

**California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 14. Mental Health Services Act**

Article 2. Definitions

(1) Adopt Section 3200.028 as follows:

§ 3200.028. Capitalized Operating Subsidy Reserve.

“Capitalized Operating Subsidy Reserve” means funds set aside at, or before, permanent loan closing for the purpose of supplementing income for the payment of operating expenses.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5813.5(a), 5813.5(c) and (d) and 5878.1(a), Welfare and Institutions Code; and Sections 2(b), (c), (f), and 3(a), MHSA.

(2) Adopt Section 3200.252 as follows:

§ 3200.252 Project-Based Housing.

“Project-Based Housing” means the unit(s) of an apartment complex, duplex, triplex, or other structure leased and/or purchased by the County for the purpose of providing housing.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5813.5(a), 5813.5(c) and (d) and 5878.1(a), Welfare and Institutions Code; and Sections 2(b), (c), (f), and 3(a), MHSA.

Article 6. Community Services and Supports

(3) Amend Section 3630 as follows:

§ 3630. General System Development Service Category.

(a) *No Change to Regulation Text.*

(b) General System Development funds may only be used to:

(1) Provide one or more of the following mental health services and

supports:

(A) *through (I) No Change to Regulation Text.*

(J) Project-Based Housing program.

(2) *through (3) No Change to Regulation Text.*

(c) *No Change to Regulation Text.*

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5813.5(a), 5813.5(c) and (d) and 5878.1(a), Welfare and Institutions Code; and Sections 2(b), (c), (f), and 3(a), MHSA.

(4) Adopt Section 3630.05 as follows:

§ 3630.05. Project-Based Housing Program.

(a) The County may use General System Development funds for costs associated with Project-Based Housing, including but not limited to:

(1) Purchasing/renovating/constructing Project-Based Housing.

(2) Master leasing of Project-Based Housing.

(A) The lease between the County and the property owner shall specify that the County shall select the tenants and collect payments from the tenants for the Project-Based Housing.

(3) Repairing damage to the Project-Based Housing in which a tenant resides/resided.

(4) Establishing and maintaining a Capitalized Operating Subsidy Reserve, as defined in section 3200.028.

(5) Establishing a Project-Based Housing Fund.

(A) This Fund shall be an irrevocable transfer of money from the County to a local government housing entity for a specific Project-Based Housing program within the County.

(B) If the County and the local government housing entity determine that completion of the Project-Based Housing program is not feasible, the money shall remain in the Fund for redirection to other approved Project-Based Housing programs.

(b) The County shall not use General System Development funds for client-based housing expenditures, including, but not limited to, housing vouchers, rental subsidies, utility startup deposits, utility costs and furniture rental.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5813.5(a), 5813.5(c) and (d) and 5878.1(a), Welfare and Institutions Code; and Sections 2(b), (c), (f), and 3(a), MHSA.

(5) Adopt Section 3630.10 as follows:

§ 3630.10. Requirements for a Project-Based Housing Program.

(a) The County shall have the responsibility to ensure compliance with the following requirements when General System Development funds are used for Project-Based Housing:

(1) The unit(s) shall be used for the purpose of providing housing as specified in the County's approved Three-Year Program and Expenditure Plan and/or update, for a minimum of 20 years.

(A) Housing units owned by an individual(s) or non-government agency shall have a regulatory agreement, covenant, or deed restriction that requires the Project-Based Housing to be used for the program as described in the work plan in the County's approved Three-Year Program and Expenditure Plan and/or update for a minimum of 20 years.

(i) The above requirement shall not apply to Master Leasing of Project-Based Housing.

(2) Project-Based Housing constructed on land purchased with General System Development Funds is required to meet the 20 year obligation as specified in subdivision (a)(1) above, regardless of the funding source for the housing units.

(b) Project-Based Housing purchased, constructed and/or renovated with General System Development funds shall comply with all applicable federal, state and local laws and regulations including, but not limited to:

(1) Fair housing law(s).

(2) American Disabilities Act, 42 U.S.C. Sec. 12101 et seq.

(3) California Government Code section 11135.

(4) Zoning and building codes and requirements.

(5) Licensing requirements, if applicable.

(6) Fire safety requirements.

(7) Environmental reporting and requirements.

(8) Hazardous materials requirements.

(c) Project-Based Housing purchased, constructed and/or renovated with General System Development funds shall have appropriate fire, disaster, and liability insurance.

(d) The County shall ensure that the owner of the Project-Based Housing applies for rental and/or operating subsidies from all other applicable and appropriate sources, including project-based Section 8 and HUD McKinney programs and local rental subsidy programs.

(1) The requirement of subdivision (d) above does not apply when the Project-Based Housing is under a lease agreement with the County.

(e) The County shall report any violations of subdivision (a)(1) above to the Department within 60 days of the date the violation is discovered.

(f) The County and the owner of the Project-Based Housing shall maintain, as appropriate, tenant payment records, leasing records and/or financial information for audit by the Department.

(1) All required records shall be available to the Department to inspect, audit, and copy upon demand during normal business hours.

(2) Records may be removed during an audit, if necessary, for copying.

(g) If the Department determines, through an audit or on the basis of other information, that the Project-Based Housing program is not following the work plan specified in the County's Three-Year Program and Expenditure Plan and/or update, the County may be required to return to the Department all or part of the funds.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5813.5(a), 5813.5(c) and (d) and 5878.1(a), Welfare and Institutions Code; and Sections 2(b), (c), (f), and 3(a), MHSA.

(6) Adopt Section 3630.15 as follows:

§ 3630.15. Capitalized Operating Subsidy Reserve.

(a) General System Development funds used by the County to establish a Capitalized Operating Subsidy Reserve shall meet the following requirements:

(1) Funds for the Capitalized Operating Subsidy Reserve shall be deposited into a County-administered account prior to occupancy of the Project-Based Housing.

(2) The amount deposited into the reserve account shall be based on the difference between the anticipated tenant portion of the rent minus revenue lost from anticipated vacancies and the estimated annual operating expenses of the Project-Based Housing.

(A) Operating subsidies for subsidized units shall be calculated on a 20-year projection. The calculation may or may not result in actual funds being available for the full 20 years.

(B) The amount to be deposited in the reserve shall be included in the work plan required in section 3650, subdivision (a)(6).

(b) Capitalized Operating Subsidies may be reduced or terminated under the following circumstances:

(1) The tenant occupying the Project-Based Housing has a rental subsidy from another source.

(2) The Project-Based Housing receives rental subsidies from non-General System Development funding sources.

(A) Project-Based Housing that receive rent or operating subsidy contracts from other sources may receive Capitalized Operating Subsidies for expenses not covered by those subsidy contract(s).

(3) The Department or the County determines that the Project-Based Housing program is not following the work plan in the County's approved Three-Year Program and Expenditure Plan and/or update.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5813.5(a), 5813.5(c) and (d) and 5878.1(a), Welfare and Institutions Code; and Sections 2(b), (c), (f), and 3(a), MHSA.

(7) Amend Section 3650 as follows:

**§ Section 3650. Community Services and Supports Component of the
Three-Year Program and Expenditure Plan.**

(a) The Community Services and Supports (CSS) component shall include the following:

(1) through (5) No Change to Regulation Text.

(6) Program/Service Work Plans: The County shall submit a separate work plan for each proposed program/service. The work plan shall include, but not be limited to:

(A) No Change to Regulation Text.

(B) A narrative explanation of the budget by fiscal year.

(1) The explanation shall include the amount to be deposited to the Capitalized Operating Reserve for a Project-Based Housing program.

(C) through (F) No Change to Regulation Text.

(b) No Change to Regulation Text.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5664(a), 5813.5, 5830(a)(1) and (2), 5830(a)(4), 5847(a)(2) and (3), 5847(c) through (e), 5848(c) and 5878.1, Welfare and Institutions Code.