

NOTICE OF FUNDING AVAILABILITY (NOFA) FOR NEW LOCAL HOUSING TRUST FUNDS

LOCAL HOUSING TRUST FUND PROGRAM (LHTFP)

July 8, 2011

TIMETABLE FOR LHTFP APPLICATIONS	
NOFA Issued:	July 8, 2011
Technical Assistance:	See Section P
Application Forms Available:	July 8, 2011
Applications Due: Over-the-Counter:	Starting: August 1, 2011 Ending: June 30, 2012
Web Based On-Line Workshop:	See Section P

**State of California
Department of Housing and
Community Development**

**NOTICE OF FUNDING AVAILABILITY
FOR NEW LOCAL HOUSING TRUST FUNDS
LOCAL HOUSING TRUST FUND PROGRAM
July 8, 2011**

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ATTACHMENT: HEALTH AND SAFETY CODE SECTION 50843.5(d)(3)

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

1800 Third Street, Suite 460
P. O. Box 952054
Sacramento, CA 94252-2054
(916) 322-1560
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**NOTICE OF FUNDING AVAILABILITY
FOR NEW LOCAL HOUSING TRUST FUNDS
Local Housing Trust Fund (Matching Grant) Program
(LHTFP)
July 8, 2011**

A. Introduction

We are pleased to announce the availability of approximately \$14 million in funding for new Local Housing Trust Funds under the Local Housing Trust Fund (Matching Grant) Program (LHTFP). The LHTFP was created by AB 2638 of 2006 (Laird)(Section 50843.5 of the Health and Safety Code). Funds made available under this NOFA are from the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C) Affordable Housing Innovation Fund (See Health and Safety Code Section 53545.9(c)). The program is administered by the Department of Housing and Community Development (hereinafter "HCD" or "Department") and will provide grant funds to eligible city, county, and nonprofit applicants for the purpose of supporting new Local Housing Trust Funds dedicated to the creation or preservation of affordable housing.

"A New Local Housing Trust Fund" is a local housing trust fund that was created, funded, and operated by a city, a county, a city and a county, or 501(c)(3) nonprofit organization on or after September 30, 2006.

This NOFA is governed by the Local Housing Trust Fund Program Regulations, 25 California Code of Regulations 7150, *et seq.* The Regulation is available on HCD's website at: <http://www.hcd.ca.gov/fa/ahif/lhtf.html>. Capitalized terms in this NOFA are terms in Section 7151 of the Regulations.

Applications from new local housing trust funds will be accepted on an over-the-counter basis beginning August 1, 2011, and ending when all funds have been awarded but no later than June 30, 2012 at 5:00 p.m., Pacific Standard Time.

The Local Housing Trust Fund Program makes one-time grants for the development of affordable multifamily rental and ownership housing and emergency shelters. It is intended to support local entities that have identified and committed sources of funds not traditionally utilized in the development and provision of affordable housing. The grants must be matched dollar-for-dollar by

the applicant. Applicants must have committed long-term on-going revenues to continue the operation of the Local Housing Trust Fund for a minimum of five years.

Applications *mailed via the U.S. Postal Service* must be mailed to:

Department of Housing & Community Development
Division of Financial Assistance
Attn: Ben Dudek
Local Housing Trust Fund Program
P.O. Box 952054
Sacramento, CA 94252-2054

Applications sent using the U.S. Postal Service must have a postmark no later August 1, 2012.

Applications sent using private *carriers or delivered in person* must be received on or after August 1, 2011, but no later than 5:00 P.M. Pacific Standard Time on August 1, 2012.

If applications are personally delivered, the receptionist will date stamp the application and provide a receipt as proof of delivery. The delivery address is:

Department of Housing & Community Development
Division of Financial Assistance
Local Housing Trust Fund Program
1800 Third Street, Room 460
Sacramento, CA 95811

An over-the-counter award for a new Local Housing Trust Fund will be announced when an application has been received and has met program requirements.

B. Program Definitions

The following definitions govern this NOFA:

“Assisted unit” means a residential housing unit that is purchased, developed or rehabilitated with assistance from the Local Housing Trust Fund Program and is subject to the occupancy, resale, or rent restrictions imposed by LHTFP Statutes, Regulations, and this NOFA.

“Local Housing Trust Fund” is a public or joint public and private fund that was established by legislation, ordinance, resolution (including nonprofit articles of incorporation) or a public-private partnership to receive specific revenue to address local housing needs. The key characteristic of a Local Housing Trust Fund is that it receives on-going revenues from dedicated sources of funding such as taxes, fees, loan repayments, private contributions, and/or ongoing fundraising.

“A New Local Housing Trust Fund” is a local housing trust fund that was created, funded, and is operated by a city, a county, a city and a county, or 501(c)(3) nonprofit organization *on or after September 30, 2006*.

“On-going Revenues” means a public source of revenue that is dedicated for an indefinite period (beyond annual appropriations); or other revenue that is dedicated for a minimum five-year period and the source of that revenue has an income history which can reasonably support the level of proposed funding.

“On Deposit” means cash or equivalent under the control of the applicant or Grantee at the time of application readily available for use by the Grantee as Matching Funds. For new trust funds, an application shall not be considered unless the Department has received adequate documentation, as determined by the Department, that an ordinance imposing or dedicating a tax or fee to be deposited into the new trust has been enacted or the applicant has adopted a legally binding commitment to deposit matching funds into the new trust. Funds shall not be disbursed by the Department to any trust until all matching funds are On Deposit.

“Not Otherwise Restricted” means funds from governmental sources or private contributions that are not legally restricted by state or federal law for use in housing programs. “Not Otherwise Restricted” also includes those funds that have been traditionally restricted by federal, State or local practice for use in housing programs. The Home Investment Partnerships Program (HOME), the Community Development Block Grant Program (CDBG), and redevelopment agency tax increment funds set-aside pursuant to the requirements of Health and Safety Code section 33334.2 do not qualify as matching funds (redevelopment agency tax-increment funds other than the funds required to be restricted for low- and moderate-income housing may be used as qualifying matching funds unless otherwise in conflict with existing statutory requirements).

“Local Impact Fees” are impact fees, mitigation fees, or capital facility fees imposed on residential development by municipalities, county agencies, or other jurisdictions such as utility districts, school districts, water agencies and resource conservation districts. Local Impact Fees may include fees for residential or commercial development (in lieu of building affordable housing), parks and recreation, schools, traffic, street and signals, law enforcement facilities, fire facilities, library facilities, water facilities, waste water treatment, waste water collection, drainage facilities, community development, general facilities, public facilities, governmental, environmental, and facilities assessments.

C. Eligible Applicants

The following entities shall be eligible to apply for LHFTP funds:

1. A city, county, or city and county, or combination thereof, which has created and funded a New Local Housing Trust Fund.
 - a. The trust fund shall have the following characteristics:
 - i. It shall utilize a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.
 - ii. It shall be funded from On-going Revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.
 - b. The city, county, or city and county shall have, at the time of application an adopted housing element that the Department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.
 - c. A Local Housing Trust Fund that was created, funded, and operated by a combination of one or more cities or counties, shall in its application, agree to utilize LHFTP Funds only for Eligible Projects located in cities or counties that have, at the time of application, an adopted housing element meeting the requirements of subparagraph (b) above.
2. A charitable nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code that has created and funded a New Local Housing Trust Fund.
 - a. The trust fund shall have the following characteristics:
 - i. It shall consist of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.
 - ii. It shall be funded from On-going Revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.
 - b. The charitable nonprofit organization shall, in its application, agree to utilize LHFTP Funds only for Eligible Projects located in cities,

counties, or a city and county that have, at the time of application, an adopted housing element that the Department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

D. Grant Amount

The maximum amount for any applicant under this NOFA is \$2 million, and the minimum amount is \$1 million except for new local housing trust funds that are in a county with a population of less than 425,000 based on the United States census for the year 2000, the minimum amount is \$500,000.

The Department may make a partial award if less than \$2 million remains in the LHFP fund and there is an eligible applicant who will accept a smaller grant than was requested.

E. Eligible Use of Funds

1. Funds shall be used by the Grantee to provide loans for payment of predevelopment expenses, acquisition, construction, or rehabilitation of Eligible Projects.
2. At least 30 percent of the total amount of the LHFP Funds and the Matching Funds shall be expended on Eligible Projects that are affordable to, and restricted for, Extremely Low Income households. No more than 20 percent of the total amount of the LHFP Funds and the Matching Funds shall be expended on Eligible Projects affordable to, and restricted for, Moderate Income Persons and Families. The remaining LHFP Funds and Matching Funds shall be used for Eligible Projects that are affordable to and restricted for, Lower Income Households. All assisted rental units shall be restricted for not less than 55 years. For sale housing must have a recorded deed restriction that meets the resale restrictions set forth in Health and Safety Code Section 50843.5(d) (3).

F. Ineligible Use of Funds

No LHFP Funds shall be used for the costs of administering the Local Housing Trust Fund.

G. Match Requirements

1. For each LHFP grant applicants shall provide Matching Funds equal to or in excess of the amount of the LHFP grant.
2. Matching Funds shall be On Deposit at the time of application, and the source of the funds shall be identified.

3. Funds restricted for housing use by State or federal law (such as funds from the HOME Program, the CBDG Program, or redevelopment agency low- and moderate-income housing fund set-aside ("LMIHF") funds) shall not be considered Matching Funds. However, redevelopment agency non-LMIHF funds may be considered Matching Funds.
4. A Local Housing Trust Fund that is exclusively funded by any combination of HOME, CDBG, and redevelopment agency LMIHF funds, or other State or federal funds restricted for housing use shall not be eligible to receive LHTFP Funds.

H. Time Frames for Use of LHTFP Funds

1. Any LHTFP Funds not encumbered by a newly established housing trust fund by February 15, 2016 will revert back to the State.
2. Repayments of LHTFP Funds received by a Grantee shall be retained by the Grantee in the Local Housing Trust Fund to be used for the purposes set forth in this subchapter.
3. If a Grantee ceases operations or On-going Revenues cease less than five years from the date of the Grantee's award of LHTFP Funds, all unencumbered LHTFP Funds shall promptly be returned to the Department, and all current and future loan repayments shall be remitted to the Department.

I. LHTFP Grantee Responsibilities

1. Grantees are responsible for administering and implementing the programs as proposed in their application.
2. Grantees must continue the operation of their program for at least five years after the award date.
3. Grantees shall have held, or shall hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds.
4. Grantees shall report annually to HCD on a form created by the Department.

J. Application Requirements

Application for LHTFP funds shall be made using the Department's LHTFP application and the required documentation as described in detail within the LHTFP application. The Department requests, as a minimum, the following information:

1. Applicant identification information including: name, address, telephone number, contact person.
2. Corporate governing board resolution, in a form acceptable to the Department, authorizing the application.
3. Description of the Local Housing Trust Fund sufficient to ensure compliance with Health and Safety Code Section 50843.5 and this NOFA.
4. Local Housing Trust Fund operating guidelines including:
 - a. Types of projects in which the fund will invest.
 - b. Types of investments the fund will make (e.g., loans, grants).
 - c. The required terms and conditions of the investment, including types of security and regulatory agreements, and periods of affordability.
 - d. For rental housing projects funded by LHFP funds, a copy of the documents to be recorded restricting the affordability for at least 55 years.
 - e. Any per unit or per project expenditure limitations.
 - f. The eligible household income limitations and/or income targeting goals.
 - g. The developer or owner eligibility requirements.
 - h. Underwriting requirements.
 - i. The borrower or project match or leverage requirements.
 - j. Geographic area to be served.
 - k. Amount of LHFP Funds to be used for First-time Homebuyer downpayment assistance.
 - l. For Homeownership Projects, a copy of the document to be recorded that meets the requirements of subdivision (d)(3) of Health and Safety Code Section 50843.5 (see Attachment) or a specific statement as to the other public funding source or law in conflict with this requirement.
5. Description of the management and staffing of the Local Housing Trust Fund.
6. Certifications and Acknowledgements (*See Sample Format in Application*).
 - a. Certification that the information submitted in the application is true and correct to the best of the knowledge of the signer, after reasonably diligent investigation.
 - b. Certification of the applicant's intent to maintain the Local Housing Trust Fund in existence for at least five (5) years from the date of application; and acknowledgement and agreement that if the Local Housing Trust Fund ceases to exist sooner, then the applicant agrees to repay any remaining uncommitted LHFP Funds and to

remit to the Department all repayment of loans made with LHTFP Funds until the full amount of the LHTFP grant is repaid.

- c. Acknowledgement and agreement that any LHTFP Funds that are not encumbered by the applicant by February 15, 2016 shall be returned to the Department.
- d. For nonprofit applicants, an acknowledgement and agreement that LHTFP Funds shall be used only for projects located in a city, county, or city and county that have, at the time of application, an adopted housing element that the Department has determined to be in substantial compliance with State housing element law.
- e. Certification that the applicant has held, or agrees to hold, at least one public hearing to discuss and describe the Eligible Project or Projects that will be financed with LHTFP Funds.
- f. For nonprofit applicants, an agreement that the applicant will hold at least one public meeting as required by Health and Safety Code Section 50843.5 (g).

K. Application Review Process

1. Only complete applications shall be considered for funding. In order to be considered complete an application must have all of the information requested and provide adequate documentation and information for the Department to determine the Local Housing Trust Fund's eligibility for funding pursuant to Health and Safety Code Section 50843.5 and this subsection. The applicant shall bear the burden of demonstrating compliance with these requirements. If the application is incomplete or ineligible, it will not be considered for funding. The applicant of such an ineligible application will be given a written explanation of the deficiencies.
2. The applications will be evaluated in the order in which they are received. In the event that the LHTFP applications received on any specific day exceeds the amount of funds still available, the applications received on this specific day will be evaluated and funded using criteria published in this NOFA, including, but not limited to the criteria listed in Paragraph M, "**Evaluation Criteria**", (below).
3. Staff recommends funding awards to the Director of the Department of Housing and Community Development, based on the information in the applications, and as evaluated by the Department. Applicants will be notified by mail of the Department's funding decisions, and those decisions will be posted on the website at: www.hcd.ca.gov.

L. Standard Agreement

1. Successful Applicants will be awarded funds through the contract (“Standard Agreement”) process that will specify, among other things, the amount of funds granted, timelines for expenditure of funds, as well as the proposed use of funds.
2. If funded, reports will be required of the Grantee. Report dates and requirements will be identified in the LHTFP contract.

M. Evaluation Criteria (if required)

The applications will be evaluated in the order in which they are received. In the event that the LHTFP applications received on any specific day exceeds the amount of funds still available, the applications received on this specific day will be rated and ranked based on the following criteria with preference being given to criteria 1 and 2. The following is provided for informational purposes only.

1. The extent to which the applicant agrees to expend more than 65 percent of its LHTFP funds for the purpose of providing downpayment assistance to first-time homebuyers.
2. The extent to which the applicant agrees to provide matching funds from sources other than local impact fees.
3. The extent to which the applicant agrees to expend more than 30 percent of the total amount of its LHTFP Funds and matching funds to serve persons and families of extremely-low income.
4. The extent to which the applicant agrees to expend less than 20 percent of the total amount of its LHTFP Funds and Matching Funds to serve persons and families with incomes exceeding 120 percent of the area median income.
5. The extent to which the applicant agrees to provide Matching Funds in excess of the amount of the LHTFP Funds.

N. Protection of LHTFP Funds

1. In order to protect the LHTFP Funds awarded to a Grantee, the Grantee shall provide the LHTFP Funds in the form of a loan evidenced by a promissory note, the repayment of which shall be secured by a deed of trust recorded against the title to the real property or a security interest in the manufactured home being assisted with LHTFP Funds. The promissory note shall contain a special provision that repayment shall be made to the Department in the event that the Grantee is no longer in operation.

2. Where LHTFP Funds are provided to a rental housing development, emergency shelter, safe haven or transitional housing:
 - a. The Grantee and the housing developer borrower shall enter into a development loan agreement setting forth the terms and conditions for closing and disbursing the LHTFP Funds, which shall include, but not be limited to, requirements for title insurance for the deed of trust, and the borrower's responsibilities and obligations with respect to hazardous substance detection, disclosure, and remediation.
 - b. The Grantee shall submit copies of all loan guidelines and underwriting standards and procedures for review by the Department.
 - c. The Department shall have the right to request copies of documentation of the activities of the Local Housing Trust Fund at any time prior to or after disbursement of LHTFP Funds.
3. Where LHTFP Funds are used for a Homeownership Project the Grantee shall record a deed restriction in compliance with Health and Safety Code Section 50843.5(d)(3) unless such a deed restriction would conflict with the requirements of law or another public funding source.

O. Important Legal Matters

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 all interested parties.

P. Technical Assistance

To assist applicants in preparing their applications, the Department of Housing and Community Development is available to provide personal technical assistance to an applicant based on their specific needs and requirements. Please contact the Department at any time if you should have any questions regarding the NOFA, the application, the application process, or required documents. Questions should be directed to the LHTFP staff at (916) 323-3178.

Thank you for your interest in the Local Housing Trust Fund Program.

Sincerely,



Chris Westlake
Deputy Director

Attachment

Health and Safety Code Section 50843.5(d)(3)

(d)

(3) If funds are used for the acquisition, construction, or rehabilitation of for sale housing projects or units within for sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the for sale housing units, unless it is in conflict with the requirements of another public funding source or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section 50025.5, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity sharing agreement. The grantee shall reuse the proceeds of the equity sharing agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any down payment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.