

LOCAL HOUSING TRUST FUND (LHTF) PROGRAM DRAFT GUIDELINES

Public Comments Received During 30-Day Public Comment Period

October 10, 2019 – November 21, 2019

The California Department of Housing and Community Development (Department) released the Local Housing Trust Fund (LHTF) program draft guidelines on October 10, 2019, for a 30-day public comment period. The Department has completed the LHTF draft guidelines in accordance with an act to amend Section 50843.5 of Part 2 of Division 31 of the Health and Safety Code, relating to housing.

During the 30-day public comment period, which ended on November 21, 2019, the Department received numerous comments during the LHTF public hearing webinars and at the public hearing held in Sacramento, and via the LHTF email inbox. This document represents comments received during the 30-day public comment period and the Department’s responses to the comments.

Item #	Section	Public Comments	Department Comments/Recommendations
1.	100 – General Purpose	<p>The Guidelines should specifically state that Program funds can be used for permanent financing of affordable housing projects.</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County and Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County.</p>	<p>The Department has no objection to clarifying that permanent financing is an eligible use of Program Funds. This change will be made.</p>
2.	101 - Definitions	<p>Section 101 (c) “Applicant” definition: Please require a demonstrated need for Program Funds component.</p> <p>Ken Cole, Director, San Mateo County Department of Housing</p>	<p>This is not permitted by statute. Eligible Applicants are Local or Regional Housing Trust Funds that meet the requirements of HSC §50843.5(b).</p>
3.	101 - Definitions	<p>Section 101 (e) “Dedicated Source”: The current regulations include the term “or other source of funds”, which allowed Lines of Credit and other types of private investments/loans to be eligible as Matching Funds. LHTFs work closely with their local contacts at financial institutions to leverage local Community Reinvestment</p>	<p>The LHTF statute was amended in 2019, and the words “included but not limited to” were deleted from the amended statute, clarifying that eligible sources of match must be taxes, fees, loan repayments or public or private contributions (HSC</p>

		<p>Act (CRA) Investments and Lines of Credit, often at reduced interest rates. Please reinstate the phrase “or other source of funds.”</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County; Kevin Zwick, CEO, Housing Trust Silicon Valley; Linda Braunschweiger, CEO, Housing Trust Fund Ventura County, Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County; Lauren Kennedy, Executive Director, North Valley Housing Trust; Kate Roberts, President & CEO, Monterey Bay Economic Partnership</p>	<p>§50843.5(b)(2)). Loans and lines of Credit are not taxes, fees, loan repayments or public or private contributions, and are therefore not eligible sources of Matching Funds. This will be clarified in the guidelines.</p>
4.	101 - Definitions	<p>Section 101(g) “Eligible Project”: The draft guidelines do not lay out clear workable rules for financing and regulating ADUs. ADUs are generally rental units, but the draft guidelines seem to classify them as ownership units. If the Program treats ADUs as ownership units, each ADU and its primary home must be re-sold at an affordable housing cost under HSC 50025.5. These prices will probably be lower than the owners’ purchase prices. No homeowner will borrow funds to build or rehab an ADU under these terms. However, if ADUs are treated as rental units, the guidelines require 55-year rent and income restrictions. Other ADU financing programs have shorter compliance periods, such as 10 or 15 years. ADUs should be a separate type of Eligible Project to allow stand-alone ADU construction or rehabilitation.</p> <p>Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County</p> <p>Construction of units which are an inclusionary housing requirement of the local jurisdiction should be ineligible to receive Program funding, unless the Program</p>	<p>The Department is persuaded that development or rehab of Accessory Dwelling Units (ADUs) should be permitted even if the primary home is not being purchased or rehabbed with Program Funds. Development/rehab of ADUs without any Homeownership Project will be added to the guidelines as an additional category of Eligible Project. ADUs will be required to be restricted in rent and occupancy to households with household incomes of no more than 120 percent of Area Median Income for at least 10 years and must be monitored by the Trust Fund.</p>

		<p>funding results in deeper income targeting or a greater number of income restricted units than would otherwise be required by the local inclusionary program.</p> <p>Ken Cole, Director, San Mateo County Department of Housing</p>	
5.	101 - Definitions	<p>Section 101(o) “Legally-Binding Commitment”: A large part of our future revenue will be from loans that have already closed. Our borrowers have entered into legally binding contracts to pay us both interest and principal on specific schedules. Our scheduled loan repayments should count as committed Matching Funds. In addition to accepting a fully-executed commitment letter as evidence of Matching Funds at application deadline, we recommend also accepting an executed contract or agreement that indicates the date upon which the funds will be deposited into the Local Housing Trust Fund account.</p> <p>Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County; Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County; Kevin Zwick, CEO, Housing Trust Silicon Valley; Linda Braunschweiger, CEO, Housing Trust Fund Ventura County</p>	<p>The Department is persuaded to make this change to the definition of “Legally-Binding Commitment” to allow interest payments and loan repayments from existing loans that are due after the application deadline to be considered Matching Funds, as they are required to be paid in by legally-binding contracts. These contracts will have to be submitted with the LHTF Program application.</p>
6.	101 - Definitions	<p>Section 101(w) “New Local Housing Trust Fund”: We continue to think that the most elegant differentiation between “New” and Existing” is whether the LHTF has previously received funding.</p> <p>Kevin Zwick, CEO, Housing Trust Silicon Valley</p>	<p>The statute was amended in 2019 to delete the former requirements governing New housing trust funds. The Department believes that New housing trust funds should be truly new, and in earlier draft guidelines the age limit was less than one year old. In order to incentivize truly new housing trust funds, no change will be made to this definition.</p>

		<p>We suggest some allowance for trusts that have had significant organizational changes to apply as New Housing Trust Funds.</p> <p>Lauren Kennedy, Executive Director, North Valley Housing Trust</p>	
7.	101 - Definitions	<p>Section 101(y) "On Deposit": Given the length of time that can transpire between application deadline, approval and drawdown of funds, maintaining matching funds "On Deposit" for so long can slow the injection of capital into affordable housing. We recommend allowing Matching Funds that were On Deposit at the application deadline that have since been deployed for other eligible projects to still count as Matching Funds.</p> <p>Kevin Zwick, CEO, Housing Trust Silicon Valley; Linda Braunschweiger, CEO, Housing Trust Fund Ventura County; Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County; Linda Braunschweiger, CEO, Housing Trust Fund Ventura County</p> <p>The County suggests allowing funds previously spent on eligible activities (within the last 12 months) to count toward the dollar for dollar Matching Funds requirement.</p> <p>Julia Bidwell, Director, Housing & Community Development, Orange County; Adam Eliason, Manager, Orange County Housing Finance Trust</p> <p>The ability to replace the Matching Funds On Deposit at application (deadline) needs to be stated in the guidelines. We try to match the characteristics of our loan funds with the needs of our borrowers. It can be</p>	<p>Response to all comments on this definition: The Department has agreed to amend the definition of Legally- Binding Commitment to include interest, fees and loan repayments as Matching Funds if there was a fully-executed contract requiring receipt before disbursement of Program Funds is required for the proposed Eligible Project(s). The Department also agrees to allow three years of Permanent Local Housing Allocation (PLHA) allocations to be deemed committed as Matching Funds for Regional Housing Trust Funds who receive such commitments from local jurisdictions, also to facilitate the compilation of required Matching Funds. The Department also agrees to allow Trust Funds that have Matching Funds On Deposit in their trust fund account at the application deadline to deploy some or all of these Matching Funds IF the LHTF provides a Legally-Binding Commitment that new Matching Funds will be deposited into the trust fund account prior to disbursement of Program Funds. Through these three amendments, the Department believes it has facilitated the compilation and deposit of Matching Funds as much</p>

		<p>critical to use Matching Funds, but NOT LHTF funds, for some projects. LHTF funds are better for LIHTC projects because our borrowers can earn tie-breaker points in the competition for tax credits. We generally use private funds for acquisition and construction loans and use public funds for long-term loans.</p> <p>Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County;</p> <p>We believe that a legal agreement for a Line of Credit or other contract for financial resources should count as being On Deposit. These are legally binding commitments that give the housing trust fund the ability to draw down funds when needed to fund a specific project.</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County</p>	<p>as statute permits. HSC §50843.5(c) states: “Funds shall not be disbursed by the department to any trust until all matching funds are on deposit.” The Department is required to monitor the use of Program Funds and Matching Funds, which requires 55 years of monitoring for rental projects. Due to these statutory requirements, Matching Funds must be invested in the same project(s) as the Program Funds, and Matching Funds may not be expended prior to the Award date. As stated in the response to Comment #3, loans and lines of credit received by the HTF are not a statutorily permitted form of Matching Funds.</p>
8.	101 - Definitions	<p>Section 101(z) “Ongoing Revenues”: Current regulations allow submittal of an income history that demonstrated the LHTF’s viable track record of securing revenues. The selection of a \$100,000 minimum in annual revenue seems somewhat arbitrary and perhaps unnecessary. There is nothing in statute that requires a specific annual revenue amount, and this would penalize smaller and newer LHTFs or non-profit LHTFs that receive revenues that vary from year to year. Given the variable sources of Matching Funds non-profit LHTFs are able to attract, we recommend keeping the existing definition.</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County; Kevin Zwick, CEO, Housing Trust Silicon Valley; Linda Braunschweiger,</p>	<p>Response to all comments on this definition: Statute requires at least some Matching Funds to be received on an ongoing basis by the Trust Fund, to assure that it will continue operations. The Department understands the difficulty of obtaining funds committed for a five-year period, and that fee and tax revenue may not reach \$100,000 per year. For these reasons, the guidelines are being amended to require \$100,000 of ongoing revenue, on average, for a three-year period for Existing Trust Funds. For New Trust Funds, the Department is persuaded to require only a sufficient amount of</p>

	<p>CEO, Housing Trust Fund Ventura County; Kate Roberts, President & CEO, Monterey Bay Economic Partnership</p> <p>In our region, \$100,000 committed annually for 5 years would be extremely difficult, if not impossible, for us to secure. Our local governments do commitments of three years, max. We absolutely understand the desire to avoid trusts that form just for the short term, and hope there can be a less restrictive way to measure a LHTF's intention and ability to be a long-term organization.</p> <p>Lauren Kennedy, Executive Director, North Valley Housing Trust</p> <p>The draft guidelines require a minimum annual contribution of \$100,000 from a dedicated funding source. Many jurisdictions instead generate impact fee revenues sporadically and are not likely to collect a steady amount each year.</p> <p>Ken Cole, Director, San Mateo County Department of Housing;</p> <p>The minimum annual ongoing revenues requirement of \$100,000 is too high for newly capitalized Local Housing Trust Funds, especially in rural small cities and counties. Many rural areas have difficulty attracting investment to their communities and consequently adopt relatively few impact fees or no impact fees at all. Setting the minimum ongoing revenues requirement at \$100,000 per year will reduce the number of rural communities eligible for LHTF funds.</p>	<p>ongoing revenue to pay for the Trust Fund's operating costs for five years.</p>
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9.	101 Definitions	<p>Section 101(dd) “Regional Housing Trust Fund”: The City and County of Sacramento have demonstrated their commitment to generating local funds to help address the housing crisis as far back as 1989. SHRA has been able to make meaningful contributions to the affordable housing supply in our jurisdictions, and ensures that the City and County of Sacramento have sufficient capacity to undertake complex multifamily housing financing. SHRA, however, does not meet</p>	<p>The Department is persuaded that a housing trust fund serving more than one million people between two separate jurisdictions should be qualified as a “Regional Housing Trust Fund.” The definition will be changed accordingly.</p>

		<p>HCD’s new definition of “Regional Housing Trust Fund”. We believe this is a fundamental flaw in the guidelines as currently proposed.</p> <p>Christine Weichert, Assistant Director, Development Finance, Sacramento Housing & Redevelopment Agency</p>	
10.	102 (b)– Eligible Applicants	<p>The draft guidelines and existing regulations require a nonprofit LHTF to consist of public, or joint public and private, fund. We recommend specifying “private” funds in addition to “public, or joint public and private.”</p> <p>Linda Braunschweiger, CEO, Housing Trust Fund Ventura County; Kevin Zwick, CEO, Housing Trust Silicon Valley</p>	<p>This is not permitted by statute. HSC §50843.5(b) states: “Housing Trusts eligible for funding under this section shall have the following characteristics: (1) Utilization of a <u>public</u> or <u>joint public and private</u> fund established by legislation, ordinance, resolution, or a public-private partnership...”</p>
11.	103 – Funding Amount Minimums & Maximums	<p>If possible, minimum funding amounts for Existing Housing Trust Funds should be set at \$500,000 or lower, or provide a lower minimum threshold for LHTFs in jurisdictions with populations under 100,000. It would be very difficult for smaller jurisdictions which maintain a LHTF to meet the \$1 million matching funds application threshold.</p> <p>Ethan Guy, Principal Analyst, City of San Rafael Community Development Department</p> <p>The maximum \$5 million application limit, with no cumulative cap over multiple rounds, is too high. Our concern is that the larger LHTFs in major urban areas will get the lion’s share of the Program funds and there will be not enough funding to serve smaller counties.</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County; Gerald Rioux,</p>	<p>This is not permitted by statute. HSC §50843.5(c) requires the minimum allocation for Existing Housing Trust Funds to be \$1 million or higher.</p> <p>Response to comment #2 and 3: To address concerns expressed by commenters that multiple \$5 million awards will be made and not utilized, the Department is persuaded to add a requirement for Grantees to have committed 40 percent of their total</p>

		<p>Executive Director, Housing Trust Fund San Luis Obispo County</p> <p>Orange County is satisfied with the maximum funding limit of \$5 million, and requests that no award cap be placed on cumulative awards.</p> <p>Julia Bidwell, Director, Housing & Community Development, Orange County; Adam Eliason, Manager, Orange County Housing Finance Trust</p>	<p>Award(s) before they are eligible to submit another application for LHTF Program Funds.</p>
12.	104(a) Matching Funds	<p>As noted in our comment on 102(b), we recommend specifying “private” funds in addition to “public, or joint public and private” as the types of revenue that is required as Matching Funds.</p> <p>Linda Braunschweiger, CEO, Housing Trust Fund Ventura County; Kevin Zwick, CEO, Housing Trust Silicon Valley</p> <p>Local Matching Funds should include Lines of Credit/Guidance, investments, contracts, CDFI grants and other types of private investments/loans to be eligible as Matching Funds. LHTFs work closely with their local contacts at financial institutions to leverage local Community Reinvestment Act (CRA) Investments and Lines of Credit, often at reduced interest rates.</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County; Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County; Linda Braunschweiger, CEO, Housing Trust Fund Ventura County; Kevin Zwick, CEO, Housing Trust Silicon Valley; Kate Roberts, President & CEO, Monterey Bay Economic Partnership</p>	<p>HSC §50843.5(b)(2) requires Matching Funds to be derived from dedicated sources of funding such as taxes, fees, loan repayments or public or private contributions. This subsection will be changed to state “public or private contributions” utilizing exactly the language of the statute.</p> <p>Lines of Credit and loans received by the Trust Fund are not permitted by statute, which requires Matching Funds to be derived from dedicated sources of funding such as taxes, fees, loan repayments or public or private contributions. Guidelines will be amended to clarify that loans and Lines of Credit are not eligible Matching Funds. However, the Department is persuaded that Community Development Financial Institutions (CDFI) grants, State Education Revenue Augmentation Funds (SERAF) funds and non-housing restricted RDA funds are eligible sources of Matching Funds.</p>

13.	104(c) Matching Funds	<p>The draft guidelines limit use of Permanent Local Housing Allocation (PLHA) funds as Matching Funds only to Regional Housing Trust Funds. Statute does not make reference to Regional Housing Trust Funds.</p> <p>Danielle Foster, Housing Policy Manager, City of Sacramento</p> <p>The draft guidelines allow Permanent Local Housing Allocation (PLHA) funds to be considered as Matching Funds for Regional Housing Trust Funds. We recommend that PLHA funds be considered as Matching Funds for Local Housing Trust Funds.</p> <p>Laura Nunn, Director of Policy & Programs, San Diego Housing Federation</p> <p>We propose that jurisdictions be able to pledge current and future year PLHA dollars as Matching Funds to a Regional Housing Trust Fund.</p> <p>Mike Walsh, Deputy Director, Housing Authority, Riverside County Economic Development Agency; Heather Vaikona, President & CEO, Lift to Rise; Julia Bidwell, Director, Housing & Community Development, Orange County; Adam Eliason, Manager, Orange County Housing Finance Trust</p> <p>We also propose that SERAF payments and existing RDA funding be able to be used as Matching Funds.</p> <p>Mike Walsh, Deputy Director, Housing Authority, Riverside County Economic Development Agency; Heather Vaikona, President & CEO, Lift to Rise</p>	<p>Response to Comment #1 and 2: Statute was amended effective July 31, 2019 to specify that Regional Housing Trust Funds only could utilize PLHA funds as Matching Funds. Statute (HSC §50843.5(c)) prohibits use of PLHA funds as Matching Funds except for Regional Housing Trust Funds. The State has incentivized creation of Regional Housing Trust Funds because they are able to raise higher amounts of Matching Funds, allowing them to increase the supply of affordable housing (the major goal of SB 3 and Proposition 1), by funding the development of multifamily housing projects.</p> <p>The Department will allow commitments of PLHA funds as Matching Funds to a Regional Housing Trust Fund for the current year and two future years. However, the Trust Fund will not be able to request disbursement of Program Funds matched by those PLHA funds until the PLHA funds are on-deposit in the trust fund.</p> <p>State Education Revenue Augmentation Funds (SERAF) funds and non-housing restricted RDA funds are eligible sources of Matching Funds. Low-Mod RDA funds are not eligible Matching Funds because</p>
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14.	105(b) – Eligible Uses of Funds	<p>We would like to thank the State for the allowance of 5 percent of Program Funds to be used for administrative expenses. However, we respectfully request that the allowance for administrative expenses be increased up to 10 percent of Program Funds.</p> <p>Julia Bidwell, Director, Housing & Community Development, Orange County; Adam Eliason, Manager, Orange County Housing Finance Trust</p> <p>We applaud the ability to utilize up to 5 percent of Program Funds for administrative expenses; however, this should not preclude the ability to utilize matching funds for administrative expenses as well.</p> <p>Linda Braunschweiger, CEO, Housing Trust Fund Ventura County; Kevin Zwick, CEO, Housing Trust Silicon Valley; Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County; Kate Roberts, President & CEO, Monterey Bay Economic Partnership</p>	Response to both comments: The cap on the amount of Program Funds that can be used for administrative expenses is in statute, so the Department can't allow 10 percent. However, the Department is persuaded to allow 5 percent of Matching Funds to be used for administrative expenses, as well, yielding a total of 10 percent, which is the typical allowance under HCD programs.
15.	105(c) – Eligible Uses of Funds	<p>Extremely Low Income Requirement: This eligibility requirement can be misunderstood to mean that 30 percent of Program Funds and Matching Funds must be expended on 100 percent Extremely Low Income projects. We recommend clarifying this language to state that 30 percent of the total units funded with Program Funds and Matching Funds must be expended on Extremely Low Income units. The use of funds to include new construction, rehabilitation</p>	It is correct that the multi-unit projects assisted by using the 30 percent expenditure requirement for Extremely Low Income Households do not have to contain 100 percent Extremely Low Income units. The language will be amended to make this clear. Statute requires each Grantee to expend 30 percent of Program Funds and Matching Funds on units or beds that are affordable to and restricted to Extremely Low Income

		<p>projects, owner-occupied rehab programs and first-time homebuyer assistance.</p> <p>Ken Cole, Director, San Mateo County Department of Housing</p>	<p>Households. Statute does not require 30 percent of the units funded by a LHTF to be affordable to and restricted to Extremely Low Income Households, however. This is one of the reasons the Department cannot allow Matching Funds to be used for different Eligible Projects than Program Funds—30 percent of dollars expended from both Matching Funds and Program Funds must be restricted to Extremely Low Income Households, and the Department will monitor the Extremely Low Income units for 55 years.</p>
16.	106(b) Application Process	<p>HTFVC highly recommends that HCD consider issuing the NOFA funding in categories or buckets allowing a variety of LHTFs to have the opportunity to access the match. We recommend that there be two separate tranches for governmental HTFs and non-profit HTFs for each NOFA. We are concerned the guidelines could eliminate access for the small to medium sized LHTFs.</p> <p>Linda Braunschweiger, CEO, Housing Trust Fund Ventura County; Kevin Zwick, CEO, Housing Trust Silicon Valley; Lauren Kennedy, Executive Director, North Valley Housing Trust; Kate Roberts, President & CEO, Monterey Bay Economic Partnership</p> <p>We suggest a rural set-aside for LHTF Program Funds.</p> <p>Craig Schlatter, Director of Community Development, City of Ukiah</p>	<p>Response to both comments: Statute requires a set aside for New Trust Funds. Given the small NOFA amounts, that required set aside is the only feasible set aside. No change made.</p>

17.	106(f) – Application Process	<p>Performance on past LHTF Program awards and other funds administered by the housing trust should be added to the funding criteria.</p> <p>Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County</p> <p>Scoring criteria should include points for the housing trust fund’s demonstrated capacity to successfully operate a housing production and/or homebuyer assistance program.</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County</p> <p>We recommend adding a competitive criterion for Applicants that have successfully administered a housing trust fund for past or current projects and can demonstrate success with relevant RFPs and award letters.</p> <p>Ken Cole, Director, San Mateo County Department of Housing</p> <p>I think the funding criteria should be used for every NOFA, whether or not it is oversubscribed, to determine how much to award to individual applicants, even though this means funds available under that NOFA are not awarded.</p> <p>Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County</p> <p>Please clarify the weight of each criteria listed in this subsection in the event of oversubscription.</p>	<p>Response to first three comments: The Department is developing performance criteria to be used for all of DFA’s funding programs, which will pertain to LHTF upon adoption. Trust Funds will be evaluated on past performance with LHTF awards, but not on their performance with non-HCD funding sources.</p> <p>The staffing allocation for LHTF does not allow for the Department to perform tasks that aren’t truly necessary, like scoring applications when the scores won’t make a difference in funding decisions due to an undersubscribed NOFA.</p> <p>The weight of each criterion will be listed in the NOFA to allow for flexibility and responsiveness to changing dynamics.</p> <p>The Department has received large allocations for areas affected by disasters, which are more suitable funding sources</p>
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18.	106(f)(3) – Application Process	<p>Readiness: The readiness criteria specified is not reflective of the reality of allocating local housing subsidies. There are environmental requirements that prevent jurisdictions from issuing “Letters of Intent” prior to completing environmental reviews. In addition, developers design their projects and determine initial feasibility based on the availability of subsidy dollars. SHRA publishes the amount of funding available on a semi-annual basis and requests pre-applications in response to the funding available. Given the expense of the predevelopment work associated with the development of affordable housing (e.g., environmental reports, site control, market studies, entitlements, etc.), we would not request a full application unless and until we know we have the resources available to fill the gap. Issuing Letters of Intent prior to our awareness of the resources available for distribution would be irresponsible. SHRA is fortunate to have a robust array of development partners and a pipeline of potential developments awaiting funding; however, we would not want to pre-select projects without the approval of our elected officials or prior to the completion of environmental reviews.</p> <p>Christine Weichert, Assistant Director, Development Finance, Sacramento Housing & Redevelopment Agency</p>	<p>Response to all comments on this subsection: The Department is persuaded that Letters of Intent are not issued by Trust Funds until later in their funding process, so this will be made a tie breaker, rather than a regular funding criterion. Through the tie breaker, this factor will incentivize super-ready projects. In addition, due to comments recommending an incentive for homebuyer projects, there will be an additional criterion awarding points for any type of new construction project restricted to households eligible under the statute, whether for home buyers or multifamily rental housing. This also reflects the intent of SB 3 and Proposition 1 to increase the supply of affordable housing.</p>

		<p>Many housing trust funds do not issue Letters of Intent, as they cannot pre-commit funds without underwriting the project. This requirement would tend to favor bigger urban housing trust funds with large loan pipelines.</p> <p>Jennifer McGovern, President & CEO, Housing Trust Fund of Santa Barbara County</p> <p>We recommend that “term sheets” be added to Letters of Intent as an acceptable document for receipt of readiness points.</p> <p>Kevin Zwick, CEO, Housing Trust Silicon Valley</p> <p>A Soft Commitment, contingent upon LHFT award of funds, should be permitted in lieu of a Letter of Intent. Alternatively, demand for funding could be shown by a pipeline list generated by developer interest and includes projects eligible for funding equal to or greater than the amount of application funding request.</p> <p>Julia Bidwell, Director, Housing & Community Development, Orange County; Adam Eliason, Manager, Orange County Housing Finance Trust</p>	
19.	106(f)(5) Application Process	<p>Community Need: HCD should clarify what baseline source will be used to determine these parameters so applicants are using a common set of data.</p> <p>Kevin Zwick, CEO, Housing Trust Silicon Valley</p> <p>The specific sources of data for the Community Need factors need to be specified. I am concerned that consistent statistics are not available for smaller areas. Since rental housing is the focus of the Program, I suggest that, if data are available, you use the</p>	<p>Response to both comments: Due to inconsistency in availability of data, the Department has decided not to use the Supplemental Poverty Rate. There will be only one community need factor, which is the percentage of Lower Income Households who pay more than 50 percent of their household income for housing. The Department will use all households, not just renters, because the</p>

		<p>percentage of Lower Income renters who pay more than 50 percent of their household income for housing.</p> <p>Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County</p>	<p>LHTF Program has both renter and owner eligible activities.</p>
20.	106(f)(6) Application Process	<p>Regional Housing Trust Funds: Jurisdictions should not be penalized for not being multi-jurisdictional Regional Housing Trust Funds when it comes to being awarded funds on a competitive basis.</p> <p>Christine Weichert, Assistant Director, Development Finance, Sacramento Housing & Redevelopment Agency</p> <p>In addition to Regional Housing Trust Funds, preference should be given to applications from jurisdictions with populations under 100,000 which maintain a LHTF separate from a Regional Housing Trust Fund.</p> <p>Ethan Guy, Principal Analyst, City of San Rafael Community Development Department</p> <p>We recommend requiring that counties with total populations of 500,000 or more be required to have eight or more cities participating in the Regional Housing Trust Fund to get maximum points. We propose that evidence of participating in a Regional Housing Trust Fund may include whether the jurisdictions pool their CDBG, HOME and/or PLHA allocations.</p> <p>Mike Walsh, Deputy Director, Housing Authority, Riverside County Economic Development Agency; Heather Vaikona, President & CEO, Lift to Rise</p>	<p>Response to Comments #1 and 2: The Legislature and Governor incentivized Regional Housing Trust Funds through the 2019 Budget Trailer Bill, which allowed PLHA funds to be used as Matching Funds only for Regional Housing Trust Funds. Regional Housing Trust Funds draw from fee and tax revenue from several times more jurisdictions than do Local Housing Trust Funds, which increases the potential for funding of multifamily rental housing. Increasing the supply of affordable housing is the highest priority of SB3 and Proposition 1, the legislation that allowed the LHTF Program to receive a \$300 million allocation. No change will be made to the priority for multi-jurisdictional Regional Housing Trust Funds.</p> <p>The draft guidelines require counties with populations of over 250,000 to have eight or more cities participating in the Regional Housing Trust Fund in order to get the points in that category, so a county of 500,000 is required to have eight cities participating. Statute requires Housing Trust Funds to be established through</p>

		<p>It is not clear whether this criterion is only applicable to Regional Housing Trust Fund Applicants. In terms of competitive points, we recommend prioritizing the demonstrated need for Program Funds, based on a robust pipeline of projects.</p> <p>Ken Cole, Director, San Mateo County Department of Housing County of San Diego</p>	<p>resolution, ordinance or legislation. An Urban County agreement is not sufficient.</p> <p>Yes, this criterion is only applicable to Regional Housing Trust Fund applicants. The Department was persuaded by commenters that demonstrated need for the Program Funds cannot be evaluated because projects have not received all other funding commitments, so a gap cannot be verified. A simple list of potential projects and potential homebuyers would not be adequate grounds to award points.</p>
21.	107 (e)– Protection of Program Funds	<p>Deed Restrictions: While statute allows ownership homes to be regulated by either a 30-year deed restriction or an equity-sharing agreement, the guidelines do not mention the equity-sharing option. The availability of equity sharing should be spelled out.</p> <p>Gerald Rioux, Executive Director, Housing Trust Fund San Luis Obispo County</p> <p>ADUs: this section seems to say that if Program Funds are used on ADUs, the Grantee is required to record a deed restriction “unless such a deed restriction would conflict with the requirements of law or another public funding source.” ADU financing will, in most cases, be subordinate to a first mortgage. First mortgages prohibit deed restrictions that erode the first lien holder’s rights in the event of default and upon foreclosure. In those cases, we recommend that the</p>	<p>Response to comments #1 and 2 on this subsection: Statute (HSC §50843.5(d)(3)) requires a deed restriction on the home even though there might also be an equity sharing agreement governing the resale of the property. However, to clarify the existence of two statutory methods for assuring continued affordability, the Department will add language the Department will add language pointing to the statutory section, so that it’s clear that equity sharing is permitted.</p> <p>If a homeowner borrows Program Funds to build or rehab an ADU, the property is required by statute to be deed restricted, regardless of the first lien holder’s opinion. As stated in the response to comment #4, a 10-year minimum affordability period will</p>

		<p>Program’s requirement to record a deed restriction be waived.</p> <p>Kevin Zwick, CEO, Housing Trust Silicon Valley</p>	<p>be required and will be enforced by the deed restriction.</p>
22.	108 – LHTF Grantee Responsibilities	<p>Public Hearings: For Local Housing Trust Funds or Regional Housing Trust Funds that are charitable nonprofit organizations who are not part of a municipal government and do not have a public hearing process, we suggest that a meeting held in an accessible location and open to the public constitutes a “public hearing.”</p> <p>Kevin Zwick, CEO, Housing Trust Silicon Valley</p>	<p>HSC §50843.5(g) requires a public hearing. Nonprofit organizations are required, under this section, to hold one public meeting a year to discuss the criteria that will be used to select projects to be funded. That meeting shall be open to the public and public notice of this meeting shall be provided...” The draft guidelines will be amended to add a 10-day public notice requirement for nonprofits. The notice must be posted, at a minimum, on the nonprofit’s website.</p>
23.	109(b) – Encumbrance Deadline	<p>We are concerned that the interest earned on loans of Program Funds may be used to benefit investors in cases where the Grantee is a trust fund that receives funding from private investors with return requirements. We recommend requiring that payment of interest from loans of Program Funds be retained by the Grantee in the Trust Fund account for the purposes set forth in the Program guidelines.</p> <p>Ken Cole, Director, San Mateo County Department of Housing</p>	<p>The Department will expand section 109(b) to add payment of interest and fees, in addition to the repayments of Program Funds, as required to be retained in the trust fund and used for the purposes set forth in the guidelines.</p>

24.	109(c) – Encumbrance Deadline	<p>If a Grantee ceases operations, the County requests that this provision be revised to allow for unencumbered Program Funds to be forwarded to the City or County that created the Trust, to continue monitoring and administration of projects created by the Grantee.</p> <p>Julia Bidwell, Director, Housing & Community Development, Orange County; Adam Eliason, Manager, Orange County Housing Finance Trust</p>	<p>HSC §50843.5(c) and 50843.5(e) prohibit this, requiring unencumbered Program Funds to be repaid to the Department, and requiring payments from any projects funded by the trust fund to be paid to the Department.</p>
25.	101, 106, 112 Activities Requirements	<p>Applicants should be required to comply with both Federal and State laws on Accessibility and Nondiscrimination Requirements. LHTF guidelines should include Fair Housing and Nondiscrimination policies, and should define the term “disability”. Guidelines should include the number of accessible units as a tiebreaker criterion. HCD should require reporting and monitoring of mobility and sensory units in each project that receives Program Funds.</p> <p>Dara Schur, Litigation Counsel and Natasha Reyes, Staff Attorney II, Disability Rights California</p>	<p>The LHTF Program allows diverse eligible housing activities, including assistance to homebuyers and assistance to homeowners to rehab their homes. The recommended amendments do not pertain to homebuyer and homeowner activities. In addition, the LHTF Program is designed so that the Department makes grants to local and regional soft lenders (trust funds), who in turn conduct a process to find eligible, feasible projects, culminating in the trust fund making a loan to the project developer/owner. At the time of application, it is not yet known which projects and/or homebuyer/homeowner activities will be funded through the LHTF grant. The Department does not enter into any legal agreements with the developer/owner of projects that eventually receive a loan from the trust funds; only the trust funds enter into legal agreements with the developers/owners. For these reasons, and in order to prevent confusion about the Department’s role in the LHTF Program, the Department will</p>

			address the Accessibility, Nondiscrimination, and Fair Housing requirements in the Standard Agreement that the Department enters into with the trust funds.
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