

Appendix D

Proposed National Housing Trust Fund Allocation Plan and Substantial Amendment

Housing Trust Fund Allocation Plan and Substantial Amendment to the AP and Consolidated Plan

National Housing Trust Fund Background

NHTF was established by the Housing and Economic Recovery Act of 2008 (HERA) and is administered by HUD. NHTF is funded with a set-aside from new mortgage purchases. Per [24 CFR Section 93.250](#), 100 percent of funds must benefit ELI households or households with incomes at or below the poverty line (whichever is greater) when the total amount of NHTF funds is less than \$1 billion. On April 4, 2016, HUD announced that nearly \$174 million will be made available for HTF recipients. Of this amount, the allocation to California is \$23,228,115.

HTF Distribution Method and Recipient Requirements

The Department will distribute NHTF funds by pairing it with the State HOME Investment Partnership (HOME) program with an emphasis on homelessness. The Department will release at least one annual NOFA to distribute HTF and HOME funds to eligible recipients. The State will distribute funds by selecting applications submitted by eligible recipients, as required by [24 CFR Section 91.320\(k\)\(5\)\(ii\)](#) and require a certification by each eligible recipient that housing units assisted with the NHTF will comply with NHTF federal regulations for development of multifamily rental housing.

NHTF eligible recipients are entitlement jurisdictions, non-entitlement jurisdictions, Developers, and nonprofit corporations that have been certified as a Community Housing Development Organization (CHDO) by the Department pursuant to HOME State Regulations section 8204.1. Native American Entities may apply as Developers. Entitlement jurisdictions receive funds directly from HUD. Non-entitlement jurisdictions are those that are eligible for the State HOME Program administered through HCD.

All recipients and related parties to recipients must adhere to nondiscrimination and affirmative marketing requirements of the HHTF Program including but not limited to nondiscrimination requirements, as stated within [24 CFR Section 93.303](#), and [Section 93.350](#). Additionally, recipients and related parties shall comply with the following federal and State requirements:

1. demonstrate ability and financial capacity to complete the activities;
2. make acceptable assurances they will comply with all NHTF requirements during the entire affordability period;
3. demonstrate familiarity and experience with requirements of federal, State, and any other housing programs used in conjunction with NHTF funds; and

4. demonstrate experience and capacity to conduct the eligible NHTF activity in question as evidenced by relevant history.

Pursuant to [CFR 24 Section 93.302\(d\)](#), the federal affordability period is 30 years commencing upon project completion; however, State regulations impose a State affordability period. In order for projects to be eligible for funding, recipients shall comply with State length of affordability periods of 55 years for cities, counties, developers, and CHDOs; and 50 years for projects located on Native American Lands. These affordability periods are required and do not result in any additional points for eligible applications.

Eligibility Requirements

Entitlement Area (EA) jurisdictions, Non-EA jurisdictions, developers and CHDOs are eligible to apply for NHTF Program funding for new multi-family construction projects. To be considered, all interested applicants must complete and submit the State HOME Program application for multi-family new construction and the NHTF application for multi-family new construction as specified in the NOFA. Applications for projects located in EA jurisdictions will be rated and ranked competitively with Non-EA applicants based on the application and selection criteria.

Non-entitlement jurisdictions can only apply for NHTF funding for multi-family new construction by also applying for State HOME funds for multi-family new construction. In the event that NHTF must be released in a stand-alone NOFA, without State HOME Funds, non-entitlement jurisdictions will be able to apply for stand-alone NHTF funds.

Cities and counties applying shall comply with the following:

1. a city may only apply for funding for activities within its incorporated boundaries;
2. a county may only apply for funding for activities within its unincorporated areas;
3. a city or county applicant must demonstrate to the Department's satisfaction that it has:
 - a. staff available or has committed to hiring staff able to operate a local HOME program and oversee the work of an administrative subcontractor, if any;
 - b. resolved any audit finding(s), for prior Department, or federally funded housing or community development projects or programs to the satisfaction of the Department or federal agency by which the finding was made;
 - c. provided a self-certification that it is not debarred or suspended from participation in federal or state housing or community development projects or programs; and
 - d. provided documentation satisfactory to the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Report.

CHDO applicants shall comply with the following:

1. have received the Department's certification to serve the jurisdiction in which the project is located;
2. resolved any audit findings for prior Department or federally funded housing or community development projects or programs to the satisfaction of the Department or federal agency by which the finding was made;
3. provided a self-certification that it is not debarred or suspended from participation in federal or state housing or community development projects or programs;
4. provided documentation satisfactory to the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Report; and
5. provided evidence that the CHDO fulfills at least one of the following roles: sole project developer; sole owner; or sole general partner.

Developer applicants that includes Native American Entities shall comply with the following:

1. The Developer is not applying as a CHDO.
2. For housing projects on Native American Lands, a Developer must be a Native American Entity or a co-owner with a Native American Entity.
 - a. *"Native American Lands", means real property located within the State of California that meets the following criteria: (1) it is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States; and the land may be leased for housing development and residential purposes under federal law; or (2) lands outside the jurisdiction of tribal government owned or co- owned by a Native American Entity.*
 - i. A Native American Entity may apply as a Developer for a project activity within its tribal boundaries or within the boundaries of another Tribe. Project activities may be proposed on tribally owned lands outside the jurisdiction of the Tribe.
 - ii. A Developer applicant must demonstrate to the Department's satisfaction that it has:
 - 1) resolved any audit finding(s), for prior Department, or federally funded housing or community development projects or programs to the satisfaction of the Department or federal agency by which the finding was made; and
 - 2) provided a self- certification that it is not debarred or suspended from participation in federal or state housing or community development projects or programs.

Application Requirements

The State will require the NOFA and applications to contain a description of the eligible activities to be conducted with NHTF funds as required in **CFR 24 [Section 93.200](#)** and that each eligible recipient certify that housing assisted with NHTF funds will comply with NHTF requirements.

The NOFA shall specify the maximum amount of project funds available, any prohibitions on uses of funds, availability of administrative funds, general terms and conditions of funding allocations, timeframe for submittal of applications, and application requirements as follows:

1. Application shall be made on a form made available by the Department.
2. An application shall be deemed complete when the Department is able to determine from the information provided whether the application is eligible for rating.
3. All applications shall be required to contain the following:
 - a. identification of the applicant;
 - b. information on the proposed project;
 - c. information adequate to determine whether the applicant is eligible;
 - d. information adequate to determine whether the project is eligible;
 - e. information indicating whether the applicant or any member of its project team has any unresolved audit findings or has been suspended or debarred from participation in any federal or State housing or community development program;
 - f. information on any pending litigation affecting the applicant's ability to carry out the project;
 - g. identification of any administrative subcontractor;
 - h. a certification that the applicant will comply with federal and State requirements;
 - i. a resolution by the governing board of the applicant authorizing the application and the execution of all required documents;
 - j. information adequate to determine the experience of the applicant with other federal, State, or local housing or community development programs; and
 - k. identification of all members of the project team.

In addition to the information required by subsection (c), applications shall be required to contain the following:

1. a description of the roles, financial structure and all legal relationships of the applicant, developer, owner(s), managing general partner, administrative subcontractor and all other partners in the construction project;
2. the experience of the applicant, developer, owner, and managing general partner in developing the same type of subsidized project as proposed by the application;
3. the readiness of the project to proceed;
4. documentation demonstrating that the project either complies with or is exempt from Article 34 of the California Constitution.
5. the feasibility of the proposed project which shall include the following:
 - a. the financial feasibility of the project and compliance with the Uniform Multifamily Regulations and Federal and State Requirements;
 - b. a market study, property appraisal and Phase I/Phase II environmental site assessment.
 - I. The market study must demonstrate whether sufficient demand exists in the market area to support the proposed project at the projected rents.
 - II. The property appraisal must determine the value of the land upon which the proposed project will be developed. If the land is

leased, the appraisal must include the fair market value of the lease payments.

- III. The Phase I/ Phase II environmental site assessment must demonstrate whether the property is free from severe adverse environmental conditions.
 - IV. For projects located on Native American Lands as defined above, appraisals and a Phase I environmental site assessment will be required based on the data available.
6. Any document prepared pursuant to sub sections (ii) above shall be prepared by an individual or firm which:
 - a. has the appropriate license, when deemed necessary by the Department, and knowledge and experience necessary to competently prepare the document;
 - b. is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible and complete document;
 - c. communicates each analysis, opinion, and conclusion in a manner that is not misleading as to the true market needs for low-income residential property, and the value and condition of the subject property; and is an independent third party having no identity of interest with the applicant, partners of the applicant, intended partners of the applicant, or with the general contractor.
 7. If the applicant is a CHDO, the procedures to ensure the CHDO's effective project control of activities assisted with NHTF funds pursuant to [24 CFR Section 92.300\(a\)\(1\)](#).
 8. Applications must include a Project Milestone Accomplishment Chart and an Expenditure Schedule that substantiates the project timeline from predevelopment activities to project completion. Additionally, the Expenditure Schedule will demonstrate that grant funds will be expended in compliance with the terms of Standard Agreement. NHTF does not allow for contract extensions.
 9. **Project Feasibility:** – Rental projects must demonstrate compliance with NHTF program requirements and HCD's Uniform Multifamily Regulations (UMRs), California Code of Regulations; title 25, division 1; chapter 7, subchapter 19; commencing with section 8300. If funds are disencumbered or made available due to an unexecuted standard agreement, the Department may make such funds available (1) to the next highest-ranked unfunded or partially-funded application from the most recent award of funds if the applicant can demonstrate that a proposed project can be successfully implemented and executed or (2) through the next published NOFA.

NHTF Selection Criteria

There is a total of **1550** application points dispersed through the following selection criteria:

Geographic Priorities for the Distribution of Funds (50 Points)

At least 20 percent of NHTF funds awarded will be reserved for applicants qualifying for Rural Points. Projects will be eligible for Rural Points if located in a census tract that is in a "Rural Area". Rural Area is defined consistent with section 50199.21 of the California Health and Safety Code. The multiple ways to be qualified as a Rural Area are summarized below:

1. The project is located in an area that is eligible for financing under the Section 515 program or successor program of the Rural Development Administration of the United States Department of Agriculture.
2. The project is located in a nonmetropolitan area which are areas automatically considered rural. Under the current definition of “metropolitan statistical area” established by the US Office of Management and Budget, effective in 2010, 21 of California’s 58 counties qualify as nonmetropolitan: Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Sierra, Siskiyou, Tehama, Trinity, and Tuolumne.
3. The project census tract is not designated by the Census Bureau as being in an area that is considered an Urbanized Area. (Any inconsistencies in the above rural area definitions shall be resolved in favor of considering the area a rural area.) However, if there are not sufficient Rural Area applications to meet the 20 percent Rural set-aside requirement, the Department may fund any eligible non-rural applications.

The NHTF funds will be available to all jurisdictions in California, but only projects located in Rural Areas will receive points for the location of their project.

Applicant's Ability to Obligate NHTF Funds (450 Points)

Applicant Capability:

There are two components to the Applicant Capability 1) Prior Experience component and 2) Performance Factor component.

Prior Experience points will be awarded for:

1. prior applicant experience in the implementation of federal, State, or local affordable housing or community development projects in the last seven years.
2. prior development team experience in developing the same type of subsidized project as proposed in the application in the last five years.

Performance Factor

Applicants will receive Performance Factor points unless they receive Performance Factor point deductions. In no case shall deduction points exceed the maximum Performance Points specified in the NOFA for this category. The deduction of Performance Factor points can be for any combination of the following factors:

1. Factor One: for all missed State HOME Program project deadlines of the applicant, developer, owner, and managing general partner including the deadlines for obtaining all permanent financing, project set-up, construction loan closing, project completion, and expenditure.
2. Factor Two: for late or missing State HOME Program monthly, quarterly program income, annual, or project completion reports. HCD reserves the right to deduct points even if the annual report is submitted on time but prepared inaccurately.
3. Factor Three: if applicants, developers, owners, and managing general partners have in the most recent five-year period made a material misrepresentation of any requirement or fact in an application, project report or other document submitted to the Department including but not limited to that which jeopardizes the Department's investment in a project or places the Department at risk of a monitoring finding. HCD will

notify the relevant parties of the proposed penalty and the notification will allow applicants an opportunity to submit an appeal to the Department.

4. Factor Four: for noncompliance with monitoring requirements identified in the last five years. There are two distinct sub-categories:
 - a. First, applicants, owners, and managing general partners who have not complied with monitoring requirements identified by HCD in the last five years will lose up to 100 points. HCD will notify the relevant parties of the proposed penalty and the notification will allow applicants an opportunity to submit an appeal to the Department.
 - b. Second, points will be deducted for the following late reports associated with occupied State HOME rental projects (advance notice will not be provided on the status of these reports):

Non-entitlement Jurisdictions

10 points will be deducted for each late Annual Monitoring Report due to HCD in the most recent period

CHDOs

5 points will be deducted for each late Annual Operating Budget and each late Annual Report due to HCD in the most recent period

Applicant's Ability to Complete the Proposed Project in a Timely Manner, the extent to which the project has Federal, State or Local Project Based Rental Assistance and use of non-Federal Funding Sources (300 Points)

Readiness: - Examines the project development plan, as well as the status of local government approvals, design progress, and financing commitments. Financing commitments that will garner points include:

1. the leverage of non-federal development funding sources; and
2. the extent to which the project has federal, State, or local project based rental assistance.

HCD will also examine the following when awarding the readiness points to eligible applicants: market study, appraisal, floodplain analysis, lead-based paint, asbestos and mold reports, preliminary construction cost estimate and scope of work, Physical Needs Assessment, status in obtaining all required local government approvals and design progress.

How Well the Application Meets the State's Priority Housing Needs (700 Points)

Increasing the supply of rental housing for ELI household is a priority housing need. To encourage projects to serve households that are NHTF-eligible (i.e. Extremely Low-Income households), the State will offer State Objective Points for providing deeper affordability and for serving special needs populations, specifically the homeless. See discussion of State Objectives below.

Additional scoring criteria consistent with the State HOME Program are as follows:

1. Housing Element Compliance - Provides points to cities or counties with an adopted housing element that has been approved by HCD. Projects developed on Indian Reservations or Native American lands, CHDOs, and newly formed cities will receive full points in this rating category.
2. Direct HOME Allocation Declined - HOME entitlement jurisdictions that have given up their HOME formula allocation to compete in the State

HOME Program receive additional points.

3. **Community Need:** - Examines census data such as poverty, race, income, vacancy rates, age of housing stock, housing overcrowding, and home sales prices. Community Need will be evaluated in accordance with the Federal Affirmatively Furthering Fair Housing (AFFH) Final Rule and HCD’s Access to Opportunity Initiative(s).
4. **State Objectives:** - NHTF shall award State Objective points for applications that target housing for the homeless population. The Department will also be providing State Objective points for two of its three housing and community development priorities: 1) Homelessness and 2) Access to Opportunity. Further information and guidance on these additional State Objective factors will be provided in the NOFA.

Maximum Per-unit Development Subsidy

Per HUD’s Housing Trust Fund Allocation Plan Guide, [Sections 91.320\(k\)\(5\)](#) and [93.300\(a\)](#), states may adopt limits used in other federal programs such as HOME. HCD will implement the maximum per-unit development subsidy amount as stated in the State HOME Regulations and defined in the federal HOME program regulations.

Pursuant to federal HOME requirements discussed at: Notice-CPD-15-003-Interim-Policy-on- Maximum-Per-Unit-Subsidy-Limits-for-the-Home-Program, the per-unit subsidy limits for most counties will be capped at 240 percent of the current base limit approved by Congress. California’s Home Program Subsidy Limits per unit, effective as of November 18, 2015, are listed in the below table and subject to change pending HUD guidance.

County	O-BDR	1-BDR	2-BDR	3-BDR	4-BDR
All Counties	\$140,107	\$160,615	\$195,305	\$252,662	\$277,344

Other Program Requirement

Accessibility Requirements

Recipients must agree to meet all applicable requirements, including the mandatory tenant protection provisions found in [12 USC 4568\(c\)\(8\)\(A\)](#) and in [Section 93.303](#) of the NHTF Legislation and Regulations. They must also agree to meet accessibility requirements. These requirements are found in Section 93.301 that includes the requirements of [24 CFR Part 8](#) and implements Section 504 of the Rehabilitation Act of 1973.

Furthermore, NHTF funded projects are subject to the following provisions in the October 2015 TCAC Regulations, related to accessibility:

1. All NHTF projects will adhere to the California Building Code Chapter 11(B), including provisions about the minimum amount of accessibility units as specified in Section 10325(f)(7)(K) of the October 2015 TCAC Regulations.
2. For senior NHTF projects, all projects over two stories shall have an elevator (Section 10325 (g)(2)(C)). Elevators must meet all applicable California Building Code Chapter 11(B) requirements and one-half of all units on an accessible path shall have mobility accessible as defined by CBC 11(B). For more information, see TCAC Regulations Section 10325 (g)(2)(B).
3. All NHTF projects will make reasonable accommodations for prospective applicants with handicaps, as found in Section 10337(b)(2).

State Limited Beneficiaries of Preferences

The State will limit beneficiaries and/or give preference to segments of the extremely low-income population as identified in the HCD's Annual plan and selection criteria.

Rehabilitation Standard

The State will not use NHTF funds for rehabilitation of housing, although rehabilitation is allowed by HUD.

Resale and Recapture Provisions

The State will not use NHTF funds to assist first-time homebuyers, although first-time homebuyer assistance is allowed by HUD.

NHTF Affordable Homeownership Limits

The State will not use NHTF funds for homeownership housing, as allowed by HUD.

Refinancing of Existing Debt

The State will not permit NHTF funds to be used to refinance existing long-term debt.

Certification: The State has previously included its certification that includes Housing Trust Fund in the Form 424 and State Certification attachment.