

Prohousing Incentive Program Guidelines



**State of California
Governor Gavin Newsom**

**Tomiquia Moss, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
California Department of Housing and Community
Development**

**Megan Kirkeby, Deputy Director
Division of Housing Policy Development**

651 Bannon Street, Suite 400
Sacramento, CA 95811

Website: <https://www.hcd.ca.gov/grants-and-funding/programs-active/prohousing-incentive-program>

Email: ProhousingIncentive@hcd.ca.gov

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Prohousing Incentive Program

Section 100: Introduction

The California Department of Housing and Community Development (Department/HCD) is pleased to release program guidelines (Guidelines) for funding through the Prohousing Incentive Program (Program). The Prohousing Incentive Program is designed to encourage cities and counties to obtain Prohousing Designation.

The Program is funded through Chapter 364, Statutes of 2017 (SB 2, Atkins), which established the Building Homes and Jobs Trust Fund (Fund). The Fund utilizes real estate transaction fees collected at a county level to establish a permanent source of funding. Five percent of annual collections are deposited in a fund to be used for an incentive program.

The Program awards funds based on the Eligible Applicant's Prohousing Designation Program Score (as codified in the California Code of Regulations Title 25 Housing and Community Development, Division 1, Chapter 6, Subchapter 6.6, Sections 6600 through 6608, Consecutive Prohousing Designation Program). This round of Program funding provides awards for Eligible Applicants to use towards planning and implementation activities related to housing and community development. The content and structure of future rounds of Program funding is subject to change at the Department's sole discretion.

Section 101: Scope and Authority

These Guidelines are authorized pursuant to Chapter 2.5 of Health and Safety Code (Sections 50470 to 50475). The Guidelines implement, interpret, and make specific provisions for purposes of implementing an incentive program pursuant to Health and Safety Code section 50470, subdivision (b)(2)(C)(i), (hereinafter "Prohousing Incentive Program" or "PIP").

The Guidelines provide the Department's plan for the expenditure of PIP funds and the administration of the Program. As such, these Guidelines establish terms, conditions, forms, procedures, and other mechanisms as the Department deems necessary to exercise the powers and perform the duties conferred by Chapter 2.5.

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

Section 50470 (d) of the Health and Safety Code states "In consultation with stakeholders, the department may adopt guidelines to implement this section, including to determine allocation methodologies. Any guideline, rule, policy, or standard of

general application employed by the department in implementing this chapter shall not be subject to the requirements of the Administrative Procedures Act.”

These guidelines are mandated and have the dignity of statutes. (*Ramirez v. Yosemite Water Co.*, 20 Cal. 4th 785, 800 (1999) [stating ““Quasi-legislative regulations ... have the dignity of statutes ... [and]... delegation of legislative authority includes the power to elaborate the meaning of key statutory terms...”].

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

The Department reserves the right, at its sole discretion, to suspend or amend the provisions of these Guidelines, including, but not limited to, grant award amounts.

Section 200: Eligibility

Section 201: Eligible Applicants

- (A) Eligible Applicants are limited to cities, counties, and cities and counties.
- (B) Only Eligible Applicants may submit an application.
- (C) Eligible Applicants may partner through legally binding agreements with other forms of governments or entities. This includes, but is not limited to, partnerships with other localities, regional governments, housing authorities, school districts, special districts, community-based organizations, Tribal Entities, or any duly constituted governing body of an Indian Reservation or Rancheria.
- (D) Eligible Applicants in partnerships may determine the amount of incentive payments between Eligible Applicants participating in the partnership in consultation with the Department.
- (E) Eligible Applicants forming partnerships must submit separate, completed, and signed application packages, including resolutions and a copy of the signed agreement between partners to the Department to be awarded funds.

Section 202: Threshold Requirements

Eligible Applicants must meet all of the following threshold requirements for participation in the Program:

- (A) An adopted housing element in substantial compliance, as determined by the Department, pursuant to Housing Element Law (Article 10.6 of Gov. Code) in accordance with Government Code section 65585, subdivision (h).

1. Applicants that do not meet housing element requirements may be considered to meet this threshold requirement at the discretion of the Department on a case-by-case basis. Criteria for consideration include but are not limited to significant progress in meeting housing element requirements (e.g., a draft found to meet statute, rezoning near completion), proposing activities to meet housing element requirements (e.g., rezoning to accommodate housing needs pursuant to Gov. Code § 65583(c)(1)), and adoption of a compliant element prior to the award of funds.
- (B) Housing Element Annual Progress Report submittal pursuant to Government Code section 65400 for the current or prior year, as applicable.
- (C) Prohousing Designation: A Prohousing Designation (per the regulations codified in the California Code of Regulations Title 25, Division 1, Chapter 6, Subchapter 6.6, Sections 6600 through 6608), as determined by the Department, must be achieved by the PIP application due date.
- (D) A complete application as determined by the Department.
- (E) A resolution authorizing submittal of the application to the Program that materially comports with the Program's requirements and is legally sufficient as determined at the Department's reasonable discretion, including an authorized representative. See Attachment B for required resolution format.
- (F) Compliance with state and federal housing laws as determined at the sole discretion of HCD.
- (G) Demonstration of meeting threshold criteria shall be determined by the Department at its sole and absolute discretion. No documentation of meeting threshold requirements is required in the application unless requested by the Department. At the sole discretion of HCD, failure to maintain a Prohousing Designation, housing element compliance, compliance with state and federal housing laws, or other threshold requirements may result in revocation of award, or delay in disbursement until the issue is resolved to the satisfaction of HCD.

Section 300: Application Requirements

Section 301: Application Content

- (A) Eligible Applicants may request an allocation of funds by submitting a complete application to the Department.
- (B) Eligible Applicants must utilize the forms and manner prescribed in the Department's application.

- (C) The application can be found on the Department's website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/prohousing-incentive-program>.
- (D) Eligible Applicants must submit a Government Agency Taxpayer Identification Form for an application to be considered complete.
- (E) The Department may request additional information and documentation as appropriate.
- (F) The Department may consult with and gather relevant information from any individual, entity, or public agency.

Section 302: Application Submittal

- (A) An applicant must submit a complete, signed original application in electronic form.
- (B) The Department encourages early applications and will accept applications up to the date and time noted on the cover letter of the Notice of Funding Availability (NOFA).
- (C) All applications must be submitted by email to: ProhousingIncentive@hcd.ca.gov.

Section 400: Application Review

Section 401: Application Process

- (A) Applications will be reviewed for completeness, eligibility, and for meeting threshold requirements.
- (B) Eligible Applicants will have until the date specified in the NOFA to obtain Prohousing Designation. After the specified date, HCD will rank Eligible Applicants that met threshold requirements according to their Prohousing Designation Score, as determined by the Department.
- (C) Ranked applications will be sorted by geographic category, as described in Section 404 of these Guidelines.
- (D) Priority will be given to Eligible Applicants that have *not received* PIP funds in prior funding rounds. Eligible Applicants *awarded* in prior funding rounds will only be eligible to receive an award once all previously unfunded Eligible Applicants receive an award.

Section 402: Base Award and Bonus Award Calculation

- (A) Eligible Applicants will receive a base award according to population size (see Section 500). In addition, Eligible Applicants may receive a bonus award up to \$500,000.
- (B) For the purpose of calculating the bonus award, an Eligible Applicant's Prohousing Designation Score will be multiplied by 10,000. For example, an Eligible Applicant with a Prohousing Designation Score of 35 points will be eligible to receive up to a \$350,000 bonus award in addition to the base award. The bonus award amount shall not exceed \$500,000.

Section 403: Scoring – Tie Breaker

- (A) Eligible Applicants that submit complete applications that meet threshold requirements will be awarded in order of rank and priority, as described in Section 401(D), until funding is depleted.
- (B) In the event of a tie (i.e., two or more Eligible Applicants have the same Prohousing Designation Score), the Eligible Applicant with the smaller population size will receive funding first.

Section 404: Geographic Categories

- (A) Ranked applications will be considered for awards according to six geographic categories, as follows:
1. Southern California: Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura, and San Diego
 2. Bay Area: Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, Sonoma, and the City and County of San Francisco
 3. San Joaquin Valley: Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare
 4. Sacramento Area: Counties of Amador, El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba
 5. Central Coast: Counties of Monterey, San Benito, San Luis Obispo, Santa Barbara, and Santa Cruz

6. North State and Sierra Nevada: Counties of Alpine, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, and Tuolumne
- (B) Funds are made available to each geographic category based upon the percentage of 2030 population projections, as determined by the Department of Finance (see NOFA).
 - (C) The total proportion of available funds in geographic categories will not exceed 75 percent of the total amount of NOFA.
 - (D) Awards will be funded from each geographic category's total available funding amount until the funds for that category are depleted. If Eligible Applicants' awards exceed the funding available to a geographic category, Eligible Applicants may qualify to fulfill their eligible award from the 25 percent residual set-aside in ranking order.
 1. In the event that funds from a geographic category are depleted such that only a partial award is available, the residual set-aside may be utilized to enhance the award at the discretion of the Department.
 - (E) If both an Eligible Applicant's geographic category and the residual set-aside have been depleted, that Eligible Applicant may be eligible for remaining funds at the sole discretion of the Department. Remaining funds will come from unutilized money from geographic categories only after Eligible Applicants located in those geographic categories have been awarded.
 - (F) When all funds have been depleted, the final Eligible Applicant in the ranking will only be eligible for the award amount that remains in the coffer. Eligible Applicants in this position may opt to pull their PIP application until additional funds are made available to fulfill their eligible award amount in potential future funding rounds.
 - (G) The Department reserves discretion to alter funding amounts and the distribution methodology to advance Program goals and achieve an equitable outcome.

Section 500: Eligible Award Calculation

- (A) This Program will make funding available to jurisdictions as Prohousing Incentive grants as determined by NOFA.
- (B) Maximum total award amounts will be no greater than \$2 million per Eligible Applicant. Total potential award amounts are determined by adding an Eligible Applicant's base award amount with an Eligible Applicant's bonus award amount, as established by the criteria described in Section 402 of these Guidelines.

(C) Base award amounts are based on population estimates as of January 1 of the NOFA year¹. See the NOFA for the maximum base award amount that a jurisdiction may receive pursuant to this subdivision².

(D) Eligible Applicants in partnerships with other cities or counties, as allowed by section 201(C) of these Guidelines, may qualify for up to the sum of individual Eligible Applicant base and bonus award amounts.

Section 600: Uses of Funds

Section 601: Eligible Uses

Eligible Applicants must use award funds towards planning or implementation activities related to housing and community development and limited to activities that conform with eligible uses pursuant to Health and Safety Code section 50470(b)(2)(D):

1. The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is affordable to extremely low-, very low-, low-, and moderate-income households, including necessary operating subsidies.
2. Affordable rental and ownership housing that meets the needs of a growing workforce earning up to 120 percent of area median income, or 150 percent of area median income in high-cost areas.
3. Matching portions of funds placed into local or regional housing trust funds.
4. Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to Health and Safety Code section 34176(d).
5. Capitalized reserves for services connected to the creation of new permanent supportive housing, including, but not limited to, developments funded through the Veterans Housing and Homelessness Prevention Bond Act of 2014.

¹ Population estimates are based on the Department of Finance E-1 report: <https://dof.ca.gov/Forecasting/Demographics/estimates-e1/>.

² Maximum and minimum award amounts may be adjusted by the Department based on demand for the Program.

6. Assisting persons who are experiencing or at risk of homelessness, including providing rapid rehousing, rental assistance, navigation centers, emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.
7. Accessibility modifications.
8. Efforts to acquire and rehabilitate foreclosed or vacant homes.
9. Homeownership opportunities, including, but not limited to, down payment assistance.
10. Fiscal incentives or matching funds to local agencies that approve new housing for extremely low, very low, low-, and moderate-income households.

Section 700: Administration

Section 701: Fiscal Administration

(A) Grant Execution and Term

1. The Department will notify the grantee if they have been selected for a grant award:
 - i. After the Standard Agreement has been drawn, the grantee will be provided instructions for signing all required documents. The grantee must submit all supporting materials and a signed Standard Agreement within the timeline provided in the instructions, or risk forfeiting the grant award;
 - ii. The grant term begins on the day the Department and the grantee have fully executed the Standard Agreement. The Department will notify the grantee and partners when work may proceed under the agreement. However, eligible activities that are approved by the Department may be retroactively reimbursed to the date of the NOFA; and
 - iii. The end of the grant term will be determined by the state based on the availability of grant funds and the administrative requirements for liquidation.

(B) Payment and Accounting of Grant Funds

1. Grant funds cannot be reimbursed until the Standard Agreement has been fully executed.

2. The grantee will be responsible for compiling and submitting all invoices and reporting documents. Invoices must be accompanied by reporting materials where appropriate. Invoices without the appropriate reporting materials will not be paid. Failure to provide requested documentation to HCD could result in exclusion from consideration for grants in future Program years.
3. The grantee will submit documentation to the Department detailing actual costs incurred, which must be based on clear and completed objectives and deliverables as outlined in the PIP application, Exhibit E of the Standard Agreement, and any other supplemental forms prescribed by the Department.
4. Supporting documentation may include, but is not limited to, receipts, progress payments, subcontractor invoices, timecards or any other documentation as deemed necessary by the Department to support the reimbursement to the grantee for expenses in accordance with the grantee's PIP application and these PIP Guidelines.
5. The grantee must bill the state based on clear deliverables outlined in the Standard Agreement or budget timeline. Only approved and eligible costs incurred for work after the NOFA date, and completed and processed prior to the expenditure deadline, will be reimbursable. Approved and eligible costs incurred prior to the NOFA date are ineligible.
6. Work must be completed prior to requesting reimbursement, unless otherwise approved by the Department.
7. Grant fund payment will be made on a reimbursement basis. Project invoices will be submitted to the Department by the grantee on a quarterly basis or, if earlier, upon completion of deliverables.
8. In unique and/or unusual circumstances, the Department may consider alternative arrangements (e.g., disbursements in advance of activity initiation) to reimbursement and payment methods. Unusual circumstances include but are not limited to feasibility, unavailable funds or lack of resources and substantial progress in expenditure.
9. The Department recognizes that budgeted deliverable amounts are based upon estimates. Grantees may request, in writing, a budget adjustment across deliverables subject to written approval by the Department, as long as the total budget does not exceed the maximum amount awarded to the grantee.

10. The Department may withhold grant funds until grant terms have been fulfilled.
11. The Department may withhold eligible Program grants in future Program years until terms of the Standard Agreement have been fulfilled to the satisfaction of the Department.
12. Each recipient of funds under the Program shall expend those funds no later than the deadline specified in the Standard Agreement. Final invoices shall be submitted to the Department three months prior to the expenditure deadline.

Section 702: Accounting Records, Audits, Remedies of Non-performance, and Reporting

(A) Accounting Records

1. The contractor is responsible for maintaining records which fully disclose the activities funded by the grant. Adequate documentation of each transaction shall be maintained to permit the determination, through an audit if requested by the state, of the accuracy of the records and the allowability of expenditures charged to grant funds. If the allowability of an expenditure cannot be determined because records or documentation are inadequate, the expenditure may be disallowed, and the state shall determine the reimbursement method for the amount disallowed. The state's determination of the allowability of any expense shall be final.
2. The grantee, its staff, contractors, and subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for payment vouchers and invoices.
3. The grantee must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the scope of work, project timeline and budget. Separate bank accounts are not required.
4. The grantee shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the project in accordance with GAAP.

5. The grantee agrees that the Department or its designee shall have the right to review, obtain, and copy any records and supporting documentation pertaining to the performance of the Standard Agreement. The grantee agrees to provide the Department or its designee with any relevant information requested.
6. The grantee agrees to permit the Department or the Department's designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees who might reasonably have information related to such records and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with statutes, Program Guidelines, and the Standard Agreement.
7. Subcontractors employed by the grantee and paid with moneys under the terms of the Standard Agreement shall be responsible for maintaining accounting records as specified above. The grantee shall monitor and enforce subcontracts accordingly.

(B) Audits

1. At any time during the term of the Standard Agreement, the Department may perform or cause to be performed a financial audit of all phases of the award. At the Department's request, the grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The State of California has the right to review project documents and conduct audits during and over the project life.
2. The grantee agrees that the Department or the Department's designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance of the Standard Agreement.
3. If a financial audit is required by the Department, the audit shall be performed by an independent certified public accountant. Selection of an independent audit firm shall be consistent with procurement standards contained in Exhibit D, Section 8 of the Standard Agreement.
4. The grantee shall notify the Department of the auditor's name and address immediately after the selection has been made. The contract for the audit shall allow access by the Department to the independent auditor's working papers.
5. The grantee is responsible for the completion of audits and all costs of preparing audits.

6. If there are audit findings, the grantee must submit a detailed response acceptable to the Department for each audit finding within 90 days from the date of the audit finding report.
7. The grantee agrees to maintain such records for possible audit after the final payment pursuant to Exhibit D, Sections 8 and 9 of the Standard Agreement, unless a longer period of records retention is stipulated.
8. The grantee shall include in any contract that it enters in an amount exceeding \$10,000, the Department's right to audit the contractor's records and interview their employees.
9. The grantee shall comply with the caveats and be aware of the penalties for violation of fraud and for obstruction of investigation as set forth in California Public Contracts Code Section 10115.10.
10. The grantee shall retain all books and records relevant to the Standard Agreement for a minimum of five years after the end of the term of the Standard Agreement. Records relating to any and all audits or litigation relevant to the Standard Agreement shall be retained for five years after the conclusion or resolution of the matter.
 - i. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, all records must be retained until completion of the action and resolution of all issues which arise from it.

(C) Remedies of Non-Performance

1. In the event that it is determined, at the sole discretion of the Department, that the grantee is not meeting the terms and conditions of the Standard Agreement, the grantee shall cease all work under the Standard Agreement immediately upon receiving a written notice from the Department. The Department has the sole discretion to determine that the grantee meets the terms and conditions after a stop work order, and to deliver a written notice to the grantee to resume work under the Standard Agreement.
2. Both the grantee and the Department have the right to terminate the Standard Agreement at any time upon 30 days written notice. The notice shall specify the reason for early termination and may permit the grantee or the Department to rectify any deficiency(ies) prior to the early termination date. The grantee will submit any requested documents to the Department within 30 days of the early termination notice.

3. At any time, if the Department finds the applicant falsely proposed information in the application or as part of the application review, including documentation related to incentive payments (e.g., affordability, enhancements), the Department may require the repayment of funds or decline reimbursement.
4. The Department may, as it deems appropriate or necessary, require the repayment of funds from a grantee, or pursue any other remedies available to it by law for failure to comply with Program requirements (Health and Safety Code section 50515.04(e)).

(D) Reporting

1. At any time during the term of the Standard Agreement, the Department may request a performance report that demonstrates satisfaction of all requirements identified in the Standard Agreement with emphasis on eligible activities, eligible uses, ineligible uses, and expenditures, according to timelines and budgets referenced in the Standard Agreement.
2. Grantees shall submit a report, in the form and manner prescribed by the Department, by April 1 of the year following the receipt of funds, and annually thereafter until funds are expended. The annual report shall contain a detailed report which must include, at a minimum:
 - i. Identification of the eligible activities to which the Grantee committed Program funds, and the income levels of households assisted;
 - ii. Amounts awarded to Subrecipients with the activity(ies) identified;
 - iii. Identification of the eligible activities upon which the contractor expended Program funds, and the income levels of households assisted and the affordability level for any units assisted; and
 - iv. Close out report for contracts that were fully expended and in which all activities funded were completed during the fiscal year.
3. The Department may request additional information, as needed.
4. Upon completion of all deliverables within the Standard Agreement and prior to processing final invoicing, the awardee shall submit a closeout report.

Section 800: Right to Modify or Suspend and Final Decision-making

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of these Guidelines 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.

The Department's decision to approve or deny an application or request for funding pursuant to the Program, and its determination of the amount of funding to be provided, shall be final.

Attachment A: Enabling Legislation

Building Homes and Jobs Act

Chapter 2.5 of the Health and Safety Code (Sections 50470 – 50475) (Chapter 364, Statutes of 2017)

Health and Safety Code 50470.

- (a) (1) There is hereby created in the State Treasury the Building Homes and Jobs Trust Fund. All interest or other increments resulting from the investment of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code.
- (2) Moneys in the Building Homes and Jobs Trust Fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.
- (b) Moneys in the Building Homes and Jobs Trust Fund shall be appropriated either through the annual Budget Act, or as provided in this subdivision, in accordance with the following:
- (1) Moneys collected on and after January 1, 2018, and until December 31, 2018, shall, upon appropriation by the Legislature, be allocated as follows:
- (A) Fifty percent of deposits into the fund shall be made available for local governments to update planning documents and zoning ordinances in order to streamline housing production, including, but not limited to, general plans, community plans, specific plans, sustainable communities strategies, and local coastal programs. Eligible uses also include new environmental analyses that eliminate the need for project-specific review and local process updates that improve and expedite local permitting.
- (i) Five percent of the funds specified by this subparagraph shall be available for technical assistance to jurisdictions updating specified planning documents. Technical assistance shall be provided by the department and the Governor's Office of Planning and Research.
- (ii) The funds to be allocated pursuant to this subparagraph shall be held by the department until a local government submits a request for use. The request shall include a description of the proposed use of the funds in the interest of accelerating housing production. The proposed use of these funds shall be included in the local government's funding plan and annual reports pursuant to subclauses (II) and (III) of clause (ii) of subparagraph (B) of paragraph (2). Each recipient of funds under the program shall encumber the funds by December 31, 2020, and shall expend those funds no later than December 31, 2023. Any of these funds not allocated by the department within the first two years that those funds are available shall be made available by the department for the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675)).
- (B) Fifty percent of deposits into the fund shall be made available to the department to assist persons experiencing or at risk of homelessness,

including, but not limited to, providing rapid rehousing, rental assistance, navigation centers, and the new construction, rehabilitation, and preservation of permanent and transitional rental housing.

(C) The department shall ensure geographic equity in the distribution and expenditure of funds allocated pursuant to this paragraph.

(2) Moneys collected on and after January 1, 2019, shall be allocated as follows:

(A) Twenty percent of all moneys in the fund shall, upon appropriation by the Legislature, be expended for affordable owner-occupied workforce housing.

(B) (i) Seventy percent of moneys deposited in the fund shall, upon appropriation by the Legislature, be made available to local governments as follows:

(I) Ninety percent of the moneys specified in this subparagraph shall be allocated based on the formula specified in Section 5306 of Title 42 of the United States Code, in accordance with the distribution of funds pursuant to that formula for the federal Fiscal Year 2017, except that the portion allocated to nonentitlement areas pursuant to that section shall be distributed through a competitive grant program, administered by the department, as follows:

(ia) The department shall award priority points to a county that has a population of 200,000 or less within the unincorporated areas of the county, to a local government that did not receive an award based on the formula specified in Section 5306 of Title 42 of the United States Code in 2016, and to a local government that pledges to use the money awarded pursuant to a competitive grant under this subclause to assist persons experiencing or at risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, navigation centers, and the new construction, rehabilitation, and preservation of permanent and transitional rental housing.

(ib) Moneys awarded to a local government pursuant to the competitive grant program shall be used for the purposes specified in subparagraph (D).

(II) The remaining 10 percent of the moneys specified in this subparagraph shall be allocated equitably among local jurisdictions that are nonentitlement areas pursuant to the formula specified in Section 5306 of Title 42 of the United States Code for federal Fiscal Year 2017.

(ii) To receive moneys pursuant to this subparagraph, local governments shall document minimum standards including the following:

(I) Submit a plan to the department detailing the manner in which allocated funds will be used by the local government

in a manner consistent with this paragraph and to meet the local government's unmet share of the regional housing needs allocation.

(II) Have a compliant housing element with the state and submit a current annual report pursuant to Section 65400 of the Government Code.

(III) Submit an annual report to the department that provides ongoing tracking of the uses and expenditures of any allocated funds.

(IV) Funds may be expended for the uses listed in subparagraph (D). Two or more local governments that receive an allocation pursuant to this subparagraph may expend those moneys on a joint project that is an authorized use under subparagraph (D).

(V) Prioritize investments that increase the supply of housing to households that are at or below 60 percent of area median income, adjusted for household size.

(VI) If a local government does not have a documented plan to expend the moneys allocated to it pursuant to this subparagraph within five years of that allocation, those moneys shall be exempt from the allocation requirements in this paragraph and shall revert to, and be paid and deposited in, the Housing Rehabilitation Loan Fund established pursuant to Section 50661 to be used for the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675)) or for technical assistance for local governments.

(VII) A local government may petition the department to return any moneys allocated to it pursuant to this subparagraph. Any moneys returned pursuant to this clause shall be used for the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675)).

(C) Thirty percent of moneys deposited in the fund shall be made available to the department for use as follows:

(i) Five percent of the moneys deposited in the fund shall, upon appropriation by the Legislature, be used for state incentive programs, including loans and grants administered by the department. If the department receives insufficient funding applications for incentive programs financed pursuant to this clause, the department shall make those funds available for the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675)).

(ii) (I) Subject to subclause (II), 10 percent of the moneys deposited in the fund shall, upon appropriation by the Legislature, be used to address affordable homeownership and rental housing opportunities for agricultural workers and their families.

(II) On and after January 1, 2020, housing funded pursuant to this clause shall not be rented, sold, or subleased to an agricultural employer, as defined in Section 1140.4 of the Labor Code, or its agent, or a farm labor contractor, as defined in Section 1682 of the Labor Code, or its agent, who employs at least one H-2A worker, as defined in Section 50205, until the expiration of the regulatory agreement or affordability covenant, as applicable. A person or entity who receives funds made available pursuant to this clause on or after January 1, 2020, and expends any of those funds for the purpose of funding predevelopment of, developing, or operating any housing that is rented, sold, or subleased to an agricultural employer, as defined in Section 1140.4 of the Labor Code, or its agent, or a farm labor contractor, as defined in Section 1682 of the Labor Code, or its agent, and who employs at least one H-2A worker, as defined in Section 50205, until the expiration of the regulatory agreement or affordability covenant, as applicable, shall reimburse the department or other state agency that provided those funds, as provided in paragraph (2) of subdivision (b) of Section 50205. This subclause shall not apply to any contract entered into or any financial assistance provided pursuant to this clause prior to January 1, 2020.

(III) A person or entity who receives funds made available pursuant to this section on and after January 1, 2020, and expends any of those funds for the purpose of funding predevelopment of, developing, or operating any housing shall submit a declaration to the department declaring the following:

(ia) (Ia) The person or entity is not an agricultural employer, as defined in Section 1140.4 of the Labor Code, or its agent, or a farm labor contractor, as defined in Section 1682 of the Labor Code, or its agent, who employs at least one H-2A worker, as defined in Section 50205.

(Ib) The person or entity will not rent, sell, or sublease any housing funded pursuant to this chapter to an agricultural employer, as defined in Section 1140.4 of the Labor Code, or its agent, or a farm labor contractor, as defined in Section 1682 of the Labor Code, or its agent, who employs at least one H-2A worker, as defined in Section 50205, until the expiration of the regulatory agreement or affordability covenant, as applicable.

(Ib) The declaration described in sub-subclause (ia) can be met through the inclusion in a regulatory

agreement or affordability covenant, as applicable, with the department that is signed by the person or entity receiving funds pursuant to this chapter.

(iii) Fifteen percent of the moneys deposited in the fund shall, notwithstanding any other provision of this section or Section 13340 of the Government Code, be continuously appropriated to the California Housing Finance Agency for the purpose of creating mixed income multifamily residential housing for lower to moderate-income households pursuant to Chapter 6.7 (commencing with Section 51325) of Part 3.

(D) The moneys in the fund allocated to local governments may be expended for the following purposes:

(i) The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is affordable to extremely low, very low, low-, and moderate-income households, including necessary operating subsidies.

(ii) Affordable rental and ownership housing that meets the needs of a growing workforce earning up to 120 percent of area median income, or 150 percent of area median income in high-cost areas.

(iii) Matching portions of funds placed into local or regional housing trust funds.

(iv) Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to subdivision (d) of Section 34176 of the Health and Safety Code.

(v) Capitalized reserves for services connected to the creation of new permanent supportive housing, including, but not limited to, developments funded through the Veterans Housing and Homelessness Prevention Bond Act of 2014.

(vi) Assisting persons who are experiencing or at risk of homelessness, including providing rapid rehousing, rental assistance, navigation centers, emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.

(vii) Accessibility modifications.

(viii) Efforts to acquire and rehabilitate foreclosed or vacant homes.

(ix) Homeownership opportunities, including, but not limited to, downpayment assistance.

(x) Fiscal incentives or matching funds to local agencies that approve new housing for extremely low, very low, low-, and moderate-income households.

(3) A state or local entity that receives an appropriation or allocation pursuant to this chapter shall use no more than 5 percent of that appropriation or allocation for costs related to the administration of the housing program for which the appropriation or allocation was made.

(c) Both of the following shall be paid and deposited in the fund:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any other moneys that may be made available to the department for the purposes of the fund from any other source or sources.

(d) In consultation with stakeholders, the department may adopt guidelines to implement this section, including to determine allocation methodologies. Any guideline, rule, policy, or standard of general application employed by the department in implementing 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).

Attachment B: Required Resolution Template

RESOLUTION NO. [insert resolution number]

A RESOLUTION OF THE [INSERT EITHER “CITY COUNCIL” OR “COUNTY BOARD OF SUPERVISORS”] OF [INSERT THE NAME OF THE CITY OR COUNTY] AUTHORIZING APPLICATION FOR, AND RECEIPT OF, Prohousing Incentive Program funds.

WHEREAS, pursuant to Health and Safety Code 50470 et. Seq, the California Department of Housing and Community Development (Department) is authorized to issue Guidelines as part of an incentive program (hereinafter referred to by the Department as the Prohousing Incentive Program or “PIP”); and

WHEREAS the [insert either “City Council” or “County Board of Supervisors”] of [insert the name of the City or County] desires to submit a PIP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for eligible activities toward planning and implementation activities related to housing and community development as a result of meeting eligibility criteria including but not limited to Prohousing Designation; and

WHEREAS, the Department has issued Guidelines and Application on XXXXXXXXXXXXXXX in the amount of \$xxxxxxx for PIP;

Now, therefore, the [insert either “City Council” or “County Board of Supervisors”] of [insert the name of the city or county] (“Applicant”) resolves as follows:

SECTION 1. The [insert the authorized designee’s TITLE ONLY] is hereby authorized and directed to submit an Application to the Department in response to the NOFA, and to apply for the PIP grant funds in a total amount not to exceed \$_____;

SECTION 2. In connection with the PIP grant, if the Application is approved by the Department, the [insert the authorized designee’s TITLE ONLY] of the [insert the name of the City or County] is authorized and directed to enter into, execute, and deliver on behalf of the Applicant, a State of California Agreement (Standard Agreement) for the amount of [\$ enter the dollar amount of the Applicant’s request], and any and all other documents required or deemed necessary or appropriate to evidence and secure the PIP grant, the Applicant’s obligations related thereto, and all amendments thereto; and

SECTION 3. The Applicant shall be subject to the terms and conditions as specified in the Guidelines, and the Standard Agreement provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreement. Pursuant to the Guidelines and in conjunction with the terms of the Standard Agreement, the Applicant hereby agrees to use the funds for eligible uses and

allowable expenditures in the manner presented and specifically identified in the approved Application.

ADOPTED ON [insert the date of adoption], by the [insert either “City Council” or “County Board of Supervisors”] of [insert the name of the City or County] by the following vote count:

AYES: NAYS: ABSENT: ABSTAIN:
ATTEST: APPROVED AS TO FORM:

[Signature of Attesting Officer]

APPROVED

[Signature of approval]

Attachment C: Definitions

Capitalized terms shall have the meanings set forth below:

- A. "Department" means the California Department of Housing and Community Development.
- B. "Designated Program Year" means the designated time period as indicated in the Notice of Funding Availability ("NOFA") issued by the Department for each funding round.
- C. "Eligible Applicant" means a city, county, or city and county that is in compliance with applicable housing laws as described in section 202(F) herein.
- D. "Extremely Low-Income Households" has the meaning set forth in Health and Safety Code Section 50106.
- E. "Low-Income Households" has the meaning set forth for lower-income households in Health and Safety Code Section 50079.5.
- F. "Preserved" means units preserved at affordable housing costs to lower-income households by acquisition of the units or the purchase of affordability covenants and restrictions as described in paragraph (2) of subdivision (c) of Section 65583.1 of the Government Code, except that the city, county, or city and county may have committed assistance at any time during the projection period.
- G. "Program" means the Prohousing Incentive Program implemented by these Guidelines.
- H. "Prohousing Designation" means the Eligible Applicant has fulfilled the criteria codified at CCR Title 25 Division 1, Chapter 6, Subchapter 6.6, Sections 6600 through 6607, available at [prohousing-regulation-text.pdf \(ca.gov\)](http://prohousing-regulation-text.pdf.ca.gov).
- I. "Prohousing Designation Score" means the number of points allocated to a jurisdiction as part of the Prohousing Designation Program for the purpose of determining whether the jurisdiction receives designation, per the regulations codified in the California Code of Regulations Title 25 Housing and Community Development, Division 1, Chapter 6, Subchapter 6.6, Sections 6600 through 6607, Consecutive Prohousing Designation Program.
- J. "Substantially Rehabilitated" means units at imminent risk of loss to the housing stock which are substantially rehabilitated and therefore represent a net increase in the community's affordable housing stock as described in paragraph (2) of subdivision (c) of Section 65583.1 of the Government Code, except that the city, county, or city and county may have committed assistance at any time during the projection period.
- K. "Very Low-Income Households" has the meaning set forth in Health and Safety Code Section 50105.