



February 5, 2021

Louise Bedsworth, Executive Director
California Strategic Growth Council
Attention: AHSC Program
1400 Tenth Street
Sacramento, CA 95814

Via email: AHSC@sgc.ca.gov

RE: Comments on the January 29, 20201 AHSC Round 6 Draft Guidelines

Dear Executive Director Bedsworth:

Thank you for the opportunity to submit public comments on the newest proposed guideline changes to the Affordable Housing and Sustainable Communities (AHSC) Program. The California Housing Partnership greatly appreciates the Strategic Growth Council's (SGC) efforts to solicit and incorporate stakeholder feedback. Our comments are derived from conversations among our 22-person financial technical assistance team which has worked on more than a hundred AHSC applications since the program began. While we support many of the proposed changes, we offer the following comments and, in particular, are deeply concerned about the proposed changes in the Local Workforce and Hiring Practices scoring category (Section 107(h)(1)) and regarding the AHSC covenant being in first lien position (Appendix A(e)(2) and (3)).

Section 104(c)(5)(E) Homeownership Subsidies. While it may be appropriate to increase per unit maximum grant amounts for homeownership developments, the increase from \$50,000 to \$175,000 per unit affordable at 60% AMI and more for more deeply targeted units is massive and unsubstantiated. SGC should analyze existing project data to determine the appropriate amount of any such increase.

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Section 106(a)(6)(A) Urban Greening. An adequate level of urban greening is rarely measured by expenditures. Setting a \$200,000 threshold for urban greening fails to maximize the efficiency of AHSC funding. In addition, an unintended consequence is that high density, zero-lot-line urban projects will be disadvantaged by this threshold because the rooftop area is needed for building code compliance and sustainability points, the roof is inaccessible to the public in any event, and there is little other space to green. Whereas in the past these projects may have offset the loss of urban greening points with other points, establishing this as a threshold will likely disqualify some otherwise extremely desirable TOD developments. SGC should adopt other output-based threshold criteria for urban greening such as square footage. If a dollar threshold is maintained, SGC should establish the threshold at no more than \$50,000.

Section 106(a)(8) NEPA review. Because NEPA clearance relates to the release of funds and does not affect a project's ability to proceed to construction, SGC should clarify that, where project-based vouchers are the only subsidy triggering NEPA review, NEPA review need not be completed at application in order to obtain full readiness points. Adopting this clarification is consistent with the program's current policy, as evidenced by the striking of the response in Threshold paragraph (a)(7) of the Round 5 Q&A.

Section 107(c)(2) All electric buildings. In the very competitive AHSC environment, this proposed scoring category effectively requires developers to choose an all-electric building. While we do not yet have good data on how the requirement affects upfront development costs, we do know that decarbonization raises energy bills and utility allowances because electric rates are higher than gas rates, resulting in less rental income, smaller leveraged private debt, and therefore more public subsidy need. In addition, most applicants for Round 6 have already completed building design and would be penalized for not being able to respond to an immediate change in program incentives. For all these reasons, SGC should maintain the current thresholds for LEED points and incentivize decarbonization through the Project GHG emission score in Section 107(a) rather than through an effectively required point category.

Section 107(g)(1) Anti-displacement strategies. We greatly appreciate the program's focus on preventing displacement, but the revised scoring framework makes it impossible for applicants to score maximum points with commitments they can make themselves. The category now allows up to four points, but an applicant can only obtain three points through voluntary measures. An applicant can only get four points if the project happens to be located within a jurisdiction that has adopted one of more of the local policies. While in theory this might incentivize cities and counties to enact such policies, that is very unlikely in reality as the politics go way beyond a single AHSC application. As a result, projects in jurisdictions without such policies will be penalized. SGC should either limit this category to three points or expand the list of voluntary measure to include at least four measures.

Former Section 107(h) Prohousing policies. While we support linking infrastructure funding to a city's or county's prohousing policies, tying the existence of such policies to the funding of affordable housing makes it easier for exclusionary jurisdictions to avoid affordable housing by declining to adopt them. For this reason, we strongly support SGC's proposal to remove points for projects located in prohousing jurisdictions.

Section 107(h)(1) Local Workforce and Hiring Practices. Unless a project happens to be located in a jurisdiction with a local hire ordinance, the proposed changes will force an applicant to engage union contractors at prevailing wages. The Turner Center found in a recent study that prevailing wages increase project costs by 13%, and it is generally accepted that imposing "skilled and trained" requirements results in an additional cost premium due to lack of competitive bidding. Moreover, developers have a hard time now getting three bids from both union and non-union contractors for prevailing wage jobs. If applicants are forced to accept only bids only from union contractors, it will be impossible in some cases, particularly in inland areas, to find a contractor at all. In many other cases the one union bidder will have incredible market power to negotiate the highest possible price. At a minimum, this will significantly reduce the number of AHSC units. At worst, it will stall projects for lack of a contractor or the inability to get tax-exempt bonds which highly reward lower cost projects. SGC should restore the Round 5 scoring language in this category. At a minimum, it must increase the number of options by restoring points for partnerships with pre-apprenticeship programs and local Workforce Investment Boards. Furthermore, the guidelines state that the intent of the proposal is to "to advance the recruitment, training, and hiring of low income residents and underrepresented workers living in Disadvantaged Communities." There is no evidence that union contractors help achieve this goal.

Section 108(d)(3) and (4) Geographic equity. We are generally supportive of staff's proposal to ensure regional equity, in particular the creation of the regions and the use of a larger 20% discretionary pool to fund one project in each region.

Appendix A(e)(2) and (3) First-lien position. The proposed requirement that the AHSC covenant be recorded and remain in first-lien position or prior to any debt recorded against the property is inconsistent with all other state financing programs and will likely cause serious problems for private lenders whose funds are critical to project feasibility. For this reason, HCD's Uniform Multifamily Regulations (Section 8310(f)) which overlay all HCD programs require a first lien position *only* when the mortgage loan includes a balloon payment. SGC should withdraw this proposal. If SGC and HCD want to pursue this policy more broadly, they should hold extensive discussions with the lending community to assess the impact.

Appendix A(u) Enforceable financing commitment. We strongly support the inclusion of 9% tax credit equity. Whereas both 9% credits and tax-exempt bonds are now competitive, there is no longer a policy rationale for pushing developments towards the tax-exempt bond path. In this environment, applicants should be able to choose the path they think will most likely lead to success. In order to simplify the application process one bit, SGC should obtain the

necessary equity and pricing data in the application itself rather than through an investor letter. In addition, as HCD has done in other programs such as MHP, SGC should count as an enforceable financing commitment in paragraph (2) "any funding to be provided by another HCD program awarded prior to final rating and ranking for the AHSC application." The current list of programs is too narrow and requires a final award. Our proposed change will benefit the AHSC program by shortening predevelopment periods, reducing costs and subsidy needs, and decreasing the likelihood of returned awards when a project cannot achieve full financing. The extra effort to coordinate awards up front will save SGC and HCD significant effort on the back end as projects will not need to reapply in multiple rounds. Lastly, in paragraph (3), SGC should 1) count donations and waivers without discretion by replacing "may" with "shall"; 2) to be consistent with TCAC and reflect the correct policy, correct the following phrase to read, "where those fees **waivers** are not otherwise required by federal or state law"; and 3) count land leases in addition to donations in fee and allow consideration up to \$100 as many sales and leases are for \$1 or \$1 per year, respectively.

Technical amendments:

- Section 103(a)(1)(C)(i) should reference the most recent TCAC regulation date of December 21, 2020.
- The language of Section 103(a)(1)(E) can be clarified as follows:

Projects with separate 9% and 4% Federal Low Income Housing Tax Credit Allocations, Projects that intend to seek 9% and 4% projects as allowed by TCAC under the Hybrid definition, and Projects developed as multiple simultaneous phases using the same credit type (all 9% or all 4%) do not qualify as one single application. To the extent such tax credit scenarios are contemplated, they shall constitute two separate and independent Projects whereby each phase must submit a separate individual application and qualify independently of the other phase or phases. The purpose of this language is to clarify which types of Project structures are eligible within a single AHSC application and award. In addition, the Council will not break up or combine project awards post-award to accommodate a project split or conversion to or from a hybrid project. This maintains the integrity of the Project's Original Score and the competitive process of the AHSC Program.

- In Section 108(d)(5) the last sentence regarding minimum scores for tribal projects should be deleted to reflect the deletion of minimum scores generally.

We greatly appreciate your consideration of these comments. Please contact Mark Stivers, Director of Advocacy, at mstiver@chpc.net with any questions or to discuss these comments further.

Sincerely,



Mark Stivers
Director of Advocacy



Nicole Norori
Central Coast Director