

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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May 5, 2022

MEMORANDUM FOR: ALL POTENTIAL APPLICANTS

FROM: Megan Kirkeby, Deputy Director
Division of Housing Policy Development

SUBJECT: **NOTICE OF FUNDING AVAILABILITY**
EXCESS SITES LOCAL GOVERNMENT MATCHING
GRANTS (LGMG) PROGRAM

The California Department of Housing and Community Development (HCD or "Department") is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$30 million in funds for the *Excess Sites Local Government Matching Grants* Program (LGMG, or "Program"). The Program allows projects selected in accordance with Executive Order N-06-19 ("the EO") to apply for funds for activities to enable affordable housing development on excess state-owned property ("Excess Sites").

Application materials must be submitted electronically via email to ExcessSitesMatch@hcd.ca.gov no later than 11:59 P.M. Pacific Daylight Time on May 25, 2022. The Department will not accept hardcopy submittals.

Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, or walk-in application packages will be accepted.

The LGMG application, guidelines and regulations are posted on the Department's webpage at <https://hcd.ca.gov/grants-funding/active-funding/lgmg.shtml>. To receive information regarding Program updates, please subscribe to the Program listserv at: https://hcd.ca.gov/i-am/sub_email.shtml.

If you have further questions, please contact ExcessSitesMatch@hcd.ca.gov.

Attachment:

Local Government Matching Grants Program

2022 Notice of Funding Availability



**Gavin Newsom, Governor
State of California**

**Lourdes M. Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
California Department of Housing and Community
Development**

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May 2022

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I. Overview

A. Notice of Funding Availability

This NOFA announces approximately \$30 million in funding for projects selected in accordance with the EO. These funds will be used to support and accelerate housing production on Excess Sites.

B. Timeline

1. Program funds will be available to Applicants to apply for on a competitive basis. See Table 1 below for the anticipated timeline for awards.
2. The Department's goal is to review applications within 30 days and promptly issue award letters, with Standard Agreements processed within 60 days of award. Applicants are encouraged to submit their applications early in the application window.

Table 1: Anticipated Timeline

NOFA Release	May 5, 2022
Application Due Date	May 25, 2022
Award Announcement	On or before June 28, 2022

C. Authorizing Legislation and Regulations (Regulatory Authority)

Assembly Bill 140, which was signed by Governor Newsom on July 19, 2021, establishes the Excess Sites Local Government Matching Grants Program (LGMG, or "Program") as set forth in Health and Safety Code sections 50704.80, 50704.81, 50704.82 and 50704.83. The legislation directs the Department to administer the Program for Selected Projects to apply for funds for activities to enable affordable housing development on Excess Sites (added by Stats. 2021, ch. 111, § 22).

Applications submitted under this NOFA are subject to the Program Guidelines (Guidelines), all applicable statutory requirements, and this NOFA. All section references in this NOFA refer to the Guidelines unless otherwise noted. All capitalized terms in this NOFA are either defined herein or in the Guidelines. The Guidelines and NOFA are available at the Department's [LGMG webpage](#).

II. Program Requirements

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

A. Program Funding Amounts and Terms

The maximum amount of Program funds available in accordance with this NOFA is approximately \$30 million. No Selected Developer shall receive more than \$10 million in a single NOFA round. Further award limits are detailed in Guidelines Section 401.

The anticipated Program term runs through December 30, 2024, or the date by which the Selected Project or applicable phase reaches 90 percent occupancy, whichever is later.

B. Program Threshold Requirements

To satisfy Program threshold requirements, Applicants must obtain a Local Government Contribution as defined in Guidelines Section 302(b)(2).

The Department must receive an approved Local Government resolution, as described in Guidelines Section 205(b)(1). It is the responsibility of the Awardee to ensure the Department receives the final approved Local Government resolution prior to termination of the Contracting Period as defined in Section V(B) of this NOFA.

C. Eligible Project

Eligible projects are limited to Selected Projects as defined and further detailed in Guidelines Section 200 (i.e., projects selected by the Department and the Department of General Services (DGS) in accordance with Executive Order N-06-19 (“the EO”).)

D. Eligible Applicants

Eligible Applicants are limited to Selected Developers as defined and further detailed in Guidelines Section 201.

E. Eligible Uses and Activities

Eligible uses of funds must accelerate housing production of a Selected Project and align with the goals of the EO. LGMG funds shall be used for predevelopment and development activities that are incurred on the project as

set forth in Guidelines Section 203.

F. Rating and Ranking

Complete applications meeting threshold requirements will be rated and ranked according to scoring factors in Guidelines Section 302(a-b).

In the event of tied point scores, the Department shall rank tied applications based on the lowest weighted average affordability of all units in in the Selected Project or applicable phase and pursuant to Guidelines Section 302(c).

III. Application Submission and Review Procedures

A. Application Format

The entire application, including supporting documentation, will be submitted electronically using forms provided by the Department. Original “wet signature” documents are not required or accepted.

B. Application Submission Process

A complete original application must be received by the Department no later than 11:59 P.M. Pacific Daylight Time on May 25, 2022. HCD will only accept applications via email to ExcessSitesMatch@hcd.ca.gov. Personal deliveries are not accepted.

Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on Department forms and cannot be altered or modified by the Applicant. Excel forms must be in Excel format, not a PDF document. Applications must meet all eligibility requirements upon submission (except as expressly indicated in Guidelines Section 301(d)). Applications with material internal inconsistencies will not be rated and ranked. It is the Applicant’s responsibility to ensure that the application is clear, complete, and accurate.

The application forms are available on the Department’s website: <https://hcd.ca.gov/grants-funding/active-funding/lgmg.shtml>. The application must be sufficiently complete to assess the feasibility and competitiveness of the application and its compliance with Program requirements. After the application deadline, Department staff may request clarifying information and/or inquire as to where in the application specific information is located provided that such information does not affect the competitive rating of the application. No information, whether written or oral, will be solicited or accepted if this information would result in a competitive advantage to an Applicant or a competitive disadvantage to other Applicants. No Applicant

may appeal the Department's evaluation of another Applicant's application.

C. Application Workshops

The Department will offer pre-application consultations with prospective Applicants. Please visit the Program website for registration information.

D. Disclosure of Application

Information provided in the application will become a public record available for review by the public, pursuant to the California Public Records Act (Chapter 1473, Statutes of 1968). As such, any materials provided to the Department will be disclosable to any person making a request under this Act once award decisions have been made. The Department cautions Applicants to use discretion in providing information not specifically requested, including but not limited to, bank account numbers, personal phone numbers and home addresses. By providing information to the Department, the Applicant is waiving any claim of confidentiality and consents to the Department's disclosure of submitted material upon request.

IV. Appeals

A. Basis of Appeals

1. Upon receipt of the Department's written notice that an application is incomplete, has failed threshold review, or has otherwise been determined to provide an insufficient basis for an award, Applicants under this NOFA may appeal such decision(s) to the Director of the Department or their designee pursuant to this section.
2. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's application (e.g., eligibility, award).
3. Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with the Guidelines and this NOFA.
4. The appeal process provided herein applies solely to decisions of the Department pursuant to this NOFA.

B. Appeals Process and Deadlines

1. **Process:** To file an appeal, Applicants must submit to the Director of the Department or their designee, by the deadline set forth below, a written appeal which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a

detailed reference to the area or areas of the application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be considered if this information would result in a competitive advantage to an Applicant. Once the written appeal is submitted to the Department, no further information or materials will be accepted or considered thereafter. Appeals are to be submitted by email to ExcessSitesMatch@hcd.ca.gov according to the deadline set forth in the Department's review letters.

2. **Filing Deadline.** Appeals must be received by the Department no later than five (5) business days from the date of the Department's threshold review, or initial score letters, as applicable, representing the Department's decision made in response to the application.

C. Decision

All decisions rendered shall be made by the Director or their designee. The decision shall be final, binding, and conclusive, and shall constitute the final action of the Department.

NOTE: Authority cited: HSC Section 50704.81 subdivisions (a)(1) and (b). Reference cited: HSC Sections 50704.80, 50704.81, 50704.82 and 50704.83.

V. Award Announcements and Contracts

A. Award Announcements

The Department will announce program awards on the Program website: <https://hcd.ca.gov/grants-funding/active-funding/lgmg.shtml>

B. Contracts

Successful Applicants (Awardee(s)) will enter into one or more Standard Agreement(s) with the Department. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed.

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

VI. Other State Requirements

A. Article XXXIV

All projects subject to Article XXXIV shall comply with Article XXXIV, Section 1 of the California Constitution, as clarified by the Public Housing Election Implementation Law (PHEIL) (Health and Safety Code Section, 37000 - 37002). Article XXXIV documentation for loans underwritten by the Department shall be subject to review and approval by the Department prior to the announcement of award recommendations.

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

Applicants must submit documentation that shows the project’s compliance with or exemption from Article XXXIV. If a project is subject to Article XXXIV, the Department requires an allocation letter from the locality that shows that there is Article XXXIV authority for the project. A Local Government official with relevant authority should prepare the allocation letter, and it should include the following:

- The name and date of the proposition and the number of units that were approved;
- A copy of the referendum and a certified vote tally;
- The number of units that remain in the locality’s “bank” of Article XXXIV authority (i.e., the number of units that are still available for allocation); and
- The number of units that the locality will commit to this project, including any Manager Units.

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

B. Relocation

Both the Applicant and the Department must comply with applicable Relocation Law, which is detailed pursuant to Government Code Section 7260 et seq., the California Code of Regulations, title 25, Section 6000 et seq., and if federal law is applicable (depending on project financing), 49 CFR Part 24 of the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (the “URA”) (collectively referred to herein forth as “Relocation” or “Relocation Law”).

Relocation Law provides important protections and assistance for displaced persons and entities affected by the acquisition, rehabilitation, or demolition of real property for government funded projects. Relocation Law ensures that those displaced individuals and entities whose real property is acquired, or who move (even if temporarily) as a direct result of projects receiving government funds, are treated fairly and equitably and receive assistance in moving from the property they occupy. The Department seeks to ensure that displaced persons, which includes tenants, businesses, and homeowners, do not suffer disproportionately as a result of programs designed for the benefit of the public as a whole.

At the NOFA application stage, it is too premature to conduct a detailed Relocation review. At this stage the Department only needs to confirm that Relocation is properly budgeted. Due to the importance of satisfying Relocation Law, the Applicant is encouraged to employ the services of a Relocation consultant to procure a good faith estimate of the potential Relocation cost, which may (or may not) necessitate a Relocation plan. The Department has found that the services of a professional Relocation consultant may save an Awardee money and time in the loan or grant process.

The importance of satisfying Relocation cannot be understated. Failure to follow the Relocation requirements will result in the project not being funded by the Department. Applicants cannot circumvent Relocation Law to avoid Relocation payment assistance by simply not renewing leases, which is not permissible under Relocation Law. At the construction loan or grant close stage, the Department will notify all lenders that failure to satisfy Relocation, particularly the improper displacement of individuals or entities, could jeopardize Department funding.

C. State Prevailing Wages

Program funds awarded under this NOFA are subject to state prevailing wage law, as set forth in Labor Code Section 1720 et seq., and require the payment of prevailing wages unless the project meets one of the exceptions of Labor Code 1720 (c) as determined by the Department of Industrial Relations. Applicants are urged to seek professional advice as to how to comply with state prevailing wage law.

VII. Other Terms and Conditions

A. Right to Modify or Suspend

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including, without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties and will post the revisions to the Department's website. Interested parties may subscribe to the Department's email list here: https://hcd.ca.gov/i-am/sub_email.shtml

B. Conflicts

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

APPENDICES

Appendix A: Executive Order N-06-19

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-06-19

WHEREAS California is experiencing an acute affordable housing crisis that stifles economic growth, contributes to the homelessness epidemic, consumes an ever-growing share of the paychecks of working families, and holds millions of households back from realizing the California Dream; and

WHEREAS nearly 50 percent of California's households cannot afford the cost of housing in their local market; and

WHEREAS for decades, California has failed to build enough homes for its growing population at all income levels, ranking 49th in the country in housing production per capita in 2016; and

WHEREAS restrictive zoning and land-use policies at the local level are a major cause of the shortfall between California's housing needs and the available supply of housing; and

WHEREAS when communities do not build their fair share of housing, the surrounding region must absorb new residents who, as a consequence of a lack of access to affordable housing, suffer from higher rents and longer commutes; and

WHEREAS the high cost of land also significantly limits the development of affordable housing in areas with the greatest demand for new housing; and

WHEREAS state agencies own thousands of parcels of land throughout the state, some of which exceed those agencies' foreseeable needs; and

WHEREAS excess state land is often located in or near urban areas where the need for new housing is acute; and

WHEREAS the lack of affordable housing across California is a matter of vital statewide importance; and

WHEREAS expanding housing opportunities and solving the affordable housing crisis will require a new level of innovation and cooperation between the public and private sectors; and

WHEREAS fostering housing innovation will catalyze new construction industries and spur job growth in the state; and

WHEREAS local zoning ordinances do not govern the use of state property, and the State possesses legal authority to enter into low-cost, long-term leasing agreements with housing developers and accelerate housing development on state-owned land as a public use.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The Department of General Services shall create a digitized inventory of all state-owned parcels that are in excess of state agencies' foreseeable needs by, among other things, conducting a comprehensive survey of all state-owned land. This inventory shall be completed by no later than April 30, 2019. To meet this deadline, all agencies under my direct executive authority shall support this effort by responding to all inquiries made by the Department of General Services.
2. The Department of General Services, the Department of Housing and Community Development, and the Housing Finance Agency shall collaborate to develop two new screening tools for prioritizing affordable housing development on excess state land. The tools shall be designed to identify and evaluate parcels of excess state land:
 - a. Where housing development is most likely to be economically feasible, accounting for, among other factors, a parcel's size, shape, grading, adjacencies, potential for consolidation, lack of site constraints, and proximity to job centers, education, high-frequency public transportation networks, utilities, and other services and amenities; and
 - b. Where underproduction is impacting housing affordability, accounting for, among other factors, availability of affordable housing in the job and commute sheds, the gap between supply and demand, and the rate of increase in rent.

Both tools shall be developed by no later than March 29, 2019.

3. The Department of General Services, in consultation with the Department of Housing and Community Development, shall apply the new screening tools to the State's inventory of excess state real property. The Department of General Services shall generate a comprehensive map of excess state real estate parcels where development of affordable housing (a) is feasible and (b) will help address regional underproduction. The map shall overlay a graphical representation (*i.e.*, a heat map) of where affordable housing development is most feasible and impactful. By April 30, 2019, the Department shall provide an interim progress report.
4. Where appropriate, state agencies shall consider exchanging excess state land with local governments for other parcels for purposes of affordable housing development and preservation. Parcels shall be exchanged with the goal of maximizing regional capacity to build and preserve affordable housing units.
5. The Department of General Services, in consultation with the Department of Housing and Community Development, shall issue Requests for Proposals on individual parcels and accept proposals from developers of affordable housing interested in entering into low-cost, long-term ground leases of parcels on the priority map.

- a. Requests for Proposals shall address, among other considerations: the number of housing units to be built and preserved; maximization of land resources and level of affordability; feasibility of breaking ground within two years of entering the lease and completing units within three years; the individual cost per unit of construction; the use of renewable construction materials, such as cross-laminated timber; and the developer's demonstrated capacity to complete affordable housing projects.
 - b. Selection of projects shall catalyze and incubate innovative models for construction (such as modular or prefabrication), financing, and workforce development.
 - c. Bidding requirements shall include commitments to pay prevailing wages as required under the law.
6. The Department of General Services, in consultation with the Department of Housing and Community Development, shall begin to implement the above selection process no later than September 30, 2019.
 7. The Department of General Services, the Department of Housing and Community Development, and other state agencies and departments shall use all existing legal and financial authority to expedite and prioritize these developments, including by giving them preference in the award of state funding, pursuant to my further direction. Agencies not under my direct executive authority are requested to do the same.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that widespread publicity and notice shall be given to this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its departments, agencies, or other entities, its officers or employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 15th day of January 2019.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State