

# Local Housing Trust Fund Program

## Final 2020 Guidelines



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The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations ... have the dignity of statutes ...  
[and]...delegation of legislative authority includes the power to elaborate  
the meaning of key statutory terms...

Ramirez v. Yosemite Water Co, 20 Cal. 4<sup>th</sup> 785, 800 (1999)

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## **INTRODUCTION**

Health and Safety Code (HSC) Section 50843.5 authorizes the California Department of Housing and Community Development (Department) to provide matching grants to Local Housing Trust Funds established by cities and counties, Native American Tribes, and/or incorporated 501(c)(3) nonprofit organizations. Funds may be used for construction loans and/or permanent financing loans to pay for predevelopment costs, acquisition costs, and other costs associated with development or rehabilitation of Affordable rental housing projects, Emergency Shelters, Permanent Supportive Housing, Transitional Housing, or Affordable homebuyer/homeowner projects, including assistance to income-eligible households to purchase for-sale units. Funds may also be used for the construction, conversion, repair, reconstruction or rehabilitation of Accessory Dwelling Units or Junior Accessory Dwelling Units.

The Department's objective is to expand sources of funding for housing, and to expand the supply of Affordable housing through the creation of new Local Housing Trust Funds, and to support the on-going operation of existing Local Housing Trust Funds.

A Notice of Funding Availability (NOFA) will be released as funds are available.

## **Section 100. Purpose and scope**

- (a) These Guidelines implement, interpret, and make specific Health and Safety Code (HSC) Sections 50842.1, 50842.2, 50843.5 and Section 54006(f), which govern the Local Housing Trust Fund Program (LHTF or LHTF Program). The principal goal of the LHTF Program is to expand sources of funding for housing through the creation of new Local Housing Trust Funds and to support existing Local Housing Trust Funds. Under the LHTF Program, the California Department of Housing and Community Development (Department) provides matching grants to eligible Applicants that have a Local Housing Trust Fund. LHTF Program Funds shall be used to make construction loans and/or permanent financing loans to pay for predevelopment costs, acquisition costs, and other costs associated with development or rehabilitation of Affordable rental housing projects, Emergency Shelters, Permanent Supportive Housing, Transitional Housing, and Affordable homebuyer/homeowner projects, including assistance to income-eligible households to purchase for-sale units. Funds may also be used for the construction, conversion, repair, reconstruction, or rehabilitation of Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs).
- (b) Proposition 1 of 2018 granted the Department authority to implement the LHTF Program through Guidelines.
- (c) These Guidelines establish terms, conditions, and procedures for Applicants to submit applications to the Department for grants from the LHTF Program and for funds awarded under the LHTF Program.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference cited: HSC Sections 50842.2 and 50843.5.

## **Section 101. Definitions**

The following definitions govern the use of the terms below in this subchapter:

- (a) “Accessory Dwelling Unit (ADU) means a dwelling unit, which is attached, detached, or located within the living area of the existing dwelling or residential dwelling unit and provides complete independent living facilities for one or more persons pursuant to Government Code (GC) Section 65852.2 and 65852.22. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An ADU also includes an efficiency unit, as defined in HSC Section 17958.1, or a manufactured home, as defined in HSC Section 18007. ADUs must be restricted to occupancy by households with incomes of no more than 120 percent of AMI at an Affordable rent for a minimum of 10 years.

- (b) “Affordable” means a housing unit that satisfies at least one of the following criteria:
- (1) If the unit is being rented to Lower-Income, Very Low-Income or Extremely Low-Income Households, it complies with Section 7312(a) of the Multifamily Housing Program guidelines;
  - (2) If the unit is being sold, it is offered at an “Affordable housing cost”, as defined in HSC Section 50052.5; or
  - (3) If the unit is being rented to Moderate-Income Households, it is available at a gross rent, including a utility allowance, that does not exceed 30 percent of the applicable income-eligibility level, and complies with the definition of Moderate-Income in these guidelines.
- (c) “Applicant” means one of the following:
- (1) A local government or local governments which have created a Local or Regional Housing Trust Fund to receive specific revenue to address local housing needs.
  - (2) A Native American Tribe or Tribes which have created a Local or Regional Housing Trust Fund to receive specific revenue to address local housing needs.
  - (3) A nonprofit Local or Regional Housing Trust Fund incorporated under Section 501(c)(3) of the Internal Revenue Code to receive specific public, or public and private, sources of revenue to address local housing needs.
- (d) “Area Median Income” or “AMI” means the most recent applicable county median family income published by the Department, available at the [HCD website](http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml), <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
- (e) “Dedicated Source” means taxes, fees, and loan repayments consistent with Section 104(c), and/or public or private contributions that will provide Ongoing Revenues to the Local Housing Trust Fund sufficient to meet the requirements of the LHTF Program. Dedicated Source does not include lines of credit or loans obtained by the Trust Fund.
- (f) “Department” means the California Department of Housing and Community Development.
- (g) “Eligible Project” means any of the following:
- (1) Rental housing projects including Permanent Supportive Housing. The affordability of all units assisted by Program Funds shall be income and rent restricted for not less than 55 years;

- (2) Emergency Shelters and Transitional Housing, with a required minimum term of 15 years;
  - (3) Homeownership Projects or Units Within a Homeownership Project, consisting of homebuyer assistance and rehabilitation of homes owned by income-eligible owner-occupants. Homebuyer and owner-occupied rehabilitation activities may include construction, conversion, or rehabilitation of ADUs or JADUs, as defined in this section; or
  - (4) Construction, conversion, or rehabilitation of ADUs or JADUs without an Eligible Homeownership Project, consisting of a loan to a homeowner to build, convert, or rehabilitate an ADU or JADU, as defined in this section.
- (h) “Emergency Shelter” means the same as in 24 CFR 576.2.
  - (i) “Existing Local Housing Trust Fund” is a Local Housing Trust Fund organized, funded, and operated more than 12 months prior to the date the Notice of Funding Availability (NOFA) is issued.
  - (j) “Extremely Low Income” has the meaning set forth in HSC Section 50106, which is a maximum of 30 percent of AMI. Grantees shall utilize income limits issued by the Department available on the [HCD website](http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml), <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
  - (k) “First-time Homebuyer” means an individual, or individuals, or an individual and his or her spouse, who are in the process of buying a dwelling with the intent to occupy the home as a principal place of residence, and who have not owned a home during the three-year period before the purchase of a home with Program Funds, except that the following individual or individuals may not be excluded from consideration as a First-time Homebuyer under this definition:
    - (1) A displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period, and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment, and worked primarily without remuneration to care for his or her home and family;
    - (2) A single parent who, while married, owned a home with his or her spouse or resided in a home owned by his or her spouse. A single parent is an individual who is unmarried or legally separated from his or her spouse, and has one or more minor children for whom the individual has custody or joint custody, or is pregnant; or

- (3) An individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with Program Funds, a dwelling unit whose structure is:
- (A) Not permanently affixed to a permanent foundation in accordance with local or state regulations; or
  - (B) Not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.
- (l) “Grantee” means an entity that has received an award of LHTF Program Funds.
- (m) “Homeownership Project or Units Within a Homeownership Project” means Eligible Projects that use Program Funds to assist First-time Homebuyers in the acquisition or construction of dwellings, or to assist in rehabilitation of owner-occupied housing units in which the homeowner has an ownership interest sufficient to comply with HSC Section 50843.5(d)(3), including the construction, conversion, repair, reconstruction or rehabilitation of ADUs or JADUs. Homeowner transactions shall comply with the resale requirements set forth in HSC Section 50843.5(d)(3) for a period of 30 years from the date that Program Funds are used to acquire, construct, or rehabilitate the property.
- (n) “Junior Accessory Dwelling Units” (“JADUs”) shall have the same meaning as defined by GC Section 65852.22(g)(1). JADUs must be restricted to occupancy by households with incomes of no more than 120 percent of AMI at an Affordable Rent for a minimum of 10 years.
- (o) “Legally-Binding Commitment” means a fully-executed commitment letter or a fully-executed contract to provide Matching Funds, specifying the source(s) of the Matching Funds, the amount of Matching Funds from each source, the date upon which the funds will be deposited into the Local Housing Trust Fund or Regional Housing Trust Fund account, and remedies for not depositing the Matching Funds on that date.
- (p) “Local Housing Trust Fund” is a public, joint public and private, or charitable nonprofit organization organized under Section 501(c)(3) of the Internal Revenue Code, which was established by legislation, ordinance, resolution (including nonprofit articles of incorporation), or a public-private partnership organized to receive specific public, or public and private, revenue to address local housing needs. The key characteristic of a Local Housing Trust Fund is that it receives Ongoing Revenues from Dedicated Sources of funding sufficient to permit the Local Housing Trust Fund to comply with the requirements of the Program.
- (q) “Local Impact Fees” are impact fees, mitigation fees, or capital facility fees imposed on development projects by municipalities, county agencies, or other jurisdictions such as utility districts, school districts, water agencies, and resource conservation districts. Local Impact Fees may include fees for residential or



commercial development (in lieu of building affordable housing), parks and recreation, schools, traffic, street and signals, law enforcement facilities, fire facilities, library facilities, water facilities, waste water treatment, waste water collection, drainage facilities, community development, general facilities, public facilities, governmental facilities, environmental facilities, and facilities assessments.

- (r) “Lower-Income Households” has the meaning set forth in HSC Section 50079.5, which states that Lower-Income Households are persons and families with a maximum income of 80 percent of AMI. Grantees shall utilize income limits issued by the Department available at the [HCD website](http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml), <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
- (s) “Matching Funds” shall mean available funds meeting the requirements of Section 104.
- (t) “Moderate-Income Households” has the meaning set forth in Health & Safety Code Section 50093, which states that Moderate-Income Households are persons and families with a maximum income of 120 percent of AMI. Grantees shall utilize income limits issued by the Department available at the [HCD website](http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml), <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.
- (u) “Native American Lands” means real property located within the State of California, which is trust land for which the United States holds title to the tract, or interest in trust, for the benefit of one or more Native American Tribes or individual Native Americans, or is restricted Native American land for which one or more Native American Tribes or individual Native Americans holds fee title to the tract or interest, but can alienate or encumber it only with the approval of the United States. Native American Lands may be leased for housing development and residential purposes under federal law.
- (v) “Native American Tribe or Tribes” means any duly constituted governing body of a Native American reservation or rancheria, or a tribally designated housing entity, as defined in Section 4103 of Title 25 of the United States Code and Section 50104.6.5.
- (w) “New Local Housing Trust Fund” is a Local Housing Trust Fund that was organized, funded, and operated no more than 12 months prior to the Round 1 NOFA release date, or, for Round 2 and beyond, no more than 12 months prior to the NOFA release date, or created since the last NOFA was issued (whichever is longer). If a trust fund has ever previously received an award, it will not be considered “new”. If a “New Local Housing Trust Fund” submits an application within the time frames required, and passes threshold for that funding round but does not score highly enough to receive an award, it shall be permitted to apply in the next funding round as a “New Local Housing Trust Fund.” This exception

will be true even if timing between NOFAs would otherwise cause a “New Local Housing Trust Fund” to be timed out and no longer considered “new” based on the date of its creation. If the trust fund still does not score highly enough the second time, it will no longer be able to apply as a “new” trust fund in any subsequent funding rounds.

- (x) “NOFA” means a Notice of Funding Availability issued by the Department to announce the availability of Program Funds, the terms and conditions of awards, and requirements for the submittal of applications.
- (y) “On Deposit” means that the local Matching Funds are deposited in the Local Housing Trust Fund. The Department shall not disburse Program Funds until the Matching Funds required for the Eligible Project are On Deposit. In the event that a Trust Fund has sufficient Matching Funds in its account at the NOFA application deadline, but also has Legally-Binding Commitments to deposit additional sufficient Matching Funds prior to disbursement of any Program Funds, the Department may permit the Trust Fund to deploy the original Matching Funds, pending the Department’s approval of the Legally-Binding Commitments to deposit additional sufficient Matching Funds. In no event shall any Program Funds be disbursed until the Matching Funds required for the Eligible Project are On Deposit.
- (z) “Ongoing Revenues” means the following:
  - (1) For an Existing Housing Trust Fund, it means a public or private source, or sources, of revenue totaling at least an average of \$100,000 per year for three years after the date of the Program award; and
  - (2) For a New Housing Trust Fund, it means sufficient public or private sources of revenue to pay for the Trust Fund’s operating costs for a minimum of five years after the date of the Program award.
  - (3) Ongoing Revenues may not include one-time donations, such as land donations or large bequests.
- (aa) “Permanent Supportive Housing” has the same meaning as in HSC Section 50675.14: housing, with no limit on the length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Permanent Supportive Housing may include associated facilities if used to provide services to housing residents. Permanent Supportive Housing does not include “health facility” as defined by HSC Section 1250, or any “alcoholism or drug abuse recovery or treatment facility” as defined by HSC Section 11834.02, or “community care facility” as defined in HSC Section 1502, or “mental health rehabilitation centers” as defined in Section 5675 of the Welfare and Institutions Code (WIC), or other residential treatment programs.

- (bb) “Program” or “LHTF Program” means the Local Housing Trust Fund Program authorized by HSC Section 50843.5, as implemented in these Guidelines.
- (cc) “Program Funds” means the funds provided by the Department to a Local Housing Trust Fund pursuant to these Guidelines.
- (dd) “Regional Housing Trust Fund” means a Trust Fund serving two or more jurisdictions if the combined population is more than 1 million people; serving three or more jurisdictions in counties with total populations of 250,000 or less; and serving four or more jurisdictions in counties with total populations of more than 250,000.
- (ee) “Transitional Housing” means the same as in 24 CFR 578.3.
- (ff) “Very Low Income” has the meaning set forth in HSC Section 50105, which is 50 percent of AMI. Grantees shall utilize income limits issued by the Department for Very Low-Income Households for each county available at the [HCD website](http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml), <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

Note: Authority cited: HSC Section 54014 subdivision(b). Reference cited: Health and Safety Code Sections 50052.5, 50053, 50079.5, 50081, 50093, 50105, 50106, 50843.5 and 53545.9(c).

## **Section 102. Eligible Applicants**

The following entities shall be eligible to apply for Program Funds:

- (a) A city, county, or city and county that has created, funded, and operated an Existing Local Housing Trust Fund, or that has created and funded a New Local Housing Trust Fund.
  - (1) The trust fund shall have the following characteristics:
    - (A) It shall utilize a public, or joint public and private, fund established by legislation, ordinance, resolution, or a public-private partnership, to receive specific revenue to address local housing needs.
    - (B) It shall be funded from Ongoing Revenues as required by the definition in Section 101 from Dedicated Sources of funding such as taxes, fees, loan repayments, or public or private contributions.
  - (2) The city or county shall have, at the time of application, a Housing Element that was adopted by the city or county’s governing body and subsequently determined by the Department to be in compliance with state Housing Element law pursuant to GC Section 65585.

- (3) The city or county shall have submitted to the Department the Annual Progress Report required by GC Code Section 65400 for the current or prior year by the application deadline date.
  - (4) A Local Housing Trust Fund or Regional Housing Trust Fund that was created, funded, and operated by a combination of two or more cities or counties shall, in its application, agree to utilize Program Funds only for Eligible Projects located in cities or counties that have, at the time of application, an adopted Housing Element meeting the requirements of subparagraph (2) above, and for which the Annual Progress Report was submitted for the current or prior year by the application deadline date, as required by subparagraph (3) above.
- (b) A charitable nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code that is an Existing Local Housing Trust Fund or a New Local Housing Trust Fund.
- (1) The trust fund shall have the following characteristics:
    - (A) It shall consist of a public, or joint public and private, fund established by legislation, ordinance, resolution, or a public-private partnership, to receive specific revenue to address local housing needs.
    - (B) It shall be funded from Ongoing Revenues as required by the definition in Section 101 from Dedicated Sources of funding such as taxes, fees, loan repayments, or public or private contributions.
  - (2) The charitable nonprofit organization shall, in its application, agree to utilize Program Funds only for Eligible Projects located in cities and counties that have, at the time of application, an adopted Housing Element that the Department has determined, pursuant to Section 65585 of the GC, 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 GC.
  - (3) The charitable nonprofit organization shall, in its application, agree to utilize Program Funds only for Eligible Projects located in cities and counties that have submitted to the Department the Annual Progress Report required by GC Code 65400 for the current year or prior year by the application deadline date.
- (c) A Native American Tribe or Tribes that has or have created, funded, and operated an Existing Local Housing Trust Fund, or that has created and funded a New Local Housing Trust Fund.
- (1) The trust fund shall have the following characteristics:

- (A) It shall utilize a public, or joint public and private, fund established by legislation, ordinance, resolution, or a public-private partnership, to receive specific revenue to address local housing needs.
  - (B) It shall be funded from Ongoing Revenues as required by the definition in Section 101 from Dedicated Sources of funding such as taxes, fees, loan repayments, or public or private contributions.
- (2) The Native American Tribe or Tribes shall, in its application, agree to utilize Program Funds only for Eligible Projects either (A) located on Native American Lands or (B) located in cities and counties that have, at the time of application, an adopted Housing Element that the Department has determined, pursuant to Section 65585 of the GC, 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 GC.
- (3) The Native American Tribe or Tribes shall, in its application, agree to utilize Program Funds only for Eligible Projects either (A) located on Native American Lands or (B) in cities and counties that have submitted to the Department the Annual Progress Report required by GC Code 65400 for the current year or prior year by the application deadline date.
- (d) An Applicant shall not be eligible to submit an application for funding if the Applicant has not committed at least 40 percent of the Program Funds previously awarded to the Applicant.

Note: Authority cited: HSC Section 54014 subdivision(b). Reference: HSC Sections 50843.5 and 53545.9(c).

### **Section 103. Funding amount minimums and maximums**

- (a) The minimum application request by an Applicant that is an Existing Local Housing Trust Fund shall be \$1 million.
- (b) The minimum application request by an Applicant that is a New Local Housing Trust Fund, but which is not a Regional Housing Trust Fund, shall be \$500,000.
- (c) The minimum application request by an Applicant that is a New Local Housing Trust Fund, which is also a Regional Housing Trust Fund, and which is utilizing Permanent Local Housing Allocation funds as Matching Funds, shall be \$750,000;
- (d) The maximum application request for all Applicants shall be \$5 million.

Note: Authority cited: HSC Section 54014 subdivision(b). Reference: HSC Sections 50843.5(c) and 53545.9(c).

## **Section 104. Matching Funds requirements**

- (a) All Program Funds provided pursuant to this section shall be matched on a dollar for dollar basis with dedicated sources of funding, such as taxes, fees, or loan repayments, or public or private contributions by the Applicant. Lines of credit and loans received by the Local Housing Trust Fund are not eligible sources of Matching Funds.
- (b) An application for LHTF funds shall not be considered unless the application contains required documentation of the deposit in the Local Housing Trust Fund of the local Matching Funds, and the identity of the source of Matching Funds, or evidence of a legally binding commitment to deposit the required Matching Funds, and the identity of the source of Matching Funds.
- (c) Funds restricted for housing use by state or federal law (such as funds from the Home Investment Partnerships Program (“HOME”), the Community Development Block Grant Program (“CDBG”), redevelopment agency low- and moderate-income housing fund set-aside (“LMIHF”) funds, or state housing programs administered by the Department), shall not be considered Matching Funds. However, Permanent Local Housing Allocation (PLHA) Program funds may be considered Matching Funds for Regional Housing Trust Funds.
- (d) Matching Funds shall be On Deposit prior to disbursement of Program Funds.
- (e) Matching Funds must be utilized on a dollar-for-dollar basis for the same Eligible Project for which Program Funds are used, as required by HSC Section 50843.5(c).

Note: Authority cited: HSC Section 54014 subdivision(b). Reference: HSC Sections 50843.5 and 53545.9(c).

## **Section 105. Eligible uses of funds**

- (a) Program Funds shall be used by the Grantee to provide construction loans and/or deferred payment permanent financing loans at simple interest rates of no higher than 3 percent per annum, for payment of predevelopment costs, acquisition, construction, or rehabilitation of Eligible Projects.
- (b) Administrative expenses of up to 5 percent of Program Funds and up to 5 percent of Matching Funds are allowed.
- (c) At least 30 percent of the Program Funds, after deducting administrative expense, and the Matching Funds shall be expended on assistance to Extremely Low-Income Households. To comply with this requirement, dwelling units or shelter beds must be Affordable to, and restricted for, Extremely Low-Income Households with household income of no more than 30 percent of AMI.

- (d) No more than 20 percent of the Program Funds, after deducting administrative expense, and the Matching Funds shall be expended on assistance to Moderate-Income Households. To comply with this requirement, dwelling units must be Affordable to, and restricted for, Moderate-Income Households with household income of no more than 120 percent of AMI.
- (e) The remaining Program Funds and Matching Funds shall be expended on assistance to Lower-Income Households. To comply with this requirement, dwelling units must be Affordable to, and restricted for, Lower-Income Households with household income of no more than 80 percent of AMI.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: HSC Sections 50843.5 and 53545.9(c).

### **Section 106. Application process**

- (a) The Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, the terms and conditions of the award of Program Funds, and the application deadline.
- (b) For New Local Housing Trust Funds, the Department shall set aside a percentage of the funding made available by each NOFA.
- (c) Applications shall be on forms made available by the Department.
- (d) Applicants must meet the requirements of HSC Section 50843.5 and Section 102 of these Guidelines.
- (e) Only complete applications submitted on or before the application deadline stated in the NOFA shall be considered for funding. In order to be considered “complete”, an application must have all of the information requested and provide adequate documentation and information for the Department to determine the Local Housing Trust Fund's eligibility for funding pursuant to HSC Section 50843.5(b) and these Guidelines, and the eligibility of the Project pursuant to HSC Section 50843.5(d) and these Guidelines. The Applicant shall bear the burden of demonstrating compliance with these requirements. If the total amount of funding requested by all Applicants under a NOFA is less than the amount of funding available under the NOFA, the Department may allow an Applicant to submit additional or corrected information to amend an application and make it complete. Such amendments may not include a request for a higher funding amount.
- (f) In the event that the amount of funding requested in complete and eligible applications exceeds the funds available, applications shall be evaluated and funded using criteria published in the NOFA, as follows:

- (1) Non-Residential Matching Funds: The extent to which the Applicant provides Matching Funds from sources other than residential local impact fees or in lieu fees.
  - (2) Deeper Income Targeting: The extent to which the Applicant commits to expend less than 20 percent of its Program Funds and Matching Funds to serve Moderate-Income Households.
  - (3) Readiness: The extent to which the applicant has completed a first phase funding process for multifamily rental projects and announced on its website the status of each project, including those projects that were approved to submit a final application upon award of Program Funds.
  - (4) Increasing the Supply of Lower-Income Rental Housing: The extent to which the Applicant commits to use Program Funds and Matching Funds for the new construction of rental housing developments Affordable and restricted to households with average incomes of no more than 60 percent of AMI.
  - (5) Community Need: The percentage of the following factor in the jurisdictions to be served will be compared to the percentage in jurisdictions to be served by other Applicants:
    - (A) Lower-Income Households paying more than 50 percent of their household income for rent or owner expenses.
  - (6) Regional Housing Trust Fund Applicants: Applicants that include six jurisdictions (in counties with total populations of 250,000 or less) or eight jurisdictions (in counties with more than 250,000), or that meet the minimum threshold (two jurisdictions with more than one million people, or three jurisdictions in counties with total populations of 250,000 or less, or four jurisdictions in counties with more than 250,000), and include more than 66 percent of the population of the county or counties.
  - (7) Performance: The extent to which Applicants exceed the minimum 40 percent commitment threshold stated in Section 102(d).
- (g) Tie Breaker, if needed:
- (1) Readiness: The extent to which the application identifies specific multifamily rental projects for which the trust fund has issued Letters of Intent (LOIs) to developers for construction or permanent financing.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: HSC Sections 50843.5 and 53545.9(c).



## Section 107. Protection of Program Funds

- (a) In order to protect the Program Funds awarded to a Grantee, the Grantee shall provide the Program Funds in the form of a loan evidenced by a promissory note, the repayment of which shall be secured either by a deed of trust recorded against the title to the real property, or a security interest in the manufactured home being assisted with Program Funds. The promissory note shall contain a special provision that repayment shall be made to the Department in the event that the Grantee is no longer in operation. For Emergency Shelter or Transitional Housing Projects, the loan may be forgivable upon satisfaction of the 15-year minimum regulatory period.
- (b) Multifamily rental projects assisted with Program Funds are required to have a recorded Regulatory Agreement setting forth requirements for household income levels and rent restrictions for not less than 55 years for all units assisted by Program Funds.
- (c) Where Program Funds are provided in the form of a construction loan, the Grantee and the housing developer shall enter into a development loan agreement setting forth the terms and conditions required to be met prior to closing escrow, which shall include, but not be limited to, requirements for escrow, title insurance, property insurance, compliance with environmental remediation requirements, and other borrower responsibilities.
- (d) The Grantee shall submit documentation of its loan guidelines and underwriting standards and procedures for review by the Department as part of its Program application.
- (e) The Department shall have the right to request copies of documentation of the activities of the Local Housing Trust Fund at any time prior to or after disbursement of Program Funds.
- (f) Where Program Funds are used for a Homeownership Project or units within a Homeownership Project, the Grantee shall record a deed restriction in compliance with Health and Safety Code Section 50843.5(d)(3), unless such a deed restriction would conflict with the requirements of law or another public funding source.
- (g) Where Program Funds are used to develop or rehabilitate an ADU or JADU apart from home buyer acquisition or rehabilitation of an owner-occupied dwelling, the Grantee shall record a deed restriction in compliance with Health and Safety Code Section 50843.5(d)(3) requiring that the ADU or JADU be restricted to occupancy by households with incomes of no more than 120 percent of AMI at an Affordable Rent for a minimum of 10 years.
- (h) Where Program Funds are used to develop or rehabilitate a structure as an Emergency Shelter or Transitional Housing, the Grantee shall record a

Regulatory Agreement with a minimum term of 15 years. Upon satisfactory completion of this regulatory period, the LHTF Program loan is forgivable.

- (i) Program Funds shall be disbursed only in amounts necessary to fund Eligible Projects identified to receive a loan from the LHTF within a reasonable period of time, as determined by the Department.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

### **Section 108. Program Grantee responsibilities**

- (a) Grantees are responsible for administering and implementing the Eligible Projects as proposed in their application.
- (b) Grantees must continue the operation of the Local Housing Trust Fund for at least five years after the Program Funds award date.
- (c) Grantees shall have held, or shall hold, a public hearing to discuss and describe the Eligible Project(s) that will be funded. Nonprofit grantees shall hold one public meeting per year that is open to the public, and a public notice of the meeting shall be posted on the nonprofit's website at least 10 days prior to the meeting. This meeting shall be for the purpose of discussing the criteria that will be used to select projects to be funded.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

### **Section 109. Encumbrance deadline and application repayment**

- (a) Any Program Funds not encumbered by a Grantee by a loan commitment to the developer of an Eligible Project within 60 months of the date of the executed state Standard Agreement shall be disencumbered by the Department, and any Program Funds advanced to a Grantee shall promptly be returned to the Department.
- (b) Repayments, interest, and fees (except for rental project monitoring fees not exceeding the limits stated in Section 113(b) of the Portfolio Restructuring Guidelines), derived from loans of Program Funds received by a Grantee, shall be retained by the Grantee in the Local Housing Trust Fund to be used for the purposes set forth in these Guidelines.
- (c) If a Grantee ceases operations, or Ongoing Revenues cease less than five years from the date of the Program award, all unencumbered Program Funds shall be disencumbered by the Department, and any Program Funds advanced to a

Grantee shall promptly be returned to the Department, and all current and future loan repayments, interest and fees shall be remitted to the Department.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

### **Section 110. Legal documents**

Upon the award of Program Funds, the Department shall enter into a Standard Agreement with the Grantee constituting a conditional commitment of funds. The Standard Agreement shall require the Grantee to comply with the requirements and provisions of these Guidelines and HSC Section 50843.5 and shall, in addition, contain the following:

- (a) Encumbrance deadlines; project completion deadlines; and agreement termination date.
- (b) Grantee contract coordinator.
- (c) Disbursement conditions and documentation.
- (d) Remedies.
- (e) Insurance and inspection requirements.
- (f) Record retention and reporting requirements.
- (g) Prevailing wage requirements as applicable.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

### **Section 111. Cancellation and termination**

- (a) In the event that it is determined, at the sole discretion of the Department, that the Grantee is not meeting the terms and conditions of the Standard Agreement, the Department shall issue a notice to stop work. Immediately upon receiving the written notice to stop work, the Grantee shall cease all work under the Standard Agreement. The Department has the sole discretion to determine the Grantee's compliance with the terms and conditions after issuance of a stop work order, and to deliver a written notice to the Grantee to resume work under this Standard Agreement.
- (b) The Department shall terminate the Standard Agreement if the Grantee is not in compliance with these Guidelines or the terms and conditions of the Standard Agreement. At least 30 days prior to the effective date of the termination of the

Standard Agreement, the Department shall provide written notice to the Grantee of its intent to cancel the funding allocation. The notice shall specify the reason for early termination and may permit the Grantee or the Department to cure any deficiency(ies) prior to the early termination date. The Grantee will submit requested documents to the Department within 30 days of the early termination notice.

- (c) Failure to meet reporting requirements will result in notice to the Grantee that it must satisfactorily cure any deficiencies within three months of the notice, or it will be ineligible for any additional LHTF award.
- (d) The Department may, as it deems appropriate or necessary, request the repayment of funds from a Grantee, or pursue any other remedies available to it by law for failure to comply with these Guidelines and/or the terms and conditions of the Standard Agreement.

NOTE: Authority cited: HSC Section 54014 subdivision (b). Reference: HSC Sections 50843.5 and 53545.9(c).

## **Section 112. Reporting**

Not later than July 31 of each year a Grantee shall provide to the Department an annual report, in a format specified by the Department, including, but not limited to, the following information:

- (a) A narrative summary of the Local Housing Trust Fund activities including:
  - (1) Work undertaken or completed in the reporting period, including the number, type and unit count of Eligible Projects receiving Program Funds.
  - (2) Activities planned to be undertaken in the next reporting period.
  - (3) Description of problems encountered in Program implementation; and a description of the solution and when it will be implemented.
  - (4) Description of how problems may impact the ability to complete or fulfill obligations under the Standard Agreement.
- (b) Financial summary including:
  - (1) Amount of Program Funds (by Eligible Project and by activity type) available at the beginning of the reporting period, the amount drawn down to date, amount expended on Eligible Projects restricted to Extremely Low Income Households, amount expended on Eligible Projects restricted to Moderate-Income Households, and the remaining balance.

- (2) Documentation of Matching Funds, including the amount by source, expended on each Eligible Project during the reporting period.
  - (3) If requested by the Department, the Grantee shall obtain a report from a qualified, licensed third party that certifies to the amounts of disbursement and identifies the specific Eligible Projects for which the disbursements were made. Such a report is permitted to be a component of the 2 CFR Part 200.512 Single Audit report.
- (c) A spreadsheet listing Eligible Projects assisted during the reporting period by unit, including the project name, type of housing (such as multifamily rental housing, homeless shelter, homebuyer new construction project), number of units, income level restricted in each unit, bedroom count of each unit, and amount of Program Funds expended per unit.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: HSC Sections 50843.5 and 53545.9(c).