

STATE OF CALIFORNIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

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

May 13, 2010

**STATEWIDE NOTICE OF FUNDING AVAILABILITY
(NOFA)
2010-2011**



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.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

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May 13, 2010

Dear Interested Parties:

**SUBJECT: Emergency Housing and Assistance Program Capital Development (EHAPCD)
Deferred Loans: 2010-2011 Notice of Funding Availability (NOFA)**

I am pleased to announce the availability of a combined round of Proposition 1C (The Housing and Emergency Shelter Trust Fund of 2006) and Proposition 46 (The 2002 Bond Act) Capital Development funds from EHAPCD. These funds are available as forgivable deferred loans for development activities that include the acquisition, construction, rehabilitation and/or ADA accessibility improvements of sites providing emergency shelters, transitional housing facilities, and safe havens for homeless persons. With this continued funding, applicants are encouraged to increase and improve year-round homeless shelters, including the provision of cold weather shelters.

The allocations to urban and non-urban counties, with no specific county allocations, are as follows:

Urban (population equal to or more than 200,000):	\$32,000,000
Non-urban (population less than 200,000):	\$8,000,000

The Department reserves the right to supplement funds with additional bond pool funds, based on applicant demand.

The maximum deferred loan amount per project site is \$1,000,000. The Health and Safety Code §50802.5 restricts the organizational application limit to \$1,000,000 per county per funding round. The application deadline is 4:00pm Daylight Savings Time, July 15, 2010 for all applications.

The NOFA package consists of the Statewide NOFA and the Statewide Application. Applicants should refer to Section II of this NOFA for application procedures and to the separate Statewide Application for the application forms and documentation instructions. The EHAPCD NOFA and Statewide Application are available on the EHAPCD website located at: www.hcd.ca.gov/fa/ehap/ehap-capdev.html. The Statewide Applications consists of three separate sections: the Statewide Application, the Attachments and the Excel Attachments. To assist applicants with the NOFA and application process, EHAPCD will be conducting NOFA Workshops, as listed on **Attachment A** of this NOFA.

I look forward to working with you to address the housing and service needs of California's homeless population through the use of these Capital Development funds. Please feel free to contact any of our EHAPCD program staff for additional information and/or technical assistance with the application process via e-mail or phone using the EHAPCD Team Contact List found on **Attachment B** of this NOFA.

Sincerely,

Chris Westlake, Deputy Director
Division of Financial Assistance

**EMERGENCY HOUSING AND ASSISTANCE PROGRAM CAPITAL DEVELOPMENT
(EHAPCD)
DEFERRED LOANS
Statewide NOFA**

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**EMERGENCY HOUSING AND ASSISTANCE PROGRAM CAPITAL DEVELOPMENT
(EHAPCD) DEFERRED LOANS
Statewide NOFA**

I. PROGRAM DESCRIPTION

Introduction

The State of California Department of Housing and Community Development (the Department/HCD) is requesting applications for forgivable deferred EHAPCD loans from eligible providers of emergency shelters, transitional housing facilities and safe havens. For the 2010-2011 funding round, a minimum of \$40,000,000 is available statewide. Awards will be made with no formula-based county allocations. Allocations for urban and non-urban counties are as follows:

Urban counties (population equal to or more than 200,000):	\$32,000,000 (80%)
Non-urban counties (population less than 200,000):	\$8,000,000 (20%)

Urban and non-urban counties are listed on **Attachment C** of this NOFA. 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 50802.

Health and Safety Code §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 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 loan or loan commitment for the same activities and or scope of work previously funded.

A. Authority

Health and Safety Code §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 § 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 §50800(c) for this NOFA the Department is adopting 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:
 - (1) 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);
 - (2) an institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (3) a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.
2. Exclusion:

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 §§50800-50806.5 , starting at Part 1, Division 31, Chapter 11.5 (as amended by AB 2016 of 2008) and 53533 which can be located at: www.leginfo.ca.gov/.html/hsc_table_of_contents.html; the EHAP Regulations; and California Government Code §11139.3.. The EHAP Regulations (§§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. As such, applicable materials provided will be disclosed to any person making a public records request. Applicants are advised to use discretion in providing the Department with information that is not specifically requested, including but not limited to, bank account numbers, personal phone numbers and home addresses. By providing this information to the Department, the applicant is waiving any claim of confidentiality and holds the Department harmless from any legal actions as a result of the disclosure to a third party’s request. 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, §§7950, 7959 and 7961 provide information on the eligibility requirements for applicants and the facilities that qualify for EHAPCD funding.

The Department will award EHAPCD forgivable deferred loans to eligible local government agencies or nonprofit corporations, which provide, or contract with community organizations to provide, qualifying emergency shelter, transitional housing and/or safe haven to homeless persons. The Department will deny any EHAPCD application in the name of an entity other than an agency of local government or a nonprofit corporation, and will not approve the subsequent assignment of an EHAPCD award to an entity other than an agency of local government or a nonprofit corporation.

An applicant may request funds using one (1) 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 and the total project cost, 2) the EHAPCD allowable activities and the prorated EHAPCD project budget, and 3) documentation of the other funding sources covering the ineligible activities.

An applicant can be involved in multiple applications, however, the total of those applications cannot exceed one million dollars per county,

Applicants serving selected populations should read the California Government Code regarding Homeless Youth (**Attachment H** of this NOFA) and the Department's Serving Selected Populations policy (**Attachment I** 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 §7961(a) (2) of the Regulations in **Attachment G** of this NOFA):

- Acquisition of an existing structure which 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;
- Staff administrative costs associated with the development of a qualified homeless housing facility and overhead directly related to the EHAPCD project not to exceed five percent (5%) of the total EHAPCD loan amount; and
- 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.

The applicant 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 (§7962) define ineligible uses of funds under EHAPCD. For example: activities and/or work completed prior to the execution date of the contract, recreational equipment, landscaping, walls, fences, parking lots and offsite improvements are **ineligible** EHAPCD costs. If included in an otherwise eligible application, requests for ineligible uses 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 for the EHAPCD Team Contact List).

C. Site Control

For the purposes of this NOFA, applicants must demonstrate site control at the time of application submission by providing one of the following:

- **Fee title**, 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 (90) 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 and 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 (10) years (see Item E below for loan terms).

If Borrower has, or will have, a leasehold interest in the property, either of the following must occur at the time of EHAPCD loan closing: a) both Borrower and Lessor must execute the Department’s EHAPCD Deed of Trust (Deed of Trust) encumbering the fee interest in the property; or b) 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 (Lease Rider). A recorded lease, acceptable to the Department, is **required** prior to or at EHAPCD loan closing. 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 in loan close. Generally, site control through a sub-leasehold interest in the property will not be accepted. Where extenuating circumstances exist and no other option is available, the Department may accept site control through a sub-leasehold interest, as long as the Department determines that there remains adequate security for the Department’s loan. However, site control through a sub-leasehold interest will require additional documentation, including an agreement with the fee owner and leasehold owner, which may delay loan closing (samples of all 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 Departments 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.

D. Minimum and Maximum Loan Amounts

Applicants may submit only one (1) application per site. **The minimum loan request per application is \$20,001 and the maximum 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.

E. Loan Terms and Conditions

The loan will accrue at three percent (3%) per annum simple interest. Principal and interest payments are deferred for the term of the loan and 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 J** of this NOFA.

The loan terms are as follows:

<u>Development Activity</u>	<u>EHAPCD Loan Term</u>
Acquisition only:	10 years from date Regulatory Agreement is Recorded.
New construction or acquisition with rehabilitation:	10 years - see (*) below
Substantial rehabilitation (more than \$100,000):	7 years - see (*) below
Rehabilitation (\$100,000 or less):	5 years - see (*) 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.

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 §7959(h) (l) (**Attachment G** of this NOFA). Transitional housing facilities may charge rent (**Attachment G**, §§7959(k) and (l)); however, the limitation on the maximum rents that may be charged may not exceed the highest of the two following options:

- 1) no more than thirty percent (30%) of adjusted family income, as defined in the HUD guidelines located at:

www.hud.gov/offices/adm/handbooks/hudclips/hsg/4350.3/index.cfm , in chapter 5, Section 2-Determining Income (pages 5-38 thru 5-50); or

- 2) 10% of the family's monthly gross income .

Complying 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. Health and Safety Code Section 50801 (i).

H. Relocation Requirements

Applicants 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 thereunder 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 Sponsor/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. Any and 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 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 thirty percent (30%) of their adjusted income.

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 project's development budget.

I. ADA Compliance

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. If any remedial work is required, it must be included in Attachment 12, 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 provide a property inspection report performed by a qualified licensed professional. The inspection report shall include current condition of the improvements and a detailed summary of the repairs needed to establish and/or maintain satisfactory condition of the property.

K. Appraisal Requirements

An **unrestricted, market value appraisal** dated after May 13, 2010 is required prior to loan closing 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.. The appraisal(s) must be performed by a qualified, State licensed appraiser with experience appraising comparable properties and must be dated within twelve (12) 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. However if the updated appraisal 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 (3) comparables by an independent, licensed real estate broker who is not party to the transaction, dated after May 13, 2010 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 (3) lease comparables dated after May 13, 2010 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. EHAPCD Subordination Agreement(s) shall be required prior to the EHAPCD loan closing.

M. Environmental Requirements

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

Prior to EHAPCD loan close, Borrowers must demonstrate that the EHAPCD project site meets applicable environmental 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 (5) years prior to the date of the application**. Environmental issues needing remediation must be provided for in the project development budget prior to loan approval. If the project site budget includes any Federal funding sources, compliance with Federal environmental requirements must also be demonstrated.

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 loan approval. Costs to remedy health and safety findings must be part of the project's development budget 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 (e.g., applicable page or pages from appraisal), 3) budget for any potential remediation that will be required by EHAPCD prior to loan close, 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.

Applicants are reminded that any expenses that are incurred prior to the formal execution date by the Department of the Standard Agreement are not reimbursable.

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 §§7971 and 7972 (**Attachment G** of this NOFA) for all projects when EHAPCD funds, over \$25,000, 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 expenses to be paid for with EHAPCD funds **must be publicly advertised, using the proposed bid guidelines that have been approved 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 Borrowers 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 (3) 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, 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 fifteen (15) days of receipt of said documents.
2. For each construction contract of \$25,000 or more, the Borrower shall enter into a written contract with the successful lowest responsible bidder. The contractor shall provide a copy of the appropriate State license, a payment bond and a performance bond for 100% of the successful contract amount. The contract 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 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 §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 the new construction, expansion, or rehabilitation work by a nonprofit organization, on an emergency shelter or transitional housing facility to be operated on a not-for-profit basis, provided that:
 - A) The organization acquires at least fifty percent (50%) 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 forty percent (40%) of the projects units for at least twenty (20) years by deed or regulatory agreement to individuals or families earning no more than eighty percent (80%) 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 twenty-five thousand dollars (\$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: www.dir.ca.gov/DLSR/statistics_research.html . 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 Standard Agreement disbursement conditions and confirming that EHAPCD funds are used as described therein, the Department will review: the development plans to determine approval by the local authority, verify the selected Architect and Contractor, the building location, the pledged bed capacity, the overall layout of project as represented in the application, and the specifications for EHAPCD eligible activities and costs.

Detailed preliminary cost estimates 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 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 EHAPCD loan closing 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** (10) working days from the date of the Department's Award Notification letter. The Department must respond in writing within twenty-one (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 §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 (7) 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 decide on the proposed use of EHAPCD funds, and to accurately estimate the required funding amount.

Borrowers can expect to receive the Standard Agreement package within approximately ninety (90) days after the Department announces the awards (see Section II.B.). The Borrower is requested to sign and return five (5) 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 which usually occurs within approximately fifteen (15) days after the signed copies are received from the Borrower.

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 side of the Standard Agreement cover sheet [STD213]). If Borrowers incur costs for the project prior to the effective 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 can be reimbursed 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 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. A ten percent (10%) 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 (10%) retention can be requested using the Request for Disbursement (RFD) form.

Borrowers will have six (6) *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 twelve (12) months to assure the project’s successful completion if the Borrower submits a written request outlining the reasons for project delays and an updated Project Timeline. This commencement extension will extend the contract term from twenty-four (24) months to thirty-six (36) months., which is the maximum period any Standard Agreement can be extended as stated in the Budget Act (**Attachment E** of this NOFA). *** Currently Regulations allow only 6 months to commence construction, however a proposed Regulation change, if approved, will allow twelve (12) 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, Buyer, 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 applicants use. Some of the forms are not available in data entry format and formatting will be the Applicants' responsibility.

Applicants must submit one (1) original and one (1) copy of the application for each project site. A site is defined in §7950 of the EHAP Regulations (**Attachment G** of this NOFA) 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 required 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 a 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 4:00 p.m., Pacific Daylight Savings Time, Thursday, July 15, 2010**. Applications received after the deadline will be accepted, date stamped, and disqualified due the receipt time. 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.
3. Use of commercial delivery service which provides proof of the Department's receipt.
4. Applicants are advised that it is their sole responsibility to insure that their application is delivered to EHAPCD prior to the 4:00 pm (Pacific Daylight Savings Time) on Thursday July 15, 2010.

B. Timetable for Applications, Workshops, and Awards

TIMETABLE FOR CAPITAL DEVELOPMENT APPLICATIONS	
Statewide NOFA Issued:	May 13, 2010
Statewide Applicant Workshops:	See Attachment A for Locations, Dates and Times
Statewide Applications Due:	July 15, 2010
Loan and Grant Committee Meeting:	Approximately September and October, 2010
1 st Program Award Notification Date:	Approximately October 29, 2010
1 st Standard Agreements Mailed to Borrowers:	Approximately November 30, 2010
Execution Date of 1 st Standard Agreements	Approximately December 17, 2010

C. Preparation for Application Submittal

1. Start early to allow plenty of time for local reviews and revisions and to schedule approvals of local resolutions. The Authorizing Resolution for Applicants must be dated after May 13, 2010 and on or before July 15, 2010.
2. Carefully read the program requirements and statutes; particularly review the EHAP Regulations §§7959-7962 regarding eligibility (**Attachment G** of this NOFA). Identify which of the project’s proposed activities are eligible for EHAPCD funding per §§7961(a)(2), (4), and (8).
3. Attend a NOFA Workshop conducted by EHAPCD staff.
4. Use the Statewide Application Checklist to place the forms and documentation in the proper page order and to ensure all required items are submitted. Use the Statewide Application Checklist and mark all items [“✓”] that are included in the application to represent the proposed project. Mark items that are not applicable with “N/A” when appropriate to do so, using the instructions in the application as a guide.
5. Use and include Excel spreadsheets 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 EHAPCD Team Staff 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).
8. Request a Pre-review of Eligibility or Site Control if Applicant’s staff was unable to attend the EHAPCD Application Workshop.

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 May 2010, will review the regulations and present application preparation tips. EHAPCD Team Staff are available to 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 Threshold Criteria

Statewide applications for EHAPCD loans will be evaluated for completeness and eligibility pursuant to §§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,
 - b. Applicant Eligibility Questions,
 - c. Narrative Questions, and
 - d. All Required Attachments.

Successful eligible applications will then be further evaluated pursuant to the four (4) selection criteria set forth in §7967(b) of the Regulations and detailed below. Urban and non-urban county applications will be scored using separate data pool.

Rating and Ranking Criteria – Application Sections

For each rating category, Applicants shall provide sufficient information to allow 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 (4) sections labeled “i, ii, iii and iv” include the four (4) applicable awards selection criteria upon which each application will be rated. The Department will consider **only** the answers submitted in the application, but reserves the right to **verify** any information presented. **Failure to provide any of the required 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% of the 430 possible points in this section.**

The Department will evaluate the Applicant's capability 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. 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
- g. 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% 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 Provide (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% 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 (refer to **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 Section IV 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 Section iv of 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/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 (the Committee). Certain applications are exempted from

Committee review and are detailed at the end of this section. The Committee is comprised of approximately fifteen (15) 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, see our 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 the end of September 2010, and the second meeting is tentatively scheduled for the end of October 2010. Please check with your designated Program 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 each may be excluded if they are from applicants: a) who have received FESG or EHAP Operating Facility Grants or prior EHAPCD loans; b) who are rehabilitating their existing facilities that they own; and c) who have a strong financial statement based on standards developed by EHAPCD. For 2010-2011, the financial statements standard used for exemption Criteria #1 is that applicants must have a positive net income during each of the last three (3) 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 if they are from applicants: a) who have successfully operated their emergency shelter or transitional housing for three (3) or more years, and b) who have a strong financial statement based on standards developed by EHAPCD. For 2010-2011, 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 (3) 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
EHAPCD APPLICANT WORKSHOPS

NOFA/Application Workshop (general EHAPCD program information)

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

Los Angeles

Junipero Serra State Building, Carmel Room (1st floor)
320 West Fourth Street
Los Angeles, CA 90013

May 24, 2010

Monday
9:30 a.m. – 12:30p.m.
Check-In 9:00 a.m.

Sacramento

HCD Headquarters Building
1800 3rd Street, Room 183
Sacramento, CA 95811

May 25, 2010

Tuesday
9:30 a.m. –12:30p.m.
Check-In 9:00 a.m.

ATTACHMENT B

EHAPCD Team Contact List

Rebecca Matt
Program Manager (916) 324-6754
rmatt@hcd.ca.gov

Carlene DeMarco
Program Representative (916) 324-3757
cdemarco@hcd.ca.gov

Tabrina Fields
Program Representative (916) 327-3602
tfieldsj@hcd.ca.gov

George Magnuson
Program Representative (916) 324-3244
gmagnuson@hcd.ca.gov

Jim Pettit
Program Representative (916) 322-4082
jpettit@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

FAX (916) 323-6016
Email for all general questions: 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)

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				
Kings	Kings/Tulare Continuum of Care on Homelessness	Betsy McGovern	(559) 684-4254 bmcGovern@ci.tulare.ca.us		X
Los Angeles	Los Angeles County Emergency Food & Shelter Program Local Board	Elizabeth Heger or Kelly Fitzgerald	(213) 808-6610 or 6612 eheger@unitedwayla.org kfitzgerald@unitedwayla.org	X	
Marin	Marin County Emergency Housing & Assistance Program Local Board	Laura Escobar	See Alameda for Contact Info	X	
Orange	Orange County Partnership	Dawn Lee or Shawn Kelly (Chief)	(714) 288-4007 x 112 dawn.lee@ocpartnership.net shawn.kelly@ocpartnership.net		X
Riverside	The EFSP Local Board for the County of Riverside c/o Riverside County Dept. of Public Social Services	Anabel Ramos	(951) 358-5617 anaramos@riversidedpss.org	X	
Sacramento	Sacramento Regional Emergency Food & Shelter Board	Bob Erlenbusch	(916) 447-7063 x335 berlenbusch@communitycouncil.org		X
San Diego	United Way of San Diego County	Sara Lantz	(858) 636-4153 slantz@uwsd.org		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) 469-6980 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, Office of the County Executive	Lynn Terzian	(408) 793-5860 lynn.terzian@hhs.sccgov.org	X	
Shasta	Shasta County Dept. 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) 422-8810 PJDavis@onramp113.org		X
Sutter	Yuba-Sutter Region Joint Designated Local Board	Tina Harland	(530) 743-1847 exdirector@yuba-sutterunitedway.org		X
Tulare	Kings/Tulare Continuum of Care on Homelessness	Betsy McGovern	See Kings for Contact Info		X
Ventura	Ventura County Homeless & Housing Coalition	Cathy Brudnicki	(805) 485-6288 x273 cathybrudnicki@vcnet.com	X	
Yolo	Sacramento Regional Emergency Food & Shelter Board	Melissa Ortiz-Gray	See Sacramento for Contact Info		X
Yuba	Yuba-Sutter Region Joint Designated Local Board	Tina Harland	See Sutter for Contact Info		X

(Updated 4/20/10)

ATTACHMENT E

Budget Act Excerpts, Chapter 52, Statutes of 2000: Item 2240-105-0001, Provision 3

2240-105-0001-

For transfer by the Controller to the Emergency Housing and Assistance Fund (0985)...\$39,000,000

Provisions:

3. Of the amount transferred by this item, \$25,000,000 shall be distributed in the form of capital development grants for the activities specified in paragraph (2) of subdivision (a) of Section 50803 of the Health and Safety Code. Notwithstanding the provisions of Chapter 11.5 (commencing with §50800) of Part 2 of Division 31 of the Health and Safety Code, or any provision of the regulations promulgated thereunder, the Department of Housing and Community Development shall distribute funds appropriated for purposes of this Provision 3 as grants in the form of forgivable deferred loans, subject to all of the following provisions.
 - (a) Funding shall be made available to each project as a loan with a term of 5 years for rehabilitation, 7 years for substantial rehabilitation or 10 years for acquisition and rehabilitation or new construction. Each deferred loan shall be secured by a deed of trust and promissory note. Repayment of the loan shall be deferred as long as the project is used as an emergency shelter or transitional housing. At the completion of the specified year term, the loan shall be forgiven. However, if a transfer or conveyance of the project property occurs prior to that time that results in the property no longer being used as an emergency shelter or transitional housing, the department shall terminate the grant and require the repayment of the deferred loan in full.
 - (b) Applications for funding shall be made pursuant to department-issued statewide "Notices of Funding Availability" without the need for additional regulations.
 - (c) The department shall set forth the criteria for evaluating applications in the "Notices of Funding Availability" and shall make deferred loans based on those applications that best meet the criteria.
 - (d) The department shall specify in the "Notices of Funding Availability" both maximum and minimum grant amounts that may be varied for urban and non-urban counties.
 - (e) **Contracts for projects that have not begun construction within the initial 6 month (*) period shall be terminated and the funds reallocated. However, the department may extend this period by a period not exceeding 12 months. (emphasis added). (*) Proposed Regulations changes, if enacted, will allow up to 12 months to commence construction.**
 - (f) \$20,000,000 shall be distributed to the urban counties. \$5,000,000 shall be made available to the non-urban counties until one year has elapsed from the date of the initial "Notice of Funding Availability", when any uncommitted funds may be allocated to the urban counties.

ATTACHMENT F

Health and Safety Code Excerpts §§50800-50806.5

50800 (a) **It is the intent of the Legislature to encourage the provision of shelter, with effective personal rehabilitation and self-sufficiency development services, to homeless persons at as low a cost and as quickly as possible, without compromising the health and safety of shelter occupants. It is also the intent of the Legislature to encourage the move of homeless persons from shelters to a self-supporting environment as soon as possible, to encourage provision of services for as many persons at risk of homelessness as possible, to encourage compatible and effective funding of homeless services, and to encourage coordination among public agencies that fund or provide services to homeless individuals, as well as agencies that discharge people from their institutions, including, but not limited to, child welfare agencies, health care programs, and jails and prisons. Because many communities currently provide shelter and limited services to individuals who are unable or unwilling to comply with traditional housing programs only during cold and wet weather and because year-round shelter will encourage these individuals to accept services and move toward permanent housing, it is also the intent of the Legislature to increase the availability of year-round shelter to meet the special needs of those individuals, including a Safe Haven that provides supportive housing for seriously mentally ill homeless persons.**

(b) There is hereby created the Emergency Housing and Assistance Program.

(c) To the extent possible the Emergency Housing and Assistance Program shall not conflict with the federal Stewart B. McKinney Homeless Assistance Act, as approved on July 22, 1987, cited as Public Law 100-77, as it is, from time to time, amended, and regulations promulgated thereunder by the United States Department of Housing and Urban Development, or its successor.

50800.5 (a) There is hereby created in the State Treasury the Emergency Housing and Assistance Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department to carry out the purposes of this chapter. Any repayments, interest, or new appropriations shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Money in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.

(b) All moneys in the Emergency Housing and Assistance Fund, created pursuant to Section 50800.5 as it existed prior to the effective date of the act that adds this chapter, shall be transferred, on the effective date of the act that adds this chapter, to the Emergency Housing and Assistance Fund created by subdivision (a).

(c) The department may require the transfer of moneys in the Emergency Housing and Assistance Fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest, dividends, and pecuniary gains from these investments shall accrue to the Emergency Housing and Assistance Fund, notwithstanding Section 16305.7 of the Government Code.

50801 As used in this chapter:

(a) "Department" means the Department of Housing and Community Development.

(b) "Designated local board" means a group, including social service providers and a representative of local government, that has met department requirements for distribution of grants allocated by the department pursuant to this chapter.

(c) "Director" means the Director of Housing and Community Development.

(d) "Eligible organization" means an agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide, emergency shelter or transitional housing or both.

ATTACHMENT F

Health and Safety Code Excerpts §§50800-50806.5 (continued)

- (e) "Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
 - (f) "Non-urban county" means any county with a population of less than 200,000 as published in the most recent edition of Population Estimates of California Cities and Counties, E-1, prepared by the Department of Finance, Population Research Unit.
 - (g) "Region" means a county or a consortium of counties voluntarily banding together by action of a designated local board.
 - (h) "Save Haven" means supportive housing for seriously mentally ill homeless persons, many of whom have co-occurring substance abuse problems that have been unable or unwilling to participate in high demand housing programs.
 - (i) "Transitional housing" means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.
 - (j) "Urban county" means any county that is not a non-urban county.
- 50801.5
- (a) The department shall adopt regulations for the administration of the Emergency Housing and Assistance Program. The regulations shall govern the equitable distribution of funds in accordance with the intent and provisions of this chapter, and shall ensure that the program is administered in an effective and efficient manner. The regulations shall provide for reasonable delegation of authority to designated local boards, ensure that the local priorities and criteria are reasonably designed to address the needs of homeless people, and ensure that the designated local boards meet reasonable standards of inclusiveness, accountability, nondiscrimination, and integrity.
 - (b) The regulations adopted pursuant to this section shall ensure that emergency shelter and services will be provided on a first-come-first-served basis for whatever time periods are established by the shelter. No individual or household may be denied shelter or services because of an inability to pay. Nothing in this provision shall be construed to preclude a shelter from accepting payment vouchers provided through any public or private program so long as no shelter beds are reserved beyond sundown for that purpose. Notwithstanding Section 11135 of the Government Code or any other provision of law, nothing in this section shall be construed to preclude a provider of emergency shelter or transitional housing from restricting occupancy on the basis of any of the following:
 - (1) Sex.
 - (2) In case of an emergency shelter or transitional housing offered exclusively to persons 24 years of age or younger pursuant to Section 11139.3 of the Government Code, on the basis of age.
 - (3) Military veteran status, 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. However, in the case of families, providers of emergency shelter or transitional housing 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.

ATTACHMENT F

Health and Safety Code Excerpts §§50800-50806.5 (continued)

- 50802 (a) The department shall ensure that not less than 20 percent of the moneys in the Emergency Housing and Assistance Fund shall be allocated to non-urban counties during any given fiscal year. If the funds designated for facilities operation that are allocated to non-urban counties are not awarded by the end of that fiscal year, then those unencumbered funds shall be allocated in the next fiscal year to urban counties. Funds for capital development that are not awarded by the end of the second fiscal year shall be awarded in the subsequent fiscal year to urban counties.
- (b) The amount of funds that the department allocates from the Emergency Housing and Assistance Fund to each region, excluding funds allocated pursuant to subdivision (a), shall be based upon a formula that accords at least 20 percent weight to each of the following factors:
- (1) The relative number of persons in the region below the poverty line according to the most recent federal census, updated, if possible, with an estimate by the Department of Finance, compared to the total of the urban counties.
 - (2) The relative number of persons unemployed within each region, based on the most recent one-year period for which data is available, compared to the total of the urban counties.
- (c) Grant funds shall be disbursed as expeditiously as possible by the department.
- (d) The department shall use not more than 5 percent of the amount available for funds pursuant to this chapter to defray the department's administrative costs pursuant to this chapter.
- (e) **Notwithstanding any other provision of this chapter, the department shall distribute funds appropriated for purposes of the activities specified in paragraph (2) of subsection (a) of Section 50803 as grants in the form of forgivable deferred loans, subject to all of the following:**
- (1) **Funding shall be made available to each project as a loan with a term of five years for rehabilitation, seven years for substantial rehabilitation, or 10 years for acquisition and rehabilitation or new construction. Each deferred loan shall be secured by a deed of trust and promissory note. Repayment of the loan shall be deferred as long as the project is used as an emergency shelter or transitional housing. At the completion of the specified year term, the loan shall be forgiven. If a transfer or conveyance of the project property, however, occurs prior to that time that results in the property no longer being used as an emergency shelter or transitional housing, the department shall terminate the grant and require the repayment of the deferred loan in full.**
 - (2) **Applications for funding shall be made pursuant to department-issued statewide "Notices of Funding Availability" without the need for additional regulations.**
 - (3) **The department shall set forth the criteria for evaluating applications in the "Notices of Funding Availability" and shall make deferred loans based on those applications that best meet the criteria.**
 - (4) **The department shall specify in the "Notices of Funding Availability" both maximum and minimum grant amounts that may be varied for urban and non-urban counties.**
 - (5) **Contracts for projects that have not begun construction within the initial 12-month period shall be terminated and funds reallocated. The department, however, may extend this period by a period not to exceed 12 months.**
- 50802.1 (a) The sum of eight hundred ten thousand dollars (\$810,000) from the Emergency Housing and Assistance Fund shall be made available to the following counties in the following allotments during the 1997-98 and 1998-99 fiscal years:
- (1) For the Counties of Imperial, Merced, San Mateo, Shasta, Sonoma, and Ventura, the department shall allocated thirty thousand dollars (\$30,000) to each county.

ATTACHMENT F

Health and Safety Code Excerpts §§50800-50806.5 (continued)

- (2) For the Counties of Orange, Riverside, San Diego, Santa Barbara, and Santa Cruz, the department shall allocate sixty thousand dollars (\$60,000) to each county.
 - (3) For the County of Santa Clara, the department shall allocated ninety thousand dollars (\$90,000).
 - (4) For the County of Los Angeles, the department shall allocate two hundred forty thousand dollars (\$240,000).
- (b) A designated local board or a county shall be eligible for its specified allotment by submitting to the department a one page application requesting the funding. The application shall briefly state how the county's proposed use of the funds is consistent with section 50803 and shall designate the grant recipient or recipients for the funds.
 - (c) The department shall disburse the specified allotments to the grant recipient or recipients no later than 30 days after receipt of the application, if the department determines that the application is consistent with subdivision (b).
 - (d) The department shall allocate these additional Emergency Housing and Assistance Program funds above the base year amount consistent with Section 50802, except that no county that received a specified allotment under subdivision (a) shall be eligible for any additional Emergency Housing and Assistance Program funds.
 - (e) The department's administrative costs shall not exceed the amount provided for in subdivision (d) of Section 50802.
- 50802.5
- (a) The department shall issue a notice or notices of funding availability to potential applicants and designated local boards, as applicable, as soon as possible after funding becomes available for the Emergency Housing and Assistance Program. Each notice of funding availability shall indicate the amounts and types of funds available under this program.
 - (b) A designated local board, or the department in the absence of a designated local board, shall solicit, receive, and select among applications for grants pursuant to this chapter from eligible organizations through an open, fair and competitive process. These applications shall be ranked and selected by a designated local board or by the department in the absence of a designated local board.
 - (c) Notwithstanding subdivision (b), the department may restrict a designated local board from selecting any application requesting a grant for capital developments if the amount requested by the application exceeds the limits determined by the department, and the department determines that the designated local board is not qualified to evaluate the application. The department shall establish criteria for distinguishing between a designated local board that may be so restricted and a designated local board that would not be so restricted. A designated local board may appeal to the director, or to the director's designee, any decision made by the department pursuant to this subdivision. The department, by June 30, 2001 shall consider increasing the maximum grant limits to three hundred thousand dollars (\$300,000) for operating grants and five hundred thousand dollars (\$500,000) for capital grants.
 - (d) The department, or the designated local board, as applicable, shall not grant more than one million dollars (\$1,000,000) to any eligible organization within a region in a funding round even if the eligible organization has filed multiple applications
 - (e) The department shall determine requirements of the grant contract and shall contract directly with the grant recipient. The department shall not delegate this function to the designated local boards. Eligible designated local boards may use a percentage of the regional award funds to defray administrative costs. The department shall establish this percentage, which shall not exceed 2 percent.
 - (f) The designated local board shall regulate the performance of any grant contract within their region. Subject to department oversight and requirements established by the department.

ATTACHMENT F
Health and Safety Code Excerpts §§50800-50806.5 (continued)

- (g) The department shall not perform a secondary rating or ranking or ranking review on those grant applications that have been solicited, received, and selected by a designated local board according to a local ranking criterion that has been approved by the department.
- (h) Notwithstanding any other provision of this chapter, if the Housing and Emergency Shelter Trust Fund Act of 2002 is approved by the voters, funds allocated pursuant to paragraph (2) of subdivision (a) of Section 53533 shall be administered by the department in a manner consistent with the restrictions and 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. The competitive system used by the department shall incorporate priorities set 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.

In addition, the funding limitations contained in this section shall not apply to the appropriation in that budget item.

- 50803 (a) Grants awarded by the department pursuant to this chapter shall be used by a grant recipient to defray costs of eligible activities defined in the department regulations, including, but not limited to, any of the following activities:
 - (1) Operating facilities, including, but not limited to, operations staff salaries, maintenance, repair, utilities, equipment and debt reduction.
 - (2) Providing for capital development programs, such as acquisition, leasing, construction, and rehabilitation of sites for emergency shelter and transitional housing for homeless persons.
 - (3) Administrative costs.
 - (4) Operating expenses relating to supervising and counseling clients.
 - (5) Providing residential rental assistance.
 - (6) Leasing or renting rooms for provision of temporary shelter.
- (b) Funds allocated to a non-urban county pursuant to subdivision (a) of Section 50802 may be used to pay the cost of leasing or renting individual units, hotel rooms, or motel rooms for use as emergency shelters. No more than 15 percent of the funds allocated to a region other than a non-urban county shall be expended for this purpose.
- (c) By regulation, the department shall establish a level, not to exceed 5 percent of a grant award, which any eligible recipient may use to defray administrative costs.

50803.5 Each designated local board shall provide a process for appeal of its decisions and comply with the requirements of this chapter and the regulations promulgated hereunder.

- 50804 (a) Each designated local board shall submit to the department for approval, a local emergency shelter strategy for its region, describing the procedures for complying with requirements pursuant to this chapter and the regulations promulgated thereunder. The department shall establish, by regulation, the types of information that each designated local board shall include in the strategy, including, but not limited to, each of the following:
 - (1) A statement of goals and how goals will be achieved.
 - (2) A statement of priorities and how the priorities complement the local continuum of care planning process.
 - (3) A description of the application process and ranking criteria for the Emergency Housing and Assistance Program.

ATTACHMENT F
Health and Safety Code Excerpts §§50800-50806.5 (continued)

- (4) Copies of application forms for the Emergency Housing and Assistance Program that the designated local board will use to evaluate requests for grants.
 - (5) A statement of how grant recipients shall be encouraged to develop year-round emergency shelters and transitional housing to meet the diverse needs of the homeless populations that include families, youth, and persons with physical and mental disabilities, people who are addicted to alcohol and drugs, people living with HIV/AIDS, veterans, the elderly, and pregnant women. Also, a description of how the local plan serves the needs of individuals and families at risk of homelessness as a result of eviction.
- (b) The department shall establish a deadline, by which date the designated local board shall be required to submit a strategy for the department's review.
 - (c) Upon the department's approval of a strategy, the designated local board shall make the strategy broadly available to shelter and service providers and to other interested persons in its region.
- 50804.5
- (a) Project budgets may be changed, within limits established by the department.
 - (b) Funds allocated to a region shall remain available for funding applications within the region for a time period or dollar limit to be specified by department regulations. The department may designate a time period or dollar limit for the distribution of capital development funds that is different from the time period or dollar limit for the distribution of non-capital development funds. When the designated local board is unable to distribute funds during the time period designated by the department, the funds shall revert to the fund for distribution.
- 50805
- (a) The director shall establish a statewide advisory body on emergency and transitional housing. The department shall consult with the advisory body in the development of regulations and guidelines for certification of designated local boards, requirements for the local emergency shelter strategies, assessment of statewide needs of homeless persons and provider of the services to homeless persons, coordination of service and funds of state agencies and general guidance and direction related to this chapter. The director shall establish, and the department shall begin consulting with, the advisory board within 30 days of the operative date of the act that adds this chapter.
 - (b) The advisory body established pursuant to this section shall be appointed by, and serve at the pleasure of, the director and shall be appointed by, and serve at the pleasure of, the director and shall represent a broad range of representatives of designated local boards, emergency shelter providers, and transitional housing providers from throughout the state. There shall be at least one member who is homeless or formerly homeless; at least one member who represents a statewide nonprofit advocacy organization concerned with homelessness and low-cost affordable housing; one member who represents a designated local board; one member who represents a federal interagency council concerned with homeless issues; one member representing state services for homeless persons; one member who is a residential building owner or manager; one member who is a commercial building owner or manager; and one member of the public. The department shall not use funds made available pursuant to this chapter to fund the activities of the advisory body.
- 50806.5
- The department may adopt emergency regulations to implement this chapter, with respect to award of funds and the administration of the program, to the extent necessary before the department issues the first notice of funding availability pursuant to Section 50802.5. The adoption of emergency regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning, or purposes, of Section 11346.1 of the Government Code. Any changes in regulations made by the department pursuant to this section shall be identified in the notice of funding availability published by the department pursuant to Section 50802.5.

ATTACHMENT F

Health and Safety Code Excerpts §53533 (Bond Act of 2002)

53533. (a) Money deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:
- (2) **One hundred ninety-five million dollars (\$195,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the Emergency Housing and Assistance Program authorized by Chapter 11.5 (commencing with Section 50800 of Part 2). (emphasis added)**

Health and Safety Code Excerpts §53545 (Proposition 1C – Housing and Emergency Shelter Trust Fund of 2006)

53545. The Housing and Emergency Shelter Trust Fund of 2006 is hereby created in the State Treasury. The Legislature intends that the proceeds of bonds deposited in the fund shall be used to fund the housing-related programs described in this chapter over the course of the next decade. The proceeds of bonds issued and sold pursuant to this part for the purposes specified in this chapter shall be allocated in the following manner:

- (H) Fifty million dollars (\$50,000,000) shall be transferred to the Emergency Housing Assistance Fund to be distributed in the form of capital development grants under the Emergency Housing and 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 the restrictions and 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.

The competitive system used by the department shall incorporate priorities set 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. In addition, the funding limitations contained in this section shall not apply to the appropriation in that budget item.

ATTACHMENT G

EHAP Regulations Excerpts (1995)

7950. Definitions

Allowable costs	Expenditures for eligible activities. See Section 7961.
Capital Development Grant	A grant of up to \$150,000 from the EHAF made to defray costs of capital development activities such as the acquisition, construction, conversion, expansion, reconstruction or rehabilitation of real property or the purchase of equipment for emergency shelter or transitional housing where the combined cost of these activities at a single site exceeds \$20,000. See section 7966.
Client	The person or household provided client housing or rental assistance funded by a program grant.
Client housing	The general term used in these regulations to describe emergency shelter, transitional housing, or vouchers provided to the client to meet emergency or transitional housing needs pursuant to this subchapter.
Construction	Building a new structure, or expanding an existing structure, which will provide emergency shelter and/or transitional housing.
Construction or service contractor	The parties with whom a grantee contracts for construction services or equipment.
Conversion	The alteration of nonresidential space within an existing structure to create space for emergency shelter and/or transitional housing.
Day	Calendar day.
Department	The California Department of Housing and Community Development
Director	The Director of the Department of Housing and Community Development.
DLB	The acronym for "designated local board" which is a group, including social service providers and a representative of local government that has met Department requirements for distribution of grants allocated by the Department pursuant to chapter 11.5 of the Health and Safety Code. See section 7952.
EHAF	The acronym for the "Emergency Housing and Assistance Fund" established by section 50800.5 of the Health and Safety Code.
EHAP	The acronym for the "Emergency Housing and Assistance Program" established by Health and Safety Code section 50800.
Eligible activities	Those activities upon which program funds may be expended. See section 7961.
Eligible organization	An agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide emergency shelter, or transitional housing, or both. See section 7959. (emphasis added)
Emergency shelter	Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person and that is not withheld due to a client's inability to pay. (emphasis added)

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7950. Definitions (Continued)

Grant or program grant	A grant of monies from the Emergency Housing and Assistance Fund.
Grantee	The recipient of a grant, who enters into a Standard Agreement with the Department to provide, specified eligible activities.
Interested party or parties	For Department or DLB purposes, anyone who has informed the Department or the DLB, respectively, that they wish to receive information concerning the Department's or the DLB's EHAP activities and shall include any person who has spoken at a meeting of the Department or the DLB regarding EHAP or communicated in writing with the Department or the DLB concerning its EHAP activities during the prior year.
LESS	The acronym for "local emergency shelter strategy," a planning and evaluation document which is developed for a region by a DLB and which provides the basis for the selection of grantees and for monitoring subsequent grantee activities. See section 7955.
Local Organization	The local group eligible to apply to the Department for designation as a DLB. See sections 7952 and 7953.
Milestone	A measurable objective toward the achievement of the project or program goals.
NOFA	The acronym for a "notice of funding availability" described in section 7958.
Non-urban County	Any county with a population of less than 200,000, as published in the most recent edition of Population Estimates of California Cities and Counties, E-I, prepared by the Department of Finance, Population Research Unit.
Program	The Emergency Housing and Assistance Program (EHAP).
Rank	The order of eligible applications for funding based only on the rating established pursuant to the applicable grant selection criteria.
Rating	The process by which eligible applications are evaluated and given an overall numerical or relative value based on the numerical or relative value(s) assigned to each of the identified selection criteria described in the NOFA to which the applicant is responding.
Reconstruction	Replacing an existing structure with a structure of similar size and type, which will be used to provide emergency shelter and/or transitional housing.
Region	A county or a consortium of counties voluntarily banding together by action of a designated local board.
Rehabilitation	Making repairs or improvements to a building necessary to correct substandard conditions as defined by section 17920.3 of the Health and Safety Code. As used in these regulations, rehabilitation may include reconstruction or conversion.
Site	A given parcel or contiguous parcel(s) of land, generally distinguished by a tax assessor's parcel number(s), developed or to be developed with emergency shelter and/or transitional housing.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7950. Definitions (Continued)

Transitional housing Housing with supportive services that is limited to occupancy of up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons. (emphasis added)

Urban county Any county that is not a "non-urban county".

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50800 through 50804.5, Health and Safety Code.

7951. Program Organization and Administration

- (a) Applications for program funds shall be solicited through NOFA's. The Department shall issue a Statewide NOFA....
- (c) A DLB's activities shall be based upon the provisions of its LESS.
- (d) The Department shall review applications and select grantees for those regions without DLB's.
- (e) The activities of grantees shall be monitored pursuant to section 7975 to ensure compliance with the provisions of this subchapter and the standard agreement.
- (f) Should a new federal homeless program be enacted by the federal government and be administered by the Department, for efficiency of operations the Department may administer EHAP to complement the new federal program.

Authority: §§50402, 50800(c), 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50802(c), 50802.5, and 50804, Health and Safety Code.

7952. Designated Local Board

- (a) A region shall have no more than one DLB at any time.
- (b) The membership of the DLB shall be representative of the local community, as described in section 7953(d).
- (c) Upon designation by the Department pursuant to section 7953 each DLB shall prepare or amend its LESS pursuant to sections 7955 and 7956 and approved by the Department pursuant to section 7956.
- (d) A DLB shall be responsible for the selection of operating grant(s) within the region and shall monitor the subsequent performance of each grantee.
- (e) A DLB shall be responsible for the selection of capital development grants only if the DLB has obtained from the Department a designation as an "RTE", pursuant to the requirements of section 7954.
- (f) A DLB shall not initiate the local grant selection process until the Department has approved the DLB's LESS for the funding period.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7952. Designated Local Board (Continued)

- (g) In the event of the termination of designation or the failure of the DLB to obtain approval of the LESS as required, the Department shall assure the continuation of EHAP funding to the region by issuing a separate regional NOFA and evaluating the subsequent applications pursuant to subsections 7967 (b) and (c).
- (h) A DLB shall comply fully with the requirements of the California Public Records Act (Government Code sections 6250 through 6267) and the Bagley-Keene Open Meeting Act (Government Code sections 11120 through 11132).
- (i) A DLB shall notify the Department of any change in its membership. Within thirty days of the announced resignation of a DLB member, the DLB shall select a replacement member who ensures that the DLB's membership continues to represent the local community.
- (j) Pursuant to its evaluation of a DLB per section 7976, the Department may place conditions on a designation in order to correct any deficiencies in the performance of a DLB.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50801(b), 50801.5(a) and 50804, Health and Safety Code.
§11121.2, Government Code.

7957. Allocation and Distribution of Funds

- (a) The allocation to urban counties shall not exceed eighty percent of the funds available each fiscal year....
- (c) The allocation to non-urban counties shall not be less than twenty percent of the funds available each fiscal year....
- (f) The Department may designate, the eligible use(s) for which a specified allocation of funds is restricted when:
 - (1) The original source of the funds allocated to the Department restricts the use of those funds (e.g., bond funds for capital development); or
 - (2) The Department identifies a particular Statewide need among eligible activities and facilities for funding....

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50802 and 50802.5(a), Health and Safety Code.

7958. Notices of Funding Availability

- (a) A Statewide or regional NOFA is the document issued by the Department or the DLB, respectively, which notifies all interested persons,
 - (1) That the program has been allocated funds;
 - (2) The types and amounts of funds available for specified eligible activities;
 - (3) That the funds will be distributed to eligible applicants through a competitive process;
 - (4) The specified minimum and maximum grant amount(s) consistent with this subchapter, and, for regional NOFA's, with the LESS;

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7958. Allocation and Distribution of Funds (Continued)

- (a) (5) The specified timeframes, which apply to the application and grant selection processes, including the deadline for filing of applications;
- (6) That copies of EHAP's governing statutes and regulations can be obtained from a contact whose name, address and telephone number are provided; and
- (b) In addition to the items listed in subsection (a), a Statewide NOFA shall include:
 - (1) A list of the allocations available to each county;
 - (2) Identification of the counties for which the Department shall receive and review eligible applications, selects applications for grant awards, and fully monitor the performance of grantees;
 - (3) The name, address and telephone number of a contact person within the Department, who can provide further information and the application package for counties the Department, will serve;
 - (4) Identification of the regions and corresponding counties for which DLB's shall receive and review eligible applications, select applications for grant awards, and monitor the subsequent performance of grantees; and
 - (5) The name, address and telephone number of a contact person within each DLB, who can provide further information and an application package.
 - (6) The grant selection criteria described in subsection 7967(b).
- (c) In addition to the items listed in subsection (a), a regional NOFA shall include:
 - (1) The amount of the regional allocation;
 - (2) Any restrictions imposed upon the use of the funds by the terms of the Statewide NOFA;
 - (3) Any priorities or restrictions imposed upon the use of the funds pursuant to the approved LESS;
 - (4) The name, address and phone number of a contact person, who can provide a copy of the LESS and the regional application;
 - (5) The grant selection criteria described in section 7967(c)....

Authority: §§50401, 50801.5(a), and 50806.5, Health and Safety Code.

Reference: §50802.5, Health and Safety Code.

7959. Eligibility Requirements for Applicants and Grantees

- (a) An agency of local government or a nonprofit corporation, which provides or contracts with community organizations to provide emergency shelter or transitional housing, or both, is eligible to apply for program funds, if the application demonstrates compliance with the eligibility requirements of this section.
- (b) A grantee shall maintain continuous compliance with the requirements of this subchapter.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7959. Eligibility Requirements for Applicants and Grantees (Continued)

- (c) As of the publication date of the Statewide NOFA, an applicant or a grantee shall have provided client housing continuously each day throughout the prior twelve months or, for cold-weather shelter providers, each day throughout the region's prior cold- weather season.
- (d) An applicant or a grantee shall not require, as a condition of client housing, participation by clients in any religious or philosophical ritual, service, meeting, or rite.
- (e) An applicant or a grantee shall not provide client housing in a manner which denies benefits on the basis of race, religion, age, sex, marital status, ethnicity, place of origin, physical or mental disability, or any other arbitrary basis. This section shall not be construed to preclude the provision of client housing designed to accommodate women or men only.
- (f) An applicant or a grantee shall not provide client housing or rental assistance in a structure which contains any of the conditions of a substandard building listed in section 17920.3 of the Health and Safety Code and shall comply with all applicable State and local construction, maintenance and occupancy standards.
- (g) An applicant or a grantee which provides emergency shelter and related client services shall provide access to the shelter and services. on a first-come, first-served basis, for whatever time periods are established by the grantee.
- (h) An applicant or a grantee providing emergency shelter to clients shall not:
 - (1) Condition the provision of emergency shelter on the receipt of public or private payment vouchers or cash payment from the client;
 - (2) Reserve space in the emergency shelter for any person(s) except as allowed by statute and described in subsection (i); or
 - (3) Deny shelter or services to any client due to the inability to pay.
- (i) Notwithstanding the provisions of subsections (g) and (h), a grantee may accept payment vouchers provided through any other public or private program for clients in emergency shelters so long as no shelter beds are reserved beyond sundown for that purpose.
- (j) An applicant or a grantee providing emergency shelter shall establish rules for client occupancy which shall:
 - (1) Include a statement of the maximum consecutive number of days during which a client is eligible to occupy the shelter;
 - (2) Be conspicuously posted at the emergency shelter.
- (k) An applicant or a grantee providing transitional housing may charge rent only if a minimum of ten percent of all monies collected for each client are reserved to assist that client in moving to permanent housing. In addition:
 - (1) The reserve of monies for each client must be accounted for separately; and,
 - (2) If monies reserved for a client remain unused due to the absence of the client for a year or more, the monies shall be used to assist another client in moving to permanent housing.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7959. Eligibility Requirements for Applicants and Grantees (Continued)

- (l) An applicant or grantee providing transitional housing shall demonstrate that the housing meets all of the following tests:
- (1) Occupancy is limited to a maximum of two years; and,
 - (2) Every client is offered at least three types of self-sufficiency development services such as job counseling or instruction, personal budgeting or home economics instruction, tenant skills instruction, landlord/tenant law, victim's rights counseling, or apartment search skills instruction; and,
 - (3) Any client must participate in at least one self-sufficiency development service offered by the client housing provider as a condition for receiving client housing; and,
 - (4) Every client accumulates funds to be applied to first and last months' rent for permanent housing pursuant to subsection 7959(k); and,
 - (5) Every client is provided referrals or placements to permanent housing.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.
Reference: §§50801(e) and (h) and 50801.5, Health and Safety Code.

7960. Eligible Application

- (a) In order to be eligible for selection, an application shall:
- (1) Be submitted by the deadline stated in the applicable NOFA;
 - (2) Be submitted to the address noted in the applicable NOFA;
 - (3) Be complete, pursuant to subsection (b); and
 - (4) Contain a certification by the applicant that all information within the application is a true and accurate representation of the eligible organization.
- (b) A complete application shall consist of the following:
- (1) An authorizing resolution by the applicant's governing board of directors;
 - (2) A fully completed application accompanied by all applicable attachments and any additional information requested in the respective NOFA; and
 - (3) Any other information the DLB or the Department requires to determine the eligibility of the applicant and the proposed activities, to evaluate or rate and rank the application, or to confirm that the applicant is capable of successfully completing all activities.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.
Reference: §§50801.5(a), 50802.5(b), Health and Safety Code.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7961. Eligible Use of Funds

The use of grants of program funds shall be restricted to the following eligible activities and allowable costs.

- (a) **Eligible activities for which grant funds may be used to defray the costs of providing direct client housing include...**
 - (2) **Acquiring, constructing, converting, expanding, or rehabilitating emergency shelter or transitional housing sites pursuant to section 7966...**
 - (4) **Administrative costs up to five percent of the total grant amount; organizations to provide vouchers for temporary shelter and/or to provide residential rental assistance....**
- (c) **Allowable costs within capital development grants include, but are not limited to costs of:**
 - (1) **Site acquisition, such as purchasing land and improvements, purchasing and moving an existing structure to the site, purchasing and moving a modular or manufactured structure to the site, necessary architectural and engineering services, and escrow, title and other standard closing costs;**
 - (2) **Site construction, rehabilitation or conversion, such as materials, labor, local government fees, and architectural and engineering services;**
 - (3) **Equipment required in the provision of client housing. (emphasis added)**

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50801.5 and 50803, Health and Safety Code.

7962. Ineligible Use of Funds

The grant of program funds shall not be used for costs associated with activities in violation of any law or for the following:

- (a) The purchase of radios, televisions, and other appliances or equipment for recreational purposes;
- (b) Occupancy fees for clients in emergency shelters;
- (c) Off -site costs, special requirements, assessments, or anything more than is directly necessary for the development of emergency shelter or transitional housing;
- (d) **On-site improvements beyond those directly necessary for the development of emergency shelter or transitional housing (such as walls, fencing, parking lots, and landscaping); (emphasis added)**
- (e) To provide temporary housing for minor children separated from their families due to a court order or an administrative order;
- (f) To provide activities which do not directly provide client housing such as drop-in or day centers, food and food services, general relief, medical care, and transportation or child care (except as required by clients to participate in the self-sufficiency development services, or seek employment or permanent housing).
- (g) Staff, other than the allowable administrative costs, not directly related to the provision of client housing such as security guards, food handlers, and landscape personnel.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7962. Ineligible Use or Funds (Continued)

- (h) To provide activities determined by the Department or a DLB to be an ineligible, inefficient or ineffective use of grant funds as stated in the applicable NOFA.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §50803, Health and Safety Code.

7966. Capital Development Grants

- (a) A capital development grant includes any single eligible activity or combination of eligible activities described in section 7961(a)(2) and (8), for which these combined costs at a single site exceed \$20,000.
- (b) Allowable costs for a capital development grant are those identified in subsection 7961(c), and limited to expenditures for approved eligible activities completed within the term of the standard agreement.
- (c) The maximum capital development grant shall be \$150,000 per site.
- (d) The term of a capital development grant is 24 months from the effective date of the contract, with the possibility of a one-year extension pursuant to section 7970(c)(2).
- (e) Applications for capital development grants must be made separately from applications for operating facilities grants....
- (i) A capital development project shall be deemed feasible, ... demonstrates and certifies to all of the following:
- (1) The legal status, finances and projected cash-flow, technical feasibility, and the accuracy of the project's schedule demonstrate the probability of a successful completion of the project;
 - (2) The project's design and materials and the proposed labor needs and costs demonstrate that the project is devoid of non-essential or luxury design or materials;
 - (3) The current ownership and potential ownership of the real property demonstrate that control of the real property is sufficient to enable the project to be completed and to be operated for at least five years beyond completion, without jeopardizing the Department's security;
 - (4) The proposed schedule corresponds with the scope of the project and demonstrates that the project shall be completed within the term of the grant.
 - (5) The management team proposed for the project has the experience and ability to efficiently and successfully complete the project as proposed. (emphasis added)

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50802.5, 50803, and 50804.5, Health and Safety Code

7967. Grant Selection Process

- (a) A grant selection process shall involve eligible applications received by a DLB or the Department in response to the applicable NOFA.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7967. Grant Selection Process (Continued)

- (b) Each of the following selection criteria shall be specified in the Statewide NOFA:
- (1) The applicant's capability of achieving the activities and results proposed in the application. An applicant's capability will be evaluated based on such items as its history of providing client housing; organizational structure and staffing; experience of establishing, administering, and successfully completing homeless programs; experience of public and private fundraising and resource development; established financial management systems; financial stability and solvency; and demonstrated ability and readiness for accomplishing its proposed activities.
 - (2) The impact and effectiveness of the client housing provided and proposed to be provided by the applicant. Impact and effectiveness will be evaluated based on such items as the range and quality of client housing provided, including the self-sufficiency development services provided with transitional housing; how the proposed activity(ies) address community needs; and the demonstrated effectiveness of the applicants' current and proposed programs to move homeless persons into a self-supporting environment.
 - (3) The cost efficiency of the proposed use of grant funds for providing client housing. Cost efficiency will be evaluated based on such items as the type and amount of client housing provided compared to the project budget; the demonstrated availability of other financial resources besides EHAP to support achievement of the proposed activity(ies); the need for EHAP funds; leveraging of EHAP with other funds; non-duplication of services; and coordination with other organizations.
- (c) Each of the following selection criteria shall be specified in the regional NOFA:
- (1) The Applicant's capability of achieving the activities and results proposed in the application;
 - (2) The impact and effectiveness of the client housing provided and to be provided by the applicant;
 - (3) The cost-efficiency of the proposed use of grant funds for providing client housing;
 - (4) The extent to which the local needs, goals and priorities identified in the LESS are met and achieved, respectively, by the applicant's proposed activities; and
 - (5) Any additional criteria as identified in the LESS approved by the Department pursuant to section 7956.
- (d) The Department or DLB, respectively, shall provide in the NOFA the sub-criteria and the point system to be used for selecting grantees for awards from that allocation.
- (e) Applications shall be individually rated and then ranked in descending order. Funds will be awarded to eligible applicants in each region in descending rank order for the amount requested in the corresponding eligible application, until the remaining funds are insufficient to fully fund the next highest ranked application(s). Then,
- (1) The next highest rated and ranked unfunded application following the full funding of the highest rated and ranked applications shall be partially funded if the funded activities can be adequately completed with the EHAP funds awarded.
 - (2) In the event of a tie for applicants in the lowest-ranked position to be funded, the Department or DLB, as applicable, will review the tied applications again and break the tie before continuing the award process.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7967. Grant Selection Process (Continued)

- (f) Each application for a capital development grant shall be evaluated.
 - (1) Determine whether the application is feasible, pursuant to a competent, comprehensive evaluation pursuant to the standards provided in subsection 7966(i); and
 - (2) Provide a written and certified summary of its evaluation and determination, and append this to the application.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §50802.5, Health and Safety Code

7968. Appeal Process

- (c) Any Applicant from a region without a DLB shall be entitled to appeal the grant selection activities of the Department by submitting a written petition to the Department. The petition must be received within ten days following the date the Department makes the final rating and ranking of eligible applications available to the public.
 - (1) The written petition shall include the information listed in subsection (a)(l),
 - (2) Within 21 days of receipt of the petition, the Department shall respond in writing to the petition and make a determination based on the information available.
 - (3) Each determination shall clearly state the findings upon which the Department's determination is based, and identify any corrective action to be taken.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50801.5, 50802.5, and 50803.5, Health and Safety Code.

7970. Grantee Contract Requirements

- (a) Following a grant award by the Director, the Department shall contract directly with the grantee. The contract shall be known as the "standard agreement" and shall include the items specified in this section.
- (b) The following information shall appear in each standard agreement:
 - (1) A clear and accurate identification of the grantee and the Department;
 - (2) The timeframe for the performance of the approved project activities;
 - (3) The amount of the grant, clearly expressed as the maximum amount, and the basis upon which payment is to be made; and
 - (4) A clear and complete statement of the activities and services the grantee will perform and provide.
- (c) Timeframes for the performance of approved project activities shall be as follows...
 - (2) Approved project activities for a capital development grant shall commence within six months of the effective date of the standard agreement and shall be completed within two years of the effective date of the standard agreement.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7970. Grantee Contract Requirements (Continued)

- (c) (2) (A) The commencement of project activities for a capital development grant shall mean either closing escrow on the purchase of a facility or acquiring a building permit for construction, conversion or rehabilitation.
- (B) The completion of project activities for a capital development grant shall mean acquiring a certificate of occupancy, where applicable.
- (C) If requested by the Grantee, the Department may approve an extension to a standard agreement for a capital development grant not to exceed twelve months, if the Department finds that such an extension is essential for the successful completion of approved project activities.
- (d) Each standard agreement shall provide that a grantee shall request and receive grant payments only under conditions which protect the Department's interests.
- (e) The following performance requirements shall appear in each standard agreement and shall include additional provisions specific to each grantee:
 - (1) That the Grantee shall submit to the Department and the DLB, as applicable, reports on the progress toward the completion of approved activities during the term of the standard agreement;
 - (2) That the Grantee shall maintain accounting books and records in accordance with generally accepted accounting standards;
 - (3) That the capital development Grantee shall provide the Department with a security interest in any real or personal property acquired or improved with program funds. The security interest shall be sufficient to secure the continued compliance by the Grantee with specified terms of the standard agreement.
- (f) The standard agreement may require monitoring utilizing a work plan prepared by the Grantee as part of its application and incorporated by reference as part of the standard agreement.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §50802.5(e), Health and Safety Code.

7971. Procedures and Requirements for Procuring Contracts for Services or Materials Under a Capital Development Grant

- (a) Each grantee awarded a capital development grant shall ensure that the requirements of this section are complied with
 - (1) In all its contracts or subcontracts for services and materials to be paid for with grant proceeds; and
 - (2) By all its contractors and/or subcontractors providing or contracting for services and/or materials to be paid for with grant proceeds.
- (b) Prior to the disbursement of grant funds for any contract for services or materials required for eligible activities under a capital development grant, all construction or service contractors or subcontractors shall provide evidence satisfactory to the Department, of compliance with the requirements of this section.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7971. Procedures and Requirements for Procuring Contracts for Services or Materials Under a Capital Development Grant (Continued)

- (b) (1) The Grantee shall provide to the Department copies of the proposals from consultants and/or contractors for the Department's review and approval.
- (2) The Department's review and approval shall be based on the proposed budget, the Applicant's experience, the price of the services, and related factors, and shall be completed within 15 days of receipt of complete information from the Grantee.
- (c) **No contract or subcontract using EHAP funds in excess of \$25,000 shall be awarded without the prior review of the Department and without written approval from the Department. The Department shall not unreasonably withhold approval of said contracts.**
- (d) **Each grantee entering into contracts for construction or rehabilitation services or materials shall have:**
 - (1) **Written bidding procedures and shall have invited bids from as many prospective bidders as is practical;**
 - (2) **Awarded the contract to the lowest responsible bidder or shall have rejected all bids;**
 - (3) **Established a method of monitoring the contract; and**
 - (4) **Maintained and make available to the Department detailed records and accounts of contracts for services and or the purchase of materials. (emphasis added)**
- (e) Each contract for construction or rehabilitation services or materials shall comply with all applicable program requirements and all applicable terms and provisions of the standard agreement.
- (f) Each contract shall include a provision stating that the records of the contracting parties shall be subject to audit by the Department for a period of five years after the termination of the Standard Agreement.
- (g) **Each contract shall include a provision stating the method and schedule of payments and shall provide for the retention of an amount of not less than ten percent from each progress payment, until such time as the lien-free completion of the project is ensured. (emphasis added)**
- (h) Each construction or rehabilitation contract of \$25,000 or more shall include a security provision requiring the contractor to provide a performance and payment bond or an alternate, yet equivalent, form of security, such as a letter of credit.
 - (1) Any form of security, required of such a contractor and/or a subcontractor, other than a performance and payment bond, is subject to the prior review and approval of the Department.
 - (2) The security shall be in an amount equal to one-hundred percent of the amount of the successful bid.
- (i) Each construction or service contractor or subcontractor shall be appropriately licensed by the California State Contractors Licensing Board and shall be insured as required by State law.
- (j) The grantee shall establish procedures which ensure that disbursements are properly expended by, or on behalf of, the Grantee. Such procedures shall include:

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7971. Procedures and Requirements for Procuring Contracts for Services or Materials Under a Capital Development Grant (Continued)

- (j) (1) Performing on-site inspections of the construction or rehabilitation work; and
- (2) Using progress inspection reports as the basis for issuing payments to contractors or subcontractors.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §50802.5(e), Health and Safety Code.

7972. Requirements for Construction, Conversion or Rehabilitation Performed by the Grantee

- (a) A Grantee, which chooses to perform all or part of the labor and/or to provide all or part of the materials necessary to construct or rehabilitate the approved project, shall comply with the requirements of this section.
- (b) Grant proceeds shall not be used to pay any family member of any person on the board of directors or staff of the grantee.
- (c) The Grantee shall enter into a written contract with each subcontractor, pursuant to the requirements of section 7971. (emphasis added)

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50802.5 and 50803, Health and Safety Code.

7973. Budget Changes

- (a) After the award is made, the Department may approve changes to a project budget provided the requested budget change complies with either subsection (b) or (c).
- (b) The proposed budget change:
 - (1) Does not substantially change the specific clients served by the approved project activities; and
 - (2) Continues to meet the priorities and criteria imposed during the respective grant selection process; and
 - (3) Results in a product, substantially the same as the originally-approved product, that costs the same as or less than the originally proposed product; and
 - (4) Will be completed by substantially the same date as allowed for the originally proposed product.
 - (5) In competitive regions, does not affect the list of awarded applications in a manner which would cause any application to be added to or removed from the list.
- (c) The proposed budget change will result in a significant increase in benefits to the local program. (emphasis added)

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50802.5 and 50804.5, Health and Safety Code.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7974. Disbursement Procedures

- (a) Funds shall be disbursed on the basis described in the standard agreement.
- (b) For capital development grants, the Department may require the Grantee have an escrow account, a construction fund control account, or a comparable type of account for acquisition, construction, conversion and rehabilitation activity, as applicable. (emphasis added)**
- (c) The Department may rely on the Grantee's certification that expenditures claimed in a request for disbursement are eligible and necessary, provided that the grantee also certifies that detailed supporting documentation verifying each expenditure is available and shall be retained by the Grantee for five years after the termination of the standard agreement.
- (d) Upon receipt and review of acceptable documentation the Department may provide an initial advance disbursement of up to fifty percent of the grant amount for operating expenditures. Advances are not permitted for capital development-type expenditures.
- (e) As necessary, the Department shall establish minimum disbursement amounts or other related procedures necessary for the efficient administration of the program.
 - (1) If a Grantee uses program funds for the costs of ineligible activities, the grantee shall be required to reimburse the funds to the EHAF and shall be prohibited from applying for subsequent allocations until fully repaid.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50802.5 and 50803, Health and Safety Code.

7975. Monitoring Grant Activities and Closing-out Grants

- (b) The Department shall monitor activities funded by grants selected and awarded by the Department pursuant to a Statewide NOFA or where the DLB's designation has been terminated and it has transferred its records to the Department per section 7953G) and may monitor grantees in DLB regions pursuant to the terms of the standard agreement.
- (e) In order to close-out a grant the Grantee shall:
 - (1) Provide a summary of the activities serving clients during the period of the grant, an estimate of the number of clients served with EHAP funds, and the corresponding expenditures for each approved eligible activity; and
 - (2) Demonstrate that all expenditures are supported by invoices and receipts...
- (g) If it is determined that a Grantee falsified any certification, application information, financial or contract reporting, the grantee shall be required to reimburse the full amount of the grant to the EHAF and shall be prohibited from any further participation in the EHAP.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §50802.5, Health and Safety Code.

ATTACHMENT G

EHAP Regulations Excerpts (1995) (Continued)

7976. Performance Evaluation of a Designated Local Board

- (a) The Department shall evaluate the performance of each DLB on an annual basis.
- (b) This process shall involve an evaluation of the degree to which:
 - (1) Eligible recipients in the region participate in the development of the LESS;
 - (2) The performance of the DLB conforms to the procedures and requirements of the LESS and the requirements of this subchapter;
 - (3) The DLB achieves the goals and objectives established in the LESS, as measured by the eligible applications received and selected within the region;
 - (4) The participation of the DLB resulted in the increased efficient and effective use of program funds allocated to the region; and
 - (5) Program grant activities within the region are monitored and, consequently, the degree to which grant activities conform to program requirements.

Authority: §§50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: §§50801.5 and 50802.5, Health and Safety Code.

ATTACHMENT H

Homeless Youth (California Government Code Excerpts §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 §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.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

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**ATTACHMENT I****Serving Selected Populations With EHAP/EHAPCD Funding**
October, 2005

The following is a simplified layman's 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 §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] §§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 §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 (§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.

ATTACHMENT I

Serving Selected Populations With EHAP/EHAPCD Funding (Continued)

Stewart B. McKinney Homeless Assistance Act (McKinney Act) Compatibility: H&S §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.

Selecting Clients on the Basis of Sex: H&S §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 §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 §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, 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 military veterans, provided that any such exclusivity is based only on the criteria set forth in H&S §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 §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 J

EHAPCD ESCROW AND DISBURSEMENT DOCUMENTS

I. Escrow Documents - unless otherwise noted documents are prepared by the Department for all EHAPCD loans and sent 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 Disbursement (RFD)*

2. 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 expenses.

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

ATTACHMENT K
Applicant Resource List

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

State Agencies

Dept. 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/querylic.htm>

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

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

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

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

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

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

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

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

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

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

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

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

Structural Pest Control Board
www.pestboard.ca.gov

Federal Agencies

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

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

Relocation Guidelines
www.hud.gov/relocation

Labor Relations
www.hud.gov/offices/olr

ATTACHMENT K

Associations

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

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

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

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

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

Risk Management and Insurance
www.irmi.com

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