STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY EDMUND G. BROWN JR., *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE
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June 5, 2018

MEMORANDUM FOR: **ALL POTENTIAL APPLICANTS**

Lisa Bates

FROM: Lisa Bates, Deputy Director
Division of Financial Assistance

SUBJECT: **HOME INVESTMENT PARTNERSHIPS PROGRAM NOTICE OF FUNDING AVAILABILITY**

The Department of Housing and Community Development (HCD) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately $72 million in funds for the Home Investment Partnerships Program (HOME). These funds include approximately $29 million in allocated 2017 HOME federal funds and $43 million in estimated 2018 HOME federal funds. HCD will release a NOFA amendment if there is a substantial difference in HCD's 2018 federal HOME allocation.

This NOFA is subject to state and federal HOME regulations. State recipients, as defined by state HOME regulations section 8201(ii), and nonprofit community housing development organizations (CHDOs), are eligible to apply for HOME funding for rental projects, first-time homebuyer (FTHB) projects, and program activities. Developers, including Native American Entities, can apply directly for HOME funding for rental projects and FTHB projects. This NOFA makes funding available to eligible HOME applicants serving low- (at or below 80 percent of the area median income (AMI)) and very low-income (at or below 50 percent of AMI) households. Projects must meet an October 29, 2019 construction loan-closing deadline or funding will be forfeited. In addition, all projects are required to close all permanent loans by March 2022.

Funding under this NOFA will be awarded on a competitive basis. A complete original application and electronic copies on CD or flash drive with all required documentation must be received by HCD no later than **5:00 p.m. Pacific Standard Time on August 6, 2018**. HCD will only accept applications through a postal carrier service such as the U.S. Postal Service, a commercial carrier such as UPS, or FedEx, or other carrier services that provide date stamp verification confirming hand-delivery to HCD's office. Personal deliveries will not be accepted.

Application forms, regulations, and program information are available at http://www.hcd.ca.gov/grants-funding/nofas.shtml. To receive HOME NOFA FAQs and other program information and updates, subscribe to the HOME listserv.

HCD will hold one workshop for projects and one workshop for program activities. For the list of workshop dates, times, and locations go to HCD's website at http://www.hcd.ca.gov/grants-funding/active-funding/home.shtml. To register for a workshop, sign up through Eventbrite (link on HCD's HOME webpage).

If you have any questions, contact NOFA Manager, Charles Gray at (916) 263-1014 or charles.gray@hcd.ca.gov.

Attachment

HOME INVESTMENT PARTNERSHIPS PROGRAM

Notice of Funding Availability

Edmund G. Brown Jr., Governor
State of California

Alexis Podesta, Secretary
Business, Consumer Services and Housing Agency

Ben Metcalf, Director
Department of Housing and Community Development

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June 2018

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NOTICE OF FUNDING AVAILABILITY

I. Overview

A. Notice of Funding Availability

The Department of Housing and Community Development (HCD) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately $72 million in funds for the HOME Investment Partnerships Program (HOME). These funds include approximately $29 million in allocated 2017 HOME federal funds and $43 million in estimated 2018 HOME federal funds. HCD will release a NOFA amendment if there is a substantial difference in HCD's 2018 federal HOME allocation.

These funds will be used to meet the following statewide goals from HCD's 2015-20 Consolidated Plan for low-income households earning at or below 80 percent of the AMI and very low-income households earning at or below 50 percent of the AMI:

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

B. Timeline

Table 1 –Timeline	
NOFA release	**June 5, 2018**
Application due date	**August 6, 2018 by 5:00 p.m.**
Award announcements	**December 2018**

C. What is new in the NOFA

1. Scoring criteria changes

   a) The state objective points have been modified for projects and programs to support homelessness and access to opportunity efforts.

   HOME projects

State Objective Points		
State Objectives Category	**2016 HOME Points**	**Current Points**
Financing committed	70	85
Deeper affordability targeting	50	0
Serving special needs population including homelessness or TCAC opportunity map	50	80

   HOME Programs

State Objective Points		
State Objectives Category	**2016 Points**	**Current Points**
Continuity	50	0
Expenditure rate	70	90
Access to opportunity strategies and homelessness policy or tenant-based rental assistance	0	110

   b) Readiness points for rental new construction projects have been modified to increase financing commitment points.

Rental New Construction Projects - Readiness Points		
Readiness Category	**2016 Points**	**Current Points**
Financing commitment	10	25
Status of local government approvals	85	80
Project development plan (PDP) – market study	40	35
Project development plan (PDP) – Phase I	40	35

2. Pet-Friendly Housing Act requirements

   HOME funding is subject to the Pet-Friendly Housing Act of 2017 (Health & Safety Code, div. 31, pt. 2, ch. 2, § 50466). Refer to section III.J.

3. Recapture requirements

   Applicants requesting funding for owner-occupied rehabilitation (OOR), first-time homebuyer (FTHB) projects, and FTHB programs must submit documentation (i.e., promissory note, deed of trust, regulatory agreement, etc.) showing specific recapture provisions per the Department of Housing and Urban Development (HUD) requirements established in 24 CFR 92.254(a)(5)(ii). Refer to section III.D for more information.

4. Commitment and Expenditure deadlines

Deadlines	**2017 funds**	**2018 funds**
Commitment (executed Standard Agreement with HCD)	October 2019	October 2020
Expenditure (program completed)	November 2021	November 2021
Expenditure (project completed)	March 2022	March 2022

   HCD will not be able to accommodate extensions for the above deadlines.

5. Program income requirements

   24 CFR §92.503, revised in December 2016, changes the manner in which program income (PI) and other funds in the local HOME account are treated. In order to avoid uncommitting appropriated grant funds from a specific project each time PI is disbursed for that project, HOME PI (repayments and recaptured funds) may be accumulated throughout the reporting period (fiscal year). The PI received, as well as any anticipated to be received in the next program year, must be reported to HCD for reporting to HUD. Additionally, the state recipient must report how the funds will be used (i.e., name the activity and project or program, and the intended beneficiary type).

   State recipients with PI on hand, or who anticipate receiving PI in the next reporting period, must report all PI in their annual report to HCD. The deadline for committing PI (project specific) on hand as of June 30, 2018 is June 30, 2019.

6. Appeals process

   HCD has modified the NOFA appeals process. For details, see section IV.B.

D. Authorizing legislation and regulation authority

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

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

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

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

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

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

This NOFA does not include the text of all regulations that may be applicable and/or important to particular projects. For proper completion of the application, potential applicants should consult the regulations linked above and other cross-cutting regulations such as, but not limited to, those referred in 2 CFR 200.512. Multifamily rental projects applicants should also consult the state Uniform Multifamily Regulations (UMR), which apply to all HOME-funded multifamily rental projects. All references herein to the UMR shall mean the November 2017 UMR.

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

If state or federal statutes or regulations, or other laws, governing HOME or its funding are modified by Congress, HUD, the state Legislature, or HCD prior to completion of work to be done pursuant to awards made in connection with this NOFA, the changes may become effective immediately and apply to funded activities.

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

E. Definitions

Special-needs populations

"Special-needs populations" means the same as defined under section 7301 that is referenced in section 8314(e)(2) of the UMR: disabled households, agricultural workers, single-parent households, survivors of physical abuse, homeless persons or persons at risk of becoming homeless, chronically ill persons including those with HIV and mental illness, displaced teenage parents (or expectant teenage parents), homeless youth as defined in Government Code section 11139.5, individuals exiting from institutional settings, chronic substance abusers, or other specific groups with unique housing needs as determined by HCD. "Special-needs populations" do not include seniors or the frail elderly unless they otherwise qualify as a special-needs population.

Homeless

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

II. Program requirements

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

A. Eligible applicants

Eligible HOME applicants include state recipients, developers including Native American Entities (NAEs), and Community Housing Development Organizations (CHDOs) consistent with applicable state and federal requirements.

Eligible jurisdictions for FY 2017 and FY 2018 HOME funds are listed in Appendix A of this NOFA. If a 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 2017 and FY 2018 consortium or urban county funding by **June 29, 2018** to Muri Christine Bartkovsky at mbartkovsky@hcd.ca.gov.

For HOME funds, cities or counties must meet the following criteria:

- have not been designated as participating jurisdictions by HUD
- are not participants in an urban county agreement with a county that is a HUD participating jurisdiction
- are not participants in a HOME consortium
- the projects being applied must be located in the city's incorporated area or the county's unincorporated area

CHDOs must meet the following criteria:

1. Certification requirements

   New CHDO applicants and currently certified CHDOs with certifications that will expire before August 6, 2018 must submit a complete CHDO Certification application with all exhibits and attachments by **June 29, 2018.**

   If you are an existing CHDO under the HOME Program, you must submit the HCD CHDO approval letter with your application.

   The application for CHDO Certification is available at http://www.hcd.ca.gov/grants-funding/active-funding/home.shtml. For assistance with the CHDO Certification process, contact Muri Christine Bartkovsky at (916) 263-1176 or mbartkovsky@hcd.ca.gov.

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

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

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

      Developer: The CHDO may act as developer if the CHDO owns (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 if the project is owned by a limited partnership entity (See sponsor paragraph below).

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

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

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

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

- A CHDO may “sponsor” a project in situations where the CHDO owns the property (in fee simple absolute), develops the housing, and agrees to convey the housing to a different private 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 HCD 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.

- If awarded, CHDOs must obtain all necessary permanent project financing, including the permanent financing for the required period of affordability, and execute a standard agreement with HCD by October 2019 for fiscal year 2017 funds and by October 2020 for fiscal year 2018 funds.

Additional HOME eligibility criteria

1. Minimum expenditure requirement for program activities (50 Percent Rule) Pursuant to state HOME regulations section 8204(b), applicants with current HOME Program activities contracts or with program activities awards from the last HOME Program NOFA, are eligible to apply for HOME Program activities funds only if they have expended, by the application due date of August 6, 2018, at least 50 percent of the total of funds originally awarded. Potential applicants with no open HOME Program activities contracts are not affected by this rule. A current HOME contract is one where the expenditure deadline has not yet occurred by August 6, 2018.

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

"Expended" funds are the total of all valid draws (or, for Tenant-Based Rental Assistance (TBRA), Project Setup Reports) received by HCD by the application deadline. Additionally, for first-time homebuyer (FTHB) and owner-occupied rehabilitation (OOR), a valid draw is limited to the amount needed for reimbursement of actual expenses for work that has been completed ("work completed"). Work completed varies by activity, as follows:

a) FTHB activities: escrow has closed;

b) OOR activities: the amount expended is the amount of construction/ rehabilitation payments that were made for work completed and inspected; and

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

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

   To be eligible for funding, the applicant must comply with the submission requirements of the 2 CFR 200.512 Single Audit report. Single Audit reporting packages are due to the California State Controller's Office (SCO) nine months after the entity's fiscal year end under 2 CFR 200.512. For most California entities, the reporting package is due March 31 of each fiscal year. Entities with approved extensions on file must submit their reporting package by the due date indicated in their approved extension letter. HCD will make the determination on the status of 2 CFR 200.512 Single Audit reporting compliance as of August 6, 2018 by consultation with SCO. Jurisdictions that are exempt from filing a 2 CFR 200.512 Single Audit report because the level of federal funds is below the federal threshold must submit a copy of the letter notifying SCO of their exempt status with their HOME application, in addition to notifying SCO. For additional information, see section VII.A.5.

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

B. Eligible activities

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.

1. Rental projects

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

b) Rental rehabilitation project – Funds provided to rehabilitate a specific rental project without a transfer of ownership or to both acquire and rehabilitate a specific rental project. Rental Rehabilitation projects may be with or without acquisition.

Per section 92.205(a) of the Federal HOME regulations, “acquisition” is generally thought of as a transfer of real property between unaffiliated third 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 or ownership interests.

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

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

2. FTHB projects

a) Construction financing of new construction or acquisition/rehabilitation/ conversion to develop homes on a specified site or sites, with 100 percent of the HOME investment rolling over to permanent financing and being used to provide mortgage assistance to first-time homebuyers when the units are sold to eligible homebuyers; or

b) Homebuyer mortgage assistance only in a project that is being constructed or acquired and rehabilitated with other funds.

3. Program activities

Eligible HOME Program activities are as follows:

a) FTHB program

- Acquisition-only down payment assistance - Funds awarded only to a HOME-eligible city or county to provide loans to homebuyers for acquisition of a modest dwelling that the homebuyer selects from the open market. CHDOs are not eligible for this activity.

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

- Infill new construction - Funds provided to a city, county, or CHDO to provide assistance for the new construction of dwellings on scattered sites 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 months of completion. All dwellings must be situated on land held in fee simple, leasehold, or another manner approved in writing by HCD and be affixed on a permanent foundation.

  Pursuant to state HOME regulations, section 8207, the FTHB primary mortgage loan must be fully amortized and have a fixed interest rate that does not exceed the current market-rate, as recognized by the 90-day “posted yield” for 30-year fixed rate loans, established by Fannie Mae at: https://www.efanniemae.com/sf/refmaterials/hrny/index.jsp. For more information regarding primary loan terms, see section II.J.

  Note: 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. For example, if the source is a development grant, the applicant may provide a firm letter of commitment from the funding source for the project.

b) 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 for correction of all health and safety deficiencies.

Reconstruction means the rebuilding, on the same lot, of housing including housing that has been destroyed by natural causes, provided HOME funds are committed within 12 months of the date of destruction.

c) Tenant-based rental assistance (TBRA) program

Funds provided to a HOME-eligible city or county to administer a program to provide rent subsidies and/or security deposits to eligible households. The minimum term of rental assistance to an eligible household is six months; however, the tenant must be initially offered a one-year lease. The assisted tenant may accept a term of less than one year (minimum six months) after being offered a one-year lease. TBRA funds may be used to assist tenants to reside in any HOME-eligible jurisdiction within the county where the TBRA funds were awarded. For example, TBRA funds awarded to the City of Winters can also be used for units located in Woodland, West Sacramento, or the unincorporated areas of Yolo County since all of these jurisdictions are state HOME-eligible within Yolo County, but may not be used in Davis, which is not state HOME-eligible.

Note: **Ineligible use of funds include**:

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 the refinancing of homeowner loans.

Pursuant to federal HOME regulations section 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. 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.

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

For further ineligible uses of HOME funds, refer to 24 CFR 92.214.

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

C. Activity combinations and limits

State recipients and CHDOs may apply for no more than two activities as follows:

1. One rental project and one FTHB project

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

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

Separate application forms must be submitted for each project and an additional application form for Program activities. Each project will be rated and ranked separately.

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

1. One rental rehabilitation (RR) with or without an acquisition project

2. One rental new construction project

3. One FTHB project

D. Allocation of funding

Funding made available by this NOFA will be allocated as follows per the state HOME regulation cited below:

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

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

The over-the-counter (OTC) HOME funding availability is possible only if the amount requested by all applicants is far lower than historic levels, as determined by HCD. HCD will notify all parties through the "HCD List" process if there will be an OTC HOME funding opportunity.

E. Activity funding amounts and limits

The loan limits stated below do not include funds for administration, CHDO operations, or activity delivery. For example, a state recipient may request $5.1 million for a 4 percent tax credit project (i.e., a $5 million loan, and $50,000 for administration, and $50,000 for activity delivery). For administration/CHDO operation funds and activity delivery amounts, see sections II.H. and II.I.

Note: All limits apply to the combined amount of funds requested through this NOFA and HOME PI.

Rental new construction project loan limits: $5,000,000

1. 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 UMR, decrease the HOME loan amount. This also applies to Rental Rehabilitation with or without acquisition projects.

2. Deep affordability targeting: Rental new construction projects requesting funds for deep affordability targeting, serving Special Needs and/or homeless populations, or in an area of opportunity, can request up to $1,000,000 in addition to the maximum application amount for their activity shown above.

Rental rehabilitation with or without acquisition loan limits

1. $2,000,000, except where the project meets the requirements of either 2.a) or 2.b), below; and

2. $5,000,000, if the project meets either of the following requirements:

   a) Eighty percent of all units in the project will be restricted to tenants with household incomes at or below 50 percent of the AMI at initial occupancy after rehabilitation, with rents restricted to no more than the low HOME rent level; or

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

Homebuyer project loan limits

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

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

Note: Combining FTHB Program and Homebuyer Project Funds in a project. Using HOME homebuyer project funds, HOME homebuyer program funds and/or any HOME PI in the same homebuyer project such as a subdivision is not permitted except in limited circumstances and at the sole discretion of HCD.

Minimum and maximum amount of funds per project

1. 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.

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

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

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

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

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

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

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

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

Pursuant to federal regulations, a project may receive HOME funds from only one award. This prohibits the combination of awards from a state recipient and a developer or CHDO on the same project and prevents the combination of awards from more than one HOME NOFA on the same project.

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

Program activities funding limits

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

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

* Applicants with no open HOME contracts past the expenditure deadline may apply for up to $500,000.

All successful applicants (awardees) 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, as determined by HCD in its sole discretion.

Program Income (PI): Federal HOME regulations require that all PI funds on hand must be maintained in an interest-bearing account. Interest earned on PI funds is also considered PI. 24 CFR §92.503, revised in December 2016, changes the manner in which PI and other funds in the local HOME account are treated. In order to avoid uncommitting appropriated grant funds from a specific project, each time PI is disbursed for that project, HOME PI (repayments and recaptured funds) may be accumulated throughout the reporting period (fiscal year). The PI received, as well as any anticipated to be received in the next program year, must be reported to HCD for reporting to HUD. Additionally, the state recipient must report how the funds will be used (name the activity and project or program, and the intended beneficiary type).

State recipients with PI on hand, or anticipate receiving PI in the next reporting period, must report all PI in their annual report to HCD. The deadline for committing PI (project specific) on hand as of June 30, 2018 is June 30, 2019.

F. Deep affordability targeting

A total of approximately $5 million in HOME funds are available as part of the rental project allocation to assist rental new construction projects to reduce or eliminate permanent conventional debt 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 million in HOME funds.

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

Table 4 – Period of Affordability	
Number of Years	Applicant Type
55 years	cities, counties, developers and CHDOs
50 years	developments on Native American lands

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

HCD expects to see a reduction in rents, debt service, operating reserve, and permanent conventional financing commitments as a result of the higher HOME loan amount. However, there must be no difference in total development cost under the regular HOME funding scenario versus the deep affordability targeting funding scenario. The total operating expenses may change based on the population served; however, the amount budgeted for Supportive Services Costs must be consistent with the UMR section 8314 (e). Any differences in total operating expenses and required replacement reserve deposits between the two scenarios must be explained in the application.

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

Deep affordability targeting rating factors

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

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

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

Fifty percent of deep affordability targeting HOME funds will be made available to projects in counties in which the HOME 50 percent AMI limit for a household of four is below $32,750. Fifty percent of the funds will be made available to projects in counties whose HOME 50 percent AMI limit for a household of four is $32,750 or more. Unused funds in one group will be made available for the other group.

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

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

G. Forms of assistance

1. HOME loans

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

2. HOME grants

   HOME assistance must be provided in the form of a grant for relocation payments, lead-based paint hazard evaluation and reduction activities, and TBRA. HOME assistance may be provided in the form of a grant for rehabilitation activities performed under a FTHB or OOR program if necessary to complete the project when the total of all project indebtedness equals or exceeds the projected after-rehabilitation appraised value.

   The grant amount for FTHB or OOR 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 be used for Activity Delivery Cost grants for state recipients only. Activity Delivery Costs are further defined by the term "related soft costs" in the HOME Final Rule at 92.206(d), except that customary closing costs for home acquisition activities may be charged as either a loan or part of the 6.5 percent funding for Activity Delivery Costs.

Note: Homebuyer Education Costs may be reimbursed only through Activity Delivery Costs and cannot be passed on to the homebuyer.

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

HOME funds for Activity Delivery Costs must be drawn down at the same time HOME funds for Activity Costs are drawn down, respectively. 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 HOME funds for Activity Delivery Costs during the construction phase. If the entire amount of the construction loan should inadvertently not roll over into permanent loans, the proportional amount of Activity Delivery Costs must be repaid to HCD. For more information on Activity Delivery Costs, see section II.I.

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 at the sole discretion of HCD after execution of the state's Standard Agreement. On a case-by-case basis, HCD may, in writing and in its discretion, permit reimbursement for other expenses incurred after the date of the award letter and prior to the effective date of the Standard Agreement upon the request of the applicant.

H. Administrative and CHDO operation funds

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

<u>Projects</u>

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

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

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

4. CHDO applicants receiving $1,000,000 or more: up to $100,000 for CHDO Operations funds

<u>Program activities</u>

All program activities applicants may request up to 2.5 percent of the total application amount for administrative funds (for state recipient applicants) or CHDO operations (for CHDO applicants).

I. Activity delivery funds

Projects

State recipient rental and homebuyer projects may receive up to $50,000 of the contract amount (loan and grant funds) for activity delivery costs (activity delivery funds). Activity delivery funds are grants and not part of the project loan amount. Activity delivery funds may be used at the state recipient’s discretion to fund the activity, activity delivery costs, or any combination of the two. For a description of the types of expenses which may be charged to activity delivery, see 24 CFR 92.206(d)(6) and 92.206(f)(2). Activity delivery, administration, and CHDO operations funds should not be included in the development budget since the development budget must reflect HOME loan amounts only, not HOME grant funds. Developers, including NAEs, shall not act as an administrative subcontractor for an activity and are not eligible for activity delivery costs.

Programs

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

1. Up to 24 percent of the HOME loan/grant amount for OOR and for the rehabilitation component of acquisition with rehabilitation. Activity delivery costs for rehabilitation projects may exceed the 24 percent limit if documentation of actual costs is provided to HCD with the project set-up. Documentation must be of actual costs; consultant billings, without documentation of underlying actual costs, are not adequate. See section II.B.3 for additional guidance.

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

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

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

J. FTHB required loan terms

Primary loan term requirements applicable to state recipient, developer, and CHDO FTHB loans

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

1. A minimum loan term of 30 years; and

2. No temporary interest rate buy-downs; must be fully amortized and have a fixed interest rate that does not exceed the current market rate as established by the 90-day "posted yield" for 30-year fixed rate loans by Fannie Mae at https://www.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 regulations section 8205(c)(1)(A)(ii), loans made by state recipients assisting FTHBs and homeowners, whose homes are being rehabilitated, shall bear simple interest rates ranging from 0 to 3 percent per annum. Interest and principal payments shall be deferred for the term of the loan. The state recipient may forgive some or all of the accrued interest; however, principal cannot be forgiven.

Additional CHDO HOME loan terms

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

Pursuant to state HOME regulations section 8205(c)(1)(A)(i), 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 principal payments shall be deferred for the term of the loan.

Commencing on the 11th anniversary of the recordation date, an amount equal to 10 percent of the accrued interest shall be forgiven each year, so that on the 20th anniversary of the recordation date, all interest will have been forgiven if the borrower is in compliance with all requirements set forth in the HCD loan documents.

K. Underwriting standards for HOME Program activities

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

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

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

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

L. Property standards for HOME Program activities

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

The HOME recipient shall ensure that, upon project completion, housing rehabilitated with HOME funds meets 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 provides 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 the progress and final inspections to determine that work was done in accordance with work write-ups.

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

All housing occupied by tenants receiving HOME TBRA must meet the standards established in 24 CFR 982.401 or any successor requirements established by HUD.

Construction of all manufactured housing, including manufactured housing that replaces an existing substandard unit under the definition of “reconstruction” at 24 CFR 92.2, must meet the Manufactured Home Construction and Safety Standards set forth in 24 CFR part 3280. These standards preempt state and local codes that do not conform to the federal standards for the new construction of manufactured housing.

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

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

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

III. State and federal requirements

A. Housing Element compliance

Pursuant to state HOME regulations section 8212(b)(1), the HOME project or HOME Program activity must be located in a locality which has adopted (per California Government Code section 65588) a housing element that has been found by HCD 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, pursuant to section 65585 of the Government Code. Housing element compliance must be established as of the NOFA application deadline date. To obtain housing element status, access this link: http://www.hcd.ca.gov/community-development/housing-element/index.shtml.

B. Physical needs assessment

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

C. Timeframes for use of funds

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

Table 5 - HOME Commitment and Expenditure Deadlines

Deadlines	2017 Funds	2018 Funds
Commitment (executed Standard Agreement with HCD)	October 2019	October 2020
Expenditure (program completed)	November 2021	November 2021
Expenditure (project completed)	March 2022	March 2022

Projects

If a project fails to meet one or more of the deadlines outlined in state HOME regulations 25 CFR section 8217, the applicant (city, county, developers applying directly, 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 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.

Program activities

All program activities funds must be expended by the end of the 36th month following the award date. For example, if awards are made in December 2018, the expenditure deadline will be November 2021. 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 of delays that were beyond the control of the borrower and/or the state recipient or that HCD was responsible for the delay.

D. 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. (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 in writing by HCD for units receiving HUD Section 8 or other similar rental assistance, or where the project's continued fiscal integrity is in jeopardy due to factors that could not be reasonably foreseen.

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

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

1. Rental new construction activities

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

2. Rental rehabilitation activities

    a) Rental rehabilitation housing projects with acquisition shall have affordability periods of 55 years, except projects developed on Indian Reservations or Native American lands will be for at least 50 years (if the project is built on leased property).

    b) Rehabilitation without acquisition:

Table 6 – Rehab Period of Affordability

Amount of HOME Assistance per Unit	Minimum Period of Affordability
more than $40,000	20 years
$15,000 to $40,000	15 years
less than $15,000	10 years

3. Homebuyer activities

Homebuyer activities shall have minimum affordability periods of:

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

Recapture requirements applicable to state recipients and CHDOs:

Pursuant to federal HOME regulations 24 CFR section 92.254 and state HOME regulations section 8206.1(b)(3), if the home is sold prior to the end of the affordability period, the HOME loans are subject to recapture (i.e., the HOME loan must be paid off when the home is sold). Resale 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 completed 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 home, 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 senior 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.

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

4. Owner-occupied rehabilitation (OOR) activities

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

E. Income eligibility

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

F. Match requirements

HOME match requirements are waived for applications pursuant to this NOFA. However, all eligible HOME match funding that applicants obtain due to their activity's need for other funding shall continue to be reported in the project Set-up and Completion Reports so that HCD can bank any additional match and continue to waive the match. Match sources include funding derived from below-market rate loans (even if these loans are not repaid to the HOME local account) state Low Income Housing Tax Credits, property tax waivers, bond financing, fee waivers, grants, and other sources. HCD will review all project Set-up and Completion Report forms to ensure that all reportable match funding has been included. For a HOME match calculation tool, see HCD's HOME webpage under Resources.

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

G. Annual monitoring fees for multifamily projects

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

For developer and CHDO projects

HCD charges an annual monitoring fee as follows:

Table 8 – Monitoring Fees

Number of Units	2018
12 or fewer	$5,460
13 to 60	$10,920
More than 60	$16,375

To cover inflation, this fee shall increase by 3 percent per year unless HCD determines that the monitoring costs are increasing at 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. The first payment shall be prorated based upon the total number of days after completion falling within the first fiscal year.

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

For state recipient projects

Cities and counties may 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 percent of the monitoring fee, which is charged to a state recipient project, will be paid by the state recipient to HCD to cover HCD's costs of monitoring the state recipient's rental project compliance activities.

H. Inspections for rehabilitation projects where HOME is the only source of financing

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 a draw down of HOME funds. CHDOs and developers must hire a third-party construction inspector for this purpose. State recipient projects may use the jurisdiction’s own staff to perform these inspections.

I. Reporting requirements

Awardee(s) must file regular reports each month (for projects) or each quarter for all other activities. Awardees are responsible for disclosing all changes to the activities from those disclosed in the HOME application. Such changes could include, but are not limited to, higher costs, the need for additional funds, the intent to apply for additional funds, changes in project financing, cost savings, environmental issues, project timeline changes, 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 project awardees must be filed starting the month the Standard Agreement begins and are due no later than the tenth day of the following month and the tenth day of each month thereafter until the project is completed. If the due date falls on a non-traditional business day, the report is due the next traditional business day. Annual performance reports are due the last traditional working day of July, following the end of the fiscal year ending June 30.

J. Pet-Friendly Housing Act of 2017

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

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

K. Climate adaptation

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

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

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

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

L. Compliance with Violence Against Women Act

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

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

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

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

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

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

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

IV. Application review

A. Rating and ranking

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

All scores for projects are subject to the appeal process described in section IV.B.

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 California Housing Finance Agency (CalHFA) or HCD financing source, and is being recommended for such 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 IV.B. Consult with CalHFA or the other HCD program(s) regarding their rating methodologies. HCD requires 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, HOME 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 FTHB project and rural set-asides will be funded first based on their scores as necessary to meet the minimum set-asides. Once the set-asides have been achieved and the top ranked project developed on Indian Reservations or Native American lands has been selected, all remaining applications will be funded within their respective allocations pursuant to state HOME regulations section 8212.1 based on their scores relative to all other applications with the highest scoring application funded first.

In the case of a tie score, the application demonstrating the highest jurisdictional poverty level will be funded first. If CHDOs and/or Tribes are applying from the same jurisdictional area, the lower of the average rent expressed as a percentage of area median income will be funded first. HCD’s Director will make final funding decisions.

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 state HOME regulations:

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

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

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

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

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

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

7. The applicant has provided documentation satisfactory to HCD that it complies with the submittal requirements of 2 CFR Part 200.512 Single Audit reporting requirements. For more information, see section VII.A.4.

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 state HOME regulations sections 8204(a)(1)(D)(iii) and (2)(C)(ii).

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

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

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

In addition, project applications must demonstrate

1. The project is financially feasible. 2013 HOME Final Rule, Section 92.250(b) 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). The federal period of affordability for HOME projects is 20 years. Pursuant to section 8212(a)(6) of the state HOME regulations and section 8310 of the state UMR, HCD must determine the project is financially feasible for at least 20 years 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 be deemed unfeasible 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 the 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 state UMR section 8303. (Note: Projects must also meet HUD requirements regarding acceptable forms of site control; for more information, see section VII.A.4.)

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 state HOME regulations section 8212(a)(7); for more information on Article XXXIV, see section VII.B.

   Rental and FTHB Project Application Rating Points:

Table 9 – Project Application Rating Points	
Activity	Maximum Points Available
Rental new construction*	1550
RR*	1550
FTHB projects	1410

* For detailed self-scoring checklists for the rental new construction and RR applications, see the HOME Supplement.

* Detailed rental new construction and RR scoring is shown in Table 10 –HOME rental new construction project scoring.

5. A relocation certification is required even if the project site is vacant land.

   An applicant that asserts that its project does not require relocation must submit a detailed explanation, including supporting documentation, as to why no relocation (of tenants, farms, businesses, etc.) is required.

   Once HCD receives, reviews, and determines the information provided acceptable, HCD will create a *Certification Regarding Non-application of Relocation Benefits and*

Indemnification Agreement ("Non-Relocation Certification") that must be executed by the applicant/borrower/sponsor prior to HCD 's execution of the Standard Agreement. This Non-Relocation Certification is used by the applicant/borrower/sponsor of a housing project to show and certify that there will be no displacement (including, but not limited to, displacement of tenants, businesses, and farms) and therefore no relocation is required.

Supporting documentation may include background information, project information, purchasing information, and/or reports from professionals. HCD's Legal Affairs Division will make a legal determination as to whether a relocation plan is necessary after reviewing all of the information provided by the applicant.

Examples of supporting documentation for the Non-Relocation Certification may include the following:

- Mini relocation plan with pictures of the vacant land
- Summary relocation report
- Scope of Work
- Renovated work report
- Letter from the project engineer stating the Scope of Work
- Sales contract evidencing the purchase of vacant land
- ALTA survey of (purchased) vacant land
- Property tax assessment for vacant land
- Photographic evidence of vacant land

Note: Truly vacant land is not developed land nor agricultural land. If the property was vacated for the project, then relocation applies. A tenant is defined as someone who is living or storing his or her belongings on the property with the owner's consent (not squatters), whether or not the "tenant" is paying rent.

Reminder: Thorough and clear supporting information will lead to a more efficient review and creation of the *Non-Relocation Certification.*

B. Application scoring and evaluation

Table 10 - HOME Rental New Construction and Rental Rehabilitation Scoring		
Factor	**Sub-factor (if any)**	**Points**
Housing Element: The local public entity's adopted housing element is in substantive compliance with state Housing Element Law as of August 6, 2018, the NOFA due date, as defined at state HOME regulations section 8201(t). Newly formed cities are not required to be in compliance. Projects developed on Native American lands as defined in state HOME regulations section 8201(y)(1) and CHDOs and developers shall receive full points in this category. For more information, see: http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/housing-element-annual-progress-reports.shtml		50
Direct HOME allocation declined: Activities proposed within a jurisdiction eligible for a direct HOME allocation from HUD wherein the jurisdiction declined the allocation to preserve eligibility for this NOFA.		50
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 2011 – 2017).		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 2013 – 2017).		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 2013 and 2017	**Performance factor #1**: Missed project deadlines of the applicant, developer, owner, and managing general partner, for deadlines occurring by the HOME application deadline of August 6, 2018. 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.	Maximum deduction of 200 points

Prior performance - continued -	**Performance factor #2:** Late reports of the applicant. Up to 50 points may be deducted for late monthly reports, late quarterly PI reports due for both program and project contracts that were due between January 1, 2013–December 31, 2017, late project completion Reports due during this time period and for the Annual Performance Report due in 2017. HCD reserves the right to deduct points even if the Annual Report is on time but prepared inaccurately.	Maximum deduction of 50 points
	Performance factor #3: Up to 200 points will be deducted if applicants, developers, owners, and managing general partners, between January 1, 2013 – December 31, 2017 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 HUD monitoring finding.	Maximum deduction of 200 points
	Performance factor #4: Noncompliance with monitoring requirements identified in the last five years (i.e., January 1, 2013 – December 31, 2017). There are two distinct sub-categories: 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. 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 2018 project applications, so advance notice will not be provided on the status of these reports): <u>State recipients</u> • 10 points will be deducted for each late Annual Monitoring Report due to HCD between January 1, 2013 and December 31, 2017. <u>CHDOs</u> • 5 points will be deducted for each late Annual Operating Budget and each late Annual Report due to HCD between January 1, 2013 and December 31, 2017.	Maximum deduction of 100 points
All applicants start with 200 points. Performance points noted immediately above are **deductions** 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).		250
Project feasibility	Compliance with state and federal requirements (including UMRs for rental projects)	195
	Highest percentage of HOME-assisted units	5
Project readiness	For detailed project readiness factors for rental projects, see the HOME Supplement. For homebuyer projects, see the Homebuyer Project Application (Part B). Rating points for PDP will be awarded if the required* item has been prepared within the applicable timeframes, submitted, and meets the basic requirements specified in the HOME Supplement. PDP items will be reviewed to make a feasibility determination for the applications scoring high 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	100% financing committed or noncompetitive: 55 points will be awarded for projects that have 100% of their non-state HOME permanent financing committed by August 6, 2018. Projects proposing 4% tax credits qualify for these points if all commitments other than tax-exempt bonds, 4% tax credit proceeds, AHP, and deferred developer fees are in place.	85
	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 20 percentage points compared to the percentage of total minorities in the county.	35

Special objectives – (cont.)	Special needs populations: Up to 80 points will be awarded to rental projects with funding commitments that are proposing to target special needs populations, including farmworkers, using any of the following financing sources: HUD 811, HUD Supportive Housing Program, or the 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 that provide project-based rental assistance under the terms of an MHSA or Veterans Affairs Supportive Housing Voucher (HUD-VASH). See State Objectives Table 11. **-- or --** Homelessness: Up to 80 points shall be awarded to projects serving people experiencing homelessness. See State Objectives Table 11. **-- or –** Access to Opportunity: 80 points will be awarded for projects located in areas of opportunity within the TCAC Opportunity Map. http://www.treasurer.ca.gov/ctcac/opportunity.asp	80
	TOTAL POINTS RENTAL PROJECTS	**1,550**

Table 11 -- State Objectives: Special Needs Populations	
Percent of Units Designated by the Funding Source as Special Needs Units	Points
30% or more	80
25%	65
20%	52
15%	39
10%	26
5%	13

Credits and additional point-deduction rules:

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

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

   a) The project has been completed, (i.e. the final Certificate of Occupancy has been issued and provided to HCD and the Notice of Completion has been filed in the County Recorder’s Office).

b) The Project Completion Report, showing that all HOME units are occupied, has been received by HCD.

c) All HOME funds were expended by the original expenditure deadline in the Standard Agreement.

2. 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, 2012 and December 31, 2017. Points will be restored at the rate of 5 points for each completed HOME project that was awarded HOME funds between June 1, 2012 and December 31, 2017.

For example, one of a developer's three HOME projects awarded in this timeframe missed the completion deadline, resulting in an 80-point deduction. Two projects awarded HOME funds between June 1, 2012 and December 31, 2017 have been completed. 10 points (2 projects X 5 points) offset the 80-point deduction.

3. Additional point deduction rules

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

b) Point deductions for projects subject to the holdout penalty (state HOME regulations section 8217(b)(3). Certain applicants that have not received a waiver of the holdout penalty pursuant to state HOME regulations section 8217(c) may now be eligible to apply because the project in question meets a specific performance standard identified in the state HOME regulations. This requirement states the project has been completed, occupied, all funds have been expended, and all necessary HOME funds have been drawn pursuant to state HOME regulations 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 state HOME regulations 8217(b)(3)(B).

Rental project scoring, notification, and appeal process

Rental project application scoring is expected to be completed by **December 2018**. Emails will be sent to the authorized representative and contact person listed in the application describing the scores and facts upon which those scores were determined.

Appeals

1. Basis of appeals

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

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

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

2. Appeal process and deadlines

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

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

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

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

Decision

Any request to amend HCD’s decision shall be reviewed for compliance with the state and federal HOME regulations and UMR (if applicable), the June 5, 2018 HOME NOFA and “application for funding”, and any subsequent clarifying documents such as the HOME Program’s responses to “Frequently Asked Questions.” It is HCD’s intent to render its decision in writing within fifteen (15) business days of receipt of the applicant’s written appeal. All decisions rendered shall be final, binding, and conclusive and shall constitute the final action of HCD with respect to the appeal.

Effectiveness

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

Table 12 - HOME Program Activities Rating Factors

Factor	Sub-factor (if any)	Points
Housing element: The local public entity's adopted housing element is in substantive compliance with state Housing Element Law as of August 6, 2018, as defined at section 8201(t) of the state HOME regulations. Newly formed cities are not required to be in compliance. Projects developed on Native American lands as defined in state HOME regulations section 8201(y)(1) and CHDOs shall receive full points in this category. For more information, see http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf.		50
Direct HOME allocation declined: Activities proposed within a jurisdiction eligible for a direct HOME allocation from 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 2011 – 2017).		100
Prior performance of the applicant	**Performance factor #1:** Up to 50 points will be deducted for late or missing reports. In assigning these points, HCD will review the applicant's history of submitting quarterly reports and quarterly PI reports (for both program activity and project contracts numbered 14-HOME through 16-HOME), and Annual Performance Reports for FY 14-15, 15-16, and 16-17. HCD reserves the right to deduct points even if the Annual Report is on time but prepared inaccurately.	Maximum deduction of 50 points
	Performance factor #2: Up to 100 points will be deducted for noncompliance with monitoring or contract requirements identified in the last five years (i.e. January 1, 2013 thru December 31, 2017)**.**	Maximum deduction of 100 points
Note: All applicants start with 150 points. Performance points are **deductions** from the two factors above. The maximum point deduction for performance is 150 points.		150
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	Activity-specific criterion as specified: • FTHB programs: number of units that 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. **-- or --** • OOR 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. **-- or --** • TBRA Programs: overpayment by renter households as reflected in U.S. Census data.	Up to 75
	Extent program guidelines reflect state and federal requirements.	25
State Objectives (200 points) Higher expenditure rates	Ninety points will be awarded to applicants with an expenditure rate of 60%. Sixty 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% threshold requirement described in section II.A.	90
Access to opportunity and homelessness	One hundred ten (110) points to be awarded for access to opportunity and homelessness actions. These points will be awarded to applicants with local governments that have: 1) Identified in the access to opportunity strategies at least one activity in each of the three categories: Outreach and engagement, prioritize and diversify investment; and encourage housing choices in higher opportunity neighborhoods. 2) Either applied for TBRA, or has identified in the homelessness strategies at least one action in each of the following three areas: zoning and land use, funding, and data outreach and coordination. To receive these points, applicants must submit, Appendix I: HOME State Objective Criteria and Scoring Form.	110
	TOTAL POINTS FOR PROGRAMS	950

V. Application submittal procedures and deadline

A. Applications

The application materials for all activities are available on HCD's website:

Rental project application

- Universal Rental Project application Form (XLS)
- HOME Supplement to Universal application (DOC)
- Developer Capacity Form (XLS)
- Deeper Affordability Targeting and Minority Concentration State Objective Worksheets (XLS)
- Developer Fee Calculation Worksheets (XLS)

FTHB project application

- FTHB Summary application (XLS)
- FTHB Project application (DOC)
- FTHB Developer Capacity (XLS)
- FTHB Project application Worksheets (XLS)
- Minority Concentration State Objective Worksheet (XLS)

Program activities application

- Part A - Program activities Summary application Instructions, Resolution, and Certifications (DOC)
- Part A - Program activities Summary application (XLS)
- Part B - Program activities application (DOC)
- Part B - FTHB Feasibility Worksheet - Mortgage Assistance (XLS)
- Part B - First-Time Homebuyer Program Feasibility Worksheets - Infill New Construction Programs (XLS)
- Part B - Developer Capacity Form (XLS)

Applicants seeking access to opportunity and/or homelessness state objective points for program activities must complete and submit the State Objective Criteria and Scoring Form (Appendix I) with the application package.

Applicants must submit separate application forms and supporting documentation in separate binders for each activity (e.g., Project 1, Project 2); however, program activities must be combined together in one 3-ring binder, as noted in the examples below. In addition, rental project applicants must submit one copy of their completed Universal application Form (excel format), HOME Supplement, and all project development plan (PDP) attachments on one PC-compatible compact disc (CD) or USB flash drive, that includes a copy of the application with signatures. Unprotect electronic worksheets for HCD use when preparing project reports. The application, attachments, and major sections of an application binder must contain tabbed dividers.

Examples

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

    a) the original universal application 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 one CD or USB flash drive

    c) the original FTHB Project application Part A, Part B, and all attachments for the FTHB project (binder 2)

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

    a) The original Universal Application 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 one CD or USB flash drive

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

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

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

B. Application packaging and submittal

A complete original application, and electronic copies on CD or USB flash drive with all applicable information must be received by HCD no later than **5:00 p.m. Pacific Standard Time on August 6, 2018**. HCD will only accept applications delivered through a postal carrier service that provide date stamp verification confirming delivery to HCD such as U.S. Postal Service, UPS, FedEx, or other carrier services. Contact HCD if delivery is not completed by fault of the private courier/U.S. Mail. Personal deliveries are not accepted. The delivery address is:

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

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

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

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

C. Application workshop

Applicants for HOME funds are strongly encouraged to attend the applicable workshops to gain information critical for preparing a competitive application, which will be discussed at the workshops. For the list of workshop dates, times, and locations, HCD will send out a message and post workshop information on HCD's website at http://www.hcd.ca.gov/grants-funding/active-funding/home.shtml. Application workshops will be available for sign up through Eventbrite.

HOME FTHB Subdivision Projects Workshop
This workshop will be conducted via a conference call and will provide an overview of the **FTHB subdivision project application**.

HOME Rental Project Workshop
This in-person workshop will cover Rental New Construction and Rental Rehabilitation (with or without Acquisition) projects only.

HOME Program activities Workshops
This in-person workshop will cover FTHB, OOR and TBRA program activities.

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

D. Disclosure of application

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

VI. Award Announcements and Contracts

A. Award Announcement

HCD intends to send award letters in December 2018 for all successful applicants. If a Standard Agreement is not ready for a construction loan closing, then the borrower and other construction lenders or any other party associated with the project must rely on the issuance of an estoppel letter that will be issued (if requested) at the construction loan closing stage.

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

B. Contracts

Awardee(s) will enter into a Standard Agreement with HCD. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed. Projects must meet an October 2019 construction loan-closing deadline or funding will no longer be available. There will be no exceptions. In addition, all projects are required to close all permanent loans by March 2022. The Standard Agreement will contain deadlines that are consistent with federal requirements; failure to meet these deadlines will be considered a material breach of the Standard Agreement.

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

A condition of award will be that a Standard Agreement must be executed by the awardee(s) within 90 days (Contracting Period) of HCD's issuance of the award letter. Failure to execute the Standard Agreement(s) within the Contracting Period may result in award cancellation. The awardee(s) shall remain a party to the Standard Agreement for the entire term of the Standard Agreement; removal of the awardee(s) shall be prohibited.

VII. Overlays

A. Federal overlays

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

1. National Environmental Policy Act (NEPA)

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

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

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

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

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

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

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

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

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

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

For all new construction projects and some rehabilitation projects, compliance with NEPA is evidenced by an AUGF. HUD issues the AUGF for CHDO and developer projects and 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 at http://www.hcd.ca.gov/grants-funding/active-funding/home/cmm.shtml.

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, Project Reports will frequently have conditions requiring additional analysis of environmental impacts.

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

The application must disclose all environmental hazards, and, if awarded funding, HCD must be kept 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.

Note that HCD is unable to give legal advice to applicants regarding a specific project or program. If you have specific questions regarding what constitutes a “choice-limiting action” or the environmental laws affecting your project or program, you will need to consult with a legal advisor or other professional consultant for advice prior to taking any actions on your project or program.

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

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

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

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

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

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

3. Relocation

   Relocation costs must be paid if individuals or businesses will be temporarily or permanently displaced as a result of a HOME-assisted project. Specifically, federal relocation requirements extend back to the "initiation of negotiations" (ION). For a discussion of relocation notice requirements, and what constitutes the ION, see the HOME Contract Management manual at http://www.hcd.ca.gov/grants-funding/active-funding/home/cmm.shtml.

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

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

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

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

4. Procurement requirements for state recipients using administrative subcontractors

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

5. Single Audit Report documentation -- 2 CFR 200.512

Local governments that expend in excess of $750,000 in federal funds during the fiscal year are required to submit a Single Audit Report package to SCO. The 2016-17 audit package was due by March 31, 2018.

HCD will make the determination on the status of compliance as of August 6, 2018 by consultation with SCO only. Jurisdictions that are exempt from filing a Single Audit Report package because the level of federal funds is below the threshold must also submit a copy of the letter to SCO notifying their exempt status with their HOME application. For more information on the required content of the letter, see http://sco.ca.gov/aud_exempt_entities.html.

Note: It is strongly recommended that each applicant check with SCO to confirm receipt of a complete Single Audit Report package submission by the NOFA application due date, and that the submission is properly reflected on SCO's status list. You may check your jurisdiction's compliance status at http://sco.ca.gov/Files-AUD/SingleAud/statusreport.pdf.

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

B. State overlays

Rental project only - Article XXXIV of the California Constitution

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

Applicants must submit documentation that shows the project's compliance with or exemption from Article XXXIV.

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

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

2. A copy of the referendum and a certified vote tally

3. The number of units that remain in the locality's "bank" of Article XXXIV authority (i.e., the number of units that are still available for allocation)

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

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

VIII. Other terms and conditions

A. Right to modify or suspend

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

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

B. Conflicts

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