

Welcome back to the  
National Housing Trust Fund (NHTF) Workshop  
FY22-FY23 Notice of Funding Availability (NOFA),  
Final NHTF Guidelines and  
NHTF Online Application

DIVISION OF FEDERAL FINANCIAL ASSISTANCE (DFFA)





# **Guidelines Section 1 and 2**

## **Introduction and Definitions**

**Presented by Debbie Gentile**  
**Representative II**



## Definitions-Part 1:

- 24 Code of Federal Regulations (C.F.R.) § 93.2: Housing Trust Fund Regulations
- 25 California Code of Regulations (C.C.R.) § 8301





## Definitions-Part 2:

- Added or Revised Defined Terms since April 2023:
  - Accessible Housing Units
  - Alternative Accessibility Standards
  - Developmental Disability
  - Disability or Persons with Disabilities
  - Disabled Family
  - Intellectual Disability
  - Native American Land
  - Native American Fee Land
  - New Constructions Language associated with Property Standard requirements with increase to mobility and sensory impaired units
  - Rehabilitation
  - Removal of the Article XXXIV requirement



## **Section 3**

# **Eligible Recipients (Applicants)**

**Presented by Debbie Gentile  
Representative II**



## **Section 4**

# **Eligible Uses, Terms, and Limits of NHTF Funds**

**Presented by Latasha Everett  
Representative II**



## Eligible Uses, Terms, and Limits of NHTF Funds

- NAHASDA or other federal or tribal laws as set forth at 24 C.F.R. § 1000.12.
- 24 C.F.R. Part 93, Subpart E. Pursuant to 24 C.F.R. § 93.200(a)(1)
- Property Standards in 24 C.F.R. § 93.301
  - Construction Progress Inspections pursuant to 24 CFR 93.301(a)(2)(v):  
The Department and any authorized representative of the Department must conduct progress and final inspections of the Project



## Loans Terms



- All loans must include terms that are consistent with the following:
  - Must not exceed the maximum Per Unit subsidy in the NOFA
  - Loan will not bear interest unless the Department increases this rate pursuant to Health & Safety Code (Section 50406.7) of the regulations
  - Initial Loan Term: 55 years or more. For projects on Native American Land, loans must have an initial term of 50 years or more
  - Monitoring fees to cover the costs of ongoing monitoring and physical inspections of the Project





# **Section 5**

## **Project Requirements**

**Presented by Latasha Everett**  
**Representative II**



## Project Requirements-Regulatory Requirements

- Although all projects that receive NHTF funds are subject to 24 C.F.R. § 93.302 Subparts G for a minimum of 30-year federal affordability period, Assembly Bill 816 requires Department to restrict affordability for 55 years through a recorded and enforceable affordability covenant
- For NHTF assisted Projects located on Native American Land, the affordability requirement is for a minimum 50 years



## Project Requirements-Rent Restrictions-Part 1:

- This is an exception to the rent limits:
  - If there is a state or federal project-based rental subsidy and the household does not pay more than 30 percent of their adjusted monthly income, then the maximum rent is the rent allowable under the rental subsidy
  - The rents for units where tenants use a portable voucher (i.e., tenant-based voucher) are subject to the NHTF rent limits



## Project Requirements-Rent Restrictions-Part 2:

- Projects must restrict rent for NHTF Assisted Units consistently with Title 24 C.F.R § 93.302:
  - The Rent and tenant-paid utilities for Extremely Low-Income Families must comply with 24 C.F.R. § 93.302(b)(1)(i) and (b)(2)
  - Such as, the rents may not exceed the NHTF rent limits published annually by HUD, by unit size and county/MSA - which represents 30 percent (what's considered affordable) of 30 percent AMI (or the poverty line, whichever is greater) for a household consisting of 1.5 persons per bedroom, on a monthly basis



## Project Requirements-Rent Restrictions-Part 3:

- Projects must restrict rent for NHTF Assisted Units consistently with Title 24 C.F.R. § 93.302 (continued):
  - Projects using other Department financing must use the most restrictive program's rent limits
  - Projects located on Native American Land must be duly encumbered with a Declaration of Restrictive Covenants to comply with Subsections 5(a)-(d) of the NHTF Guidelines for an initial term of 50 years



## Project Requirements-Housing First

- Housing First will not be applicable for Tribes when using Indian Housing Block Grant (IHBG) funding and their own Tribal Admission and Occupancy Standards (TAOS) pursuant to NAHASDA, Sections 203 & 207 24 C.F.R. § 1000.104 through 110
- Projects owned/developed by a city, county or local housing authority must be within the geographic boundaries of their jurisdiction within California
- Must follow the Core components of Housing First (Welfare and Institutions Code § 8255(b))



## Housing First Components-Part 1: (For Projects NOT on Native American land)

1. Tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances or participation in services
2. Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental history or criminal convictions unrelated to tenancy
3. Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems





## Housing First Components-Part 2: (For Projects NOT on Native American land)

4. Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans
5. Participation in services or program compliance is not a condition of permanent housing tenancy
6. Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in California's Civil, Health and Safety, and Government codes
7. The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction





## **Housing First Components-Part 3: (For Projects NOT on Native American land)**

8. Tenants based on criteria other than “first-come-first-serve,” including, but not limited to, the duration or chronicity of homelessness, vulnerability to early mortality, or high utilization of crisis services
9. Case managers and service coordinators who are trained in and actively employ evidence-based practices for client engagement
10. Harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants’ lives, and tenants are offered education
11. The project and specific apartment may include special physical features that accommodate disabilities, reduce harm and promote health



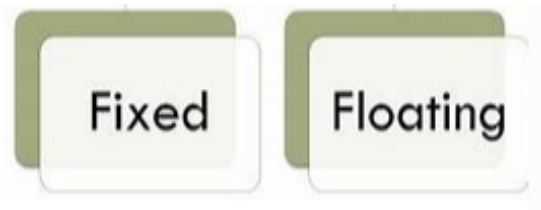
## Project Requirements-NHTF Assisted Units-Part 1:

- Must maintain Fiscal Integrity as defined in Section 2 of the Guidelines for a minimum of 30 years to meet 24 C.F.R. § 93.300(b)
- Projects must identify the NHTF Assisted Units as fixed/floating in the application
  - A fixed NHTF unit is a permanently designated unit and must remain the same throughout the period of affordability
  - A floating NHTF unit must be comparable in terms of size, features, and number of bedrooms to the originally designated NHTF unit



## Project Requirements-NHTF Assisted Units-Part 2:

- Floating units may change to maintain conformity with the requirements
- The final determination of the fixed/floating NHTF Assisted Units will be made by Department staff in the underwriting process through the cost allocation analyses to ensure compliance C.F.R. § 92.205(d)(1)





## Project Requirements-NHTF Assisted Units-Part 3:

- All Projects on Native American Land, Native American Fee Land, and Non-Native American Land:
  - Are subject to the inspections and financial oversight requirements under 24 C.F.R. §§ 93.404(d) and (e)





## Project Requirements-NHTF Assisted Units-Part 4:

- All Recipients must agree and authorize the Department and any authorized representative of the Department to enter the Project property during and after construction for inspections under 24 C.F.R. § 93.301.
  - The Department agrees that this right of inspection shall be exercised in a reasonable manner and in respect to the Native American Land
  - May include and is not limited to inspections of all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work
  - Advance written notice will be provided



## Project Requirements-NHTF Assisted Units-Part 5:

- Recipient must agree that once having undertaken any inspection, neither the Department, nor the Department's representative shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection
- It is further agreed that the fact that such inspection may or may not have occurred does not relieve the Recipient, the contractor, the construction lender, the architect, the structural engineer, the locality, or anyone else of any obligation to inspect the Project



## Project Requirements-NHTF Assisted Units-Part 6:

- Department Inspections during the period of affordability under 24 C.F.R. 93.404(d)(2)(i)
- The Department or it's representative must perform onsite inspections of the Project (typically annually)
  - To determine compliance with the ongoing property standards of 24 C.F.R. § 93.301
  - To verify the information submitted by the Recipient in accordance with the requirements of 24 C.F.R. § 93.302
  - Advance written notice will be provided (typically 30 days)



## Physical Design Requirements- Projects located on Native American Land

### ➤ Physical Designs Requirements pursuant to NAHASDA:

- Section 504 of the Rehabilitation Act and HUD's regulations at 24 CFR Part 146;
- Equal Access to HUD assisted or insured housing requirements in 24 CFR 5.105 (a)(2)

### ➤ Physical Designs Exemptions pursuant to NAHASDA:

- CBC Chapters 11A and 11B
- Fair Housing Act (42 USC § 3601 et seq.), 24 C.F.R. Part 100, the American National Standards Institute A117.1 – 1986, and 24 C.F.R. § 100.201(a);
- Americans with Disabilities Act of 1990 (42 USC § 12101 et seq.) and regulations at 28 C.F.R. Part 35 (Title 11) and Part 36 (Title III); 24 C.F.R. § 1000.12.





## Physical Design Requirements- (For Projects NOT on Native American land)

- HOME/NHTF Multifamily Rehabilitation Standards (rehabilitation only)
- All applicable state and federal building codes and standards, and adopt written policies for the following:
  - Making reasonable accommodations for tenants with disabilities and provide reasonable accommodations and modifications
  - Auxiliary aids
  - Services for effective communications with residents and applicants with Disabilities



## Physical Design Requirements

- Project must be in compliance with the housing and building accessibility requirements:
  - CBC Chapters 11A and 11B
  - Fair Housing Act (42 USC § 3601 et seq.), 24 C.F.R. Part 100, the American National Standards Institute A117.1 – 1986, and 24 C.F.R. § 100.201(a);
  - Americans with Disabilities Act of 1990 (42 USC § 12101 et seq.) and regulations at 28 C.F.R. Part 35 (Title 11) and Part 36 (Title III);
  - Section 504 of the Rehabilitation Act of 1973 (29 USC § 794) and 24 C.F.R. Part 8; and
  - UFAS at 24 C.F.R. Part 40, or, in the alternative, the 2010 ADA Standards for Accessible Design



## **Section 6**

# **Underwriting**

**Presented by Kendra Gubaydullin  
Specialist II**



## What is Underwriting?

- “Underwriting” is a review process to ensure that a proposed project meets all program-specific requirements, underwriting standards, and Department policies; and that the project is financially feasible. This is generally referred to as “Feasibility Review”
- Requirements are specified in program-specific Regulations 24 C.F.R. 93.300(a), Notice of Funding Availability, NHTF Guidelines, the California Code of Regulation Title 25 (C.C.R.) and HCD policy Memos





## Application Feasibility Review

- Includes review of:
  - Development Budget
  - Funding Sources
  - Rents/Unit Mix
  - Operating Budget
  - Cash-flow Analysis





## Underwriting 101-Funding Sources

- Reconciliation of prior/concurrent HCD funding sources (i.e., grants and loans)
- Subordination Policies
  - Are there a variable rate or sandwich loan?
  - Public Lenders
  - Sponsor Loans
- [25 C.C.R. § 8310](#)





## Underwriting 101-Development Budget-Part 1:

- Questions to ask about the development budget
  - Are funds covering allowable costs?
  - Are costs lumped under one line item?





## Underwriting 101-Development Budget-Part 2:

- Overhead/Profit/General Requirements (for a General Contractor) should not exceed 14 percent of site work plus structures
- Hard Cost Contingencies
  - Rental New Construction (RNC) at or above five percent, Rehabilitation at or below 10 percent (lower amount must be explained)
- For “Other” line items – please specify the item in the application





## Underwriting 101-Income-Part 1:

➤ Includes any/all of the following:

- Rents

- 1) Underwrite to maximum Area Median Income (AMI) rent (e.g., Restricted/Regulated Rents)
- 2) Review Proposed rents that will be below the Restricted/Regulated Rents, if available

24 C.F.R. § 93.302(b)(1)(i) and (b)(2)





## Underwriting 101-Income-Part 2:

- Utility Allowance (UA) should match the Schedule
- Net Rent is Gross rent minus UA
- Residential vacancy rates based on program requirements





# Developer Fee & Total Development Cost



## ➤ Developer Fee

- Calculated in accordance with [25 C.C.R. § 8312](#)
- Detailed in the [Administrative Notice on 2017 UMR Developer Fee Limits and Capital Contributions memo](#)

## ➤ Total Development Cost

- Equals total Permanent sources

[25 C.C.R. § 8311](#)



# Underwriting 101-Other Income



➤ Includes any/all of the following:

- Subsidies
  - 1) Operating Subsidies (based on expenses)
  - 2) Project-Based Rental Assistance (PBRA) (Tenant-Based Rental Assistance (TBRA) not included in underwriting)
- Laundry/Fees
- Commercial Income, only if income supports the residential Project. Note: The residential Project income must not support the commercial project (One-way Road)



# Underwriting 101-Cost Reasonableness

## ➤ High-Cost Analysis

- Costs exceeding 160 percent (at application) and 170 percent (at closing/conversion) of eligible basis limit are considered unreasonable





## Underwriting 101-Operating Budget-Part 1:

- Replacement Reserves 25 C.C.R. §8309
  - Rental New Construction (RNC) *At least* the Lesser of 0.6 percent of structures or \$500 Per Unit Per Year (PUPY)
  - Rehabilitation placeholder of \$500 PUPY, until the cost is determined by an after rehabilitation Physical Needs Assessment/Capital Needs Assessment





## Underwriting 101-Operating Budget-Part 2:

### ➤ Salaries

- Full Time Equivalent (FTE)
- Specify if the manager's rent-free unit equals the income
- Calculation for front desk and security

### ➤ Supportive Services paid from Operating Budget

- Total services costs limited to 25 C.C.R. § 8314(e)





## Underwriting 101-Operating Budget-Part 3:

### ➤ Financial Expenses

- Amortized loans, bond issuance fee if applicable, and other lender monitoring fees, and
- Department Fees
  - 1) NHTF Monitoring Fees (based on the number of units) and
  - 2) HCD Monitoring Fees for other HCD loans are based on 0.42 percent of the loan amount





## Underwriting 101-Operating Budget-Part 4:

- Asset Management/Similar 25 C.C.R § 8314
  - Not to exceed \$30,000/year (2016 adjusted 3.5 percent per year)
  - Includes Partnership Fees
- Miscellaneous Expenses & Contracts (detail when over \$25,000)
- Total Operating Expenses
  - Should be above TCAC minimums for location/project type



# Underwriting 101-Cash Flow Analysis

- Trending Negative in Cashflow
  - Extend proforma to at least 30 years
  - Additional Operating Reserve II may be needed
  
- 24 C.F.R. §93.300(b)
- 25 C.C.R. §8310





# Underwriting 101-Cash Flow Waterfall-Part 1:

## ➤ Priority distributions:

- First Priority is the Deferred Developer Fee, and
- Asset Management, Partnership Management and Similar fees





## Underwriting 101-Cash Flow Waterfall Part 2:

- Residual Receipts and Sponsor Distributions:
  - 50 percent to Sponsor
  - 50 percent Department and other soft lenders
  - Department's pro rata calculation is inclusive of the Department's loans and grants ([25 C.C.R. §8314\(a\)\(2\)\(A\)](#) and [25 C.C.R. §8315](#))





## **Section 7**

# **Management and Maintenance**

**Presented by Colleen O'Meara  
NHTF Program Manager**



## Management

- Projects located on Native American Land:
  - Housing first core components will not be applicable when using Indian Housing Block Grant (IHBG) and adopted their own Tribal Admission and Occupancy Standards (TAOS) pursuant to NAHASDA, Sections 203 & 207 24 C.F.R. § 1000.104 through 110





## Management Policies

- Projects on Native American Land are exempt from the following:
  - Affirmatively Furthering Fair Housing (AFFH)
  - Pet Friendly Housing Act
- Projects on Native American Land will govern tenancy, eviction and termination using their duly adopted TAOS



# Management-Occupancy-Part 1:

## ➤ Minimum Occupancy Standards

UNIT SIZE	MINIMUM HOUSEHOLD MEMBERS
Single Room Occupancy (SRO)	1
Studio/ 0 Bedroom	1
1 Bedroom	1
2 Bedroom	2
3 Bedroom	4
4 bedroom	6
5 Bedroom	8

- Projects located outside of Native American Land are subject to Fair Housing Act, FEHA, Accessibility and Civil Right Requirements





## Management-Occupancy-Part 2:

- Accommodation requests must be maintained in the tenant's file and available for Department's compliance review
- Please keep in mind, the Department may request to see that documentation at any given time





## Management-For Projects NOT on Native American Land

- Recipients are responsible for all management functions
- Management Plan must be approved by the Department prior to permanent loan closing and include:
  - Housing First Best Practices
  - Roles, Responsibilities, and Delegated Authority to the Management Agent
  - Personnel Policy and Staffing arrangements
  - Tenant Selection Criteria and Application Intake
  - Records Keeping Policies, Rent Collection and Evictions
  - Initial and Annual Certification of Household Size, Income and Assets





## Management Policies and Practices (For Projects NOT on Native American land)

- Tenant Protection Policies and Practices as follows:
  - Affirmative Marketing Plan
  - Affirmatively Furthering Fair Housing (AFFH)
  - Violence Against Women Act (VAWA)
  - Appeal and Grievance Procedures
  - Pet Friendly Housing Act
  - Prohibited Lease Provisions
  - Evictions, Terminations, and Collections for Tenant caused damages



## Maintenance

- Recipients are responsible for all repair and maintenance on the Property:
  - Units
  - Common Areas
  - Reasonable Modification for tenants with a disability
  - Commercial Space





## **Section 8**

# **Application and Award Process**

**Presented by Colleen O'Meara  
NHTF Program Manager**



## **Section 9A**

# **Application Minimum Requirements**

**Presented by Virginia Correa  
Representative II**



## Minimum Requirements-Part 1:

- All applications must clearly contain the following:
  - Project Narrative/Details
  - Name of the Applicant and development team
  - Project Name and location
  - Specify if location of Project is in a Rural Area, on Native American Land, or Native American Fee Land as defined in the guidelines



## Minimum Requirements-Part 2:

- All applications must clearly contain the following (continued):
  1. Assessor's Parcel Number(s)<sup>1</sup>
  2. Assembly Member, State Senator, U.S. Senators and Congressional Representative<sup>1</sup>
  3. Zoning details<sup>1</sup>
  4. Site Acreage

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<sup>1</sup>Projects located on Native American Land are exempt from #1, #2 and #3.





## Minimum Requirements-Part 3:

- All applications must clearly contain the following (continued):
  - Construction Scope of Work
  - Number of Units and their size (number of bedrooms, number of bathrooms, and Unit square footage)
  - Detailed Unit mix (affordability levels, funding sources, layering, and if any, market rate Units)
  - List of amenities and services offered at the Project's site
    - 1) Playground for school aged children (up to age 12) is required at multifamily sites



## Minimum Requirements-Part 4:

- All applications must clearly contain the following (continued):
  - List and map of amenities and services within 1.5 miles of the Project
  - Exceptional circumstances
  - Project Milestones
  - Construction Costs supported by third party estimates
  - Information verifying the application meets Section 3-10 of the NHTF Guidelines



## Minimum Requirements-Part 5:

All applications must clearly contain the following (continued):

- Copies of all firm written financial commitments for the Project
  - Not including the following sources:
  - Tax exempt bonds
  - Low-income housing tax credits
  - Funding to be provided by another Department program



## Minimum Requirements-Part 6:

- All applications must clearly contain the following (continued):
  - Detailed information of the Applicant adequate to determine the experience and capacity as outlined in Subsection 9(2)(A)-(N)
  - Site Information:
    - 1) Site Control
    - 2) Voluntary Acquisition Letter (form provided by the Department)
    - 3) Information adequate to determine the readiness of the Project to proceed

25 C.C.R. § 8303 and § 8316



## Minimum Requirements-Part 7:

- All applications must clearly contain the following (continued):
  - Site Information (continued):
    - 1) Preliminary Title Report, not more than 90 days old
    - 2) Flood plain status, including back-up documentation
    - 3) Map and photos of the Project's location



## Minimum Requirements-Part 8:

- All applications must clearly contain the following (continued):
  - Utility Allowance Documentation
    - HUD letter or Agreement to Enter into a Housing Assistance Payments Contract
    - Local Housing Authority utility allowance letter or Agreement to Enter into a Housing Assistance Payments Contract
    - HUD Utility Schedule Model prepared by qualified energy analysts
    - California Utility Allowance Calculator (CUAC) prepared by qualified energy analysts or letter from TCAC



## Minimum Requirements-Part 9:

- All applications must clearly contain the following (continued):
  - Property Management Plan that meets the requirements of Section 7
  - Resident Services Plan and Agreement/Memorandum of Understanding that includes a 0.25 full-time equivalent (FTE) dedicated on-site services for every 50 Units in the Project (0.25:50)





## Minimum Requirements-Part 10:

- All applications must clearly contain the following (continued):
  - For projects located on Native American Land, the Site Control Information requirement will be satisfied by providing evidence of a TSR or an attorney's written opinion regarding chain of title and current title status as required 25 C.C.R. § 8303







## Minimum Requirements-Part 11:

- All applications must clearly contain the following (continued):
  - Supportive Services Plan and Agreement/Memorandum of Understanding that includes a ratio of one FTE case manager for every 20 individuals (1:20)
  - Market study must be dated within one year of the NHTF application submission deadline
  - Property Appraisal must be within 120 days of the Site Control documents
  - For Projects located on Native American Land, appraisals will be provided based on the data available



## Minimum Requirements-Part 12:

- All applications must clearly contain the following (continued):
  - Relocation Plan for Non-Residential Business or a self-certification that relocation is not applicable, with pictures of the site
  - Rehabilitation Projects:
    - 1) Temporary and/or Permanent Relocation Plan for Residents that is in compliance with federal (24 C.F.R. § 93.352), state, and local law, whichever is more stringent. Or a self-certification that relocation is not applicable with pictures of the site
    - 2) Physical Needs Assessment
    - 3) Market study



## Minimum Requirements-Part 13:

- All applications must clearly contain the following (continued):
  - Rehabilitation Projects (continued):
    - 1) Property Appraisal
    - 2) Asbestos and mold assessments
    - 3) Lead-based paint assessment (projects constructed prior to January 1, 1978)





## Minimum Requirements-Part 14:

- Projects located on Native American Land leveraging IHBG funds are required to follow the NAHSDA requirements set forth in 24 C.F.R. § 1000.14
  - The application will request for all construction and permanent sources and uses of the Project as part of the Department Underwriting requirements





## Minimum Requirements-Part 15:

- Any third-party documents must be prepared by an individual or firm that:
  - Has the appropriate license, knowledge and experience;
  - Correctly employs methods/techniques to produce a complete document;
  - Communicates in a manner that is not misleading as to the true market, and the value and condition of the subject property; and
  - Is an independent third-party having no identity of interest with the Applicant, the partners of the Applicant, the intended partners of the Applicant, or with the general contractor



## Minimum Requirements-Part 16:

- Rehabilitation Projects located on Native American Land must include the following in the application:
  - 1) Property Appraisal based on data available
  - 2) Asbestos and mold assessments
  - 3) Lead-based paint assessment (projects constructed prior to January 1, 1978)

NOTE: Environmental Review Phase 1 reports include asbestos and lead; therefore, they are mandated for Projects on Native American Land as well



## Minimum Requirements-Part 17:

- Applications must be received by the deadline(s) specified in the NOFA and must clearly demonstrate:
  - Applicant and Project meet the requirements in Sections 3-9 of the NHTF Guidelines
  - NHTF funding requested does not exceed maximum per Unit subsidy and award limits in the NOFA
  - No pending lawsuits that will prevent implementation of the Project
  - NHTF Environmental Provisions



**FIVE MINUTE BREAK**







## **Section 9B**

# **Environmental Provisions**

**Presented by Kirsten Larsen  
Senior Environmental Specialist**



## Environmental Provisions (Background)

- National Environmental Policy Act (NEPA) of 1969
- HTF was established under Section 1131 of Title I of the Housing and Economic Recovery Act (HERA) of 2008
- NEPA and HTF
  - NHTF Property Standards at 24 C.F.R. §93.301(f) for new construction and rehabilitation



## Complying with the Provisions (NHTF)

- 24 C.F.R. §93.301(f)(1) – Property Standards for New Construction
- 24 C.F.R. § 93.301(f)(2) – Property Standards for Rehabilitation
- Notice CPD-16-14: Requirements for Housing Trust Fund  
Environmental Provisions



## Environmental Provisions vs. Part 58-Part 1:

### ➤ What's the same as NEPA Part 50/58?

- Coastal Barrier Resources
- Coastal Zone Management
- Explosive and Flammable Facilities
- Endangered Species (informal consultation)
- Wild and Scenic Rivers
- Sole Source Aquifers



## Environmental Provisions vs. Part 58-Part 2:

### ➤ What's different from NEPA Part 50/58?

- Historic Preservation
- Farmlands Protection
- Airport Hazards
- Floodplain Management
- Wetlands Protection
- Site Contamination
- Noise Abatement and Control
- Safe Drinking Water



## Environmental Site Assessment Phase I & II

- Timing and contents of the Phase I (ASTM E1527-21)
  - For Tribal Projects located on Native American Land, the Recipient shall provide the Department with a Phase I Environmental Site Assessment based on the data available
- Non- ASTM scope items and issues that must be addressed:
  - Aboveground Storage Tanks (AST's), radon, historic pesticide use, lead-based paint, and asbestos)
- Phase II required if Phase I finds possible environmental concerns
  - How to provide evidence of hazardous/toxic site cleanup



## Timing

- NHTF projects must meet applicable Property Standards and the Provisions at 24 C.F.R. §93.301(f)(1) or (2) at project completion
- However, HCD requires determination before construction whether a project can meet the Environmental Provisions (EP)
- If a project cannot meet the EP, the project cannot be funded by NHTF





## Environmental Provision Housekeeping-Part 1:

### ➤ NOFA – Section C Project Readiness

- There is no “Responsible Entity Verification of Project Readiness” form. If the project has NEPA responsibility due to federal funding in the project, please submit the Authority to Use Grant Funds (AUGF).
- The Department recognizes that CEQA requirements do not apply on Native American Lands and if CEQA is required, the Department will carry out the CEQA review.
- Native American Entity Projects may utilize Department resources to meet Project environmental requirements on a case-by-case basis.





## NHTF Funds Only

- No need to determine Level of Review (CEST/EA)
- No Public Comment or Objection periods
- No Request for Release of Funds and Certification
  - No Authority to Use Grant Funds





## Environmental Provision Housekeeping-Part 2:

- NHTF Guidelines Section 9 (d)(8)(B)
  - The Phase I environmental site assessment documentation will be in the ASTM International, formerly known as American Society for Testing and Materials, standard format E1527.21.





## HCD Resources-Part 1:

- HCD is in the process of creating an environmental web presence. Contact Kirsten if you'd like to be added to the Environmental Service's Team email list for more information about our web page when it becomes available.
  - [NEPA@hcd.ca.gov](mailto:NEPA@hcd.ca.gov)
  - [Kirsten.Larsen@hcd.ca.gov](mailto:Kirsten.Larsen@hcd.ca.gov)



## HCD Resources-Part 2:

### ➤ NHTF Environmental Provisions Links:

- [HUD Exchange NHTF Environmental Provisions](#)
- [HUD Exchange Notice CPD-16-14](#)
- [HUD Exchange NHTF Environmental Provisions Webinar](#)



## **Section 10**

### **Selection Criteria**

**Presented by Heather Randrup  
Representative II**



## **Section 11**

# **Legal Documents**

**Presented by Heather Randrup  
Representative II**



## Legal Documents (Standard Agreement)

- If award is canceled, no obligation to execute
- NHTF written agreement requirements: 24 C.F.R. §93.404
- Compliance with NHTF Guidelines, state and federal laws



## Standard Agreement Requirements-Financial

- Firm written financial commitments required
- Before executing the Standard Agreement, the Department must determine consistency with Section 6 – Underwriting:
  - Fiscal Integrity – 30 years for a minimum of 30 years to meet the requirements in 24 C.F.R. § 93.300(b)
  - Feasible – 30 years
  - Will have Reasonable development costs: 25 C.C.R. § 8310 and § 8311







# Standard Agreement Requirements-Underwriting

- Section 6 – Underwriting consistency (continued)
  - Transition Reserve Policy
  - Reasonable level of profit
  - Receive only enough government assistance and NHTF Funds needed to provide affordable housing



## Legal Documents-Part 1:

- Projects located on Native American Land that are subject to Recipient's leasehold interest must conform to the following:
  - Ground Lease must be executed by recipient prior to application or award at the discretion of the Department.
  - Ground Lease, after execution by the Landlord and Lessee, must be approved by BIA prior to either application or award for the NHTF funds but must be received by the Department prior to the execution of the Standard Agreements.

25 C.F.R. Part 162 25 C.C.R. § 8316



## Legal Documents-Part 2:

- Projects located on Native American Land that are subject to a leasehold interest must execute the following legal documents:
  - Declaration of Restrictive Covenants that runs with the land (50-year affordability period) and recorded against the fee; OR
  - Lease rider executed by and between the Landlord, lessee, and the Department amending the ground lease and recorded against the fee.
- Lease, lease rider, Declaration of Restrictive Covenants must be approved by the BIA and recorded with BIA Land Title and Records Office



## Legal Documents-Part 3:

- Projects located on Native American Fee Land:
  - A Regulatory Agreement that runs with the land (55-year affordability period)





## Legal Documents-Part 4:

### ➤ Leasehold

- If the land where the Project is located is subject to a leasehold, the Department may authorize the Note to be secured by a Deed of Trust

### ➤ Fee Estate

- The owner of the fee estate in real property the Project occupies must enter into a Regulatory Agreement with the Department

[25 C.C.R. § 8310\(f\) and § 8315](#)



## Legal Documents-Part 5:

- Promissory Note
- Deed of Trust
  - Encumber the fee estate of the real property
  - Recorded in the county the Project is located
  - Have priority over other liens and encumbrances, and other matter of records
  - Except as may be approved under 25 C.C.R. § 8310(f) and 8315



## Legal Documents-Part 6:

### ➤ Leasehold

- If the Project occupies a leasehold, the Department may authorize the Recipient to enter into a Regulatory Agreement that encumbers the leasehold the Project occupies, instead of the fee estate in the real property the Project is located on

### ➤ Deed of Trust and Regulatory Agreement to encumber a leasehold

- The lease must conform to the requirements of 25 C.C.R. § 8316(a)(2) and the Department must be a party to the lease. If a lease rider is applicable, it must amend the lease and be recorded on the fee estate from which the lease is derived from



## Legal Documents-Part 7:

- Native American Entities - limited waiver of sovereign immunity narrowly tailored for enforcement of funding terms
- Construction Loan Agreement (Disbursement Agreement)
- Sponsor Operating Guaranty completed by Recipient
- Recipient or Project Owner must execute and enter into additional agreement and documents as the Department may require, subject to the Departments approval

24 C.F.R. § 93.201





## Legal Documents-Part 8:

### ➤ NHTF Regulatory Agreement

- If the Department disburses funds during construction, the Department will record a Senior Regulatory Agreement that is superior to all other liens associated with the Project's debt
- The Senior Regulatory Agreement will include affordability restrictions consistent with 25 C.C.R. § 8310(f) and Supportive Services, when required as a condition of the NHTF award
- Subsection 11(c)(1)-(19) of the NHTF Guidelines detail the Regulatory Agreement contents



## **Section 12**

# **Project Set Up and Disbursement of Funds**

**Presented by Heather Randrup  
Representative II**



## Project Set Up

- **Set up in HUD's Integrated Disbursement and Information System**
  - Prior to first disbursement, Recipient submit Project Set Up report
  - Department to verify Project complies with conditions in the Standard Agreement
  - Upon verification of these items, Project will be set up in the Federal Integrated Disbursement and Information System (IDIS)





## Disbursement of Funds

### ➤ Department Draw Down

- Department to make disbursement requests after submission of AIA Certification of Payment form
- Loan Retention: 10 percent of development hard costs
- Department to withhold disbursements if Recipient fails to comply with Standard Agreement, Guidelines, 24 C.F.R. Part 93, or federal and state laws, as applicable



## Additional Disbursement of Funds

### ➤ Additional Disbursement Requirements

- Recipient to expend NHTF funds within seven days
- Interest earned and remaining in Local account for no more than 15 days. Unused funds beyond fifteen days to be returned to Department
- 120 day deadline to close Project in Federal Disbursement and Information System after final disbursement. Recipient to provide Project Completion Report within 90 days of receipt of final drawdown
- If Recipient does not comply, Department to suspend Project Set Up or disbursements



## **Section 13**

# **Reporting and Recordkeeping**

**Presented by Heather Randrup  
Representative II**



# Reporting Requirements

- **Reporting Monthly Status Report**
  - 1) 10 days following the last day of the month
  - 2) After Standard Agreement execution
  - 3) Submit until final Project Completion Report is accepted
  - 4) Projects in Construction: Monthly Labor Compliance Certification





## Reporting and Recordkeeping-Part 1:

### ➤ **Monthly Status Report must include:**

- Environmental and Labor Standards requirements
- Project financing status
- Local government (e.g., city and/or county) approval progress, or for Projects on Native American Land, the Native American Entity, Board and/or Commission approval
- Changes in site control
- Timeline for project completion
- Contract information for parties overseeing development





## Reporting and Recordkeeping-Part 2:

### ➤ Native American Entities

- Project owners may implement duly adopted Tribally determined prevailing wages, in accordance with Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) in lieu of State of California prevailing wages.
- The Department encourages the recipient seek counsel on this wage determination



## Reporting and Recordkeeping-Part 3:

### ➤ Reporting Requirements

- **Quarterly Performance Report**
  - 1) After Standard Agreement execution
  - 2) Submit until final Project Completion Report is accepted
  - 3) Due no later than 30 calendar days after the end of each calendar quarter





## Performance Reporting

### ➤ Performance Report must include:

- Activities done to implement project and meet milestones
- Anticipated Activities
- Problems and/or complaints received, and actions taken to resolve
- Financial details in relation to NHTF funds and activity in local account
- Additional information requested by the department



# Compliance Monitoring

## ➤ Additional Reporting Requirements

- Cost Certification
- Annual Compliance Report
  - State Affordability Period
  - Due 90 days after the end of each fiscal year until final fiscal year
  - Audit completed by certified public accountant
  - Includes tenant demographics and income verifications





# Financing

## ➤ Proposed Financing

- Submit no later than 60 days prior to the end of each fiscal year
- Detailed in Section 14 – Annual Operating Budget and Schedule of Rental Income





# Service Provider Compliance Monitoring

## ➤ Services Provided Reporting

- Annual Report to include:
  - 1) Services provided to residents
  - 2) Qualifying characteristics of residents
- Maintain and retain records as indicated in the [24 C.F.R. § 93.407\(b\)](#) and made available



# Reports

## ➤ Additional Reports

- The Recipient will provide the Department any reports deemed necessary





## **Section 14**

# **Annual Operating Budget & Schedule of Rental Income**

**Presented by Jessica Mora  
Representative II**





# Annual Operating Budget & Schedule of Rental Income

- **Proposed operating budget and Schedule of Rental Income (SRI) reports must be submitted to the Department for approval**
  - Before NHTF loan closing and prior to occupancy:
    - 1) Initial operating budget reflecting anticipated income; expenses for management, operations and maintenance; debt services and reserve deposits
    - 2) Initial SRI that reflects the proposed rents, unit designation, rental and operating subsidies



## Annual Submission

- **Proposed operating budget and Schedule of Rental Income (SRI) reports must be submitted to the Department for approval**
  - Annual Submission:
    - 1) 60 days prior to the Project's fiscal year
    - 2) SRI approval is required before enacting proposed rent adjustments



## **Section 15**

# **Project Deadlines**

**Presented by Jessica Mora  
Representative II**



## **Section 16**

# **Sales, Transfers, Encumbrances, and Loan Payoff**

**Presented by Colleen O'Meara  
NHTF Program Manager**



## Sale-Part 1:

- Recipient may not sell, transfer, convey or assign project without HCD written approval
- Department may approve if:
  - Recipient complies with Regulatory Agreement





## Sales or Transfers

- Department may approve if (continued):
  - Successor-in-interest assume all obligations and meets Department requirements
  - No terms of the sale, transfer, or conveyance may jeopardize the Department's security





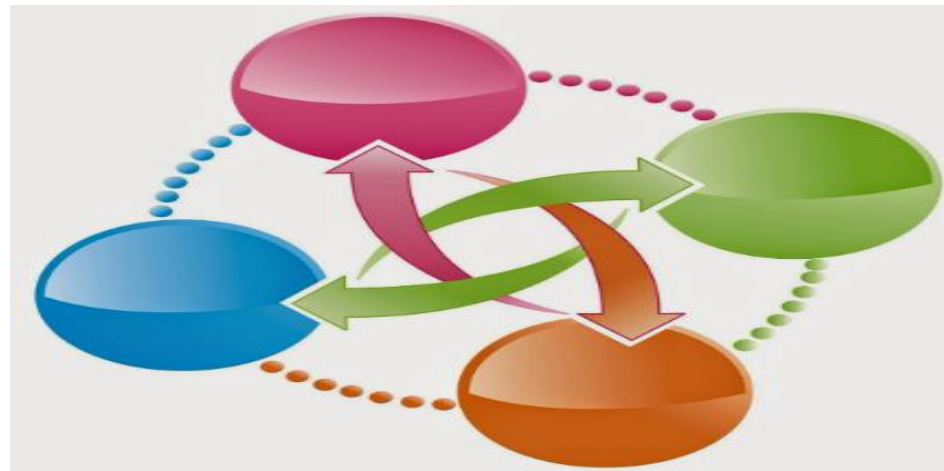
## Sale-Part 2:

- In the case of Native American Land where a Fee to Trust application has been submitted to BIA, legal impacts will need to be addressed on a case-by-case basis
- The Department is asking Native American Entities to schedule a technical assistance appointment with NHTF Program via [NHTFNOFA@hcd.ca.gov](mailto:NHTFNOFA@hcd.ca.gov) to discuss details and options far in advance of submitting the application



## Sales, Transfers, Encumbrances, and Loan Payoff

- Department must approve any sale, assignment, transfer, or conveyance
- Conditions include, but are not limited to:
  - The deposit of sales proceeds







## Sales, Transfers, and Encumbrances-Part 1:

- If the Recipient or its successor-in-interest is a partnership, the Recipient must not discharge or replace any general partner or amend, modify, or add to its partnership agreement without prior Department approval
- The Recipient may not transfer Limited Partnership interests without the prior written approval of the Department





## Sales, Transfers, and Encumbrances-Part 2:

- Conditions include, but are not limited to (continued):
  - Recapture of syndication proceeds or other funds
  - Conditions necessary to ensure compliance with the NHTF Guidelines and any applicable state and federal law
- Recipient must not encumber, pledge, or hypothecate the Project
  - Maintain or improve the Fiscal Integrity of the Project, to maintain affordable rents, or to decrease rents and for no other purpose, including, but not limited to, cash payments to the Recipient



## Loan Payoff

- No loan may be paid off prior to maturity without the prior written consent of the Department
  - All loan documents, including the Regulatory Agreement and Deed of Trust, must continue in full force and effect

[25 C.C.R. § 8308 \(g\)](#)

Date	Amount	Interest	Principal	Total	Balance
1/1/2010	100,000.00	0.00	0.00	100,000.00	100,000.00
1/1/2011	100,000.00	10,000.00	0.00	110,000.00	110,000.00
1/1/2012	100,000.00	20,000.00	0.00	120,000.00	120,000.00
1/1/2013	100,000.00	30,000.00	0.00	130,000.00	130,000.00
1/1/2014	100,000.00	40,000.00	0.00	140,000.00	140,000.00
1/1/2015	100,000.00	50,000.00	0.00	150,000.00	150,000.00
1/1/2016	100,000.00	60,000.00	0.00	160,000.00	160,000.00
1/1/2017	100,000.00	70,000.00	0.00	170,000.00	170,000.00
1/1/2018	100,000.00	80,000.00	0.00	180,000.00	180,000.00
1/1/2019	100,000.00	90,000.00	0.00	190,000.00	190,000.00
1/1/2020	100,000.00	100,000.00	0.00	200,000.00	200,000.00



## **Section 17**

# **Program Income and Repayments**

**Presented by Colleen O'Meara  
NHTF Program Manager**



## Repayments

- Required if NHTF funds invested in:
  - Housing that does not meet affordability requirements for the specified period
  - A project that is terminated before completion, voluntarily or otherwise





## **Section 18**

### **Cancellation and Defaults**

**Presented by Colleen O'Meara  
NHTF Program Manager**



## Written Agreements

- Regulatory Agreement for Projects outside of Native American Land
- Standard Agreements
- Declaration of Restrictive Covenants for Projects on Native American Land
- The Note
- Deed of Trust

[AB 816 \(Chapter 396 statues of 2021\)](#)



## Written Agreements – Responsibilities

- The Department is responsible for:
  - Managing the day-to-day operations of NHTF
  - Ensuring funds are used in accordance with requirements and agreements
  - Taking appropriate action when performance problems arise





## Cancellation and Default-Part 1:

- In the event of a default the Department may:
  - Give written notice to cure
  - Require an amendment of the agreement
  - Cancel or reduce the award





## Written Agreements – Enforcement

- Taking appropriate action when a performance problems arises
  - Specify remedy for breach of provisions
  - Specify that in accordance 2 C.F.R. §200.338 and §200.339
  - Suspension or termination will occur for failure of compliance



## Cancellation and Default-Part 2:

- The Department may cancel or reduce an award for any one of the following:
  - Project is not in compliance or will not comply with guidelines
  - The Department terminates the Standard Agreement with the recipient
  - Implementation of project does not or will not comply project deadlines/timeframes, goals, NOFA, or guidelines, or other provisions

**REDUCED**



## Cancellation and Default-Part 3:

- Special conditions not met in Standard Agreement
- Recipient requests cancellation
- Material changes not approved by The Department
- Withdrawal of any perm financing
- Recipient misrepresents material facts of project
- HUD reduces or eliminates The Departments NHTF funding





## Notices

- The Department must give at least 15 days notice of cancellation or reduction
- Recipient completes any affected work and stops all activities to be paid out with NHTF funds
- Negative points can be applied to future Department applications
- Repayments must be returned within 30 calendar days



**FIVE MINUTE BREAK**





# **Application and Excel Workbook**

**Presented by Joseph McNicholas and Henry Cheng  
Representative II**



# Accessing eCivis

- **Step 1: Access [www.hcd.ca.gov](http://www.hcd.ca.gov)**
- **Step 2: Hover over the "Programs: Active" tab at the top of the home screen**
- **Step 3: Click on the "National Housing Trust Fund Program" Tab and it will take you to the next screen**
- **Step 4: Click on the "Apply Now" link**

Need homeless assistance? Contact a person in your local community who helps people who are experiencing or at risk of homelessness.

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NOFA Calendar

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Disaster Recovery & Mitigation

Reporting and Compliance: Grant Programs

Reporting and Compliance: Loan Programs

Income Limits

Loan Portfolio Restructuring Program

Local Early Action Planning

Local Housing Trust Fund

Manufactured Housing Opportunity & Revitalization Program

Multifamily Housing Program

**National Housing Trust Fund Program**

No Place Like Home Program

Permanent Local Housing Allocation

Pet Assistance and Support Program

Portfolio Reinvestment Program

Predevelopment Loan Program

Prohousing Incentive Pilot Program

Regional Early Action Planning Grants of 2019

Regional Early Action Planning Grants of 2021

\$736 Million In...  
for Homekey to...  
Address...  
Homelessness

Initial Round 3 grants of \$179.7 million in seven counties.

Read More

https://www.hcd.ca.gov/grants-and-funding/programs-active/national-housing-trust-fund-program

Home > Grants & Funding > Programs: Active > National Housing Trust Fund Program (NHTF)

## National Housing Trust Fund Program (NHTF)

Federal program to increase and preserve the supply of affordable housing, with an emphasis on rental housing for extremely low-income households.

**Contact Us**  
Application, General Program, and Standard Agreements Questions  
[Email us](#)

Notice of Funding

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## Application Details

- Applications must be submitted through the eCivis system
- [eCivis Grants Management System User manual \(PDF\)](#)
- At least one eCivis application profile must be created by the applicant to submit an NHTF application
- It is recommended you grant access for two additional staff access to the application



## eCivis Demonstration

➤ The link below is the website to the eCivis online NHTF application:

[eCivis portal login](#)



## Application(s) Preparation and Submission-Part 1:

- Select 2022-2023 NHTF workspace and download the Excel Workbook
- First, complete the entire Excel Workbook from the left tabs to the right tabs in order to ensure full functionality of the workbook
- Second, log back into eCivis and select 2022-2023 NHTF workspace



## Application(s) Preparation and Submission-Part 2:

- Third, select Application Portal
  - Each Project must select only one application portal and one pool of funds (i.e., Rural, Non-rural, Native American Entities **OR** Federally Declared Disaster Areas) and must include the uploaded Excel Workbook and required documents in order to apply for this NOFA round
  
- Portal for Group 1 (December 28, 2023 due date):
  - Rural target Areas
  - Non-Rural target areas
  
- Portal for Group 2 (February 1, 2024 due date):
  - Native American Entities
  - Federally Declared Disaster Areas



# Introduction to Excel Workbook and Navigation

- Yellow cells are for applicant input
- Orange cells are required attachments
- Blue Cells keep track of your self score in each section and the overall total
- Red cells are meant to indicate a failed requirement or minimum points
- White cells are pre-filled figures from other tabs in the UA or supplemental app



## Submittal Process-Part 1:

- After the Excel NHTF workbook is completed, the Applicant will now continue the application submittal process via eCivis.
- When every step in this submission is complete, the "Submit" button to the right will become green and clickable
- The application is not fully submitted until you click the green "Submit" button. Once you click "Submit" the submission will no longer be editable.



## Submittal Process-Part 2:

- Many upload fields are marked as required. If you encounter a required upload field, but the documentation requested does not apply to the project, upload a document stating, "Not Applicable"
- Only one document can be uploaded per upload field. If you need to upload multiple documents into a single upload field, then convert the documents into a single large zip file.

**Submit**



# eCivis Submittal Demonstration





## Helpful Hints-Part 1:

- **Do not wait until the last minute** to create your eCivis profile and become familiar with the eCivis Application process
- eCivis is an outside vendor and eCivis I.T. support is available to assist you in the process, however it may take some time for eCivis to respond.
- Click on the "enable editing" and/or "enable content" button(s)
- Do NOT use Apple products



## Helpful Hints-Part 2:



- Do NOT copy and paste
- Altering the workbook or manipulating excel formulas will invalidate the application.
- Ensure you are submitting all required documents
- Applications must be complete for the Department to perform its review
- Complete the application to minimize error messages



## Resources

- [Multifamily Rehabilitation Standards- 2023](#)
- [NHTF Guidelines](#)
- [State of CA 2020-2024 Federal Consolidated Plan](#)
- [California Metropolitan Organizations \(MPOs\) and Regional Transportation Planning Agencies \(RTPAs\)](#)
- [NHTF Regulations](#)
- [AB-816 Homelessness: NHTF](#)
- [2023 CTCAC Basis-Limits-Memo \(PDF\)](#)





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We are committed to working with our communities in response to the needs of those who are struggling to find safe and affordable housing.

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