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File ID: 2023-00008

2/21/2023

Discussion Item 15.

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## **Overview of the City's Prohousing Designation and 2023 Housing Programs and Authorization to Apply for the State's Prohousing Incentive Pilot Grant Program**

File ID: 2023-00008

**Location:** Citywide

**Recommendation:** 1) Review and comment on an overview of the Prohousing Designation Program and the 2023 housing programs from the City's 2021-2029 Housing Element; 2) Adopt a **Resolution** authorizing the City Manager or the City Manager's designee to: 1) apply for and accept up to \$2.5 million in grant funding from the California Department of Housing and Community Development for its 2023 Prohousing Incentive Pilot (PIP) Program; and 2) if awarded: a) increase the revenue and expenditure budget in the FY2022/23 Affordable Housing Project (I02189050, Fund 2702) by up to \$2.5 million; and b) execute a grant agreement with the State of California (Standard Agreement) and any other documents necessary to secure the PIP grant, in a form approved by the City Attorney.

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**Presenter:** Matt Hertel, AICP, Long Range Planning Manager, (916) 808-7158, mhertel@cityofsacramento.org, Community Development Department

### **Attachments:**

1-Description/Analysis

2-Resolution

3-Exhibit A - Prohousing Incentive Pilot Guidelines

### **Description/Analysis**

**Issue Detail:** The City, like most, if not all, other municipalities in California, is facing the challenge of providing an adequate supply of affordable housing. The City has made it a priority to streamline the

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approval of and increase the production, accessibility, and affordability of housing citywide.

On May 28, 2019, the City Council adopted Resolution No. 2019-0206 directing staff to implement the Housing Streamlining Menu of Options, which identified more than 50 potential actions the City's Planning Division, other City departments and partner agencies could initiate to streamline approval and production of market-rate and affordable housing.

Building on this work, in August 2021, the City adopted an ambitious 2021-2029 Housing Element that includes implementation programs to further incentivize and support housing production at all income levels in order to meet the City's Regional Housing Needs Allocation ("RHNA") of 45,580 units by 2029 (Resolution No. 2021-0259). As a result of this foundational work, the City was awarded the State's first Prohousing Designation in February 2022 by the California Department of Housing and Community Development.

The City has already implemented many of the programs from the 2021-2029 Housing Element. Some key programs of focus for 2023 include:

- Reviewing the Mixed Income Housing Ordinance with the goal of increasing the amount of affordable housing built while ensuring the requirements do not pose a constraint on overall housing production;
- Updating the Planning and Development Code for consistency with state laws to encourage and allow for special needs housing, such as low barrier navigation centers, temporary residential shelters, group homes, supporting housing, and single room occupancy hotels;
- Updating the Density Bonus Ordinance for consistency with new state laws, and incorporation of a Floor Area Ratio Bonus; and
- Conducting a Missing Middle Housing Study that provides an in-depth review of the benefits and challenges of implementing Missing Middle Housing and develops recommendations to thoughtfully implement Missing Middle Housing types such as accessory dwelling units (ADU), duplexes, triplexes, fourplexes and bungalow courts in Sacramento's single-unit and duplex dwelling zones.

An in-depth review of our progress in housing production will be presented to City Council in April of this year via the 2022 Housing Element Annual Progress Report. This report will include housing production numbers by income level for the 2022 calendar year and a progress update on each of the 49 adopted Housing Element implementation programs.

Presently, the City's Office of Innovation and Economic Development (OIED) in partnership with the Community Development Department (CDD), is seeking approval to apply for and accept the California Department of Housing and Community Development's (HCD) 2023 Prohousing Incentive Pilot (PIP) funding program for an amount up to \$2.5 million. PIP was designed to incentivize local governments to pursue Prohousing Designation and rewards those with the Prohousing Designation with additional funding to accelerate affordable housing production and preservation.

The PIP program has a total of \$25.7 million total available in funding for eligible jurisdictions with a Prohousing Designation. Based on the funding allocation calculations, the City of Sacramento can seek up to \$2.5 million in funding. The PIP applications are due March 15, 2023 and require City Council authorization. If granted Council authorization, staff will submit an application for PIP funding for \$2.5 million. PIP funding can be directed towards a variety of planning or implementation activities related to housing and community development. If a grant is awarded, staff recommends using the funds to assist with the local gap financing for a priority affordable housing project.

**Policy Considerations:** The 2021-2029 Housing Element contains policies and programs related to the Prohousing Designation and assisting affordable housing projects, including:

**Housing Element Policy 2.3 Assist in the Development of Affordable Housing.** The City and SHRA shall assist affordable housing developments through site identification, direct funding, supporting funding applications, land donation, expedited permit review, and other incentives.

**Housing Element Program 11 Prohousing Designation.** The City shall strive to receive and maintain through the sunset date of January 1, 2025, the State's Prohousing Designation by demonstrating a sufficient number of policies that significantly contribute to accelerating housing production. Jurisdictions that receive a Prohousing Designation will receive incentives in the form of additional points or preferences in the scoring of competitive State funding grant program in the areas of housing, transportation, infrastructure, and land use.

**Economic Impacts:** The City investment in an affordable housing project is estimated to infuse the economy with new jobs, with the provision of this funding and resulting housing construction. There will also be positive economic impact in stabilizing housing costs and preventing homelessness, reducing the rent burden and other community costs for persons experiencing homelessness and at-risk individuals, and providing a platform for additional income and spending capacity amongst these community residents.

**Environmental Considerations:** The City's establishment of a funding mechanism for the Project is not a project pursuant to CEQA Guidelines section 15378(b)(4) because it qualifies as the creation of government funding mechanisms or other government fiscal activities, which does not involve any commitment to any specific project, which may result in a potentially significant physical impact on the environment.

**Sustainability:** Increasing housing production and affordability will assist in creating sustainable economic growth. Increasing affordable housing in infill areas of the city near public transportation hubs will reduce dependence on the use of private automobiles, reduce vehicle miles traveled (VMT) per household, reduce the use of fossil fuels, improve energy efficiency, reduce carbon dioxide

emissions, and help meet air quality standards.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** As a Prohousing Designated city, the City is able to pursue \$2.5 million of grant funding that can be used to further local affordable housing development and preservation. These funds will be used to leverage additional resources and future development of affordable housing units, contributing towards City affordable housing production goals and RHNA requirements.

**Financial Considerations:** If awarded, the City anticipates receiving up to \$2.5 million in PIP grant funding which do not have a match requirement. Funds received under this grant application will be budgeted into the FY2022/23 Affordable Housing Project (I02189050, Fund 2702)

The proposed action complies with the Council's Core Budget Policies and Guidelines, specifically, Budget Guidelines number 9, "Make every effort to identify private financing or federal and state grant opportunities before using City resources. Pursue new and enhance existing revenue sources." Council approval by resolution is required for "all appropriation changes (increases or decreases) \$250,000 or more to the Approved Budget." (FY2022/23 Approved Budget section 6.1) Council approval is required for "any increase or decrease greater than (and including) \$250,000 by fund in estimated revenue by Department to the Approved Budget." (FY 2022/2023 Approved Budget section 9.2) (Resolution No. 2022-0198)

**Local Business Enterprise (LBE):** Not Applicable.

**RESOLUTION NO. 2023-**

Adopted by the Sacramento City Council

**AUTHORIZATION TO APPLY FOR AND RECEIVE PROHOUSING INCENTIVE  
PILOT PROGRAM FUNDS**

**BACKGROUND:**

- A. Pursuant to California Health and Safety Code, section 50470 *et seq.*, the California Department of Housing and Community Development (the “Department”) is authorized to issue Guidelines as part of an incentive program (hereinafter referred to as the “Prohousing Incentive Pilot Program” or “PIP”).
- B. The City of Sacramento desires to submit a Prohousing Incentive Pilot Program 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.
- C. The Department has issued Guidelines (attached as Exhibit A) and Application on December 15, 2022 in the amount of, at least, \$25,705,545.65 for PIP.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

- Section 1. The City Manager or City Manager’s designee is hereby authorized to direct staff to submit an Application to the Department in response to the Notice of Funding Availability, and to apply for the PIP grant funds in a total amount not to exceed \$2,500,000.
- Section 2. In connection with the PIP grant, if the Application is approved by the Department, the City Manager or City Manager’s designee of the City of Sacramento is authorized and directed to enter into, execute, and deliver on behalf of the City, an agreement with the State of California Agreement (Standard Agreement) and any other documents necessary to secure the PIP grant, in a form approved by the City Attorney, for an amount not to exceed \$2,500,000.

Section 3. The City 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 City agrees to use the funds for eligible uses and allowable expenditures in the manner presented and specifically identified in the approved Application.

Section 4. The City Manager or the City Manager's designee is authorized to receive up to \$2.5 million in PIP grant funding and increase the revenue and expenditure budget in the FY2022/23 Affordable Housing Project (102189050, Fund 2702).

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

[www.hcd.ca.gov](http://www.hcd.ca.gov)

## DIVISION OF HOUSING POLICY DEVELOPMENT

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December 15, 2022

**MEMORANDUM FOR:** ALL POTENTIAL APPLICANTS

**FROM:** MEGAN KIRKEBY, DEPUTY DIRECTOR  
DIVISION OF HOUSING POLICY DEVELOPMENT

**SUBJECT:** NOTICE OF FUNDING AVAILABILITY AND FINAL  
GUIDELINES – PROHOUSING INCENTIVE PILOT  
PROGRAM

The Department of Housing and Community Development is pleased to release the Notice of Funding Availability (NOFA) for the Prohousing Incentive Pilot (PIP) Program. The PIP Program complements the Prohousing Designation Program and is designed to encourage cities and counties to obtain a Prohousing Designation. **At least \$25,705,545.65 will be available for the 2022 funding round.**

The PIP Program is funded through Chapter 364, Statutes of 2017 (SB 2, Atkins), which established the Building Homes and Jobs Trust Fund. Five percent of annual collections are deposited in a fund to be used for an incentive program. The PIP Program awards funds based on jurisdiction size and 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 6607, Consecutive Prohousing Designation Program).

In order to be eligible for grant funding, an applicant must submit a completed application by email to: [prohousingincentive@hcd.ca.gov](mailto:prohousingincentive@hcd.ca.gov). Applications will be accepted as of the date of this NOFA through March 15, 2023. In order to remain eligible for an award, applicants must obtain Prohousing Designation by March 30, 2023. The Department encourages early applications.

Program applications, forms and instructions are available on the Department's [PIP website](#). If you have questions regarding this NOFA, please email the Department at [prohousingincentive@hcd.ca.gov](mailto:prohousingincentive@hcd.ca.gov). For future notifications, please use the Department's email notification sign up at [Subscribe \(ca.gov\)](#).

# **Prohousing Incentive Pilot Guidelines**



**State of California  
Governor Gavin Newsom**

**Lourdes Castro Ramírez, Secretary  
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December 2022



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# Prohousing Incentive Pilot Program

## **Section 100: Introduction**

The California Department of Housing and Community Development (the Department) is pleased to release program guidelines (Guidelines) for funding through the Prohousing Incentive Pilot Program (Program). The Prohousing Incentive Pilot 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 6607, 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 Pilot Program" or "PIP").

The Guidelines provide the Department's plan for the expenditure of PIP funds and the administration of the PIP 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.”  
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 in order 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 not meeting 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 Section 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 completed Prohousing Designation Application (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), with an authorizing resolution, must be submitted prior to or in conjunction with the Applicant's PIP Application. PIP Awards cannot be made until Prohousing Designation is obtained, as determined by the Department.
- (D) A complete application as determined by the Department.
- (E) An authorizing resolution authorizing submittal of the application to the Program that materially comports with the Program's requirements and is legally sufficient as determined in 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 by the sole discretion of HCD.
- (G) Demonstration of meeting threshold criteria shall be determined by the Department in its sole and absolute discretion. No documentation of meeting threshold requirements is required in the application unless requested by the Department.

## **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) Application 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) The Department may request additional information and documentation as appropriate.
- (E) 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 completed, 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](mailto: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 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.

### **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, 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 ranking order until funding is depleted.
- (B) In the event of a tie (i.e. two or more applicants have the same score), the Eligible Applicant with the smaller population size will receive funding priority.

### **Section 404: Geographic Categories**

- (A) Ranked applications will be considered for awards according to six geographic categories, as follows:
  1. Southern California: Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura, and San Diego
  2. Bay Area: Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, Sonoma, San Francisco
  3. San Joaquin Valley: Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare
  4. Sacramento Area: Amador, El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba
  5. Central Coast: Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz
  6. North State and Sierra Nevada: Alpine, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, 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 (Attachment D).
- (C) The total proportion of available funds in geographic categories will not exceed 75 percent of the total amount of the 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, applicants may qualify to fulfill their eligible award from the 25% residual set-aside in ranking order.

1. In the event of funds being depleted such that a partial award is indicated, 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 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. 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.

## **Section 500: Eligible Award Calculation**

- (A) This program will make funding available to jurisdictions as Prohousing Incentive grants as determined by the NOFA.
- (B) Maximum total award amounts will be no greater than \$5,000,000 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.
- (C) Base award amounts are based on population estimates as of January 1, 2021<sup>1</sup>. The maximum amount that a jurisdiction may receive pursuant to this subdivision shall be as follows<sup>2</sup>:

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<sup>1</sup> Population estimates, as of January 1, 2021, are based on the Department of Finance E-1 report: <https://dof.ca.gov/Forecasting/Demographics/estimates-e1/>

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

<b>Jurisdiction Size (in Population)</b>	<b>Base Award Amount</b>
750,000 or greater	\$4,500,000
300,000 to 749,999	\$2,000,000
100,000 to 299,999	\$1,150,000
50,000 to 99,999	\$500,000
20,000 to 49,999	\$250,000
Less than 20,000	\$75,000

(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 applicant base award amounts. For example, two jurisdictions between 50,000 and 99,999 people could submit a proposal for up to \$1,000,000 in base awards.

## **Section 600: Uses of Funds**

### **Section 601: Eligible Uses**

(A) Eligible Applicants must use award funds towards any planning or implementation activities related to housing and community development including:

1. Any eligible uses pursuant to Health and Safety Code section 50470(b)(2)(D):
  - 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, down payment assistance.
- x. 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**

- a. 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 Guidelines; 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

- a. Grant funds cannot be disbursed until the Standard Agreement has been fully executed.
- b. The grantee will be responsible for compiling and submitting all invoices and reporting documents. Grantees will submit for reimbursements to the Department based on actual cost incurred.
- c. 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 award 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.
- d. Work must be completed prior to requesting reimbursement.
- e. 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.
- f. In unusual circumstances, the Department may consider alternative arrangements (e.g., advance payments) to reimbursement and payment methods based on documentation demonstrating cost burdens, including the inability to pay for work.
- g. 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.
- h. Invoices must be accompanied by reporting materials where appropriate. Invoices without the appropriate reporting materials will not be paid.
- i. The Department recognizes that budgeted deliverable amounts are based upon estimates. Eligible Applicants 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 Eligible Applicant.

- j. The Department may withhold 10 percent of the grant until grant terms have been fulfilled.
- k. Each recipient of funds under the Program shall expend those funds no later than June 30, 2025. Final invoices shall be submitted to the Department 3 months prior to the expenditure deadline.

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

### **(A) Accounting Records**

- a. The Eligible Applicant, 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.
- b. The Eligible Applicant 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.
- c. The Eligible Applicant 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.
- d. The Eligible Applicant agrees that the state or designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Standard Agreement.
- e. Subcontractors employed by the Eligible Applicant and paid with moneys under the terms of this Standard Agreement shall be responsible for maintaining accounting records as specified above.

### **(B) Audits**

- a. 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.

- b. 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 this Agreement.
- c. The grantee agrees to provide the Department or the Department's designee, with any relevant information requested.
- d. 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.
- e. 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 subsection A of the Standard Agreement.
- f. 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.
- g. The grantee is responsible for the completion of audits and all costs of preparing audits.
- h. 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.
- i. The grantee agrees to maintain such records for possible audit after the final payment pursuant to Section 112, Part 2 of these Guidelines and Exhibit D, Section 3, subsection E of the Standard Agreement, unless a longer period of records retention is stipulated.
- j. 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 by the grantee, contractors

and sub-contractors until completion of the action and resolution of all issues which arise from it. The grantee shall include in any contract that it enters into in an amount exceeding \$10,000, the Department's right to audit the contractor's records and interview their employees.

- k. 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.
- l. The grantee shall retain all books and records relevant to this Agreement for a minimum of three (3) years after the end of the term of this Agreement. Records relating to any and all audits or litigation relevant to this Agreement shall be retained for five years after the conclusion or resolution of the matter.

#### (C) Remedies of Non-performance

- a. 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.
- b. 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.
- c. 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.
- d. 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

- a. 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.
- b. 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.
- c. The Department may request additional information, as needed.
- d. Upon completion of all deliverables within the Standard Agreement and prior to processing final invoicing, the awardee shall submit a close out 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](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) (la) 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.
- (lb) 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 Pilot Program funds.

WHEREAS, pursuant to Health and Safety Code 50470 et. Seq, the 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 Pilot 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 203 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 HCD Div. 1, Chapter 6, Subchapter 6.6, Sections 6600 through 6607, consecutive [prohousing-regulation-text.pdf \(ca.gov\)](https://www.cdph.ca.gov/Programs/OPA/Pages/prohousing-regulation-text.pdf).
- 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 5015.

## Attachment D: Geographic Distribution

<b>Geographic Region</b>	<b>2030 Population Projection</b>	<b>Percent of 2030 State Population</b>	<b>Percent of Overall Funds Available to Applicants in Region</b>
<u>Southern California</u> : Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura	23,251,836	55.6%	41.7%
<u>Bay Area</u> : Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma	8,272,525	19.8%	14.9%
<u>San Joaquin Valley</u> : Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare	4,750,970	11.3%	8.5%
<u>Sacramento Area</u> : Amador, El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba	2,801,031	6.7%	5%
<u>Central Coast</u> : Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz	1,569,595	3.7%	2.8%
<u>North State and Sierra Nevada</u> : Alpine, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, Tuolumne	1,214,592	2.9%	2.2%
<b>Totals</b>	<b>41,860,549</b>	<b>100%</b>	<b>75%</b>