

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

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December 31, 2021

MEMORANDUM FOR: All Potential Applicants

FROM: Geoffrey M. Ross, Deputy Director
Division of Federal Financial Assistance

SUBJECT: **Housing for a Healthy California Program
2020-2021 Notice of Funding Availability
Article I - National Housing Trust Fund**

The California Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$160 million in federal National Housing Trust Fund (NHTF) funding for the Housing for a Healthy California, Article I (HHC) program.

This funding furthers the goal of [Assembly Bill 74](#) (Chapter 777, Statutes of 2017), as amended by [Assembly Bill 957 \(Chapter 620, Statutes of 2019\)](#), by providing capital loans and operating reserve grants to developers for the creation of Permanent Supportive Housing for people who are Experiencing chronic homelessness, or are homeless and high-cost health users.

The intent of this program is to allow individuals experiencing significant barriers to housing stability to benefit from Supportive housing opportunities, while decreasing their utilization of emergency departments, inpatient care, and nursing home stays.

This NOFA is subject to state [HHC guidelines](#) and Code of Federal Regulations (CFR) [NHTF regulations at 24 CFR Part 93](#). This NOFA makes funding available to developers in California for the acquisition, rehabilitation, and/or new construction of multifamily rental housing. The Department will reserve at least 20 percent of the funding for projects located in Rural Areas, and at least 10 percent will be reserved for Tribal Entities.

To be considered for funding (both Competitive and Over-the-Counter), Applicants must set-up a profile in the new eCivis Grants Management System (GMS) in order to submit a completed electronic application. All required documentation must be submitted via the eCivis GMS Portal. For access to application forms, information about the application submission process, and assistance setting up an eCivis Profile, please visit the eCivis Portal located under the Training and Technical Assistance section of the [Housing for a Healthy California \(HHC\)](#) website.

The Department will accept applications through the eCivis GMS Portal beginning **January 17, 2022**. The Department will not accept personal deliveries, facsimiles, or walk in application packages. Application deadlines are listed in Section 1(d)(2) of the attached NOFA.

If the NOFA results in insufficient applications to award all available funds to HHC projects, the Department reserves the right to reopen the application submission period for NHTF projects on a first come, first served basis.

All activities in this NOFA are subject to availability of funds and continuing HUD and legislative authority.

The Department will hold workshop webinars to review the NOFA and application process. Visit the [HHC website](#) for dates, times and how to register for the workshops.

Additionally, pre-application consultation appointments will be offered during the application period to assist Applicants with questions regarding the application and application process. Please visit the [HHC website](#) for dates, times and how to register for an appointment.

To receive information on workshops and other updates, please subscribe to the Department's [listserv](#). Questions about this NOFA and application process can be directed to the HHC email box at HHCNOFA@hcd.ca.gov.

Attachment

Housing for a Healthy California, Article I 2021 Notice of Funding Availability



**Gavin Newsom, Governor
State of California**

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

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

2020 W. El Camino Avenue, Suite 200, Sacramento, CA 95833

HHC Program Email: HHCNOFA@hcd.ca.gov

December 31, 2021

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**HOUSING FOR A HEALTHY CALIFORNIA PROGRAM
ARTICLE I
2021 NOTICE OF FUNDING AVAILABILITY**

I. Overview

A. Notice of Funding Availability

The California Department of Housing and Community Development (Department) is pleased to announce the availability of approximately \$160 million in federal National Housing Trust Fund (NHTF) funding for the Housing for a Healthy California (HHC) Article I program.

Funding for this Notice of Funding Availability (NOFA) is provided pursuant to [Assembly Bill 74](#) (Chapter 777, Statutes of 2017), as amended by [Assembly Bill 957 Housing Omnibus](#) ([Chapter 620, Statutes of 2019](#)), in October of 2019. The intent of the bill is to create Permanent Supportive Housing opportunities for people who are Experiencing chronic homelessness, or are homeless and High-cost health users, utilizing the State of California’s 2020 and 2021 National Housing Trust Fund allocations from the U.S. Department of Housing and Urban Development (HUD), authorized by the Housing and Economic Recovery Act of 2008 (HERA) and pursuant to Code of Federal Regulations (CFR) [24 CFR Part 93](#). If available, funding for this NOFA may come from the Department’s authority under [Assembly Bill 816](#) (Chapter 396, Statutes of 2021).

Defined terms within the HHC program Guidelines (“Guidelines”) are capitalized in this NOFA. Definitions of capitalized terms can be found in Guidelines Section (§)101, Definitions.

All applications will be reviewed for completeness and compliance with state and federal requirements. Only complete, timely, and compliant applications will be eligible for application review, approval, and potential funding.

B. Pre-Application Consultation

The Department encourages all potential Applicants to request a pre-application consultation appointment prior to submitting an application. Pre-application consultations are intended to increase familiarity with the federal National Housing Trust Fund regulations, HHC guidelines, NOFA requirements, and the HHC program’s minimum requirements. Pre-application consultations will allow potential Applicants to discuss their proposed project with program staff to determine if the project is compatible with the program.

Applicants that opt out of the pre-application consultation may not claim ignorance of federal and state rules pertaining to the HHC program.

To request a pre-application consultation appointment, please see the [Training & Technical Assistance](#) section of the HHC website.

C. Application Workshops

Applicants are strongly encouraged to attend an HHC workshop webinar. The workshops will cover the NOFA and the application process and provide critical information on how to prepare a competitive application. Workshop webinar dates and times are located on the Department's HHC [website](#). To register for a workshop, please sign up through the Eventbrite link under the Training and Technical Assistance section of the website.

If you have questions regarding any of these workshops, send an email to HHCNOFA@hcd.ca.gov.

D. Application and submission process

1. Application types

The Department will accept Over-the-Counter (OTC) and Competitive applications for this NOFA as follows:

Over the Counter applications

OTC funding under this NOFA is available only to Applicants who seek supplemental funds for a project to which the Department previously awarded HHC funds.

Supplemental funding is available in the form of a Capital Loan and/or a Capitalized Operating Subsidy Reserve (COSR) Grant. Supplemental funding will be based on the unit mix at the time of the initial HHC award. Only projects that were previously awarded a COSR Grant are eligible for a supplemental COSR Grant.

Total HHC program funding may not exceed the maximum per-unit development subsidy established by the Department under this NOFA and may not result in a total per-unit subsidy greater than the actual total development cost of the unit.

Applications for supplemental funding must meet the HHC program's minimum requirements.

The Department will accept OTC applications for this NOFA **starting January 17, 2022, and until February 15, 2022**. The Department will make its best effort to award applications for supplemental funds by **March 31, 2022**.

Competitive Applications

New project applications submitted under this NOFA will be funded on a competitive basis.

Competitive application evaluation is subject to the HHC program's minimum requirements, scoring, and rating and ranking requirements.

Competitive applications for Capital Loans for rehabilitation, acquisition, and/or new construction of Permanent Supportive Housing and for COSR Grants under this NOFA will be accepted **starting January 17, 2022, and until March 1, 2022**. The

Department will make its best effort to announce competitive awards by **June 30, 2022**.

It is the Applicant's responsibility to ensure that the submitted application is clear, complete, and accurate.

Department staff may request clarifying information. If the Department deems the application incomplete, or it fails to provide the minimum requirements, the Applicant may be given an opportunity to appeal the determination following the guidance in Section II, Paragraph J below. Application forms and application training information are available on the [HHC website](#).

2. Application Submission Process

All Applicants must create an eCivis Profile prior to completing an application. Once the profile is created, the Applicant must complete an application via the eCivis Grants Management System Portal. Visit the HHC website, Training and Technical Assistance tab for assistance in creating an eCivis Profile and submitting an application, and all application forms.

Electronic Submission

OTC applications must be uploaded to the eCivis Portal no later than 5:00 p.m. Pacific Standard Time (PST) on **February 15, 2022**.

Competitive applications must be uploaded to the eCivis Portal no later than 5:00 p.m. PST on **March 1, 2022**.

Personal deliveries, facsimiles, incomplete applications, application revisions, or walk-in application packages will not be accepted.

Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on the Department's forms and cannot be altered or modified by the Applicant. Excel forms must be in Excel format, not a PDF document.

After the application deadline, Department staff may request clarifying information, and/or inquire as to where in the application specific information is located, provided that such information does not affect the competitive rating of the application. No information, whether written or oral, will be solicited or accepted if this information would result in a competitive advantage to an Applicant or a competitive disadvantage to other Applicants.

3. Disclosure of Application

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

of confidentiality and consents to the disclosure of submitted material upon receipt of a PRA request.

E. Timeline

NOFA and Application Dates

NOFA Release Date	December 31, 2021
Application Release Date	January 17, 2022

Over-the-Counter Application Timeline

OTC - Application Due Date	February 15, 2022
OTC - Award Announcements	March 2022 (tentative)

Competitive Application Timeline

New Applicants - Application Due Date	March 1, 2022
New Applicants - Award Announcements	June 2022 (tentative)

F. Authorizing Legislation, Regulations, and Guidelines

This NOFA should be read in conjunction with the following regulations and statutes, which establish state and federal requirements:

- [Assembly Bill 74, \(Chapter 777, Statutes of 2017\)](#), as amended by [Assembly Bill 957, Housing Omnibus \(Chapter 620, Statutes 2019\)](#).
- [Housing for a Healthy California Program Article I Guidelines](#)
- [Federal National Housing Trust Fund regulations](#)
- [State Uniform Multifamily Regulations \(UMRs\)](#)
- [2020-2021 HUD Annual Action Plan](#)

Note: In the event of any conflict between the terms of this NOFA and applicable state or federal law, regulation or guideline, the terms of the applicable state or federal law, regulation, or guideline (whichever is stricter) shall control.

This NOFA does not include the text of all applicable requirements that may be important to projects. For proper completion of the application, the Department encourages Applicants to consult the guidelines, regulations, and statutes linked above. Participation in the Department's pre-consultation application services is highly encouraged. Questions may be e-mailed to HHCNOFA@hcd.ca.gov.

If state or federal statutes, regulations or guidelines, or other laws governing HHC and the National Housing Trust Fund or its funding are modified by Congress, HUD, the state Legislature, or the Department prior to completion of work for awards made in connection with this NOFA, the changes may become effective immediately and apply to funded activities. The Department reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such action occurs, the Department

will notify interested parties through the [listserv](#). To sign up for listserv notifications for the HHC program, please follow the listserv link and select “Federal Programs.”

II. Program requirements

The following is provided as a summary and is not intended to be a complete representation of the entirety of the eligibility, minimum requirements, or other terms and conditions of the HHC program.

A. Eligible Applicants

Applicants must meet all of the requirements set forth in the Guidelines, § 102(a). For example:

- Owners or developers that meet the Recipient definition in 24 CFR 93.2.
- Applicants with no members of the development team currently federally debarred or suspended.

To be eligible for funding, an Applicant must demonstrate experience relevant to owning and developing affordable rental housing by evidencing current capacity, including, but not limited to, the following:

- Successful prior ownership and development of affordable rental housing.
- Employment of a staff with demonstrated experience owning and developing affordable rental housing.

All Applicants must be in good standing with the laws, regulations, guidelines, and programs of the Department, and all State of California agencies and departments thereof. By way of example and not limitation, if an Applicant is a business entity, such entity must be qualified to do business in California and currently in good standing with the California Secretary of State and the California Franchise Tax Board.

B. Eligible Uses

Proposed projects must be eligible pursuant to HHC Guidelines § 103, Uses and Terms. Eligible uses include:

1. Loans for rehabilitation, acquisition, and/or new construction of Permanent Supportive housing.
 - a. Program loans shall have an initial term of 55 years to match the period of affordability of all state funded projects.
 - b. Loans shall be secured by the project's real property and improvements, which may be subject only to liens, encumbrances, and other matters of record approved by the Department, and which are consistent with 25 California Code of Regulations, § 8316 of the UMRs.

2. Project-based operating assistance in the form of a COSR Grant. All new HHC Applicants (Applicants that have not been awarded HHC funds) applying for a COSR Grant must also apply for a rehabilitation, acquisition, and/or new construction loan.
 - a. The project's COSR will be for at least 15 years to pay for operating costs of an apartment or apartments receiving capital funding to provide Supportive housing to the Target Population.

C. Maximum Awards and per-unit HHC Assistance Limits

The maximum Capital Loan amount is \$20 million.

The maximum COSR Grant is one-third of the Capital Loan amount, **calculated by dividing the Capital Loan amount by three (3)**.

Example of HHC Project Funding:

Capital Loan Amount	\$10 Million
Capital Operating Subsidy Reserve Grant (1/3 of the Capital Loan Amount)	\$3.33 Million
Total HHC Program Funding	\$13.33 Million

The maximum per-unit development subsidy amounts are as follows:

Metropolitan Areas	0 BR	1 BR	2 BR	3 BR	4+BR
30% AMI or Below	\$400,000	\$450,000	\$500,000	\$540,000	\$580,000

Rural Areas	0 BR	1 BR	2 BR	3 BR	4+BR
30% AMI or Below	\$320,000	\$360,000	\$400,000	\$432,000	\$464,000

D. Set-Asides for Rural Areas and Tribal Entities

This NOFA makes funding available to developers in all jurisdictions of California.

The Department shall set aside 20 percent of the funds available through this NOFA for projects located in Rural Areas.

In addition, the Department shall set aside 10 percent of available funds for projects developed by, or in partnership with, Tribal Entities (see definition below).

Note: For calculation purposes, applications for the 10 percent Tribal set aside will not be counted towards the 20 percent Rural set aside, even if the project is located in a Rural Area – unless the Tribal set aside is fully utilized, in which case a Tribal project in a Rural Area will be counted towards the Rural set aside.

If the Rural set aside is not fully utilized, any unused funds will be re-allocated to the Tribal set aside. If the Tribal set aside is not fully utilized (including any carry-over

funds from the Rural set aside), unused funds will be re-allocated to the general NHTF fund.

If the Tribal set aside is not fully utilized, any unused funds will be re-allocated for the Rural set aside. If the Rural set aside is not fully utilized (including any carry-over funds from the Tribal set aside), unused funds will be re-allocated for OTC and competitive applications.

A project competing in the Rural set aside must demonstrate that the project area is Rural under one of the three methodologies listed under Health and Safety Code (HSC) § 50199.21.

1. Non-metropolitan Counties;
2. Rural Housing Service (RHS) Eligible Area; or
3. Small City Status

A list of Rural areas, as well as the methodology to determine Rural or Non-Rural status, can be found on [TCAC's website](#).

“Tribal Entity(ies)” means an Applicant that is any of the following:

- a. Applicant meets the definition of Indian Tribe under United States Code (U.S.C.) Title 25 U.S.C. § 4103(13)(B);
- b. Applicant meets the definition of Tribally Designated Housing Entity under Title 25 U.S.C. 4103(22);
- c. If not a federally recognized tribe, either:
 - i. Applicant is listed in the Bureau of Indian Affairs Office of Federal Acknowledgement petitioner list pursuant to Title 25 CFR § 83.1.
 - ii. Applicant is an Indian Tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of consultation pursuant to § 65352.3 of the Government Code.

E. Repeal of Stacking Prohibition of Multiple Department Funding Sources

Pursuant to the Department’s Administrative Notice Number 21-06, use of multiple Department funding sources on the same Assisted Unit is now permitted. The notice in its entirety can be found here: [Administrative Notice Number 21-06](#).

Note: under both federal and state law, all HHC costs must be: (1) necessary; (2) reasonable; (3) non-duplicative; (4) free of fraud; and (5) for an eligible use. Additionally, Applicants must use HHC funds to supplement existing funds for projects and may not replace (supplant) nonfederal funds that they have appropriated for the same purpose.

F. Occupancy and Income Requirements

Household income shall be determined in accordance with the federal NHTF regulations at 24 CFR § 93.151, and in HHC Guidelines § 105, Occupancy and Income Requirements. At the time of move-in, household income for residents

occupying HHC designated units shall not exceed the established Extremely Low-Income (ELI) limits, or the limit for families with incomes at or below the poverty line (whichever is greater) pursuant to 24 CFR Part 93.250(a). Income levels shall be expressed in 5 percent increments as a percentage of AMI. Assisted Units will be restricted per the income limits set forth in the project Regulatory Agreement. The income limits are posted at the following link: [2021 NHTF Income Limits](#).

G. Rent Limits

Assisted Unit rents will be restricted in accordance with 24 CFR § 93.302 and HHC Guidelines § 106.

The rent plus tenant-paid utilities of an ELI-designated unit shall not exceed the greater of 30 percent of the federal poverty line or 30 percent of the income of a family whose annual income equals 30 percent of the median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit. HUD will publish the NHTF rent limits on an annual basis. Rents will be further restricted in accordance with rent and income limits submitted in the application for the program loan, approved by the Department, and set forth in the project Regulatory Agreement.

H. Minimum Requirements

Competitive applications for new projects are required to meet the program minimum requirements found in Guidelines § 102, Minimum Requirements, and § 110, Application Process, and in 24 CFR Part 93. Competitive applications must meet the minimum requirements in order to move forward to the Rating and Ranking process.

OTC applications for previously awarded projects are required to meet the same minimum requirements to be considered for supplemental funding but *are not subject to the Rating and Ranking process in order to move forward*.

I. Rating and Ranking

After meeting the minimum requirements, competitive applications will be scored according to HHC Guidelines § 111, Application Selection Criteria.

	Maximum Applicable Points
Development Team Experience	35
Supportive Housing Units	25
Supportive Services Plan	25
Utilization of Funds to Offset Requests	10
Leverage of Rent/Op Subsidies	15
Readiness to Proceed	30
Confirmation of Local Need	5
Location Efficiency and Access to Destinations	5
TOTAL APPLICABLE POINTS	150

Additionally, within Guidelines § 111, Application Selection Criteria, applications must achieve the following **minimum** scores to be eligible for funding:

- Development Team Experience – 18 points
- Supportive Services Plan – 10 points
- Readiness to Proceed – 15 points

Note: If the NOFA application period is reopened to NHTF projects, the minimum score for the Supportive Services Plan for the HHC program does not apply.

Confirmation of local need is demonstrated by having more than 400 individuals experiencing homelessness in the Applicant's geographic jurisdiction (Continuum of Care (CoC) service area) using the latest Point in Time (PIT) count. Applicant's documentation of the PIT count must be certified by the CoC.

In the event of tied point scores, the following tiebreakers shall be used to determine which project is selected for funding, in the order listed:

- Readiness to Proceed
- Supportive Services Plan

In the event there are insufficient funds to fully fund an application based on final score, a partial award can be made. The Department reserves the right to allocate the partial award to a HHC project most ready to proceed with construction and or permanent financing.

J. Appeals

1. Basis of Appeals

- a. Upon receipt of the Department's notice that an application has been determined to be incomplete, ineligible, fail minimum requirements, or have a reduction to the initial point score, Applicants under this NOFA may appeal such decision(s) to the Department pursuant to this section.
- b. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's eligibility, point score, award, denial of award, or any other matter related thereto.
- c. The appeal process provided herein applies solely to decisions of the Department made in this HHC NOFA and does not apply to any decisions made with respect to any previously issued NOFA or decisions to be made pursuant to future program NOFAs.

2. Appeal Process and Deadlines

- a. To lodge an appeal, Applicants must submit to the Department, by the deadline set forth in subsection (d) below, a written appeal, which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed reference to the area(s) of the application that provide clarification and substantiation for the basis of the appeal. No new or additional information will be considered if this information would result in a

competitive advantage to an Applicant. Once the written appeal is submitted to the Department, no further information or materials will be accepted or considered.

- b. The Department will accept appeals by email to the email address listed below, and the email time stamp must be prior to the appeal deadline.
- c. Appeals are to be submitted to the HHC program at HHCNOFA@hcd.ca.gov.
- d. Appeals must be received by the Department no later than five business days from the date of the Department's minimum requirements review or initial score letters representing the Department's decision made in response to the application.

3. Decision

Any request to appeal the Department's decision shall be reviewed for compliance with the program requirements. It is the Department's intent to render its decision in writing within 15 business days of receipt of the Applicant's written appeal. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department with respect to the appeal.

K. Disbursement of Funds

1. Timing of Disbursements

Prior to this NOFA, disbursements of HHC/NHTF funds have only been made at permanent loan closing. In order to assist the Department with meeting the federal NHTF 5-year expenditure requirements, HHC/NHTF funds for eligible costs may now be disbursed at construction closing and during the construction period, similar to how the HOME program currently operates:

- a. Disbursements of funds for the reimbursement of eligible pre-development soft costs per 24 CFR § 93.201(d) may be made at the time of construction closing.
- b. Disbursements for acquisition costs may be made at the time of construction closing.
- c. During the construction period, disbursements for construction costs shall be made on a reimbursement basis, based on percentage complete, with 10 percent retained until construction completion, as evidenced by a certificate of occupancy.

Note: Final beneficiary and budget information must be submitted within 120 days of the final disbursement of funds.

Additional guidance will be issued soon by the Department regarding the requirements for construction closing and construction disbursements.

L. State and Federal Requirements

1. Timeframes for Using Funds

Successful Applicants of HHC funds (also referred to as Recipients) are subject to the following deadlines:

- Commitment deadline (Standard Agreement execution): **September 1, 2022**
- Construction start deadline: **September 1, 2023**
- Expenditure deadline: **September 1, 2025**

If a project fails to meet one or more of the deadlines outlined in this NOFA, the Applicant, project owner, developer, and managing general partner will be subject to the default provisions and remedies outlined in HHC Guidelines § 121, Defaults and Loan and/or Grant Cancellations.

2. Monitoring Fees

Pursuant to 24 CFR Part 93.204(b)(1) and Guidelines § 104, Loan Terms, the Department will charge fees to cover the cost of ongoing monitoring and physical inspection of rental projects during the state period of affordability.

The Department charges an annual monitoring fee, as follows:

2022 Monitoring Fees*	
Number of Assisted Units	Annual Fee
12 or fewer	\$5,900
13 to 24	\$9,600
25 to 36	\$11,700
37-48	\$12,000
49-60	\$14,350
61 or more	\$16,800

* To cover inflation, this annual monitoring fee shall increase by 3 percent per fiscal year unless the Department determines that its monitoring costs are increasing at a lower rate. Financial assumptions in the application shall be based on the rate that will be effective at the time of initial occupancy.

Annual monitoring fees are mandatory payments. The first payment shall be prorated based upon the total number of days from permanent loan closing to the last day of the first fiscal year. Payments made must be pursuant to the Regulatory Agreement.

3. Reporting Requirements

The Recipient must collect and report data to the Department at **annual** and **midyear** intervals, as described in the HSC, § 53593 pertaining to the outcomes of the program and pursuant to the Standard Agreement provisions.

If a Recipient is a local government, they must comply with 2 CFR Part 200.512 Single Audit Report Submission requirements. The Department will make the

determination on the status of the Single Audit reporting compliance as of the date of application submission by consultation with the California State Controller's Office (SCO). Jurisdictions that are exempt from filing must submit a copy of the exemption letter notifying the SCO of their exempt status with their application.

Recipient(s) must file regular **monthly** status project reports with the HHC program, starting the month after the Standard Agreement is fully executed, and are due no later than the 10th day of the following month and the 10th day of each month thereafter, until the project is completed.

Recipient(s) must also submit **annual** performance reports as required by the HHC Guidelines to the Department, on forms provided by the Department. Recipient(s) are responsible for disclosing all changes to the project since submitting the application. Such changes could include, but are not limited to, development team member changes, increased or decreased costs, intent to apply for additional funds, environmental issues, and project timeline changes.

Failure to report accurately may result in a loss of points in future funding rounds.

III. Program Overlays

A. Federal Overlays

Activities funded with HHC funds are required to comply with 24 CFR Part 93.350 and 24 CFR Part 93.301. Compliance with these requirements include, but are not limited to, environmental provisions, relocation, Equal Opportunity and Fair Housing, Fair Housing Amendments Act, Affirmative Marketing, Rehabilitation Act § 504 and its implementing regulations, the Americans with Disabilities Act and its implementing regulations, Section 3 (employment of low-income persons), Violence Against Women Act, and Single Audit report 2 CFR Part 200.512. Failure to comply with federal overlays could result in significant project cost increases, and/or rejection of the HHC application.

1. NHTF Environmental Provisions

The NHTF regulations establish specific property standards for projects that receive NHTF funds. These standards include Environmental Provisions for projects involving new construction, rehabilitation, and acquisition. The NHTF Environmental Provisions for new construction and rehabilitation are under the Property Standards at 24 CFR § 93.301(f)(1) and (2). See HUD-[Notice: CPD-16-14](#) and the [Environmental Provisions Checklists](#) for more information.

The Applicant must provide a completed NHTF Environmental Checklist with all supporting documentation at time of application submission. It must be determined prior to award if a project will meet the NHTF Environmental Provisions. If a project cannot meet the NHTF Environmental Provisions, the project cannot be funded by NHTF.

When combining NHTF funds with other HUD funding sources, an Environmental Review under 24 CFR Parts 50 and 58 must be done and must meet the NHTF Environmental Provisions. Other HUD funding sources include, but are not limited

to, HOME Investment Partnerships Program (HOME), Rental Assistance Demonstration (RAD), or Public Housing Capital Funds.

2. Relocation

For any project resulting in displacement of tenants, the Applicant shall prepare and submit a relocation plan and supporting documentation at time of application submission. If a project is not requiring relocation, the Applicant must prepare documentation evidencing the project site is vacant and when it became vacant and submit at time of application submission. The documentation shall be subject to the review and approval by the Department prior to the beginning of construction.

Relocation costs must be paid by the Applicant if individuals or businesses will be temporarily or permanently displaced as a result of an HHC-assisted project, pursuant to federal NHTF regulations, 24 CFR Parts 93.201(f) and 93.352, and Guidelines § 102, Minimum Requirements. This requirement applies to all rental projects involving any relocation activities. An accurate determination is critical, because relocation costs may be higher if an earlier relocation date is necessary.

The sources and uses submitted with the application must adequately budget for relocation costs. Relocation costs may be reimbursed with HHC funds.

3. Violence Against Women Reauthorization Act of 2013 (VAWA)

Successful Applicants shall comply with the requirements found in 24 CFR § 93.356 for the Violence Against Women Reauthorization Act of 2013.

B. State Overlays

1. Article XXXIV of the California Constitution

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

Applicants must submit documentation that shows the project’s compliance or exemption from Article XXXIV. Article XXXIV documentation for loans underwritten by the Department shall be subject to review and approval by the Department prior to the execution of the Department’s Standard Agreement.

If a project is subject to Article XXXIV, the application must include an allocation letter from the locality, which shows that there is Article XXIV authority for the project. A local government official with authority shall prepare the allocation letter and it shall include the following:

- The name and date of the proposition and the number of units that were approved. A copy of the referendum and a certified vote count;

- The number of units that remain in the locality’s “bank” of Article XXXIV authority (i.e., the number of units that are still available for allocation).
- The number of units that the locality will commit to this project.

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

2. State Prevailing Wages

Program funds awarded under this NOFA may be subject to state prevailing wage law, as set forth in Labor Code § 1720 et seq. and require the payment of prevailing wages unless the project meets one of the exceptions of Labor Code 1720(c) as determined by the Department of Industrial Relations (DIR). The DIR can be contacted directly via their [website](#). Applicants are urged to seek professional advice as to how to comply with state prevailing wage law.

3. Pet Friendly Act of 2017

HSC § 50466 require each housing development that is financed on or after January 1, 2018, pursuant to this division, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets within the resident’s dwelling unit, subject to applicable state laws and local government ordinances related to public health, animal control, and animal anticruelty.

4. Housing First

Housing First requirements consistent with the core components set forth in Welfare and Institutions Code, Division 8, Chapter 6.5 § 8255 subsection (b), and basic tenant protections established under federal, state, and local law which include the following:

- a. Tenant selection practices that promote the acceptance of Applicants regardless of their sobriety or use of substances, completion of treatment, or agreement to participate in services;
- b. Applicants are seldom rejected on the basis of poor credit or financial history, poor or lack of rental history, or minor criminal convictions;
- c. Applicants are assisted in making application for tenancy and reasonable accommodation requests;
- d. Assistance shall be provided in obtaining Permanent housing as rapidly as possible and without preconditions, such as participation in services, length of

stay, or successful completion of a transitional housing program. Upon exit to Permanent housing, follow up services shall be provided for no less than six months to ensure that tenants retain Permanent housing; and

e. Services are voluntary unless required by a public agency funding source.

IV. Other Terms and Conditions

A. Right to Modify or Suspend

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including, without limitation, the amount of funds available hereunder. This includes, but is not limited to, authorizing an increase in funding to any Applicant after the Department makes an award under this NOFA. If such an action occurs, the Department will notify all interested parties via the [listserv](#) and will post the revisions to the Department's website.

This NOFA is not a commitment of funds to any activity or Applicant.

B. Conflicts

In the event of any conflict between the terms of this NOFA and either applicable state or federal law or regulation, the terms of the applicable state or federal law or regulation (whichever is stricter) shall control.

C. False, Fictitious, or Fraudulent Claims

Warning: Anyone who knowingly makes a false claim or statement to HUD or the Department may be subject to civil or criminal penalties under 18 U.S.C. § 287, 1001 and 31 U.S.C. § 3729.