

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF FINANCIAL ASSISTANCE**

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May 15, 2015

**MEMORANDUM FOR: ALL POTENTIAL APPLICANTS**

**FROM:** Laura A. Whittall-Scherfee, Deputy Director  
Division of Financial Assistance

**SUBJECT: NOTICE OF FUNDING AVAILABILITY – \$26 MILLION  
HOME INVESTMENT PARTNERSHIPS PROGRAM**

The Department of Housing and Community Development (HCD) is pleased to announce a Notice of Funding Availability (NOFA) for the HOME Investment Partnerships Program (HOME). This NOFA is for rental projects, first-time homebuyer (FTHB) projects, and program activities. A minimum of \$26 million is available for this NOFA. Additional funding may become available from disencumbrances of existing contracts. **The deadline for receipt of complete applications is July 15, 2015.**

If you have any questions, please contact HOME Program staff at (916) 263-2939.

Attachment

**HOME INVESTMENT PARTNERSHIPS PROGRAM**

**2015  
Notice of Funding  
Availability**



**State of California  
Governor Edmund G. Brown Jr.**

**Susan Lea Riggs, Acting Director  
Department of Housing and Community Development**

**Division of Financial Assistance  
P.O. Box 952054  
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# 2015 HOME NOFA

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**NOTICE OF FUNDING AVAILABILITY (NOFA)  
HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM  
May 15, 2015**

**Anticipated Funding Level: A minimum of \$26 million**

**I. OVERVIEW**

A. Changes from the 2014 NOFA

**Changes from the 2014 NOFA are marked in bold.** All regulatory references are to the State HOME Program regulations unless otherwise noted.

All Applications

- **Applications may no longer be delivered in person, but must be delivered by U.S. Mail or courier only.**

Projects

- HOME rental projects funded by the 2015 NOFA may not use 9% Low Income Housing Tax Credits as a source of funds.
- The amount of HOME rental project funds received by any individual(s), entities, affiliates, and related entities is no longer limited to \$5 million.
- As a result of the 2013 HOME Final Rule amendment to Section 92.250(b) requiring all HOME projects to be financially viable for at least the duration of the affordability period, the cash flow worksheet has been extended to 20 years for underwriting review.
- Rental New Construction (RNC) Developer Fee has increased for the units in excess of 30.
- All RNC project applications shall include a completed Verification of Water and Sewer Availability form confirming that these services are currently available with sufficient capacity to serve the project as proposed.

Program Activities

- **New property standards became effective January 24, 2015, for all Program Activity projects.**

- B. The application is due **July 15, 2015**. The application materials for all activities are available on the State HOME website at [www.hcd.ca.gov/fa/home](http://www.hcd.ca.gov/fa/home). Please review these documents carefully before submitting an application.

Applicants and other interested parties are encouraged to attend one of the upcoming training workshops scheduled in May or June, 2015 (see schedule at the end of this NOFA). These workshops will cover HOME requirements and information needed to submit a successful application.

HOME funds are available to eligible local governments (State Recipients) and nonprofit organizations certified with the Department as Community Housing Development Organizations (CHDOs).

Per Section 8212.1(a) of the State HOME Program regulations, funding made available by this NOFA will be allocated into separate allocations as follows:

- 40 percent for program activities;
- 55 percent for rental projects; and
- 5 percent for first-time homebuyer (FTHB) projects.

Per Section 8213(c), in the event there are insufficient funds to fund an applicant's whole program, the applicant may be offered the amount of funds available, provided it is sufficient to complete a portion of the application which, if evaluated separately, would have been awarded funds. If the amount of funds available is insufficient, the available funds may be allocated to feasible applications in other allocations.

#### C. Allocation of Funds

In addition to the allocation requirements described in Sections A and B above, the total amount made available under both NOFAs will be allocated pursuant to the State regulations as follows:

- Per Section 92.300(a)(1) of the HOME Final Rule, a minimum of 15 percent will be reserved for Department-certified CHDOs.
- Per Section 92.201(b)(1) of the HOME Final Rule, a minimum of 50 percent will be reserved for rural areas.

In addition, \$2 million of the funds available for rental new construction projects will be made available to augment the funding amounts for rental new construction projects with Deep Targeting. For more information, see Section X.

#### D. Eligible Activities

HOME funds may be used for the following activities:

##### **Rental Projects**

- New Construction with or without acquisition.
- Rental Rehabilitation with or without acquisition.

##### **First-Time Homebuyer (FTHB) Projects**

New construction or acquisition/rehabilitation/conversion to develop homes on a specified site or sites to be sold to first-time homebuyers. The entire HOME

investment must be converted to mortgage assistance for the first-time homebuyers when the units are sold to eligible homebuyers.

## Program Activities

- FTHB – Acquisition-only Downpayment Assistance
- FTHB – Acquisition with Rehabilitation
- FTHB – Infill New Construction. This activity is eligible only if the application clearly documents the availability of grant funds or building sites currently owned by the Applicant or Developer for projects with costs that exceed 100 percent of appraised value. Applicants must have a committed source of development subsidy. It is critical that the application clearly provides the required documentation. For example, if the source is a development grant, provide a firm letter of commitment from the funding source for this project. HCD will make the determination based solely on the contents of the application; no opportunity will be provided to submit additional information or documentation.
- Owner-Occupied Housing Rehabilitation (OOR) Program
- Tenant-Based Rental Assistance (TBRA) Program

For more information on HOME eligible activities, see Section V.

Note: The combination of federal and State HOME regulations applicable to mobile and manufactured housing is very complex. Applicants considering these activities are encouraged to discuss eligibility with HOME staff prior to submitting an application.

### E. Funding Announcements and Standard Agreements

HCD intends to send award letters by December 31, 2015, for all successful applicants. Standard Agreements for Program activity will follow 45-60 days after the award letter date. Standard Agreements for projects will not be sent until April or May because they will not be executed until the next State Fiscal Year (FY) due to the availability of federal funds. Thus, no drawdowns for project contracts will be processed until the Standard Agreements are executed by the State in Summer 2016.

To aid in your planning, updates on planned award and contract status will be provided through the “HCD List” e-mail system. To be added to this list, go to [http://www.hcd.ca.gov/fa/DFA\\_Subscriber.html](http://www.hcd.ca.gov/fa/DFA_Subscriber.html). Scroll down to the HOME Program and select the email alert lists you wish to receive.

### F. Responsibility of applicant, if funded, to disclose all changes to the project.

If awarded funding, the awardee must file regular reports each month (for projects) or each quarter (for all other activities). The awardee is responsible to disclose all changes to the activity from that disclosed in the HOME application. Such changes could include but are not limited to: higher cost, the need for additional funds, the intent to apply for additional funds, cost savings, environmental issues, development team member changes, applicant Authorized Representative and/or applicant contact changes, changes in relationship among members of the development team, utility allowances, and availability of utility rebates. HCD may request

documentation of the change as necessary to analyze the significance of the change. Failure to report accurately may result in a loss of points in future HOME funding rounds.

Note: Monthly reports for 2015 project awardees must be filed for the August 2016 reporting period and are due no later than **September 10, 2016**.

## II. REGULATORY AUTHORITY

- A. HOME Regulations and NOFA Suspension/Amendment: All applications are governed by the State HOME Regulations as amended and the federal Final HOME Rule. If the federal or State statutes or regulations governing the program or its funding are modified by Congress, the Department of Housing and Urban Development (HUD), the State Legislature, or HCD prior to completion of work, the changes may become effective immediately and apply to funded activities.
- B. HCD reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, HCD will notify interested parties.
- C. This NOFA does not include the text of all applicable regulations that may be important to particular projects. For proper completion of the application, HCD encourages potential applicants to consult the State and federal HOME Program regulations, and other federal cross-cutting regulations (referred to in Subpart H of the federal HOME regulations). Rental project applicants should also consult the State Uniform Multifamily Regulations (UMRs), which apply to all HOME-funded rental projects.

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

For your convenience, hyperlinks to the HOME Regulations and UMRs are provided below:

State HOME Regulations

[http://www.hcd.ca.gov/fa/home/State\\_HOME\\_Regulations\\_10-10-12.pdf](http://www.hcd.ca.gov/fa/home/State_HOME_Regulations_10-10-12.pdf)

State Uniform Multifamily Regulations

<http://www.hcd.ca.gov/fa/home/UniformMultifamilyRegsFinal071110.pdf>

Federal HOME Regulations

[eCFR — Code of Federal Regulations](#)

HOME staff is available to discuss Program requirements and provide individual technical assistance to applicants preparing an application.



### III. APPLICATION PROCEDURES, FINAL FILING DEADLINE, AND AWARD ANNOUNCEMENTS

- A. One original application must be received by HCD no later than 5:00 p.m. on July 15, 2015.

Applicants must submit separate application forms in separate binders for each activity (e.g., Project 1, Project 2); however, program activities can be combined together in one binder as noted below. In addition, rental project applicants must submit one copy of their completed Universal Application Form, HOME Supplement, and all Project Development Plan (PDP) attachments on a PC-compatible Compact Disc (CD). Please unprotect electronic worksheets so staff can utilize when preparing project reports. All application attachments and major sections of an application binder with tabbed dividers.

#### Examples:

1. An applicant wishes to submit one application for a rental project and a FTHB project. The applicant will submit two separate binders and a PC-compatible CD as follows:
  - a) the original Universal Rental Project Application Form, the HOME Supplement, and all attachments for the rental project, (binder 1);
  - b) one copy of the Universal Application Form, the HOME Supplement, and all PDP Attachments on CD and;
  - c) the original FTHB Project Application Part A, Part B, and all attachments for the FTHB project (binder 2).
2. An applicant wishes to submit one application for a rental project and FTHB and TBRA program activity funds. The applicant submits two separate binders and a CD as follows:
  - a) the original Universal Rental Project Application Form, the HOME Supplement, and all attachments for the rental project, (binder 1);
  - b) one copy of the Universal Application Form, the HOME Supplement, and all PDP Attachments on CD; and
  - 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 you are applying for (e.g., FTHB and TBRA).***

Rental new construction project applicants requesting HOME funds for “Deep Targeting” are also required to submit a second set of documents pertaining to their project if it were to receive additional funds for Deep Targeting (for more information, see Section X).

Applications must be delivered via private courier or U.S. Mail and must be received by the HOME Program no later than 5:00 p.m. on **July 15, 2015**. **Personal deliveries will no longer be accepted, per HCD policy**. The delivery address is:

Department of Housing & Community Development  
Division of Financial Assistance  
HOME Program  
2020 West El Camino Avenue, 5<sup>th</sup> floor  
Executive Suite – Reception Area  
Sacramento, CA 95833

Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on HCD forms and cannot be altered or modified by the Applicant.

#### B. CHDO Certification

New applicants and currently certified CHDOs with certifications that will expire before **July 15, 2015**, must submit a complete Application for CHDO Certification with all exhibits and attachments by **June 16, 2015**.

The Application for CHDO Certification is available at:

[http://www.hcd.ca.gov/fa/home/Certification\\_CHDO.html](http://www.hcd.ca.gov/fa/home/Certification_CHDO.html)

- Annual Recertification for Existing CHDOs: HUD requires HCD to conduct a modified re-certification process each time new CHDO set-aside funding is awarded. If you are an existing CHDO last certified prior to January 1, 2015, submit the documents set forth in NOFA Appendix G with your HOME application by the application deadline of **July 15, 2015**.

For assistance with the CHDO Certification Process, contact Laura Bateman at (916) 263-1302.

#### C. Application Form

After the application deadline, HOME staff may contact applicants for assistance in locating specific information in the application. In addition, HCD may, in its sole discretion, request an applicant to 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 HCD to make a determination of whether the project is financially feasible pursuant to Section 8212 (a)(6)(a) and complete pursuant to Section 8211 of the State Regulations. 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, HOME will consider all information within the application to determine if there is sufficient information to assign the score.

#### D. Rental Project Scoring, Notification, and Appeal Process

Rental Project application scoring is expected to be completed by **August 31, 2015**. E-mails will be sent to the authorized representative and contact person listed in the application describing the scores and specific facts upon which those scores were determined. Applicants will have five working days to submit an appeal to the HCD e-mail address provided. A final determination will be provided within five working days from receipt of the appeal.

#### IV. ELIGIBLE APPLICANTS

A. To be eligible, the applicant must be a city or county, or a nonprofit corporation that has been certified as a CHDO by the Department.

B. For cities and counties:

- cities and counties that have not been designated as Participating Jurisdictions by HUD;
- cities that are not participants in an urban county agreement with a county that is a HUD Participating Jurisdiction;
- cities and counties that are not participants in a HOME consortium; and
- eligible cities and counties where projects are located in the city's incorporated area or the county's unincorporated area.

C. For CHDOs:

- only housing that is "Owned, Developed or Sponsored" by an eligible CHDO qualifies for the CHDO set-aside funds;
- "Owned, Developed and Sponsored" are defined at Section 92.300 of the 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 where the project is owned by a partnership entity (see Sponsor)

Developer: The CHDO may act as developer if the CHDO owns (in fee simple absolute or long-term ground lease) the HOME project. 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 where the project is owned by a partnership entity (see Sponsor).

Prior to publication of the 2013 Final Rule, CHDOs were allowed to act as developer in projects where the CHDO had no long-term ownership interest if the CHDO had a contractual relationship with the project owner (i.e. a Development Services Agreement) to develop the project. This option is no longer available.

Sponsor: The 2013 Final Rule provides two definitions of “Sponsor” of HOME-assisted rental housing:

1. A CHDO “sponsors” a project when the property is “owned” or “developed” by:
  - a. An affiliated subsidiary of the CHDO, which is wholly owned by the CHDO;
  - b. A limited partnership in which the CHDO or its wholly owned affiliated subsidiary is the sole general partner; or
  - c. A limited liability company in which the CHDO or its wholly owned affiliated subsidiary is the sole managing member.

Note: Selection “b” is the option most commonly used in tax credit projects, which applies to most, but not necessarily all of the multi-family rental project applications received by the Department.

2. A CHDO may “sponsor” a project in situations where the CHDO owns (in fee simple absolute) and develops the housing and agrees to convey the housing to a different private non-profit organization at a predetermined point in time after completion of the development. The non-profit 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 non-profit cannot be created by a governmental entity. If for any reason the project is not transferred to this non-profit, the CHDO remains liable for the HOME funds and the project for the term of the affordability period.

#### D. Eligible Applicants

Eligible jurisdictions for FY 2015 are listed in Appendix A of the NOFA. If the city or county is not listed in Appendix A, but you believe it should be, submit a copy of the consortium or urban county agreement for your county indicating that your city or county is not a participant for FY 2015 consortium or urban county funding by **June 26, 2015**.

Pursuant to State HOME Regulation Section 8217, State Recipients and CHDOs that may be held out from applying in a particular funding round because they have a HOME project that has missed three deadlines, may request that this penalty be waived if it can be demonstrated that one or more missed deadlines were clearly beyond the control of all of the following parties: applicant, developer, owner, and managing general partner. To discuss, contact Laura Bateman, HOME Projects Manager at (916) 263-1302. In order to receive a decision on your waiver request before the HOME application deadline, it is recommended that you submit your written waiver request by **June 15, 2015**.

HOME funds may be used to assist Indian tribes consistent with applicable State and federal requirements. However, pursuant to federal HOME regulations and State HOME Regulation 8204, only cities, counties, and CHDOs may submit a HOME application. Indian tribes are not eligible applicants.

E. Minimum Expenditure Requirement for Program Activities (50 Percent Rule)

Pursuant to State HOME Regulation Section 8204(b), applicants with current HOME Program activity contracts are eligible to apply for HOME Program activity funds only if they have expended, by the application due date of July 15, 2015, at least 50 percent of the total of all program activity funds originally awarded in their current HOME contracts. Potential applicants with no open HOME Program Activity contracts are not affected by this Rule. A current HOME contract is one where the expenditure deadline has not yet occurred by **July 15, 2015** (i.e., generally a contract with numbering starting, "12-HOME", "13-HOME" or "14-HOME" and ending with a unique 4- or 5-digit contract number).

Note: If an earlier contract has been extended and has not yet reached its extended expenditure deadline, it will count for this 50 percent Rule.

"Expended" funds are the total of all valid draws (or, for TBRA, Project Setup Reports) received at HCD by the application deadline. Additionally, for FTHB and OOR, a valid draw is limited to the amount needed for reimbursement of actual expenses for work that has been completed ("work completed"). The definition of "work completed" varies by activity, as follows:

- FTHB activities: escrow has closed;
- Owner-Occupied Rehabilitation (OOR) activities: the amount expended is the amount of construction/rehabilitation payments that were made for work completed and inspected;
- Tenant-Based Rental Assistance (TBRA) activities: the amount expended is the rental assistance amount multiplied by the number of months in the individual tenants' TBRA rental assistance agreements, to the extent those funds are available in existing TBRA grants.

F. Compliance with OMB A-133 Audit Submission Requirements

To be eligible for funding, the applicant must be in compliance with the submission requirements of the OMB A-133 Audit report. Audit reports must be submitted to the State Controller's Office (SCO) by **July 15, 2015**, to meet this requirement. HCD will make the determination on the status of A-133 Audit compliance as of July 15, 2015, by consultation with SCO. Jurisdictions that are exempt from filing an A-133 Audit because the level of federal funds is below the federal threshold must, in addition to notifying SCO, also submit with their HOME application a copy of the letter to SCO notifying their exempt status. For additional information, see Section XXIII.

G. Over-the Counter (OTC) Program Funds

Note: The OTC funding availability is possible only if the amount requested by all applicants is far lower than historical levels. HCD will notify all parties through the "HCD List" process if there will be an OTC Program funding opportunity.

## V. ELIGIBLE ACTIVITIES

To be eligible for funding, an application must be for one of the following types of projects and/or program activities. Rental and homebuyer projects with multiple sites must have common ownership and financing.

### Projects

1. 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.

Rental Rehabilitation With or Without Acquisition – Funds must be provided to rehabilitate a specific rental project without a transfer of ownership or to both acquire and rehabilitate a specific rental project.

Per Section 92.205 (a) of the federal HOME regulations “acquisition” is generally thought of as an arms-length transfer of real property between unrelated parties. Therefore, a project is eligible as a “rehabilitation with acquisition project” only if there will be an acquisition of real property, not just a change in partnership interests.

Projects involving only acquisition (where no rehabilitation is being done) are not eligible.

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 UMR 8309(b)(2), HCD will require that rental rehabilitation project applicants submit a reliable physical needs assessment (PNA) prior to receiving an award.

NOTE: Readiness points are awarded for submitting an acceptable PNA with the application. Failure to include the PNA will likely result in a lower, less competitive score.

### Rehabilitation Projects Where HOME is the Only Source of Financing

Inspections - In rehabilitation projects where HOME is the only source of financing (typically rehabilitation projects with no acquisition involved), inspections of progress must be conducted and formally documented prior to draw down of HOME funds. CHDOs must hire a third-party construction inspector for this purpose. State Recipient projects may use the jurisdiction’s own staff to perform these inspections.

Capitalized Operating and Replacement Reserves – Pursuant to Section 92.214 of the federal HOME regulations, HOME dollars cannot be used to pay the initial deposits to the operating and replacement reserves required under 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, they must be paid by the developer.

### Annual Monitoring Fees for Multifamily Projects

Pursuant to the HOME Final Rule, Section 92.214(b)(1)(i), *Rental Compliance Monitoring Fees*, Participating Jurisdictions, such as the State HOME Program, may 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.

With few exceptions, the fee structure for HOME projects will be the same as for projects which are restructured under AB 1699 guidelines.

### For CHDO Projects:

Beginning with projects funded under the 2014 HOME NOFA, the Department shall charge an annual monitoring fee according to the following schedule:

1. \$5,000 per annum for projects with 12 or fewer units;
2. \$10,000 per annum for projects with 13 to 60 units; and
3. \$15,000 per annum for projects with more than 60 units

To cover inflation, this fee schedule shall increase by 3% per year for each year after 2014, unless the Department determines that its monitoring costs are increasing a lower rate. Financial assumptions in the HOME application should be based on the rate that will be effective at the time of initial occupancy.

Annual monitoring fees are mandatory payments. If making a mandatory payment negatively impacts the amount of supportable senior debt, the Department may authorize payment of the fee “below the line”, to the extent that the project generates sufficient cash flow, with 100% of the cash flow available after payment of operating expenses and required reserve deposits applied toward the HOME monitoring fee prior to payment of deferred developer fees, asset management or partnership management fees.

Payments shall be made annually, with the first payment due on the last day of the project’s fiscal year immediately following project completion. The first payment shall be prorated based upon the total number of months after completion falling within the first fiscal year.

Lump sum payment made from development funds is not allowed for HOME projects.

### For State Recipient Projects:

Cities and counties may also charge annual monitoring fees to cover the ongoing cost of monitoring and conducting physical inspections for State Recipient projects provided that:

1. The monitoring fee charged may be less than, but shall 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% 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.

2. Homebuyer Projects - The development of homes to be sold to first-time homebuyers. HOME funds can be used for:
  - a) Construction financing of new construction or acquisition/ rehabilitation/ conversion projects, with 100 percent of the HOME investment rolling over to permanent financing and being used to provide mortgage assistance to first-time homebuyers; or
  - b) Homebuyer mortgage assistance only in a project that is being constructed or acquired and rehabilitated with other funds.

### **Program Activities**

State Recipients may apply for any number of HOME-eligible program activities set forth below. CHDOs are eligible to apply for only FTHB acquisition with rehabilitation and/or infill new construction funds. Applicants must submit program guidelines according to the requirements of the HOME application form and feasibility information for each activity for which they are requesting funds.

Eligible program activities are as follows:

- **First-Time Homebuyer (FTHB) Program**
  - a. Funds provided to a HOME-eligible city or county to provide loans to homebuyers for acquisition only and/or acquisition with rehabilitation of a modest dwelling the homebuyer selects from the open market, and/or;
  - b. Funds provided to a HOME-eligible 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, and/or;
  - c. Funds provided to a city, county or CHDO to provide assistance for the new construction of dwellings on scattered sites in an existing built-out neighborhood, with no more than four dwellings on each vacant site. Pursuant to National Environmental Policy Act (NEPA) requirements, an Environmental Assessment (EA) will be required if more than four units, regardless of 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 (9) months of completion.

All dwellings must be situated on land held in fee simple, leasehold, or other manner approved in writing by the department and be affixed on a permanent foundation. Term of the leasehold must be for at least the period of affordability.

**Pursuant to State Regulation Section 8207, the FTHB primary mortgage loan must be fully amortizing and have a fixed interest rate that does not exceed the**



current market-rate, as established by the 90-day “posted yield” for thirty-year fixed rate loans, as established by Fannie Mae at <https://www.efanniemae.com/sf/refmaterials/hrny/index.jsp>: plus 100 basis points. For more information regarding primary loan terms, see Section XIII.

- Owner-Occupied Rehabilitation (OOR) Program

Funds provided 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 correct all health and safety deficiencies.

Effective August 23, 2013 reconstruction means the rebuilding, on the same lot, housing standing on a site, or housing that has been destroyed by natural causes, provided that the HOME funds are committed within twelve (12) months of the date of destruction.

- 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.

## **VI. INELIGIBLE USES OF FUNDS**

- Per the discretion provided by HUD under Section 92.206 (b) of the HOME Final Rule, HCD does not permit the use of HOME funds for refinancing. However, repayment of bridge loans, under certain circumstances, may be eligible. To discuss your situation, contact HCD.
- Rental Rehabilitation and/or Acquisition programs are ineligible.
- Projects involving only acquisition are ineligible.
- Pursuant to HOME federal Regulation 92.206 (a) (4), for rental projects, costs associated with the construction or rehabilitation of laundry facilities and other community facilities which are located in separate buildings containing no residential units are ineligible HOME costs, and cannot be paid for with HOME funds.

Note: In order for space within residential buildings, such as laundry facilities or a community room, to be paid for with HOME funds that space has to be for the exclusive use of project residents and their guests. It cannot be space available for use by the general public.

- For further ineligible uses of HOME Funds, refer to 24 C.F.R. 92.214 of the federal regulations.

If an application is submitted proposing an ineligible use, only that portion of the application proposing eligible uses will be rated and eligible for funds.

## VII. FORMS OF HOME ASSISTANCE

- A. 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 XIII.
- B. 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 Tenant-Based Rental Assistance.

HOME assistance may be provided in the form of a grant for rehabilitation activities performed under a first-time homebuyer or owner-occupied rehabilitation 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 rehabilitation activities is limited to up 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 also be used for Activity Delivery Cost grants. 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 either as a loan or part of the 6.5 percent funding for Activity Delivery Costs. Note: Homebuyer Education Costs may be reimbursed through only Activity Delivery Costs and cannot be passed on to the homebuyer.

**IMPORTANT:** All project-related soft costs associated with an owner-occupied project must be included in the 24 percent funding maximum available for Activity Delivery Costs.

HOME funds for Activity Delivery Costs must be drawn down at the same time 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 HCD. For FTHB projects, special care should be taken in requesting Activity Delivery funds 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 HCD. For more information on Activity Delivery Costs, see Section XII.

- C. NEPA Expenses: To encourage early NEPA environmental compliance, HOME funds may be used to reimburse NEPA expenses incurred by a successful applicant prior to the effective date of the Standard Agreement. These expenses must be reasonably necessary for the proposed project and will be paid only after the Standard Agreement is fully executed. NEPA consultants may be chosen using the “small purchase” procurement method (i.e., by use of informal price quotations).
- D. Expenses Incurred Prior to Standard Agreement: Project related expenses for NEPA environmental review, architectural and engineering and other professional services incurred within the 24 months prior to the commitment of funds may be reimbursed after execution of the State Standard Agreement. On a case-by-case basis, HOME Management may, in writing, 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 request of the applicant.

### **VIII. MINIMUM AND MAXIMUM AMOUNTS OF HOME FUNDS PER PROJECT**

The minimum amount of HOME funds that must be invested in a project involving rental or homeownership housing is \$1,000 times the number of HOME-assisted units in the project (# of units x \$1,000 = minimum amount of HOME funds). The \$1,000 minimum per unit requirement does not apply to TBRA funds.

The maximum amount of HOME funds invested in a project, including Activity Delivery Costs, shall not exceed the lower of: (1) the per-unit subsidy limits, established by HUD under 24 C.F.R. 92.250; (2) the proportion of HOME-assisted units compared to all units in the project and the square footage of HOME units compared to all other units in the project, pursuant to 92.205(d); and (3) the total amount of eligible costs necessary (when combined with other financing and assistance), to 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 92.250. For more information, see HUD’s [CPD Notice 98-1](#).
- B. For rental activities of five or more units, achieve a debt-service coverage ratio in accordance with UMR Section 8310, and adequate cash flow to ensure long-term financial feasibility.
- C. For the current HUD per-unit subsidy limits, see <http://www.hcd.ca.gov/fa/home/homelimits.html>.
- D. 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/fa/home/homelimits.html>.

Note: Section 92.254(a)(2)(iii) of the HOME Final Rule also allows a request for a higher limit, based on a local market analysis, to be submitted through HCD to HUD, for review. To reduce the frequency of submissions to HUD, HCD will periodically notify jurisdictions through Listserv announcements when requests may be submitted. The applicant may complete the application with a Maximum Purchase Price/After Rehabilitation Value Limit that exceeds their current limit in anticipation of

an approval of a waiver request. The waiver request must be submitted prior to the date of the application approved prior to award. HCD has established a waiver request process outlined in HOME Management Memo #15-01, which can be viewed at: <http://www.hcd.ca.gov/fa/home/mmemo/index.html>.

- E. Pursuant to federal regulations, any one project may receive HOME funds from only one HOME award. This prohibits the combination of awards from a State Recipient and a CHDO on the same project and prevents the combination of awards from more than one HOME NOFA on the same project.

## **IX. MAXIMUM APPLICATION AMOUNT/COMBINATIONS OF ACTIVITIES**

Applicants may submit only one HOME application pursuant to this NOFA. An application may consist of no more than two activities as follows:

- One rental project and one FTHB project; or
- One rental project, and any combination of eligible program activities; or
- One FTHB project and any combination of eligible program activities except for a FTHB program; or

Separate application forms must be submitted for each project. Each project will be rated and ranked separately.

Applicants requesting project funding for a rental project consisting of two sites (the maximum pursuant to this NOFA) must be in conformance with UMR Section 8301(o); specifically, both sites must have common ownership, financing, and management.

Where a rental project is located on non-contiguous parcels, all of the parcels shall be governed by similar tenant selection criteria, serve similar tenant populations and have similar rent and income restrictions. Program activities are not site-specific; therefore, these limitations do not apply to them.

Note also that pursuant to 24 CFR 92.250, before committing funds to a project, HCD must evaluate the project in accordance with UMR and will not invest any more HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing. 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. Loans are also subject to the federal per-unit subsidy limits, see <http://www.hcd.ca.gov/fa/home/homelimits.html>

Note: Regarding maximum HOME loan amounts and available funds for Administration, CHDO Operations and Activity Delivery Costs, applicable to Rental New Construction, Rental Rehabilitation with or without Acquisition, and Homebuyer projects, the loan limits stated below do not include funds for Administration, CHDO Operations, or Activity Delivery. For example, an applicant may request \$4.6 million for a 4 percent tax credit project (i.e., a \$4.5 million loan, and \$50,000 for Administration and \$50,000 for Activity Delivery [for a State Recipient project applicant]). For Administration/CHDO Operations and Activity Delivery amounts, see Sections XI and XII.

Individual activity limits are as follows. Note: all limits apply to the combined amount of funds requested through this NOFA and HOME Program Income.

Rental New Construction Project Loan Limits: \$4,500,000

Prior to the issuance of the award letter, HCD 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, increase or decrease the HOME loan amount without regard to the limits specified in this section. This also applies to Rental Rehabilitation with or without Acquisition projects.

Deep Targeting: Rental new construction projects requesting funds for Deep Targeting can request up to an additional \$1,000,000 in addition to the maximum application amount for their activity shown above.

Rental Rehabilitation with or without Acquisition Loan Limits

- \$2,000,000, except where the project meets the requirements of either a) or b), below.
- \$4,500,000, 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 Area Median Income (AMI) at initial occupancy after rehabilitation, with rents restricted at no more than the low HOME rent level; or
  - b) 80 percent of all units in the project will have project-based rental assistance and the rental assistance contact is renewable.

Homebuyer Project Loan Limits

- Up to \$80,000 per unit for up to a maximum of the lower of \$2,000,000 or 5 percent of the total amount awarded pursuant to this NOFA. If the total amount awarded is \$28 million, the limit would be \$1.4 million. However it is possible the total awarded may exceed \$30 million if disencumbered funds become available. Applicants for this activity may request in excess of \$1.4 million up to the stated limit. If necessary, HCD will reduce the award amount accordingly.
- This per-unit amount is for only 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.

Combining FTHB Program and Project Funds in a Project: Using HOME homebuyer project funds, HOME homebuyer program funds and/or any HOME program income in the same homebuyer project (e.g., subdivision) is not permitted without prior written HOME Management authorization.

For information on federal prevailing wage requirements as they pertain to homebuyer projects, see Section XIX.

## Program Activities Funding Limits

Maximum: \$1,000,000 . Applies to HOME-eligible applicants for all program activities (including Administration and Activity Delivery Costs) subject to the following chart:

Maximum Application Amount	Expenditure rate all open HOME Program Activity contracts
\$1,000,000	60% or more
\$ 700,000	55 – 59.99%
\$ 500,000	50 – 54.99*%

Minimum: \$300,000

\* Applicants with no open HOME contracts may apply for up to \$500,000.

All successful applicants will be evaluated periodically to determine if the rate of expenditure is reasonable. HCD may disencumber all or a portion of the grant if there is an unreasonably low rate of expenditure.

Program Income (PI): Federal HOME regulations require that all PI funds when on hand must be maintained in an interest-bearing account. Interest earned on PI funds is also considered Program Income. PI must be expended prior to drawing down HOME Funds. PI may not be “banked” or set-aside in re-use accounts. This rule applies to all State Recipient HOME applications. Successful applicants may not draw down new HOME funds for project draws if they have PI on hand. State Recipients with PI must consider this when deciding how much to request in this funding round. If a project applicant historically receives a substantial amount of PI, the applicant should contact its HOME Representative to discuss alternative uses of this PI that does not impede the ability to draw down funds awarded pursuant to this NOFA.

## **X. DEEP TARGETING**

A total of \$2 million is available as part of the rental project allocation to assist rental new construction projects to reduce or eliminate permanent private debt requiring 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 \$1,000,000 in HOME funds. Eligible projects are rental new construction projects without 9 percent Tax Credits, that set a portion of their units rents at 40 percent of AMI or below for 55 years.

Applicants for Deep Targeting funds must submit two sets of Application documents as set forth in the Deep Targeting Documentation Checklist of the HOME Supplement to the Universal Rental Application. This additional documentation must illustrate any differences in proposed project rent levels, financing commitments, and other financials when funded at the Deep Targeting funding level versus the regular maximum HOME funding level. The additional documentation must also include another “Financial Feasibility Self Evaluation” form.

HCD expects to see a reduction in rents, debt service, operating reserve, and private financing commitments as a result of reduced private debt. Except for differences attributable to reduced private debt, there must be no difference in Total Development

Cost, or total operating expenses and required reserve deposits under the regular HOME funding scenario versus the Deep Targeting funding scenario. Any differences in Total Development Cost or total operating expenses and required reserve deposits between the two scenarios should be explained in the application.

Although the project unit mix may change with Deep Targeting funds, the total number 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 Targeting Rating Factors

If there are more requests for Deep Targeting funds than available, the available funds will be allocated to projects that rank high enough to be funded through the normal rating and ranking process (described in Section XXII) and the Deep Targeting rating factors below:

- i. the higher the percentage of HOME units restricted at or below 40 percent AMI, the more Deep Targeting points that will be awarded; and
- ii. the lower the average rent expressed as a percentage of AMI, the more Deep Targeting points that will be awarded.

In evaluating the level of Deep Targeting for the award of points, projects will be compared only with other projects in counties with similar HOME income limits. Fifty percent of funds will be made available to projects in counties in which the HOME fifty percent AMI limit for a household of four is below \$32,900, and fifty percent of the funds will be made available to projects in counties whose HOME fifty percent AMI limit for a household of four is \$32,900 or more. Unused funds in one group will be made available for the other group.

All Deep Targeting units must remain deeply targeted for a full 55-year affordability period, pursuant to a HOME regulatory agreement or a regulatory agreement held by another government financing agency.

If a project does not score high enough on the Deep Targeting factors to receive Deep 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 Targeting applications, contact Christina DiFrancesco at (916) 263-0415.

## **XI. ADMINISTRATIVE AND CHDO OPERATIONS FUNDS**

The following limits apply to the amount of State Recipient administrative and CHDO Operations funds applicants may receive:



### Projects:

- A. State Recipient applicants receiving up to \$1,000,000: up to \$25,000 of administrative funds.
- B. CHDO applicants receiving up to \$1,000,000: up to \$75,000 of CHDO Operations funds.
- C. State Recipient applicants receiving \$1,000,000 or more: up to \$50,000 of administrative funds.
- D. CHDO applicants receiving \$1,000,000 or more: up to \$100,000 of 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).

Actual eligible expenses must be incurred to draw down these funds.

## **XII. ACTIVITY DELIVERY FUNDS**

### Projects

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 C.F.R. 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.

### 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 Fund request may be made for actual expenses:

- Up to 24 percent of the HOME loan/grant amount for Owner-Occupied Rehabilitation and for the rehabilitation component of Acquisition with Rehabilitation. See VII(B) for additional guidance. Up to 6.5 percent of the total acquisition cost for FTHB activities involving acquisition with rehabilitation.
- Up to 5% of the HOME TBRA payment for unit inspection and income determination activities.
- Up to 6.5 percent of the HOME amount for all other activities.



### **XIII. FIRST-TIME HOMEBUYER (FTHB) LOAN TERMS**

#### **Primary Loan Term Requirements Applicable to State Recipient 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 shall comply with the following requirements:

- a) The loan must have a minimum loan term of 30 years.
- b) No temporary interest rate buy-downs are permitted.
- c) The loan must be fully amortizing and have a fixed interest rate that does not exceed the current market-rate, established by the 90-day “posted yield” for 30-year fixed rate loans, as established by Fannie Mae at <https://www.efanniemae.com/sf/refmaterials/hrny/index.jsp>, 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 Regulation 8205(b),** 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 payments shall be deferred for the term of the loan. The State Recipient may forgive some or all of the accrued interest; however, principal cannot be forgiven.

#### **Additional CHDO HOME Loan Terms:**

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

Pursuant to State HOME Regulation 8205(b), loans to FTHBs financed from the CHDO set-aside shall bear a simple interest rate of 3 percent per annum for the first 10 years, computed from the date the Deed of Trust is recorded on the property. Interest and 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 20th anniversary of the recordation date, all interest will have been forgiven if the borrower is in compliance with the requirements stated in HCD’s loan documents.

#### **XIV. UNDERWRITING STANDARDS FOR PROGRAM ACTIVITIES**

When a CHDO is undertaking an Infill New Construction or First-Time Homebuyer 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 CHDO, and has firm financial commitments in place to fully fund the project.

Except for the CHDO-specific requirements, 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 programs 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.

#### **XV. PROPERTY STANDARDS FOR PROGRAM ACTIVITIES**

Additional guidance from HUD is expected prior to the effective date of these requirements.

The HOME Recipient shall ensure that all housing units meet the property standards in 24 CFR 92.251. All rental housing shall 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 applicable local rehabilitation standards or another rehabilitation standard meeting the requirements of 24 CFR 92.251. The HOME Recipient shall ensure that the written scope of work must be in sufficient detail to establish the basis for a uniform inspection of the assisted housing to determine compliance with the requirements of this section. 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 progress and final inspections to determine that work was done in accordance with work write-ups.

The HOME Recipient shall ensure that existing housing that will be acquired for homeownership must be decent, safe, sanitary, and in good repair. At a minimum, this housing must meet all applicable State and local housing quality standards and code requirements, and contain no deficiencies set forth by HUD based on applicable Uniform Physical Condition Standards at 24 CFR 5.705. The HOME Recipient shall inspect the housing and document this compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the housing does not meet these standards, the housing must be rehabilitated to meet these standards or it cannot be acquired with HOME funds.

All housing occupied by tenants receiving HOME Tenant-Based Rental Assistance must meet the standards established in 24 CFR 982.401 or the successor requirements as 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 codified at 24 CFR part 3280. These standards preempt State and local codes which are not identical to the federal standards for the new construction of manufactured housing.

The HOME Recipient shall 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, and requirements or in the absence of local or state codes, the Model Manufactured Home Installation Standards at 24 CFR part 3285. Manufactured housing that is rehabilitated using HOME funds must meet HOME property standards requirements of this section, as applicable. The HOME Recipient shall document this compliance in accordance with inspection procedures established pursuant to 24 CFR 92.251, as applicable.

## **XVI. ARTICLE XXXIV (rental projects only)**

Article XXXIV of the California Constitution requires public entities to obtain voter approval before they "develop, construct or acquire a low-rent housing project." However, there are some exemptions to Article XXXIV. Health and Safety Code Section 37001 lists a number of project types that are not considered "low rent housing projects." The most typical exemption is subdivision (a)(1), which exempts projects that receive no property tax exemption, other than the welfare exemption, and in which no more than 49 percent of the units will be occupied by persons of low-income.

Applicants must submit a legal opinion letter that analyzes the project's compliance with or exemption from Article XXXIV. The Article XXXIV opinion letter must demonstrate that the applicant has considered both the legal requirements of Article XXXIV and relevant facts of the project (e.g., the public body lenders, 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 specific facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.

If a project is subject to Article XXXIV, the letter must demonstrate that there is Article XXXIV authority for the project. This may be done by providing information from an appropriate local government official either that a referendum for the specific project has been passed by the voters, or that a blanket referendum has been passed and the locality has allocated sufficient Article XXXIV authority to the project. Applicants asserting that their proposed project complies with Article XXXIV because of the passage of a voter-approved referendum must provide a copy of the referendum and a certified vote tally along with their Article XXXIV letter. In this instance, the Article XXXIV letter must also provide information from the appropriate local government official regarding how many low-rent units are authorized under the referendum, and how many have been developed, constructed, or acquired to-date pursuant to that referendum so that HCD can determine if sufficient Article XXXIV authority exists for the proposed units.

For State Recipients, the Article XXXIV legal opinion letter must be from your local counsel. Since HCD is not the lender for State Recipient projects, it will generally defer to the local counsel's Article XXXIV determination as long as the Article XXXIV letter is a well-reasoned, thorough legal analysis of the facts and law.

For CHDOs, the Article XXXIV legal opinion letter must be from the local government counsel where the project is located or from your own attorney, and must state the reasons why your project is exempt from or complies with Article XXXIV. Since HCD is the lender in CHDO projects, it must agree with the legal opinions and conclusions in these letters in order for them to be acceptable. Because of the detailed nature of HCD's regulatory agreements for HOME, the Joe Serna, Jr. Farmworker Housing Grant Program (Serna), and the Multifamily Housing Program (MHP), it is HCD's opinion that CHDO projects assisted by these programs are "developed" by HCD within the meaning of Article XXXIV. For more information regarding Article XXXIV, see NOFA Appendix B.

## **XVII. MATCH REQUIREMENTS**

All match requirements are waived for applications pursuant to this NOFA. However, all eligible HOME match 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 HCD can bank any additional match and continue to waive match. Such match sources include match 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. HCD will review all project Set-up and Completion Report forms to make sure that all reportable match has been included. For a HOME match calculation tool (located under "Additional Resources"), see <http://www.hcd.ca.gov/fa/home/>. The HOME Contract Management Manual also contains additional information and resources on Match, see <http://www.hcd.ca.gov/fa/home/manual/14/>.

## **XVIII. TIMEFRAMES FOR USE OF HOME 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.

### Projects

If a project fails to meet one or more of the deadlines outlined in State HOME Regulation Section 8217, the HOME applicant (City, County, or CHDO), as well as the project's developer, owner, and managing general partner may receive a performance penalty on the next project application in which they are involved. If a project fails to meet three or more deadlines, the HOME applicant shall be held out of future project funding rounds until that project is completed, occupancy is obtained, all expenditures are made, and all necessary HOME funds are drawn. The HOME applicant and the project's developer, owner, and managing general partner may also receive a performance penalty on the next project application in which they are involved.

State Recipients and CHDOs may also request that these holdout and point deduction penalties be waived when it is determined that the violation was clearly outside of the control of all of the following parties: the applicant, developer, owner and managing general partner. If a waiver of point penalties or holdout penalty for missed project deadlines is needed, contact Laura Bateman, CHDO and State Recipient Projects Manager, at (916) 263-1302. In order to receive a decision on your waiver request before the HOME application deadline, you must submit your request, in writing, by June 15, 2015.

Note: No performance penalties will be assessed by HCD for failure to meet HOME deadlines as a result of heightened competition for tax credits in 2010. No waiver requested is needed if this is the only reason why HOME deadlines were missed. Waiver requests are still necessary for all other causes of delay, including inability to receive a tax credit/exchange allocation in 2009.

### Program Activities

All program activity funds must be expended by the end of the thirty-sixth month following the award date. If awards are made in December 2015, the expenditure deadline will be December 31, 2018. HCD expects grantees to cease accepting new applications and processing existing applications in order to meet this deadline. No extensions will be allowed except as noted below. Grantees must cease the processing of applications well in advance of the expenditure deadline to ensure that all work is completed prior to the expenditure deadline. Exceptions will be considered only if the State Recipient shows there was clear and indisputable evidence delays were beyond the control of the borrower and/or the State Recipient or that HCD was responsible for the delay.

## **XIX. 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 HCD. (Generally speaking, the other rent levels approved by HCD would be the lower rents that the applicant commits to in its HOME application.)

Exceptions to this requirement may be granted 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 rental subsidy program regulations must require that tenant AMI 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 calculation.

Applicants proposing the use of Low Income Housing Tax Credits must apply to the Tax Credit Advisory Committee for the exact rent structure identified in the HOME project report.

A. Rental New Construction Activities

- All rental new construction housing projects shall have affordability periods of 55 years.

B. Rental Rehabilitation Activities

- All rental rehabilitation housing projects with acquisition shall have affordability periods of 55 years.
- Rehabilitation without Acquisition:

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

C. Homebuyer Activities

Homebuyer activities shall have minimum affordability periods of:

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

Homebuyer Recapture Requirements Applicable to State Recipients and CHDOs

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

The entire amount of the HOME loan may be recaptured by the local jurisdiction or by HCD 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 a sale (voluntary or involuntary) of the housing unit, and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, only the net proceeds can be recaptured, if any. The net proceeds are the sales price minus superior loan repayments (other than HOME funds) and any closing costs. HOME loans made under the recapture option may also be assumed by subsequent HOME-eligible purchasers.

E. Owner-Occupied Rehabilitation Activities

Owner-Occupied Rehabilitation 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 loan must be repaid if the home is no longer occupied by the owner.

**XX. INCOME ELIGIBILITY**

The State HOME Program uses the Part 5 (formerly known as Section 8) definition of low-income (24 C.F.R. Part 813), and uses the Part 5 methodology in calculating the

income of beneficiaries. Please study the Income Calculation and Determination Guide for Federal Programs, at <http://www.hcd.ca.gov/fa/cdbg/GuideFedPrograms.html>.

## **XXI. COMPLIANCE WITH OTHER FEDERAL REQUIREMENTS**

All activities funded with HOME funds or HOME PI are required to comply with HOME's federal "overlay" requirements found in Section 92.350 and following of the HOME Final Rule, including, but not limited to, compliance with requirements concerning the NEPA, federal and State 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), OMB Circular A-133 audit, and debarred, suspended or ineligible contractors. Failure to comply with federal overlays could result in significant cost increases to your project, rejection of your HOME application, or loss of points in current or future HOME funding rounds. Below is a brief discussion of overlay issues relevant to the application.

### **National Environmental Policy Act (NEPA)**

Once you submit your HOME Application until issuance of the NEPA Authority to Use Grant Funds (AUGF), the applicant and any participant in the development process must not take any "choice-limiting actions".

As a general rule, any action on the site or on behalf of the project by anyone is a choice-limiting action if it occurs once you submit the HOME application, and before the Authority to Use Grant funds is issued. "Choice-limiting actions" include 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, or any site work (other than annual weed control) done by anyone.

**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 only to control 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:

1. You may purchase the site or enter into a long-term lease consistent with the UMR requirements, prior to submitting the HOME application.
2. You may obtain an Option to Purchase 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 "Authority to Use Grant Funds" from HCD for State Recipient projects and from HUD for CHDO projects.



The cost to secure the site control document must also be a nominal portion of the purchase price. For more details on required and prohibited provisions of agreements consistent with NEPA, see [CPD Notice 01-11](#) and Assistant Secretary Mercedes Marquez' August 26, 2011 memo for more information at [http://www.hcd.ca.gov/fa/home/manual/05/Aug\\_26\\_2011-guidanceonoptionsandconditionalcontracts.pdf](http://www.hcd.ca.gov/fa/home/manual/05/Aug_26_2011-guidanceonoptionsandconditionalcontracts.pdf).

3. You may obtain a Purchase Agreement, Disposition and Development Agreement (DDA), Option to Lease, or Exclusive Right to Negotiate but this agreement must not be conditional on NEPA clearance or any other federal requirement. The general HUD rule is that purchase agreements are acceptable if federal funds have not been contemplated. You are also 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 Authority to Use Grant Funds is executed, the execution of an extension would be a choice-limiting action (renewal prior to expiration is okay). Also ensure the Purchase Agreement/DDA has other contingencies such as a permanent financing contingency so that the seller cannot legally compel you to purchase the site prior to receiving the AUGF.
4. A conditional purchase contract may also be used for an existing single-family home (1 to 4 units) or an existing multifamily residential projects in some limited circumstances even when federal funds have already been contemplated. For more information, see the August 26, 2011 memo at [http://www.hcd.ca.gov/fa/home/manual/05/Aug\\_26\\_2011-guidanceonoptionsandconditionalcontracts.pdf](http://www.hcd.ca.gov/fa/home/manual/05/Aug_26_2011-guidanceonoptionsandconditionalcontracts.pdf).

For any application proposing a site with current tenants, including both new construction and rental rehabilitation projects, the third option (Purchase Agreements and the other forms listed under this option) may not be used because the General Information (GIN) Notice required by the Uniform Relocation Act makes it clear that the use of federal funds is contemplated.

For all new construction projects and some rehabilitation projects, compliance with NEPA is evidenced by an executed Authority to Use Grant Funds. The AUGF is issued by HUD for CHDO projects, and by HCD 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.

HCD encourages starting the preparation of the NEPA Environmental Assessment (EA) as soon as possible, but no later than receipt of an award letter.

For rental projects, make sure that the person preparing the Environmental Assessment has a copy of the HOME Project Report, as the report will frequently have conditions requiring additional analysis of environmental impacts.

If there are any questions regarding choice-limiting actions, or the level of environmental clearance required of your program or project, contact your HOME

Representative prior to taking any action concerning your proposed HOME program or project.

The application must disclose all environmental hazards, and if awarded funding, you must keep HCD fully informed regarding all environmental issues that arise. Failure to do so will be considered a material misrepresentation and result in a performance point penalty for all members of the development team.

### 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. Some projects, regardless of the number of units, are also subject to State prevailing wages.

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 submitted with the HOME application will be examined to ensure that prevailing wage costs have been considered (federal and State, if applicable). CHDOs are required to hire an outside consultant to act as a Labor Standards Coordinator. If the State Recipient does not have the existing staff to enforce federal labor standards, then it is HIGHLY recommended that an outside labor consultant be hired.

In homebuyer self-help projects with 12 or more HOME-assisted units, Davis-Bacon wages may not be triggered if either of the following applies:

- site development was completed before the application to HOME, the use of HOME funds was not contemplated when the site development was done, 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
- 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.

### 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 at

[http://www.hcd.ca.gov/fa/home/manual/07/D01\\_RelocationChapterText%20Revised4-14-11.doc](http://www.hcd.ca.gov/fa/home/manual/07/D01_RelocationChapterText%20Revised4-14-11.doc).

The ION determination requires a case specific analysis. HCD highly recommends consultation with HOME staff to determine the specific date for ION. 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 "initiation of negotiations" date is necessary. Applications for

tenant-occupied properties must have already provided the “GIN” to all tenants by the date of the ION.

The Sources and Uses submitted with the application must adequately budget for relocation costs. For guidance in estimating relocation costs, contact your HOME Representative. Consistent with federal relocation requirements prohibiting economic displacement, if rents for existing tenants will increase, you must budget for a transition reserve 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 HOME management on a case-by-case basis with adequate third-party documentation that the tenant moved for reasons unrelated to the sale of the property (i.e., the tenant is 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.

#### Procurement Requirements for State Recipients Using Administrative Subcontractors

Except for procurement of the NEPA consultant, which can be done 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/fa/home/manual/04/D01\\_Procurement\\_Chapter.doc](http://www.hcd.ca.gov/fa/home/manual/04/D01_Procurement_Chapter.doc).

## **XXII. STATE RECIPIENT RENTAL PROJECT SET-UP AND LOAN DOCUMENT REQUIREMENTS**

HCD strongly recommends completion of the project set-up prior to construction loan closing. Failure to do so may result in delays in HOME disbursements, reduction of the HOME loan amount, HOME funding disencumbrance, and/or mandatory amendments to previously executed loan documents (with appropriate subordinations). Plan to submit the set-up package at least 60 days, but preferably 90 days, prior to the desired closing deadline to allow enough time for this process. HCD must also be notified of all significant changes in the project as they occur. It is not acceptable to notify HCD of significant project changes only when the project set-up package is submitted.

State Recipients, using funds made available from this NOFA or from PI, will be the lender for rental projects, and therefore, as such, must adequately secure the repayment of HOME funds and compliance with HOME affordability requirements through the use of a promissory note secured by a deed of trust and a regulatory agreement. The deed of trust and the regulatory agreement must be recorded on the project property. If security for repayment of HOME funds is a leasehold, the owner of

the fee either must permit recordation of the HOME deed of trust and regulatory agreement on the fee, or the fee owner must enter into a lease rider providing appropriate lender protections to the State Recipient. The lease must also comply with the requirements of UMR Section 8316. In addition, if HOME funds will be used for construction, the State Recipient and borrower should execute a development agreement clearly setting forth the terms and conditions of disbursement of HOME funds. The State Recipient is responsible to ensure continued compliance with all HOME requirements, and if the project should fail within the term of the regulatory agreement, is responsible to repay HCD all HOME funds.

### **XXIII. STATE RECIPIENT OMB A-133 AUDIT DOCUMENTATION**

Local governments that expend in excess of \$750,000 in federal funds during the fiscal year are required to submit an OMB A-133 Single Audit Report package to the California State Controller's Office (SCO). The 2013-14 audit package was due by March 31, 2015.

HCD will make the determination on the status of A-133 Audit compliance as of July 15, 2015 by consultation with SCO only. **Jurisdictions that are exempt from filing an A-133 Audit because the level of federal funds is below the threshold must also submit with their HOME application a copy of the letter to SCO notifying their exempt status.** For more information on the required content of the letter, see [http://sco.ca.gov/aud\\_exempt\\_entities.html](http://sco.ca.gov/aud_exempt_entities.html).

You may check your jurisdiction's OMB A-133 compliance status at <http://sco.ca.gov/Files-AUD/SingleAud/statusreport.pdf>.

Questions regarding compliance with the submittal requirements of OMB A-133 can be directed to Nicole McCay at [pmccay@hcd.ca.gov](mailto:pmccay@hcd.ca.gov). HCD will answer only the question of whether a jurisdiction is in compliance according to SCO's A-133 Status Report. Technical questions related to why the jurisdiction is deemed not in compliance must be directed to SCO.

### **XXIV. APPLICATION EVALUATION**

#### **A. Rating and Ranking**

HCD will rate, rank and fund applications based on its review of all eligible activities for which funds are requested in an application. The application must be submitted using HCD forms. The application must contain all information required pursuant to Section 8211(c), (d), and (e).

All scores for projects are subject to the appeal process described in Section III.

Note: 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 other California

Housing Finance Agency (CalHFA) or HCD financing source, and is being recommended for funding, HOME will count that financing as committed for rating purposes. For how CalHFA and HCD financing will be considered for that factor, see the State Objectives factor for special needs housing in Section XXII. Please consult with other CalHFA or HCD programs regarding their rating methodology. HCD requires there be full disclosure in each HCD application of all pending and proposed applications for other HCD 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, project applications must receive a minimum score of 930 points to be funded. Applications will be funded in descending order. Applications that qualify for CHDO 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, all remaining applications will be funded within their respective allocations pursuant to Section 8212.1 based on their scores relative to all other applications with the highest scoring application funded first.

In the case of a tie score, the application demonstrating the highest jurisdictional poverty level will be funded first. Final funding decisions will be made by HCD's Division of Financial Assistance's Deputy Director.

B. Minimum 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 HOME Regulations:

1. The application was received by the deadline specified in this NOFA.
2. The applicant is eligible pursuant to Sections 8204, 8204.1(c) and Appendix A of the NOFA.
3. The applicant proposes at least one eligible activity pursuant to Section 8205 (other than administration).
4. The use of funds is eligible per Sections 8205 and 8210(c).
5. The application is complete pursuant to Section 8211(b).
6. The applicant has no unresolved audit findings pursuant to Section 8204(a) (1) (D) (ii) and (2) (C) (i).
7. The applicant has provided documentation satisfactory to HCD that it is in compliance with the submittal requirements of OMB A-133, Single Audit Act pursuant to Sections 8204(a)(1)(D)(iv) and (2)(C)(iii). For more information, see Section XXI.
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/portal/public/SAM/> pursuant to 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 HCD has not been altered or modified except to accommodate computer software.
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).

In addition, project applications must demonstrate:

1. The project is financially feasible. **Section 92.250(b) of the 2013 HOME Final Rule requires that the State's underwriting and/or subsidy layering must demonstrate that it is not investing any more HOME funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability), i.e., the federal period of affordability for projects is 20 years.** Pursuant to Section 8212(a)(6) of the State HOME Regulations, HCD must determine the project is financially feasible to consider it for funding. Site development issues, local government approvals, development costs, project timing, project market, and other development factors will be evaluated in order to make this determination. Projects may not be deemed feasible if information presented in the application results in unknown or uncertain project costs and/or timelines. Therefore, the Sources and Uses form must contain line items for any project costs related to determining the feasibility of the project, including but not limited to, prevailing wages, environmental remediation (including mitigation of any Recognized Environmental Conditions and other environmental hazards) elevation above a flood plain, and relocation. Applicants proposing projects on sites that were formerly orchards and/or vineyards may be required to submit an analysis of soil testing for pesticides remaining in the soil. If your proposed project site borders a railroad, whether currently operating or abandoned, HCD may require soils testing for metals, including but not limited to arsenic (arsenic has been commonly used along railroad lines for weed control). It is recommended this testing be performed prior to submitting the HOME application so the applicant can determine whether pesticide or arsenic remediation is required and include the cost for such remediation in the development budget.
2. The project has site control pursuant to UMR, Section 8303.  
(Note: Projects must also meet HUD requirements regarding acceptable forms of site control; for more information, see Section XIX.)
3. There is no pending litigation that could affect implementation of the project as proposed.
4. For rental projects, that the project either complies with or is exempt from Article XXXIV of the California Constitution pursuant to Section 8212(a)(7); for more information on Article XXXIV, see Section XIV.

C. Rental and FTHB Project Application Rating Factors:

<u>Activity</u>	<u>Maximum Points Available</u>
Rental New Construction*	1550
Rental Rehabilitation*	1550
First-Time Homebuyer Projects	1410

\*For detailed self-scoring checklists for the Rental New Construction and Rental Rehabilitation applications, see HOME Supplement.

Detailed Rental New Construction and Rental Rehabilitation scoring is shown in the table on the following page.



## Rental New Construction and Rental Rehabilitation Scoring

Factor	Sub-factor (if any)	Points
Housing Element:		50
<p>The local public entity's adopted housing element is in substantive compliance with State housing element law as of May 15, 2015, the NOFA release date, as defined at Section 8201(s) of the State HOME Regulations. Newly-formed cities not required to be in compliance and CHDOs shall receive full points in this category. For more information, see <a href="http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf">http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf</a>.</p>		
Direct HOME Allocation Declined:		50
<p>Activities proposed within a jurisdiction eligible for a direct HOME allocation from the U.S. Department of Housing and Urban Development (HUD) wherein the jurisdiction declined the allocation to preserve eligibility for this NOFA.</p>		
Activities proposed in a rural community.		50
Prior applicant experience in the implementation of local, State or federal affordable housing or community development projects in the last seven years (calendar years 2008– 2014 and 2015 until the application deadline).		50
Prior development team experience in developing the same type of subsidized project as proposed in the application in the last five years (calendar years 2010 – 2014 and 2015 until the application deadline).		200
Prior performance of the applicant, developer, owner, and managing general partner (if the project has one) in all HOME project contracts (rental and FTHB) which were awarded between June 1, 2010 – May 31, 2015.	<p><b>Performance Factor #1:</b> Missed project deadlines of the applicant, developer, owner, and managing general partner, for deadlines occurring by the HOME application deadline of July 15, 2015. Points will be deducted for missed deadlines as follows: 5 points for the Permanent Financing deadline, 10 points for the Project Set-up deadline, 10 points for the Construction Loan Closing Deadline, 80 points for the Completion Deadline, and 20 points for the Expenditure Deadline. For possible credits, see Note 1.</p>	Maximum deduction of 200 points
	<p><b>Performance Factor #2:</b> Late reports of the applicant. Up to 50 points may be deducted for late monthly reports, late Quarterly Program Income reports due for both program and project contracts between June 1, 2014– May 31, 2015, late Project Completion Reports due during this time period, and for the Annual Performance Report due in 2014. The Department reserves the right to deduct points even if the Annual Report is on time but prepared inaccurately.</p>	Maximum deduction of 50 points



	<p><b>Performance Factor #3:</b> Up to 200 points will be deducted if applicants, developers, owners, and managing general partners, between June 1, 2010 – May 31, 2015, have made a material misrepresentation of any requirement or fact in an application, project report or other document submitted to HCD including but not limited to that which jeopardizes HCD’s investment in a project or places HCD at risk of a monitoring finding.</p> <p>HCD will notify the relevant party of the proposed penalty on or about June 1, 2015; this notification will also allow an appeal to be submitted.</p>	Maximum deduction of 200 points
	<p><b>Performance Factor #4:</b> Noncompliance with monitoring requirements identified in the last five years (i.e., June 1, 2010 – May 31, 2015). There are two distinct sub-categories:</p> <p>First, applicants, owners, and managing general partners who have not complied with monitoring requirements identified by HCD in the last five years will lose up to 100 points. HCD will notify the relevant party of the proposed penalty on or about June 1, 2015; this notification will also allow an appeal to be submitted.</p> <p>Second, points will also be deducted for the following late reports associated with occupied HOME rental projects (HCD will calculate these deductions for only applicants, owners, and managing general partners involved in 2015 project applications, so advance notice will not be provided on the status of these reports):</p> <p><u>State Recipients</u> 10 points will be deducted for each late Annual Monitoring Report due to HCD June 1, 2014 – May 31, 2015.</p> <p><u>CHDOs</u> 5 points will be deducted for each late Annual Operating Budget and each late Annual Report due to HCD June 1, 2014 – May 31, 2015.</p>	Maximum deduction of 100 points
All Applicants start with 200 points. Performance Points noted immediately above are <b>deductions</b> from these points. The maximum point deduction for Performance is 200 points.		200
Community Need: see Appendix H of this NOFA for Community Need point scoring by activity type (located on the HOME NOFA webpage underneath the NOFA).		250

Project Feasibility	Compliance with State and Federal Requirements (including UMRs for rental projects)  Highest percentage of HOME-assisted units	195  5
Project Readiness	For detailed Project Readiness factors for rental projects, please see the HOME Supplement.  For homebuyer projects, please see the Homebuyer Project Application (Part B).  Rating points for Project Development Plan (PDP) will be awarded if the <u>required</u> * item has been submitted, was prepared within the applicable timeframes, and meets the basic requirements specified in the HOME Supplement. PDP items will be reviewed to make a feasibility determination for the applications scoring highly enough to be funded.  *Under this NOFA, the Geotechnical Report is not required with the application and will not be considered for scoring purposes. See HOME Supplement for details.	300
State Objectives (no more 200 points total) Rental Projects Only (except for “Overcoming Impediments to Fair Housing” and “Catalyst Projects”, which are FTHB Project State Objective rating factors also).	Deeper Affordability: Up to 50 points will be awarded based on the percentage of total bedrooms in all units (HOME and non-HOME) restricted to households with incomes at 50 percent AMI or less per the Excel worksheet provided with the HOME Application.  Use the “Deeper Affordability” Excel file to calculate your score for this rating factor.	50
	100 Percent Financing Committed or Noncompetitive: 70 points will be awarded for projects that have 100 percent of their non-State HOME permanent financing committed by July 15, 2015.  Projects proposing 4 percent tax credits qualify for these points if all commitments other than tax-exempt bonds, 4 percent tax credit proceeds, AHP and deferred developer fee are in place.	70
	Overcoming Impediments to Fair Housing. 35 points will be awarded to rental and FTHB projects proposed in census tracts where total minorities are not overrepresented by more than 10 percentage points compared to the percentage of total minorities in the county.	35

<b>State Objectives</b> (continued)	Special Needs Populations: Up to 50 points will be awarded to rental projects with funding commitments that are proposing to target special needs populations, including farmworkers, through the use of any of the following financing sources: HUD 202, HUD 811, HUD Supportive Housing Program, or State Mental Health Services Act (MHSA). Projects applying for other HCD Special Needs Population funding also qualify if HCD determines the project will receive funding under these programs. Points will also be awarded to projects which provide project-based rental assistance under the terms of an MHSA or Veterans Affairs Supportive Housing Voucher (HUD-VASH) contract that has already been committed to this project, see State Objectives Table 1.	50
Catalyst Projects	For rental and FTHB project applications, projects located within the boundaries of a Gold or Silver Catalyst Project as designated by HCD. A listing of designated catalyst projects is available at <a href="http://www.hcd.ca.gov/hpd/catayst_summaries082510.pdf">http://www.hcd.ca.gov/hpd/catayst_summaries082510.pdf</a> .	25
<b>TOTAL POINTS RENTAL PROJECTS</b>		<b>1,550</b>

**Note 1 – Performance Factor #1**

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

The deducted points for each specific project will be restored if all of the following events have occurred by the application due date for the same project:

- the project has been completed, i.e. the Notice of Completion has been filed in the Recorder’s Office
- the Project Completion Report, showing that all HOME units are occupied, has been received by the Department, and
- all HOME funds were expended by the original expenditure deadline in the Standard Agreement.

B. Credit for other completed HOME projects

Further, points will be partially restored to the extent there are other completed HOME projects involving the applicant, developer, owner, or managing general partner, awarded between June 1, 2010–May 31, 2015. Points will be restored at the rate of 5 points for each completed HOME project which was awarded HOME funds between June 1, 2010–May 31, 2015.

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, 2010 and May 31, 2015 have been completed.

The 80 point deduction is offset by 10 points (2 projects X 5 points).

C. Special Rules

- Pursuant to Section 8217, Applicants who disencumbered a project contract between June 1, 2010 - May 31, 2015 and their developers, owners, and managing general partners, (if any), for these projects will still receive point deductions according to the above schedule for the deadlines the project did not meet before the contract was disencumbered.
- Point Deductions for Projects Subject to the Hold-Out Penalty (State HOME Regulation 8217(b)(3)). Certain applicants that have not received a waiver of the holdout penalty pursuant to Section 8217(c) may now be eligible to apply because the project in question meets a specific performance standard identified in the State Regulations. This requirement is the project has been completed, occupied, all funds have been expended, and all necessary HOME funds have been drawn pursuant to Section 8217(b)(3)(A). These applicants are still subject to a performance penalty of up to 50 points on their next HOME application following the holdout penalty, along with the project's developer, owner, and managing general partner pursuant to 8217(b)(3)(B).

**State Objectives Table 1: Special Needs Populations**

Percent of Units Designated by the Funding Source as Special Needs Units	Point Score
35% or more	50
25%-34%	40
10%-24%	20

**Program Activity Rating Factors**  
**(Total Points Available = 870)**

Factor	Sub-factor (if any)	Points
<u>Housing Element:</u> The local public entity's adopted housing element is in substantive compliance with State Housing Element Law as of May 1, 2015, the NOFA release date, as defined at Section 8201(s) of the State HOME regulations. Newly formed cities not required to be in compliance and CHDOs shall receive full points in this category. For more information, see <a href="http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf">http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf</a> .		50
<u>Direct HOME Allocation Declined:</u> Activities proposed within a jurisdiction eligible for a direct HOME allocation from the U.S. Department of Housing and Urban Development (HUD) wherein the jurisdiction declined the allocation to preserve eligibility for this NOFA.		50
Activities proposed in a rural community.		50
Prior experience of the applicant in administering HOME and/or other local, State or federal affordable housing or community development programs in the last seven years (calendar years 2008 - 2014 and 2015 until the application deadline).		100
Prior performance of the applicant	<b>Performance Factor #1:</b> Up to 50 points will be deducted for late or missing reports. In assigning these points, the Department will review the applicant's history of submitting quarterly reports and quarterly program income reports (for both Program Activity and Project contracts numbered 12-HOME through 14-HOME), and Annual Performance Reports for FY 11-12, 12-13, and 13-14. The Department reserves the right to deduct points even if the Annual Report is on time but prepared inaccurately.	Maximum deduction of 50 points
	<b>Performance Factor #2:</b> Up to 100 points will be deducted for noncompliance with monitoring or contract requirements identified in the last five years (i.e. June 1, 2010 - May 15, 2015)	Maximum deduction of 100 points
<b>Note:</b> All Applicants start with 150 points. Performance Points are <b>deductions</b> from the two factors above. The maximum point deduction for Performance is 150 points.		150
<b>Community Need:</b> see Appendix H of this NOFA for Community Need point scoring by activity type. (Located on the HOME NOFA webpage underneath the NOFA)		250
Project Feasibility	Activity-specific criterion as specified: <ul style="list-style-type: none"> <li>• FTHB programs: number of units that</li> </ul>	75

Factor	Sub-factor (if any)	Points
	<p>have sold in the city or county over the preceding 12-month period and are affordable to lower income families, given the proposed HOME assistance.</p> <ul style="list-style-type: none"> <li>• Owner-Occupied Rehabilitation programs: 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.</li> <li>• TBRA Programs: overpayment by renter households as reflected in U.S. Census data.</li> </ul>	
	Extent Program Guidelines reflect federal and State requirements.	25
<p>State Objectives (120 points) – Program Capacity and Continuity</p> <p>Higher expenditure rates</p>	<p>50 points will be awarded to jurisdictions that applied for but did not receive HOME program activity funding in 2014 if the Department determines that the application was eligible, but that the application could not be funded because the score was below the funding cut-off. The jurisdiction is not required to apply for the same activity(s) in 2015 that was applied for in 2014.*</p> <p>Seventy (70) points will be awarded to applicants with an expenditure rate of 60% or more. Forty (40) points will be awarded to applicants with an expenditure rate of 55% - 59.99%. Expenditure rates will be calculated in the same manner as the 50 percent threshold requirement described in Section IV-C.</p>	<p>50</p> <p>70</p>
TOTAL POINTS FOR PROGRAMS		870

**Note:** HCD may eliminate this specific Program Capacity and Continuity rating factor in 2016; therefore, unsuccessful candidates in this 2015 competition may not receive any State Objective bonus points in 2016.

## 2015 HOME Program and Project NOFA Application Workshops

Applicants for HOME Funds are strongly encouraged to attend the applicable workshops to gain information critical for preparing a competitive application, which will be discussed at the workshops. Please follow the registration process outlined below if you are planning to attend.

**To register for the Workshops, please send an e-mail to [home@hcd.ca.gov](mailto:home@hcd.ca.gov) with “HOME Workshop Registration” in the subject line, stating the names of those attending, the workshop they plan to attend, and a contact phone number.** If you have questions regarding any of these workshops, please contact the general HOME Program number (916-263-2939) or your HOME Representative.

### Rental Project Workshop

This workshop will cover Rental New Construction and Rental Rehabilitation (with or without Acquisition) Projects only.

Thursday, May 28, 2015  
 HCD Headquarters  
 2020 West El Camino Avenue, Room 402(a)  
 9:00 a.m. – 2:00 p.m. NOFA  
 2:00 – 4:30: Contract Management Essentials

Applicants interested in submitting a First-Time Homebuyer project application will receive NOFA training by conference call; please contact the HOME Program to request this training (916-263-2939).

### Program Activity Workshops

These workshops will cover First-Time Homebuyer, Owner-Occupied Rehabilitation and Tenant-Based Rental Assistance Program Activities.

<u>Date/Time</u>	<u>Location</u>
<b>9:00 – Noon: NOFA</b> <b>1:00 – 4:30: HOME Income Determination Workshop</b>	
Wednesday, May 27	HCD Headquarters 2020 W. El Camino Avenue, Room 402(a) Sacramento, CA 95833
Wednesday, June 3	Tulare County Government Plaza Building 5961 S. Mooney Blvd. Visalia, CA 93277
Wednesday, June 10	Imperial County Administration Building 940 West Main Street El Centro, CA 92243
Thursday, June 11	California Tower Magnolia Room #204 3737 Main Street Riverside, CA 92501

