DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE
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October 31, 2019

MEMORANDUM FOR: ALL POTENTIAL APPLICANTS

FROM: Jennifer Seeger, Acting Deputy Director
Division of Financial Assistance

SUBJECT: **Home Investment Partnerships Program**
Notice of Funding Availability

The Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately $42 million in 2019 federal funds for the HOME Investment Partnerships Program (HOME). This funding is available to eligible HOME Applicants serving low-income (at or below 80 percent of the area median-income (AMI)) and very low-income (at or below 50 percent of AMI) households. This NOFA is subject to state and federal HOME regulations.

State Recipients, as defined by state HOME regulations section 8201(ii), and nonprofit community housing development organizations (CHDOs) are eligible to apply for HOME funding for rental projects, First-time homebuyer (FTHB) projects, and program activities. Developers, including Native American Entities, can apply directly for HOME funding for rental projects and FTHB projects.

Funding under this NOFA will be awarded on a competitive basis. To be considered, the Applicant must submit a complete application with required documentation in hard copy and electronic format. The electronic version must be on a CD or flash drive. The completed application package must be received by the Department **no later than 5:00 p.m.** Pacific Standard Time on **January 22, 2020.**

The Department will only accept applications received through a postal carrier service, such as the U.S. Postal Service, a commercial carrier such as UPS, or FedEx, or other carrier services that provide date stamp verification confirming hand-delivery to the Department office.

Personal deliveries will not be accepted.

Application forms, regulations, and program information are available at the Department HOME webpage. To receive HOME NOFA FAQs and other program information and updates, please be sure you are subscribed to the HOME email list.

To review the HOME NOFA and application forms, Department staff will hold workshops and webinars in November. There will be two workshops and a webinar for HOME program activities; one workshop and a webinar for HOME multi-family projects; and a webinar for HOME FTHB projects.

For the workshop dates, times, and locations, please visit the Department website at http://www.hcd.ca.gov/grants-funding/active-funding/home.shtml. If you have any questions regarding the NOFA, please direct them to the HOME NOFA Unit at: HOMENOFA@hcd.ca.gov.

Attachment

HOME INVESTMENT PARTNERSHIPS PROGRAM

Notice of Funding Availability

Gavin Newson, Governor
State of California

Alexis Podesta, Secretary
Business, Consumer Services and Housing Agency

Douglas R. McCauley, Acting Director
Department of Housing and Community Development

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October 31, 2019

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HOME INVESTMENT PARTNERSHIPS PROGRAM NOTICE

OF FUNDING AVAILABILITY

I. Overview

A. Notice of Funding Availability

The Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately $42 million in 2019 federal funds for the HOME Investment Partnerships Program (HOME).

These funds will be used to meet the following statewide goals in accordance with the Department's 2015-20 Consolidated plan for low-income households earning at or below 80 percent of the area median income (AMI) and very low-income households earning at or below 50 percent of the AMI:

- Increase the supply of affordable rental housing
- Expand homeownership opportunities and improve existing housing
- Provide homeless assistance and prevention services

B. Timeline

Table 1 –Timeline	
NOFA release	**October 31, 2019**
Application due date	**January 22, 2020 by 5:00 p.m.**
Award announcements	**May/June 2020**

C. Authorizing legislation and regulation authority

This NOFA should be read in conjunction with the following regulations, which establish state and federal HOME requirements:

- State HOME regulations
  http://www.hcd.ca.gov/grants-funding/active-funding/home.shtml

- State Uniform Multifamily Regulations (UMR) (November 2017 version)
  http://www.hcd.ca.gov/grants-funding/already-have-funding/uniform-multifamily-regulations.shtml

- Federal HOME regulations
  https://www.hudexchange.info/programs/home/home-laws-and-regulations/

All regulatory references are to the state and federal HOME regulations unless otherwise noted.

Note: Any inconsistencies between this NOFA and state or federal HOME regulations will be resolved in favor of the applicable regulations.

This NOFA does not include the text of all regulations that may be applicable and/or important to particular projects. For proper completion of the application, potential Applicants should consult the regulations linked above and other cross-referenced regulations such as, but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200). Multifamily rental project Applicants should also consult the state Uniform Multifamily Regulations ("UMR" or "UMRs") which apply to all HOME-funded multifamily rental projects. All UMR references herein shall mean the November 2017 UMRs.

Several of the terms used in HOME have specific meanings defined by state and/or federal HOME regulations. When reviewing this NOFA and the application forms, carefully review the regulations for definitions and terms. State HOME definitions are found in Sections 8201 and 8217 of the state HOME regulations.

If state or federal statutes or regulations, or other laws, policies, or procedures, governing HOME or its funding, are modified by Congress, the U.S. Department of Housing and Urban Development (HUD), the State Legislature, or the Department prior to completion of work to be done pursuant to awards made in connection with this NOFA, the changes may become effective immediately and apply to funded activities.

The Department reserves the right, at its sole discretion, to suspend, amend, and/or supplement the provisions of this NOFA from time to time. If such action occurs, the Department will notify interested parties through the Department's HOME listserv.

D. Definitions

Special Needs populations

"Special Needs Populations" means the same as defined under Section 7301 of the Multifamily Housing Program guidelines: agricultural workers, individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental disabilities, serious mental illness or substance abuse disorders; individuals who are survivors of domestic violence, sexual assault, and human trafficking; individuals who are experiencing homelessness; individuals with HIV; homeless youth as defined in Government Code (GC) Section 12957(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; frequent users of public health or mental health services, as identified by a public health or mental health agency; Frail Elderly persons; or other specific groups with unique housing needs as determined by the Department. "Special Needs Populations" do not include seniors unless they otherwise qualify as a Special Needs Population.

Homeless

"Homeless" means the same as defined under the federal Continuum of Care Program, 24 CFR 578.3, as may be amended and renumbered from time to time. "Homeless" includes "chronically homeless" and "homeless with a disability".

II. <u>Program requirements</u>

The following is provided only as a summary and is not to be considered a complete representation of the entirety of the eligibility, threshold, or other requirements or terms and conditions of the HOME program.

A. Eligible Applicants

Eligible HOME Applicants include State Recipients, Developers, including Native American Entities (NAEs), and Community Housing Development Organizations (CHDOs) consistent with applicable state and federal requirements.

1. Eligible Jurisdictions

To be eligible, cities or counties must meet the following criteria:

- have not been designated as "participating jurisdictions" by HUD;
- are not participants in an urban county agreement with a county that is a HUD participating jurisdiction;
- are not participants in a HOME consortium; and
- have proposed projects that are located in the city's incorporated area or the county's unincorporated area.

Eligible jurisdictions for 2019 federal HOME funds are listed in **Appendix A**. If a city or county is not listed in Appendix A, but believe they are eligible to apply to the

Department for HOME funds, the jurisdiction must submit a copy of the consortium or urban county agreement indicating that the jurisdiction is ***not*** a participant of a FY 2019-20 consortium or urban county funding. The copy must be submitted no later than **November 22, 2019,** to the Department NOFA Unit email: HOMENOFA@hcd.ca.gov.

2. **CHDOs**

a) Certification

If you are an existing CHDO under the HOME program, you must submit the Department CHDO approval letter with your HOME application. If you are an existing CHDO and your CHDO recertification was prior to January 22, 2019, you must submit the documents listed in **Appendix B** in addition to the Department CHDO approval letter with your HOME application.

New CHDO Applicants and currently certified CHDOs with certifications that will expire before January 22, 2020 must submit a complete CHDO certification application with all exhibits and attachments by **November 22, 2019.**

The CHDO certification application is available at funding/active-funding/home.shtml. For assistance with the CHDO certification process, contact HOMENOFA@hcd.ca.gov.

b) Projects being applied for are required to be "owned, developed or sponsored" by an eligible CHDO:

1) "Owned, developed, and sponsored" are defined at Section 92.300 of the HOME Final Rule as:

Owner: The CHDO is required to own (in fee simple absolute or long-term ground lease meeting the requirements of UMR Section 8316) the HOME project during development and throughout the period of affordability. As owner, the CHDO is required to oversee all aspects of the development process. In instances where the CHDO lacks Developer capacity, the CHDO may own the project and hire a qualified project manager or contract with a development contractor to oversee all aspects of development. This option is available to CHDOs having experience and capacity to own and operate affordable rental housing, but lack the experience or capacity to develop the project. This option is not available if the project is owned by a limited partnership entity (see sponsor paragraph below).

Developer: The CHDO may act as Developer if the CHDO owns the HOME project (in fee simple absolute or long-term ground lease meeting the requirements of UMR Section 8316). As Developer, the CHDO must be in sole charge of all aspects of the development process, including obtaining zoning and other approvals, securing financing, selecting contractors, overseeing work progress, and determining reasonableness of costs. The CHDO must own the project during development and for multi-family rental projects throughout the period of affordability. This option is not available if the project is owned by a limited partnership entity (See sponsor paragraph below).

CHDOs are not allowed to act as Developer in projects where the CHDO does not have a long-term ownership interest and contractual relationship with the project owner (*i.e.*, a Development Services Agreement) to develop the project.

Sponsor: The HOME Final Rule provides two definitions of "sponsor" of HOME-assisted rental housing:

a) A CHDO "sponsors" a project when the property is "owned" or "developed" by:

    - An affiliated subsidiary of the CHDO, which is wholly owned by the CHDO;
    - A limited partnership in which the CHDO or its wholly owned affiliated subsidiary is the sole general partner; or
    - A limited liability company in which the CHDO or its wholly owned affiliated subsidiary is the sole managing member.

b) A CHDO may "sponsor" a project in situations where the CHDO owns the property (in fee simple absolute), develops the housing, and agrees to convey the housing to a different private nonprofit organization at a predetermined point in time after completion of the development. The nonprofit to which the project will be conveyed does not need to be a CHDO but must be identified and approved by the Department prior to commitment of HOME funds. Additionally, this nonprofit cannot be created by a governmental entity. If for any reason the project is not transferred to this nonprofit, the CHDO remains liable for the HOME funds and project for the term of the affordability period.

c) If awarded, CHDOs must obtain all necessary permanent project financing, including the permanent financing for the required period of affordability, and execute a Standard Agreement with the Department pursuant to Section 8217(b)(1) of the state HOME regulations.

Additional HOME eligibility criteria

1. All Applicants must be compliant with the 50 Percent Rule (the "Rule"), as set forth in the state HOME regulations Section 8204(b). The Rule states that HOME NOFA Applicants with one or more current state HOME contracts, for which the expenditure deadline established in the contract(s) has not yet passed, shall be ineligible to apply for a program activity unless the Applicant has expended at least 50 percent of the aggregate total of HOME program funds originally awarded, as calculated by the Department.

   The expenditure deadline for open HOME contracts is **January 22, 2020,** which is the due date for the 2019 HOME NOFA application. This Rule does not apply to Applicants that currently do not have open HOME program activities contracts.

Note: The Rule also applies to contracts for which the contract period was extended and has not yet reached its extended expenditure deadline.

"Expended" funds are the total of all valid Administrative and Project Drawdown Requests (PDR) or, for Tenant-Based Rental Assistance (TBRA), future commitments on Project Setup Reports received by the Department by the NOFA application deadline. Additionally, for First-time homebuyer (FTHB) and owner-occupied rehabilitation (OOR), a valid PDR is limited to the amount needed for reimbursement of actual expenses for work that has been completed ("Work Completed"). Work Completed varies by activity as follows:

a. FTHB activity: escrow has closed, as evidenced by a final HUD Settlement Statement;

b. OOR activity: construction completed and inspected; and

c. TBRA activity: rental payment assistance amount multiplied by the number of months in the individual tenants' TBRA agreements, to the extent those funds are available in existing TBRA grants.

2. Compliance with 2 CFR 200.512 Single Audit Report submission requirements (excluding CHDOs and Developers).

   To be eligible for funding, the Applicant must comply with the submission requirements of the 2 CFR 200.512 Single Audit report. Single Audit reporting packages are due to the California State Controller's Office (SCO) nine months after the entity's fiscal year ends pursuant to 2 CFR 200.512. For most California entities, the reporting package is due March 31 of each year. Entities with approved extensions on file must submit their reporting package by the due date indicated in their approved extension letter. Applicants are responsible for making the determination as to the applicable due date for the Single Audit reporting packages.

   The Department will determine the status of 2 CFR 200.512 Single Audit reporting compliance as of the application due date, **January 22, 2020**, by consultation with SCO. Jurisdictions that are exempt from filing a 2 CFR 200.512 Single Audit report, because their federal funding falls below the federal threshold, are required to submit a copy of the letter notifying SCO of the exemption status. The letter must be included in their HOME application. Please reference NOFA Section VII.A.5., Single Audit Report, for additional information.

3. Applicants must be in good standing with the State of California and all agencies and departments thereof. By way of example and not limitation, if an Applicant is a business entity, such entity must be qualified to do business in California and currently in good standing with the California Secretary of State and the California Franchise Tax Board.

B. Eligible activities

The state HOME program will fund only the following types of projects and programs. Rental and homebuyer projects with multiple sites must have common ownership and financing.

1. Rental projects

- Rental new construction project – Funds provided to develop a specific multifamily project on a specific site by a specific Developer. Rental new construction projects may be with or without acquisition; or

- Rental rehabilitation project – Funds provided to rehabilitate a specific rental project with or without property acquisition.

Per Section 92.205(a) of the federal HOME regulations, “acquisition” is considered a transfer of real property between unaffiliated third parties. Therefore, a “rehabilitation with acquisition project” is eligible only if there will be an acquisition of real property. A title or vesting change of current ownership is not acquisition of property, whether or not monies were exchanged.

Applicants requesting project funding for a rental project consisting of multiple sites must be in compliance with UMR Section 8303(b).

Note: Projects for acquisition only are not eligible for funding.

2. FTHB projects

a. Construction financing must include the following:

- new construction or acquisition/rehabilitation/ conversion to develop homes on specific site(s).

- 100 percent of the HOME investment rolls over to permanent financing to provide mortgage assistance to eligible First-time homebuyers when the units are sold to eligible homebuyers.

b) Homebuyer mortgage assistance only (no HOME construction financing) in a project that is being constructed or acquired and rehabilitated with other funds to eligible First-time homebuyers.

3. Program activities

Eligible HOME program activities are as follows:

a. FTHB program

- Acquisition-only down payment assistance - Funds awarded only to a HOME-eligible city or county to provide loans to homebuyers for acquisition of a modest dwelling that the homebuyer selects from the open market. CHDOs are ineligible for this activity.

- Acquisition with rehabilitation - Funds provided to a HOME-eligible city, county, or CHDO to perform acquisition with rehabilitation activities. To be considered a CHDO-eligible activity, the CHDO must assume the role of Developer and own the property, completing the rehabilitation of the unit prior to selling the home to an eligible homebuyer.

- Infill new construction - Funds provided to a city, county, or CHDO to provide assistance for the new construction of dwellings on scattered sites, with no more than four dwellings per vacant site. Pursuant to federal National Environmental Policy Act (NEPA) requirements, an environmental assessment (EA) will be required if more than four units, regardless of the funding source, are developed within 2,000 feet of one another. To be considered a CHDO-eligible activity, the CHDO must assume the role of Developer, own the property during construction, and sell the home to an eligible homebuyer within nine months of completion. All dwellings must be situated on land held in fee simple, leasehold, or another manner approved in writing by the Department, and be affixed to a permanent foundation.

Pursuant to state HOME regulations, Section 8207, the FTHB primary mortgage loan must be fully amortized and have a fixed interest rate that does not exceed the current market-rate, as recognized by the 90-day "posted yield" for 30-year fixed rate loans, established by Fannie Mae. Rates are available at Fannie Mae. Please reference NOFA Section II.J. for FTHB primary loan term requirements.

For projects with costs that exceed 100 percent of the appraised value, this activity is only eligible if the application clearly documents the availability of grant funds or building sites currently owned by the Applicant or Developer. For example, if the project includes a development grant as a funding source, then the Applicant shall provide a commitment letter from the funding source in form and content acceptable to the Department in its sole discretion.

b. Owner-occupied rehabilitation (OOR) program

Funds to a HOME-eligible city or county to assist owners whose primary residence is in need of repairs, improvements, or reconstruction necessary to meet federal, state, or local building codes, and for correction of any health and safety deficiencies.

"Reconstruction" means the rebuilding, on the same residential lot. This includes homes destroyed by natural causes. HOME funds must be committed within 12 months of the date of destruction.

c. Tenant-based rental assistance (TBRA) program

Funds provided to a HOME-eligible city or county to administer a program to provide rent subsidies and/or security deposits to eligible households. The minimum term of rental assistance to an eligible household is six months; however, the tenant must be initially offered a one-year lease. The assisted tenant may accept a term of less than one year (minimum six months) after being offered a one-year lease. TBRA funds may be used to assist tenants to reside in any HOME-eligible jurisdiction within the county where the TBRA funds were awarded.

For example, TBRA funds awarded to the City of Winters can also be used for units located in Woodland, West Sacramento, or the unincorporated areas of Yolo County, since all of these jurisdictions are state HOME-eligible within Yolo County, but may not be used in Davis, which is not state HOME-eligible.

Ineligible use of funds includes, but is not limited to, the following:

At HUD's discretion, funds used to refinance mortgage loans are not allowed and are considered ineligible use of HOME funds, in accordance with 2013 HOME Final Rule, Section 92.206(b).

Pursuant to federal HOME regulations section 92.206(a)(4), HOME funds cannot pay for the costs associated to construct or rehabilitate laundry and/or other community facilities located in separate buildings containing no residential units, unless the facilities exclusively serve the residents and their guests. In other words, the space cannot be available for use by the general public.

Pursuant to federal HOME regulations section 92.214, HOME funds cannot be used for the initial deposits to the operating and replacement reserve required by state UMR sections 8308 and 8309. Therefore, in a project where HOME is the only source of financing, or if other lenders/equity partners will not pay for these costs, the Developer must pay them.

Only eligible activities will be scored and ranked. If an application contains two activities, one of which is an ineligible activity, then the eligible activity will be scored.

For further ineligible uses of HOME funds, refer to 2013 HOME Final Rule.

C. Activity combinations and limits

State Recipients and CHDOs may apply for two activities as follows:

1. One rental project and one FTHB project

2. One rental project, and any combination of eligible program activities

3. One FTHB project and any combination of eligible program activities, except for a FTHB program

A separate set of application forms must be submitted for each project and program activity. Projects are rated and ranked separately.

Developers not applying through a State Recipient may submit only one application pursuant to this NOFA. An application may consist of one activity as follows:

- One Rental rehabilitation with or without an acquisition project
- One Rental new construction project
- One FTHB project

D. Allocation of funding

Funding made available by this NOFA will be allocated in accordance with the state HOME regulation cited below:

Table 2 – Allocation of Funding
Section 8212.1(a)
• 40 percent for program activities • 55 percent for rental projects • 5 percent for FTHB projects
Sections 8212.1 and 8213
• A minimum of 15 percent will be reserved for Department-certified CHDOs. • The top ranked project to be developed on Native American Lands that passes threshold and HOME program requirements will be awarded HOME funds. • A minimum of 50 percent will be reserved for Rural areas as defined in Section 50199.21 of the California Health & Safety Code.

State HOME regulations, section 8213(d) specifies that, in the event there are insufficient monies to fund an Applicant's entire program, the Applicant may be offered a lower amount of funding. The lower amount of funding may only be offered if the funding is sufficient to complete a portion of the application activities, which, if evaluated separately, would have been awarded. If the amount of funding available is insufficient, the available funds may be allocated to feasible applications in other allocations.

The Over-the-Counter (OTC) HOME funding is available only if the amount requested by all Applicants is lower than historic levels, as determined by the Department. The Department will notify all parties through a “HCD ListServ” announcement if there will be OTC HOME funding.

E. Activity funding amounts and limits

The loan limits stated below do not include funds for administration, CHDO operations, or activity delivery. Limits apply to the combined amount of funds requested through this NOFA and HOME program Income. Nine percent (9 percent) tax credit projects are not eligible for HOME grant funds except for projects on Native American Lands.

For example, a State Recipient may request $5.1 million for a 4 percent tax credit project (i.e., a $5 million loan, and $50,000 for administration, and $50,000 for activity delivery).

For administration/CHDO operation funds and activity delivery amounts, see NOFA Sections II.H. and II.I.

<u>Rental new construction project loan limits: $5 million</u>

1. Prior to the issuance of the Award letter, the Department will evaluate the financial feasibility of each project and may, as necessary for project feasibility, or to prevent over-subsidizing a project per the UMRs, decrease the HOME loan amount. This also applies to Rental rehabilitation with or without acquisition projects.

2. Deep affordability targeting: Rental new construction projects requesting funds for deep affordability targeting, serving Special Needs and/or homeless populations, or in an area of opportunity, can request up to $1 million in addition to the maximum application amount for their activity shown above. If serving Special Needs or Homeless populations, the project must include supportive services pursuant to Housing First requirements (Welfare and Institutions Code section 8255).

<u>Rental rehabilitation with or without acquisition loan limits</u>

1. $2 million, except where the project meets the requirements of either 2(a) or 2(b), below; and

2. $5 million, if the project meets either of the following requirements:

   a. 80 percent of all units in the project will be restricted to tenants with household incomes at or below 50 percent of AMI at initial occupancy after rehabilitation, with rents restricted to no more than the HOME low-rent level pursuant to 24 CFR 92.252(b); or

   b. 80 percent of all units in the project will have project-based rental assistance and the rental assistance contract is renewable.

Homebuyer project loan limits

1. Up to $80,000 per unit for up to a maximum of the lesser of $2 million or 5 percent of the total amount awarded pursuant to this NOFA.

2. This per-unit amount is only for the purpose of calculating the maximum amount to be requested. The federal per-unit subsidy and Maximum Purchase Price/After-Rehabilitation Value Limits still apply. All loan amounts will be verified by a subsidy layering analysis, and loan amounts will be reduced if the amount requested exceeds what is needed.

Note: Using HOME homebuyer project funds, HOME homebuyer program funds, and/or any HOME program income ("PI") in the same homebuyer project, such as a subdivision, is not permitted except in limited circumstances and at the sole discretion of the Department.

Minimum and maximum amount of funds per project

1. The minimum amount of HOME funds that must be invested in a rental or homeownership housing project is $1,000 for each HOME-assisted unit in the project. This requirement does not apply to TBRA funding.

   For example, a project with 30 units, of which 15 are HOME assisted, requires a minimum HOME investment of $15,000.

2. The maximum amount of HOME funds invested in a project, including activity delivery costs, shall not exceed the lower of:

   a) Per-unit subsidy limits, established by HUD (updated annually), under 24 CFR 92.250; or

   b) The development cost of HOME-assisted units compared to all units in the project and the size of the HOME units compared to all other units in the project, pursuant to 24 CFR 92.205(d)(1); and

3. The maximum amount of HOME funds invested in a project (when combined with other financing and assistance), must accomplish the following:

   a) Enable the project as proposed to be developed and to operate in compliance with all HOME requirements, including the subsidy-layering requirement at 24 CFR 92.250. For more information, see HUD's CPD Notice 98-1.

   b) For rental projects of five or more units, achieve a debt-service coverage ratio in accordance with UMR section 8310.

   The current income and rent limits must be used in these calculations. They are located on the Department's website at: http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml.

The current HUD per-unit subsidy limits are located on the Department website at: http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income- limits.shtml.

FTHB and OOR activities are subject to the maximum purchase price/after rehabilitation value limits. The current limits can be found at http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income- limits.shtml.

Pursuant to federal regulations, a project may receive only one HOME fund award. This prohibits the combination of awards from a State Recipient, and a Developer, or CHDO on the same project, and also prevents the combination of awards from more than one HOME NOFA on the same project.

Pursuant to 24 CFR 92.250, before committing funds to a project, the Department must evaluate the project in accordance with the UMRs and will not invest any HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing. HOME projects may not receive more subsidy than what is required to make them financially feasible.

Program activity funding limits

Maximum: $1 million. Minimum: $300,000. Applies to HOME-eligible Applicants for all program activities (including administration and activity delivery costs) subject to the following chart:

Table 3 – HOME Expenditure Rate* Achieved	
Maximum Application Amount	Expenditure Rate for Applicant's 2014 - 2016 HOME Program Activities Contracts
$1,000,000	60 percent or more
$ 700,000	55 – 59.99 percent
$ 500,000	50 – 54.99* percent

* See "Expended Funds" definition in this NOFA's Section II.A.

** Applicants that do not have open HOME program activities contracts past the expenditure deadline as of the NOFA application due date may apply for up to $500,000.

Successful Applicants (awardees) will be evaluated periodically to determine if their rate of expenditure is reasonable. The Department may disencumber all or a portion of the grant if there is an unreasonably low rate of expenditure, as determined by the Department in its sole discretion.

Program Income

Federal HOME regulations require that all PI funds on hand must be maintained in an interest-bearing account. Interest earned on PI funds is also considered PI. 24 CFR §92.503, revised in December 2016, changes the manner in which PI and other funds in the local HOME account are treated. In order to avoid uncommitting appropriated grant funds from a specific project, each time PI is disbursed for that project, HOME PI (repayments and recaptured funds) may be accumulated throughout the reporting period (fiscal year).

The PI received, as well as any anticipated to be received in the next program year, must be reported to the Department in order to comply with HUD reporting requirements. Additionally, the State Recipient must report how the funds will be used (name the activity and project or program, and the intended beneficiary type). All PI must be reported in the annual report to the Department. As of June 30, 2019, the deadline for committing PI (project specific) on hand is June 30, 2020.

F. Deep affordability targeting

A total of approximately $5 million in HOME funds are available as part of the rental project allocation to assist rental new construction projects to reduce or eliminate permanent conventional debt with mandatory debt service for the purpose of lowering rents on some or all of the project's units. Eligible Applicants may apply for up to an additional $1 million in HOME funds for this purpose.

Eligible projects are rental new construction projects that do not have 9 percent tax credits and set a portion of the units' rents below 50 percent AMI for the entire regulatory term. Projects also must meet the periods of affordability specified in the following table.

Table 4 – Period of Affordability	
Number of Years	Applicant Type
55 years	Cities, Counties, Developers, and CHDOs
50 years	Developments on Native American Lands

Applicants for deep affordability targeting funds must submit two sets of application documents as set forth in the Deep Affordability Targeting Documentation Checklist of the HOME Supplement to the Universal Application. This additional documentation must illustrate any differences in proposed project rent levels, financing commitments, and other financials when funded at the deep affordability targeting funding level versus the regular maximum HOME funding level. The additional documentation must also include another "Financial Feasibility Self Evaluation" form. The Department expects to see a reduction in rents, debt service, operating reserve, and permanent conventional financing commitments as a result of the higher HOME loan amount. However, there must be no difference in total development cost under the regular HOME funding scenario versus the deep affordability targeting funding scenario. The total operating expenses may change based on the population served; however, the amount budgeted for Supportive Services Costs must be consistent with the UMR Section 8314(e). Any differences in total operating expenses and required replacement reserve deposits between the two scenarios must be explained in the application.

Although the project rent schedule may change with deep affordability targeting funds, the total number of units and the size of units in the project may not change. In putting together the unit mix under both scenarios, among the HOME assisted units, no more than four different rent AMI levels shall be used for each bedroom size.

Deep affordability targeting rating factors

The available funds will be allocated to projects that rank high enough to be funded through the normal rating and ranking process and based on the following deep affordability targeting rating factors, as long as Article XXXIV of the California Constitution is complied with:

1. The higher the percentage of HOME units restricted below 50 percent AMI, the more deep-affordability targeting points that will be awarded; and

2. The lower the average rent of HOME units expressed as a percentage of AMI, the more deep-affordability targeting points that will be awarded.

Fifty percent (50 percent) of deep affordability targeting HOME funds will be made available to projects in counties in which the HOME 50 percent AMI limit for a household of four is below $33,150, based on the 2019 HUD HOME 50 percent median income limits. Fifty percent of the funds will be made available to projects in counties whose HOME 50 percent AMI limit for a household of four is $33,150, or more. Unused funds in one group will be made available for the other group.

If a project does not score high enough on the deep affordability targeting factors to receive deep affordability targeting funds, it will be evaluated for overall HOME rating purposes using the rents that are proposed at the regular maximum HOME funding level.

For assistance on deep affordability targeting applications, submit questions to HOMENOFA@hcd.ca.gov.

G. Forms of assistance

1. HOME loans

   HOME assistance shall be in the form of loans to be repaid to local HOME accounts controlled by State Recipients, qualified CHDOs, or the state's HOME account, except for the uses of funds specifically defined under HOME grants. Loans provided to homebuyers must meet the requirements set forth in Section II.J of this NOFA.

2. HOME grants

   HOME assistance must be provided in the form of a grant for relocation payments, lead-based paint hazard evaluation and reduction activities, and TBRA. HOME assistance may be provided in the form of a grant for rehabilitation activities performed under an OOR program if necessary to complete the project when the total of all project indebtedness equals or exceeds the projected after rehabilitation appraised value. The grant amount for OOR activities is limited to 25 percent of the applicable HUD per-unit subsidy limit for the project. This amount is in addition to any grant funds currently permitted for relocation, lead-based paint remediation, and activity delivery costs for the project.

HOME assistance may be used for activity delivery cost grants for State Recipients only. Activity delivery costs are further defined by the term “related soft costs” in the HOME Final Rule at 92.206(d), except that customary closing costs for home acquisition activities may be charged as either a loan or part of the 6.5 percent funding for activity delivery costs.

Note: Homebuyer education costs may be reimbursed only through activity delivery costs and cannot be passed on to the homebuyer.

IMPORTANT: All project-related soft costs associated with an OOR project must be included in the 24 percent funding maximum available for activity delivery costs.

HOME funds for activity delivery costs cannot be drawn down before HOME funds for activity costs are drawn down. If the activity is not completed, and a Project Completion Report for the full amount drawn down is not filed, all HOME funds for that project, including activity delivery costs, must be repaid to the Department.

For FTHB projects, special care should be taken in requesting HOME funds for activity delivery costs during the construction phase. If the entire amount of the construction loan should inadvertently not roll over into permanent loans, the proportional amount of activity delivery costs must be repaid to the Department. For more information on activity delivery costs, please reference NOFA Section II.I, Activity delivery funds.

Project related expenses for NEPA environmental review, and architectural and engineering and other professional services incurred within the 24 months prior to the commitment of funds, may be reimbursed at the sole discretion of the Department after execution of the state’s Standard Agreement. On a case-by-case basis, the Department may, in writing and in its sole discretion, permit reimbursement for other expenses incurred after the date of the Award letter, and prior to the effective date of the Standard Agreement, upon the written request of the Applicant.

H. Administrative and CHDO operation funds

The following limits apply to the amount of administrative and CHDO operations funding that Applicants may receive. Developers, including NAEs, of a project shall not act as an Administrative subcontractor for the same HOME funded project activity and are not eligible for project administrative costs.

<u>Projects</u>

1. City and county Applicants receiving up to $1 million: up to $25,000 for administrative funds

2. CHDO Applicants receiving up to $1 million: up to $75,000 for CHDO operations funds

3. City and county Applicants receiving $1 million or more: up to $50,000 for administrative funds

4. CHDO Applicants receiving $1 million or more: up to $100,000 for CHDO operations funds

Program activities

All program activities Applicants may request up to 2.5 percent of the total application amount for administrative funds (for State Recipient Applicants) or CHDO operations (for CHDO Applicants).

I. Activity delivery funds

Projects

State Recipient rental and homebuyer projects may receive up to $50,000 of the contract amount (loan and grant funds) for activity delivery costs (activity delivery funds). Activity delivery funds are grants and not part of the project loan amount. Activity delivery funds may be used at the State Recipient's discretion to fund the activity, activity delivery costs, or any combination of the two.

For a description of the types of expenses which may be charged to activity delivery, see 24 CFR 92.206(d)(6) and 92.206(f)(2). Activity delivery, administration, and CHDO operations funds should not be included in the development budget since the development budget must reflect HOME loan amounts only, not HOME grant funds. Developers, including NAEs, shall not act as an administrative subcontractor for the same HOME funded project activity and are not eligible for project activity delivery costs.

Programs

Except for TBRA activities, state Standard Agreements (contracts) will automatically allow the use of up to the maximum amount of activity delivery funds for each specific activity. At the time of set-up (i.e., when the HOME recipient is ready to begin drawing activity funds) an activity delivery funds request may be made for actual expenses:

1. Up to 24 percent of the HOME loan/grant amount for OOR and for the rehabilitation component of acquisition with rehabilitation. Activity delivery costs for rehabilitation projects may exceed the 24 percent limit, if documentation of actual eligible costs is provided to the Department with the project set-up. Documentation must be of actual eligible costs; consultant billings, without documentation of underlying actual costs, are not adequate.

2. Up to 6.5 percent of the total acquisition cost for FTHB activities involving acquisition with rehabilitation.

3. Up to 5 percent of the HOME TBRA payment for unit inspection and income

determination activities.

4. Up to 6.5 percent of the HOME amount for all other activities.

J. First-time homebuyer loan terms

Primary loan term requirements applicable to the State Recipient, Developer, and CHDO FTHB loans

Pursuant to the state HOME regulations, FTHBs shall be required to obtain financing from primary lenders in addition to HOME financing. Loans from primary lenders must comply with the following requirements:

1. A minimum loan term of 30 years, with full amortization; and

2. No temporary interest rate buy-downs; loans must have a fixed interest rate that does not exceed the current market rate as established by the 90-day "posted yield" for 30-year fixed rate loans by Fannie Mae at https://www.fanniemae.com/singlefamily/ historical-daily-required-net-yields, plus 100 basis points. This means that loans that have an "interest-only" period are not eligible, even if they convert to a fully amortized loan at some point in the loan term.

Additional State Recipient HOME loan terms

The amount of the HOME loan is limited to the minimum amount necessary to ensure good quality, affordable, and financially viable housing for the duration of the affordability period, as determined by a subsidy layering analysis and underwriting of the project financing.

Note: To maximize limited HOME resources, the amount of the HOME loan may not exceed the amount of the primary mortgage.

Pursuant to state HOME regulations Section 8205(c)(1)(C)(i), loans made by State Recipients assisting FTHBs and homeowners, whose homes are being rehabilitated, shall bear simple interest rates ranging from 0 to 3 percent per annum. Interest and principal payments shall be deferred for the term of the loan. The State Recipient may forgive some or all the accrued interest; however, principal cannot be forgiven.

Additional CHDO HOME loan terms

Except as otherwise provided by the state HOME regulations Section 8206.1(c) regarding CHDO qualification to retain loan repayments, the Department shall be the beneficiary on all HOME promissory notes, deeds of trust, and HOME deed restriction documents.

Pursuant to state HOME regulations Section 8205(c)(1)(A)(ii), loans to FTHBs financed from the CHDO Set-aside shall bear a simple interest rate of 3 percent per annum, computed from the date the Deed of Trust is recorded on the property. Interest and principal payments shall be deferred for the term of the loan.

Commencing on the 11th anniversary of the recordation date, an amount equal to 10 percent of the accrued interest shall be forgiven each year, so that on the anniversary of the recordation date, all interest will have been forgiven if the borrower is in compliance with all requirements set forth in the Department loan documents.

K. Underwriting standards for HOME program activities

When a CHDO is undertaking a HOME infill new construction or FTHB acquisition with rehabilitation program, an underwriting analysis must include reasonableness of profit or return to the Developer (CHDO), project cost reasonableness, market analysis, experience and financial capacity of the CHDO, and whether firm financial commitments are in place to fully fund the project.

State Recipients undertaking an infill new construction program must also comply with the above requirements.

FTHB acquisition-only projects are exempt from the market and Developer capacity analysis, however, the Applicant must demonstrate cost reasonableness and that all financial commitments are in place.

Both OOR and TBRA programs are exempt from this underwriting requirement as long as the HOME assistance is provided in the form of deferred payment loans and grants.

L. Property standards for HOME program activities

The HOME recipient must ensure that all HOME-assisted housing units meet the property standards in 24 CFR 92.251. All HOME-assisted rental housing must be maintained in compliance with 24 CFR 92.251 for the duration of the affordability period.

The HOME recipient shall ensure that, upon project completion, housing rehabilitated with HOME funds meets all applicable local rehabilitation standards or another rehabilitation standard that meets the requirements of 24 CFR 92.251. The HOME recipient shall ensure that the written scope of work provides sufficient detail to establish the basis for a uniform inspection of the assisted housing to determine compliance with the requirements of this section of the NOFA.

The HOME recipient shall review and approve all written cost estimates after determining that costs are reasonable. The HOME recipient shall conduct an initial property inspection to identify deficiencies that must be addressed, as well as the progress and final inspections to determine that work was done in accordance with work write-ups.

The HOME recipient must ensure that existing housing that will be acquired for homeownership is decent, safe, sanitary, and in good repair. At a minimum, such housing must meet all applicable state and local housing quality standards and code requirements, and contain no deficiencies, as set forth by HUD, based on applicable Uniform Physical Condition Standards at 24 CFR 5.705.

The HOME recipient must inspect the housing and document compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. Housing that does not meet these standards must be rehabilitated according to these standards or it cannot be acquired using HOME funds.

All housing occupied by tenants receiving HOME TBRA must meet the standards established in 24 CFR 982.401 or any successor requirements established by HUD. Construction of all manufactured housing, including manufactured housing that replaces an existing substandard unit under the definition of “reconstruction” at 24 CFR 92.2, must meet the Manufactured Home Construction and Safety Standards set forth in 24 CFR part 3280. These standards preempt state and local codes that do not conform to the federal standards for the new construction of manufactured housing.

The HOME recipient must ensure that manufactured housing assisted with HOME funds complies with applicable state and local laws or codes. In the absence of such laws or codes, the installation must comply with the manufacturer’s written instructions for installation of manufactured housing units. All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the definition of ‘‘reconstruction’’ must be on a permanent foundation that meets the requirements for foundation systems as set forth in 24 CFR 203.43f(c)(i). All new manufactured housing, and all manufactured housing that replaces an existing substandard unit under the definition of ‘‘reconstruction’’ must, at the time of project completion, be connected to permanent utility hook-ups, and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability.

In HOME-funded rehabilitation of existing manufactured housing, the foundation and anchoring must meet all applicable state and local codes, ordinances, regulations, guidelines, and requirements.

Manufactured housing that is rehabilitated using HOME funds must meet HOME property standards requirements of this section of the NOFA, as applicable. The HOME recipient shall document this compliance in accordance with inspection procedures established pursuant to 24 CFR 92.251, as applicable.

III. State and federal requirements

A. Physical needs assessment

Pursuant to 24 CFR 92.251, housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes and rehabilitation standards at the time of project completion. Projects involving rehabilitation must do sufficient rehabilitation to ensure the long-term viability of these projects. Pursuant to state UMR Section 8309(b)(2), the Department requires rental rehabilitation project Applicants to submit a third-party physical needs assessment.

B. Timeframes for use of funds

Recipients of HOME funds are subject to progress deadlines and expenditure deadlines that are defined in the state and federal regulations and specified in the Standard Agreement. Failure to meet applicable deadlines may potentially result in the assessment of penalties, potential recapture of HOME funds (spent and/or unspent), and point deductions from future NOFA applications:

Table 5 - HOME Deadlines

	Deadline
Construction loan closing	20 months from award
Expenditure (program) and Project completed	36 months from award
Expenditure (project)	40 months from award

Projects

If a grantee fails to meet one or more of the deadlines outlined in state HOME regulations Section 8217(b)(2), a performance penalty may be imposed on the next project application by the grantee Applicant (city, county, Developers applying directly, or CHDO), as well as the project's Developer, owner, and managing general partner.

If a grantee fails to meet three or more deadlines, the Applicant shall be held out of future project funding rounds until the project is complete, a certificate of occupancy is issued, units are occupied, and HOME funds are fully expended.

Program activities

All program activities funds must be expended by the end of the 36th month following the award date. Grantees must ensure that work is completed well in advance of the expenditure deadline to ensure funds are fully drawn prior to the expenditure deadline.

Exceptions will be considered, at the sole discretion of the Department, only if the State Recipient shows there was clear and indisputable evidence that delays were beyond the control of the borrower and/or the State Recipient, or the Department was responsible for the delay.

C. Affordability requirements

Rent levels shall be restricted for the periods of affordability set forth at the lesser of the rent levels permitted pursuant to the federal HOME regulations, or other rent levels approved by the Department. (The other rent levels approved by the Department would be the lower rents that the Applicant commits to in its HOME application.)

Exceptions to this requirement may be granted in writing by the Department for units receiving HUD Section 8 or other similar rental assistance, or where the project's continued fiscal integrity is in jeopardy due to factors that could not be reasonably foreseen.

At initial occupancy by each household, household income levels must be restricted at the same AMI level as the proposed rent level for each unit. In projects with renewable project-based rental assistance, rents will be determined based on the amount of the tenant-paid portion of rent, and the property manager and/or owner must require that tenant income levels at initial occupancy be consistent with the designated AMI rent level for that unit as set forth in the HOME application. State objective rent levels will be restricted for the entire HOME affordability period. The manager's unit may be excluded from this restriction.

Applicants proposing the use of Low-Income Housing Tax Credits (LIHTC) must apply to the Tax Credit Allocation Committee (TCAC) for the exact rent structure identified in the HOME project application that was provided to the Department.

1. Rental new construction activities

   a) Rental new construction housing projects shall have affordability periods of 55 years, except projects developed on Indian Reservations or Native American Lands, which will be for at least 50 years.

2. Rental rehabilitation activities

   a) Rental rehabilitation housing projects with acquisition shall have affordability periods of 55 years, except projects developed on Native American Lands as defined by Section 8201(y)(1) will be for at least 50 years (if the project is built on leased property).

   b) Rehabilitation without acquisition:

Table 6 – Rehab Period of Affordability	
Amount of HOME Assistance per Unit	Minimum Period of Affordability
More than $40,000	20 years
$15,000 to $40,000	15 years
Less than $15,000	10 years

3. Homebuyer activities

   Homebuyer activities shall have minimum affordability periods of:

Table 7 – Period of Homebuyer Affordability	
Amount of HOME Assistance per Unit	Minimum Period of Affordability
More than $40,000	15 years
$15,000 to $40,000	10 years
Less than $15,000	5 years

Recapture requirements applicable to State Recipients and CHDOs:

Pursuant to federal HOME regulations 24 CFR Section 92.254 and state HOME regulations Section 8206.1(b)(3), if the home is sold prior to the end of the affordability period, the HOME loans are subject to recapture (*i.e.*, the HOME loan must be paid off when the home is sold). Resale restrictions are not permitted, whether in the form of local resale controls or HOME resale controls. The Department may impose repayment requirements on HOME grant funds used for rehabilitation activities completed as part of a homebuyer program.

The entire amount of the HOME loan may be recaptured by the local jurisdiction or by the Department in the case of CHDO loans. The amount of accrued interest recaptured may be reduced as permitted under the state HOME regulations. However, pursuant to 24 CFR 92.254, when the recapture requirement is triggered by the sale of the home, voluntarily or involuntarily, and there are no net proceeds, or the net proceeds are insufficient to repay the amount of HOME funds invested in the home, only the net proceeds can be recaptured, if any. The net proceeds are the sales price minus senior loan repayments (other than HOME funds) and closing costs. HOME loans made under the recapture option may also be assumed by subsequent HOME-eligible purchasers.

Note: Applicants requesting funding for OOR, FTHB projects, and FTHB programs must submit documentation with the application (*i.e.*, promissory note, deed of trust, regulatory agreement, etc.) demonstrating that specific recapture provisions comply with HUD requirements established in 24 CFR 92.254(a)(5)(ii). The Department will submit the recapture provision documentation to HUD for review and approval. A Standard Agreement cannot be executed until HUD approves the proposed recapture language.

4. Owner-occupied rehabilitation (OOR) activities

   OOR activities have no affordability period. However, HOME funds must be provided as loans (except for relocation, lead-based paint remediation, administration, activity delivery costs, and the amount allowed as grants as necessary, and not to exceed 25 percent of the applicable per-unit subsidy limits). Therefore, the HOME loan must be repaid if the owner no longer occupies the home.

D. Income eligibility

HOME funds must be used for the benefit of low- and very low-income families. Refer to the Income Calculation and Determination Guide for Federal Programs, at http://www.hcd.ca.gov/grants-funding/income-limits/income-calculation-and-determination-guide.shtml.

E. Match requirements

HOME match requirements are waived for applications pursuant to this NOFA. However, all eligible HOME match funding that Applicants obtain due to their activity's need for other funding shall continue to be reported in the Project Set-up and

Completion Reports so that the Department can bank any additional match and continue to waive the match. Match sources include funding derived from below-market rate loans (even if these loans are not repaid to the HOME local account), state Low Income Housing Tax Credits, property tax waivers, bond financing, fee waivers, grants, and other sources. The Department will review all Project Set-up and Completion Report forms to ensure that all reportable match funding has been included. For a HOME match calculation tool, see the Department's HOME webpage under Resources.

The HOME Contract Management Manual also contains additional information and resources on match, see http://www.hcd.ca.gov/grants-funding/active-funding/home/cmm.shtml.

F. Annual monitoring fees for multifamily projects

Pursuant to 24 CFR Section 92.214(b)(1)(i), participating jurisdictions, such as the state HOME Program, will charge fees to cover the cost of ongoing monitoring and physical inspection of HOME projects during the state period of affordability. The state HOME program will charge these fees as described in this NOFA.

For Developer and CHDO projects

The Department charges an annual monitoring fee as follows:

Table 8 – Monitoring Fees	
Number of Units	2019
12 or fewer	$5,624
13 to 60	$11,248
More than 60	$16,866

To adjust for inflation, this fee shall increase by 3 percent per year unless the Department determines that the monitoring costs are increasing at a lower rate. Financial assumptions in the HOME application shall be based on the rate that will be effective at the time of initial occupancy.

Annual monitoring fees are mandatory payments. The first payment shall be prorated based upon the total number of days after completion within the first fiscal year.

Lump sum payment made from development funds is not allowed for HOME projects. Payments made must be pursuant to the regulatory agreement.

For State Recipient projects

Cities and counties may charge annual monitoring fees to cover the ongoing cost to monitor and conduct physical inspections provided:

1. The monitoring fee charged may be less than, but not exceed, the amount charged for state CHDO projects;

2. The monitoring fee shall be specifically stated in the State Recipient's loan documents; and

3. An amount equal to 10 percent of the monitoring fee, which is charged to a State Recipient project, will be paid by the State Recipient to the Department to cover the Department's costs of monitoring the State Recipient's rental project compliance activities.

G. Inspections for rehabilitation projects

In rehabilitation projects where HOME is the only funding source (typically, rehabilitation without acquisition), inspections of progress must be conducted and formally documented prior to a draw-down of HOME funds. CHDOs and Developers must hire a third-party construction inspector for this purpose. State Recipient projects may use the jurisdiction's building inspectors to perform the inspections.

H. Reporting requirements

According to state HOME regulations section 8216, project grantee(s) are required to file regular monthly reports, while grantees of other activities must file quarterly reports, on forms provided by the Department. Grantees are responsible to report any activity changes that differ from the Applicant's activity narrative as submitted in the HOME application. The Department, in response to changes, may request additional information to determine the effects the change may have on the activity scope.

Changes can include, but are not limited to:

- Higher costs
- Need for more funding
- Intent to apply for additional funds
- Project financing
- Cost savings
- Environmental issues
- Revised project schedule
- Project team
- Project contact, such as, authorized representative, and/or Applicant
- Relationship among members of the development team
- Utility allowances
- Availability of utility rebates

Awardees are responsible for filing monthly reports starting the month the Standard Agreement begins and are due no later than the tenth day of the following month and the tenth day of each month thereafter until the Project Completion Report is received and approved by the Department.

If the due date falls on a non-traditional business day, the report is due the next traditional business day. Annual performance reports are due the last traditional working day of July, following the end of the fiscal year ending June 30.

IV. Application review

A. Minimum application requirements

Applications for the HOME program are not considered for funding unless the application demonstrates that the following minimum requirements have been met pursuant to Section 8212 of the state HOME regulations:

1. The application was received by the Department by the deadline specified in this NOFA.

2. The Applicant is eligible pursuant to state HOME regulations sections 8204, 8204.1(c), and **Appendix A** of the NOFA.

3. The Applicant proposes at least one eligible activity pursuant to state HOME regulations section 8205 (other than administration).

4. The use of funds is eligible per state HOME regulations sections 8205 and 8210(c).

5. The application is complete pursuant to state HOME regulations section 8211(b).

6. The Applicant has no unresolved audit findings pursuant to state HOME regulations sections 8204(a)(1)(D) (ii) and (2)(C)(i).

7. The Applicant has provided documentation satisfactory to the Department that it complies with the submittal requirements of 2 CFR Part 200.512 Single Audit reporting requirements. For more information, see NOFA section VII.A.5.

8. The Applicant and any member of its program or project team is not on the list of debarred contractors at https://www.sam.gov/SAM/ pursuant to state HOME regulations Sections 8204(a)(1)(D)(iii) and (2)(C)(ii).

9. The total amount of funds requested for both administration and activity-specific costs does not exceed the limits identified in the NOFA.

10. The application form provided by the Department has not been altered or modified.

11. CHDO applications must contain procedures for ensuring effective project control pursuant to 24 CR 92.300(a)(1) and state HOME regulations Section 8204(a)(2)(D).

B. Rating and ranking

The Department will rate, rank and fund applications based on review of eligible activities for which funds are requested. The application must be submitted using Department forms, and contain all information required pursuant to state HOME regulations Sections 8211(c), (d), and (e). Scoring for projects is subject to the appeal process described in NOFA Section IV.F. Each project or combination of program activities will be evaluated and ranked separately.

Except as noted, if at the time the HOME rating and ranking process is underway, and an application has been submitted for the same project for any California Housing Finance Agency (CalHFA) or Department financing source, and is recommended for such funding, HOME will count that financing as committed for rating purposes. To determine how CalHFA and the Department financing is considered for that factor, see the State Objectives factor for special needs housing in this NOFA section IV.C. Consult with CalHFA or the other Department program(s) regarding their rating methodologies. The Department requires full disclosure in each application of all pending and proposed applications for other Department applications for the same project, regardless of who is applying for funding (e.g., city, county, Developer, sponsor, etc.).

Pursuant to Section 8212(d)(5) of the state HOME regulations, HOME project applications must receive a minimum score of 930 points to be funded based on the following categories:

- Housing Element (50 points)
- Formula Reallocation (50 points)
- Rural area (50 points)
- State objectives (200 points)
- Capacity (up to 450 points)
- Community Need (up to 250 points)
- Project Feasibility (up to 200 points)
- Project Readiness (300)

In the case of a tie score, the application demonstrating the highest jurisdictional poverty level will be funded first. If CHDOs and/or NAEs are applying from the same jurisdictional area, the lower of the average rent expressed as a percentage of area median income will be funded first. The Department Director will make final funding decisions in his or her sole discretion.

Applications will be funded in descending order. Applications that qualify for CHDO FTHB project and rural Set-asides will be funded first, based on their scores as necessary to meet the minimum Set-asides.

Once the Set-asides have been achieved and the top ranked project to be developed on Native American Lands as defined in Section 8201(y) has been selected, all remaining applications will be funded within their respective allocations pursuant to state HOME regulations Section 8212.1, based on their scores relative to all other applications with the highest scoring application funded first.

<u>Project application review and analysis</u>

1. In accordance with Section 8212(a)(6) of the state HOME regulations, section 8310 of the state UMR, and the 2013 HOME Final Rule, Section 92.250 (b), the Department will perform underwriting analysis to substantiate the project is financially feasible for at least 20 years, as well as a subsidy layering analysis to determine the amount of the HOME loan.

To determine the project's feasibility and sustainability, the Department will review the project Sources and Uses Form. When completing the form, Applicants should be sure to include all known and potential project costs, such as those caused by the following:

- Site development issues
- Local government approvals
- Project market
- Prevailing wages
- Elevation above a flood plain
- Relocation
- Environmental remediation
- Mitigation of environmental conditions and hazards
- Any other factors that may impact the project costs and/or schedule

If an Applicant proposes to develop site(s) formerly used for agricultural, industrial, manufacturing or commercial purposes, or the site is situated adjacent to, or in close proximity to, rail yards, airports, dumpsites or other potentially contaminated properties, whether abandoned or operating, the Department may require Phase I environmental site assessments, or other soil assessment or testing, and a Floodplain Analysis. If not submitted with the application, these reports will be required after award as part of the NEPA process.

If the Applicant has any indication that these conditions may exist, the Department highly recommends that Applicants complete an assessment, soil sampling, or other appropriate testing methodology, prior to submitting the application. The results should be submitted as part of the application documentation, and any additional costs the project may incur must be included in the project budget and Sources and Uses Form.

Failure to include these items can increase the project costs such that the project is unfeasible, resulting in being noncompetitive for an award. For this reason, it is incumbent upon the Applicant to present verifiable and documented information in the application to prevent any unknown or uncertain project costs.

2. The project has site control pursuant to state UMR section 8303 and must meet HUD requirements regarding acceptable forms of site control. Please reference section VII.A of this NOFA.

3. There is no pending or threatened litigation that could affect implementation of the proposed project.

4. Rental projects must comply with, or be exempt from, the requirements of Article XXXIV of the California Constitution pursuant to state HOME regulations section 8212(a)(7). For more information on Article XXXIV, see NOFA section VII.B.

5. Relocation certification is required for all projects including vacant site(s). Applicants that assert their project does not require relocation must submit a detailed explanation, including supporting documentation, as to why relocation (of tenants, farms, businesses, etc.) is not required. The Department will review the documentation and make a determination as to whether a relocation plan is necessary. Relocation considerations include the following:

   - Vacant land, which is land that is not developed or being used for agricultural purposes.
   - Property vacated for the project, then relocation applies.
   - Tenant is someone who is living or storing their belongings on the property with the owner's consent, whether or not the "tenant" pays rent. Squatters are not tenants.

   If relocation is not required, the Department will issue *a Certification Regarding Non-application of Relocation Benefits and Indemnification Agreement* ("Non-Relocation Certification"). This Non-Relocation Certification must be executed by the Applicant/borrower/ sponsor prior to the Department executing the Standard Agreement, and as a condition thereof. The Non-Relocation Certification substantiates and certifies that there is no displacement including, but not limited to, the displacement of tenants, businesses, and farms; therefore, no relocation is required. Submission of thorough and clear supporting information will lead to a more efficient review and decision.

   The following are examples of supporting documentation for the Non-Relocation Certification:

   - Background information
   - Project information
   - Reports from professionals, such as appraisal or soils report
   - Purchase information
   - Mini relocation plan with pictures of the vacant land
   - Summary relocation report
   - Scope of Work from the general contractor
   - Letter from the project engineer stating the Scope of Work
   - Sales contract evidencing the purchase of vacant land
   - ALTA survey of (purchased) vacant land
   - Property tax assessment for vacant land
   - Photographic evidence of vacant land

C. Application scoring factors and evaluation

Table 9 - HOME Projects Rental New Construction Rental Rehabilitation First Time Homebuyer	
Scoring Factors	**Points**
Factor: Housing Element Cities and counties are required to be in substantive compliance with state Housing Element Law, as defined in state HOME regulations Section 8201(t), as of the NOFA application due date. The Current Housing Element Status Report is available at http://www.hcd.ca.gov/community-development/housing-element/docs/status.pdf. Newly incorporated cities are exempt from this factor, until which time the city is required to submit the Housing Element to the Department for approval. It is the responsibility of the city to know their reporting requirements. If unsure, please send an email inquiry to the HOME NOFA Unit, HOMENOFA@hcd.ca.gov. CHDOs, Developers, and projects to be developed on Native American Lands, as defined in state HOME regulations Section 8201(y)(1), are exempt from this requirement. These entities shall receive full points for this scoring factor.	50
Factor: HUD direct HOME allocation (declined) A jurisdiction that proposes activities that are eligible to receive HUD direct HOME allocation funds and declines the funding for the purpose to preserve their state HOME eligibility, shall receive full points for this scoring factor.	50
Factor: Rural communities Activities proposed in a rural community shall receive full points for this scoring factor.	50
Factor: Capacity - Applicant Experience Applicants that demonstrate experience implementing local, state or federal affordable housing and/or community development projects, during the last seven calendar years (1/1/2013 – 12/31/2019), shall receive points for this scoring factor.	50
Factor: Capacity - Developer Team Experience Developers that show the project team has experience developing the same type of subsidized project as proposed in the application, during the last five calendar years (1/1/2015 – 12/31/2019), shall receive points for this scoring factor.	200

Factor: Capacity - Prior Performance	
For prior performance scoring, all applications receive the maximum 200 points for the factor. As applications are reviewed and rated, points will ***be deducted*** for each the following sub-factor deficiencies, up to a maximum 200 point deduction. • Project reporting deadlines • Applicant reporting • Material misrepresentation • Monitoring noncompliance	
Sub-factor #1: Project Reporting Deadlines If, by the NOFA application due date, an applicant, Developer, owner, and/or managing general partner of any HOME project contract (rental and FTHB) awarded between 1/1/2015 – 12/31/2019, failed to submit their project reports, points shall be deducted for this scoring sub-factor as follows: Permanent financing deadline (5 points) Project set-up deadline (10 points) Construction loan-closing deadline (10 points) Completion deadline (80 points) Expenditure deadline (20 points)	Maximum 200 point deduction
Sub-factor #2: Applicant Reporting Reporting is an essential condition and responsibility of accepting HOME grant funds. Because of this, Applicants that were required to submit reports and failed to comply are subject to a reduction of points, up to a deduction of 50 points. This applies to any HOME program and project monthly and annual reports, and quarterly PI reports and project completion reports, due between 1/1/2015 – 12/31/2019. The Department reserves the right to deduct up to 50 points for this scoring sub-factor.	Maximum 50 point deduction
Sub-factor #3: Material Misrepresentation If between 1/1/2015 – 12/31/2019, an Applicant, Developer, owner, and/or managing general partner made any material misrepresentation or omission in the HOME application, application documentation, project reports and/or any other document, significant in nature, that could jeopardize the Department HOME investment funding in a project, or place the Department at risk of a HUD monitoring finding, up to 200 points shall deducted for this scoring sub-factor.	Maximum 200 point deduction

Sub-factor #4: Monitoring Noncompliance (1/1/2015 – 12/31/2019) There are two noncompliance categories for which up to 100 points may be deducted. 1. Monitoring. Points will be deducted in this category for any application that the Applicant, owner, and managing general partner have failed to remedy any HOME monitoring findings and concerns, identified by the Department. 2. Late reports. Points will be deducted in this category for any 2019 project applications that the Applicant, owner, and managing general partner failed to timely submit reports for occupied HOME rental projects. Point deductions shall be as follows: a. <u>State Recipients</u> • Annual monitoring report (including financial audit) (10 points each) b. <u>CHDOs</u> • Annual operating budget (10 points each) • Annual report (including financial audit) (10 points each)	Maximum 100 point deduction
Factor: Community Need The community need point scoring by activity type is based on the data available in **Appendix C**, at the <u>HOME NOFA webpage</u>.	Up to 250
Factor: Project Feasibility 1. State and federal requirements (including UMRs for rental projects) (195) 2. Highest percentage of HOME assisted units (5)	200
Factor: Project Readiness 1. Rental Projects. Project readiness factors are available in the HOME Supplemental Application, found at the Department <u>HOME webpage</u>. 2. Homebuyer Projects. Project readiness factors are available in the Homebuyer Project Application (Part B), available on the Department <u>HOME webpage</u>. 3. Project Development Plan (PDP). Rating points will be awarded if the <u>required</u>* item was prepared and submitted within the applicable timeframes, and meets the minimum requirements specified in the HOME Supplement. The PDP will be reviewed on applications scored high enough for funding. * The Geotechnical report is not required as part of the application and will not be considered for scoring purposes.	300

Factor: State Objectives	
For the state objective scoring, there are three sub-factors for which applicants can receive points, up to 200 points maximum. As applications are reviewed and rated, points will be awarded for the following objectives: 1. Committed financing 2. Overcoming impediments to fair housing 3. Policy objectives – Special Needs populations – Homelessness – Access to opportunity	
Sub- factor #1: Committed Financing Points will be awarded for projects that have 100 percent of the non-state HOME permanent financing committed by the application due date. Note: Projects receiving 4 percent tax credits qualify for these points, if all commitments other than tax-exempt bonds, 4 percent proceeds, AHP and deferred developer fees are in place.	85
Sub-factor #2: Overcoming Impediments to Fair Housing Applications that propose rental and FTHB projects in census tracts where total minorities are not overrepresented by more than 20 percentage points, compared to the percentage of total minorities in the county, shall receive state objective points.	35

- Continued on next page -

Sub-factor #3: Policy Objectives. Special Needs Populations, or Homelessness, or Access to Opportunity. Special Needs populations (up to 80 points). See State Objectives Table 10. Points shall be awarded to applications that propose rental projects with funding commitments to target Special Needs populations, using any of the following funding: • HUD 811 • HUD Supportive Housing Program • State Mental Health Services Act (MHSA) • No Place Like Home Program • Veterans Housing and Homelessness Program • Housing for a Healthy California Program • Multifamily Housing Program Projects applying for other Department special needs population funding may also qualify if the Department determines the project will receive funding under these programs. Points may also be awarded to projects that provide project-based rental assistance, under the terms of an MHSA or Veterans Affairs Supportive Housing Voucher (HUD-VASH). **-- or --** Homelessness (up to 80 points). See State Objectives Table 10. Points shall be awarded to applications that propose projects serving people experiencing homelessness. If serving Special Needs or Homeless populations, the projects must include supportive services pursuant to Housing First requirements. **-- or –** Access to Opportunity (80 points). Points shall be awarded for projects located in high- and highest- areas of opportunity within the TCAC Opportunity Map, http://www.treasurer.ca.gov/ctcac/opportunity.asp	80
TOTAL AVAILABLE POINTS FOR PROJECTS	**1,550**

Table 10 -- State Objectives: Special Needs Populations	
Percent of Units Designated by the Funding Source as Special Needs Units	Points
30 percent or more	80
25 percent	65
20 percent	52
15 percent	39
10 percent	26
5 percent	13

Table 11 - HOME Program Activities Rating Factors	
Scoring Factors	**Points**
Factor: Housing Element Cities and counties are required to be in substantive compliance with state Housing Element Law, as defined in state HOME regulations section 8201(t), as of the NOFA application due date. Housing Element Annual Progress Reports are available at Annual Progress Reports. Newly incorporated cities are exempt from this factor, until which time the city is required to submit the Housing Element to the Department for approval. It is the responsibility of the city to know their reporting requirements. If unsure, please send an email inquiry to the HOME NOFA Unit, HOMENOFA@hcd.ca.gov. CHDOs are exempt from this requirement and shall receive full points for this scoring factor.	50
Factor: HUD direct HOME allocation (declined) A jurisdiction that proposes activities that is eligible to receive HUD direct HOME allocation funds and declines the funding for the purpose to preserve their state HOME eligibility, shall receive full points for this scoring factor.	50
Factor: Rural communities Activities proposed in a rural community shall receive full points for this scoring factor.	50
Factor: Capacity - Applicant Experience Applicants that demonstrate experience administering HOME and/or other local, state or federal affordable housing and/or community development projects, during the last seven calendar years (1/1/2013 – 12/31/2019), shall receive full points for this scoring factor.	100
Factor: Capacity - Prior Performance For prior performance scoring, all applications receive 150 points. As applications are reviewed and rated, points will be deducted for each of the following sub-factor deficiencies, up to a maximum 150-point deduction. • Reporting noncompliance • Monitoring noncompliance	

Sub-factor #1: Reporting Reporting is an essential condition and responsibility of accepting HOME grant funds. Because of this, Applicants required to submit reports and failed to comply are subject to a reduction of up to 50 points. In assigning these points, the Department will review the Applicant's history of submitting quarterly reports and quarterly PI reports (for both program activity and project- contracts numbered 14-HOME through 16-HOME), and Annual Performance Reports for FY 16-17, 17-18, and 18-19. The Department reserves the right to deduct points even if the Annual Report is on time but prepared inaccurately.	Maximum 50-point deduction
Sub-factor #2: Monitoring Noncompliance (1/1/2015 – 12/31/2019) Points will be deducted for noncompliance with monitoring or contract requirements identified in the last five calendar years.	Maximum 100-point deduction
Factor: Community Need The community need point scoring by activity type is based on data available in **Appendix C**, available on the Department HOME webpage.	250
Factor: Project Feasibility Project feasibility scoring has two scoring categories: activity type and program guidelines, described as follows: 1. Activity type scoring criteria (up to 75 points): a. FTHB program scoring is determined by the number of units sold in the city or county in the last 12-month period that are affordable to lower-income families. b. OOR program scoring is determined by the number of overcrowded households by tenure and the age of the housing stock by tenure, in the city or county as reflected in U.S. Census data. c. TBRA program scoring is determined by number of overpayments by renter households as reflected in U.S. Census data. 2. Program guidelines will be evaluated by the extent they reflect state and federal requirements (up to 25 points).	100
Factor: State Objectives For state objective scoring, Applicants can receive **up to 200 points** maximum. As applications are reviewed and rated, points will be awarded for the following objectives: 1. Expenditure rates 2. Access to opportunity and Homelessness	

Sub-factor #1: Expenditure Rates Applicants that have higher expenditure rates (*i.e.*, expenditure rates of 55 percent and above) for all 2014-2016 HOME program activities contracts shall receive state objectives points as follows: • Expenditure rate at or above 60 percent. (90 points) • Expenditure rate between 55 percent to 59.99 percent. (60 points) Expenditure rates will be calculated in accordance with the "Expended Funds" definition in Section II.A of this NOFA.	90
Sub-factor #2: Access to Opportunity and Homelessness Points shall be awarded for access to opportunity and homelessness actions. These points will be awarded to Applicants with local governments that: 1. Identified at least one activity in each of the three access to opportunity categories: a. Outreach and engagement b. Prioritize and diversify investment c. Encourage housing choices in higher opportunity neighborhoods 2. Either applied for TBRA, or has identified in homelessness strategies at least one action in each of the following three categories: a. zoning and land use b. funding c. data outreach and coordination To receive these points, Applicants must complete and submit the HOME State Objective Worksheets with their application.	110
TOTAL POINTS FOR PROGRAMS	**950**

D. Credits and additional point-deduction rules

1. Credit for good performance on the same project with missed deadlines

   The deducted points for each specific project shall be restored if all of the following events occur prior to the application due date for the same project:

   a) Project completion. The Department receives the final Certificate of Occupancy and the Notice of Completion is filed at the County Recorder's Office.
   b) The Project Completion Report. The Department receives the Project Completion Report showing all HOME units are occupied.

   c) All HOME funds are expended by the original expenditure deadline as stated in the Standard Agreement.

2. Credit for other completed HOME projects

Points will be partially restored to the extent the Applicant, Developer, owner, or managing general partner completed other HOME projects. Five points will be restored for each completed HOME project awarded HOME funds between June 1, 2012 and December 31, 2017.

For example, one of a Developer's three HOME projects awarded in this timeframe missed the completion deadline, resulting in an 80-point deduction. Two projects awarded HOME funds between June 1, 2012 and December 31, 2017 have been completed. 10 points (two projects X five points) will offset the 80-point deduction.

3. Additional point deduction rules

a) Pursuant to state HOME regulations section 8217, Applicants who disencumbered a project contract between June 1, 2012 and December 31, 2017 and their Developers, owners, and managing general partners, if any, for these projects shall receive point deductions according to the above schedule for the deadlines the project did not meet before the contract was disencumbered.

b) Point deductions for projects subject to the holdout penalty (see state HOME regulations section 8217(b)(3)). Applicants that have not received a waiver of the holdout penalty, pursuant to state HOME regulations section 8217(c), may be eligible to apply because the project in question meets a specific performance standard identified in the state HOME regulations section 8217(b)(3)(A), which states the project has been completed, occupied, all funds have been expended, and all HOME funds have been drawn. These Applicants are still subject to a performance penalty of up to 50 points on the next HOME application following the holdout penalty, along with the project's Developer, owner, and managing general partner pursuant to state HOME regulations 8217(b)(3)(B).

E. Rental project scoring and notification

Once rental project application scoring is complete, emails will be sent to the authorized representative and contact person listed in the application describing the scores and facts upon which those scores were determined.

F. Appeals

1. Basis of appeals

a) Upon receipt of the Department's notice that an application has been determined to be incomplete, fail the threshold, or have a reduction to the preliminary point score, Applicants under this NOFA may appeal such decision(s) to the Department pursuant to this section F.

b) No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's eligibility, point score, award, denial of award, or any other matter related thereto.

c) The appeal process provided herein applies solely to decisions the Department made in this program NOFA and does not apply to any decisions made with respect to any previously issued NOFAs or decisions to be made pursuant to future program NOFAs.

2. Appeal process and deadlines

a) Process: In order to lodge an appeal, Applicants must submit to the Department, by the deadline set forth in subsection (b) below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed reference to the area(s) of the application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be accepted if this information would result in a competitive advantage to an Applicant. Once the written appeal is submitted to the Department, no further information or materials will be accepted or considered thereafter. Appeals are to be submitted to the Department either via email at HOMENOFA@hcd.ca.gov ,or at the following address:

Charles Gray, Manager NOFA/Awards Section
Division of Financial Assistance
Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

The Department will accept appeals through a carrier service that provides date stamp verification of delivery such as the U.S. Postal Service, UPS, FedEx, or other carrier services. Deliveries must be received during Department weekday (non-state holiday) business hours of 9:00 a.m. to 5:00 p.m. Pacific Standard Time. Emails to the email address listed above will be accepted as long as the email time stamp is prior to the appeal deadline.

b) Filing deadline: Appeals must be received by the Department no later than five (5) business days from the date of the Department's eligibility, threshold review, or preliminary point score determination letters representing the Department's decision made in response to the application.

3. Decision

Any request to amend the Department's decision shall be reviewed for compliance with the state and federal HOME regulations and UMRs (if applicable), the 2019 HOME NOFA and "application for funding", and any subsequent clarifying documents, such as the HOME program's responses to "Frequently Asked Questions."

It is the Department's intent to render its decision in writing within fifteen (15) business days of receipt of the Applicant's written appeal. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department with respect to the appeal.

4. Effectiveness

In the event that the statute, regulations, and/or guidelines governing this program contain an existing process for appealing decisions of the Department with respect to NOFA awards made under such programs, then this section shall be inapplicable and such existing authority shall govern all appeals.

V. Application submission deadlines and application workshops

A. Required application forms

The application materials for all activities are available on the Department's HOME webpage. All Applicants must submit the Applicant Name Verification Form in addition to the following applicable application forms:

Rental project application

- Universal Application (XLS)
- HOME Supplement to the Universal Application (DOC)
- Developer Capacity Form (XLS)
- State Objectives Worksheet for Rental Projects (XLS)

FTHB project application

- FTHB Project Application Summary (XLS)
- FTHB Project Application (DOC)
- FTHB Developer Capacity Form (XLS)
- FTHB Project Application Worksheets (XLS)
- State Objectives Worksheet for FTHB Projects (XLS)

Program activities application

- Part A - Program Activities Application Summary Instructions, Resolution, and Certifications (DOC)
- Part A - Program Activities Application Summary (XLS)
- Part B - Program Activities Application (DOC)
- Part B - FTHB Program Feasibility Worksheet - Downpayment Assistance (XLS)
- Part B - FTHB Program Feasibility Worksheets - Infill New Construction Programs (XLS)
- Part B - Developer Capacity and Qualifications Form (XLS)
- State Objectives Worksheets for Programs (XLS)

Applicants seeking access to opportunity and/or homelessness state objective points must complete and submit the State Objectives Worksheets with the application package.

Applicants must submit separate application forms and supporting documentation in separate binders for each activity (e.g., Project 1, Project 2). However, program activities must be combined together in one three-ring binder, as noted in the examples below. The application, attachments, and major sections of an application binder must contain tabbed dividers, with titles easy to identify.

In addition, Applicants must submit an electronic copy of their application package on one PC-compatible compact disc (CD) or USB flash drive that includes a copy of the application with signatures. Rental project Applicants must submit one electronic copy of their completed Universal Application (excel format), HOME Supplement, and all PDP attachments. Applicants must submit unprotected electronic worksheets.

Examples

1. An Applicant wishes to apply for a HOME rental project and for a FTHB project. The Applicant must submit separate binders and one CD or USB flash drive as follows:

   a. the original Universal Application, the HOME Supplement, and all attachments for the rental project (binder 1)

   b. one copy of the Universal Application, the HOME Supplement, and all PDP attachments on one CD or USB flash drive

   c. the original FTHB project applications and all attachments for the FTHB project (binder 2)

2. An Applicant wishes to apply for a HOME rental project and for both FTHB program and TBRA program activity funds. The Applicant submits two separate binders and one CD or USB flash drive as follows:

   a. The original Universal Application, the HOME Supplement, and all attachments for the rental project (binder 1)

   b. One copy of the Universal Application, the HOME Supplement, and all PDP attachments on one CD or USB flash drive

   c. The original of the program activities application Part A, Part B, and all attachments for the FTHB and TBRA activities (binder 2)

Note*:* Separate and complete Part B application forms must be submitted for each program activity for which you are applying, such as, FTHB and TBRA.

Rental new construction project Applicants requesting HOME funds for deep affordability targeting are also required to submit a second set of documents pertaining to their project (for more information, see section II.F of this NOFA).

B. Application submission process

A complete original application, and electronic copies on CD or USB flash drive with all applicable information must be received by the Department no later than **5:00 p.m. Pacific Standard Time on January 22, 2020**. The Department will only accept applications delivered through a postal carrier service that provides date stamp verification confirming delivery to the Department such as U.S. Postal Service, UPS, FedEx, or other carrier services. Contact the Department if delivery is not completed by fault of the private courier/U.S. Mail. Personal deliveries are not accepted. The delivery address is:

Department of Housing and Community Development
Division of Financial Assistance,
NOFA Section - HOME Program
2020 W. El Camino Avenue, Suite 500 Sacramento, CA 95833

Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on Department forms and cannot be altered or modified by the Applicant. Excel forms must be submitted as an Excel document, not a PDF document.

Applications must meet all eligibility requirements upon submission. Applications having material internal inconsistencies will not be rated and ranked. It is the Applicant's responsibility to ensure that the application is clear, complete, and accurate.

After the application deadline, the Department staff may contact Applicants for assistance in locating specific information in the application. In addition, the Department may, in its sole discretion, request an Applicant supply clarifying information, provided that such information does not affect the competitive rating and ranking of the application. This clarifying information may be used by the Department to make a determination of whether the project is financially feasible pursuant to state HOME regulations section 8212(a)(6)(a) and complete pursuant to section 8211. No information, whether written or oral, will be accepted if the provision of such information would result in a competitive rating point advantage to the Applicant or a competitive rating point disadvantage to other Applicants. In the event an Applicant's completed HOME application form or exhibit is incomplete or incorrect, the Department will consider all information within the application to determine if there is sufficient information to assign a score.

C. Application workshop

Applicants for HOME funds are strongly encouraged to attend workshops to gain information critical for preparing a competitive application. For the list of workshop dates, times, and locations, the Department will send a message and post workshop information on the Department's website at http://www.hcd.ca.gov/grants-funding/active-funding/home.shtml.

Application workshops will be available for sign up through Eventbrite.

HOME FTHB Subdivision Projects Workshop
This workshop will provide an overview of the **FTHB subdivision project application**.

HOME Rental Project Workshop
This workshop will provide an overview of the application requirements for Rental new construction and Rental rehabilitation (with or without Acquisition) projects only.

HOME Program activities Workshops
This workshop will provide an overview of the application requirements for FTHB, OOR and TBRA program activities.

If you have questions regarding these workshops, send an email to HOMENOFA@hcd.ca.gov.

D. Disclosure of application

Information provided in the application will become a public record available for review by the public pursuant to the California Public Records Act (Chapter 1473, Statutes of 1968). As such, any materials provided will be disclosed to any person making a request under the California Public Records Act. The Department cautions Applicants to use discretion in providing information not specifically requested, including but not limited to, bank account numbers, social security or taxpayer identification numbers, and personal phone numbers and home addresses. By providing this information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

VI. Award Announcements and Contracts

A. Award announcements

Subject to the availability of funds, the Department intends to send Award letters in May/June 2020 for all successful Applicants. If a Standard Agreement is not ready for a construction loan closing, then the borrower and other construction lenders, or any other party associated with the project, must rely on the issuance of an estoppel letter that will be issued (if requested) by the Department at the construction loan closing stage.

Updates on planned awards and contract status will be provided through the Department Listserv system. To be added to this list, go to https://www.hcd.ca.gov/HCD_SSI/subscribe-form.html, scroll down to the HOME program and select the email alert lists you wish to receive.

B. Contracts

Awardee(s) must enter into a Standard Agreement with the Department. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed. The Standard Agreement will contain deadlines that are consistent with state HOME regulations. Failure to meet these deadlines will be considered a material breach of the Standard Agreement.

Note: The Standard Agreement will be delayed if awardee does not timely provide the Department with all required entity resolutions and other entity documentation (*e.g.,* bylaws, articles of incorporation, 501(c)(3) certification, certificate of good standing), in form and content acceptable to the Department in its sole discretion, which evidences that awardee has the legal authority to contract with the Department.

A condition of award will be that a Standard Agreement is executed by the awardee(s) within 90 days (contracting period) of the awardees' receipt of the Standard Agreement. Failure to execute and return the Standard Agreement(s) to the Department within the contracting period may result in award cancellation. The awardee(s) shall remain a party to the Standard Agreement for the full term of the Standard Agreement; removal of the awardee(s) shall be prohibited.

VII. Overlays

A. Federal overlays

All activities funded with HOME funds or HOME PI are required to comply with HUD's federal "overlay" requirements found in 24 CFR 92.350, et seq. of the HOME Final Rule. Compliance with these requirements include but are not limited to: the NEPA; state and federal prevailing wage; relocation; equal opportunity and fair housing; affirmative marketing; Section 504 and the Americans with Disabilities Act; Section 3 (employment of low-income persons); Single Audit report 2 CFR 200. Failure to comply with federal overlays could result in significant project cost increases, rejection of the HOME application, or loss of points in current or future HOME funding rounds.

1. National Environmental Policy Act (NEPA)

   Once the HOME application has been submitted to the Department, and before the NEPA Authority to Use Grant Funds (AUGF) has been issued, the Applicant and any participant in the development process cannot take any "choice-limiting actions" as defined in the next paragraph. Performing a "choice limiting action" may disqualify an Applicant's project from receiving any federal and/or state funds. Thus, Applicants must take great caution before proceeding with project activities.

   Any action on the site or on behalf of the project by anyone is a "choice-limiting action" if it occurs after the HOME application has been submitted to the Department and before the AUGF is issued.

   "Choice-limiting actions" include, among other things, the execution of any agreements (such as loan documents) for any funds (not just HOME funds), the purchase of the site, any construction loan closing (not just the HOME loan), any payment of local fees, and any site work, other than annual weed control.

Note: Pursuant to NEPA regulations, certain activities are not considered "choice-limiting actions" regardless of when they are carried out. These activities include, but are not limited to, such things as: environmental and other studies; resource identification and development of plans and strategies; submitting funding applications, inspections and testing for hazards or defects; purchase of insurance; payment of principal and interest on loans made or obligations guaranteed by HUD; and assistance for improvements that do not alter environmental conditions and are necessary to address the effects from disasters or imminent threats to public safety. For more information on activities not considered choice-limiting actions, see 24 CFR 58.34.

There are four acceptable forms of site control that avoid "choice-limiting" NEPA problems:

a. The site may be purchased, or a long-term lease, may be entered into consistent with the UMR requirements, prior to submitting the HOME application.

b. An option to purchase may be obtained, conditioned on the responsible entity's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review, and the receipt of an AUGF from the Department for State Recipient projects and from HUD for CHDO projects. The cost to secure the site control document can only be a nominal portion of the purchase price. For more details on required and prohibited provisions of agreements consistent with NEPA, see HUD's CPD Notice 98-1 and Assistant Secretary Mercedes Marquez' August 26, 2011 memo on the Department's HOME webpage under Resources.

c. A Purchase Agreement, Disposition and Development Agreement (DDA), Option to Lease, or Exclusive Right to Negotiate may be obtained, but this agreement cannot be conditioned on NEPA clearance or any other federal requirement. General HUD rules state that purchase agreements are acceptable if federal funds are not contemplated. Applicants are cautioned to make sure that the Purchase Agreement or DDA is open-ended or is of sufficient duration that it does not need to be extended after the HOME application is submitted.

   HUD has ruled that if a Purchase Agreement/DDA expires after the HOME application is submitted, and before the AUGF is executed, the execution of an extension would be a choice-limiting action (renewal prior to expiration is acceptable). The application also should ensure the Purchase Agreement/DDA has other contingencies, such as a permanent financing contingency, so that the seller cannot legally compel an individual to purchase the site prior to receiving the AUGF.

d. A conditional purchase contract may also be used for an existing single-family home (1 to 4 units) or an existing multifamily residential project in some limited circumstances, even when federal funds have already been contemplated. For more information, see Assistant Secretary Mercedes Marquez' August 26, 2011 memo on the Department's HOME webpage under Resources.

For all new construction projects and some rehabilitation projects, compliance with NEPA is evidenced by an AUGF. HUD issues the AUGF for CHDO and developer projects, and the Department issues the AUGF for State Recipient projects. For the few rehabilitation projects not requiring an AUGF, state approval of the environmental documentation is still required prior to taking any choice-limiting actions. For a thorough explanation of the NEPA process, see Chapter V of the HOME Contract Management Manual at http://www.hcd.ca.gov/grants-funding/active- funding/home/cmm.shtml.

The Department encourages commencement of the NEPA Environmental Assessment (EA) process as soon as possible, but no later than receipt of the Award letter. For rental projects, project reports often require additional analysis of environmental impacts.

Submit general questions regarding choice-limiting actions, or the level of environmental clearance required of the program or project to HOMENOFA@hcd.ca.gov prior to taking any action concerning your proposed HOME program or project.

The application must disclose all known environmental hazards, and, if awarded, the Department must be fully informed of all environmental issues. Failure to do so will be considered a material misrepresentation and result in a performance point penalty for all members of the development team for future HOME applications with the Department.

Note: The Department is unable to give legal advice regarding a specific project or program. If you have specific questions regarding a "choice-limiting action", or environmental laws that may affect your project or program, the Department recommends that the Applicant consult with a legal advisor or professional consultant prior to taking any actions on your project or program. Applicants understand and agree that they are solely responsible for their decisions with respect to "choice-limiting actions", or potentially "choice-limiting actions", and the Department shall have no liability therefor.

2. Federal prevailing wage requirements (Davis-Bacon Wage Requirements)

   Federal prevailing wages must be paid on projects involving site development, construction, and rehabilitation, where there are 12 or more HOME-assisted units.

   The HOME Applicant and the construction contractor must ensure that the Davis-Bacon Wage Requirements as well as state prevailing wage laws are followed. The Sources and Uses Form submitted with the HOME application will be examined to ensure that prevailing wage costs have been considered (state and federal, if applicable). CHDOs are required to hire an outside consultant to act as a Labor Standards Coordinator. If the HOME Applicant does not have existing staff to enforce federal labor standards, then it is highly recommended that an outside labor consultant be hired.

Homebuyer self-help projects with 12 or more HOME-assisted units may be excluded from Davis-Bacon wage requirements if either of the following applies:

a. Site development was completed before the HOME application, the use of HOME funds was not contemplated when the site development was completed, and there are no agreements or contracts for more than 11 HOME units. If the use of HOME was contemplated before the site development was completed, Davis-Bacon wages must be paid on the entire project; or

b. If the self-help families purchase finished lots and contract individually with the General Contractor for construction of their homes, and there are no other construction contracts or subcontracts that cover more than one unit.

3. Relocation

Relocation costs must be paid if individuals or businesses will be temporarily or permanently displaced as a result of a HOME-assisted project. Specifically, federal relocation requirements extend back to the "initiation of negotiations" (ION). For a discussion of relocation notice requirements, and what constitutes the ION, see the HOME Contract Management Manual.

Submit questions regarding ION determinations to HOMENOFA@hcd.ca.gov. This recommendation applies to all rental and FTHB projects involving any relocation activities. An accurate determination is critical because relocation costs may be higher if an earlier ION date is necessary. Applications for tenant-occupied properties must have already provided the General Information Notice (GIN) to all tenants by the date of the ION.

The Sources and Uses submitted with the application must adequately budget for relocation costs. Consistent with federal relocation requirements prohibiting economic displacement, if rents for existing tenants will increase, a transition reserve must be budgeted to maintain rents for existing tenants at the higher of 30 percent of their income at ION or the rent at the time of ION, not including regular increases in expenses, for as long as they live in the project.

Homebuyer 90-Day Vacancy Rule: Relocation requirements will also be triggered if a FTHB proposes to purchase a home that has been occupied by a renter in the 90 days preceding the date of the purchase agreement. Exceptions to this rule can be made by the Department on a case-by-case basis with adequate third-party documentation that the tenant moved for reasons unrelated to the sale of the property, such as the tenant moving for another job.

Normally, relocation will not be triggered for OOR or TBRA programs. However, temporary relocation costs are an eligible HOME grant expense.

4. Procurement requirements for State Recipients using administrative subcontractors

Except for procurement of the NEPA consultant, which can be accomplished using the small purchase procurement method (*i.e.*, by use of informal price quotations), State Recipients using Administrative subcontractors paid with HOME Funds must follow a competitive Request for Qualifications (RFQ) or Request for Proposals (RFP) procurement process to select the administrative subcontractor. For information on this procurement process, see the HOME Contract Management Manual at http://www.hcd.ca.gov/grants-funding/active-funding/home/cmm.shtml.

5. Single Audit Report documentation -- 2 CFR 200.512

Local governments that expend in excess of $750,000 in federal funds during the fiscal year are required to submit a Single Audit Report package to SCO. The 2017-18 audit package was due by **March 31, 2019**. The Department will determine reporting compliance as of **January 22, 2019** in consultation with SCO. Jurisdictions with federal fund expenditures below the $750,000 threshold are exempt from filing a Single Audit Report. If the Applicant is exempt, the Applicant must include a copy of the letter sent to SCO claiming exemption with their HOME application. For more information on the required content of the letter, please refer to https://www.sco.ca.gov/aud_exempt_entities.html

Note: The Department strongly recommends Applicants verify that SCO has received the complete Single Audit Report by the NOFA application due date. You may check your jurisdiction's compliance status at SCO Status Report webpage.

Questions regarding compliance with the submittal requirements can be directed to HOMENOFA@hcd.ca.gov. The Department will only be able to indicate whether a jurisdiction is in compliance according to SCO's Single Audit Status Report. Technical questions related to why the jurisdiction is deemed not in compliance must be directed to SCO.

6. Compliance with Violence Against Women Act

Pursuant to Title VI – Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – sections 601-603 and 81 CFR 80724, the Violence Against Women Act (VAWA), which is currently under reauthorization by Congress, provides housing protections for survivors of domestic and dating violence, sexual assault, and stalking when it comes to finding and keeping a home they can feel safe in.

VAWA applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistently with all nondiscrimination and fair housing requirements. VAWA now expands housing protections to HUD programs beyond HUD's public housing program and HUD's tenant-based and project-based Section 8 programs. VAWA now provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking.

HOME recipients shall assure that all requirements of VAWA are complied with, including, but not limited to, the following:

a. Domestic violence survivors are not denied assistance as an applicant, evicted or have assistance terminated as a tenant, because the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, and stalking.

b. Implement an “emergency transfer plan” that allows for domestic violence survivors to move to another safe and available unit if they fear for their life and safety.

c. Provide “protections against denials, terminations, and evictions that directly result from being a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.”

d. Implement a “low-barrier certification process” where a domestic violence survivor need only to self-certify in order to document the domestic violence, dating violence, sexual assault, or stalking, ensuring third-party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

B. State overlays

1. Rental project only - Article XXXIV of the California Constitution

Article XXXIV requires local voter approval before any state public body can develop, construct, or acquire a low-rent housing project in any manner. However, the Public Housing Election Implementation Law (California Health & Safety Code, §§ 37000 – 37002) provides clarification as to when Article XXXIV is applicable. Health and Safety Code section 37001, for example, lists a number of project types that are not considered “low-rent housing projects.”

Applicants must submit documentation satisfactory to the Department that shows the project’s compliance with or exemption from Article XXXIV.

If a project is subject to Article XXXIV, the Department requires an allocation letter from the locality, which shows that there is Article XXXIV authority for the project. A local government official with authority should prepare the allocation letter, and it should include the following:

a. The name and date of the proposition, and the number of units that were approved;

b. A copy of the referendum and a certified vote tally;

c. The number of units that remain in the locality’s “bank” of Article XXXIV authority (i.e., the number of units that are still available for allocation); and

d. The number of units that the locality will commit to this project.

If a project is statutorily exempt from Article XXXIV, the Department requires an Article XXXIV opinion letter from the Applicant’s counsel. The Article XXXIV opinion letter must demonstrate that the Applicant has considered both the legal requirements of Article XXXIV and the relevant facts of the project (e.g., the level of participation by all state public bodies, the number of low-income restricted units, and the general content of any regulatory restrictions). Any conclusion that a project is exempt from Article XXXIV must be supported by facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law. The Department reserves the right to accept or reject such opinion letter in its sole discretion.

2. Housing First

In accordance with SB 1380 (2016), Housing First is an evidence-based model designed to permanently house an individual and make available optional supportive services to help them remain stably housed. Housing First means that housing is made available with very low barriers to entry, and applicants are not rejected due to poor credit, financial history, lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of housing readiness. In HOME projects, supportive services providers shall also utilize Housing First principles and offer services as needed and/or requested on a voluntary basis. Housing shall not be contingent upon participation in services.

Applicants proposing to serve Special Needs and/or homeless populations are required to certify and document adherence to Housing First practices in the application. Adherence to Housing First practices shall be subject to periodic compliance monitoring.

3. **Pet-Friendly Housing Act of 2017**

This funding is subject to the Pet-Friendly Housing Act of 2017 (California Health & Safety Code, § 50466).

Each Applicant for a rental project is required to submit a signed and dated certification that residents of the housing development will be authorized to own or otherwise maintain one or more common household pets. Pursuant to this statute, “common household pet” means a domesticated animal, such as a dog or cat that is commonly kept in the home for pleasure rather than for commercial purposes. The certification must be included with the application. Submission of the certification is a prerequisite to the granting of an award under this NOFA.

4. Climate adaptation

California Executive Order B-30-15 addressed the need for climate adaptation and ordered that:

a) All state agencies with jurisdiction over sources of greenhouse gas emissions shall implement measures, pursuant to statutory authority, to achieve reductions of greenhouse gas emissions to meet the 2030 and 2050 greenhouse gas emissions reductions targets.

b) State agencies shall consider climate change in their planning and investment decisions and employ full life-cycle cost accounting to evaluate and compare infrastructure investments and alternatives.

In response to the Governor's Executive Order, the Department strongly encourages HOME recipients to implement projects and program activities in a manner that reduces greenhouse gas emissions and adapts to climate change.

VIII. Other terms and conditions

A. Right to modify or suspend

The Department reserves the right, at is sole discretion, to suspend, amend, modify or supplement the provisions of this NOFA at any time, including without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties via listserv and will post the revisions to the Department website. Be sure to subscribe.

Should the Department receive additional HOME funds after the NOFA application deadline, and before any awards are made, the Department, at its sole and absolute discretion, may elect to increase the total amount of funds available to be awarded under this NOFA to fund those applications that were already received by the application deadline. Making additional funds available does not extend or change the application due date set forth in this NOFA or grant Applicants any additional rights under this NOFA.

B. Conflicts

In the event of any conflict between the terms of this NOFA and either applicable state or federal law or regulation, the terms of the applicable state or federal law or regulation shall control. Applicants are deemed to have fully read and understand all applicable state and federal laws, regulations, and guidelines pertaining to the HOME Program, and understand and agree that the Department shall not be responsible for any errors or omissions in the preparation of this NOFA.