

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

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January 29, 2019

MEMORANDUM FOR: All Potential Applicants

Lisa Bates

FROM: Lisa Bates, Deputy Director
Division of Financial Assistance

**SUBJECT: Amendment number one, Supportive Housing
Multifamily Housing Program Notice of Funding
Availability**

On November 27, 2018, the Department of Housing and Community Development (Department) announced the availability of approximately \$77 million in funds for the Supportive Housing Multifamily Housing Program (SHMHP). This funding utilizes recaptured Proposition 46 and 1C funding.

With this memorandum, the Department is updating the Notice of Funding Availability (NOFA) to include the following information:

- The Department will utilize \$78 million of Proposition 1 (Chapter 365, Statutes 2017) MHP funding. The total funding available for this SHMHP NOFA is \$155 million.

The SHMHP application forms and regulations are posted on the Department's website at <http://www.hcd.ca.gov/grants-funding/active-funding/shmhp.shtml>. To receive information, please visit hcd.ca.gov and subscribe to our Multifamily Housing Program listserv. If you have any further questions, please email SHMHP@hcd.ca.gov or contact Mauro Lara, NOFA Manager, at (916) 263-1168 or mauro.lara@hcd.ca.gov.

**SUPPORTIVE HOUSING
MULTIFAMILY HOUSING PROGRAM
NOTICE OF FUNDING AVAILABILITY**

**Amendment #1
January 29, 2019**



**State of California
Governor Gavin Newsom**

**Alexis Podesta, Secretary
Business, Consumer Services and Housing Agency**

**Ben Metcalf, Director
Department of Housing and Community Development**

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I. Overview

A. Notice of Funding Availability

The California Department of Housing and Community Development (Department) is announcing the availability of approximately \$77 million in Proposition 46 and Proposition 1C funding for the Supportive Housing Multifamily Housing Program (SHMHP). Additionally, the Department will utilize \$78 million of Proposition 1 (Chapter 365, Statutes 2017) MHP funding. The total amount of funding available under this NOFA will be approximately \$155 million. This amount may be augmented by any additional amount made available under applicable law through an amendment to this NOFA prior to the application deadline set forth in Section I (B), as may be amended by the Department. The foregoing amount may also be augmented after the foregoing deadline, at the discretion of the Department and to the extent allowed by law up to the total amount of appropriated funds available as limited by the bond allocation.

Funds available under this NOFA are for multifamily rental housing projects involving new construction, rehabilitation, acquisition and rehabilitation, or conversion of nonresidential structures for the purpose of development of rental housing containing permanent Supportive Housing units for the target population.

B. Timeline

TIMELINE FOR SHMHP	
NOFA Issued:	November 27, 2018
Application Posting:	November 30, 2018
Applications Due:	February 8, 2019
Award Announcements:	July 2019

C. What's new in this NOFA

- 1) Chapter 275, Statutes of 2011 (AB 483), amended Health and Safety Code (H&SC) §50675.14 relating to the Supportive Housing component of Title 25 California Code of Regulations (CCR) §7342 of the Multifamily Housing Program (MHP) regulations as noted below:

- a) The following definitions were adopted for use:

“Supportive Housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the Supportive Housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

“Target population” means persons, including persons with disabilities, and families that are “homeless,” as that term is defined by §11302 of Title 42 of the United States Code, or are “homeless youth” as defined by Government Code §12957(e)(2).

Individuals and families currently residing in Supportive Housing meet the definition of “target population” if the individual or family was “homeless,” as that term is defined by §11302 of Title 42 of the United States Code, when approved for tenancy in the Supportive Housing project in which they currently reside.

b) In addition, each development funded under SHMHP **shall set aside at least 40 percent of the units** to one or more of the following populations:

- Individuals or families experiencing “chronic homelessness,” as defined by the United States Department of Housing and Urban Development’s Super Notice of Funding Availability for Continuum of Care or Collaborative Applicant Program.
- “Homeless youth,” as that term is defined by paragraph (2) of subdivision (e) of §12957(e)(2) of the Government Code.
- Individuals exiting institutional settings, including, but not limited to, hospitals, jails, prisons, and institutes of mental disease, who were homeless when entering the institutional setting, who have a disability, and who resided in that setting for a period of not less than 15 days.

See H&SC §50675.14 for complete details of the amendments to the Supportive Housing component, as CCR Title 25, §7340, et seq. does not reflect the amendments made by AB 483 in 2011. If there are inconsistencies between the H&SC statute and the CCRs, statute shall prevail.

2) The Department revised the Uniform Multifamily Regulations (UMR) in 2017. The UMRs provide uniform standards and program rules for multifamily rental housing developments assisted by the Department. All updates in this NOFA conform to the 2017 UMR regulations. The Department suggests that all

applicants review the 2017 UMRs for the applicability of any revisions to their projects.

The 2017 UMRs can be located on the Department's website at <http://www.hcd.ca.gov/grants-funding/already-have-funding/uniform-multifamily-regulations.shtml>.

- 3) The Department revised the scoring criteria as follows:
 - a) The Department is offering 15 bonus points for a lead service providers' level of experience. Applicants will score three points for each additional year of lead service provider experience if that experience is with similar target populations in projects with total units equal to, or greater than, the proposed project.
 - b) The Department increased the bonus points for projects documenting funding commitments from local governments for operating subsidies, services funding, for five years or longer from 5 to 10 points. Documentation must be through a firm letter of commitment for the subsidy and/or service contract that indicates the purpose, terms, and contract amounts.
 - c) The Department decreased the points for the "Percentage of units for families or Special Needs populations and 'At-Risk' rental housing developments" from 35 to 20 points.
- 4) The Department is adjusting the per-unit base loan amounts as follows:

For projects utilizing 4 percent low-income housing tax credits (LIHTC), the base loan amount is \$125,000; and for projects utilizing 9 percent LIHTCs, the base loan amount is \$45,000.

For further information on loan limits, please see **Section III – Program Funding Amounts and Terms**, in this NOFA. Applicants can view SHMHP per-unit loan limits at <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
- 5) The Department is increasing the maximum per-project loan amount from \$7 million to \$20 million.
- 6) Applicants must certify compliance with Housing First practices pursuant to **Section VI – Other State Requirements**, in this NOFA.

D. Authorizing Legislation and Regulations

MHP was established by Chapter 637, Statutes of 1999 (SB 1121), which created Chapter 6.7 of Part 2 of Division 31, commencing with H&SC §50675, as amended. Chapter 365, Statutes 2017 (SB 3) adopted by voters on November 6, 2018 (Proposition 1) provides additional funding and authority for MHP.

Health and Safety Code Section 54014 gave the Department authority to implement this program by utilizing guidelines. Pursuant to subdivision (b) of section 54014, those guidelines are to be exempted from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of this NOFA, and any subsequent amendments thereto, the existing SHMHP regulations (set forth at CCR Title 25, Section 7340, et seq. and Health and Safety Code Section 50675.14, and as may be amended), and the terms of this NOFA (and as amended) shall constitute the guidelines applicable to funding released hereunder. To the extent there is a conflict between the foregoing, the terms of this NOFA shall control. The meaning of terms set forth in the UMR's (set forth at CCR Title 25, Section 8300 et seq., and as may be amended) shall be persuasive, but not mandatory in interpreting the provisions hereof, except where expressly incorporated by reference in the SHMHP regulations.

Applications submitted under this NOFA shall be subject to two sets of regulations:

- 1) The MHP regulations, CCR Title 25, §7300, et seq., and
- 2) The UMRs, CCR Title 25, §8300, et seq., (2017).

Applications submitted under this NOFA are also subject to requirements as specified in this NOFA.

All section references in this NOFA refer to MHP regulations unless otherwise noted. MHP regulations and the 2018 NOFA are available on the Department's website at <http://www.hcd.ca.gov/grants-funding/active-funding/shmhp.shtml>.

II. Program Threshold Requirements

A. Eligible Sponsors and Applicants

Subject to provisions set forth in CCR Title 25, §7300, et seq., a Sponsor shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited liability corporation, local public entity, duly constituted governing body of an Indian reservation or Rancheria, or other legal entity or any combination thereof, and shall be organized on a for-profit, including limited profit, or nonprofit basis.

To be eligible for funding, a Sponsor must demonstrate experience relevant to owning and developing affordable rental housing through successful prior ownership and development of at least one affordable rental housing project, or employment of a staff with demonstrated experience owning and developing at least one affordable rental housing project. Sponsors of projects, where at least 70 percent of the units are restricted Supportive Housing units, may qualify for development and ownership experience per the requirements of §7303(d).

In addition to the requirements as summarized above, to apply for SHMHP funding, a Sponsor shall have at least 24-months experience in the ownership or operation of at least one rental housing development with five or more units that includes units reserved for the disabled or other special needs group, pursuant to §7343.

(Note: To insure timely processing of Standard Agreements, the Department strongly recommends that all legal entities, including the Applicant and any/all intended payees (e.g. the Borrower), be formed prior to application submittal. Related organizational documents, resolutions and Payee Data Records (Std. 204) should be included with the application. This is not a Program threshold or scoring requirement, and the Applicant's inability to provide this information at the time of application will have no adverse effect.)

B. Eligible Uses and Activities

SHMHP funds are for permanent financing only and may be used to take out construction loans used to cover normal project development (capital) costs, as detailed in §7304. SHMHP funds may be used to capitalize a project operating reserve account up to the limit required under UMR §8308. Department-approved costs of supportive services, case management, and coordination meeting the requirements of UMR §8314(e) and §8314(f) may be treated as a project operating expense, payable from operating income.

SHMHP funds must be attributable to the costs of “restricted” units (SHMHP-assisted units and units subject to a long-term regulatory agreement with occupancy and rent restrictions similar to those of SHMHP), or to the costs of facilities used for childcare, after-school care, and social service facilities integrally linked to the tenants of the restricted units.

Applications will be reviewed to ensure that development costs do not include payments for appreciated equity through transfers or syndication between related parties. The term “related parties”, as used in this paragraph, has the same meaning as TCAC Regulation §10302(ii).

SHMHP funds must be used to fill financing gaps (in accordance with §7302(g)) resulting from an insufficiency of development funding sources (including all tax credit equity, loans, and contributions) to cover the total development costs. Additional funding that is received after the loan award, and which is in excess of any increase in costs, will reduce the award by the amount of the net increase in funding. Equity cash-out does not meet the goals of the program and, therefore, is not an eligible use of SHMHP funds. Costs representing the cash-out of existing equity will not be recognized as an eligible use of funds. See §7304 for a breakdown of all eligible uses.

C. Eligible Projects

Projects must qualify as multifamily rental housing developments (as defined by UMR §8301). Additionally, projects must meet all eligibility requirements in §7302 and §7342, except where H&SC §50675.14 amendments prevail.

Projects are ineligible if construction has commenced as of the application due date per §7302, or if the project is already fully funded. Demolition is considered part of the project if the expense is included in the development budget. Therefore, projects will be deemed ineligible if demolition has occurred, and such expenses are included in the development budget, as submitted in the application, unless it is required to eliminate hazards or threats to health and safety. Projects must meet the underwriting standards described in UMR §8310.

D. Supportive Services and Property Management Requirements

SHMHP projects shall be designed to provide affordable Supportive Housing with access to an array of services and amenities for tenants whose ability to live independently would be improved by the availability of such services and amenities. Supportive Housing projects shall be linked to on- or off-site services that assist the tenant to retain housing, improve his or her health, and to

maximize his or her ability to live and, where possible, work in the community. As part of the SHMHP application, sponsors must submit a Supportive Housing Project Plan that meets the requirements of §7345, and §7342(e) and (f).

III. Program Funding Amounts and Terms

A. Maximum Loan Amounts

The maximum loan per project is \$20 million. The maximum loan amount per Supportive Housing unit is a function of unit size, location, and affordability level pursuant to §7307. Maximum per-unit loan limits are in charts “A” and “B” located on the Department’s website at <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

Projects awarded under this NOFA without 9 percent LIHTC will have their elevated loan limit amount reduced if the project subsequently receives a 9 percent LIHTC award.

B. Loan Terms and Security

Loans will have a 55-year term and bear simple interest at the rate of 3 percent per year. For the first 30 years, annual interest payments will be required in the amount of 0.42 percent of the outstanding principal loan balance. The annual payment amount for the next 25 years will be set by the Department in year 30, and will be the minimum amount necessary to cover the Department’s monitoring costs. Unpaid principal and accrued/deferred interest will be due at the end of the loan term.

SHMHP loan documents will include a promissory note, deed of trust, and regulatory agreement. The deed of trust and regulatory agreement may be subordinated to bond debt, amortized loans from institutional lenders, and the federal government, provided no balloon payments are due except in accordance with UMR §8310(f).

SHMHP loans may not be subordinated to local public agency loans or restrictions attached to these loans, except in accordance with UMR §8315. The SHMHP loan must be secured by a fee or a leasehold interest in the property acceptable to the Department. The term of a leasehold interest must be at least 90 years (65 years where the lessor is a public entity) from the date the SHMHP loan closes, excluding any unexercised lease extensions. If the SHMHP loan is secured by a leasehold, the owner of the fee and borrower must sign the Department’s standard form lease rider. If the lessor and lessee of the fee are

related or affiliated parties, the SHMHP loan documents must be recorded against both the Sponsor's interest in the project and the fee interest in the land (see UMR §8316 for other leasehold requirements).

C. Rent and Occupancy Limits and Related Reserve Requirements

SHMHP-assisted unit rent and tenant incomes will be restricted in accordance with the rent and income limits proposed by the project Sponsor in their application, with rents not exceeding 30 percent of the applicable income limit. Income limits are posted on the Department's website at <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

Projects will be underwritten at the rent limits for the income levels proposed in the application. The program's maximum 1.20:1 debt-coverage ratio limit during the first operating year will be applied using the maximum rents allowable.

Assisted-unit rent increases will be limited in accordance with the rules governing tax credit units and §7311 and §7312. Where the project receives project-based Section 8 or other rental assistance subsidies, "rent" is defined as the tenant's contribution, rather than the contract rent level. Sponsors of this type of project will be required to continue the rental assistance as long as it is available. Projects receiving project-based rental assistance shall be required to fund a two-year transition reserve in accordance with §7312(f)(2). Projects with rental subsidies must also be feasible, with 50 percent of Area Median Income (AMI) rents for units at rent levels which garner income-targeting points in the event the rental assistance is terminated in accordance with §7312(f)(3).

D. Funding Compatibility

Sponsors typically anticipate using an array of funding sources for the construction and permanent financing of their projects. The Sponsor should determine, prior to applying for SHMHP funds, that the requirements of the non-SHMHP funding sources are compatible with the requirements of MHP and its Supportive Housing component.

E. Projects with Extraordinarily High Development Costs

To be eligible for funding, projects must meet the high-cost test described in UMR §8311.

An appraisal may be required at application to verify the value of the land, long-term ground lease, or capital contribution as applicable.

F. Developer Fees and Distribution Limitations

Developer fee means the same as the definition of that term in the CCR, Title 4, §10302(l), and includes financial consulting costs, as noted below:

***Developer Fee.** All funds paid at any time as compensation for developing the proposed project, to include all development consultant fees, processing agent fees, developer overhead and profit, construction-management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of those customarily required by multifamily housing lenders.*

The Department has interpreted this definition to include any lease-up fees, incentive fees, or other property management fees, in excess of those customarily charged by property management firms for lease-up activities, which are paid to the Sponsor or Co-Sponsor, or a management company affiliated with the Sponsor or Co-Sponsor.

Developer fees are further limited in accordance with UMR §8312 and §8314, and Distributions to the Sponsor out of operating income are limited in accordance with UMR §8312 and §8314.

The value of land donations received from city and/or county jurisdictions, master developers, or other entities, which are not the Sponsor or an affiliate of the Sponsor, will not be counted as a capital contribution to increase Developer Fee limits as described in UMR §8312(d). A land donation from the Sponsor must show an acquisition cost of zero.

Furthermore, cash contributions or grants received by the Sponsor or an affiliate of the Sponsor from master developers or other entities not controlled by the project Sponsor or Co-Sponsor, or where such cash contributions are contingent upon the development of the affordable housing project, may not be counted as a capital contribution to increase Developer Fee limits.

IV. Application Submission, Review, and Award Procedures

A. Application Workshops

To assist applicants in preparing their applications, the Department will conduct application workshops to review the NOFA, Universal Application, and SHMHP supplemental application.

The Department will post workshop dates and times on the SHMHP webpage at <http://www.hcd.ca.gov/grants-funding/active-funding/shmhp.shtml>. To receive information on workshops and other updates, please visit <http://www.hcd.ca.gov> and subscribe to our Multifamily Housing Program listserv. If you are unable to attend the workshop and have questions about the application process, please email SHMHP@hcd.ca.gov or contact Mauro Lara, NOFA Manager, at (916) 263-1168 or mauro.lara@hcd.ca.gov.

B. Submission Process

A complete original application, in a three-ring binder with appropriate tabs and packaging according to the instructions in the General Information tab of the SHMHP application attachment, and one electronic copy on CD or USB flash drive with all applicable information, must be received by the Department no later than **5:00 p.m. Pacific Standard Time on February 8, 2019**. The application package must be delivered by a mail carrier service that provides date stamp verification of delivery, such as the U.S. Postal Service, UPS, FedEx, or other carrier services. Personal deliveries, facsimiles, late applications, incomplete applications, application revisions, electronically submitted, or walk-in application packages will not be accepted. Application packages must be mailed to the following address:

**Department of Housing and Community Development
Division of Financial Assistance, NOFA Unit
Multifamily Housing Program
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833**

C. Rating and Ranking

The Department shall rate and rank applications in accordance with §7320(b), and may implement additional or alternative scoring for particular project types, as described in §7317(c). Projects must receive a minimum point score of 125, as determined by the Department, in order to be considered for a funding award. Furthermore, projects must receive a minimum of four points in the Development and Ownership Experience of the Sponsor category, and a minimum of five points in the Project Readiness category. The table bellows details the application point scoring which will apply for this 2018 NOFA

Criterion	Max Pts.	Notes
Extent project serves the lowest-income levels (§7320(b)(1))	35	The income levels referenced in the regulations are posted on the Department website.
Extent the project addresses the most serious local-housing needs (§7320(b)(2))	15	Proposed project will address the most serious identified local-housing needs or housing needs related to Special Needs Populations served by the project.
Development and ownership experience of the Sponsor (§7320(b)(3))	20	Four points for each project owned and developed in the last five years (where Sponsor and Developer are combining experience, the lesser of the two will be used for this category).
Percentage of units for Families or Special Needs Populations and “At-Risk” Rental Housing Developments (§7320(b)(4))	20	Projects eligible to apply under this NOFA must have at least 40 percent Supportive Housing units - all project units will receive: for two bedrooms, .2 points, three bedrooms, .7 points, or special needs units, one point per each unit above 40 percent, to a maximum of 20 points.
Leverage of other funds (§7320(b)(5))	20	Projects demonstrating program collaboration focusing on measureable outcomes, as described in the service plan, will receive a competitive advantage in this scoring category pursuant to §7346(c).
Project Readiness (§7320(b)(6))	15	Minimum point score of five points is required. The total score is the sum of point awards in six sub-categories measuring readiness.
Adaptive Reuse/Infill/Proximity to Amenities/Sustainable Building (§7320(b)(7))	10	Projects demonstrating compliance with the conditions of any subcategory will receive full points in this category.
Local commitment	10	Bonus points awarded to applications documenting such commitments for at least five years.
Lead Service Provider experience	15	Bonus points: Three points for each additional year of experience with similar target populations in projects with total units equal to, or greater than, the proposed project.
Negative Points (§7320(b)(3)(F))	0	5 point deduction per occurrence with a maximum of a 10 point deduction per category and a maximum total deduction of 50 points.
Total Maximum Points	160	

Tiebreakers: In the event of tied point scores, the Department will:

- (1) Rank projects based on the lowest weighted average affordability of restricted units per §7320(c); and
- (2) Rank projects based on Readiness to Proceed score.

D. Loan and Grant Committee

Upon ranking, rating, and feasibility review, recommended projects will be presented to the Loan and Grant Committee in May 2019 for review and approval.

E. Condition of Award

Successful applicants (“Awardees”) will enter into a Standard Agreement with the Department. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed.

A condition of award will be that a Standard Agreement must be executed by the Awardee (i.e., Sponsor) within ninety (90) days (the “Contracting Period”) of the Department’s issuance of the award letter. The Sponsor shall remain a party to the Standard Agreement for the entire term of the Standard Agreement; removal of the Sponsor shall be prohibited.

F. Disclosure of Application

Information provided in the application will become a public record available for review by the public pursuant to the Public Records Act. As such, any materials provided may be disclosed to any person making a public records request. As such, applicants are cautioned to use discretion in providing the Department with information that is not specifically requested, including, but not limited to, bank account numbers, personal phone numbers, and home addresses. By providing this information to the Department, the Sponsor is waiving any claim of confidentiality, and consents to the disclosure of all submitted material upon request.

V. Appeals.

1. Basis of Appeals.

- (a) Upon receipt of the Department's notice that an application has been determined to be incomplete, ineligible, fail threshold, or have a reduction to the preliminary point score, applicants under this NOFA may appeal such decision(s) to the Department pursuant to this Section.
- (b) No applicant shall have the right to appeal a decision of the Department relating to another applicant's eligibility, point score, award, denial of award, or any other matter related thereto.
- (c) Prior Program NOFAs. The appeal process provided herein applies solely to decisions of the Department made in this program NOFA and does not apply to any decisions made with respect to any previously issued NOFAs or decisions to be made pursuant to future program NOFAs.

2. Appeal Process and Deadlines.

- (a) Process. In order to lodge an appeal, applicants must submit to the Department, by the deadline set forth in subsection (b) below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the applicant must provide a detailed reference to the area or areas of the application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be accepted if this information would result in a competitive advantage to an applicant. Once the written appeal is submitted to the Department, no further information or materials will be accepted or considered thereafter. Appeals are to be submitted to the Department at the following address:

Department of Housing and Community Development
Division of Financial Assistance
Multifamily Housing Program Appeals
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

The Department will accept appeals through a carrier service such as the U.S. Postal Service, UPS, Fed Ex, or other carrier services that provide date stamp verification of delivery. Deliveries must be received during Department weekday (non-state holiday) business hours of 9:00 a.m. to

5:00 p.m. Pacific Standard Time. Additionally, emails to the email address listed above will be accepted if the email time stamp is prior to the appeal deadline.

(b) Filing Deadline. Appeals must be received by the Department no later than (5) five business days from the date of the Department's eligibility, threshold review, or preliminary point score determination letters representing the Department's decision made in response to the application.

3. Decision.

Any request to amend the Department's decision shall be reviewed for compliance with the May 14, 2005 MHP Regulations, the November 15, 2017 UMR (if applicable), and the November 19, 2018 SHMHP NOFA. It is the Department's intent to render its decision in writing within fifteen (15) business days of receipt of the Applicant's written appeal. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department with respect to the appeal.

4. Effectiveness.

In the event that the statute, regulation, and/or guidelines governing the SHMHP contain an existing process for appealing decisions of the Department with respect to NOFA awards made under such programs, this Section shall be inapplicable and all appeals shall be governed by such existing authority.

VI. Other State Requirements

A. Right to Modify or Suspend

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties and will post the revisions to the Department's website. You may subscribe to the Department's email list here: http://www.hcd.ca.gov/HCD_SSI/subscribe-form.html.

B. Article XXXIV

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

Article XXXIV requires local voter approval before any state public body can develop, construct, or acquire a low-rent housing project in any manner. However, the Public Housing Election Implementation Law (HS&C §§ 37000 – 37002) provides clarification as to when Article XXXIV is applicable. H&SC §37001, for example, lists a number of project types that are not considered “low-rent housing projects.”

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

- a) The name and date of the proposition and the number of units that were approved;
- b) A copy of the referendum and a certified vote tally;
- c) The number of units that remain in the locality’s “bank” of Article XXXIV authority (i.e., the number of units that are still available for allocation); and
- d) The number of units that the locality will commit to this project, including the manager unit.

If a project is statutorily exempt from Article XXXIV, the Department requires an Article XXXIV opinion letter from the applicant’s legal counsel. The Article XXXIV opinion letter must demonstrate that the applicant has considered both the legal requirements of Article XXXIV and the relevant facts of the project (e.g., all funding provided by public bodies, including state, county or city sources, the number of low-income restricted units, and the general content of any regulatory restrictions). Any conclusion that a project is exempt from Article XXXIV must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.

C. Housing First Practices

In accordance with SB 1380 (2016), the SHMHP is a Housing First program. Housing First is an evidence-based model designed to permanently house an individual and make available optional supportive services to help them remain stably housed. Housing First means that housing is made available with very low barriers to entry, and applicants are not rejected due to poor credit, financial history, lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of housing readiness. In SHMHP projects, supportive services providers shall also utilize Housing First principles and offer services as needed and/or requested on a voluntary basis. Housing shall not be contingent upon participation in services.

Applicants will certify and document adherence to Housing First practices in the application, property management plan, and supportive services plan. Adherence to Housing First practices shall be subject to periodic compliance monitoring.

D. Prevailing Wage Requirements

Funds awarded under this NOFA are subject to California prevailing wage law (Labor Code, §§ 1771, 1720-1781), and require the payment of prevailing wages, unless the project meets one of the exceptions of Labor Code §1720 as determined by the Department of Industrial Relations (DIR). The DIR can be contacted via its website at <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>.

Applicants are encouraged to seek professional advice as to how to comply with state prevailing wage law.

E. Pet Friendly Housing Act of 2017

SHMHP funding is subject to the Pet Friendly Housing Act of 2017 (H&SC §50466). Each applicant for a rental project is required to submit a signed and dated certification that residents of the housing development will be authorized to own or otherwise maintain one or more common household pets. Pursuant to this statute, “common household pet” means a domesticated animal, such as a dog or cat, commonly kept in the home for pleasure rather than for commercial purposes. Submission of the certification is a prerequisite to the granting of an award under this NOFA and must be included with the application.