has an existing written option, or purchase contract for the property that is contemplated for a project involving federal funds, and did not previously provide the required notices prior to entering into the agreement, then as soon as they know the use of federal funds for the project is contemplated, they must provide the seller notice that the seller has the opportunity to withdraw from the purchase without penalty

The developer must keep written verification that the seller received the proper notices and document how the fair market value of the property was determined.

If the property being acquired is tenant-occupied, then the Uniform Relocation Act requirements are triggered and must be followed.

## **Appendix 4**

### **Summary of Relocation Requirements for Multi-Family Activities with Federal Funding**

#### **Overview**

Federal and State relocation requirements are triggered when the Awarding Authority, another public entity, or a developer contemplate using public funds plans to acquire property that involve the displacement or relocation (temporary or permanent) of tenants or the demolition or conversion of residential units occupied by low-income households.

The stricter of provision of State relocation laws or Federal relocation laws (which include the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and the Section 104 (d) of the Housing and Community Development Act of 1974) must be followed.

Because of the many complex legal requirements triggered in projects involving displacement of tenants, developers must engage a relocation consultant when receiving financial assistance from the Awarding Authority.

When a developer is contemplating a project involving public funds that involves the displacement (permanent or temporary) of tenants, it is very important to consult with a relocation attorney and/or consultant and the Awarding Authority as early in the application planning process as possible.

Exhibit A to this Appendix provides a checklist for the procedures to follow for projects involving federal funding that involve the displacement of tenants.

#### **Initiation of Negotiations**

The “Initiation of Negotiations” establishes the date when tenants become eligible for relocation assistance. It is very important to understand when this date occurs and to follow the proper relocation requirements.

- For projects involving acquisition, this is triggered when the initial written offer is presented to the property owner.
- For projects involving rehabilitation where the developer already owns the property, then the execution of the funding agreement with the Awarding Authority would be the “initiation of negotiations” unless the developer acquired the property with the intent to use public funds in the future for development or rehabilitation. Then the relocation rules would apply retroactive to the time of purchase.

A developer who intends to acquire property for a project that involves both the potential displacement of tenants and public funds should avoid making an offer without a notice of its

“intent” to acquire the property. Otherwise, if a tenant moves after that, but before the delivery of the “initial written offer”, the “initiation of negotiations” would be the actual date that the tenant moved from the property. The developer would be obligated to locate the tenant and provide them with full relocation benefits.

## Notices

There are numerous notices that must be provided to tenants for projects that trigger relocation (even in the case of temporary displacement). Developers seeking public assistance from the Awarding Authority for projects that may trigger relocation must hire a relocation consultant to ensure that the proper notices are given at the right times and the proper procedures are followed.

For projects requiring displacement of tenants, the Awarding Authority will require copies of all signed notices. The Awarding Authority also will require an initial rent roll for the project as part of the application for funding.

Relocation notices include:

**1. General Information Notice (GIN):** Informs occupants of a possible project and of their rights under the URA. The GIN is required to be given to all tenants whether they will or not be temporarily displaced or permanently displaced. They should be given to tenants or persons at or before the time the developer submits an application to the County for funding.

**2. Notice of Eligibility:** The Eligibility Notice informs households to be displaced of their rights, projected benefit amounts, and levels of relocation assistance under URA. A tenant survey must be done to determine the needs of each household before issuing the Eligibility Notice. This notice should contain a commitment for relocation assistance, including addresses of comparable replacement units, specified amount for replacement housing payments, as well as other information.

**3. Notice of Non-Displacement:** Informs households who will remain in the project after completion of their rights and the terms and conditions of their remaining at the property.

**4. Temporary Relocation Notice:** Informs households who will be temporarily relocated of their relocation rights and the conditions of their temporary move. Temporary relocations must not be more than 12 months.

**5. Move-In Notice:** Informs households moving into potential projects after the application for County funds that they may be displaced and that they will not be entitled to assistance.

**6. 90- and 30-Day Notices:** Informs displaced households of the day by which they must vacate the property. Displaced households may be given at least 90 days to vacate their residence.



Developer should consult with their relocation consultant on State and federal requirements for relocation. The timing of these notices is critical, so it is very important to have someone familiar with State and federal relocation requirements managing the relocation process in projects that include public funding and displace tenants.

### **Relocation Plan**

Prior to committing funds to a project involving displacement, the Awarding Authority must make public its Residential Anti-Displacement and Relocation Assistance Plan. The Plan must include plans for temporary relocation for tenants.

The developer's relocation consultant should draft the Plan subject to the Awarding Authority's review and approval of the draft plan. The draft plan should then be made available to the public for review at a public hearing by the Awarding Authority's governing body. It is then submitted to the State or HUD for approval. The developer should work with their relocation consultant to ensure the Plan meets all State and federal requirements. This includes:

### **Developer Responsibilities**

The Developer and its relocation consultant shall be required to do the following:

- Implement the approved relocation plan
- Keep all residents informed of project activities and scheduling and ensure that all the previously mentioned Notices are provided in a timely manner
- Provide information about comparable housing opportunities and the household's relocation rights
- Provide information about federal, State, and local housing programs and how to apply for them
- Provide referrals to other available assistance including human services, health services, public assistance, childcare, etc.

### **Relocation Costs and Replacement Units**

Displaced tenants may be eligible under state and federal law for a variety of relocation payments including reasonable **moving expenses** and **replacement housing costs**.

The assistance a displaced tenant receives varies depending upon whether the family was in occupancy more or less than 90 days prior to the date of execution of the funding agreement with the Awarding Authority, the household's income level, etc. The developer should work their relocation consultant to ensure all required relocation payments are made. Relocation costs must be included in the developer's projects pro-forma.

The developer shall also comply with Section 104(d) requirements if applicable. Section

104(d) is triggered by demolition or the conversion of units when federal funds are used for a project. Acquisition-only activities do not trigger Section 104 (d).

Section 104(d) requires additional replacement housing payments, which must be included in the project budget. It also is likely to trigger replacement of the demolished or converted units within four years. Therefore, if the developer is proposing to demolish or convert units, they should consult with the Awarding Authority, their attorney, and their relocation consultant before proceeding with a project involving demolition or conversion of units in a project which includes federal funding.

### **Rights of Residents Who Remain in the Project**

Tenants who are intended to remain in the project must receive the offer of a "suitable" unit, which can be rented at an "affordable" price. The developer should consult with its relocation consultant and the Awarding Authority to ensure compliance with the rent requirements for tenants who remain in a project after it has been assisted with public funding.

### **Appeals**

If a tenant disagrees with their determination of relocation eligibility or benefits calculation, they must be given the right to appeal the determination. The developer's relocation consultant should first offer to meet with them to try to resolve the matter informally. If they still disagree or do not want to meet with the developer's consultant, they should submit a request for a formal written appeal to the Awarding Authority within 90 days of receiving the relocation determination. The Awarding Authority's CDSA Director or his/her designee shall hear the appeal and make a determination. If the tenant still disagrees, they may contact the HUD field office to request a review of the determination.

**EXHIBIT A**  
**Residential Relocation Program Planning Checklist**

*This Planning Checklist is intended as a tool for grantees managing HCD/HUD projects that require residential displacement. The checklist will not be applicable to all relocation projects. It does not address business relocation. HCD/HUD may require additional or alternative tasks related to your specific project. Please seek the advice of your HCD/HUD contact prior to project initiation.*

Assumption: Property acquired through negotiation without the threat of eminent domain.

Scheduled	Task	Form Reference*	√
	Identify Property and Initiate Discussions with Property Owner		
	If offer is accepted submit required paperwork to State recipient		
	Secure Tenant's names copy of Rental/Lease Agreement		
	Prepare and deliver General Information Notices. Document delivery. Provide copies of Notices to HCD	1378, App. 2, 3, or 4	
	Prepare an Initial Contact Letter Introducing the Program, Schedule, and Staff and Requesting an Interview with Tenant		
	Conduct an Initial Interview with the household. Deliver appropriate Relocation Handbook. Complete "Site Occupant Record", "Certification of Occupancy", and "Income Certification" forms.	HUD 1041, 1042 and 1043 1378, App. 8 or 9	
	Prepare "Notice to Prospective Tenants" ("Move In Notice") and have the owner present it to any new household that moves in prior to loan closing. Notice must be signed by prospective tenants to certify delivery.	1378, App. 29	
	Ensure that the relocation cover letter specifies the subject address and references to the State Recipient's approved Relocation Plan.	Model Relocation Plan HCD-832 <a href="https://www.hcd.ca.gov/">https://www.hcd.ca.gov/</a>	
	When notified that funding is approved, provide the household with either a "Notice of Eligibility" Notice of Non-Displacement if funding is not approved. Certify delivery with copies to HCD.	1378, App. 4,5,6,7, 25, or 26	
	Determine the cost of Comparable Replacement Housing. Conduct a housing study with copies to HCD.	HUD Form 40061	
	Provide Relocation Advisory Services to all households. Help to locate, and secure replacement housing, file claims, etc.		
	Deliver 90 Day Notice to Vacate and 30-Day Notice to Vacate as needed.		
	Conduct Home Inspections for replacement housing for decent, safe & sanitary standards.	1378, App. 11	
	Develop a payment schedule and disburse payments accordingly.		
	Organize files and include a copy of the completed HUD Form 40054 and documentation of payments to HCD		

\*HUD Handbook 1378, Change 4 or HUD Forms ([www.hudclips.org](http://www.hudclips.org))

## Appendix 5

### State and Federal Prevailing Wage Requirements

Projects receiving local or State funds from the Awarding Authority may be subject to state prevailing wage requirements. Additionally, projects receiving federal funding from an Awarding Authority may be subject to federal prevailing wage requirements. Developers should consult with their attorneys and the Awarding Authority prior to entering into contracts to determine whether proposed projects trigger prevailing wage requirements.

- If a project is subject to State and/or federal wage requirements, the Awarding Authority, at its sole discretion, may require the developer pay for a contracted compliance administrator or the Awarding Authority may elect to have staff serve in this role.
- The Awarding Authority shall ensure that all bid documents, contracts and subcontracts for Davis-Bacon covered work contain Federal labor standards provisions and the applicable Davis-Bacon wage decision.
- The Awarding Authority must receive a list of all contractors and subcontractors and will verify, prior to contract award, that the contractor and subcontractors are eligible (e.g., not debarred) for Federally-assisted work prior to contract award.
- The Awarding Authority and/or the compliance administrator shall conduct on-site inspections including interviews with laborers and mechanics employed on the construction project in order to ensure that the applicable Davis-Bacon wage decision and the Department of Labor's "Employee Rights Under the Davis-Bacon Act" are posted at the job site.
- The Awarding Authority and/or the compliance administrator shall review certified payroll reports and related documentation. Identify any discrepancies and/or violations. The developer shall ensure any needed corrections are made promptly.
- The Awarding Authority and/or the compliance administrator shall maintain full documentation of Federal labor standards administration and enforcement activities and will refer any potential criminal or complex investigations to the State of California Department of Housing and Community Development and/or the United States Department of Housing and Urban Development.
- The Awarding Authority and/or the compliance administrator shall prepare State and federal labor standards enforcement reports as required.

A checklist of steps is attached to this Appendix as Exhibit A.

**EXHIBIT A**

**CONSTRUCTION CHECKLIST FOR PROJECTS WITH FEDERAL FUNDING**

	<b>Date</b>
Determine if project is covered by Davis-Bacon	_____
Appoint or hire compliance administrator	_____
Obtain applicable federal wage decision	_____
Review wage decision, determine if additional wage decisions are required.	_____
Ten days before bid opening determine if wage Decisions are still current	_____
Review bid package for completeness	_____

- Federal wage decision
- State wage decision (if applicable)

**Federal Labor Provisions**

- Standard Contract Language all contracts
  - Access and Retention of Records (24 CFR 92.508)
  - Certification Regarding Debarment, Suspension and Other Responsibility Matters
  - The Civil Rights, HCD and Age Discrimination Act Assurances
  - State Nondiscrimination Clause
  - The Fair Labor Standards Act of 1938, as amended (referred to as "the Act" or "FLSA")
- All Contracts over \$10,000
  - Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity
  - Standard Equal Opportunity Clause
  - Standard Federal Equal Employment Opportunity Construction Contract

**Specifications**

- All Contracts over \$100,000
  - Clean Air Act and the Federal Water Pollution Control Act as amended compliance
  - Section 3 Clause
  - Contract Work Hours and Safety Standards Act, as amended compliance
  - Prohibition on the Use of Federal Funds for Lobbying
  - Bonding Requirements
    - Bid guarantee
    - Performance bond
    - Payment bond

Review by City/County Attorney

Prepare minutes of bid opening

Tabulate bids

Make recommendation for award

Verify construction Contractor/Subcontractor State eligibility with State Contractor's License Board

Verify construction Contractor/Subcontractor Federal eligibility

Submit Construction Contractor's Notification of Subcontracts Award to U.S. Dept. of Labor for construction contracts in excess of \$10,000

List of Federal and Non-Federal Work in Covered Area

Execute contract

Hold Preconstruction Conference

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Obtain all require signatures on Preconstruction Conference minutes

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Issue Notice to Proceed to Contractor

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Documentation of program compliance in labor standards file:

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Review of weekly payrolls and statements of compliance

Site Inspections to determine that the job site postings (“Notice to Employees,” “Job Safety and Health Protection” and “Equal Employment Opportunity” and correct wage determinations) are posted on the job site and in clear view of employees.

Monthly employee interviews using Record of Employee Interview Form (HUD-11)

Proof of registration in a federally recognized and state registered trainee or apprenticeship program

Submission of the Semi-Annual Labor Standard Enforcement Reports

Submission of the Final Wage Compliance Report

## Appendix 7

### Summary of County's Monitoring Procedures for Multi-Family Activities with Federal Funding

The County's Planning Department is responsible for annual monitoring of affordable rental projects in accordance with the terms and conditions of each project's loan documents including the Loan Agreement, promissory note, and Regulatory Agreement (or Affordable Housing Restriction).

The specific requirements for projects vary, but typically include, but not limited to, the following are submitted annually:

1. Tenant rent and income report – to document compliance with the projects affordable housing requirements
2. Audited financial statements
3. Updated insurance certificates (naming the County as additional insured)

Depending on the requirements in the loan documents, the County may perform desk monitoring or on-site monitoring.

Monitoring is done using the following procedures:

1. Annual a letter is sent to the property manager/property owner requesting they complete the monitoring report and submit all required documentation.
2. If the property manager/property owner does not submit the required information by the deadline, a 2<sup>nd</sup> request is sent.
3. Once the response is received, the monitoring report and required documentation is then reviewed by staff to ensure the project is in compliance and the submission is complete.
4. Any issues discovered are documented in a monitoring summary letter which is sent to the property manager/property owner for correction/response.
5. The property manager/property owner submits a monitoring response letter to correct the issues raised in the monitoring letter.
6. Once all issues have been addressed or corrected, the monitoring is closed and a clearance letter is submitted.
7. The monitoring database is updated to show the monitoring has been completed.
8. If the property owner/property manager fails to correct significant issues, then they may be found in default of the conditions of their loan. In these situations, the Housing staff consults with the County Counsel's office to determine next steps, and, if necessary, declare the project in default.



The process for loans that require on-site monitoring is very similar to the above procedures except that rather than submitting the reports, the property manager/owner makes them available, along with tenant files, during the on-site monitoring visit. Additionally, if the project requires unit inspections, these are coordinated with the property manager/owner to ensure tenants receive adequate written notice of the inspections. Any items requiring repairs are noted in the monitoring summary letter.

## Appendix 8

### Summary of Environmental Procedures for Multi-Family Activities with Federal Funding

#### Overview

All multi-family development projects which may include federal funding, including CDBG, CDBG-DR, and HOME, must undergo National Environmental Policy Act (NEPA) environmental review in addition to California Environmental Quality Act (CEQA) review.

When a project is contemplated to include federal funding NEPA review must be completed prior to the Awarding Authority making any choice limiting actions such as committing funds.

#### Level of Review

Below is a summary of the level of environmental review required for multi-family housing projects involving federal funds:

<b>Multi-family Housing Activity</b>	<b>Level of Clearance</b>
<b>New construction with or without acquisition</b>	<b>Environmental Assessment</b>
<b>Major** rehabilitation with or without acquisition</b>	<b>Environmental Assessment</b>
<b>Minor* rehabilitation with or without acquisition</b>	<b>Categorically excluded subject to Sec. 58.5</b>
<b>Tenant-based rental assistance</b>	<b>Categorically excluded not subject to Sec. 58.5</b>

*\* Multi-family housing is residential building with five or more units OR five or more units on one site.*

*\*\*See definition of major/minor rehabilitation for the multi-family category in Part 58.58.35(a)(3)(ii)(C).*

#### Procedure:

When the Awarding Authority's Housing staff becomes aware that a project may involve federal funds, the Housing staff shall notify the developer of the requirement to complete NEPA before federal funds are committed or any choice limiting action can be taken.

Notifications/requests for NEPA reviews are reviewed by the County's Planning Department. NEPA reviews are also prepared by the Planning Department. The developer shall be given the option to (1) hire a consultant to prepare the NEPA documents for the Planning Department to review and recommend approval of or (2) have the review done in-house by the Planning Department in accordance with the current Planning Department Fee Schedule. All final packages, including the proof of publication, must be approved by the County's Community

Development and Services Agency Director (CDSA Director), who has been designated as the County's Certifying Officer. Once approved, the Certifying Officer will execute the documents. The Planning Department will then submit the necessary documents to the State HCD for final approval.

The following is a summary of the general steps in NEPA review process:

1. Complete the appropriate level of environmental review (see above table).
2. Publish the applicable public notice(s)
3. Submit a Request for Release of Funds and Certification form (HUD-7015.15) to the State)
4. Receive a signed copy of Authority to Use Grant Funds Form (HUD-7015.16) or a completed environmental review for activities that do not require public noticing.

After receipt of the signed Authority to Use Grant Funds or completed environmental review if the activities do not require public noticing, the developer shall be given a copy of the completed forms.