

STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
**EMERGENCY HOUSING AND ASSISTANCE PROGRAM
CAPITAL DEVELOPMENT (EHAPCD)**

August 15, 2011

**STATEWIDE NOTICE OF FUNDING AVAILABILITY
(NOFA)**

2011-12



HOMELESS PROGRAM MISSION STATEMENT

In an effort to reduce homelessness and restore human dignity, we provide funding, technical assistance and customer support to organizations serving the homeless, their clients, and ultimately the general public of California.

**EMERGENCY HOUSING AND ASSISTANCE PROGRAM
CAPITAL DEVELOPMENT (EHAPCD)**

Statewide NOFA Table of Contents

Page No.

I. PROGRAM DESCRIPTION

Introduction	1
A. Authority	1
B. Eligible Applicants and Use of Funds	3
C. Minimum and Maximum Loan Amounts	5
D. Loan Terms and Conditions	5
E. Site Control	5
F. Match Requirement	7
G. Rent Requirements	7
H. Relocation Requirements	7
I. ADA Compliance Requirements	8
J. Property Inspection Requirements	8
K. Appraisal Requirements	8
L. Lien Position Requirements	9
M. Environmental Requirements	9
N. New Construction/Rehabilitation Requirements	10
O. Award Process	12
P. Applicant Appeal Process	12
Q. Standard Agreement and Disbursement Procedures	12
R. Escrow Process and Loan Documents	14
S. Important Legal Matters	14

II. APPLICATION PROCEDURES AND DEADLINE

A. Application Packaging and Submittal	15
B. Timetable for Applications, Workshops, and Awards	16
C. Preparation for Application Submittal	16
D. EHAPCD Applicant Workshops	16
E. Technical Assistance	17
F. Eligible Application and Rating and Ranking Criteria	17
G. Clarification of Items in the Application	19
H. Preparation for Loan and Grant Committee	19

III. ATTACHMENTS

- A. EHAPCD NOFA/Application Workshops
- B. EHAPCD Team Contact List
- C. Urban / Non-Urban Counties List
- D. Counties with Designated Local Boards (DLB's)
- E. Homeless Youth (California Government Code Excerpts Section 11139.3) and
Emergency Shelter Zoning (California Government Code Excerpts Section 65583
et seq.)
- F. Serving Selected Populations with EHAP/EHAPCD Funding
- G. EHAPCD Escrow and Disbursement Documents
- H. Applicant Resource List

**EMERGENCY HOUSING AND ASSISTANCE PROGRAM
CAPITAL DEVELOPMENT (EHAPCD)**

Statewide NOFA

I. PROGRAM DESCRIPTION

Introduction

The State of California Department of Housing and Community Development (Department) is pleased to announce that applications are being accepted for the EHAPCD program from eligible providers of emergency shelters, transitional housing facilities and safe havens. It is anticipated that \$20 million is available for 2011-12 statewide funding. Awards will be made with no formula-based county allocations. Allocations for urban and non-urban counties are as follows:

Urban (population equal to or more than 200,000):	\$16,000,000 (80 percent maximum)
Non-urban (population less than 200,000):	\$4,000,000 (20 percent minimum)

Refer to Attachment C (Urban/Non-Urban Counties List) to determine if your county is urban or non-urban.

The Department reserves the right to supplement funds with additional bond pool funds based on applicant demand. Additionally, if any non-urban funds remain, the Department may reallocate these funds to urban counties pursuant to Health and Safety Code Section 50802.

Health and Safety Code Section 50802.5(h) states Designated Local Boards (DLBs) may participate in the priority rating of applications submitted for projects in their regions as part of the rating and ranking process of this NOFA. Attachment D of this NOFA lists both the participating DLB counties using the Department-approved local priorities, and those counties subject to the statewide priorities.

Applicants applying in counties that are listed as using the local priorities should contact their DLB's immediately to obtain the locally required portion of the application, which must be submitted as the Priorities portion of the EHAPCD application. Applications for projects located in counties listed as using the statewide priorities must submit the EHAPCD Statewide Priorities portion of the application.

Applicants cannot apply for additional EHAPCD funds if they have already received an EHAPCD award for the same activities and/or scope of work previously funded.

A. Authority

Health and Safety Code Section 53533 authorizes the use of \$195 million of the \$2.1 billion in Proposition 46 housing bond funds for the development of homeless housing. In addition, Health and Safety Code Section 53545 (The Housing and Emergency Shelter Trust Fund Act of 2006) authorized the use of \$50 million of the \$2.85 billion in Proposition 1C housing bonds funds to be distributed in the form of capital development grants under the Emergency Housing Assistance Program,

authorized by Chapter 11.5 (commencing with Section 50800) of Part 2 of Division 31. The funds shall be administered by the Department of Housing and Community Development in a manner consistent with authorizations contained in Provision 3 of Item 2240-105-0001 of the Budget Act of 2000, except that any appropriations in that item shall not apply.

Pursuant to the language of Chapter 52, Statutes of 2000, Item 2240-105-0001, Provision 3 (b) and Health and Safety Code Section 50800(c) for this NOFA, the Department adopted the definition of the term “homelessness,” “homeless individual” or “homeless person” used by the U.S. Department of Housing and Urban Development in implementing the McKinney Act, which reads as follows:

1. In general...the term “homelessness” or “homeless individual” or “homeless person” includes:
 - a. An individual who lacks a fixed, regular, and adequate nighttime residence; and
 - b. An individual who has a primary nighttime residence that is:
 - (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - (ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (iii) A public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.
 - c. For purposes of this chapter, the term “homeless” or “homeless individual” does not include any individual imprisoned or otherwise detained pursuant to an act of Congress or a state law.

EHAPCD funding is administered pursuant to the language of the Health and Safety Code Sections 50800-50806.5, starting at Part 1, Division 31, Chapter 11.5 (as amended by Chapter 664, Statutes of 2008 - AB 2016) and Section 53533, which can be located at: www.leginfo.ca.gov/.html/hsc_table_of_contents.html; the EHAP Regulations; and California Government Code Section 11139.3. The EHAP Regulations (Sections 7950-7976) are part of Title 25, Division 1, Chapter 7, subchapter 12) of the California Code of Regulations. The complete EHAP Regulations can be obtained on the EHAPCD webpage located at: www.hcd.ca.gov/fa/ehap/ehap-capdev.html. This NOFA governs the Department’s administration of the program; however, the above referenced statutes and regulations will supersede this NOFA should any conflict in these provisions arise.

Application Disclosure: Information provided in the submitted application will become a public record available for review pursuant to the Public Records Act. The address of a shelter serving domestic violence victims, such as a safe house, is an exception to this disclosure; however, an assessor’s parcel number (APN) must be provided at the time of application.

B. Eligible Applicants and Use of Funds

The Emergency Housing Assistance Program Regulations, Sections 7950, 7959 and 7961 provide information on the eligibility requirements for applicants and the facilities that qualify for EHAPCD funding. Applicants are encouraged to have the proposed project 'ready to go' at the time the application is submitted to ensure points are maximized.

The Department will award EHAPCD deferred loans, which may be forgiven, to eligible local government agencies or California nonprofit corporations, which provide, or contract with community organizations to provide qualifying emergency shelter, transitional housing and/or safe haven to homeless persons.

An applicant may request funds using one application for an emergency shelter, transitional housing and/or safe haven facility as long as each housing component qualifies and they are each located on the project site for which funding is being requested. If only part of the facility qualifies for EHAPCD funding, the applicant must provide:

1. Project information for the entire facility;
2. Total project cost;
3. EHAPCD allowable activities;
4. Prorated EHAPCD project budget; and
5. Documentation of other funding sources covering ineligible activities.

An applicant can be involved in multiple applications; however, the total of those applications cannot exceed \$1,000,000 dollars per county.

Applicants serving selected populations should read the California Government Code regarding Homeless Youth (Attachment E of this NOFA) and the Department's Serving Selected Populations policy (Attachment F of this NOFA).

EHAPCD will not fund the development of structures that will not house the homeless (i.e., provide overnight bed capacity). Funds under this NOFA may be used for any of the following capital development activities that will be completed during the term of the Standard Agreement (please refer to Sections 7961(a) (2) and (c) (1)–(3) of the Regulations:

- Acquisition of an existing structure that does not involve supplanting of a previously government funded project;
- Acquisition of an existing structure in conjunction with rehabilitation of that structure to create a qualified homeless housing facility;
- Acquisition of modular structures/units;
- Rehabilitation/conversion of an existing structure to preserve or create a qualified homeless housing facility, which may include costs related to demolition, lead-based paint and asbestos reports, and remediation of health and safety hazards documented by the local building authority;

- ADA accessibility improvements of an existing qualified homeless housing facility;
- Site acquisition limited to land purchase in conjunction with new construction of a qualified homeless housing facility which does not involve supplanting;
- New construction of a qualified homeless housing facility, which may include project related planning and engineering fees, environmental reports and remediation of health and safety hazards documented by the local building authority;
- Nonrecurring development costs, not to exceed two percent, incurred after the execution date of the Standard Agreement, for tasks directly related to the EHAPCD project for acquisition, rehabilitation and/or new construction. These cost include but are not limited to:
 - a. Public bidding compliance;
 - b. Reimbursement process; and
 - c. Required reports (e.g. SAR, Detailed Cost Estimate, Project Timeline, Sources and Uses, etc.).
- Other eligible costs may include documented costs for fees of a project specific Development Consultant.

All costs funded by EHAPCD must occur **on or after** the execution date of the State Standard Agreement (Standard Agreement). EHAPCD funds may not be used to restructure/refinance an applicant's existing financing. Applicants must have prior written approval from the Department to begin construction prior to the execution and recordation of loan documents.

Applicants requesting funds for major equipment purchases must demonstrate that the equipment will be part of the construction or rehabilitation project by including the costs in the project's construction contract. An example of an eligible equipment purchase is a heating and air conditioning system requiring a permit. The purchase of equipment that is not under permit and not built in, (personal versus real property, which may include beds, household refrigerators and/or stoves), does not meet the intent of the EHAP statute and, therefore, is not an eligible use of EHAPCD funds.

The EHAP Regulations (Section 7962) define ineligible uses of funds under EHAPCD. For example: activities and/or work completed prior to the execution date of the Standard Agreement, recreational equipment, landscaping, walls, fences, parking lots and offsite improvements are ineligible EHAPCD costs. If included in an otherwise eligible application, requests for ineligible use of funds will be deducted from the requested loan amount of the application. After deducting the ineligible expenses, if the Department determines the proposed project is still feasible, the application will be rated and ranked pursuant to the selection criteria set forth in this NOFA.

The Department, at its sole discretion, may determine that any application is ineligible if the proposed activities are deemed as an inefficient or ineffective use of EHAPCD funds. Please contact EHAPCD staff prior to filing your application if you have any

questions regarding eligible uses of EHAPCD funds, see Attachment B of this NOFA for the EHAPCD Team Contact List.

C. Minimum and Maximum Loan Amounts

Applicants may submit one application per site. The minimum loan request per application is \$20,001 and the maximum loan request is \$1,000,000. Applicants may submit multiple applications, but the maximum loan amount per applicant per county remains at \$1,000,000 per funding round. Applications from the same applicant in excess of \$1,000,000 per county are ineligible.

D. Loan Terms and Conditions

The loan will accrue three percent per annum simple interest. Principal and interest payments are deferred for the term of the loan and the loan will be forgiven as long as the project is used as a qualifying homeless housing facility and the proposed services are provided as represented in the application. Each EHAPCD deferred loan shall be secured by a Deed of Trust and the project property shall be subject to a Regulatory Agreement prepared by the Department. A summary of EHAPCD escrow and disbursement documents are located in Attachment G of this NOFA.

The loan terms are as follows:

Development Activity

EHAPCD Loan Term

Acquisition only:	10 years from the Regulatory Agreement recorded date
New construction or acquisition with rehabilitation:	10 years – (*) below
Substantial rehabilitation (Loans \$25,000 or more):	7 years – (*) below
Minor Rehabilitation (Loans less than \$25,000):	5 years – (*) below

() From the date that either the Certificate of Occupancy is issued, or in the case where a local jurisdiction does not issue a Certificate of Occupancy, the date the Notice of Completion is recorded.*

E. Site Control

For the purposes of this NOFA, applicants must demonstrate site control at the time of application submission by providing a current preliminary title report (not more than sixty days old), **and** one of the following:

- **Fee title ownership**, as evidenced by a Grant Deed listing only the legal name of the applicant.
- A legally enforceable **Purchase Agreement or Lease Option to Purchase** or other legally enforceable agreement for the acquisition of the project property. For those

applicants requesting EHAPCD funds to acquire the property, site control must include language in the agreement/option that the EHAPCD loan shall close, at minimum, no sooner than the anticipated program award notification date as specified in Section II.B. of this NOFA. The agreement/option must also include language that the EHAPCD applicant has the right to extend the anticipated EHAPCD loan closing date a minimum of ninety days from the anticipated execution date of the Standard Agreement, as specified in Section II.B. of this NOFA. For purchases that are contingent upon EHAPCD funding, it is strongly suggested that this agreement include the following language: "This offer is contingent upon the buyer receiving notice of loan approval from the State of California's Department of Housing and Community Development."

- A legally enforceable **Lease or Option to Lease** for the project property with provisions that enable the lessee (Applicant/Borrower) to lease the land, make improvements on and encumber the property. An Enhanced Sharing Agreement does not meet this requirement. The terms and conditions of any proposed lease shall provide for compliance with all EHAPCD requirements and the term of the leasehold must exceed the applicable EHAPCD loan term by ten years (see Item D, Loan Terms and Conditions).

If Borrower has, or will have, a leasehold interest in the property, either of the following must occur at the time of close of the EHAPCD escrow:

1. Both Borrower and Lessor must execute the Department's EHAPCD Deed of Trust encumbering the fee interest in the property and Regulatory Agreement; or
2. The Borrower must execute the Deed of Trust encumbering the leasehold interest, and both the Borrower and Lessor must execute the Department's Lease Rider and Regulatory Agreement.

A recorded lease, acceptable to the Department, is **required** prior to or at the close of the EHAPCD escrow. Properties demonstrating site control by a leasehold interest must have an executed Lessor's Agreement to Cooperate regarding the Department's requirements. EHAPCD strongly encourages applicants that are/will be leasing the project property to have the Lessor review the Deed of Trust and Lease Rider to avoid any delays in execution of these required security documents, which may lead to extensive delays at loan closing. Site control through a sub-leasehold interest in the property is not acceptable. Samples of security documents are located at: www.hcd.ca.gov/fa/ehap/ehap-capdev.html.

Applicants failing to adequately demonstrate the required site control at the time of application shall be deemed ineligible. Once a Standard Agreement is executed, site change requests will not be approved except as follows:

Exceptions to this policy may be granted on a case-by-case basis when the Borrower submits a formal written request and can demonstrate to the Department's satisfaction that the change was the direct result of unforeseeable circumstances (e.g., natural disaster, fire) that prevents the Borrower from maintaining the requisite site control and/or developing the site as proposed in the application.

F. Match Requirement

EHAPCD loans do not require matching funds. However, leveraging of funds for the development project is part of the rating criteria and applicants are required to identify all sources and uses of funds and provide commitment for the funds in their EHAPCD application.

G. Rent Requirements

Emergency shelters with EHAP funding cannot charge rent per EHAP Regulation Sections 7959(h) and (l). Transitional housing facilities may charge rent per EHAP Regulations Sections 7959(k) and (l); however, the limitation on the maximum rents that may be charged may not exceed the higher of the two following options:

1. No more than 30 percent of adjusted family income, as defined in the HUD guidelines located at: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35649.pdf, in Chapter 5, Determining Income & Calculating Rent, Section 2, Determining Adjusted Income (pages 5-38 thru 5-50); or
2. Ten percent of the family's monthly gross income.

Rent policies must be clearly stated in the Policies and Conditions of Stay submitted with the application. The rent requirements are contained in the Regulatory Agreement that will be executed when the EHAPCD loan closes, pursuant to Health and Safety Code Section 50801(i).

H. Relocation Requirements

If awarded, Borrowers must comply with all requirements of the Uniform Relocation Act (URA) of 1970, California Relocation Law (Government Code, Section 7260 et seq.) **and** the regulations promulgated hereunder at California Code of Regulations, Title 25, Section 6000 et seq. All tenants occupying a property who are displaced as a direct result of the development of the project are entitled to relocation benefits **and** assistance.

The Applicant/Borrower of a project resulting in permanent or temporary displacement of residential and/or commercial tenants is solely responsible for providing relocation assistance and benefits as set forth in applicable State and federal law, and shall agree to indemnify and hold harmless the Department from any liabilities or claims for relocation related costs. **All costs associated with relocation requirements are not eligible for reimbursement with EHAPCD funds.**

Generally, State relocation requirements are triggered upon the "Initiations of Negotiations" (ION). In most cases the ION occurs prior to the submission of the EHAPCD application. If residential and/or commercial tenants occupy the property and permanent or temporary displacements may occur, each tenant must receive a General Information Notice (GIN) at the time negotiations begin and/or when plans to submit an EHAPCD application becomes public knowledge, whichever occurs first. The required notices must be given to the tenants even if it is anticipated that no one will be displaced.

Relocation benefits are triggered when tenants must permanently or temporarily vacate their units, or when their rent is raised to an amount above 30 percent of their adjusted income.

The applicant's relocation plan is subject to the review and approval of the Department. Documentation of data used to determine estimated relocation costs (comparable rentals and assistance calculations) and copies of the signed GIN notices received by tenants must be submitted with the relocation plan. Estimates of relocation costs and intended sources of funding must be included in the Sources and Uses (Attachment 12-1 and 12-2 of the application). EHAPCD will require additional documentation if it is determined that relocation benefits apply.

I. ADA Compliance Requirements

For rehabilitation and/or purchase of an existing structure, Applicants are required to provide acceptable evidence of compliance with applicable ADA regulations from their local jurisdiction prior to the close of the EHAPCD escrow. If any remedial work is required, it must be included in the ADA Assessment and Compliance, (Attachment 16 of the application). EHAPCD funds may be used to bring a building into ADA compliance.

J. Property Inspection Requirements

Applicants purchasing and/or rehabilitating an existing structure are required to submit with their application, a **property inspection report** performed by a qualified licensed general contractor, a State licensed architect, or the local jurisdiction. The inspection report shall include the current condition of the property and a detailed summary of any repairs needed to establish and/or maintain a satisfactory condition of the property. The inspection must apply at least the minimum guidelines of the Health and Safety Code Sections 17920-17928.

K. Appraisal Requirements

An **unrestricted, market value appraisal** dated on or after August 15, 2011 is required prior to the close of the EHAPCD escrow for all non-leased project sites. When EHAPCD funds of \$25,000 or more will be used for new construction and/or rehabilitation projects an unrestricted "as-is" and "as-completed" market value appraisal is required prior to loan closing.

Appraisal(s) must be performed by a qualified, State licensed appraiser with experience appraising comparable properties. The appraisal(s) must be dated within twelve months prior to the close of the EHAPCD escrow. All appraisals are subject to the acceptance of the Department. If an appraisal should expire prior to the escrow closing, EHAPCD may require an updated appraisal. If an updated appraisal is required and reflects a lower value than the original appraisal, EHAPCD reserves the right to lower the approved loan amount so that any senior liens plus the new EHAPCD do not exceed the new appraised value.

An “as-is” and “as-completed” Broker’s Price Opinion with at least three comparables, completed by an independent licensed real estate broker who is not party to the transaction, dated on or after August 15, 2011 and before application submission, may be submitted at the time of application in lieu of an appraisal. However if the appraisal, when submitted, reflects a value lower than the Broker Price Opinion, any award amount will be adjusted downward to comply with EHAPCD’s requirements.

If the property will be held in Leasehold Title during the EHAPCD loan term the applicant must submit a minimum of three lease comparables dated on or after August 15, 2011 and before the application submission date.

If the applicant owns or will own the project property, the EHAPCD loan must be secured by the real property and the property must have an appraised market value, based on its highest and best use, of at least the amount of the EHAPCD loan plus any senior debt.

L. Lien Position Requirements

The Department expects to be in first lien position whenever possible. EHAPCD’s final lien position must be acceptable to the Department. The EHAPCD Subordination Agreement(s) shall be required prior to the close of the EHAPCD escrow. Any variation of the lien position as proposed in the original application may be grounds for disqualification or termination.

M. Environmental Requirements

Prior to the close of the EHAPCD escrow, Borrowers must demonstrate that the EHAPCD project site meets applicable environmental requirements. Environmental issues needing remediation must be provided for in the Sources and Uses prior to EHAPCD loan approval. If the project site budget includes any federal funding sources, compliance with federal environmental requirements must also be demonstrated.

Projects funded by EHAP are subject to the **California Environmental Quality Act** (CEQA, Public Resources Code Section 21000 et seq.). CEQA compliance certification will be required by EHAPCD prior to the close of the EHAPCD escrow; therefore, applicants should coordinate with their city or county planning agency to ensure that their project is in compliance with the CEQA requirements.

Applications for acquisition of land and/or new construction projects require a **Phase I Environmental Report** from a licensed environmental surveyor dated no earlier than five years prior to the date of the application.

Applications for the acquisition of existing structures, demolition of existing structures and/or rehabilitation of existing structures, built prior to 1978, require **asbestos and Lead-based Paint** surveys from licensed professionals working in the applicable field. If the surveys are not submitted with the application, Borrowers are required to submit them prior to the close of the EHAPCD escrow. Costs to remedy health and safety findings must be included as part of the Sources and Uses and may be funded by EHAPCD.

If the Phase I Environmental Report or the asbestos and Lead-based Paint surveys are not available at the time of application submission, applicants should:

1. Explain when the applicable report or surveys will be submitted;
2. Provide other documentation that lists any known environmental issues;
3. Budget for any potential remediation that will be required by EHAPCD prior to the close of the EHAPCD escrow; and
4. If applicable, budget for the cost of the required report or surveys.

Applicant should confirm with their local jurisdiction that an existing structure is either not deemed a historical property, or that the building is or will be in compliance with the **California Historic Building Codes (CHBC)**.

N. New Construction/Rehabilitation Requirements

The Department will require conditions to the Standard Agreement to meet the following objectives and comply with the EHAP Regulations specified in Section 7971 and Section 7972 for all projects when EHAPCD funds, of \$25,000 or more, will be used for new construction, rehabilitation or acquisitions with new construction and/or rehabilitation:

1. EHAPCD funding of construction related costs will be subject to a **competitive bidding process**. The Borrower shall ensure that the construction work for the project shall be performed in a competent, professional manner at the lowest responsible bid, consistent with the project's scope, design, and locality and not in excess of the total funds available.

All new construction and/or rehabilitation activity expenses to be paid for with EHAPCD funds with an aggregate total of \$25,000 or more, must be publicly advertised, using the proposed **EHAPCD Bid Procedure Guidelines** that have been developed by EHAPCD, located at <http://www.hcd.ca.gov/fa/ehap/ehap-capdev.html>. The Borrower shall submit all proposed Bid Packages, which must include the Borrower's written definition of what constitutes a "responsible bidder", to EHAPCD for review prior to advertising for bids. After EHAPCD has reviewed and accepted the Borrower's proposed bid guidelines, the Borrower must advertise for bids in a paper of general circulation, for a sufficient amount of time in order to obtain a minimum of three qualified bids. After the Borrower has opened and reviewed all bids received and has made an initial determination of which bid is the lowest responsible bid, the Borrower shall forward all bids to the Department for its review and acceptance. The Department will review the completed bid package, including evidence of advertisement, within 15 days of receipt of said documents.

2. For each construction contract, the Borrower shall enter into a written contract with the successful lowest, responsible bidder. The contractor shall provide a copy of the California Contractors State license to the Borrower. For each contract of \$25,000 or more, a payment bond and a performance bond for 100 percent of the successful contract amount shall be submitted. The contract and any related documentation shall be subject to the prior approval of the Department to determine compliance with program requirements. The American Institute of Architects (AIA) Standard Construction Contract is the industry standard (Form AIA101-2007) and must be

used along with the Department's AIA Addendum to meet State requirements. The Department's AIA Addendum is available at <http://www.hcd.ca.gov/fa/ehap/ehap-capdev.html>. Competitive costs/bids are still required even if any part of the labor, services and/or materials are to be donated, except for turn-key projects approved by this Department.

3. The construction contract shall be a completely integrated written agreement containing all the understandings, covenants, conditions, and representations between the parties. The contract shall specify a total contract price consistent with the project budget acceptable to the Department.
4. The contract shall include a provision for the payment of **State prevailing wage**. Where funds provided through this Agreement are used for construction work, or in support of construction work, the Borrower shall ensure that the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of the Labor Code (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met. State prevailing wage requirements may not apply to new construction, expansion, or rehabilitation work by a nonprofit organization, for an emergency shelter or transitional housing facility to be operated on a not-for-profit basis, provided that:
 - a. The organization acquires at least 50 percent of the total project costs from non-public sources. For the purposes of this exclusion, total project costs do not include the value of real property that is transferred or leased. Total project costs include the value of donated labor, materials, architectural, and engineering services; or
 - b. If public funding in the form of below market interest rate loans restricts the occupancy of at least 40 percent of the projects units for at least 20 years by deed or regulatory agreement to individuals or families earning no more than 80 percent of the area median income. Sponsor is required to provide evidence supporting the exemption and a letter of opinion from their legal counsel; or
 - c. If the project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as an emergency shelter or transitional housing for homeless persons with a total project cost of less than \$25,000.

Prior to beginning the bid process, Applicants must request from the Department of Industrial Relations, a Request for State Prevailing Wage Determination from their web site located at: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. The prevailing wage determination results provided by the DIR must be included with your request for bids package and provided to all interested bidders during the bidding process.

5. EHAPCD funds shall not be used to pay any family member of any person on the Borrower's Board of Directors or staff.

For the purposes of satisfying the Standard Agreement disbursement conditions and confirming that EHAPCD funds are used as described therein, the Department will review and verify the:

- a. Development plans to determine approval by the local authority;
- b. Selected Architect and Contractor;
- c. Building location and pledged bed capacity;
- d. Overall layout of project as represented in the application; and
- e. Specifications for EHAPCD eligible activities and costs.

The **Detailed Cost Estimate**, (Attachment 11 of the application), to be signed by a licensed architect, or other professional cost estimator approved by the Department, must be submitted with the application. Project costs must be identified and all proposed sources and uses of funds specified. If awarded EHAPCD funds, the Borrower must provide updated cost estimates and project timelines to the Department.

O. Award Process

After review of submitted applications, and a recommendation for approval from the Local Assistance Loan and Grant Committee, as applicable, the Department shall issue an Award letter for all approved applicants. The Award letter shall constitute the awardees' conditional loan commitment. The award will be formally evidenced by a Standard Agreement prepared by the Department on behalf of the State. Each Standard Agreement will contain loan conditions to be satisfied by the Borrower prior to the close of the EHAPCD escrow and disbursement of funds.

P. Applicant Appeal Process

An applicant is entitled to appeal the loan selection activities of the Department by submitting a written petition to the Department. The petition must clearly state the applicant is appealing the Department's funding decision and must be received within ten days from the date the Department makes the final rating and ranking of eligible applications available to the public. The Department must respond in writing within 21 days of receipt of any written petitions. For the information that must be included in the written petition and the Department's response requirements please refer to the EHAP Regulations Sections 7968(c) (1)-(3).

Use the mailing instructions given in the Application Packaging and Submittal section later in this NOFA or fax petition to: EHAPCD Program Manager at (916) 323-6016. Faxed petitions will not be considered complete unless the original is received within seven days of the faxed transmittal.

Q. Standard Agreement and Disbursement Procedures

The application is incorporated into the Standard Agreement, therefore, consider this when preparing and certifying the application. The development project, process, budget, and results stated in the application will be those to which the Borrower is committed once the Standard Agreement is executed. Any proposed change to the project once an application is approved for funding must be submitted in writing and is subject to review and written approval by the Department. Applicants are advised to carefully determine the proposed use of EHAPCD funds, and to accurately estimate the required funding amount.

Borrowers can expect to receive the Standard Agreement package approximately 90 days after the Department announces the awards (see Section II.B.). The Borrower is requested to sign and return five sets (all with live signatures) of the Standard Agreement (form STD 213) for execution by the Department as soon as possible. The Standard Agreement will become effective when reviewed, approved and signed (executed) by the Department.

The Department may only reimburse Borrowers for costs incurred **on or after** the “executed” date of the Standard Agreement (the date stamped on the lower right-hand corner of the Standard Agreement cover sheet (STD213)). If Borrowers incur costs for the project prior to the executed date of the Standard Agreement, such expenses will not be paid by the Department. **Commencement of construction and/or rehabilitation prior to the recording of the EHAPCD loan is a breach of lien requirements, which may result in delays in loan closing, additional title fees and/or termination of EHAPCD funding.**

When the Standard Agreement has been executed, all loan disbursement conditions have been satisfied, and the EHAPCD security documents have been recorded, eligible EHAPCD costs that were incurred on or after the executed Standard Agreement can be disbursed to the Borrower. Borrowers may request funds by completing the Request for Funds Form (RFF) located at: www.hcd.ca.gov/fa/ehap/ehap-capdev.html. For projects which do not involve a licensed Architect, a neutral third party, who is a licensed and bonded professional acceptable to the Department shall inspect and certify that any and all work was completed in a satisfactory and craftsman like manner.

In instances where there is more than one funding source to complete the approved activity, the Borrower shall enter into a Master Disbursement Agreement between all funding sources to prevent the duplication of funding for the same work. The Master Disbursement Agreement shall include a spreadsheet that itemizes each draw request and the portion each source is reimbursing. The Master Disbursement Agreement shall be reviewed and approved by the Department and must be executed prior to any disbursements. Ten percent retention will be withheld from all construction and/or rehabilitation progress payments as required by the EHAP Regulations until the title company issues an American Land Title Association (ALTA) policy free of mechanics liens. Once an acceptable ALTA policy is received, the ten percent retention can be requested using the Request for Disbursement (RFD) form.

Borrowers will have 12 months from the “execution” date of the Standard Agreement to commence a project or the Standard Agreement may be terminated and the funds reallocated. **Commencement** is defined as acquiring a project property using EHAPCD funds and/or obtaining a building permit for the development activities. The Department, at its discretion, may extend the commencement period up to an additional 12 months to assure the project’s successful completion. Borrower shall submit a written request, prior to the expiration of the commencement date, outlining the reason(s) for project delays and an updated project timeline. This commencement extension will extend the contract term from 24 months to 36 months.

R. Escrow Process and Loan Documents

An independent, third party escrow is required to close EHAPCD loans. When funds are deposited into a FDIC insured interest-bearing account all interest earned by this account belongs to the State and shall be returned to the State when the escrow is closed.

All parties involved in the escrow transaction (Owner, Borrower, Seller, Lessee, and Lessor) are advised to review the program's standardized loan documents (i.e., security documents, samples of which are located at: <http://www.hcd.ca.gov/fa/ehap/ehap-capdev.html>) to familiarize themselves with the program requirements contained therein. Generally the Department does not allow the language of the EHAPCD security documents to be altered in any way, and any requests to alter the security documents may delay closing of escrow.

Before an EHAPCD Borrower may close escrow, **all conditions outlined in the Loan Closing Checklist, which is derived from the Standard Agreement, must be satisfied.**

S. Important Legal Matters.

HCD reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such action occurs, HCD will notify all interested parties.

II. APPLICATION PROCEDURES AND DEADLINE

A. Application Packaging and Submittal

Applications on EHAPCD's website are available for the applicants use. Some of the forms are not available in data entry format and formatting will be the Applicants' responsibility.

Applicants must submit one original and one copy of the application for each project site. A site is defined in Section 7950 of the EHAP Regulations as a legal parcel or contiguous (adjacent) parcels. A separate application **must** be submitted for each project site. Failure to submit a separate application for each project site shall cause one or all of the organization's applications to be disqualified. Both the original and the copy of the application must contain all Attachments and supporting documentation. Please review the Statewide Application Checklist and instructions to ensure all required information is submitted for EHAPCD review. Failure to provide any of the required documentation and/or Attachments may result in either the application being ineligible or not earning sufficient points for an EHAPCD funding recommendation.

The Department must receive project applications in response to this Statewide NOFA for EHAPCD deferred loan funds, regardless of delivery method, no later than 5:00 p.m., Pacific Daylight Savings Time, Friday, September 30, 2011. Applications received after the deadline will be date stamped, and disqualified due to the time of receipt. Additionally, faxed and/or emailed applications will not be accepted.

Please send applications by delivery service or hand deliver to:

Department of Housing and Community Development
Division of Financial Assistance, EHAPCD
1800 Third Street, Room 390
Sacramento, CA 95811

Use the following methods to confirm EHAPCD's receipt of an application:

1. Hand-deliver the application to the EHAPCD office and ask for a receipt; or
2. Mail the application by certified mail, with return receipt requested; or
3. Use a commercial delivery service which provides proof of the Department's receipt.

Note: Applicants are advised that it is their sole responsibility to ensure that their application is delivered to EHAPCD by 5:00 p.m., Pacific Daylight Savings Time, on Friday, September 30, 2011.

B. Timetable for Applications, Workshops, and Awards

TIMETABLE FOR CAPITAL DEVELOPMENT APPLICATIONS	
Statewide NOFA Issued:	August 15, 2011
Statewide Applicant Workshops:	See Attachment A for Locations, Dates and Times
Statewide Applications Due:	September 30, 2011
Loan and Grant Committee Meeting:	Projected for December 2011 & January 2012
1 st Program Award Notification Date:	Approximately January 2012
1 st Standard Agreements Mailed to Borrowers:	Approximately February 2012
Execution Date of 1 st Standard Agreements	Approximately March 2012

C. Preparation for Application Submittal

1. Start early to allow plenty of time for local reviews, revisions and to schedule approvals of local resolutions. The required **Authorizing Resolution** for Applicants must be dated on or after August 15, 2011 and on or before September 30, 2011.
2. Carefully read the program requirements and statutes; particularly review the EHAP Regulations Sections 7959-7962 regarding eligibility. Identify which of the project's proposed activities are eligible for EHAPCD funding per Sections 7961(a) (2), (4), and (8).
3. Attend a NOFA Workshop conducted by EHAPCD staff.
4. Use the **Statewide Application Checklist** to place forms and documentation in the proper page order and to ensure all required items are submitted. Number and label tabs to divide and identify each item of the Checklist. Mark all items on the Checklist with a ["✓"] that are included in the application to represent the proposed project. Behind the appropriate labeled tab, mark items that are not applicable with "N/A", using the instructions in the application as a guide.
5. Use and include the Excel Attachments, provided as part of the Application, with totals to record any calculations for easy verification by EHAPCD staff.
6. Review the completed application and then have someone else review it to ensure that it clearly and concisely responds to each question and is assembled as instructed.
7. Please do not hesitate to contact an EHAPCD Team member for a pre-review or technical assistance if any aspect of this NOFA and Application are unclear (Attachment B of this NOFA, EHAPCD Team Contact List).

D. EHAPCD Applicant Workshops

To assist Applicants in preparing their applications, the Department will conduct technical assistance workshops (for dates and locations see Attachment A of this NOFA). Please bring copies of the EHAPCD NOFA and application to the workshop, as there may be limited copies available. The NOFA Workshops, to be held in September 2011, will review the Regulations and present application preparation tips. EHAPCD Team members are available to assist applicants by phone, email or appointment to answer project documentation questions for individual applicants (see the EHAPCD Team Contact List, Attachment B of this NOFA).

E. Technical Assistance

If you are unable to attend the technical assistance workshops and have questions about the application process, do not hesitate to contact the EHAPCD program staff (see the EHAPCD Team Contact List, Attachment B of this NOFA).

F. Eligible Application and Rating and Ranking Criteria

Statewide applications for EHAPCD loans will be evaluated for completeness and eligibility pursuant to Sections 7959-7962 of the EHAP Regulations. **An application will not be considered for further review unless it contains documentation that demonstrates, as determined by the Department, the following minimum eligibility and completeness requirements:**

1. Application has been received on time;
2. Applicant, activities and proposed use of funds are eligible; **and**
3. Application contains all required sections, which include:
 - a. The signed Certification page;
 - b. Application Summary Form;
 - c. Property and Building Information;
 - d. Project Summary;
 - e. Applicant Eligibility Questions and Narrative; **and**
 - f. Attachments.

Applicants meeting the minimum eligibility and completeness requirements will then be further evaluated pursuant to the four selection criteria set forth in Section 7967(b) of the Regulations and detailed below. Urban and non-urban county applications will be scored in two separate applicant pools. In a competitive NOFA round, only the highest scoring applications will be recommended for approval.

Rating and Ranking Criteria – Application Sections

For each rating category, Applicants shall provide sufficient information that allows the Department to evaluate the project as indicated in the application. The maximum application score is **1,000 points** and applications will be awarded points in each category up to the maximums listed. The following four sections labeled “**i, ii, iii and iv**” include the four applicable award selection criteria that each application will be rated. The Department will consider only the answers submitted in the application, but reserve

the right to verify any information presented. Failure to provide any of the documentation and/or Attachments may result in either the application being ineligible or not earning sufficient points to meet the necessary threshold score for an EHAPCD funding recommendation.

- i. **Applicant Capability** – 430 points maximum and applicants must score a minimum of 258 or 60 percent of the 430 possible points in this section. The Department will evaluate the Applicant’s capability of achieving the activities and the results proposed in the application based on an analysis of the Application (points listed below are maximum points available):
 - a. History of providing client services (25 points);
 - b. Organizational Structure and staffing (20 points);
 - c. Experience in establishing, administering and successful completion of homeless programs (50 points);
 - d. Experience of Public and Private Fundraising and resource development (60 points);
 - e. Established Financial Management Systems (25 points);
 - f. Financial Stability and Solvency (75 points), and Demonstrated Ability and readiness for accomplishing the proposed activities, which includes a review of site control, zoning, market value, environmental requirements, and project timeline (175 points).

- ii. **Impact and Effectiveness** – 200 points maximum and applicants must score a minimum of 120 or 60 percent of the 200 possible points in this section. The Department will evaluate the Applicant’s impact and effectiveness of achieving the activities and results proposed in the application based on an analysis of the Application (points listed below are maximum points available):
 - a. Self-sufficiency Development Services Provided to Clients (60 points);
 - b. How the proposed activities address community needs, which is based on whether the shelter type is identified in the Local Emergency Shelter Strategy (LESS), Continuum of Care Plan or similar Community Plan, including priority designation in the strategy or plan (90 points); and
 - c. The demonstrated effectiveness of the applicant’s current and proposed programs to move homeless persons into a self-supporting environment (50 points).

- iii. **Cost Efficiency** – 220 points maximum and applicants must score a minimum of 132 or 60 percent of the 220 possible points in this section. The Department will evaluate the cost efficiency of the Applicant’s proposed project based on an analysis of the Application (points listed below are maximum points available):
 - a. Type and amount of client housing provided compared to the project budget (80 points);
 - b. Demonstrated ability of other financial resources besides EHAPCD to support achievement of proposed activities (40 points);
 - c. Leveraging of EHAPCD with other funders cost per bed (30 points);
 - d. Number of self-supporting services offered (40 points); and
 - e. Coordination with other organizations (30 points).

iv. Designated Local Board (DLB) or Statewide Priorities – 150 points maximum.
If a project site is located in a county/region with a DLB (see Attachment D of this NOFA):

- a. With respect to local priorities, Statute requires the Department to “...incorporate priorities established by the designated local boards and their input as to the relative merits of submitted applications from within the designated local board’s county in relation to those priorities.” Include in this section of the application the completed documents received from the DLB to demonstrate how the proposed project meets the DLB’s local priorities.
- b. The priority information submitted in Attachment 28, DLB/Statewide Priority, of the application will be forwarded upon receipt by the Department to the appropriate DLB for rating and ranking. The Rating and Ranking will be submitted back to the Department for review and incorporation of appropriate rating points. If the project is located in a DLB county, contact the DLB, using the list on Attachment D of this NOFA for guidance regarding the local priorities.

OR

Statewide Priorities – 150 points maximum.

For Applicants in DLB counties, electing not to participate in the setting of their local priorities and counties without DLB’s, the Statewide Priorities must be addressed in the application. The Department will evaluate the Applicant’s Statewide Priorities based on an analysis of the Applicant’s responses in the application. Points listed below are maximum point’s available.

- a. Increase in Capacity (40 points);
- b. Local Priority (40 points);
- c. Project Readiness (40 points); and
- d. Applicant Capability (30 points).

G. Clarification of Items in the Application

The Department may request clarification of unclear or ambiguous documents and/or statements provided in the application where doing so will not impact the neutral evaluation of the application. The Department may request that an Applicant revise any of the application documents as necessary to establish threshold compliance as long as such revisions do not alter scoring, which may include, but is not limited to, adjustments made to the amount of funding requested. The Department may request submission of documentation if the documentation existed prior to the application deadline and the submission of the documentation is necessary but does not alter the scoring.

H. Preparation for Loan and Grant Committee

EHAPCD is required to bring award recommendations before the HCD Local Assistance Loan and Grant Committee (Committee). Certain applications are exempted from Committee review and are detailed at the end of this section. The Committee is

comprised of members who collectively represent lending institutions, DLB's and public housing agencies. The Committee traditionally meets the third week of every month. For more information regarding the Loan and Grant Committee, see the Department's webpage: www.hcd.ca.gov/fa/ehap/ehap-capdev.html.

The first Committee meeting for project applicants recommended for funding by EHAPCD is tentatively scheduled for December 2011, and the second meeting is tentatively scheduled for January 2012. Please check with your designated EHAPCD Representative for further details regarding the dates of the meetings.

The Committee may vote to "table" a proposed award if members do not feel comfortable with the loan's underwriting, the organization budget, the project development budget, or any other facet of the loan. If that occurs, EHAPCD staff will work with Applicants to answer the Committee's questions, either informally or at the Committee's next meeting. In all cases, the Committee's final recommendations will be reviewed and acted upon by the Director of the Department. If the Director approves the Committee's recommendations, award letters are issued.

EHAPCD applications meeting the following exemption criteria are excluded from Committee review and require an award recommendation from EHAPCD staff confirmed by the Director:

- Criteria #1

Individual applications of less than \$100,000 may be excluded from the Committee meeting if the application is from applicants that:

- a. has received FESG or EHAP Operating Facility Grants or prior EHAPCD loans;
- b. are rehabilitating their existing facilities that they own; and
- c. has a strong financial statement based on standards developed by EHAPCD. For 2011-12, the financial statements standard used for exemption Criteria #1 is that applicants must have a positive net income during each of the last three fiscal years. Further, this criterion shall apply even in cases where a single Applicant has submitted multiple applications which, in the aggregate, exceed \$500,000.

- Criteria #2

Individual applications of less than \$500,000 may be excluded from the Committee meeting if the application is from applicants that:

- a. has successfully operated an emergency shelter or transitional housing for three or more years; and
- b. has a strong financial statement based on standards developed by EHAPCD. For 2011-12, the financial statement standard used for exemption Criteria #2 is that Applicants must have had a positive net income during each of the last three fiscal years. Further, this criterion shall apply even in cases where a single applicant has submitted multiple applications which, in the aggregate, exceed \$500,000.

ATTACHMENT A

NOFA & Application Workshop Dates (general EHAPCD program information)

If you plan on attending one of the workshops, please RSVP to Tabrina Fields at tfields@hcd.ca.gov or call (916) 327-3602.

Eureka

Wharfinger Building
#1 Marina Way
Eureka, CA

September 7, 2011

Wednesday
9:00 a.m. to 1:00 p.m.

Santa Clarita

Century Room at Santa Clarita City Hall
23920 Valencia Blvd.
Santa Clarita, CA 91355

September 12, 2011

Monday
10:00 a.m. to 1:00 p.m.

San Diego

16th & Market Building
640 16th Street
San Diego, CA 92101

September 14, 2011

Wednesday
10:00 a.m. to 1:00 p.m.

Sacramento

Department of Housing and Community Development
Room #183
1800 3rd Street
Sacramento, CA 95811

September 20, 2011

Tuesday
10:00 a.m. to 1:00 p.m.

Reminder: Please be advised there may be a charge for parking and/or parking may be limited at workshops locations.

ATTACHMENT B

EHAPCD TEAM CONTACT LIST

Karen Thompson
Program Manager

(916) 327-3590
kthompson@hcd.ca.gov

George Magnuson
Program Representative

(916) 324-3244
gmagnuson@hcd.ca.gov

Syndi Rhinehart
Program Representative

(916) 327-3713
srhinehart@hcd.ca.gov

Michele Rose
Program Representative

(916) 327-3634
mrose@hcd.ca.gov

Raquel Medina
Program Representative

(916) 327-8266
rmedina@hcd.ca.gov

Tabrina Fields
Program Representative

(916) 327-3602
tfields@hcd.ca.gov

Carlene DeMarco
Program Representative

(916) 324-3757
cdemarco@hcd.ca.gov

FAX
Email for all general questions:

(916) 323-6016
homeless@hcd.ca.gov

ATTACHMENT C

URBAN / NON-URBAN COUNTIES LIST

URBAN

Alameda
Butte
Contra Costa
Fresno
Kern
Los Angeles
Marin
Merced
Monterey
Orange
Placer
Riverside
Sacramento
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Solano
Sonoma
Stanislaus
Tulare
Ventura
Yolo

NON-URBAN

Alpine
Amador
Calaveras
Colusa
Del Norte
El Dorado
Glenn
Humboldt
Imperial
Inyo
Kings
Lake
Lassen
Madera
Mariposa
Mendocino
Modoc
Mono
Napa
Nevada
Plumas
San Benito
Shasta
Sierra
Siskiyou
Sutter
Tehama
Trinity
Tuolumne
Yuba

ATTACHMENT D

COUNTIES WITH DESIGNATED LOCAL BOARDS (DLBs) and /or STATEWIDE PRIORITY

County	DESIGNATED LOCAL BOARDS (DLB's)	Contact	Telephone and Email Address	Contact DLB for LOCAL PRIORITIES and Section IV Format	Use STATEWIDE PRIORITIES, Section V in Application
Alameda	Alameda County Emergency Food & Shelter Program Local Board	Laura Escobar	(415) 808-4380 x223 lescobar@uwba.org	X	
Contra Costa	Contra Costa County Emergency Food & Shelter Program Local Board	Laura Escobar	See Alameda for Contact Info	X	
El Dorado	Community Services Planning Council	Alan Lange	(916) 447-7063 x360 alange@communitycouncil.org	X	
Kings	Kings / Tulare Continuum of Care of Homelessness	Betsy McGovern-Garcia	(559) 684-4254		X
Los Angeles	Los Angeles County Emergency Food & Shelter Program Local Board	Elizabeth Heger	(213) 808-6610 cheger@unitedwayla.org	X	
Marin	Marin County Emergency Housing & Assistance Program Local Board	Laura Escobar	See Alameda for Contact Info	X	
Orange	Orange County Partnership	Karen Williams	(714) 288-4007 x1118	X	
Placer	Community Services Planning Council	Alan Lange	See El Dorado for Contact Info	X	
Riverside	The EFSP Local Board for the County of Riverside	Judith Murdock	(951) 358-5636	X	
Sacramento	Community Services Planning Council	Alan Lange	See El Dorado for Contact Info	X	
San Francisco	San Francisco County Emergency Food & Shelter Program Local Board	Laura Escobar	See Alameda for Contact Info	X	
San Joaquin	San Joaquin Emergency Food & Shelter Board (FEMA)	Angie McKinney	(209) 320-6208 amckinney@unitedwaySJC.org	X	
San Mateo	San Mateo County Emergency Food & Shelter Program Local Board	Laura Escobar	See Alameda for Contact Info	X	
Santa Clara	Santa Clara County Local FEMA Board	Lynn Terzian	(408) 793-5860		X
Shasta	Shasta County Department of Housing and Community Action Programs, EFSP Local Board	Richard Kuhns	(530) 225-5160 rkuhns@co.shasta.ca.us	X	
Solano	Solano Safety Net Consortium - Community Action Agency Advisory Board	Mrs. P.J. Davis	(707) 365-7046 PJDavis@onramp113.org	X	
Sutter	Yuba-Sutter Region Joint Designated Local Board	Tina Harland	(530) 743-1847		X
Tulare	Kings / Tulare Continuum of / Care of Homelessness	Betsy McGovern-Garcia	See King for Contact Info		X
Ventura	Ventura County Homeless & Housing Coalition	Cathy Brudnicki	(805) 485-6288 x273 cathybrudnicki@vcnet.com	X	
Yolo	Community Services Planning Council	Alan Lange	See El Dorado for Contact Info	X	
Yuba	Yuba-Sutter Region Joint Designated Local Board	Tina Harland	See Sutter for Contact Info		X

ATTACHMENT E

Homeless Youth (California Government Code Excerpts Section 11139.3)

11139.3 Homeless Youth

- (a) It is the policy of this state and the purpose of this section to facilitate and support the development and operation of housing for homeless youth.
- (b) The provision of housing for homeless youth is hereby authorized and shall not be considered unlawful age discrimination, notwithstanding any other provision of law, including, but not limited to, Sections 51, 51.2, and 51.10 of the Civil Code, Sections 11135, 12920, and 12955 of this code, Chapter 11.5 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code, and local housing or age discrimination ordinances.
- (c) This section shall not be construed to permit discrimination against families with children.
- (d) This section shall occupy the field of regulation of housing for homeless youth by any local public entity, including, but not limited to, a city, county, and city and county.
- (e) For purposes of this section, the following definitions shall apply:
 - (1) "At risk of becoming homeless" means facing eviction or termination of one's current housing situation.
 - (2) "Homeless youth" means either of the following:
 - (A) A person who is at least 18 years of age, but not older than 24 years of age, and meets one of the following conditions:
 - (i) Is homeless or at risk of becoming homeless.
 - (ii) Is no longer eligible for foster care on the basis of age.
 - (iii) Has run away from home.
 - (B) A person who is less than 18 years of age who is emancipated pursuant to Part 6 (commencing with Section 7000) of Division 1 of the Family Code and who is homeless or at risk of becoming homeless.
 - (3) "Housing for homeless youth" means emergency, transitional, or permanent housing tied to supportive services that assist homeless youth in stabilizing their lives and developing the skills and resources they need to make a successful transition to independent, self-sufficient adulthood.

Emergency Shelter Zoning (California Government Code Excerpts Section 65583 et seq.)

- 65583 (4) (A) The identification of a zone or zones where emergency shelters are allowed as permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a Conditional Use Permit.

The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of , or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

- (i) The maximum number of beds or persons permitted to be served nightly by the facility.
 - (ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
 - (iii) The size and location of exterior and interior onsite waiting and client intake areas.
 - (iv) The provision of onsite management.
 - (v) The proximity to other emergency shelters provided that the emergency shelters are not required to be more than 300 feet apart.
 - (vi) The length of stay.
 - (vii) Lighting.
 - (viii) Security during hours that the emergency shelter is in operation.
- (B) The permit processing, development and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
- (C) A local government that can demonstrate to the satisfaction of the Department the existence of one or more emergency shelters either within its jurisdiction or pursuant to the multi-jurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.
- (D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

ATTACHMENT F

Serving Selected Populations with EHAP/EHAPCD Funding

As published in October, 2005

The following is a guide for shelter providers seeking to serve selected populations using Emergency Housing Assistance Program (EHAP) funds administered by this Department and are used for EHAPCD.

Legal Requirements: Generally, service to selected populations must comply with a variety of legal requirements, including the 14th Amendment to the U. S. Constitution, the U. S. Fair Housing Act (and amendments) of 1968 (and 1988), the California Fair Employment and Housing Act and the California Unruh Civil Rights Act. Depending on the circumstances, other statutes may apply, including Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Additionally, there are specific applicable provisions of the EHAP Statutes (Health and Safety Code [H&S] Section 50800, et seq.). Given the potential overlap of legal requirements, shelter providers should consult an attorney to identify the specific applicable requirements for serving any selected population of clients.

EHAP Emergency Shelter “First-Come, First-Served” Requirements: Emergency shelter facilities receiving funds from EHAP are required (See H&S Section 50801.5(b).) to provide emergency shelter and services “...on a first-come, first served basis for whatever time periods are established for the shelter.” HCD believes that this provision prohibits the use of EHAP funds for emergency shelters for selected populations. However, recognizing that many shelter providers have mission-driven restrictions, HCD has allowed the funding of such shelters provided that no homeless individual or family is forced to remain without shelter while there is available bed space. In circumstances where any client is denied shelter when there is a vacancy, EHAP emergency shelter providers must ensure that there is adequate alternate accommodation including arranging for a bed or providing a voucher for a bed at an alternate facility and reasonable transportation to that facility.

EHAP Transitional Housing: Transitional housing facilities receiving funds from EHAP are not subject to the first come, first-served provisions like emergency shelter facilities, but they are still subject to other legal requirements affecting client service. Among those requirements are EHAP Regulations (Section 7959 (e)), which, as an eligibility requirement, prohibit EHAP Applicants or Grantees from providing Client housing in a manner that denies benefits on an arbitrary basis pursuant to the Unruh Civil Rights Act (California Civil Code 51 et seq.) which prohibits all arbitrary discrimination. Under Unruh, discrimination is considered non-arbitrary if the nature of the physical facilities or the nature of the services provided reasonably necessitates a particular restriction. Whether a transitional housing provider is in compliance with Unruh is a fact driven question, and Applicants and contractors are encouraged to consult their own legal counsel regarding this issue.

If a State or federal law or regulation requires an EHAP transitional housing facility to exclusively serve a select homeless subpopulation, such a restriction would not be considered arbitrary.

Stewart B. McKinney Homeless Assistance Act (McKinney Act) Compatibility:

H&S Section 50800 (c) allows EHAP funds to be used in emergency shelter facilities receiving funds from McKinney Act Programs which require exclusive services to selected populations – provided that the McKinney Act client restrictions arise in the McKinney Program law or regulations (as opposed to restrictions arising from those self-imposed by the Applicant/shelter provider). Contracts between the shelter provider and HUD that merely memorialize Client restrictions proposed by McKinney Act recipients are an insufficient basis for invoking the McKinney Act exemption to the EHAP first-come, first-served requirements.

ATTACHMENT F

Serving Selected Populations with EHAP/EHAPCD Funding (Continued)

Selecting Clients on the Basis of Sex: H&S Section 50801.5 (b) effectively allows emergency shelter and transitional housing providers using EHAP funds to restrict occupancy on the basis of sex – provided that the restrictions are not arbitrary. Generally, that means that in EHAP funded facilities, notwithstanding the Unruh Civil Rights Acts or any other provision of law, shelter and services may be offered exclusively for either women or men – provided that any such exclusivity is based on a reasonable service need.

Selecting Clients on the Basis of Age: H&S Section 50801.5 (b) also permits emergency shelter and transitional housing providers to restrict occupancy exclusively to persons 24 years of age or younger. Generally, that means that in EHAP-funded facilities, notwithstanding the Unruh Civil Rights Act or any other provision of law, shelter and services may be offered exclusively to persons 24 years of age or younger – provided that any such exclusivity is based on a reasonable service need.

Serving Clients on the Basis of Military Veteran Status: H&S Section 50801.5 (b) also permits emergency shelter and transitional housing providers to restrict occupancy exclusively to military veterans if the veterans served possess significant barriers to social reintegration and employment due to a physical or mental disability, substance abuse, or the effects of long-term homelessness that require specialized treatment and services and the provider of emergency shelter or transitional housing also provides the specialized treatment and services.

Generally, this means that in EHAP-funded facilities, notwithstanding the Unruh Civil Rights Act or any other provision of law, shelter and services may be offered exclusively to military veterans, provided that any such exclusivity is based only on the criteria set forth in H&S Section 50801.5 (b). Furthermore, emergency or transitional housing providers with facilities that serve military veterans exclusively must demonstrate that there is a reasonable relationship between the specialized treatment and services offered to military veterans and the population restriction itself.

Selecting Clients on the Basis of Family Status: With respect to using EHAP funds for shelter and services exclusively for either women or men (as allowed under H&S Section 50801.5(b) indicated above) there are limits to the restrictions that can be imposed when serving families. In the case of families, providers of emergency shelter or transitional housing which operate single sex facilities shall provide, to the greatest extent feasible, adequate facilities within their range of services so that all members of a family may be housed together, regardless of age and gender. In other words, families should not be forced to split up in order to stay in EHAP funded facilities that would otherwise exclusively serve either men or women.

If there are any questions regarding these issues, please contact the HCD Homeless Programs at (916) 445-0845.

ATTACHMENT G

EHAPCD ESCROW AND DISBURSEMENT DOCUMENTS

I. Escrow Documents - unless otherwise noted documents are prepared by the Department for all EHAPCD loans and mailed out, using Goldenstate Overnight, to the Escrow Company as part of the escrow packet. Sample versions of the documents listed below that are prepared by the Department are located on the EHAPCD website at: www.hcd.ca.gov/fa/ehap/ehap-capdev.html (on the webpage scroll down to “Contract Provisions”).

1. Promissory Note

2. Deed of Trust

a. Recorded Lease Applicable when leasehold interest. Submitted by project sponsor, preferably accepted by the Department before recording. Should be recorded before the rest of EHAPCD’s security documents.

b. Lease Rider Applicable with leasehold interest when landlord does not execute Deed of Trust.

3. Regulatory Agreement

4. Development Agreement Applicable for all loans involving construction (including substantial rehabilitation \$50,000 and more).

5. Corporate Certificate There are two separate certificates, one for fee title and the other for leasehold title.

6. Escrow Instructions

II. Disbursement Documents – prior to disbursement of funds, all applicable loan conditions (refer to Standard Agreement) must be submitted and accepted by the Department.

1. Request for Funds (RFF)

2. Request for Disbursement (RFD)

3. Expenditure Evidencing Documents (i.e., purchase agreements, invoices, or G702/703 when construction and/or rehabilitation evidenced via AIA Agreement).

III. Insurance Requirements – acceptable certificates must be submitted by Borrower prior to EHAPCD loan closure (see specifics on the EHAPCD webpage).

1. General Liability and
Workers’ Compensation

2. Hazard Insurance For replacement costs of the structure if EHAPCD funds will be used for rehabilitation expenses.

3. Builders’ Risk For damage to structure during construction if EHAPCD funds will be used for new construction/rehabilitation expenses.

4. Flood Insurance Applicable for all properties located within a recognized flood zone.

ATTACHMENT H

Applicant Resource List

**State of California
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Emergency Housing and Assistance Program Capital Development**

State Agencies

Department of Housing & Community Development
Emergency Housing and Assistance Program Capital Development
(916) 445-0845
www.hcd.ca.gov/fa/ehap/ehap-capdev.html

California Architects Board
<http://www.cab.ca.gov/>

Contractor's State Licensing Board
www.cslb.ca.gov

CSLB Asbestos related information
<http://www.cslb.ca.gov/licensing/asb.asp>

Department of Health Services
(Licenses companies for lead work)
www.dhs.ca.gov/childlead

Department of Toxic Substances Control
Environmental Assessments (Phase I)
www.dtsc.ca.gov

Office of Environmental Health Hazard
Assessment
www.oehha.ca.gov

Secretary of State-(registered corporations)
kepler.ss.ca.gov/list.html

CalOSHA-asbestos issues
www.dir.ca.gov/DOSH/dosh1.html

Department of General Services (Payee Data Record)
<http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf>

California Building Standards Commission
(California Historical Building Code)
www.bsc.ca.gov

Department of Industrial Relations-Prevailing Wage
(415) 703-4780
www.dir.ca.gov/DLSR/statistics_research.html

California Environmental Protection Agency
(Asbestos testing and removal requirements)
www.calepa.ca.gov

Office of Real Estate Appraisals
www.orea.ca.gov

Structural Pest Control Board
www.pestboard.ca.gov

Federal Agencies

U. S. Department of Housing and Development's
Supportive Housing Guide
<http://documents.csh.org/documents/ke/SHFinanceSourceGuide.doc>

U.S. Department of Housing and Urban Development
www.hud.gov

Relocation Guidelines
www.hud.gov/relocation

Labor Relations
www.hud.gov/offices/olr

ATTACHMENT H

Applicant Resource List (continued)

Associations

American Institute of Architects
California Council
1303 J Street
Sacramento, CA 95814
(916) 448-9082
www.aiacc.org

California Building Industry Association
1215 K Street Suite 1200,
Sacramento, CA 95814
(916) 443-7933
www.cbia.org

Housing California, Coalition of Housing
Advocates
801 12th St s-210
Sacramento 95814
(916) 447-0503
<http://www.housingca.org/>

Southern California Association of Non-Profit
Housing
(213) 480-1249
<http://www.scanph.org>

California Association of Realtors
525 South Virgil Avenue,
Los Angeles, CA 90020
(213) 739-8200
www.car.org

Home Aid-Sacramento Chapter
(916) 677-5717
www.biasup.org –then “Home Aid”

Risk Management and Insurance
www.irmi.com