

# **State of California 2020-2024 Federal Consolidated Plan 2021-2022 Annual Action Plan First Amendment**



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# State of California

## 2021-2022 Annual Action Plan

### First Amendment

The purpose of this amendment is to:

1. ***Make the 2021-2022 Annual Action Plan (AAP) Method of Distribution (MOD) for Housing Trust Fund (HTF) consistent to the MOD in the 2020-2021 AAP Second Substantial amendment and include other changes. The changes are summarized as follows:***
  - a. ***Allow for a Notice of Funding Availability (NOFA) with more than one year's allocation, and competitive or over the counter awards***
  - b. ***Disassociate the maximum-per-unit-subsidy for National Housing Trust Fund (NHTF) from the No Place Like Home (NPLH) program per-unit-subsidy. Actual per-unit-subsidy amounts for NHTF will be found in the NOFA.***
  - c. ***Allow previous awardees to apply for the new per-unit-subsidy limits in an over-the-counter process***
  - d. ***Establish a tribal set-aside***

***The full text of the original 2021-2022 AAP and all amendments may be found at <https://www.hcd.ca.gov/policy-research/plans-reports/index.shtml#conplan>***

#### **AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)**

##### **Introduction**

The 2021-2022 Annual Action Plan (AAP) is being amended to incorporate the changes made in 2020-21 AAP Second Substantial Amendment. The 2020-2201 Second Substantial Amendment added language to the HTF method of distribution to allow the NHTF program to provide financial assistance in amounts that are in line with the actual cost of developing affordable housing in California. Additionally, the 2020 and 2021 U.S Department of Housing and Urban Development (HUD) allocations of HTF will be made available in a single NOFA; new applications will be considered on a competitive basis, and applications for supplemental funds from previous awardees will be considered on an over-the-counter basis, as needed. Language being changed in this amendment is indicated by ~~strikeout~~ while new language being added is underlined. For clarification, HUD's program is called Housing Trust Fund (HTF), HCD calls the same program we administer National Housing Trust Fund (NHTF). Both names will be used here.

## **AP-30 Methods of Distribution – 91.320(d)&(k)**

### **HTF Program**

#### **1. Describe the state program addressed by the Method of Distribution**

California's National Housing Trust Fund Program (NHTF) provides funding for Rental New Construction, Rehabilitation, Acquisition, and any other eligible activities as per the federal Regulations at 24 CFR 93, for projects on a competitive or continuous basis through a periodic annual NOFA. A NHTF applicant must be the owner or developer of the NHTF-assisted project and must meet the requirements identified in the recipient definition of 24 CFR 93.2.

In 2017, the California State Legislature passed AB 74, which subsequently was signed into law by former Governor Edmund G. Brown Jr. AB 74 directs the state to use NHTF resources for the newly established Housing for a Healthy California (HHC) program. The HHC program creates supportive housing for individuals who are recipients of, or are eligible for, health care provided through the California Department of Health Care Services (DHCS) Medi-Cal program. HHC uses a competitive application process to identify eligible projects and award funds.

HCD will be developing guidelines for the NHTF program during the 2021-2022 program year to prepare for the FY 22 allocation, which will need an updated method of distribution as it will no longer operate under HHC.

#### **2. Describe all of the criteria that will be used to select applications and the relative importance of these criteria.**

HCD will adhere to the following federal HTF requirements when selecting applications and rating and ranking submittals:

- Geographic priorities for the distribution of funds
- Applicant's ability to obligate NHTF funds
- Applicant's ability to complete the proposed project in a timely manner
- The availability of federal, state, or local project-based rental assistance
- How well the application meets the state's priority housing needs
- Use of nonfederal funding sources as leverage

The application selection criteria will also consist of requirements specifically mandated in the HHC AB 74 statute. HCD will apply the AB 74 requirements in a manner consistent with the rules of the HTF funds.

Eligible projects will receive points for the following:

- Development team experience, including the developer, applicant ownership and operations, property manager, and lead service provider
- Percentage of assisted units restricted for supportive housing, with a minimum of at least five percent
- Supportive services plan including clear description of services, resident involvement, and budget information
- Utilization of other funding sources to offset requests
- Leverage of rental or operating subsidies available for the project
- Readiness to proceed with documented project milestones completed
- Need, which includes consideration of the number of individuals experiencing homelessness in the geographic jurisdiction
- Location efficiency and reasonable access to destinations for participating tenants

HCD may award application points for addressing State Objectives as identified in the NOFA. HCD may include State Objective points for one or more of the following HCD priority objectives: 1) Access to Opportunity (e.g. diversity of investment in areas of low opportunity and investment in areas of high opportunity); 2) Homelessness; and 3) Disaster Resiliency Long-Term Planning to incentivize local jurisdictions to incorporate hazard mitigation and disaster resiliency planning. More clarification on these HCD priorities may ~~will~~ be provided in the Notice of Funding Availability (NOFA). Projects must employ Housing First practices documented in the application, property management plan, and supportive services plan.

### **3. Describe how resources will be allocated among funding categories**

HCD will distribute funds to eligible recipients, as defined in 24 CFR § 93.2 on a competitive basis and/or OTC annually through a periodic NOFA. The competitive method will be utilized unless there is a business need to utilize the OTC method to obligate each year's allocation.

The FY20 allocation will be made available in a NOFA in tandem with the FY21 allocation. The FY 20-21 Annual Action Plan has been amended to reflect this method of distribution change. In general, the funding distribution method will remain as follows:

### **4. Describe threshold factors and grant size limits**

1. To be eligible, a recipient may be an organization, agency, or other entity (including a public housing agency, or a for-profit entity or a nonprofit entity) acting as an owner or developer to carry out an assisted project. The organization must meet the requirements of 24 CFR §93.2 of Recipient. A Recipient must: a) make

acceptable assurance they will comply with all NHTF requirements during the entire affordability period; b) demonstrate ability and financial capacity to undertake, comply, and manage the eligible activity; c) demonstrate familiarity with requirements of federal, state, and any other housing programs used in conjunction with NHTF funds to ensure compliance; d) demonstrate experience and capacity to conduct the eligible NHTF activity in questions as evidenced by relevant history; and e) has site control.

2. The maximum loan limit per Applicant is \$20 million. The maximum amount that can be used for capitalized operating subsidy reserves will be one third of the total capital loan amount in accordance with 24 CFR 93.200(a)(1).
3. HCD will adopt maximum per-unit development subsidy limits ~~similar to the limits established by the state's No Place Like Home (NPLH) program as follows based on the actual costs of developing non-luxury housing in California. HCD will base limits on a compilation of data about non-luxury developments and land costs in California. The subsidy limits shall be established as follows:~~
  - a) Maximum per-unit loan amounts shall not exceed the total eligible costs required, when considered with other available financing and assistance, in order to: a) ~~enable~~ ensure the funds are used for eligible uses; b) ensure that rents for Assisted Units comply with Program requirements; and c) operate in compliance with all other program requirements.
  - ~~b) The capital portion of the loan amount is further limited to the sum of a base amount per Assisted Unit, plus the amount per Assisted Unit required to reduce rents from 30 percent of the 30 percent of Area Median Income (AMI) level to the actual maximum restricted rent for the Assisted Unit, with loan limits increasing based on the level of affordability provided.~~
  - ~~c) For loan limit calculations, HCD shall include the number of units within a rental housing development and the number of bedrooms per Assisted Unit.~~
  - ~~d) For Assisted Units receiving rental assistance, the loan amount will be based on the most restrictive level of income restriction that will apply following the closing of the program loan.~~
  - ~~e) Initial base amounts for the portion of the loan that does not include rental assistance will be equal to the NPLH initial base amounts.~~
  - ~~f) The capital portion amounts in subparagraph (2) above will be adjusted annually based upon increases in the Consumer Price Index. Maximum per-unit loan amounts for loans underwritten by HCD shall be updated annually and published in the NOFA.~~

- g) Maximum per-unit loan amounts will be adjusted for number of bedrooms, by geographic location, and for loan limit calculations, HCD shall include the number of units within a rental housing development and the number of bedrooms per unit.
- h) Maximum per-unit loan amounts for loans underwritten by HCD shall be updated annually and published in the NOFA.

**5. What are the outcome measures expected as a result of the method of distribution?**

The expected outcome measure is the increase in supply of affordable rental housing by providing NHTF assistance to units for tenants at or below 30 percent of AMI or below the poverty line; whichever is greater. The Goal Outcome indicator measures are Rental units constructed and Rental units rehabilitated. ~~HCD expects to construct 257 rental units and rehab 37 rental units.~~ HCD expects to construct 257 rental units and rehabilitate 37 rental units.

**AP-90 Program Specific Requirements – 91.320(k)(1,2,3)**

**National Housing Trust Fund (NHTF) Reference 24 CFR 91.320(k)(5)**

**1. How will the grantee distribute its HTF funds? Select all that apply:**

Applications submitted by eligible recipients: ~~HCD will distribute funds to eligible recipients, as defined in 24 CFR § 93.2, through a competitive application process. A NOFA will be issued, and applications will be rated and ranked.~~ HCD will distribute funds to eligible recipients, as defined in 24 CFR § 93.2, on a competitive and/or OTC basis through a periodic NOFA. A NOFA will be issued, and applications will be evaluated.

**2. If distributing NHTF funds through grants to subgrantees, describe the method for distributing NHTF funds through grants to subgrantees and how those funds will be made available to state agencies and/or units of general local government. If not distributing funds through grants to subgrantees, enter “N/A”.**

N/A

**3. If distributing NHTF funds by selecting applications submitted by eligible recipients**

**a. Describe the eligibility requirements for recipients of NHTF funds (as defined in 24 CFR § 93.2). If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

To be eligible, a recipient may be an organization, agency, or other entity (including a public housing agency, or a for-profit entity, or a nonprofit entity) that receives NHTF assistance from a grantee as an owner or developer to carry out an NHTF-assisted project, which meets the requirements of 24 CFR §93.2 of the recipient. A recipient must:

- Make acceptable assurance they will comply with all HTF requirements during the entire affordability period
- Demonstrate ability and financial capacity to undertake, comply, and manage the eligible activity
- Demonstrate familiarity with requirements of federal, state, and any other housing programs used in conjunction with HTF funds to ensure compliance
- Demonstrate experience and capacity to conduct the eligible HTF activity in questions as evidenced by relevant history

**b. Describe the grantee’s application requirements for eligible recipients to apply for NHTF funds. If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

HCD will issue a NOFA and require eligible recipients to submit applications that contain a description of the eligible activities to be conducted with NHTF funds as required in CFR 24 §93.200. The NOFA shall specify the maximum amount of project funds available, any restrictions on uses of funds, general terms and conditions of funding allocations, threshold requirements, timeframe for submittal of applications, application requirements, and rating metrics. Application requirements include, but are not limited to, the following:

- Identification of applicants
- Information of proposed project
- Adequate information to determine applicant’s eligibility
- Adequate information to determine project’s eligibility
- Certification of compliance with state and federal requirements
- Resolution by the governing board authorizing the application and execution of all documents
- Adequate information to determine applicant’s experience

- Site control
- Compliance with the state’s policy on Housing First
- Project readiness to proceed
- Adequate information to determine project’s feasibility

Each eligible recipient will be required to certify that housing assisted with NHTF funds will comply with federal and state NHTF requirements.

**c. Describe the selection criteria that the grantee will use to select applications submitted by eligible recipients. If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

The California State Legislature passed Assembly Bill (AB) 74, which subsequently was signed into law by former Governor Edmund G. Brown Jr. AB 74 directs the state to use NHTF resources for the newly established Housing for a Healthy California Program (HHC). Application selection criteria will also consist of requirements specifically mandated in the HHC, AB 74 statute. HCD will apply the AB 74 requirements in a manner consistent with the rules of the NHTF funds. Eligible projects will receive points for the following:

- Development team experience, measured amongst the developer, applicant ownership and operations, property manager, and lead service provider
- Percentage of assisted units restricted for supportive housing, with a minimum of at least five percent
- Supportive services plan including clear description of services, resident involvement, and budget information
- Utilization of other funding sources to offset requests
- Leverage of rental or operating subsidies available for the project
- Readiness to proceed with documented project milestones completed
- Need, which includes consideration of the number of individuals experiencing homelessness in the geographic jurisdiction; and
- Location efficiency and reasonable access to destinations for participating tenants

**d. Describe the grantee’s required priority for funding based on geographic diversity (as defined by the grantee in the consolidated plan). If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

NHTF funding will be available to all jurisdictions in California. However, HCD will allocate at least 20 percent of the funding for projects located in rural areas as



defined by §50199.21 of the California Health and Safety Code (HSC), and an additional 10 percent for projects developed by or in partnership with Tribal Entities. In the event insufficient applications are received for the 20 percent set-aside for projects located in rural areas, funds will be re-distributed to the Tribal set-aside. In the event insufficient applications are received for 10 percent Tribal set-aside, funds will be redistributed according to the Distribution Methods identified above and further refined in the NOFA. ~~in AP-30 in the Consolidated Plan (Con Plan).~~ ~~(This is to address meeting the benchmark goal of increasing the supply of affordable rental housing for extremely low- and very low-income individuals.)~~

**e. Describe the grantee’s required priority for funding based on the applicant’s ability to obligate HTF funds and undertake eligible activities in a timely manner. If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

HCD will determine the applicant’s capacity to obligate NHTF funds based on experience. Applicants must demonstrate the successful implementation of federal, state, or local affordable housing or community development projects within the last five years.

**f. Describe the grantee’s required priority for funding based on the extent to which the rental project has Federal, State, or local project-based rental assistance so that rents are affordable to extremely low-income families. If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

The state’s required priority to fund projects based on leveraged rental subsidies will be met by establishing a rating and ranking methodology that awards points for projects leveraging State, Federal and Local funding including, but not limited to project based rental subsidies such as Housing Choice Vouchers (HCV), Veterans Affairs Supportive Housing (VASH) vouchers, and Sponsor-based Rental Assistance (SRA). To a lesser extent, rental assistance provided through Homeless Prevention and Rapid Re-housing (HPRP), Tenant-based Rental Assistance (TBRA) made available through the Shelter Plus Care (S+C), and local subsidy pools, or similar programs may receive incentive points. Other local commitments will also count towards this rating factor, such as state funds from Senate Bill (SB) 2 for rental assistance.

- g. Describe the grantee’s required priority for funding based on the financial feasibility of the project beyond the required 30-year period. If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

Pursuant to CFR 24 §93.302(d), the federal affordability period is 30 years commencing upon project completion; however, HCD imposes a 55-year state affordability period. For projects to be eligible for funding, developers must enter into regulatory agreements that requires them to serve the target population and maintain project affordability for 55 years. Projects located on Native American Lands will have a 50-year affordability period. These affordability periods are required and do not result in any additional points for eligible applications.

- h. Describe the grantee’s required priority for funding based on the merits of the application in meeting the priority housing needs of the grantee (such as housing that is accessible to transit or employment centers, housing that includes green building and sustainable development features, or housing that serves special needs populations). If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

HCD will include the Location Efficiency and Access to Destination as part of the rating and ranking criteria. This pertains to reasonable access and proximity to amenities, services and public transportation.

HCD may also include State Objective points for its three housing and community development priorities: (1) homelessness; (2) access to opportunity; and (3) climate change, including adaptation and hazard mitigation. Further information and guidance on these additional State Objective factors may be found in the NOFA.

- i. Describe the grantee’s required priority for funding based on the extent to which the application makes use of non-federal funding sources. If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.**

HCD will examine the project development plan, as well as the status of local government approvals, design progress, and financing commitments. Financing commitments will include the leveraging of non-federal development funding sources and the extent to which the project has federal, state, or local project based rental assistance.

- 4. Does the grantee’s application require the applicant to include a description of the eligible activities to be conducted with NHTF funds? If not distributing funds by selecting applications submitted by eligible recipients, select “N/A”.**

Yes, HCD requires the applicant to thoroughly describe eligible activities that will be funded utilizing NHTF funds.

- 5. Does the grantee’s application require that each eligible recipient certify that housing units assisted with HTF funds will comply with NHTF requirements? If not distributing funds by selecting applications submitted by eligible recipients, select “N/A”.**

Yes, HCD requires a certification by each eligible recipient that housing units assisted with the NHTF will comply with NHTF federal regulations for development of multifamily rental housing.

- 6. Performance Goals and Benchmarks. The grantee has met the requirement to provide for performance goals and benchmarks against which the grantee will measure its progress, consistent with the grantee’s goals established under 24 CFR 91.315(b)(2), by including HTF in its housing goals in the housing table on the SP-45 Goals and AP-20 Annual Goals and Objectives screens.**

HCD has met the performance goals and benchmarks requirement by including the goal of increasing the supply of rental housing as a priority in the state’s Con Plan. The goal is to increase the supply of affordable rental housing by providing NHTF assistance to units for tenants at or below 30 percent of Area Median Income (AMI) or below the poverty line; whichever is greater. HCD included NHTF in its housing goals in the housing table on the SP-45 Goals and AP-20 Annual Goals and Objectives screens.

- 7. Maximum Per-unit Development Subsidy Amount for Housing Assisted with NHTF Funds. Enter or attach the grantee's maximum per-unit development subsidy limits for housing assisted with HTF funds. The limits must be adjusted for the number of bedrooms and the geographic location of the project. The limits must also be reasonable and based on actual costs of developing non-luxury housing in the area. If the grantee will use existing limits developed for other federal programs such as the Low Income Housing Tax Credit (LIHTC) per unit cost limits, HOME's maximum per-unit subsidy amounts, and/or Public Housing Development Cost Limits, it must include a description of how the NHTF maximum per-unit development subsidy limits were established or a description of how existing limits developed for another program and being adopted for HTF meet the HTF requirements specified above.**

HCD will adopt maximum per-unit development subsidy limits ~~similar to the limits established by the state's No Place Like Home (NPLH) program, as follows: based on the actual costs of developing non-luxury housing in California. HCD will base limits on a compilation of data about non-luxury developments and land costs in California. The subsidy limits shall be established as follows:~~

1. Maximum per-unit loan amounts shall not exceed the total eligible costs required, when considered with other available financing and assistance, to:
  - a. ~~Enable~~ Ensure the funds are used for eligible uses
  - b. Ensure that rents for Assisted Units comply with program requirements; and
  - c. Operate in compliance with all other program requirements
- ~~2. The capital portion of the loan amount is further limited to the sum of a base amount per unit, plus the amount per unit required to reduce rents from 30 percent of the 30 percent of the Area Median Income (AMI) level to the actual maximum restricted rent for the unit, with loan limits increasing based on the level of affordability provided. Maximum per-unit loan amounts will be adjusted for number of bedrooms, by geographic location, and for loan limit calculations, HCD shall include the number of units within a rental housing development and the number of bedrooms per unit~~
- ~~2. For loan limit calculations, HCD shall include the number of units within a rental housing development and the number of bedrooms per unit.~~
- ~~3. For units receiving rental assistance, the loan amount will be based on the most restrictive level of income restriction that will apply following the closing of the program loan.~~
- ~~4. Initial base amounts for the portion of the loan that does not include rental assistance are set at:
  - a. \$125,000 per unit for projects using 9 percent low income housing tax credits.~~

~~b. \$175,000 per unit for all other projects.~~

~~5. The amounts above will be adjusted annually based upon increases in the Consumer Price Index.~~

Maximum per-unit loan amounts for loans underwritten by HCD shall be updated annually and published in the NOFA.

**8. Rehabilitation Standards.** The grantee must establish rehabilitation standards for all NHTF-assisted housing rehabilitation activities that set forth the requirements that the housing must meet upon project completion. The grantee's description of its standards must be in sufficient detail to determine the required rehabilitation work including methods and materials. The standards may refer to applicable codes or they may establish requirements that exceed the minimum requirements of the codes. The grantee must attach its rehabilitation standards below. In addition, the rehabilitation standards must address each of the following: health and safety; major systems; lead-based paint; accessibility; disaster mitigation (where relevant); state and local codes, ordinances, and zoning requirements; Uniform Physical Condition Standards; and Capital Needs Assessments (if applicable).

HCD is in the process of developing rehabilitation standards.

**9. Resale or Recapture Guidelines.** Below, the grantee must enter (or attach) a description of the guidelines that will be used for resale or recapture of HTF funds when used to assist first-time homebuyers. If the grantee will not use HTF funds to assist first-time homebuyers, enter "N/A".

N/A

**10. NHTF Affordable Homeownership Limits.** If the grantee intends to use HTF funds for homebuyer assistance and does not use the HTF affordable homeownership limits for the area provided by HUD, it must determine 95 percent of the median area purchase price and set forth the information in accordance with §93.305. If the grantee will not use HTF funds to assist first-time homebuyers, enter "N/A".

N/A

**11. Grantee Limited Beneficiaries or Preferences. Describe how the grantee will limit the beneficiaries or give preferences to a particular segment of the extremely low- or very low-income population to serve unmet needs identified in its consolidated plan or annual action plan. If the grantee will not limit the beneficiaries or give preferences to a particular segment of the extremely low- or very low-income population, enter “N/A.” Any limitation or preference must not violate nondiscrimination requirements in § 93.350, and the grantee must not limit or give preferences to students. The grantee may permit rental housing owners to limit tenants or give a preference in accordance with § 93.303(d)(3) only if such limitation or preference is described in the action plan.**

While the NHTF program funding is being used for the state HHC program, the preference given to a segment of the extremely low- or very low-income population is to individuals experiencing homelessness or chronic homelessness, and high-cost health care users.

**12. Refinancing of Existing Debt. Enter or attach the grantee’s refinancing guidelines below. The guidelines describe the conditions under which the grantee will refinance existing debt. The grantee’s refinancing guidelines must, at minimum, demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing. If the grantee will not refinance existing debt, enter “N/A.”**

HCD will not permit NHTF funds to be used to refinance existing long-term debt.