CCAH
California Council for Affordable Housing

February 2, 2026

Ryan George
California Department of Housing and Community Development
651 Bannon Street, STE 400
Sacramento, CA 95811

Via email to: HCDLPR@hcd.ca.gov

Dear Mr. George,

The California Council for Affordable Housing (CCAH) is a trade association representing the collective interests of California's affordable housing industry. Our diverse membership spans the entire development spectrum, from financial institutions and tax credit syndicators to developers and long-term property managers, offering a comprehensive perspective on the challenges and opportunities in affordable housing.

First, we want to thank the Department of Housing and Community Development for their continued commitment to improving the process for financing affordable housing projects across the state. The extensive work needed to develop these guidelines is evident. These guidelines reflect a significant effort to implement new statutory authority and to modernize the Loan Portfolio Restructuring program in a way that responds to today's affordable housing financing realities.

The Department has our support in many areas of these proposed guidelines. We applaud the authorization to allow the extraction of equity from performing affordable housing properties, which will contribute to the production of more affordable housing. The ability to refinance projects that have significant capital needs in order to provide flexibility for sponsors to better manage long-term project health while keeping properties affordable is a much-needed amendment to the regulations.

Having said that, we do have considerable concerns with many sections of the proposed guidelines. While they are a step in the right direction to creating a pathway for affordable housing developers to redeploy project equity, pay off department loans early, and obtain new financing for projects in need, we believe that substantial revisions are needed before arriving at finalized guidelines that will ensure that the goals of SB 686/AB 130 can be achieved.

Most urgently, we would like to point out the following issues that, if not addressed, would make it highly unlikely that most projects -- Including the projects most in need of substantial investment -- would be able to “restructure”:

(1) Excessive fee requirements, particularly the recasting of debt payment obligations into ongoing monitoring fees.

(2) Requiring that the LPR Regulatory Agreement (i.e., the regulatory agreement that contains remedies and other provisions that must be subordinate to senior lenders, including Fannie and Freddie) be in senior position ahead of new financing sources.

(3) Restriction on increasing debt size.

(4) Provision that early payoff of HCD debt is subject to HCD’s consent in its sole and absolute discretion.

Attachment A is a list of issues identified by CCAH’s working group, made up of representatives from the entire ecosystem of affordable housing, as areas that need to be addressed before the guidelines are finalized.

We respectfully request that these issues be reconsidered.

Sincerely,

Jenna Abbott

Executive Director
California Council for Affordable Housing
916 216 9501 (cell)

cc. CCAH Board of Directors
Attachments: Four (4) Page Issues List

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Attachment A: Issues List

Section 101

Issue: Why was the definition of Household Income modified to refer to MHP Guidelines instead of TCAC?

Solution: Provide explanation.

Section 101(t)(2)

Issue: The reference to the description of a matured loan that is not in compliance is not found in the named section – Sec 101(o)(1).

Solution: Correct the referenced section.

Section 102(c)

Issue: Some projects cannot meet debt servicing criteria, making them ineligible for restructuring, even though this restructuring would help a project's long-term feasibility. The restructuring program should be available to help projects that are in default under payment obligations.

Solution: Add that being in "compliance" with Original Program loan documents does require meeting debt servicing requirements.

Section 103(d)

Issue: The 50% AMI limitation on increasing rent limits for lost vouchers is too low. Consistent with CTCAC requirements, lenders typically require that the "float up" be to 60%.

Solution: Increase the limit to 60% AMI.

Section 103(g)

Issue: In certain cases, investors may require an interest rate that exceeds 3% simple for financial feasibility reasons.

Solution: Change "reduction" to "modification."

Section 104(c)

Issue: Clarification needed on reserve account balance.

Solution: This should be clarified to say if a refinance with no syndication is done, and the Department Loan is repaid in full in that refinance, the reserves should be set as required by the new lender.

Section 106(e)

Issue: This section (which allows refinancing of senior debt for restructuring that does not include rehabilitation only as necessary to lower debt service, loan payoff or decrease project debt) will likely prohibit most refinancings, to the detriment of ongoing project financial health.

Solution: Eliminate the provision.

Section 106(f)(1)

Issue: It is unclear what "modest" rehab means in connection with HCD subordinating to new debt. Presumably, it should not be a monetary cap but rather an equivalent to "as reasonably necessary to maintain and update the project for the benefit of tenant comfort and safety" or similar language.

Solution: Establish guidelines on "modest" means.

Section 106(g)(1)

Issue: The 24-month limit makes including predevelopment expenses impractical.

Solution: Strike this section.

Section 108(a)(2)

Issue: Health and Safety Code Section 50561(b) only provides that a project "may" adjust very low-income tenants to 35% AMI and have 35% of units being at the "Midlevel" target. The origin of this provision was to allow for rents in certain projects to be increased to support new debt. It was not drafted as a requirement. Section 108(a) arguably makes these requirements, which is not consistent with the statute. In addition, it is not clear that subsection (2) only applies if a project does not fall into subsection (3).

Solution: Change "shall" to "may" and add to the beginning "Except for projects described in subsection 3 below…"

Section 109(a)(1)

Issue: Prevents Extracted Equity from being used for other EE projects until the construction period or conversion.

Solution: Allow for Extracted Equity to be used for predevelopment expenses.

Section 109 (a)(2)

Issue: Applies to purchased limited partner interest in the future.

Solution: Allow documented purchase of limited partner interest to be reimbursed, regardless of when incurred by changing the text to read as follows: "Utilized (i) to purchase the limited partner interest of a tax credit investor in an HCD Source Project after the initial 15 year tax credit compliance period or in accordance with the terms specified in any right of first refusal or purchase option or (ii) to reimburse Sponsor for such purchase".

Section 109(a)(3)(A)

Issue: Limiting to 36 months excludes costs associated with predevelopment.

Solution: Allow documented predevelopment costs to be reimbursed, regardless of when incurred as evidenced in the annual audited statements previously reviewed and accepted by HCD.

Section 109(a)(5)(A)

Issue: 50% of extracted equity for the department from a project is high and deters developers from pursuing this portfolio restructuring.
Solution: Cap the calculation of department's proportion of extracted equity to a ratio of their loan in position to the capital stack to total project costs and add "For the sake of clarity, the Department shall not receive any share of Extracted Equity in any other circumstance."

Section 109 (b)

Issue: Adding interest after the fact is punitive
Solution: Strike "For Original Program loans that received an interest rate reduction pursuant to Health and Safety Code 50406.7(a), the loan interest to be repaid shall be calculated at 3 percent (3%) simple interest from date of recordation of the Original Program loan."

Section 109(c)

Issue: Requiring non-subordinated loan documents to secure payment of monitoring fees is excessive and will further complicate the ability to obtain refinancing. This is inconsistent with Health and Safety Code Section 50561(a), which provides that monitoring fees are "to cover the aggregate monitoring costs [HCD] incurs," due to the fact that the loan payment amounts have no correlation to monitoring costs.
Solution: Strike the requirement.

Section 109(e) and (f) and 110(c)

Issue: Projects will be unfinanceable if the LPR Regulatory Agreement (i.e., not the LPR Senior Regulatory Agreement) is required to be in senior position because the regulatory agreement contains remedies and other provisions that must be subordinate to senior lenders, including Fannie and Freddie.
Solution: Revise these provisions to provide that the LPR Regulatory Agreement (but not the LPR Senior Regulatory Agreement) is to be subordinated to new debt.

Section 109(g)

Issue: Current percentage is too limiting.
Solution: Increase LTV to 80% in order to finance projects that need the additional funding.

Section 109(h)

Issue: Restructured projects are ineligible for 15 years after restructuring. This seems to unnecessarily tie HCD's hands for projects that may benefit from financing within 15 years.
Solution: Replace with language to the effect that HCD may, in its reasonable discretion, withhold additional funding for projects that have been restructured within the last 15 years.

Section 110(a)

Issue: Use of “sole and absolute discretion” makes the process of restructuring loan portfolio uncertain and will discourage applicants from participating.

Solution: Replace with “reasonable discretion based on these guidelines” and provide guidelines for applicants to determine eligibility for early payoff of department loan.

Section 110 (b)

Issue: Fees increase significantly.

Solution: Should remain as is currently in place. See Section 113 Comment below.

Section 112 (i)

Issue: This section is confusing and arguably imposes further, unnecessary restrictions on the ability to extract equity. The limitations on extraction are already set forth in Section 109, so this provision is unnecessary.

Solution: Strike this section.

Section 113

Issue: Amounts charged for fees are arbitrary, excessive and not tied to HCD’s actual costs. In particular, 113(d)(2) is overly burdensome. By converting existing loan payment requirements into monitoring fees, the project is not unburdened from its payment obligations. In any event, why should HCD continue to receive payments with respect to debt that has already been repaid when it is separately charging various monitoring fees under Section 113(d)(1) and existing regulatory agreements?

Solution: Leave the fees as they are currently, in particular, strike Section 113 (c)(1) and amend Section 113(c)(2) to reduce the $2,500 fee to $250. Strike 113(d)(2).