

**RECOMMENDED CHANGES IN POLICY AND PROCESS FOR THE
2020 SUPPORTIVE HOUSING
NOTICE OF FUNDING AVAILABILITY (NOFA)**

1. MAXIMUM DEVELOPER FEE

Proposed –

Revise the reference to the October 28, 2019 Tax Credit Allocation Committee (TCAC) regulations to update the maximum developer fee allowed.

Increasing the allowed developer fee for projects utilizing low-income housing tax credits will incentivize and support the development of supportive housing and will provide consistency in the manner in which tax credit projects are typically underwritten.

Current –

The current NOFA allows for a maximum developer fee as allowed by TCAC 2017 regulations, for projects utilizing low income housing tax credits.

2. TOTAL DEVELOPMENT COSTS (TDC)

Proposed –

Projects shall not exceed cost standards of the Tax Credit Allocation Committee for determination of whether projects are “high cost,” using TCAC 4% standards for 4% projects and 9% standards for 9% projects.

As more developers are seeking funding through 4% tax credits, the revised policy will provide consistency between the County’s underwriting and TCAC standards and remove a potential barrier to development of high-quality projects.

Current -

The current policy provides that projects shall not exceed cost standards of the Tax Credit Allocation Committee for determination of whether projects are “high cost” utilizing 9% tax credits, regardless if the project utilizes such tax credits.

3. RESIDUAL RECEIPTS

Proposed –

An amount equal to fifty percent (50%) of the net cash flow, if any, will be paid to the County and other public agencies (if any) providing residual receipts loans, and fifty percent (50%) to the developer. The 50% of cash flow payable to public agencies shall be shared by agencies in an amount proportional to the loan provided by such agencies.

The revised policy will provide consistency with the underwriting standards of most public agencies and recognizes that in some cases the amount of funding requested from the County is significantly less than the amount proposed to be provided by other public agencies.

Current –

The current policy provides that, where the City and County are providing residual receipts loans, residual receipts will be divided equally between the developer, the City, and the County. It further provides that where there are additional residual receipts lenders, the split of residual receipt will be negotiated; however, it provides that in no case will the City share exceed the County share.

4. SUBORDINATION**Proposed –**

It is the County's standing policy to not subordinate its Regulatory Agreement. However, OC Community Resources may, at its sole discretion, subordinate repayment, security positions, and affordability covenants to a conventional lender or other public agency lenders such as the State of California HCD, and CalHFA or AHP loans. City loans (including Deeds of Trust and Regulatory Agreements) must be subordinated to County loans and County Regulatory Agreement, except where the amount of such loan exceeds the amount of financial assistance (capital and value of long-term rental subsidies) provided by the County. Where applicable, the County will consider the value of land donations and fee waivers as part of the City loan.

Current -

The current policy provides that City loans must be subordinated to County loans.

5. FINANCIAL ASSUMPTIONS**Proposed –**

A vacancy rate of 10% shall be used for SRO or special needs housing projects, except where a significant project based public rent subsidy is available. In such cases, a vacancy rate of 5% may be utilized for units covered by such rent subsidies.

Current -

The current policy provides that a vacancy rate of 10% shall be used for SRO or special needs housing projects.

6. PREFERENCES**Proposed –**

OC Community Resources will provide a 60-day window from the commencement of the 2020 NOFA, where only applications for developments with committed Special Needs Housing Program and/or No Place Like Home funds in unincorporated Orange County and Urban County Participating Cities will be accepted. During the next 30 days (days 61-90), OC Community Resources will accept applications for developments with committed Special Needs Housing Program and/or No Place Like Home funds in unincorporated Orange County, Urban County Participating Cities and Entitlement Cities, except Santa Ana, Anaheim and Garden Grove. During the following 30 days (days 91-120), OC Community Resources will accept applications for any other developments eligible under this NOFA located in unincorporated Orange County and Urban County Participating Cities. After the one-hundred and twenty (120) days, applications for any development eligible under this NOFA throughout the County will be accepted based on the remaining eligible funding and lending policies.

Housing Choice Project Based Vouchers from the Orange County Housing Authority will be available for projects located in Santa Ana, Anaheim, or Garden Grove as eligible and permitted by the Department of Housing and Urban Development on a case-by-case basis to address regional collaboration in developing supportive housing. OC Community Resources reserves the right to suspend acceptance of proposals at any time.

Current –

HCD/HP will accept applications for projects on a first-come first-served based on date of application.

7. ARTICLE 34 COMPLIANCE

Proposed –

Applicants must submit documentation that shows the Project's compliance with or exemption from Article 34. If a Project is subject to Article 34, the County requires a letter from the City that shows that there is Article 34 authority for the Project. The City Attorney and/or local government official with authority should prepare the letter, and it should include the following:

- a. The name and date of the proposition, and the number of Units that were approved;
- b. A copy of the referendum and a certified vote tally;
- c. The number of Units that remain in the City's "bank" of Article 34 authority (i.e., the number of Units that are still available for allocation); and
- d. The number of Units that the City will commit to this Project, including the manager's unit.

If a Project is statutorily exempt from Article 34, the County requires an Article 34 opinion letter from the Applicant's legal counsel. The Article 34 opinion letter must demonstrate that the Applicant has considered both the legal requirements of Article 34 and the relevant facts of the Project (e.g., all funding provided by public bodies, including state, county, or city sources, the number of low-income restricted Units, and the general content of any regulatory restrictions). Any conclusion that a Project is exempt from Article 34 must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.

Current –

All applicants must submit evidence of compliance with Article 34. This shall consist of a letter, from the City Attorney stating that Article 34 Authority of the State Constitution is or is not available in the jurisdiction in which the development is located. If Article 34 Authority is not available, HCD/HP may only restrict up to 49% of the rental units. Subsidized units must be available for rent and income restrictions for a term of not less than 55 years.

8. LOAN MONITORING FEES

Proposed –

Unless prohibited by federal, state or local law, borrowers shall pay a loan monitoring fee. Loan monitoring fees will be incorporated into the operating proforma. Current monitoring fees shall include a total initial set-up of \$500 to be included in the Total Development Cost Budget, plus annual fees as follows to be included in the Annual

Operating Budget. OC Community Services will make the final determination if regulations governing the funding source permit monitoring fees.

Number of Assisted Units*	Annual Loan Monitoring Fee
1 - 40 Units	\$95 per Unit**
41 - 80 Units	\$85 per Unit**
81 + Units	\$75 per Unit**

*Number of assisted beds may be considered on a case-by-case basis when calculating annual loan monitoring fees.

**Fees subject to change.

Current -

Unless prohibited by federal, state or local law, borrowers shall pay a loan monitoring fee. Loan monitoring fees will be incorporated into the operating proforma. Current monitoring fees shall include a total initial set-up of \$500 to be included in the Total Development Cost Budget, plus annual fees as follows to be included in the Annual Operating Budget. OC Community Services will make the final determination if regulations governing the funding source permit monitoring fees.

Number of Assisted Units*	Annual Loan Monitoring Fee
1 - 40 Units	\$65 per Unit**
41 - 80 Units	\$55 per Unit**
81 + Units	\$45 per Unit**

*Number of assisted beds may be considered on a case-by-case basis when calculating annual loan monitoring fees.

**Fees subject to change.

9. TIMEFRAME FOR AWARDS

Proposed -

Applicants should allow a minimum of six (6) months from submission of a complete application to the County for review and approval of such application. Incomplete applications, or substantial changes in submitted applications, may result in delays in review and processing of such applications.

Implementing a timeframe for anticipated awards will help set expectations for applicants requesting funding and/or vouchers and will allow staff the necessary lead-time for reviewing and processing applications.

Current -

Our current NOFA does not address deadlines for application submittals.