

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

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February 28, 2022  
Amended May 5, 2022  
Amended August 31, 2022

**MEMORANDUM FOR:** HCD Pipeline Project Sponsors

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

**SUBJECT:** **California Housing Accelerator  
Tier 2 Project Solicitation and Program Guidelines**

The California Department of Housing and Community Development (Department or HCD) is announcing the availability of approximately \$1.05 billion in California Housing Accelerator Tier 2 funding for the purposes of supporting shovel-ready projects that, despite having an Existing HCD Loan Commitment from one or more HCD loan programs, are unable to move forward due to funding gaps that resulted from the current shortage of tax-exempt bond allocations and low-income housing tax credits. Funding for this NOFA is derived from approximately \$800 million from Coronavirus State Fiscal Recovery Fund (CSFRF) and approximately \$250 million from the State General Fund.

This Project Solicitation represents the second of two California Housing Accelerator solicitations. The first was limited to projects with prior HCD awards that had unsuccessfully applied for bonds and 4% tax credits. This current solicitation is open to a broader set of projects with HCD direct loan program awards, as detailed below in Section II.A of the Project Solicitation. Additionally, this Project Solicitation will be competitive and include specific regional allocation pools to ensure a broad geographic distribution of California Housing Accelerator funds. Please refer to Section II of the Project Solicitation for additional detail.

### **Background**

A substantial share of the funding for HCD projects has traditionally been provided by equity raised from the sale of low-income housing tax credits, especially 4% tax credits. Due to various factors, these tax credits are now in short supply, which has delayed shovel-ready projects with HCD program awards. The purpose of the California Housing Accelerator is to enable these projects to quickly begin construction.

Funding available under this Project Solicitation is derived from the Coronavirus State Fiscal Recovery Fund (CSFRF), established by the federal American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2) as well as the State's General Fund. Through the 2021–22 and 22-23 California state budgets, funds have been allocated to this program. No bond sale or similar financial arrangements are involved. Federal funds have been transferred from the federal treasury to the State and are on deposit in a state account.

### **Eligibility**

Eligibility under this Project Solicitation is limited to projects that have an Existing HCD Loan Commitment of a direct loan from at least one of the specified HCD multifamily housing programs, and meet both of the following:

- listed tax-exempt bonds and 4% low-income housing tax credits as development sources in their HCD application(s) for the Existing HCD Loan Commitment, but have not received allocations of these resources, and
- provide evidence that, with a California Housing Accelerator award, the Project will be able to start construction within 180 days of award.

Please refer to Section II Program Requirements for complete information on eligible applicants and projects.

### **Application Submittal and Award Timeframes**

Tier 2 applications will be accepted via the Department's online application portal beginning March 8, 2022 and ending April 8, 2022.

All application materials for Tier 2 projects **must be submitted electronically** via the application portal on the Department's [website](#) no later than **4:00 p.m. Pacific Standard Time on April 8, 2022**. Specific submittal instructions will be included in the application form, which is expected to be available on the website no later than March 8, 2022. Personal deliveries will not be accepted. No facsimiles, late submittals, incomplete applications, application revisions, courier deliveries, or walk-in application packages will be accepted.

### **Webinar and Technical Assistance**

The Department will conduct an online application workshop. The California Housing Accelerator application and online workshop details will be posted on the Department's website at [accelerator.hcd.ca.gov](https://accelerator.hcd.ca.gov). If you have any questions, please email [accelerator@hcd.ca.gov](mailto:accelerator@hcd.ca.gov).

# California Housing Accelerator Tier 2

## Project Solicitation and Guidelines



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**February 28, 2022**

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# California Housing Accelerator – Tier 2

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**I. Overview**

**A. Funding Available**

The California Department of Housing and Community Development (Department or HCD) is announcing the availability of approximately \$1.05 billion for shovel-ready projects that, despite having received one or more program direct loan awards from HCD multifamily loan programs, are unable to move forward due to funding gaps resulting from the current shortage of tax-exempt bond allocations and low-income housing tax credits.

Funding available under this Project Solicitation is derived from the Coronavirus State Fiscal Recovery Fund (CSFRF), established by the federal American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2) as well as the State’s General Fund. Through the 2021-22 and 22-23 California state budgets, funds have been allocated to this program.

**B. Tier 2 Timeline**

Tier 2 Timeline	
Project Solicitation Release	February 28, 2022
Application Release	On or before March 8, 2022
Application Due Date	April 8, 2022
Award Announcements	August/September 2022
Funds encumbered through an executed Standard Agreement	No later than June 30, 2024
Permanent Loan Conversion	No later than November 30, 2026

**C. Authorizing Legislation and Applicable Law**

Assembly Bill No. 140 (Chapter 111, Statutes of 2021), which was signed by Governor Gavin Newsom on July 19, 2021, created the statutory basis for the California Housing Accelerator by adding Chapter 6.6 (commencing with Section 50672) to Part 2 of Division 31 of the Health and Safety Code (HSC).

HSC section 50672.3 states, “In order to expedite the development of qualified rental housing developments that are ready to proceed to construction except for obtaining tax credit or bond allocations from the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee, the Department may adopt guidelines to administer this chapter. Guidelines adopted pursuant to this chapter shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).”

This Project Solicitation serves as the Department's guidelines for administration of the California Housing Accelerator, Tier 2. As such, the Project Solicitation and guidelines (collectively, Project Solicitation) establishes the terms, conditions, forms, procedures, and other mechanisms that the Department deems necessary to exercise its powers and to perform its duties pursuant to the California Housing Accelerator. The matters set forth herein are regulatory mandates and are adopted as regulations that have the dignity of statutes. (*Ramirez v. Yosemite Water Company, Inc.* (1999) 20 Cal.4<sup>th</sup> 785, 799 [85 Cal.Rptr.2d 844].)

Any California Housing Accelerator awards will tie into the Existing HCD Loan Commitment. Therefore, the regulations, guidelines, and other terms of the Existing HCD Loan Commitment shall govern the Project's recorded regulatory agreement and other loan documents. California Housing Accelerator-specific terms, conditions, and restrictions will be expressly incorporated into the Existing HCD Loan Commitment's loan documents. California Housing Accelerator-specific terms and conditions will be memorialized in either a separate Standard Agreement or in the Standard Agreement for the Existing HCD Loan Commitment.

The Department will only amend this Project Solicitation as necessary and in accordance with the Department's guideline authority pursuant to HSC section 50672.3.

1. These guidelines have been amended to incorporate the applicable provisions outlined in the [May 5, 2022 omnibus guideline amendment](#).

## **II. Program Requirements**

### **A. Eligible Project**

To be eligible for a California Housing Accelerator Tier 2 award, the Project must have received an award letter from a multifamily housing loan program directly administered by the Department prior to April 8, 2022, and the award must not have expired, or been terminated, disencumbered, or otherwise held to be void.

1. Qualifying HCD funding programs include the following:
  - Affordable Housing and Sustainable Communities Program
  - Community Development Block Grant Program – Disaster Recovery
  - HOME Investment Partnerships Program
  - Housing for a Healthy California Program
  - Infill Incentive Grant Program of 2007 (with an Existing HCD Loan Commitment to a Qualifying Infill Project)
  - Infill Infrastructure Grant Program of 2019 (with an Existing HCD Loan Commitment to a Qualifying Infill Project)
  - Joe Serna, Jr. Farmworker Housing Grant Program
  - Multifamily Housing Program
  - National Housing Trust Fund

- No Place Like Home Program – competitive and non-competitive HCD-administered funds only
- Supportive Housing Multifamily Housing Program
- Transit-Oriented Development Implementation Program
- Veterans Housing and Homelessness Prevention Program

HCD assistance to a Qualifying Infill Area (QIA) under the Infill Incentive Grant Program of 2007 or the Infill Infrastructure Grant Program of 2019 does not, by itself, qualify a housing development within the QIA for California Housing Accelerator funding. Rather, a qualifying housing development within the QIA must meet the California Housing Accelerator’s definition of a Qualified Rental Housing Development.

No Place Like Home projects funded directly by Alternative Process Counties do not qualify for an award under the California Housing Accelerator, unless they have a program award from another qualifying HCD program.

Homekey funded projects do not qualify for an award under the California Housing Accelerator, unless they have a program award from another qualifying HCD program.

2. The application that resulted in HCD issuing an award letter for the Existing HCD Loan Commitment must have shown tax-exempt bonds and 4% low-income housing tax credits as development funding sources.
3. If the Sponsor subsequently requested, and the Department approved, a change from a 4% project to a 9% project resulting in a resizing of the Existing HCD Loan Commitment, then the Project is ineligible for California Housing Accelerator. This does not include projects which, for the sole purpose of applying for 2020 disaster credits on or after July 1, 2021, applied as a 9% project but which, due to the Department’s [Administrative Notice 21-005](#) issued on June 22, 2021, were allowed to maintain funding awarded as a 4% project.

## **B. Eligible Applicants**

All California Housing Accelerator applications must be submitted by and include all Sponsors in connection with the Existing HCD Loan Commitment.

### **C. Eligible Uses of Funds and Project Costs**

California Housing Accelerator funds shall be used only for expenses that would be categorized as project costs by the federal low-income housing tax credit program, including, but not limited to, commercial costs and reasonable reserves.

The Department reserves the right to disallow costs that do not constitute reasonable project costs, as determined by the Department in its sole and absolute discretion.

Additionally, HCD will not generally allow capitalized reserves in excess of those approved in connection with the Existing HCD Loan Commitment, nor local agency fees or payments that would only have been required if bonds were issued or that were not shown in the application for the Existing HCD Loan Commitment. HCD reserves the right, consistent with applicable law, to require prior written approval from HCD for all reserve withdrawals, whether the reserve was required by HCD or not.

### **D. Limits on financing and unit mix changes**

California Housing Accelerator funds are not intended to supplant local public agency funds. Accordingly, any local agency resources shown as committed in the applications for any Existing HCD Loan Commitments must be included in the financing proposed in the California Housing Accelerator application at the same or higher level of funding as previously identified. This includes sites provided at below market-rate cost as well as funds.

Similarly, California Housing Accelerator funds are not intended to supplant Performing Debt. The amount and terms of Performing Debt shown in the California Housing Accelerator application must generally remain the same or be higher and more restrictive than the amount and terms shown in previous HCD applications unless there are extenuating circumstances that are clearly explained in writing by the Applicant and agreed to in writing by HCD. Requests for reducing Performing Debt or the term of the Performing Debt will be reviewed on a case-by-case basis and are not a guaranteed approval. Reduced principal loan amounts of Performing Debt must include a corresponding reduced amount in the development budget.

The Department expects unit mixes (number of units at various AMI levels and bedroom counts) to remain substantially the same as shown in the most recent Department application or, if the project has an application which has been submitted to CDLAC/TCAC, the application submitted to the CDLAC/TCAC which was ultimately unsuccessful in securing a bond allocation.



## **E. Threshold application requirements**

1. Demonstrate readiness to commence construction within 180 days of award. Applicants shall provide a written certification in their application, in form and substance satisfactory to the Department, confirming site control, entitlements, approved site plans, environmental clearances, and complete financing. For the purposes of the California Housing Accelerator, “commencement of construction” means the first land-disturbing activity associated with a project, including land preparation such as clearing, grading, and filling or the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
2. Compliance with the requirements specified in this Project Solicitation.
3. Submittal of a complete California Housing Accelerator application, using unaltered application forms and including all required attachments.
4. Each private entity Applicant shall submit an authorizing resolution that, in the Department’s reasonable determination, materially comports with the California Housing Accelerator requirements and is legally sufficient. In addition, each private entity Applicant shall submit a complete set of its organizational documents (and all amendments thereto).  
Please note that the Department will not approve a California Housing Accelerator Standard Agreement until it receives a complete set of authorizing and organizational documents from the Applicant, as specified. This set of documents shall also include, as applicable, a legally sufficient authorizing resolution from any public agency Applicant.

## **F. Funding Amounts and Terms**

### **1. Funds Available**

The maximum amount of California Housing Accelerator funds available under this Project Solicitation is approximately \$1.05 billion.

### **2. Geographic Allocations**

To ensure an equitable distribution of funds, the Department has established the following geographic allocation targets for Tier 2 funds. These allocations take into consideration the funds awarded in Tier 1. Those regions that were underrepresented in the distribution of Tier 1 funds have priority in the allocations for Tier 2.

Region	Counties	% of Tier 2 funds available	Tier 2 Target
Coastal Region	Monterey, Orange, San Benito, San Diego, San Luis Obispo, Santa Barbara, Santa Cruz, Ventura	20%	\$160 million
Los Angeles City and County	Los Angeles	44%	\$352 million
Inland	Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Bernardino, San Joaquin, Stanislaus, Tulare	21%	\$168 million
Unallocated	All counties	15%	\$120 million

The remaining \$250 million of the \$1.05 billion available, along with any remaining unrequested funds in the regional pools outlined above will be used to fund the next highest scoring project regardless of location.

### 3. Application evaluation process

The application review process consists of three phases: 1) initial threshold review; 2) rating and ranking; and 3) project feasibility review. In the event of oversubscription, the Department may establish a preliminary point score and ranking, and applications ranked below a fundable range as indicated by the preliminary ranking will not be reviewed further.

Applications meeting threshold requirements will be rated in accordance with the criteria listed below and ranked in order of their point scores. Awards will be issued to the highest-ranking projects in each geographic region provided that they are determined to be feasible, and until the geographic targets specified in the previous section have been met. Any funds remaining after the geographic targets have been satisfied will be combined with the funds in the unallocated pool. Funding of the unallocated pool will then be based on the highest ranked remaining applications, without regard to location.

The Department reserves the right to adjust the amount awarded in each region to fully fund the lowest ranking fundable projects within each region to the extent possible.

### 4. Application rating factors

Tier 2 will be a competitive process for previously HCD-awarded 4% tax credit projects with regional allocations to ensure a broad geographic distribution of California Housing Accelerator funds. Projects will be rated based on four primary policy objectives as further defined below:

- Efficient use of California Housing Accelerator funds
  - Age of Existing HCD Loan Commitment(s) award
  - Targeting of special needs populations
  - Climate change mitigation
- a. Efficient use of California Housing Accelerator funds (40 points):** Points will be awarded to projects demonstrating ability to efficiently use California Housing Accelerator funds, as calculated in two ways:

- i. A maximum of 25 points will be based on requested California Housing Accelerator funds per unit. The project in each region with the lowest per-unit request for funds will receive 25 points. All other projects within each region will receive points calculated using the following formula:

$$\frac{\text{lowest per unit request per region}}{\text{Application per unit \$ request}} \times 25$$

- ii. A maximum of 15 points will be based on how closely the total requested California Housing Accelerator funds matches the equity estimate provided in the project's most recent HCD application, adjusted for inflation. Projects requesting California Housing Accelerator funds equal to or less than the equity projected in the most recent HCD application (adjusted for inflation using the West Region Consumer Price Index for All Urban Consumers (CPI-U)) will receive 15 points. Other projects will receive points calculated using the following formula:

$$1 / \left( \frac{\text{Accelerator Request}}{\text{Recent Equity} + \text{Inflation}} \right) \times 15$$

- b. HCD award date (20 points):** 20 Points will be awarded if the first HCD award to the project was issued before the process for allocating tax-exempt bonds became competitive in 2020.

- c. Homeless, Special Needs and Other Population Targeting (30 points max)**

- i. Homeless targeting: 0.3 points will be awarded for each percentage of total project units restricted to occupancy by households experiencing homelessness up to a maximum of 30 points for 100 percent homeless projects.

Units garnering points under this criterion must be restricted to occupancy by households experiencing homelessness by another HCD program or a local public agency. The HCD regulatory agreement recorded in connection with the California Housing Accelerator loan will also include these restrictions.

- ii. Large family, extremely low-income, and special needs targeting: 0.2 points will be awarded for each percentage of total project units that are not restricted to occupancy by households experiencing homelessness and are either:
- three or more bedrooms;
  - restricted to occupancy by Extremely Low-Income households, or
  - restricted to a special needs population other than persons experiencing homelessness.

Units may receive points under only one of the three categories listed in section 4.c.ii and only up to a maximum of 20 points.

Special needs populations are those recognized populations as defined under the current [Guidelines](#) of the Multifamily Housing Program. Units garnering points under this criterion must be restricted to the designated special needs population by an Existing HCD Loan Commitment or a local public agency. The HCD regulatory agreement recorded in connection with the Existing HCD Loan Commitment and the California Housing Accelerator loan will also include these restrictions.

- iii. Other Very Low-Income units: 0.1 points will be awarded for each percentage of total project units restricted to occupancy by Very Low-Income households that do not qualify for points under subparagraphs i or ii, above, up to a maximum of 10 points.

**d. Climate change mitigation (20 Points):** Points will be awarded to projects as follows:

- i. 20 points to projects that either:
- Are located within one-quarter ( $\frac{1}{4}$ ) mile from a Transit Station/Stop served by High Quality Transit measured from the nearest boarding point of the Transit Station/Stop to the entrance of the residential structure in the Project furthest from the Transit Station/Stop along a walkable route. The walkable route, after completion of the proposed Project, must be free of features or conditions that deter pedestrian circulation such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials, or highways without regulated crossings that facilitate pedestrian movement; long stretches without shade or cover; or stretches without lighted streets.

- ii. 10 points will be awarded to projects that:
- Are located within one-half (1/2) mile from a Transit Station/Stop served by High Quality Transit, measured from the nearest boarding point of the Transit Station/Stop to the entrance of the residential structure in the Project furthest from the Transit Station/Stop along a walkable route; or
  - received grant award(s) as a Qualifying Infill Project under the Infill Infrastructure Grant program; or
  - Are located within one-quarter mile of a Transit Station or Major Transit Stop, as defined by IIG Program Guidelines, measured by a Walkable Route from the nearest boundary of the Project to the outer boundary of the site of the Transit Station or Major Transit Stop.

For the purposes of this subparagraph d, Transit Station/Stop and High Quality Transit shall mean the same as those terms are defined in Appendix A of the most recent AHSC [Guidelines](#). Headway times in effect any time between January 2020 and the time of application may be used to qualify transit as High Quality Transit, where service has been temporarily reduced due to COVID-19.

## 5. Application Fee

Per HSC section 50672.2, subdivision (d)(1), the Department has established an application fee of \$40,000 per California Housing Accelerator application. This refundable fee aims to discourage project application submissions for projects that are not shovel-ready. This fee will be fully refunded if:

- the project is awarded California Housing Accelerator funds under this Project Solicitation and the project meets the California Housing Accelerator's 180-day deadline for commencement of construction, or
- the California Housing Accelerator application is withdrawn prior to award due to the receipt of gap funding to fully fund the project (e.g. bonds, tax credits, local funding, etc.), or
- the application successfully passed threshold, as determined by the Department in its sole and absolute discretion, but was ultimately not successful in securing a California Housing Accelerator award.

Since the California Housing Accelerator application fee is "refundable," it should not be included in the development budget.

Applicants shall provide the Department with a check made payable to "HCD" in the foregoing amount. Applications submitted without this fee will not be considered for review. All checks for application fees shall be sent to the address specified below:

## **6. Assistance Terms**

For all projects, California Housing Accelerator assistance will be in the form of forgivable loans, with terms of zero percent interest for 20 years, with no residual receipts or periodic payment requirements during the life of the California Housing Accelerator loan.

The loan will be forgiven by the Department at the end of the 20-year loan term as long as all of the following are true, as determined by the Department in its sole and absolute discretion:

- The Sponsor remains in good standing with the California Secretary of State;
- The Project is not in default under the terms of any of the Department's loan documents for that project; and
- Negative points have not been assessed against the Sponsor during the previous five (5) years in connection with any Department-assisted project.

The California Housing Accelerator loan shall be subject to repayment if, during the 20-year term, the Project is (1) converted to market-rate housing; or (2) sold or refinanced with a distribution of net equity.

California Housing Accelerator funds will be disbursed through escrow at the time of the Project's permanent financing conversion.

If a California Housing Accelerator Applicant is recommended for and receives bonds and/or tax credits by CDLAC and TCAC prior to the award of Accelerator funds, the California Housing Accelerator application will automatically be withdrawn.

## **7. Developer Fee Limits**

Total developer fee for a Project shall not exceed the lesser of (a) \$2,200,000; (b) the sum of 15 percent of the project's unadjusted residential construction-related eligible basis, 5 percent of the project's unadjusted acquisition eligible basis and 15 percent of the eligible basis for the project's nonresidential costs or (c) the amount approved by HCD as payable from development funding sources under the terms of the Existing HCD Loan Commitment.

## **8. Restrictions on Future Tax Credit Applications and Syndicating Losses**

All California Housing Accelerator awardees are prohibited from applying for or receiving a tax credit allocation on a California Housing Accelerator funded Project for a period of 20 years from the California Housing Accelerator loan closing date for that Project. This prohibition will be memorialized, as appropriate, in all California Housing Accelerator terms and conditions.

If, following a California Housing Accelerator application and award, a Sponsor syndicates and sells a portion of their ownership interest to a partner or equivalent party seeking tax losses associated with the project, nine-tenths of the gross proceeds of that sale shall be remitted to the Department as recaptured California Housing Accelerator funds.

## **9. Commencement of construction deadline**

All California Housing Accelerator awarded projects must commence construction no later than 180 days from the date of award. For the purposes of the California Housing Accelerator, commencement of construction means the first land-disturbing activity associated with a project, including land preparation such as clearing, grading, and filling, or the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. The Department may, in its sole and absolute discretion, extend this deadline due to conditions beyond the control of the Sponsor, for a period not to exceed 90 days.

Failure to meet the commencement of construction deadline, or any Department-approved extension, will result in the forfeiture of the application fee and the California Housing Accelerator award. Such failure will also cause the Department to assess negative points when scoring any future application by the Sponsor for Department funding, unless the Sponsor secures a CDLAC/TCAC allocation, and the California Housing Accelerator funds are disencumbered by the Department's deadline.

Within seven (7) months of award, the Sponsor shall submit documentary evidence to the Department that construction commenced within the statutory 180-day time period. If the Department extends the deadline for commencement of construction, as authorized, the Sponsor's deadline for submitting the foregoing documentary evidence shall be extended in the same increment as the extension for commencement of construction. Qualifying forms of documentary evidence include:

- Recordation of a notice of commencement;
- Date- and time-stamped photographs;
- Physical inspection report; or
- Other documentation subject to the approval of the Department.

Failure to submit qualifying documentary evidence within the specified timeframes may result in forfeiture of the application fee, forfeiture of the award, and/or an assessment of negative points relative to any future application for Department funding.

## **10. Legal documents**

### **a. Standard Agreement**

Upon the award of California Housing Accelerator funds to a project, the Department shall enter into one or more agreements with the Sponsor(s), including an STD 213, Standard Agreement, which shall encumber funds from the California Housing Accelerator program, subject to specified conditions. The agreement or agreements shall include, but not be limited to, the following provisions:

- i. A description of the approved Project and the permitted uses of funds;
- ii. The amount and terms of the California Housing Accelerator loan;
- iii. The income, occupancy, and rent restrictions to be imposed on the Project through a regulatory agreement recorded against the property of the Project;
- iv. Performance milestones, and other progress metrics, governing the completion of the Project, along with the remedies available to the Department in the event of a failure to meet such milestones or metrics;
- v. Special conditions imposed as part of the Department's approval of the Project;
- vi. Terms and conditions required by federal and state law;
- vii. Requirements for reporting to the Department;
- viii. Remedies available to the Department in the event of a violation, breach, or default of the agreement; and
- ix. Provisions regarding Sponsor liability. Specifically, the Sponsor will remain liable to the Department for compliance with and the performance of all California Housing Accelerator requirements regardless of any Department-approved transfer or assignment of interest. Likewise, each co-Sponsor will remain jointly and severally liable to the Department for compliance with and the performance of all California Housing Accelerator requirements regardless of any Department-approved transfer or assignment of interest.



The agreement will also include such other provisions as are necessary to ensure adherence to the objectives and requirements of the California Housing Accelerator.

**b. Regulatory restrictions and loan documentation**

- i. California Housing Accelerator terms, conditions, and restrictions will be expressly incorporated into the loan documents of the Existing HCD Loan Commitment.
- ii. The Department will append and incorporate a California Housing Accelerator exhibit into the Existing HCD Loan Commitment's loan regulatory agreement to be recorded on the property. The exhibit will set forth the project's California Housing Accelerator-specific requirements, terms, and conditions. The exhibit will impose, for a 55-year period, the same income, occupancy, and rent restrictions that were represented in the Sponsor's most recent unsuccessful application to TCAC/CDLAC, and it will require the same service amenities that were represented in that application. If the Sponsor did not apply to TCAC/CDLAC, then the exhibit will impose, for a 55-year period, the same income, occupancy, and rent restrictions as set forth in the most recent Existing HCD Loan Commitment(s). The regulations, guidelines, and other terms of the most recent Existing HCD Loan Commitment(s) shall govern the integrated regulatory agreement, except that California Housing Accelerator will regulate and restrict all units identified as affordable housing units to the same income, occupancy, and rent restrictions as set forth in the most recent Existing HCD Loan Commitment(s). If the most recent Existing HCD Loan Commitment was structured with market rate unrestricted units, then the California Housing Accelerator Program will not restrict or regulate those units. In all cases, the Department may expressly approve alternative California Housing Accelerator restrictions and required service amenities for the purpose of maintaining consistency with all Existing HCD Loan Commitments. The regulations, Guidelines, and other terms of the Existing HCD Loan Commitment shall govern the integrated regulatory agreement.
- iii. California Housing Accelerator requirements, terms, and conditions will also be incorporated into the promissory note and deed of trust of the Existing HCD Loan Commitment, as well as any other of the Existing HCD Loan Commitment's loan documents, as necessary and appropriate. All such documents will be executed and recorded, as appropriate, at permanent financing close of escrow. For projects secured by leasehold security, leases must meet the requirements of UMR §8316, and both the borrower and the fee owner of the property must execute the Department's form template lease rider without modification. The lease rider amends the lease and must be recorded on the fee estate.

- iv. Cross-Default. If, in connection with the California Housing Accelerator-funded Project, the Sponsor defaults in the performance or observance of any Department loan term, condition, or restriction during the term of any Department contract or regulatory period, and such default continues beyond any cure period provided with respect thereto, the Department will avail itself of any and all remedies available to it under any and all Department terms, conditions, restrictions, and agreements relative to the Project, to include those of the Existing HCD Loan Commitment.

## **11. Reporting Requirements**

In addition to the reports required in connection with the Existing HCD Loan Commitment, the Sponsor shall annually submit a report that details and certifies to the Department the following:

- a. Project met all terms and conditions recorded in its regulatory agreement and any Department covenants;
- b. No change in ownership or amendments to the organizational documents of the project has occurred during the reporting period;
- c. No tax credits, tax-exempt bond funds, or federal grants or loans with interest rates below the applicable federal rate have been used in the project since it was placed-in-service;
- d. Services specified in the regulatory agreement were provided to the tenants during the reporting period; and
- e. the Project met all the terms and conditions, and is not currently in default, of any lender financing to the Project.

The Department may add additional reporting requirements to meet federal outcome and output reporting requirements associated with SFRF funds.

In addition, the Sponsor shall report data on the households occupying the Project, including information on rents charged and project income and expenses, and shall provide information sufficient to determine whether any cash flow limitation in the Department's regulatory agreement has been met.

Sponsor shall also submit such other periodic reports as deemed necessary by the Department to monitor compliance with the regulatory agreement and all California Housing Accelerator requirements. Such reports include, without limitation, a schedule of rental income, in form and substance satisfactory to the Department. Sponsor shall also duly submit all information required by the U.S. Department of the Treasury, which administers the federal funds allocated to the California Housing Accelerator.

## **12. Defaults and Cancellations**

In the event of a breach or violation by the Sponsor, the Department may give written notice to the Sponsor to cure the breach or violation. If the breach or violation is not cured to the satisfaction of the Department within a reasonable time period, the Department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:

- a. The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation, the appointment of a receiver to complete the project in accordance with California Housing Accelerator requirements, or the commencement of foreclosure proceedings under the power of the sale clause in the deed of trust; and
- b. The Department may seek such other remedies as may be available under the relevant agreement, at law, or in equity.

## **III. Other State and Federal Requirements**

### **A. Article XXXIV**

Article XXXIV, section 1 of the California Constitution (Article XXXIV) is not applicable to development that consists of the acquisition, rehabilitation, reconstruction, alterations work, new construction, or any combination thereof, of lodging facilities or dwelling units using moneys appropriated and disbursed pursuant to Chapter 6.6 (commencing with Section 50672) of Part 2 of Division 31 of the HSC. (HSC, § 37001, subd. (h)(4).) As such, Article XXXIV is not applicable to California Housing Accelerator-funded projects.

### **B. Prevailing Wages**

Applicant's contemplated use of California Housing Accelerator funds is subject to California's prevailing wage law (Lab. Code, § 1720 et seq.). Applicants are urged to seek professional legal advice about the law's requirements. Prior to disbursing the California Housing Accelerator funds, the Department will require a certification of compliance with California's prevailing wage law, as well as all applicable federal prevailing wage law. The certification must verify that prevailing wages have been or will be paid (if such payment is required by law), and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and all Project Sponsors.

### **C. Environmental Review**

Guidance by the U.S. Department of the Treasury indicates that an environmental review under the National Environmental Policy Act (NEPA) is not required as a result of California Housing Accelerator funding. However, California Housing Accelerator projects may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

The California Environmental Quality Act (CEQA) is still applicable to any award made under this program.

#### **D. Relocation**

Sponsor must comply with all applicable federal, state, and local relocation law. Pursuant to relocation law, a Sponsor must have a relocation plan prior to proceeding with any phase of a project or other activity that will result in the displacement of persons, businesses, or farm operations. To ensure that displaced persons or entities do not suffer a disproportionate impact as a result of projects, which benefit the public, all notices to vacate and relocation services must be provided to them in accordance with applicable law. In addition, before the California Housing Accelerator Standard Agreement will be executed, Sponsor must have either: (1) a Department-approved relocation plan; or (2) a Department-issued Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement, which has been duly executed and approved by the Department. The Department will identify its submittal requirements for these relocation documents in the California Housing Accelerator application materials. Where the Sponsor's activities will or may result in displacement, the Sponsor's development budget shall include enough funds to pay all costs of relocation benefits and assistance. Any modifications to the foregoing process requirements must be approved in advance by the Department in writing.

#### **E. Accessibility and Non-Discrimination**

All projects must adhere to the accessibility requirements set forth in California Building Code (CBC) Chapter 11A and 11B, except as follows:

1. Instead of the minimum requirements established in CBC 11B 233.3.1.1 and 11B 233.3.1.3, all new construction projects must provide a minimum of fifteen percent (15%) of the restricted units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and a minimum of ten percent (10%) of the restricted units with communications features, as defined in CBC 11B 809.5.
2. Rehabilitation projects shall provide a minimum of ten percent (10%) of the restricted units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and four percent (4%) with communications features, as defined in CBC 11B 809.5. The Department may approve a waiver of this requirement, provided that the Applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden. All waivers must be approved in advance by the Department in writing.
3. At least one of each common area facility type and amenity, as well as paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard.

Projects must also comply with the Americans with Disabilities Act of 1990 (ADA), Title II, and either the Uniform Federal Accessibility Standards (UFAS), Code of Federal Regulations (CFR) 24 CFR Part 8, or the U.S. Department of Housing and Urban Development's (HUD) modified version of the 2010 ADA Standards for Accessible Design (Alternative 2010 ADAS), HUD-2014-0042-0001, the Federal Register (FR) 79 FR 29671 (5/27/14) (commonly referred to as "the Alternative Standards" or "HUD Deeming Memo"). Accessible units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the Project and be available in a sufficient range of sizes and amenities consistent with 24 CFR Part 8.26.

Sponsors shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this Project Solicitation.

Sponsors shall comply with all applicable state and federal law, including, without limitation, the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.); the Americans with Disabilities Act of 1990; the Fair Housing Act; the Fair Housing Amendments Act of 1988; the California Fair Employment and Housing Act; the Unruh Civil Rights Act; Government Code section 11135; Section 504 of the Rehabilitation Act of 1973; and all regulations promulgated pursuant to those statutes (including 24 C.F.R. § 100, 24 C.F.R. § 8, and 28 C.F.R. § 35).

## **F. Insurance Requirements**

The Sponsor shall obtain, and maintain for the term of the loan, hazard, and liability insurance for the Project in accordance with the Department's requirements, including flood insurance, if applicable. The Department must be named as a loss payee or an additional insured on all such policies. Such policies must also provide for notice to the Department in the event of any lapse of coverage and in the event of any claim thereunder. Prior to disbursement of the California Housing Accelerator loan, the Sponsor shall provide evidence satisfactory to the Department of compliance with these insurance requirements.

#### **IV. Appeals**

##### **A. Basis of appeals**

1. Applicants may appeal the Department's written determination that an application is incomplete, has failed threshold review, or has otherwise been determined to provide an insufficient basis for an award.
2. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's application (e.g., eligibility, award).
3. The appeal process provided herein applies solely to decisions of the Department made pursuant to this Project Solicitation.

##### **B. Appeal process and deadlines**

1. **Process.** To file an appeal, Applicants must submit to the Department a written appeal, which sets forth all relevant facts, arguments, and evidence in support of the appeal. Appeals are to be submitted to the Department at [accelerator@hcd.ca.gov](mailto:accelerator@hcd.ca.gov).
2. **Filing Deadline.** Appeals must be received by the Department no later than five (5) business days from the date of the Department's written determination regarding the subject application.
3. **Decision.** The requirements of this Project Solicitation and all other applicable law will govern the Department's determination. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department.

#### **V. Award announcements and contracts**

##### **A. Award announcements**

The Department intends to announce awards no later than **August/September 2022**.

##### **B. Disclosure of Application**

The application is a public record and is subject to disclosure pursuant to the California Public Records Act (CPRA) (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). After final California Housing Accelerator awards have been issued under this Project Solicitation, the Department may disclose any materials provided by the Applicant to any person making a request under the CPRA. The Department cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers, and home addresses. By volunteering such information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

## **VI. Other Terms and Conditions**

### **A. Conflicts**

In the event of any conflict between the terms of this Project Solicitation and applicable state or federal law, the terms of the applicable state or federal law shall control. By submitting a California Housing Accelerator application to the Department, Applicants acknowledge that they have read and obtained legal advice regarding this Project Solicitation and all applicable state and federal laws, and that they fully understand the requirements thereof.

## **VII. Definitions**

Below are the definitions for purposes of the California Housing Accelerator:

"Applicant" means the entity or entities applying to the Department for California Housing Accelerator funding of their Qualified Rental Housing Development. Such entity or entities must also be the Sponsor of the Qualified Rental Housing Development. Upon receiving an award of California Housing Accelerator funds, the Applicant or co-Applicants will, both individually and collectively, be referred to as the "Sponsor" for purposes of this Project Solicitation.

"Area Median Income" means the most recent applicable county median family income, adjusted by household size, published by the California Tax Credit Allocation Committee.

"Department" or "HCD" means the California Department of Housing and Community Development.

"Existing HCD Loan Commitment" means the existing direct commitment of Department multifamily loan program funds to the Qualified Rental Housing Development, as well as the Department program making that commitment.

"Extremely Low Income" means individual households with either 1) household incomes at or below 30 percent of the Area Median Income, or 2) household incomes at or below the threshold designated as extremely low income by the Department's State Income Limits adopted pursuant to HSC section 50093.

"Performing Debt" refers to non-government, long-term (or permanent) financing of a Rental Housing Development intended to generate a profit for a private or non-profit lender requiring ongoing mandatory debt service payments.

"Permanent Loan Conversion" means the Project has leased up to a minimum of 90 percent occupancy for a period of a minimum of 30 days in accordance with the applicable Department funding requirements; the units have been leased to the appropriate or designated populations identified, and they have met the terms and conditions of all Department funding awarded to the Project; and all construction period financing has converted to permanent financing.

“Project” or “Rental Housing Development” means the following: (i) a “qualified low-income housing project,” as defined in Section 42(g) of the Internal Revenue Code (26 U.S.C. § 42(g)); or (ii) a Qualifying Infill Project, as defined under the Infill Incentive Grant Program of 2007 or the Infill Infrastructure Grant Program of 2019, that meets the requirements of those programs.

“Qualified Rental Housing Development” is defined in accordance with HSC section 50672.1, subdivision (e), and means a Rental Housing Development that received an award letter from any multifamily housing program administered by the Department.

“Sponsor” is defined in accordance with HSC sections 50675.2 and 50669. The Sponsor may comprise one or more entities. Any and all entities in the Sponsor structure shall, in their individual and collective capacity as the “Sponsor,” be bound by the California Housing Accelerator Standard Agreement and each and every one of the California Housing Accelerator terms, conditions, and restrictions.

“UMR” means the Uniform Multifamily Regulations (Cal. Code Regs., tit. 25, § 8300 et seq.), effective November 15, 2017, and as subsequently amended.

“Very Low Income” means individual households with either 1) household incomes at or below 50 percent of the Area Median Income, or 2) household incomes at or below the threshold designated as extremely low income by the Department’s State Income Limits adopted pursuant to HSC section 50093.