Agenda Item #3

February 19, 2019

Subject: FY 2017-18 Round 4 Affordable Housing and Sustainable Communities Program Guidelines Amendment

Reporting Period: January 2019 – February 2019

Staff Lead: Ryan Silber, AHSC Program Manager

Recommended Action:

Amend a section of the Fiscal Year (FY) 2017-18 Round 4 Affordable Housing and Sustainable Communities (AHSC) Program Guidelines to expand eligibility to applicants experiencing delays in receiving environmental clearance through the National Environmental Policy Act (NEPA) due to the partial federal government shutdown.

Summary:

This action memorializes changes to the FY2017-2018 AHSC Round 4 Program Guidelines.

According to the FY2017-18 Round 4 AHSC Guidelines section 106(a)(8), projects applying to the AHSC Program are required to have

“[c]ompletion and approval or adoption of all necessary environmental clearances including those required under the California Environmental Quality Act and if applicable, the National Environmental Policy Act. All applicable time periods for filing appeals or lawsuits have lapsed within 30 days of the application due date with lawsuits or appeals filed.”

If an AHSC Round 4 project receives federal funding through the Department of Housing and Urban Development (HUD), the environmental review process is triggered for the National Environmental Policy Act (NEPA). This environmental review process is completed when HUD issues an Authority to Use Grant Funds (AUGF). Receiving an AUGF would typically satisfy the AHSC requirement for federal environmental clearance.

On December 22, 2018, the federal government partially shut down and remained closed until January 25, 2019. During this shutdown, staff at HUD responsible for providing the AUGF were furloughed and the HUD NEPA environmental review process was halted. The aspects of the process that are dependent upon HUD staff can take up to 20 days under regular circumstances. As AHSC projects are required to submit NEPA clearance within 30 days of the application deadline, or March 13, the halt of the review process and any delays resulting from backlog could cause AHSC applications to become ineligible due to aforementioned criteria in Round 4 Guideline section 106(a)(8).

AHSC staff and Technical Assistance providers have learned of several projects that are affected by this halt in NEPA review by HUD. The intent of this amendment to the guidelines is to enable all applicants who would have been eligible to apply in Round 4 to still participate in
this round, including those affected by the NEPA approval delays resulting from the partial government shutdown.

The proposed amendment to the FY2017-18 Round 4 AHSC Guidelines, excerpted below and redlined in Attachment 1, would retroactively extend the deadline for applicants to submit their NEPA clearance to extend eligibility for projects affected by the partial federal government shutdown. AHSC Program staff will consider further Council action to address additional shutdowns, as needed.

The Guidelines amendment is shown excerpted below and in Appendix 1 on page 22:

(8) Completion and approval or adoption of all necessary environmental clearances including those required under the California Environmental Quality Act (CEQA) and if applicable, the National Environmental Policy Act. All applicable time periods for filing appeals or lawsuits have lapsed within 30 days of the application due date with lawsuits or appeals filed.

(A) STI or TRA components of a Project are not required to certify completion and demonstration of approval of environmental clearances (NEPA or CEQA) as stated in (8) above until prior to the initial disbursement of grant funds.

(B) Completion and approval of environmental clearances under the National Environmental Policy Act (NEPA), if applicable, are required within 60 days of the application due date. All applicable time periods for filing appeals or lawsuits have lapsed within 90 days of the application due date with lawsuits or appeals filed.

   i. Applications must demonstrate that their Notice of Intent to Request Release of Funds was posted prior to the AHSC application deadline.

Clause (8)(B)(i) in Section 106(a) prevents the extended acceptance period for NEPA environmental clearances from including projects that would otherwise not have been cleared in time.

Staff Report Attachment

Attachment 1: Proposed amended FY2017-18 Round 4 AHSC Guidelines