

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: May 22, 2017

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations and
Neighborhoods Committee

FROM: Sharon M. Tso *ISL* Assignment No.: 17-05-0506
Chief Legislative Analyst Council File No.: 17-0002-S16

**City Comments on the 2017 “No Place Like Home”
Proposed Program Guidelines**

SUMMARY

On January 31, 2017, Council adopted a Resolution supporting the *No Place Like Home (NPLH) Program Proposed Framework* with amendments, authorizing the Housing and Community Investment Department (HCID) to submit the City’s formal comments to the California Department of Housing and Community Development (HCD). In that action, Council directed HCID, with assistance from our Office to coordinate with the County and report on any additional comments for Council approval. HCD has since issued NPLH Program draft guidelines for public comment. As a result, this report responds to Council’s instruction to report with additional comments for Council approval relative to the NPLH Program.

On April 28, 2017, HCD released the *NPLH Draft Program Guidelines (Draft Guidelines)* for public comment. Subsequent to the release, HCID submitted comments to our Office, in advance of the public comment deadline May 30, 2017. This report provides an overview of the Draft Guidelines and HCID’s comments for Council’s consideration. Our Office recommends that Council authorize HCID to formally submit the comments described in this report to HCD as the City’s position, instruct HCID, with assistance from our Office, to analyze any future proposed significant changes to the NPLH Program, and report as necessary.

RECOMMENDATIONS

That the Council, subject to approval of the Mayor:

1. Adopt the attached Resolution (Attachment A) to include in the City’s 2017-2018 State Legislative Program support for the City’s comments relative to the *No Place Like Home Draft Program Guidelines* released by the California Department of Housing and Community Development (HCD).
2. Authorize HCID to submit the City’s comments consistent with Council action, and a joint City letter executed by the Mayor and Council President to HCD by the May 30, 2017 deadline.
3. Direct HCID, with the assistance of the Chief Legislative Analyst, to monitor any new proposed changes to the No Place Like Home Program and report, as necessary to Council.

BACKGROUND

On July 1, 2016, Governor Brown signed Assembly Bill 1618, which authorized the creation of the No Place Like Home (NPLH) Program. The NPLH Program authorizes issuance of \$2 billion in bond proceeds to be repaid with funding from the Mental Health Services Act (MHSA) Fund to fund the development of permanent supportive housing for those experiencing homelessness, chronic homelessness or are at-risk of chronic homelessness and living with mental illness. The City has been actively monitoring the implementation of this program, seeking amendments to the program's proposed framework and now proposing changes to the Draft Guidelines.

The primary component of the \$2 billion in the NPLH Fund is an allocation of \$1.8 billion to be distributed through either a Competitive Program or an Alternative Process, whereby a county may elect to administer its own allocation. Under the Competitive Program, funds would be distributed as loans underwritten by HCD. Under the Alternative Process, eligible counties (Los Angeles, San Francisco, San Diego, and Santa Clara) could choose to be responsible for project implementation, including the selection of projects, underwriting, holding the Notes and Deeds of Trust, and long-term monitoring. Counties would also be permitted to pay for costs associated with program administration with program funds. Should funds not be committed within two years of the award to the county, they would be redirected to the Competitive Program. Counties that elect the Alternative Process would not be eligible for funds through the Competitive Program. It is anticipated that Los Angeles County would receive an estimated allocation of \$614,075,173 under the Competitive Program or \$626,607,319 under the Alternative Program.

HCD will also administer another \$200 million via an over-the-counter, Noncompetitive Process. Funds may be used to finance the acquisitions, design, construction, rehabilitation, or preservation of housing and to capitalize operating reserves. An allocation of \$69,870,184 for Los Angeles County is anticipated under this program.

In addition to the \$2 billion available to finance housing acquisition and development, a total of \$6.2 million from the Mental Health Services Fund is available to counties as Technical Assistance Grants for planning and implementation of the NPLH Program. The Technical Assistance NOFA was released by HCD on April 10, 2017 and applications from counties are due no later than September 30, 2017.

"No Place Like Home Program" Proposed Program Guidelines

The Draft Guidelines describe NPLH Program's proposed application and distribution of the Non-competitive, Competitive Program and Alternative Process funds. HCD will hold workshops and a webinar to solicit public comment through the end of May 2017. Upon finalizing the guidelines, a court validation process will need to be completed prior to release of the NPLH Program Notice for Funding Availability (NOFA) and funding application materials.

Eligible uses for NPLH Program funds include capital costs for multifamily housing, shared housing and scattered site projects. Funds may be used to finance acquisition and other costs, including, but

not limited to, design, construction, rehabilitation, or preservation, and to capitalize operating subsidy reserves of permanent supportive housing for the target population.

Schedule

The NPLH Program’s tentative schedule is noted below.

Development of Guidelines	Spring 2017
Completion of Guidelines and NOFA	Summer 2017
Release of NOFA	Winter 2018*

*Subject to validation process

City’s Comments

HCID’s comments relative to the Draft Guidelines are summarized below and provided in their entirety as Attachment B. It is anticipated that the comments provided will help the City secure a fair allocation of resources to fund supportive housing developments. Further, our Office has included a Resolution which, if adopted, would add these comments to the City’s 2017-2018 State Legislative Program. In addition, our Office recommends that HCID be responsible for submitting the City’s comments to HCD.

HCID requests that Council approve the following comments to HCD as described below:

Recommended changes for Article II. Noncompetitive and Competitive Program Allocations

- **Readiness to Proceed** – For projects from cities that have a local bond dedicated to permanent supportive housing, HCD’s NOFA should treat a funding reservation equivalent to a funding commitment and award full points under *Section 205 (d) Readiness to Proceed* and *Section 204 Application Process*.
- **Total Project Units (TPU) Count** - clarify that in calculating the percentage of NPLH Units versus the TPU, the TPU includes the Manager’s Unit.
- **Various Providers to Deliver Supportive Services Over the 20 Year Commitment, Section 203(a) Supportive Services** - add more flexibility to the required project-specific supportive services plans to allow services to be delivered by a wide variety of organization and nonprofits.
- **Land Use and Environmental Approvals** – allow an appeal period up to 30 days beyond the application due dates. Similar to the California Tax Credit Allocation Committee, require that the project applicants provide proof that either no appeals were received or that any appeals received during that time period were resolved within the 30-day period.

Recommended changes for Article III. Alternative Process Allocation

- **Maximum Per Unit Loan Amount** – the Alternative Process should set the per-unit loan amount for loans underwritten by the counties to match the funding standards established for the Competitive and the Noncompetitive Program Allocations in Section 200(h)(5) *Uses and Terms of Noncompetitive and Competitive Allocations*.
- **Minimum Funding Rounds Per Year With Specified Dates** – Section 103(a) Funding Rounds – Alternative Process Allocation counties should issue a minimum of two NOFAs per year and disclose the timeline at least nine months ahead of the deadline to better align local resources.
- **Support the County of Los Angeles’ Election for the Alternative Allocation** – The City encourages HCD to support any effort by Los Angeles County to become an Alternative Process Allocation county.
- **Capitalized Operating Subsidy Reserve (COSR), Section 209 and Section 305** – Given the challenges in meeting this requirement, allow an alteration in the income target requirement for projects with negative cash flow at any time after year 20. Allow changes in the target population to the minimum extent to accommodate new rent levels, provided that rent and income levels remain as low as possible to maintain project feasibility.
- **Formula Allocation Based on the Point-In-Time Count of Homeless Persons and HUD’s Comprehensive Housing Affordability Strategy (CHAS) Dataset in Distributing Funds, Section 300** - require Alternative Process County of Los Angeles to distribute funds to the City of Los Angeles based on the formula in Section 102(d)(1) and Section 102(d)(2).

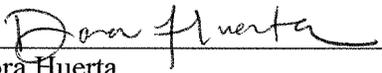
Recommended Changes for All Allocations (Competitive, Noncompetitive, and Alternative Process)

- **Timing of Fund Disbursements** – require distribution of funds via two draws, as follows: 50 percent advance at construction loan closing; and 50 percent at project completion.

This report’s recommendations would be consistent with Council’s support for programs like No Place Like Home.

FISCAL IMPACT

There is no fiscal impact at this time.


Dora Huerta
Analyst

Attachments: A. Resolution
B. HCID’s Comments to the *No Place Like Home Draft Program Guidelines*

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies, proposed to or pending before a local, state or federal government body or agency, must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Department of Housing and Community Development (HCD) released the “*No Place Like Home*” (AB 1618) *Draft Program Guidelines* (Draft Guidelines), which describe the proposed application and distribution of a \$2 billion investment toward addressing homelessness throughout the State; and

WHEREAS, the City seeks to maximize its leverage of funds with No Place Like Home Program funding to facilitate permanent supportive housing and implement its Comprehensive Homeless Strategy; and

WHEREAS, the City proposes the following comments to the Draft Guidelines:

Recommended changes for Article II. Noncompetitive and Competitive Program Allocations

- **Readiness to Proceed** – For projects from cities that have a local bond dedicated to permanent supportive housing, HCD’s NOFA should treat a funding reservation equivalent to a funding commitment and award full points.
- **Total Project Units (TPU) Count** - clarify that in calculating the percentage of NPLH Units versus the TPU, the TPU includes the Manager’s Unit.
- **Various Providers to Deliver Supportive Services Over the 20 Year Commitment, Section 203(a) Supportive Services** - add more flexibility to the required project-specific supportive services plans to allow services to be delivered by a wide variety of organization and nonprofits.
- **Land Use and Environmental Approvals** - allow an appeal period up to 30 days beyond the application due dates. Similar to the California Tax Credit Allocation Committee, require that the project applicants provide proof that either no appeals were received, or that any appeals received during that time period were resolved within the 30-day period.

Recommended changes for Article III. Alternative Process Allocation

- **Maximum Per Unit Loan Amount** - the Alternative Process should set the per-unit loan amount for loans underwritten by the counties to match the funding standards established for the Competitive and the Noncompetitive Program Allocations in Section 200(h)(5) *Uses and Terms of Noncompetitive and Competitive Allocations*.
- **Minimum Funding Rounds Per Year With Specified Dates** - Section 103(a) Funding Rounds – Alternative Process Allocation counties should issue a minimum of two NOFAs per year and disclose the timeline at least nine months ahead of the deadline to better align local resources.
- **Support the County of Los Angeles’ Election for the Alternative Allocation** - The City encourages HCD to support any effort by the Los Angeles County to become an Alternative Process Allocation county.
- **Capitalized Operating Subsidy Reserve (COSR), Section 209 and Section 305** - Allow an alteration in the income target requirement for projects with negative cash flow at any time after year 20.
- **Formula Allocation Based on the Point-In-Time Count of Homeless Persons and HUD’s Comprehensive Housing Affordability Strategy (CHAS) Dataset in Distributing Funds, Section 300** - require Alternative Process County of Los Angeles to distribute funds to the City of Los Angeles based on the formula in Section 102(d)(1) and Section 102(d)(2).

Recommended Changes for All Allocations (Competitive, Noncompetitive, and Alternative Process)

- **Timing of Fund Disbursements** - require distribution of funds via two draws;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-18 State Legislative Program SUPPORT for the Department of Housing and Community Development’s (HCD) *No Place Like Home Program (AB 1618) Draft Program Guidelines* and SEEK AMENDMENTS listed above to be submitted to HCD the as the City of Los Angeles’ comments.



ATTACHMENT B



Eric Garcetti, Mayor
Rushmore D. Cervantes, General Manager

May 17, 2017

City of Los Angeles Housing + Community Investment Department comments with recommendations for changes to the draft No Place Like Home Program (NPLH) Guidelines

The City of Los Angeles and its housing department, the Housing + Community Investment Department (HCIDLA) are at the epicenter of the homelessness crisis in the State of California. Recent estimates indicate the City of Los Angeles has 60% of the homeless individuals in Los Angeles County, approximately 28,000 homeless individuals of 47,000 total in all of Los Angeles County; this is the second largest share of homeless individuals of any city in the country. Homelessness has grown overwhelmingly in recent years with families, women and children living in makeshift situations, in cars parks and streets. Among this population are working families whose low wages do not enable sufficient resources to rent an apartment at the going market-rates.

In 2016, the city adopted a Comprehensive Homeless Strategy including 64 strategies targeted at homelessness prevention, case management, increasing and expediting affordable housing production among others. Additionally, the city placed Measure HHH on the November 2016 ballot and garnered overwhelming support (77% approval) to approve \$1.2 billion in city bond financing to build permanent supportive affordable housing. Measure HHH dedicates 80 percent of the bond funding exclusively to build permanent supportive housing for individuals and families earning up to 50 percent of the Area Median Income (\$45,050 for a family of four), the remaining 20 percent of the funds will house individuals and families earning 51 percent to 80 percent of the Area Median Income. This sizable local commitment positions the City of Los Angeles to meaningfully bolster affordable housing production and compete for other local and state funding sources to help house the city's large homeless population.

The City of Los Angeles is fully committed to ending homelessness and the city strongly believes that the best avenue to achieve and maximize this new funding stream is through a NPLH Alternative Process Allocation to the County of Los Angeles. The option for more local control over the administration of these critical dollars will significantly contribute to the timely and successful expenditure and leveraging of the NPLH funds in the City of Los Angeles. The following city comments on the draft No Place Like Home (NPLH) Program Guidelines released on April 28, 2017 reflect recommendations designed to clarify key guideline provisions as well as to maximize the leveraging of NPLH resources across all levels of government to efficiently deliver the new affordable housing units.

RECOMMENDED CHANGES FOR ARTICLE II. NONCOMPETITIVE AND COMPETITIVE PROGRAM ALLOCATIONS

For the Noncompetitive and Competitive Allocations, treat a funding reservation equivalent to a funding commitment

Section 205 (d) Readiness to Proceed - There are 200 total points available for projects applying to the Competitive Allocation, 20% of these points are earned via a funding commitment. Projects with funding reservations are disadvantaged as this type of “soft commitment” would not be eligible for the full points awarded to projects with funding commitments. In the City of Los Angeles, our managed pipeline process positions affordable housing projects to successfully compete for local HOME and tax credit financing but awards are made through a funding reservation. This funding reservation has consistently provided sufficient assurances that the project will receive the funding allocation. More importantly, the city is now the sponsor of the \$1.2 billion Measure HHH housing program responsible for implementing the financing of permanent supportive housing units. This local dedication and willingness to accept the corresponding risks attests to the city’s investment in the successful and speedy development of permanent supportive housing.

Recommendation: HCD’s NOFA should treat a funding reservation equivalent to a funding commitment and award full points under *Section 205 (d) Readiness to Proceed* and *Section 204 Application Process* to projects from cities that have a local bond dedicated to permanent supportive housing. The HCIDLA’s administration of HHH funds and the management of the tax credit apportionment best positions the city to have HCD accept our funding reservation letters as a funding commitment.

Include the Manager’s Unit in the Total Project Units (TPU) count

Section 205(a)(1) Competitive Allocation Application Rating Criteria - Since the California Housing and Community Investment Department (HCD) is allowing the use of NPLH funding to finance the Manager’s Unit, this should be explicitly stated in the regulation.

Recommendation: Please clarify that when calculating the percentage of NPLH Units versus the Total Project Units (TPU), the TPU includes the Manager’s Unit.

Flexibility to enable various providers to deliver supportive services over the 20 year commitment

Section 203(a) Supportive Services – The county must make a commitment and develop a Project-specific supportive services plan to provide social services for a period of 20 years at the time of application. Because NPLH projects may take several years to materialize, the available and qualified service providers at project lease up may not be known at the time of project application. This commitment requires flexibility so that a variety of nonprofits and supportive service providers are allowed to deliver the services over a 20-year span.

Recommendation: Add more flexibility to the required project-specific supportive services plan to allow services to be delivered by a wide variety of organizations and nonprofits.

NPLH regulations should provide 30 days beyond the application due date for land use and environmental approvals

Section 205(d)(3) Readiness to Proceed – Given the varying length and complexity of processing the NEPA, CEQA and land use approvals, requiring that projects demonstrate complete environmental clearances by the application due date may present significant challenges for some NPLH projects. Currently, other affordable housing programs such as TCAC accommodate this possible complication by allowing an appeal period to run up to 30 days beyond the application due date. TCAC requires the applicant provide proof that either no appeals were received, or that any appeals received during that time period were resolved within the 30-day period.

Recommendation: For NPLH projects, allow an appeal period to run up to 30 days beyond the application due date. Similar to TCAC, require the project applicants provide proof that either no appeals were received, or that any appeals received during that time period were resolved within the 30-day period.

RECOMMENDED CHANGES FOR ARTICLE III. ALTERNATIVE PROCESS ALLOCATION

Apply the same maximum per unit loan amount across all funding allocation types

Section 304(c) Underwriting Standards and Other Requirements – No maximum per-unit loan amounts are included in the guidelines for the Alternative Process Allocation. The Competitive Allocation establishes a maximum funding amount of \$175,000 per unit for NON-9% TCAC funded projects and a maximum \$100,000 per unit for 9% TCAC projects. Since the Alternative Process Allocation does not specify per unit funding amounts, a county that controls its own allocation may set a lower maximum funding amount per unit and thereby unintentionally jeopardize the development of permanent supportive units requiring higher loan limits.

Recommendation: We strongly recommend that, at minimum, the Alternative Process should set the per-unit loan amounts for loans underwritten by the counties to match the funding standards established for the Competitive and the Noncompetitive Program Allocations in *Section 200 (h)(5) Uses and Terms of Noncompetitive and Competitive Allocations*.

HCD to require a minimum of two funding rounds per year with specific NOFA issuance dates for Alternative Process Allocation counties

Section 103(a) Funding Rounds - The City of Los Angeles controls its own allocation of tax credit projects as well as the newly approved \$1.2B in Measure HHH funding. Aligning each bond issuance deadline to be consistent with each project's TCAC award and the NPLH dollars requires the City of Los Angeles to properly schedule NOFA rounds and overall deadlines. A schedule for NPLH funding deadlines will ensure the proper alignment of all funding resources and improve the likelihood of success as developers can better plan for land acquisition and overall project financing.

Recommendation: Alternative Process Allocation counties should issue a minimum of two NOFAs per year and disclose the timeline at least nine months ahead of the deadline to better align local resources and expedite the funding of new affordable housing units.

City of Los Angeles supports the County of Los Angeles select the Alternative Allocation for NPLH funding

The Alternative Allocation would offer projects within the County of Los Angeles certainty that NPLH funds will be available at a defined level. Also, in the city's 10 years of administering the Permanent Supportive Housing Program (PSHP), the City of Los Angeles has developed a successful collaboration with several County of Los Angeles departments, including the Department of Health Services (DHS), the Department of Mental Health (DMH) and the Community Development Commission (CDC) that has resulted in multiple joint NOFA issuances for permanent supportive housing and wraparound services. The interdepartmental collaboration, infrastructure and expertise to successfully implement the NPLH program is active and best positioned to leverage funding streams across all government programs.

Recommendation: The City of Los Angeles encourages the California Housing and Community Development Department support an effort by Los Angeles County to become an Alternative Process Allocation county for the No Place Like Home (NPLH) funds.

Capitalized Operating Subsidy Reserve (COSR)

Section 209 and Section 305 Capitalized Operating Subsidy Reserve (COSR) – Requiring that COSR be sized to cover operating deficits attributable to NPLH units for a minimum of 20 years while the affordability restriction is in place for 55 years puts localities at high risk. Considering the 30% AMI rent limit for NPLH units, the tenant incomes will remain low and cannot serve to fund COSR. Additionally, federal HOME dollars cannot be used to support the NPLH Target Population since the federal definition of homeless is much more narrow/restrictive than the proposed definition under NPLH. This situation leaves no viable funding source to comply with the affordability restrictions in place from years 21 through 55.

Recommendation: For projects with negative cash flow at any time after year 20, allow an alteration in the income target requirement. Allow changes in the target population to the minimum extent to accommodate new rent levels, provided that rent and income levels remain as low as possible to maintain project feasibility.

Require a Los Angeles County Alternative Process Allocation to implement a formula allocation based on the Point-in Time Count of homeless persons and HUD's CHAS dataset in distributing funds.

Section 300 - Alternative Process County Designation (b)(2) - The draft guidelines establish an evaluation criteria for how Alternative Process Counties must commit funds to various cities within their boundaries. Los Angeles city is unique in that it has the largest homeless population in the State of California and has committed local funding to tackle this problem. To ensure funds are proportionately allocated to match the number of the homeless families and individuals living in the city's boundaries, the City of Los Angeles strongly recommends that HCD apply the formula under *Section 102 (d) (1) & (2) Funding and Formula Allocations* to the Alternative Process County of Los Angeles. Based on the most recent Point-in-Time count of both sheltered and unsheltered homeless persons and the proportionate share of Extremely Low-Income renter households that are paying more than 50 percent of

their income for rent using HUD's Comprehensive Housing Affordability Strategy dataset guarantees the funding allocation matches the local need. This formula ensures an equitable funding distribution to the City of Los Angeles enabling swift commitment of funds to ready projects and eliminating the risk of losing uncommitted funds to Counties in the Competitive Allocation pool which the City of Los Angeles may not access.

Recommendation: HCD to require Alternative Process County of Los Angeles to distribute funds to the City of Los Angeles based on the aforementioned formula in Section 102(d)(1) and Section 102(d)(2).

RECOMMENDED CHANGES FOR ALL ALLOCATIONS (COMPETITIVE, NONCOMPETITIVE AND ALTERNATIVE PROCESS)

Funding disbursements to occur at construction loan closing and project completion

It appears that the intention is to allow the first NPLH funding draw at construction loan closing and the second at project completion but the current draft does not explicitly communicate this approach for any of the funding allocations. The draft guidelines are silent on when the initial funding disbursement can be made, a clarification is need to explicitly allow the first disbursement to occur at construction loan closing.

Recommendation: Require that all NPLH funding programs/processes distribute funds via two draws; the first draw of 50% advance should be done at construction loan closing and the remaining 50% of the funds at project completion.