

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF FEDERAL FINANCIAL ASSISTANCE  
HOUSING BRANCH**651 Bannon Street, Suite 400  
Sacramento, CA 95811[www.hcd.ca.gov](http://www.hcd.ca.gov)

December 30, 2024

MEMORANDUM FOR: **ALL POTENTIAL APPLICANTS**

FROM: Jenny Cho, Deputy Director  
Division of Federal Financial Assistance

SUBJECT: HOME Investment Partnerships Program (HOME)  
2024 Notice of Funding Availability

The California Department of Housing and Community Development (Department or HCD) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$35 million in federal funds for the HOME Investment Partnerships Program (HOME). Funding for this NOFA is from the Department's Fiscal Year 2024 (FY24) HOME allocation from the U.S. Department of Housing and Urban Development (HUD), plus unencumbered funds and Program Income from previous years' allocations. (Note that the amount of funding available may change due to the factors listed on page 7, Section I (A) of this NOFA). This funding provides loans or grants to eligible HOME Applicants serving households with low- and very low-incomes, defined as at or below 80 percent (80%) of Area Median Income (AMI), and at or below 50 percent (50%) of AMI, respectively. This NOFA is subject to state and federal HOME regulations.

The Department will target 20 percent (20%) of the HOME funding for Eligible Applicants that meet the definition of a Native American Entity as set forth and provided in this NOFA. The Department and HOME Program team will provide comprehensive technical assistance to Native American Entities throughout the application process and during implementation of project or program activities.

**NOTE: In an effort to improve access and equity within the HOME Program, the Department has called attention to tribal-specific information within this NOFA in green font. However, Native American Entity Applicants are encouraged to carefully read through all NOFA contents and application materials thoroughly, not exclusively the green font portions.**

The HOME funds provided through this NOFA will be awarded on a competitive basis to State Recipients, Community Housing Development Organizations (CHDOs), and Developers, as defined in this NOFA. HOME funds awarded to Native American Entities will be on an over-the-counter ("OTC") application basis, as set forth in this NOFA. Funding may be used for the following eligible uses:

### Project Activities

- Multifamily Rental Projects (new construction, acquisition only, and/or rehabilitation with or without acquisition); and
- First-Time Homebuyer (“FTHB”) Projects (subdivision development)

### Program Activities

- First-Time Homebuyer (“FTHB”) Programs, including infill new construction programs where feasible;
- Owner-Occupied Rehabilitation (“OOR”) Programs; and
- Tenant-Based Rental Assistance (“TBRA”) Programs

To be considered for HOME funding, Applicants must submit a complete application for each HOME project activity and/or program activity through a main application (and a sub-application for each program activity, if applicable), with required documentation via the eCivis Grants Management System (“GMS”) Portal only. The Department will begin accepting applications received through the eCivis GMS Portal on **January 24, 2025**. For cities, counties, CHDOs, and Developers, each completed application package must be submitted **no later than 5:00 P.M. Pacific Daylight Time (PDT) on March 24, 2025**.

For Native American Entity Applicants (whether a Federally Recognized Tribe or Non-Federally Recognized Tribe), application packages may be submitted on a continuous, OTC basis until **5:00 P.M. PDT on September 24, 2025**.

### Timeline

NOFA Release	<b>December 30, 2024</b>
Webinars	<b>January 2025</b>
Competitive application submittal period for cities, counties, CHDOs, and Developers	<b>From January 24, 2025, through March 24, 2025, 5:00 P.M. PDT</b>
OTC application submittal period for Native American Entities (NAE-FRTs and NAE-NFRTs)	<b>From <b>January 31, 2025</b>, through <b>September 24, 2025, 5:00 P.M. PDT</b>, or <b>until the available funds are exhausted, whichever occurs first.</b></b>

All activities in this NOFA are subject to the availability of funds and continuing U.S. Department of Housing and Urban Development (“HUD”) and legislative authority.

## Applications

Applicants are strongly encouraged to set up their profiles and upload attachments and documents in the eCivis GMS Portal located at <https://portal.ecivis.com/> *early* to ensure successful submissions prior to the application deadline. If Applicants experience trouble logging into the portal or have questions on how to complete the online application, please contact the Department at [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov).

Assistance setting up a profile, submitting an application, and managing awards through the eCivis GMS portal is available under the Training and Technical Assistance tab on the Department's HOME website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program>. Links to the eCivis GMS Portal, supplemental application forms, regulations, and program information are available at <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program>.

The Department will hold a series of webinars in January 2025 to review the NOFA and application process. A list of webinar dates, times, and how to register is available on the Department's HOME website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program>.

Additionally, one-on-one technical assistance appointments will be offered during the application period to assist Applicants with questions regarding the application and application process. Applicants seeking technical assistance may email [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov) to schedule an appointment. The Department will not accept applications through personal, postal, and/or shipment deliveries, facsimiles, email, walk-in, or any other forms of delivery other than the eCivis GMS Portal.

To receive HOME NOFA FAQs and other program information and updates, please be sure to subscribe to the federal programs email list at <https://www.hcd.ca.gov/contact-us/email-signup>.

Please direct any questions regarding this NOFA to the HOME Program at: [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov).

## Attachments

**HOME INVESTMENT PARTNERSHIPS  
PROGRAM (HOME)  
2024 Notice of Funding Availability**



**Gavin Newsom, Governor  
State of California**

**Tomiquia Moss, Secretary  
Business, Consumer Services and Housing Agency**

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

651 Bannan Street, Suite 400, Sacramento, CA 95811

Website: <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program>

Email address: [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov)

**December 30, 2024**

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# HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) 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 release of this 2024 Notice of Funding Availability (NOFA) for approximately \$35 million in Fiscal Year 2024 (FY24) federal funds for the HOME Investment Partnerships Program (HOME).

This HOME NOFA provides funding for housing project activities and housing program activities in “non-entitlement jurisdictions” (listed in Appendix A), which are jurisdictions and unincorporated areas that do not receive HOME funding directly from HUD. These HOME funds will be used to benefit residents of non-entitlement jurisdictions and are specifically designed to assist low-income households by providing affordable housing. All eligible HOME activities must benefit low-income renters, homebuyers, or homeowners.

The amount of funding available through this NOFA may vary depending on several factors, including, but not limited to, the Department’s administrative determination of need, changes in legislation directing the Department to make additional funds available, new emergency allocations of funding, or newly available funding from the disencumbrance of previous awards. If additional funding becomes available, the Department may continue evaluating the list of eligible Applicants and make awards up to the additional funding amount available or release an additional NOFA to announce the targeted purpose of the funds.

These funds may be used in conjunction with other local, state, and federal rental housing programs to assist the same units in the proposed Project development, not to exceed the HOME Program maximum per-unit subsidy limits and the actual development cost of the unit. All requirements must be met for each funding source, and, if in conflict, the most restrictive programs’ requirements apply. It is the Applicant’s responsibility to review all applicable regulations and/or guidelines which may be amended from time to time for every funding source anticipated to be used in the development of the Project.

All HOME costs must be: (1) necessary, (2) reasonable, (3) contain no duplication of benefit, (4) not be used to supplant local or state resources, (5) free from fraud, and (6) an eligible use of HOME funds.

The funds available in this NOFA will be used to meet the following statewide goals in accordance with the Department’s 2020-2024 Consolidated Plan and the Department’s 2024-2025 Annual Action Plan, as the same may be amended from time to time, serving low-income households earning at or below 80 percent (80%) of Area Median Income (AMI) and very low-income households earning at or below 50 percent (50%) of AMI:

- Increase the supply of affordable rental housing;
- Expand homeownership opportunities and improve existing housing;

- Address and prevent homelessness; and
- Provide recovery assistance for natural disaster survivors

**NOTE: In an effort to improve access and equity within the HOME Program, the Department has called attention to tribal-specific information within this NOFA in green font. However, Native American Entity Applicants are encouraged to carefully read through all NOFA contents and application materials thoroughly, not just the green font portions.**

**B. Timeline**

The following table summarizes the anticipated HOME Program timeline. The Department reserves the right to modify the projected timeline at any time. Any changes to the timeline will be communicated through the Department’s HOME Listserv (<https://www.hcd.ca.gov/contact-us/email-signup>).

<b>Table 1 – Timeline for Competitive Applicants</b>	
NOFA Release	December 30, 2024
eCivis application portal opens	January 24, 2025
Webinars	January 14, 2025 – Program Activities  January 16, 2025 – Rental Projects  January 21, 2025 – First-Time Homebuyer (FTHB) Projects
Competitive application due date for cities, counties, CHDOs, and Developers	March 24, 2025, by 5:00 P.M. Pacific Daylight Time (PDT)
<u>Anticipated Award Announcements</u>  Program Activities  Project Activities with 9% tax credits  Project Activities with 4% tax credits or with no tax credits	July 7, 2025  December 7, 2025*  December 7, 2025*  *Based on volume, these dates may change.



<b>Table 2 – Timeline for Native American Entity Applicants</b>	
NOFA Release	December 30, 2024
eCivis application portal opens	January 31, 2025
Webinar (specifically for Native American Entity Applicants)	January 28, 2025 – Rental Projects and FTHB Projects January 30, 2025 – Program Activities
OTC application due date for Native American Entities (NAE-FRTs and NAE-NFRTs)	September 24, 2025, by 5:00 P.M. PDT, or until the available funds are exhausted, whichever occurs first.
<u>Anticipated Award Announcements</u>	
Program Activities	Continuous
Project Activities with 9% tax credits	Continuous
Project Activities with 4% tax credits or with no tax credits	Continuous

### **C. Authorizing Legislation and Regulation Authority**

This NOFA should be read in conjunction with the following regulations, statutes, and plans, which establish state and federal HOME requirements, as the same may be amended from time to time:

- State HOME Regulations (25 California Code of Regulations “C.C.R.” § 8200 *et seq.*) <https://www.hcd.ca.gov/grants-funding/active-funding/home/docs/State-HOME-Regulations-eff-1-1-2017-FINAL.docx> investment-partnerships-program
- State Uniform Multifamily Regulations (“UMRs”) (25 C.C.R. § 8300 *et seq.*) <https://www.hcd.ca.gov/grants-and-funding/uniform-multifamily-regulations>
- Federal HOME Investment Partnerships Act Statutes at Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S. Code “U.S.C.” 12701 *et seq.* [https://www.hud.gov/sites/documents/19576\\_HOMELAWS.PDF](https://www.hud.gov/sites/documents/19576_HOMELAWS.PDF)
- Federal HOME Regulations (24 Code of Federal Regulations “C.F.R.” Part 92) <https://www.hudexchange.info/programs/home/home-laws-and-regulations/>

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200)  
<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>
- State of California 2024-2025 Annual Action Plan  
<https://www.hcd.ca.gov/policy-and-research/plans-and-reports#:~:text=Annual%20Action%20Plan%202021-2022%20%E2%80%93%20This%20is%20the%20first%20of>

All regulatory references are to the state and federal HOME regulations unless otherwise noted.

Other helpful resources, including HUD Community Planning and Development (CPD) Notices, Policy Memos, and other HUD Policy Guidance for the HOME Program can be found at <https://www.hudexchange.info/programs/home/>.

Several of the terms used in the HOME NOFA have specific meanings defined by state and/or federal HOME regulations. When reviewing this NOFA and the application forms, carefully review the regulations for further defined terms. State HOME definitions are found in 25 C.C.R. § 8201 and 8217 and federal HOME definitions are found in 24 C.F.R. § 92.2.

If state or federal statutes or regulations, or other laws, policies, or procedures governing HOME or its funding are modified by Congress, HUD, the Legislature, or the Department prior to completion of work to be done pursuant to awards made in connection with this NOFA, the changes may become effective immediately and apply to funded activities.

Any inconsistencies between this NOFA and state or federal HOME regulations will be resolved in favor of applicable regulations, unless a waiver or modification was approved by the Director in accordance with AB 1010 (Chapter 660, Statutes of 2019). In those instances, the waiver or modification will prevail when not in conflict with the federal HOME regulations.

The Department reserves the right at its sole discretion to suspend, amend, and/or supplement the provisions of this NOFA from time to time. If such action occurs, the Department will notify interested parties through the Department's HOME Listserv (<https://www.hcd.ca.gov/contact-us/email-signup>).

### Native American Entities

The state requirements set forth in this HOME NOFA are subject to Assembly Bill 1010 (Chapter 660, Statutes of 2019) ("AB 1010") which is set forth in Health and Safety Code (HSC) § 50406(p), which provides: **(a)** where the provisions of tribal law, tribal governance, tribal charter, or difference in tribal entity or legal structure would cause a violation or not satisfy the requirements of the HOME NOFA, said requirements may be modified as necessary to ensure Program compatibility; and **(b)** where the provisions of tribal law, tribal governance, tribal charter, or difference in tribal entity or legal structure or agency create minor inconsistencies (as determined by the Director of the Department or a duly authorized designee thereof) with the requirements set forth in the HOME NOFA, the Department may waive said requirements, as deemed necessary, to avoid

an unnecessary administrative burden. Matters set forth or otherwise provided for in the HOME NOFA that may be modified or waived include, without limitation, threshold scoring requirements and any other matter set forth in HSC § 50406(p)(2).

Native American Entity Applicants, whether federally recognized or non-federally recognized, are accordingly encouraged to discuss any such potential modifications or waivers and their options in that regard at or during an optional pre-application technical assistance meeting. **Native American Entity Applicants should be aware that AB 1010 and the recent legislative change in AB 1878 (Reg. Sess. 2024) allows for the Native American Entity Applicants to apply for a request to modify or waive state HOME statutory and regulatory requirements, or guidelines.** Neither AB 1010 or AB 1878 apply to federal HOME statutory and regulatory requirements; however, there may be other federal laws or federal doctrines that could provide a basis for a possible modification of some federal requirements for Native American Entity Applicants. An example is where a Native American Entity has its own Tribally Determined Wage, in which case [Davis -Bacon wage requirements](#) are not applicable. While AB 1010 requests can be processed at any time, Native American Entity Applicants are encouraged to begin the AB 1010 waiver request process before their application is submitted in order to allow time for the Department to review and make a legal decision on the request.

The Department urges Native American Entity Applicants to discuss possible waiver and modification requests during technical assistance sessions. AB 1010 waiver and modification request data can be accessed at the Department webpage under “Resources” (<https://www.hcd.ca.gov/policy-and-research/native-american-tribal-affairs>).

#### **D. Application Submission Process**

The Department will accept applications submitted via the eCivis application portal under this NOFA. Application acceptance and evaluation is subject to the state and federal regulations and the terms outlined in this NOFA. It is the Applicant’s responsibility to ensure that the submitted application is clear, complete, and accurate.

##### Electronic 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 GMS Portal. Application forms are available on the eCivis GMS Portal, including the Rental Housing Supplemental Application, which is also available on the HOME website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program>.

NOTE: Applications for project activities and program activities are scored and ranked separately. Application requirements include the following:

- Project Activities: One main application must be submitted for each project activity.

- Program Activities: One main application must be submitted, along with a sub-application for each desired program activity.

All applications (including all required sub-applications) must be uploaded to the eCivis GMS Portal no later than the deadlines specified in Section I (B) Timeline of this NOFA.

The Department will not accept applications through personal, postal, shipment deliveries, facsimiles, email, walk-ins, or any other forms of delivery other than the eCivis GMS Portal.

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

The Department may request additional clarifying information from third-party sources, such as local government entities or the Applicant, but this is entirely at the Department's discretion to determine if the Department has authority to make an award. Upon the Department's request, the Applicant shall be given five (5) business days, from the date of staff notification, to submit said documents to clarify the application. The third-party sources shall certify that all evidentiary documents deemed to be missing from the application had been executed, and were in the third-party source's possession, on or prior to, the application filing deadline. For example, an appraisal that existed prior to the application filing deadline may be accepted by the Department as clarifying information.

If the Department still deems the application incomplete, or it fails to provide the minimum requirements, the Applicant may appeal the determination following the guidance in Section IV (E) Appeals of this NOFA.

#### 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.

#### Concurrent Applications

Due to the unique challenges of the current funding environment, the Department allows Applicants to pursue funding from more than one Department funding program. Separate concurrent applications to other HCD program funding sources are permitted under this HOME NOFA. Applicants, however, MUST disclose all Department applications under review and/or applications

anticipated to be submitted, regardless of who is applying for funding (e.g., city, county, Developer, sponsor, etc.).

The HOME Program has strict federal commitment and expenditure deadlines; therefore, if an Applicant submits any other funding applications to the Department after the HOME NOFA application due date, Applicant must notify HOME Program staff via the HOME NOFA mailbox ([HOMENOF@hcd.ca.gov](mailto:HOMENOF@hcd.ca.gov)). If Applicants are competitive for a HOME award, the Department will consult with Applicants to determine the best funding scenario for Project feasibility while balancing cost containment. If the Project receives a state program award after the HOME NOFA application due date, HOME NOFA Applicants may be asked to accept a reduction of any Department-administered state program award by the amount of any HOME Project award.

## E. Definitions

**“Applicant”** is any eligible State Recipient, CHDO, Developer, or Native American Entity which submits an application to the Department to operate Programs or develop or rehabilitate Projects using HOME funds within a specified jurisdictional boundary, in accordance with 25 C.C.R. § 8201 and 8204 and HSC § 50896. A Developer of a Project shall not act as administrative subcontractor for the activity.

**“At Risk of Homelessness”** means the same as defined under the federal Continuum of Care Program at 24 C.F.R. § 578.3, as may be amended and renumbered from time to time.

**“Awardee”** means the eligible Applicant (and, if applicable, the Co-Applicant) that has been awarded funds from the Department under the HOME Program, and that will be held responsible for compliance with and performance of all HOME requirements.

**“Choice-Limiting Actions”** means an action that may have an adverse impact on the environment or limit the choice of reasonable alternatives. A Choice-Limiting Action may include, but is not limited to, executing a purchase and sale agreement, signing a lease agreement, real property acquisition, rehabilitation, repair, demolition, disposition, or new construction. For the purposes of environmental review, the Project is the aggregation of all activities that are required to build the Project and must be included in the scope of the environmental review. Even if HOME funds are used to pay for only a portion of the overall Project, Awardees and Subrecipients must be aware of activities that are considered Choice-Limiting Actions, because taking such actions before the completion of the HUD Environmental Review process can automatically disqualify the project from receiving federal funds. Activities listed at 24 C.F.R. § 58.35(b) that are Categorically Excluded Not Subject To 24 C.F.R. § 58.5 (e.g., Tenant-Based Rental Assistance, provision of services) are not Choice-Limiting Actions.

**“Developer”** means any legal entity, **including Native American Entities (Native American Entities-Federally Recognized Tribes and Native American Entities-**

Non-Federally Recognized Tribes), that will provide or arrange for design, financing, and construction services in connection with a housing Project as set forth in 25 C.C.R. § 8201(i). A nonprofit organization, formed as a special purpose entity in compliance with 25 C.C.R. § 8313.2, by a Non-Federally Recognized Tribe (NAE-NFRT) as defined herein, may be considered a Developer if the NAE-NFRT satisfies all other Developer eligibility requirements.

**“Enforceable Funding Commitment”** means a letter or other document, in form and substance satisfactory to the Department, which evidences an enforceable commitment of funds or a reservation of funds by a Project funding source, and which contains the following:

- The name of the Applicant;
- The Project name;
- The Project site address, assessor’s parcel number, or legal description; and
- The amount, interest rate (if any), and terms of the funding source.

The Enforceable Funding Commitment may be conditioned on certain standard underwriting criteria, such as appraisals, but may not be generally conditional. Examples of unacceptable general conditions include phrases such as “subject to senior management approval,” or a statement that omits the word “commitment,” but instead indicates the lender’s “willingness to process an application” or indicates that financing is subject to loan committee approval of the Project.

Note: Contingencies in commitment documents based upon the receipt of low-income housing tax credits do not count as committed for purposes of gaining points in this scoring category.

**“Homeless” or “Homelessness”** means the same as defined under the federal Continuum of Care Program at 24 C.F.R. § 578.3, as may be amended and renumbered from time to time. “Homeless” includes “Chronically Homeless” and “Homeless with a Disability.”

**“Homeownership”** means ownership in fee simple title of a 1- to 4-unit dwelling or condominium unit, or equivalent form of ownership approved by HUD.

- (1) The land may be owned in fee simple, or the homeowner may have a 99-year ground lease.
  - (i) For housing located in the insular areas, the ground lease must be 40 years or more.
  - (ii) For housing located on Native American Lands as defined in 25 C.C.R. § 8201(y)(1), the ground lease must be 50 years or more.
  - (iii) For manufactured housing, the ground lease must be for a period at least equal to the applicable period of affordability in 24 C.F.R. § 92.254.

**“Local Agency”** means a city, county, city and county, or a Native American Entity that is a duly constituted governing body of an Indian Reservation or Rancheria, in accordance with HSC § 50077.

**“Local Public Entity”** means any county, city, city and county, Native American Entity that is a duly constituted governing body of an Indian Reservation or Rancheria, redevelopment agency organized pursuant to Part 1 (commencing with section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with section 34200) of Division 24, in accordance with HSC § 50079.

**“Native American Entity” (“NAE”)** means an “Indian Tribe” or a “Tribally Designated Housing Entity” that is any of the following: a) Applicant meets the definition of Indian Tribe under Section 4103(13)(B) of Title 25 of the United States Code; b) Applicant meets the definition of Tribally Designated Housing Entity under 25 U.S.C. 4103(22); or c) If Applicant is not a federally recognized tribe as identified above, Applicant is either: (1) Listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to 25 C.F.R. Part 83.1; or (2) 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 GC Section 65352.3, and 3) has formed and controls a special purpose entity in compliance with 25 C.C.R. § 8313.2.

**“Native American Entity – Federally Recognized Tribe (“NAE-FRT”)** means any Tribal Government which is a federally recognized tribe as defined at 25 U.S.C. section 4103(13)(B) and includes a duly constituted governing body of an Indian Reservation or Rancheria as Health and Safety Code section 50077 and 50079; or is a Tribally Designated Housing Entity under 25 U.S.C. section 4103(22).

A NAE-FRT may apply as a State Recipient or Developer for HOME Funds.

**“Native American Entity – Non-Federally Recognized Tribe” (“NAE-NFRT”)** means any Tribal Government which is an Indian Tribe located in California that is not a federally recognized tribe and is either: (1) listed in the Bureau of Indian Affairs Office of Federal Acknowledgment Petitioner List, pursuant to 25 C.F.R. Part 83.1, and has formed and controls a special purpose entity in compliance with 25 C.C.R. § 8313.2; or (2) listed on the contact list maintained by the California Native American Heritage Commission for the purposes of consultation pursuant to Government Code (GC) § 65352.3, and (3) has formed and controls a special purpose entity in compliance with 25 C.C.R. § 8313.2.

A NAE-NFRT may apply as only a Special Purpose Entity Developer for HOME funds for project activities.

**“Native American Lands”** means real property located within the State of California that meets the following criteria: (1) is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States; and the land may be leased for housing development and residential purposes under federal law; or

(2) lands outside the jurisdiction of tribal government owned or co-owned by a Native American Entity in accordance with 25 C.C.R. § 8201(y).

**“Native American Entity (NAE) Service Area”** means the area where the Project is located within the Native American Lands and includes lands outside the NAE tribal government jurisdiction up to 100 miles from the boundary of the NAE trust or restricted land as defined at 25 U.S.C. 2201 that is within non-entitlement jurisdictions.

**“Project”** means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking. The Project includes all the activities associated with the site and building. For program activities, such as First-time Homebuyer (FTHB), Owner-Occupied Rehabilitation (OOR), and Tenant-Based Rental Assistance (TBRA), “Project” means assistance to one or more families.

**“Project Commitment”** means the date the state has executed a Standard Agreement with an Awardee that includes the date and signature of each person signing the agreement, and that meets the minimum requirements of a Standard Agreement as defined in 24 C.F.R. § 92.504(c).

If the Department or the Awardee is providing HOME First-time Homebuyer (FTHB) Assistance to a family to acquire single-family housing, the Department or Awardee and the family must have an executed written agreement under which the HOME assistance will be provided, and the property title must be transferred to the family or purchaser within six months of the agreement date.

If the Department or Awardee is providing HOME assistance to a family in the form of Tenant-Based Rental Assistance (TBRA), the Department or the Awardee must have an executed rental assistance agreement with the owner or the tenant in accordance with the provisions of 24 C.F.R. § 92.209.

For State Recipient Awardees, Project Commitment means the date when the written agreement is executed by the Awardee and the Developer(s) of the Project.

**“Project Completion”** means that all necessary title transfer requirements and construction work have been performed; the Project complies with HUD’s requirements, including the property standards at 24 C.F.R. § 92.251; the final drawdown of HOME funds has been disbursed for the Project; and the Project Completion information has been entered into HUD’s disbursement and information system. For tenant-based rental assistance, Project Completion means the final drawdown has been disbursed for the Project. The Department may also require a recorded Notice of Completion, Certificate of Occupancy, and/or evidence of stabilized rents to demonstrate Project Completion. Pursuant to 24 C.F.R. § 92.502(d), Project Completion must occur within 120 days of final disbursement of funds.

**“Special Needs Population(s)”** means the same as defined in the Multifamily Housing Program guidelines: people with disabilities; At Risk of Homelessness; individuals with substance use disorders; frequent users of public health or mental



health services, as identified by a public health or mental health agency; individuals who are fleeing domestic violence, sexual assault, or human trafficking; individuals who are experiencing Homelessness and individuals experiencing Chronic Homelessness; homeless youth as defined in California Government Code § 129571(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; individuals exiting from institutional settings or at risk of placement in an institutional setting; older adults in need of supportive services; or other specific groups with unique housing needs as determined by the Department. “Special Needs Populations” do not include seniors unless they otherwise qualify as a Special Needs Population.

**“Special Purpose Entity”** means the legal entity or combination of legal entities with continuing control of the HOME Project that meets the requirements of 25 C.C.R. § 8313.2.

**“State Recipient”** means a “unit of general local government” designated by the state to receive HOME funds, in accordance with 24 C.F.R. § 92.201(b)(2) and 25 C.C.R. § 8201(ii), [including NAE-FRTs](#).

**NOTE:** HUD has opined in a HUD letter to the Department dated March 16, 2016, that NAE-FRTs are considered a “unit of general local government” and thus eligible for HOME funds as a State Recipient. The Department, upon request, will produce a copy of the HUD letter dated March 16, 2016.

**“Subrecipient”** means a public agency or nonprofit organization selected by the Department to administer a portion of the state HOME Program to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance. Per 24 C.F.R. 92.2, a public agency or nonprofit organization that receives HOME funds solely as a Developer or owner of a housing project is not a Subrecipient.

**NOTE:** HUD has opined in a HUD letter to the Department dated March 16, 2016, that the definition of “public agency” is construed broadly to mean “governmental entity” and thus includes NAE-FRTs to be eligible for HOME funds as a Subrecipient.

## **II. Program Requirements**

The following is provided as only a summary and is not to be considered a complete representation of the entirety of the eligibility, threshold, or other requirements or terms and conditions of the HOME Program.

### **A. Eligible Applicants**

#### **1. State Recipients, as defined by this NOFA, [including NAE-FRTs](#)**

To meet the definition of an eligible State Recipient, Applicants must meet the following criteria:

- a. Have not been designated as a HOME Participating Jurisdiction by HUD;
- b. Are not participants in an Urban County Agreement with a county that is

designated as a Participating Jurisdiction;

- c. Are not participants in a HOME Consortium; and
- d. Are proposing project or program activities that will be located or carried out in the Applicant's defined service area. Generally, this will be within the Applicant's city limits, a county's unincorporated area, **or on or within 100 miles of Native American Lands as defined in 25 C.C.R. § 8201(y)(1) and within non-entitlement jurisdictions.**

**NOTE: NAE-FRTs must carry out program activities within the defined NAE Service Area. NAE-FRTs must carry out project activities located within the state HOME Program's non-entitlement jurisdictional boundaries, which includes Native American Lands located within California.**

Eligible city and county jurisdictions for 2024 federal HOME funds are listed in Appendix A. If a jurisdiction is not listed in Appendix A and is seeking a determination of eligibility by the Department, the jurisdiction must submit a copy of the consortium or urban county agreement indicating that the jurisdiction is not a participant of a FY 2024-2025 HOME consortium or Urban County Agreement. The agreement must be submitted no later than April 16, 2025, to the Department at [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov).

When a State Recipient partners with a Developer for a project activity, the State Recipient must document its own experience implementing local, state, or federal funding for affordable housing (creation or preservation of) and/or community development projects. The Developer is the entity that the Department relies upon for experience and capacity and must control the Project during acquisition (site control), development, and occupancy. Developers must satisfy all other eligibility requirements detailed in this NOFA including, but not limited to, experience and capacity requirements.

NOTE: Developer experience can be used to meet the minimum experience requirements for only one Developer application in this NOFA round. Developers may not submit separate HOME applications under the name of another entity over which they exercise control, as a way to get around the one application limit. A Limited Partnership (LP) is not considered an eligible Applicant/Awardee but may be the ultimate borrower under specific circumstances. If an eligible Applicant intends to create a LP, please consult with HOME staff prior to submitting an application.

2. Eligible CHDOs (State-certified Community Housing Development Organizations (CHDOs) as defined by 25 C.C.R. § 8201(f))

- a. CHDO Applicants must meet all the requirements found at 24 C.F.R. § 92.2 at the time of application submittal and be certified by the Department prior to any project activity or program activity funding award through this NOFA.
- b. CHDO Applicants are required to submit through the eCivis GMS Portal the following documents required to complete the certification review prior

to, or as part of, the application package:

- (1) A copy of the letter from the Internal Revenue Service demonstrating exemption under Section 501(c)(3) or (4) and evidence of good standing from the California Franchise Tax Board dated no more than 12 months prior to the date Applicant applies for certification.
- (2) A copy of the organization's financial statements dated no more than 12 months prior to the date Applicant applies for certification.
- (3) A copy of the organization's bylaws, containing at a minimum, the governing board composition, the fulfillment and maintenance of the 1/3 low-income representation requirement found in 24 C.F.R. § 92.2, description of the manner in which board members are selected, evidence of purpose of the organization that complies with the requirement in 24 C.F.R. § 92.2, and disclosure of relationships with for-profit individuals and/or entities, if any, as they relate to the governance of the organization.
- (4) A copy of the organization's articles of incorporation and any amendments.
- (5) A copy of Certificate of Status from the California Secretary of State dated no more than 12 months from the date of application of certification.
- (6) A description of the formal process used to solicit advice from low-income beneficiaries in decisions regarding design, citing, development, and management of affordable housing.
- (7) A plan that describes tenant participation in management decisions for rental projects and the proposed fair lease and grievance procedures pursuant to 24 C.F.R. § 92.303.
- (8) A list of current staff members responsible for HOME activities, with resumes. If staff do not have capacity, a commitment to hire an experienced consultant and a training plan must be submitted with the application for certification. For its first year of operating as a CHDO, an organization may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization.
- (9) Evidence of the Applicant's history serving the community where the HOME assisted housing will be located.
- (10) A list of current board members, their occupations, and the names of their employers.
- (11) A document that demonstrates to the satisfaction of the Department that any and all audit findings will have been resolved prior to receiving Department funding.
- (12) Evidence the CHDO has not been debarred or suspended from participation in federal or state housing or community development projects or programs.

(13) Board Member Certifications completed and signed by each Board Member.

c. Projects being funded through this NOFA with the CHDO set-aside are required to be “owned, developed, or sponsored” by an eligible state certified CHDO. “Owned, developed, and sponsored” are defined at 24 C.F.R. § 92.300 as:

(1) Owner: Rental housing is “owned” by the CHDO if the CHDO is the owner in fee simple absolute of multifamily or single-family housing (or has a long-term ground lease meeting the requirements of 25 C.C.R. § 8316) for rental to low-income families in accordance with 24 C.F.R. § 92.252. If the housing is to be rehabilitated or constructed, the CHDO hires and oversees the Developer that rehabilitates or constructs the housing. At minimum, the CHDO must hire or contract with an experienced Project manager to oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a Developer or general contractor, overseeing the progress of the work, and determining the reasonableness of costs. The CHDO must own the rental housing during development and for a period at least equal to the period of affordability. If the CHDO acquires housing that meets the property standards in 24 C.F.R. § 92.251, the CHDO must own the rental housing for a period at least equal to the period of affordability.

This option is available to CHDOs with experience and capacity to own and operate affordable rental housing but without the experience or capacity to develop the Project. This option is not available if the Project is owned by a limited partnership entity (see Sponsor paragraph below).

(2) Developer: The CHDO may act as Developer if the CHDO is the owner of multifamily or single-family housing in fee simple absolute (or has a long-term ground lease meeting the requirements of 25 C.C.R. § 8316) and the Developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for rent to low-income families in accordance with 24 C.F.R. § 92.252. To be the Developer, the CHDO must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers, and general contractors, overseeing the progress of the work, and determining the reasonableness of costs. At a minimum, the CHDO must own the housing during development and for a period at least equal to the period of affordability specified in 24 C.F.R. 92.252.

This option is not available if the Project is owned by a limited partnership entity (see Sponsor paragraph below).

CHDOs are not allowed to act as Developer in Projects where the CHDO does not have a long-term ownership interest and contractual relationship with the Project owner (i.e., a Development Services Agreement) to develop the Project.

- (3) Sponsor: 24 C.F.R. Part 92 provides two explanations of what it means to “sponsor” a HOME-assisted rental housing Project.
- a) A CHDO “sponsors” a Project when the property is “owned” or “developed” by:
    - An affiliated subsidiary of the CHDO, which is wholly owned by the CHDO;
    - A limited partnership of which the CHDO or its wholly owned affiliated subsidiary is the sole general partner; or
    - A limited liability company of which the CHDO or its wholly owned affiliated subsidiary is the sole managing member.
  - b) A CHDO may “sponsor” a Project in situations where the CHDO owns the property (in fee simple absolute), develops the housing, and agrees to convey the housing to a different private nonprofit organization at a predetermined point in time after Project Completion. The nonprofit to which the Project will be conveyed does not need to be a CHDO but must be identified and approved by the Department prior to Project Commitment of HOME funds. Additionally, this nonprofit cannot be created by a governmental entity. If for any reason the Project is not transferred to this nonprofit, the CHDO remains liable for the HOME funds and Project for the term of the affordability period.
  - c) If awarded HOME funds, CHDOs must obtain all necessary permanent Project financing, including the permanent financing for the required period of affordability, and must execute a Standard Agreement with the Department pursuant to 25 C.C.R. § 8217(b)(1).
- d. CHDO FTHB Projects and Infill New Construction site control and ownership requirements:
- (1) Housing for homeownership is “developed” by the CHDO if the CHDO is the owner (in fee simple absolute) and developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for sale to low-income families in accordance with 24 C.F.R. § 92.254.
  - (2) Pursuant to 24 C.F.R. § 92.300(a)(6)(i), to be the “developer,” the CHDO must arrange financing of the Project and be in sole charge of construction. The CHDO may provide direct homeownership assistance (e.g., down payment assistance) when it sells the housing to low-income families and the CHDO will not be considered a subrecipient. The HOME funds for down payment assistance shall not be greater than 10 percent (10%) of the total amount of HOME funds awarded for development of the housing.
  - (3) The state or the State Recipient must determine and set forth in its written agreement with the CHDO the actual sales prices of the housing or the method by which the sales prices for the housing being developed will be established.

- (4) Prior to award, CHDOs must be certified to serve the jurisdiction in which the Project is located, and the jurisdiction must be eligible to receive state HOME assistance funds.

### 3. Eligible Developers, as defined by this NOFA

The Developer applying for the HOME funding is the entity that the Department relies upon for experience and capacity and must control the Project during acquisition (site control), development, and occupancy. Developers must satisfy all other eligibility requirements detailed in this NOFA including, but not limited to, experience and capacity requirements.

Developers may partner with a State Recipient Applicant in addition to submitting one application on its own, however both applications must not be for the same Project.

NAE-NFRTs may apply for HOME funds only as Developers and are not eligible to apply as State Recipients or CHDOs. NAE-NFRTs applying as Developers may apply only for project activities.

NOTE: Developer experience can be used to meet the minimum experience requirements for only one Developer application in this NOFA round. Developers may not submit separate HOME applications under the name of another entity over which they exercise control as a way to get around the one application limit. A Limited Partnership (LP) is not considered an eligible Applicant/Awardee but may be the ultimate borrower under specific circumstances. If an eligible Applicant intends to create a LP, please consult with HOME staff prior to submitting an application.

## **B. Additional HOME Eligibility Criteria**

### 1. Minimum Expenditure Requirement for Program Activities (50 Percent Rule)

Pursuant to 25 C.C.R. § 8204(b), Applicants with current HOME Program activities contracts for which the expenditure deadline established in the contract(s) has not yet passed shall be ineligible to apply for a program activity unless the Applicant has expended at least 50 percent (50%) of the aggregate total of program funds originally awarded by this NOFA's applicable application due date.

Potential Applicants with no current HOME Program activities contracts are not affected by this rule.

“Expended Funds” are the total of all valid Administrative and Project Drawdown Requests (PDRs) or, for TBRA, future commitments on Project Set-up Reports received by the Department by the NOFA application deadline. Additionally, for FTHB and OOR, a valid PDR is limited to the amount needed for reimbursement of actual expenses for work that has been completed (Work Completed). Work Completed varies by activity as follows:

- a. FTHB activity: escrow has closed, as evidenced by a final HUD Settlement Statement.
- b. OOR activity: construction completed and inspected.

- c. TBRA activity: rental payment assistance amount multiplied by the number of months in the individual tenants' TBRA agreements, to the extent those funds are available in existing TBRA grants.
2. Applicants must be in good standing with the State of California and all agencies and departments thereof. For example, 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.

**C. Eligible Activities (Pursuant to 24 C.F.R. § 92.205(a))**

1. Project Activities — Eligible HOME project activities are as follows:

a. Rental Projects

- (1) Rental New Construction Projects — funds are provided to develop a specific multifamily Project on a specific site by a specific Developer. Rental new construction Projects may be with or without acquisition of the property; or
- (2) Rental Rehabilitation Projects — funds are provided to rehabilitate a specific rental Project on a specific site by a specific Developer, with or without acquisition of the property; or
- (3) Rental Acquisition Projects — funds are provided to acquire a specific rental Project that meets all HOME requirements including property standards.

Applicants requesting project activities funding for a rental Project consisting of multiple sites must be in compliance with 25 C.C.R. § 8303(b).

b. First-Time Homebuyer (FTHB) Projects

Construction financing must include the following:

- (1) New construction or acquisition/rehabilitation/conversion to develop homes on specific site(s).
- (2) All (100 percent) of the HOME investment rolls over to permanent financing to provide mortgage assistance to eligible first-time homebuyers when the units are sold to eligible homebuyers.

NOTE: Rental and FTHB Projects with multiple sites must have common ownership and financing.

2. Program Activities — Eligible HOME Program Activities are as follows:

a. First-Time Homebuyer (FTHB) Program

- (1) Acquisition-only Down Payment Assistance – funds are awarded to HOME-eligible Applicants to provide individual loans to homebuyers to purchase modest dwellings selected from the open market.

NOTE: CHDOs are ineligible for this activity.

(2) Infill New Construction – funds are awarded to eligible State Recipients or CHDOs to provide assistance for the new construction of dwellings on scattered sites, with no more than four dwellings per vacant site, subject to the following requirements:

- Pursuant to federal National Environmental Policy Act (NEPA) requirements, an environmental assessment (EA) will be required, regardless of the funding source, if there are more than four units developed within 2,000 feet of one another.
- Pursuant to the HOME NOFA, to be considered an Infill New Construction program the Applicant must assume the role of Developer, own the property during construction, and sell the home to an eligible homebuyer within nine (9) months of Project Completion. All dwellings must be situated on land where site control is established through fee simple, leasehold, or another manner approved in writing by the Department, and be affixed to a permanent foundation at the time of construction closing. Please note, Section II (A) and Section IV (A) of this NOFA further specify site control requirements for Infill New Construction Projects.

Pursuant to 25 C.C.R. § 8207, the FTHB primary mortgage loan must be fully amortized and have a fixed interest rate that does not exceed the current market rate by more than 100 basis points (1%), based on the Freddie Mac 30-year Fixed Rate Mortgage rate at <https://www.freddiemac.com/pmms>.

b. Owner-Occupied Rehabilitation (OOR) Program

Funds are provided to HOME-eligible Applicants to assist individual homeowners whose primary residence needs repairs, improvements, or reconstruction necessary for correction of any health and safety deficiencies, and to meet locally adopted standards used for rehabilitation Projects.

“Reconstruction” means demolition and rebuilding on the same residential lot. This includes homes destroyed by natural causes if HOME funds are committed within 12 months of the date of destruction.

c. Tenant-Based Rental Assistance (TBRA) Program

Funds are provided to HOME Applicants to provide rent subsidies and/or security deposits to eligible households. The minimum term of rental assistance to an eligible household is six months; however, the tenant must be initially offered a one-year lease. TBRA funds may be



used to assist tenants to reside in any state HOME-eligible jurisdiction within the county where the TBRA funds were awarded. **TBRA funds awarded to NAE-FRTs must be used to assist tenants with housing within the NAE Service Area of the NAE-FRT Applicant.**

For example, TBRA funds awarded to the City of Winters can also be used for units located in West Sacramento, Woodland, and the unincorporated areas of Yolo County, since these jurisdictions are state HOME eligible within Yolo County, but they may not be used in Davis, which is not state HOME eligible.

#### **D. Ineligible Use of Project Funds**

Pursuant to 24 C.F.R. § 92.214, federal HOME funds cannot be used for several items, including, but not limited to:

1. Initial deposits to replacement reserves as required by 25 C.C.R. § 8309. Therefore, in a Project where HOME is the only source of financing, or if other funding sources cannot pay for these costs, the Developer must pay them;
2. Providing tenant-based rental assistance for the special purposes of the existing Section 8 program;
3. Providing non-federal matching contributions required under any other federal program; and
4. Applicants may not charge servicing, origination, or other fees for the purpose of covering costs of administering the HOME Program (e.g., fees on low-income families for construction management or for inspections for compliance with property standards) (see 24 C.F.R. § 92.206(d)(6) and § 92.207), with exceptions referenced in 24 C.F.R. § 92.214(b)(1).

In accordance with the Department's 2024-2025 Annual Action Plans, HOME funds may not be used to pay for the cost to refinance existing Project debt.

Pursuant to 24 C.F.R. § 92.206(a)(4), HOME funds cannot pay for the costs associated to construct or rehabilitate laundry and/or other community facilities located in separate buildings containing no residential units. In addition, any community facilities must be for the exclusive use of the residents and their guests.

Pursuant to 24 C.F.R. § 92.206 (b)(2)(vi), federal HOME funds cannot be used to refinance single family or multifamily housing loans made or insured by any federal program, including CDBG.

Additionally, HOME funds cannot provide a duplication of benefit or supplant any other federal, state, or local funds previously committed to the Project.

For further ineligible uses of HOME funds, refer to 24 C.F.R. § 92.214.

**E. Activity Combination and Limits**

State Recipients (excluding Developers and CHDOs) may apply for multiple eligible activities as follows:

1. One rental Project and one FTHB Project; or
2. One rental Project and any combination of eligible program activities; or
3. One FTHB Project and any combination of eligible program activities, except for a FTHB program.

CHDOs may apply for multiple eligible activities as follows:

1. One rental Project and one FTHB Project; or
2. One rental FTHB Project and one FTHB program activity for infill new construction.

Developers (not applying through a State Recipient) may submit one application pursuant to this NOFA.

This application may consist of only one eligible activity as follows:

1. One rental rehabilitation Project, with or without acquisition; or
2. One rental new construction Project, with or without acquisition.

NOTE: Using both HOME FTHB project activity funds and HOME FTHB program activity funds for the same Project is not permitted.

**F. Allocation of Funding**

To promote equitable distribution of HOME Program funds, funding made available by this NOFA will be allocated in accordance with the state regulations and funding targets cited below, to the extent eligible applications are submitted to the Department.

<b>Table 3 - Allocation of Funding</b>	
<b>Funding Targets and Statutory Set-Asides (not including the Department’s administrative costs)</b>	<b>Amount</b>
<p><b>CHDO Set-Aside</b></p> <p>Pursuant to 24 C.F.R. § 92.300(a), the Department will allocate 15 percent (15%) of total funds available for housing to be owned, developed, or sponsored by CHDOs.</p>	\$ 5,273,980
<p><b>Program Activities Funding Target</b></p> <p>Pursuant to 25 C.C.R. § 8212.1, the Department will allocate 40 percent (40%) of total funds available for program activities.</p>	\$ 14,454,611

<p><b>Rental Projects Funding Target</b></p> <p>Pursuant to 25 C.C.R. § 8212.1, the Department will allocate 55 percent (55%) of total funds for rental Projects.</p>	\$ 19,923,923
<p><b>First-Time Homebuyer Projects Funding Target</b></p> <p>Pursuant to 25 C.C.R. § 8212.1, the Department will allocate 5 percent (5%) of total funds available for FTHB Projects.</p>	\$ 1,757,993
<p><b>Rural Areas Funding Target</b></p> <p>Pursuant to 25 C.C.R. § 8212 (b)(3), the Department will reserve a minimum of 50 percent (50%) of total funds available for Rural areas as defined in the HSC § 50199.21.</p>	\$ 17,579,932
<p><b>Native American Entity Funding Target</b></p> <p>The Department will target 20 percent (20%) of total funds available for Native American Entity Applications (as either State Recipients or Developers).</p> <p>Please note, NAE-NFRTs cannot apply for HOME funds as State Recipients.</p>	<b>\$ 7,031,973</b>

25 C.C.R. § 8213(d) specifies that in the event there are insufficient monies to fund an Applicant’s entire program activities funding request, the Applicant may be offered a lower amount of funding. The lower amount of funding may be offered only if the funding is sufficient to complete a portion of the application activities, which, if evaluated separately, would have been awarded. If the amount of funding available is insufficient, the available funds may be allocated to another feasible program activities application.

If applications from Native American Entities total less than the funding target, the portion not awarded will roll over to the competitive portion of the NOFA for all other Applicants.

If the NOFA results in insufficient applications to meet a state statutory set-aside or funding target, the portion of the funding target not awarded will roll over to fund other competitive Applications. For example, if applications received for the program activities funding target are undersubscribed, the Department may use the funds of the remaining program activities target to award applications received for project activities.

If the NOFA results in insufficient applications to award all available funds, the Department reserves the right to reopen the application submission period on an OTC first come, first served basis, through the date of the next NOFA release, or until the available funds are exhausted, whichever occurs first.

## G. Activity Funding Amounts and Limits

CHDOs may apply for up to \$4,500,000 for a multifamily rental Project and up to \$75,000 for CHDO operating costs, for a total maximum request of \$4,575,000.

Developers may apply for up to \$4,500,000 for a Project. Developers are not eligible for reimbursement of administrative costs or Project-related soft costs.

Prior to issuing the Award letter, the Department will evaluate the financial feasibility of each Project and may, as necessary for Project feasibility or to prevent over subsidizing a Project in accordance with 25 C.C.R. § 8300 *et seq.*, decrease the HOME award amount.

State Recipients (excluding Developers) may apply for up to \$4,500,000 for a multifamily rental Project, up to \$50,000 for administrative costs, and up to \$50,000 for Project-related soft costs, for a maximum total request of \$4,600,000. Please note that Project-related soft costs are included in the maximum per-unit-subsidy limit.

For State Recipient Applicants, maximum award limits apply *only* to the amount of HOME funds requested through this NOFA and do not include any HOME Program Income (PI) the Applicant proposes to use. Applicants are encouraged to use HOME PI on hand and any HOME (PI) that the Applicant intends to use for the project activity must be included in the application budget. For example, if an Applicant has \$1,000,000 of HOME PI on hand and intends to use this PI as a funding source for the current HOME application's project activity, the HOME PI and grant combined amount must be included in the loan to the Developer. In this case, the HOME award amount may exceed the maximum award limit by \$1,000,000.

NOTE: The total combined amount of HOME funds requested (including the HOME grant/loan amount plus any PI proposed for the project) is subject to the HOME maximum per-unit subsidy limits.

### Homebuyer Project Loan Limits:

- Down Payment assistance cannot exceed the percentage indicated in the Applicant's approved First Time Homebuyer Guidelines of the proposed unit sales price plus closing costs. Applicants will need to consider the income levels of the pool of potential participants to determine the amount of HOME funds needed to complete the project and ensure each beneficiary is provided HOME down payment assistance based on need and remain within the HOME Program maximum per-unit subsidy limits.

- The HOME Program maximum per-unit subsidy limits and the HOME Homeownership Value Limits apply. All loan amounts will be verified by a subsidy layering analysis, and loan amounts will be reduced if the amount requested exceeds what is needed.

Project Activity Funding Limits

<b>Table 4 - Funding Limits by Project Activity</b>	
Rental new construction or rehabilitation with or without acquisition	\$4,500,000
FTHB Projects	\$2,000,000
CHDO Operating Grant*	\$75,000
Administrative Grant*	\$50,000
Project-Related Soft Costs Grant*	\$50,000

\*See Section II (K) and (L) of this NOFA for guidance.

Minimum Amount of Funds per Project

The minimum amount of HOME funds that must be invested in a rental or homeownership housing Project is \$5,000 per HOME-assisted unit in the Project. For example, a homeownership housing Project with 30 units, of which 15 units are HOME-assisted, requires a minimum HOME investment of \$75,000.

This requirement does not apply to TBRA funding.

Maximum Amount of Funds per Project

The maximum amount of HOME funds invested in a Project, direct beneficiary assistance, and Project-related soft costs, shall not exceed the lower of:

- a. HOME Program maximum per-unit subsidy limits, established by HUD (at the time of application), under 24 C.F.R. § 92.250; or
- b. Pursuant to 24 C.F.R. § 92.205(d)(1), only the actual HOME-eligible development costs of the assisted units may be charged to the HOME Program. If the assisted and non-assisted units are comparable in terms of size, features, and number of bedrooms, the actual cost of the HOME-assisted units can be determined by prorating the total HOME eligible development costs of the Project so that the proportion of the total development costs charged to the HOME Program does not exceed the proportion of the HOME-assisted units in the Project. If the assisted and

non-assisted units are not comparable, the actual costs may be determined based on a method of cost allocation; and

- c. The amount of HOME funds invested in a Project (when combined with other financing and assistance), must accomplish the following:
  - i. Enable the Project as proposed to be developed and operate in compliance with all HOME requirements, including the subsidy-layering requirement at 24 C.F.R. § 92.250. For more information, see [HUD CPD Notice 15-11: Requirements for the Development and Implementation of HOME Underwriting and Subsidy Layering Guidelines](#)
  - ii. For rental Projects, achieve a debt-service coverage ratio in accordance with 25 C.C.R. § 8310.

The current income and rent limits (at the time of application) must be used in these calculations. They are located on the Department's website at: <https://www.hcd.ca.gov/grants-and-funding/income-limits/state-and-federal-income-rent-and-loan-value-limits>. The current HOME Program maximum per-unit subsidy limits are also incorporated into the application forms required to be completed when responding to this NOFA.

FTHB and OOR activities are also subject to the HOME Homeownership Value Limits (at the time of application), also located on the same website.

A Project may receive only one HOME award as a result of this NOFA. This prohibits the combination of awards to a State Recipient, Developer, and/or CHDO on the same Project.

Pursuant to 24 C.F.R. § 92.250, before committing funds to a Project, the Department must evaluate the project in accordance with the UMRs and will not invest any HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing. HOME Projects may not receive more subsidy than what is required to make them financially feasible.

## Program Activities Funding Limits

Maximum: \$1,000,000 (including general administrative costs and Project-related soft costs). Minimum: \$500,000. Applies to HOME-eligible Applicants for all program activities, subject to the following chart:

<b>Table 5 – Program Activities Funding Limits Based on HOME Expenditure Rate* Achieved</b>	
<b>Aggregate Expenditure Rate for Applicant’s Recent Program Activities Contracts (16-HOME, 18-HOME, and 19-HOME)</b>	<b>Maximum Application Amount</b>
75 percent or more	\$1,000,000
50 – 74.99 percent	\$700,000
0 – 49.99 percent	\$500,000

\*See “Expended Funds” definition in this NOFA’s Section II (B) (1).

NOTE: Applicants that did not have any of these HOME Program activities contracts may apply for up to \$500,000

Successful Applicants (Awardees) will be evaluated quarterly to determine if their progress and rate of expenditure is reasonable. The Department may disencumber all or a portion of the grant if there is an unreasonably low rate of expenditure, as determined by the Department in its sole discretion.

### **H. Program Income and Recaptured Funds**

Federal regulations at 24 C.F.R. § 92.503 require all Program Income (PI) and Recaptured Funds (RF) to be used in accordance with HOME regulations only for HOME-eligible activities, and PI funds on hand must be maintained in an interest-bearing account. Interest earned on those funds is considered PI. To avoid de-committing appropriated grant funds from a specific Project, HOME PI may be accumulated throughout the current reporting period (state fiscal year) but must be committed to a Project in the next state fiscal year. Approval from the Department is required prior to the use of all HOME PI and RF.

The PI received during the current reporting period, as well as PI anticipated to be received in the next state fiscal year, must be reported to the Department in accordance with HUD’s reporting requirements. Additionally, Applicants must identify how the funds will be used (name the project or program activity, and the intended beneficiary type) to ensure timely use of PI funds. All PI must be reported in the HOME Annual Performance Report to the Department.

**NOTE – New to this NOFA:** The Department encourages Applicants to use HOME PI for their proposed project or program activity. Applicants may request approval to use HOME PI on hand through this NOFA by including the amount of PI for the proposed project or program activity in the Application Budget. HOME PI is not subject to the award limits as noted above (G. Activity Funding Amounts and Limits).

**I. Periods of Affordability**

All Projects that receive HOME funds are subject to federal affordability requirements at 24 C.F.R. § 92.252 and 24 C.F.R. § 92.254 for a specific number of years, as specified in the following two tables. This term is referred to in this NOFA as the “Federal Affordability Period” and includes all federal affordability requirements under 24 C.F.R. § 92.252 and 24 C.F.R. § 92.254.

All Projects that receive HOME funds are also subject to state affordability requirements at 25 C.C.R. § 8208 for a specific number of years, as specified in the table below. This term is referred to in this NOFA as the “State Affordability Period.” **Projects on Native American Lands as defined by 25 C.C.R. § 8208(y)(1) require a 50-year affordability period.**

The requirements of the “Federal Affordability Period” and the “State Affordability Period” run concurrently. For example, if a county Applicant proposes a new construction rental Project, the “Federal Affordability Period” for the Project will be 20 years. However, the Project will also be required to abide by the “State Affordability Period” for an additional 35 years, totaling 55 years.

<b>Table 6 –Affordability Periods for Rental Housing</b>		
<b>Housing Activity</b>	<b>State Affordability Period</b>	<b>Federal Affordability Period</b>
Rehabilitation or acquisition of existing housing; per-unit amount of HOME funds under \$15,000	Development on fee land – 55 years  Development on Native American Lands [25 C.C.R. § 8208(y)(1)] – 50 years	5 years
Rehabilitation or acquisition of existing housing; per-unit amount of HOME funds \$15,000 - \$40,000		10 years
Rehabilitation or acquisition of existing housing; per-unit amount of HOME funds over \$40,000; or rehabilitation involving refinancing		15 years
New construction or acquisition of newly-constructed housing		20 years



**Table 7 – Affordability Periods for Homebuyer Assistance**

Homebuyer Assistance HOME Amount Per-Unit	State and Federal Affordability Periods
Under \$15,000	5 years
\$15,000 - \$40,000	10 years
Over \$40,000	15 years

**J. Forms of Assistance**

HOME Loans

HOME assistance shall be in the form of deferred payment loans to be repaid at the maturity date of the Promissory Note to local HOME accounts controlled by eligible Applicants or the state’s local HOME account, except for the uses of funds specifically defined under HOME grants below.

Loans provided to homebuyers must meet the requirements set forth in 25 C.C.R. § 8205(C)(1)(A), including, but not limited to, the following terms:

- Loans financed from the CHDO set-aside pursuant to 24 C.F.R. § 92.300(a)(1) shall comply with the financing provisions as required for the following activities:
  - Land acquisition for first-time homebuyer projects shall bear zero interest.
  - Loans to first-time homebuyers shall bear a simple interest rate of 3 percent per annum, computed from the date the Deed of Trust is recorded on the property. Interest and principal payments shall be deferred for the term of the loan. Commencing on the 11th anniversary of the recordation date, an amount equal to 10 percent of the accrued interest shall be forgiven each year, such that on the 20th anniversary of the recordation date, all interest will have been forgiven if the borrower is in compliance with the requirements stated in the Department’s loan documents.

HOME Grants

Pursuant to 25 C.C.R. § 8205(c)(2), HOME assistance must be provided in the form of a grant for relocation payments, lead-based paint hazard evaluation and reduction activities, and TBRA. HOME assistance may be provided in the form of a grant for rehabilitation activities performed under an OOR program, if necessary to complete the project when the total of all project indebtedness equals or exceeds the projected after rehabilitation appraised value. The grant amount for OOR activities is limited to 25 percent (25%) of the applicable HOME Program maximum per-unit subsidy limit for the Project. This amount is in addition to any grant funds currently permitted for relocation, lead-based paint remediation, and Project-related soft costs

for the Project.

HOME assistance may be provided as a grant to eligible State Recipients to cover Project-related soft costs. Project-related soft costs are further detailed in this NOFA, 24 C.F.R. § 92.206(d), and [HUD CPD Notice 06-01: Admin and Soft Costs, Community Development Expenses under HOME and American Dream Downpayment Initiative](#), except that customary closing costs for home acquisition activities may be included as either a loan or part of the grant funding for Project-related soft costs.

NOTE: All Project-related soft costs associated with an OOR Project must be included in the 24 percent (24%) funding maximum available for Project-related soft costs and may not be passed along to the homeowner.

HOME funds for Project-related soft costs cannot be drawn down before HOME funds for activity costs are drawn down. If the activity is not completed, and a Project Completion Report for the full amount drawn down is not filed, all HOME funds for that Project, including Project-related soft costs, must be repaid to the Department.

Project-related expenses for NEPA environmental review, and architectural and engineering and other professional services incurred within the 24 months prior to the Project Commitment of funds, may be reimbursed at the sole discretion of the Department after execution of the Standard Agreement. On a case-by-case basis, the Department may, in writing and in its sole discretion, permit reimbursement for other eligible expenses incurred after the date of the Award letter, and prior to the effective date of the Standard Agreement, upon the written request of the Applicant.

#### **K. Administrative and CHDO Operating Funds**

The following limits apply to the amount of administrative and CHDO operating funding that Applicants may receive. Project Developers shall not act as administrative subcontractors for the same HOME-funded project activity and are not eligible for Project administrative costs.

Pursuant to 24 C.F.R. § 92.208(a), CHDO operating funds may cover reasonable and necessary costs for the operation of the CHDO. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials; and supplies.

##### Project Activities

State Recipients eligible to receive administrative funds may request up to \$50,000 for administrative costs.

CHDOs may request up to \$75,000 in CHDO operating funding. This includes FTHB Projects.

Developers are not eligible to apply for administrative funds or Project-related soft costs.

All administrative costs must be reasonable, and Applicant must have detailed records to demonstrate costs are eligible for reimbursement.

#### Program Activities

All program activities Applicants may request up to 2.5 percent (2.5%) of the amount requested for administration, with the exception of TBRA activities. TBRA Applicants will be provided up to 10% for general administrative costs, based on actual costs incurred. CHDOs undertaking a FTHB program activity may receive CHDO Operating funds in lieu of administrative funds at the same 2.5 percent (2.5%) rate.

All administrative costs must be reasonable, and Applicant must have detailed records to demonstrate costs are eligible for reimbursement. Actual eligible expenses must be incurred to draw down these funds.

### **L. Project-Related Soft Costs**

#### Project Activities

Eligible State Recipients of rental and homebuyer Projects may receive up to \$50,000 to pay for specific eligible Project-related soft costs, previously referred to by the Department as “Activity Delivery Costs” (ADCs). Funding for Project-related soft costs are provided in the form of a grant and not part of the Project loan amount.

For a description of the types of expenses which may be charged as Project-related soft costs see 24 C.F.R. § 92.206(d)(6), 92.206(f)(2) and [HUD CPD Notice 06-01: Admin and Soft Costs, Community Development Expenses under HOME and American Dream Downpayment Initiative](#).

Examples of Project-related soft costs include, but are not limited to:

- Preparation of work write-ups, work specifications, and cost estimates or review of these items if an owner has had them independently prepared;
- Project underwriting;
- Construction inspections and oversight;
- Project document preparation;
- Costs associated with a Project-specific environmental review;
- Costs associated with informing tenants or homeowners about relocation rights or benefits;
- Costs to provide information services such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by 24 C.F.R. § 92.351; and
- Staff and overhead costs, such as preparing work specifications, loan processing, inspections, and other services related to assisting potential owners, tenants, and homebuyers.

Project-related soft costs must be included in the development budget, regardless of whether the funding is a loan or grant. Developers and CHDOs are not eligible for Project-related soft costs.

### Program Activities

Standard Agreements will automatically allow the use of up to the maximum amount of Project-related soft costs for each specific program activity. Funding draw requests for Project-related soft costs are made only on a reimbursement basis for actual costs incurred by a State Recipient as follows:

1. Up to 24 percent (24%) of the HOME loan/grant amount for OOR and for the rehabilitation component of acquisition with rehabilitation.

Project-related soft costs for owner-occupied rehabilitation projects may exceed the 24 percent (24%) limit if documentation of actual eligible costs is provided to the Department with the Project set-up. Documentation must be of actual eligible costs; consultant billings, without documentation of underlying actual costs, are not adequate.

2. Up to 6.5 percent (6.5%) of the total acquisition cost for FTHB activities.
3. Up to 5 percent (5%) of the HOME TBRA payment, per household, for unit inspections and income determinations.

## **III. State and Federal Requirements**

### **A. Property Standards and Physical/Capital Needs Assessments**

Pursuant to 24 C.F.R. § 92.251, as applicable, and as may be amended by HUD, housing that is acquired, constructed or rehabilitated with HOME funds must meet all applicable local codes and standards at the time of Project Completion.

Projects involving rehabilitation must comply with the Department's [HOME/NHTF Multifamily Rehabilitation Standards](#). Pursuant to 25 C.C.R. § 8309(b) and 24 C.F.R. § 92.251(b)(1)(ix), the Department requires rental rehabilitation Project applications to submit a third-party physical/capital needs assessment and a Replacement Reserve Study (RRS) with a 20-year forecast.

Projects involving new construction must comply with the requirements of 25 C.C.R. § 8300 *et seq.* and 24 C.F.R. § 92.251(a), including, but not limited to, requirements related to accessibility, disaster mitigation, written cost estimates, construction contracts and documents, construction progress inspections, and broadband infrastructure.

**B. Timeframes for Use of Funds**

Awardees of HOME funds are subject to progress deadlines and expenditure deadlines that are defined in the federal regulations and specified in the Standard Agreement.

Project Activity Deadlines

<b>Table 8 - HOME Project Activity Deadlines</b>	
Project Commitment of HOME Funds (see Section I (E) of this NOFA for definition of Project Commitment)	Within 24 months from award date
All non-HOME funding sources committed to the Project	Within 24 months from award date
Construction Loan Closing	Within 12 months from Project Commitment execution date (in accordance with 24 C.F.R. § 92.2)
Project Completion and Expenditure Deadline	Within 4 years from Project Commitment of HOME funds

Program Activities Deadlines

<b>Table 9 - HOME Program Activity Deadlines</b>	
Project Commitment of HOME Funds (see Section I (E) of this NOFA for definition of Project Commitment)	Within approximately 90 days from Award Date
Expenditure Deadline	Within 3 years of Standard Agreement execution date

For project activities, if an Awardee fails to meet one or more of the deadlines outlined in the 25 C.C.R. § 8217(b) and described in this NOFA, a performance penalty will be imposed during the scoring on all future applicable HOME applications. It will also result in performance penalties being imposed on future HOME application(s) submitted by the Applicant, as well as application(s) submitted by the Project’s Developer, owner, and managing general partner within five (5) years of the award announcements of this NOFA.

All program activities funding must be expended by the deadlines established in the Standard Agreement. In addition to the final expenditure deadline, the Standard Agreement may also contain interim expenditure deadlines (e.g., 75% of funding

must be expended by a specific date). Awardees must ensure that work is completed well in advance of this deadline to ensure funds are fully expended prior to the expenditure deadline.

Exceptions will be considered, at the sole discretion of the Department, if the Applicant provides clear and indisputable evidence that delays were beyond the reasonable control of the borrower and/or the Applicant, or the Department was responsible for the delay, and the Department has the flexibility to do so within federal regulations.

### **C. Match Requirements**

Generally, HOME funds must be matched by nonfederal resources. HOME match requirements are waived for applications pursuant to this NOFA, however, the Department continues to track all match funds in project activities and program activities.

All eligible HOME match funding that Applicants obtain due to their activity's need for other funding shall continue to be reported in the Project Set-up and Completion Reports so that the Department can bank any additional match and continue to waive the match. Match sources include funding derived from below-market rate loans (even if these loans are not repaid to the HOME local account), state Low Income Housing Tax Credits, property tax waivers, bond financing, fee waivers, grants, and other sources. The Department will review all Project Set-up and Completion Report forms to ensure that all reportable match funding has been included. For a HOME match calculation tool, see the Department's HOME webpage under Resources. The HOME Contract Management Manual also contains additional information and resources on match, see <http://www.hcd.ca.gov/grants-funding/active-funding/home/cmm.shtml>.

### **D. Transition Reserve Policy**

Projects must be in compliance with the Department's Pooled Transition Reserve Policy Administrative Memorandum dated January 3, 2023, (Administrative Notice Number 22-08) and amended on August 8, 2023, ([Administrative Notice Number 23-01](#)), that implements statutory changes made under Senate Bill 948 (Chapter 667, Statutes 2022) applicable to Health and Safety Code § 50468, as may be amended from time to time, and any other related Department Transition Reserve Policy administrative memoranda that the Department may adopt, as applicable.

### **E. Annual Monitoring Fees for Multifamily Projects**

Pursuant to 24 C.F.R. § 92.214(b)(1)(i), the Department will charge fees to cover the cost of ongoing monitoring and physical inspection of HOME Projects during the state period of affordability. The state HOME Program will charge these fees as described below.

## Developer and CHDO Projects

The Department charges an annual monitoring fee as follows:

<b>Table 10 – Estimated 2025 Monitoring Fees</b>	
<b>Number of HOME Units</b>	<b>Annual Fee</b>
12 or fewer	\$ 6,447
13 to 24	\$10,491
25 to 36	\$12,740
37 to 48	\$13,113
49 to 60	\$15,681
61 or more	\$18,358

To cover inflation, this annual monitoring fee is projected to increase annually at 3 percent (3%) following the Department's analysis of actual costs for monitoring. These annual monitoring fee amounts are subject to change before the formal commitment of HOME funds (Standard Agreement execution date). Financial assumptions in the HOME 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 after permanent closing within the first fiscal year of Project operation.

Lump sum payments for monitoring fees made from development funds are not allowed for HOME Projects. Payments must be made annually pursuant to the Regulatory Agreement.

## State Recipient Projects

Pursuant to 24 C.F.R. § 92.214(b), State Recipients may also charge their borrowers annual monitoring fees to cover the actual ongoing costs to monitor and conduct physical inspections, as described below:

1. The monitoring fee charged may be less than, but not exceed, the amount charged for state CHDO and Developer Projects;
2. The monitoring fee shall be specifically stated in the State Recipient's loan documents with the borrower;
3. The monitoring fee shall be based on the State Recipient's analysis of actual costs for monitoring the Project and must be approved by the Department; and

4. Ten percent (10%) of the annual monitoring fee received for the Project by the State Recipient must be paid to the Department to cover the Department's monitoring costs. For more guidance on establishing a monitoring fee, see [HOMEfires Vol. 14, No. 2: Guidance on Establishing a HOME Monitoring Fee](#). Please note: HUD's requirements for calculating a monitoring fee differ from the state's UMR requirements.

#### Native American Entity Projects

Pursuant to this NOFA, the Department waives monitoring fees for Native American Entity Projects during the state period of affordability.

### **IV. Application Review**

#### **A. Minimum Application Requirements (Threshold)**

Applications for HOME Projects are required to meet the minimum requirements outlined in this NOFA, 25 C.C.R. § 8200 *et seq.*, and 24 C.F.R. Part 92. Applications must meet the following minimum requirements at the time of application in order to move forward to the rating and ranking process:

1. The Applicant must submit a complete application in a format made available by the Department by the deadline specified in this NOFA and pursuant to 25 C.C.R. § 8211, and the application forms provided by the Department must not be altered or modified;
2. The Applicant is eligible to apply for funding, in accordance with any of the following:
  - 25 C.C.R. § 8204; or
  - Listed on Appendix A of the NOFA; or
  - Meets the definition of an eligible Applicant in this NOFA (State Recipient, CHDO, or Developer)
3. All other criteria and matters set forth within the NOFA shall also govern the Native American Entity target, unless and except to the extent expressly provided to the contrary by terms set forth within this NOFA;
4. The Applicant must propose at least one eligible activity pursuant to 25 C.C.R. § 8205 (other than administration);
5. The Applicant must propose an eligible use of funds pursuant to 25 C.C.R. § 8205 and 8210;
6. The Applicant must have no unresolved audit findings pursuant to 25 C.C.R. § 8204(a)(1)(D)(ii) and (2)(C)(i);
7. The Applicant must demonstrate its capacity for carrying out activities assisted with HOME funds. Awardees entering into a Standard Agreement with the Department must have capacity, cannot be shell entities, and cannot contract out for capacity (with limited exceptions for new CHDOs – see Eligible Applicants – CHDOs in the NOFA's Section II);



8. Cities, counties, and local public housing authorities must provide documentation satisfactory to the Department that they comply with the submittal requirements of cost principles and audit requirements at 2 C.F.R. § 200.512. Any outstanding findings contained in the audit report may impact the ability of the Department to grant an award through this NOFA;
9. The Applicant and any member of its program or project team must not be on the list of debarred contractors at <https://www.sam.gov/SAM/> pursuant to 25 C.C.R. § 8204(a)(1)(D)(iii) and 8204(a)(2)(C)(ii);
10. The Applicant's requested total amount of funds for both administrative activity-specific costs and Project-related soft costs does not exceed the limits identified in the NOFA;
11. CHDO applications must contain procedures for ensuring effective Project control pursuant to 24 C.F.R. § 92.300(a)(1) and 25 C.C.R. § 8204(a)(2)(D);
12. There is no pending or threatened litigation that could affect implementation of the proposed Project; and
13. When applying for project activities, the Applicant (not the ultimate borrower) must demonstrate documented site control of the Project at the time of application. Site control is subject to the HOME funding award as required by 25 C.C.R. § 8212(a)(6)(B), 25 C.C.R. § 8303, and 24 C.F.R. Part 92, including but not limited to, demonstrating site control by one of the following:
  - Fee title, which, for tribal trust land, may be evidenced by a title status report (TSR) or an attorney's opinion regarding chain of title and current title status;
  - A leasehold interest on the Project property with provisions that enable the lessee to make improvements on and encumber the property, provided that the terms and conditions of any proposed lease shall permit, prior to loan closing, compliance with all Program requirements, including compliance with 25 C.C.R. § 8316;
  - An option to purchase is obtained, conditioned on the responsible entity's determination to proceed with, modify, or cancel the Project based on the results of a subsequent environmental review, and the receipt of an Authority to Use Grants Funds ("AUGF") from the Department for State Recipient Projects and from HUD for Developer and CHDO Projects. The cost to secure the site control document can be only a nominal portion of the purchase price;
  - A Purchase Agreement, Disposition and Development Agreement (DDA), Option to Lease, or Exclusive Right to Negotiate is obtained, but this agreement cannot be conditioned on NEPA/California Environmental Quality Act (CEQA) clearance or any other federal requirement; or

- A conditional purchase contract may be used for an existing single-family home (1 to 4 units) or an existing multifamily residential Project in some limited circumstances, even when federal funds have already been contemplated.

NOTE: For more details on required and prohibited provisions of agreements consistent with NEPA, see [HUD CPD Notice 98- 01: Layering Guidance for HOME Participating Jurisdictions When Combining HOME Funds with Other Governmental Subsidies](#); [HUD CPD Notice 15-09: Requirements for Committing HOME Funds](#); and [HUD Memo: Guidance on Operations and Conditional Contracts for Purchase of Real Property for Environmental Reviews Conducted by a Responsible Entity under 24 C.F.R. Part 58](#).

General HUD rules state that Purchase Agreements are acceptable if federal funds are not contemplated. Applicants are cautioned to make sure that the Purchase Agreement or DDA is open-ended or is of sufficient duration that it does not need to be extended after the HOME application is submitted.

HUD has ruled that if a Purchase Agreement/DDA expires after the HOME application is submitted, and before the AUGF is executed, the execution of an extension would be a Choice-Limiting Action (renewal prior to expiration is acceptable). The application also should ensure the Purchase Agreement/DDA has other contingencies, such as a permanent financing contingency, so that the seller cannot legally compel an individual to purchase the site prior to receiving the AUGF.

For more information on conditional purchase contracts, see [HUD Memo: Guidance on Operations and Conditional Contracts for Purchase of Real Property for Environmental Reviews Conducted by a Responsible Entity under 24 C.F.R. Part 58](#).

## **B. Scoring and Ranking**

After meeting the threshold requirements, applications will be scored as follows. The Department will score, rank, and fund applications based on a review of eligible activities for which funds are requested. Each application must be submitted using Department forms and contain all information required pursuant to 25 C.C.R. § 8211(c)(d). Scoring for Projects is subject to the appeal process described in Section IV (E) of this NOFA. Each project activity or combination of program activities will be evaluated and ranked separately.

In the case of a tie score, the application demonstrating the highest jurisdictional poverty level will be funded first. If CHDOs and/or Developers are applying from the same jurisdictional area, the Project with lower average rents (expressed as a percentage of area median income) will be funded first.

Applications will be funded in descending order based on points earned. Applications that qualify for CHDO, FTHB Project, and Rural targets will be funded first, based on their scores as necessary to meet the minimum set-asides and funding targets.

Once the set-asides and targets have been achieved, remaining applications will be funded within their respective allocations pursuant to 25 C.C.R. § 8212.1, based on scores relative to all other applications, with the highest-scoring applications funded first.

**All scoring factors and evaluation requirements are listed in Appendix D and any applicable Supplemental Applications.**

### **C. Rental Project Scoring and Notification**

Once rental Project application scoring is complete, the Department will email the authorized representative and contact person listed in the application describing the scores and facts upon which those scores were determined.

### **D. Project Activity Feasibility Review**

In accordance with 25 C.C.R. § 8212(a)(6), 25 C.C.R. § 8310, and 24 C.F.R. § 92.250(b), the Department will perform underwriting analysis to substantiate the Project is financially feasible for at least 20 years, as well as cost allocation and subsidy layering analyses to determine the appropriate amount of the HOME award.

When making its feasibility determinations, the Department will:

- Examine all the sources and uses of funds for the Project (including any operating cost assistance, operating cost assistance reserve, or project-based rental assistance that will be provided to the Project); and
- Assess the current market demand in the neighborhood the Project will be located, the experience of the Applicant team, the amount and quality of the Applicant team's employees, the financial capacity of the Applicant team, and firm written financial commitments for the Project.

To determine the Project's feasibility and sustainability, the Department will review the Project Sources and Uses Form. When completing the application form, Applicants should be sure to include all known and potential Project costs, including, but not limited to, the following:

- Site development costs
- Local development costs
- Local government approvals
- Project market study
- Elevation above a floodplain
- Relocation
- Environmental remediation
- Mitigation of environmental conditions and hazards
- Any other factors that may impact the Project costs and/or schedule

If an Applicant proposes to develop site(s) formerly used for agricultural, industrial, manufacturing, or commercial purposes, or the site is situated on, adjacent to or near rail yards, airports, dumpsites, or other potentially contaminated properties, whether abandoned or operating, the Department may require Phase II environmental site assessment, or other soil assessment or testing. If an Applicant proposes to develop site(s) within a 100-year floodplain, the Department requires a HUD 8-step Floodplain Analysis. If not submitted with the application, these reports will be required after award as part of the NEPA process.

If the Applicant has any indication that these conditions may exist, the Department highly recommends that Applicants complete an assessment, soil sampling, or other appropriate testing methodology, prior to submitting the application. The results should be submitted as part of the application documentation, and any additional costs the Project may incur must be included in the Project budget and Sources and Uses Form.

Failure to include these items can increase the Project costs such that the Project is unfeasible, resulting in being noncompetitive for an award. For this reason, it is incumbent upon the Applicant to present verifiable and documented information in the application to prevent any unknown or uncertain Project costs.

## **E. Appeals**

### **1. Basis of Appeals**

- a. Applicants may appeal the Department's written determination that an application is incomplete, has failed threshold review, or has otherwise been determined to provide an insufficient basis for an award (including point scoring and tie breaker).
- b. At the sole discretion of the Department, the Department's written determination may include a request for clarifying and/or corrective information. For purposes of this section, "clarifying information" includes information and/or documentation that resolves ambiguities in any application materials that will inform the Department's threshold, scoring and feasibility determinations.
- c. Applicants do not have the right to appeal a decision of the Department relating to another Applicant's application (e.g., eligibility, award).
- d. Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with this NOFA. All decisions rendered shall be made by the Branch Chief or his/her designee. The decision shall be final, binding, and conclusive, and shall constitute the final action of the Department.
- e. The appeal process provided herein applies solely to decisions of the Department made pursuant to this NOFA.

### **2. Appeal Process and Deadlines**

- a. Process: To file an appeal, Applicants must submit to the Department, by the deadline set forth 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 or areas 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 appeal is submitted to the Department, no further information and/or materials may be accepted or considered. Appeals are to be submitted to the Department at [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov) according to the deadline set forth in the Department review letters.

- b. Filing Deadline: Appeals must be received by the Department no later than five (5) business days from the date of the Department's threshold review or initial score letters, as applicable, representing the Department's decision made in response to the application.

## **V. Award Announcements and Contracts**

### **A. Award Announcements**

Subject to the availability of funds, the Department intends to send award letters by July 2025 for program activities and by December 2025 for project activities for all successful Applicants.

Updates on planned awards and contract status will be provided through the Department's Listserv system. To be added to this list, go to <https://www.hcd.ca.gov/contact-us/email-signup>, scroll down, and select Federal Programs.

### **B. Contracts**

Awardee(s) must enter into a Standard Agreement with the Department. The Standard Agreement contains all the relevant state and federal requirements, as well as specific information about the award and the work to be performed. The Standard Agreement includes deadlines that are consistent with state and federal HOME regulations.

Failure to meet these deadlines is considered a material breach of the Standard Agreement.

NOTE: The Standard Agreement may be delayed if the Awardee does not timely provide the Department with all required entity resolutions and other entity documentation (e.g., bylaws, articles of incorporation, 501(c)(3) certification, certificate of good standing, limited partnership agreement), in form and content acceptable to the Department in its sole discretion, which evidences that the Awardee has the legal authority to contract with the Department.

The Standard Agreement must be executed by the Awardee(s) within 90 days of receipt. Failure to execute and return the Standard Agreement(s) to the Department within 90 days may result in award cancellation. The Awardee(s) must remain a party to the Standard Agreement for the full term of the Standard Agreement; removal of the Awardee(s) is prohibited unless the Department

provides approval in advance.

Native American Entity Awardees must provide the Department with risk mitigation provision(s) in the Department's Standard Agreement, and all other Department loan and/or grant transaction documents, including but not limited to, a lease rider and a Declaration of Restrictive Covenant (or Regulatory Agreement). The Native American Entity may accomplish the purpose of the risk mitigation provisions by executing and referencing a separate instrument that the Native American Entity would agree to resolve any disputes under the contract through risk mitigation provisions. The risk mitigation provisions are an alternative to "limited waiver of sovereign immunity," and they may operate like a limited waiver of sovereign immunity provided the necessary language is included in the Department's Standard Agreement and all other Department loan and/or grant transaction documents. The risk mitigation provisions also provide the Department with an opportunity to resolve and enforce any of the terms and conditions of the Standard Agreement and the Department's loan and/or grant transaction documents through an informal process and/or in Tribal, State, or Federal Court.

In the Department's Standard Agreement and loan and/or grant transaction documents, the Department may require the following risk mitigation remedies that include, but are not limited to: adding an arbitration (dispute resolution) provision, whereas the Native American Entity would agree to resolve any disputes through an arbitration process;

- i. Restructuring the draw-down of funds with conditions that must be met for each disbursement (e.g., satisfaction of specific performance milestones; or receipts for eligible expenses);
- ii. Requiring Native American Entities to provide insurance with the Department as a named beneficiary to cover the risks attendant to an unenforceable agreement and/or use restriction;
- iii. Receiving technical assistance throughout the program/project lifecycle. The Department aims to provide technical assistance to Native American Entity applicants in the earlier stages of the award process to ensure that they are clearly informed of program requirements. Examples include, but are not limited to:
  - Calculating rent and assistance amounts;
  - Compliance with applicable fair housing laws; and
  - Compliance with tenant screening and selection requirements
- iv. Incurring negative points or disqualification from future Departmental funds for violating fundamental program requirements such as affordability term, levels, occupancy, and habitability standards; and
- v. Requiring a robust capacity assessment as an essential part of the application review, demonstrating the Recipient has sufficient prior experience, or a partner/contractor with experience, to be successful managing the Project.

## VI. Federal and State Overlays

All activities funded with HOME funds and/or HOME PI are required to comply, where applicable, with HUD's federal "overlay" requirements found in 24 C.F.R. § 92.350, *et seq.* of the HOME Final Rule.

Failure to comply with state or federal overlays could result in significant Project cost increases, rejection of the HOME application, and/or loss of points in current or future HOME funding rounds. Projects must comply with all applicable state and federal laws, including, but not limited to:

- a. National Environmental Policy Act (NEPA);
- b. California Environmental Quality Act (CEQA);
- c. State and federal (Davis-Bacon) prevailing wage;
- d. URA Acquisition and Relocation;
- e. Equal Opportunity and Fair Housing;
- f. Affirmative Marketing;
- g. Section 504 of the Rehabilitation Act of 1973;
- h. Fair Housing Act (including accessibility and design requirements);
- i. Americans with Disabilities Act, where applicable;
- j. Section 3 (employment of low-income persons);
- k. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200;
- l. Build America, Buy America Act; and
- m. Tenant protections and selection practices pursuant to 24 C.F.R. § 92.253.

### National Environmental Policy Act (NEPA) & HUD Environmental Review Requirements (contained in 42 U.S.C. §§ 4321-4347 and the implementing regulations at 24 C.F.R. Part 58)

After Applicant has submitted the HOME application to the Department, and before the NEPA Authority to Use Grant Funds (AUGF) has been issued, the Applicant and any participant in the development process must not engage in any Choice-Limiting Actions as defined in this NOFA and at 24 C.F.R. 58.22. All Choice-Limiting Actions on the site or on behalf of the project by anyone after the HOME application has been submitted to the Department and before the AUGF is issued will disqualify an Applicant's Project from receiving any HCD federal funds – not only for this HOME NOFA round, but future NOFA rounds.

Thus, Applicants must take great caution before proceeding with project activities.

NOTE: Pursuant to HUD's NEPA regulations, certain activities are not considered Choice-Limiting Actions regardless of when they are carried out. These activities include, but are not limited to, such things as: environmental and

other studies; resource identification and development of plans and strategies; submitting funding applications, inspections and testing for hazards or defects; purchase of insurance; payment of principal and interest on loans made or obligations guaranteed by HUD; and assistance for improvements that do not alter environmental conditions and are necessary to address the effects from disasters or imminent threats to public safety. For more information on activities not considered Choice-Limiting Actions, see 24 C.F.R. § 58.22.

For all new construction Projects and substantial rehabilitation Projects, compliance with NEPA is evidenced by an AUGF. HUD issues the AUGF for CHDO and Developer Projects, and the Department issues the AUGF for State Recipient Projects. For rehabilitation Projects not requiring an AUGF, state approval of the environmental documentation is still required prior to taking any Choice-Limiting Actions. For a thorough explanation of the NEPA process, see the Department's Environmental Review webpage at <https://www.hcd.ca.gov/grants-and-funding/environmental-review>.

The Department encourages commencement of the NEPA Environmental Assessment (EA) process as soon as possible, but no later than receipt of the Award letter. For rental Projects, Project reports often require additional analysis of environmental impacts.

Submit general questions regarding Choice-Limiting Actions, or the level of environmental assessment required of the Project, to [NEPA@hcd.ca.gov](mailto:NEPA@hcd.ca.gov) prior to taking any action concerning the proposed HOME Project.

The application must disclose all known environmental hazards, and, if awarded, the Department must be fully informed of all environmental issues. Failure to do so will be considered a material misrepresentation and result in a performance point penalty for all members of the development team for future HOME applications with the Department.

NOTE: The Department is unable to give legal advice regarding a specific Project or program. If an Applicant has specific questions regarding a Choice-Limiting Action, or environmental laws that may affect the Project or program, the Department recommends that the Applicant consult with a legal advisor or professional consultant prior to taking any actions on the Project. Applicants understand and agree that they are solely responsible for their decisions with respect to Choice-Limiting Actions, or potentially Choice-Limiting Actions, and the Department shall have no liability therefor.

#### California Environmental Quality Act

By execution of this Agreement, the Applicant is also subject to the provisions of the California Environmental Quality Act (CEQA). Applicant assumes responsibility to fully comply with CEQA's requirements regarding the work performed.

For Projects located on Native American Lands as defined by 25 C.C.R. § 8201(y)(1), the Department will be the lead agency and will prepare any exemption documentation for all other Projects subject to CEQA.



## Federal Prevailing Wage Requirements (Davis-Bacon)

Federal prevailing wages must be paid on Projects involving site development, construction, and/or rehabilitation with 12 or more HOME-assisted units.

The HOME Applicant and the construction contractor must ensure that the Davis-Bacon wage requirements as well as state prevailing wage laws are followed, where applicable. The Sources and Uses Form submitted with the HOME application will be examined to ensure that prevailing wage costs have been considered (state and federal, if applicable). CHDOs are required to hire an outside consultant to act as a Labor Standards Coordinator. If the HOME Applicant does not have existing staff to monitor federal labor standards, hiring an outside labor consultant is highly recommended.

For Projects located on Native American Lands as defined by 25 C.C.R. § 8201(y)(1) and if the HOME Applicant has adopted a Tribally Determined Wage (TDW) in accordance with Tribal law, the HOME Applicant may apply its TDW in lieu of Davis-Bacon and the California prevailing wage law.

Homebuyer Self-Help Projects with 12 or more HOME-assisted units may be excluded from Davis-Bacon wage requirements if either of the following applies:

- a. Site development was completed before the HOME application, the use of HOME funds was not contemplated when the site development was completed, and there are no agreements or contracts for more than 11 HOME units. If the use of HOME was contemplated before the site development was completed, Davis-Bacon wages must be paid on the entire Project; or
- b. If the Self-Help families purchase finished lots and contract individually with the General Contractor for construction of their homes, and there are no other construction contracts or subcontracts that cover more than one unit.

## Displacement, Relocation, and Acquisition Requirements

Relocation assistance must be provided if individuals and/or businesses will be temporarily relocated or permanently displaced as a result of a HOME-assisted Project. All Projects are required to comply, where applicable, with the Uniform Relocation Assistance and Real Property Acquisition Act (URA) and the Displacement, Relocation, and Acquisition requirements pursuant to 24 C.F.R. § 92.353. Specifically, federal relocation requirements extend back to the “initiation of negotiations” (ION). For more information on federal displacement, relocation, and acquisition requirements, see [HUD's CPD Handbook 1378.0](#).

Submit questions regarding ION determinations to [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov)  
This recommendation applies to all rental and FTHB Projects involving any relocation activities. An accurate determination is critical because relocation costs may be higher if an earlier ION date is necessary. Applications for tenant-occupied properties must have already provided the General Information Notice (GIN) to all tenants by the date of the ION.

The Sources and Uses form submitted with the application must adequately budget for relocation costs. Consistent with federal relocation requirements prohibiting economic displacement, if rents for existing tenants will increase, a transition reserve must be budgeted to maintain rents for existing tenants at the higher of 30 percent (30%) of their income at ION or the rent at the time of ION, not including regular increases in expenses, for as long as they live in the Project.

Homebuyer 90-Day Vacancy Rule: Relocation requirements will also be triggered if a FTHB proposes to purchase a home that has been occupied by a renter in the 90 days preceding the date of the purchase agreement. Exceptions to this rule can be made by the Department on a case-by-case basis with adequate third-party documentation that the tenant moved for reasons unrelated to the sale of the property, such as the tenant moving for another job.

Normally, relocation will not be triggered for OOR or TBRA programs. However, temporary relocation costs are an eligible HOME grant expense.

A relocation certification is required for all Projects including vacant site(s). Applicants that assert their Project does not require relocation must submit a detailed explanation, including supporting documentation, as to why relocation (of tenants, farms, businesses, etc.) is not required. The Department will review the documentation to determine whether a relocation plan is necessary. Relocation considerations include:

- Vacant land, which is land that is not developed or being used for agricultural purposes;
- Property vacated for the Project, then relocation applies; and
- Tenants include anyone who is living or storing their belongings on the property with the owner's consent, whether or not the "tenant" pays rent. Squatters are not tenants.

If relocation is not required, the Department will issue a *Certification Regarding Non-application of Relocation Benefits and Indemnification Agreement* ("Non-Relocation Certification"). This Non-Relocation Certification must be executed by the Applicant/borrower/sponsor prior to the Department executing the Standard Agreement, and as a condition thereof. The Non-Relocation Certification substantiates and certifies that there is no displacement including, but not limited to, the displacement or temporary relocation of tenants, businesses, and farms; therefore, no relocation is required. Submission of thorough and clear supporting information will lead to a more efficient review and decision.

The following are examples of supporting documentation for the Non-Relocation Certification:

- Background information
- Project information
- Reports from professionals, such as appraisal or soils report

- Purchase information
- Mini relocation plan with pictures of the vacant land
- Summary relocation report
- Scope of Work from the general contractor
- Letter from the Project engineer stating the scope of work
- Sales contract evidencing the purchase of vacant land
- ALTA survey of (purchased) vacant land
- Property tax assessment for vacant land
- Photographic evidence of vacant land

Pursuant to 24 C.F.R. § 92.353(g) regarding “Displacement, Relocation and Acquisition: Appeals,” a person who disagrees with the participating jurisdiction's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the jurisdiction. A low-income person who is dissatisfied with the jurisdiction's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

Projects located on Native American Lands, as defined in 25 C.C.R. § 8201(y)(1), may also be subject to the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) relocation requirements pursuant to 24 C.F.R. § 1000.14.

#### Procurement Requirements for State Recipients Using Administrative Subcontractors

State Recipients using administrative subcontractors paid with HOME Funds must follow, where applicable, a competitive Request for Qualifications (RFQ) or Request for Proposals (RFP) procurement process to select the administrative subcontractor. For information on this procurement process, see [the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200](#).

Projects located on Native American Lands, as defined in 25 C.C.R. § 8201(y)(1), may also be subject to NAHASDA procurement requirements pursuant to 24 C.F.R. § 1000.26.

#### Continuing Compliance Responsibilities

The Awardee must collect and report data upon execution of the Regulatory Agreement until the final Project Completion Report is accepted in the federal disbursement and information system. Annual performance reports must be submitted to the Department during the entire affordability period pertaining to the outcomes of the program, pursuant to the Regulatory Agreement provisions.

Local government Applicants must comply with the requirements of 2 C.F.R. Part 200.

Applicants/Awardees are responsible for disclosing all changes to the Project after 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, changed Project description, environmental issues, and/or Project timeline changes.

Questions regarding compliance with the submittal requirements can be directed to [HOMENOFA@hcd.ca.gov](mailto:HOMENOFA@hcd.ca.gov).

### Violence Against Women Act Requirements

Assurance of Compliance with the “Violence Against Women Reauthorization Act of 2022” (VAWA) (S.3623 - 117th Congress (2021-2022)) (as amended or reauthorized) Title VI - Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – Sec. 601-603. See also 81 FR 80803, Nov 16, 2016.

VAWA provides housing protections for survivors of domestic and dating violence, sexual assault, and stalking when it comes to finding and keeping a home they can feel safe in. VAWA applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistently with all nondiscrimination and fair housing requirements. VAWA now expands housing protections to HUD programs beyond HUD’s public housing program and HUD’s tenant-based and project-based Section 8 programs. VAWA now provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. During the performance of this Agreement, the HOME Recipient shall ensure that all requirements of VAWA are complied with, including but not limited to:

- 1) Domestic Violence survivors are not denied assistance as an Applicant, or evicted or have assistance terminated as a tenant, because the Applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, and stalking.
- 2) It will implement an ‘emergency transfer plan’, which allows for domestic violence survivors to move to another safe and available unit if they fear for their life and safety.
- 3) It will provide “Protections against denials, terminations, and evictions that directly result from being a victim of domestic violence, dating violence, sexual assault, or stalking, if the Applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.”
- 4) It will implement a ‘Low-barrier certification process’ where a domestic violence survivor need only to self-certify in order to document the domestic violence, dating violence, sexual assault, or stalking, ensuring

third party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

### Fair Housing and Tenants' Rights Protections

The Applicant/Awardee must comply with all applicable local, state, and federal laws, constitutions, codes, standards, rules, guidelines, and regulations, including, without limitation, those that pertain to accessibility, construction, health and safety, labor, fair housing, fair employment practices, affirmative marketing and outreach practices, nondiscrimination, and equal opportunity, where applicable.

To the furthest extent applicable and subject to federal preemption, the Applicant/Awardee must comply with all relevant laws, including, without limitation, the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.); the Unruh Civil Rights Act (Civ. Code, § 51); Government Code § 11135 (the prohibition of discrimination in state-funded programs); Government Code § 8899.50 (the duty to affirmatively further fair housing); California's Housing Element Law (Gov. Code, § 65583 et seq.); California Code of Regulations, Title 2, §§12264 – 12271 (legally permissible consideration of criminal history information in housing); Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); the ADA of 1990 (42 U.S.C. § 12101 et seq.); the Fair Housing Act (FHA) and amendments (42 U.S.C. § 3601 et seq.); the Fair Housing Amendments Act of 1988; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Architectural Barriers Act of 1968 (42 U.S.C. § 4151 et seq.); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 – 6107); and all federal and state regulations implementing these laws.

### Federal Section 3 Rule

In 2020, HUD published a final rule ([24 C.F.R. Part 75](#)) ("Section 3"), which outlines requirements for creating economic opportunities for low and very low-income persons and eligible businesses. Section 3 requires recipients of certain HUD financial assistance (which includes HOME funds) to provide, to the greatest extent possible, job training and employment opportunities to low-and/or very low-income residents in connection with HOME Projects and activities in their neighborhoods.

### Build America, Buy America Act (BABA)

On November 15, 2021, the Build America, Buy America Act (BABA) was enacted as part of the Infrastructure Investment and Jobs Act (IIJA) ([Pub. L. 117-58](#)). BABA requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver. This requirement is known as the "Buy America Preference (BAP)" and the specific requirements are codified in [2 C.F.R. Part 184](#).

NOTE: For the purposes of BABA, housing is considered "infrastructure."

Starting August 23, 2024, BABA applies to new awards of HOME funding.

The following language must be included in all contracts and agreements with

Subrecipients, contractors, Developers and subgrantees, and in any procurement bid/contract documents to ensure BABA compliance by subgrantees, Developers and/or contractors:

*The parties to this contract must comply with the requirements of the Build America, Buy America (BABA) Act, [41 U.S.C. 8301](#) note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project.\* Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 Financial Report 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.*

\*The term "infrastructure project," in this context, is defined in [2 C.F.R. § 184.3](#) and means any activity related to the construction, alteration, maintenance, or repair of infrastructure (including buildings and housing) in the United States regardless of whether infrastructure is the primary purpose of the Project.

[2 C.F.R. Part 184](#) and HUD's [Notice CPD-23-12: CPD Implementation Guidance for the Build America, Buy America Act's Domestic Content Procurement Preference as Part of the Infrastructure Investment and Jobs Act - HUD Exchange](#) provides further guidance on the implementation of BABA. Additional details on fulfilling the BABA requirements can be found on HUD's website [Build America, Buy America Act - HUD Exchange](#).

## **VII. Other Terms and Conditions**

### **A. Right to Modify or Suspend**

The Department reserves the right, at its sole discretion, to suspend, rescind, amend, modify, or supplement the provisions of this NOFA at any time, including without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties via a Listserv notice and will post the revisions to the Department website. Be sure to sign up for our Listserv at <https://www.hcd.ca.gov/contact-us/email-signup> by choosing "Federal Programs."

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

### **B. Incompatible Funding**

It is the duty and responsibility of each Applicant to review the provisions, requirements, and limitations of all funding sources applied for and obtained for a particular project, program, or activity in order to ensure that each and every requirement of those funding sources is compatible with all program requirements and restrictions. Incompatibility of funding sources will result in the denial or cancellation of an award or may result in the placement of conditions or limitations on an award, all as determined by the Department in its sole and absolute discretion.

### **C. 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. Applicants are deemed to have fully read and understand all applicable state and federal laws, regulations, and guidelines pertaining to the HOME Program, and understand and agree that the Department shall not be responsible for any errors or omissions in the preparation of this NOFA.

### **D. False, Fictitious or Fraudulent Claims**

Warning: Any person who knowingly makes a false claim or statement to HUD or the Department in connection with this HOME NOFA may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

### **E. Detecting, Preventing, and Reporting Fraud**

Fraud is a white-collar crime that has a devastating effect on the HOME Program because the HOME Program beneficiaries are victims of this crime when the HOME Program is abused. The Department is committed to preventing and stopping any criminal assault on the HOME Program it administers, and in doing so ensure all HOME funds go to people it was designed to help and improve their living conditions.

### **F. Combating Fraud**

The HUD Office of Inspector General (OIG) is committed to protecting HUD's programs, operations, and beneficiaries from dishonest individuals and organizations.

HUD cannot combat fraud alone; they rely on the Department and HOME NOFA Applicants to combat HOME Program fraud.

HUD also relies on Applicants for, and people receiving, HUD benefits, such as: tenants receiving rental assistance, borrowers with HUD insured loans, and/or citizens having their communities restored using HUD grants.

The HUD OIG Hotline number is **1-800-347-3735**. This is the primary means to submit allegations of fraud, waste, abuse, mismanagement, or Whistleblower related matters for the HOME Program to the OIG.

HUD OIG accepts reports of fraud, waste, abuse, or mismanagement in the HOME Program from HUD employees, anyone administering the HOME Program, anyone working in the HOME Program, contractors, and the public.

Complaints can report mismanagement or violations of law, rules, or regulations by HUD employees or program participants.

Fraud, waste and abuse in the HOME Program and its operation may be reported in one of the following four (4) ways:

By email to: [hotline@hudoig.gov](mailto:hotline@hudoig.gov)

By phone: Call toll free: 1-800-347-3735 By fax: 202-708-4829

By mail: U.S. Department of Housing & Urban Development

**HUD OIG, Office of Investigation, Room 1200 Field Office**

One Sansome Street, San Francisco, CA 94104

**HUD OIG, Office of Investigation Suite 4070**

**Regional Office**

300 North Los Angeles Street, Los Angeles, CA 90012

**G. Whistleblower Protection Acts**

(Federal Whistleblower Protection Act (5 U.S.C Section 2302(b)(8))

The Federal Whistleblower Protection Act (WPA) protects employees from retaliation for making protected disclosures. The WPA also provides penalties for supervisors who retaliate against Whistleblowers.

1. A disclosure is protected under the WPA if the employee discloses information the employee reasonably believes to be evidence of:
  - a. a violation of any law, rule, or regulation,
  - b. gross mismanagement,
  - c. a gross waste of funds,
  - d. an abuse of authority, or
  - e. a substantial and specific danger to public health or safety.
2. In general, an employee or Applicant may make a protected disclosure to anyone, including non-governmental audiences, unless the information is classified or specifically prohibited by law from release. Options for making a protected disclosure include:
  - a. Informing a supervisor or someone higher up in management,
  - b. Submitting a complaint to the OIG by emailing the OIG at [oig@ftc.gov](mailto:oig@ftc.gov),
  - c. Filing a complaint with the Office of Special Counsel (OSC) <https://www.osc.gov/>.

The California Whistleblower Protection Act (Title 2, Division 1, Chapter 6.5, Article 3.5, Gov. Code §§ 8548-8548.5)

The California Whistleblower Protection Act authorizes the California State Auditor to receive complaints from state employees and members of the public who wish to report an improper governmental activity. An "improper governmental activity" is any action by a state agency or any action by a state employee directly related



to state government that:

1. Violates any state or federal law or regulation,
2. Violates an Executive Order of the Governor, a California Rule of Court, or any policy or procedure required by the State Administrative Manual or State Contracting Manual, or
3. Is economically wasteful or involves gross misconduct, incompetency, or inefficiency. Complaints received by the State Auditor are confidential, and the identity of the complainant may not be revealed without the complainant's permission, aside from an appropriate law enforcement agency conducting a criminal investigation.

There are many ways to file a complaint:

1. By Telephone

Call the Whistleblower Hotline at (800) 952-5665 to file a complaint by talking to one of the State Auditor's employees. The hotline generally is staffed Monday through Friday from 8:00 A.M. to 5:00 P.M. If when called, the hotline is not being staffed, or staff is occupied with other calls, a voicemail message can be left requesting a return call.

2. By Mail or Facsimile

To file a complaint in writing, submit a letter to the State Auditor addressed as follows:

Investigations California State Auditor  
P.O. Box 1019  
Sacramento, CA 95812

Or the letter may be faxed to the State Auditor at (916) 322-2603.

As an alternative, a complaint form may be accessed electronically (which is available on the State Auditor website at [auditor.ca.gov](http://auditor.ca.gov)). To submit, print it out, and return it by mail or facsimile as stated above.

3. Online

Although the State Auditor does not accept complaints by email, complaints may be submitted online at <https://www.auditor.ca.gov/whistleblower/>.

The State Auditor will not undertake an investigation unless there is a basis for believing that a complaint has sufficient merit to warrant spending resources on an investigation. A complaint should therefore include:

- a. A clear and concise statement of what is being alleged to be improper activity and why it is believed to be improper.
- b. The name or other information that clearly identifies the person alleged to have acted improperly and the department where that person works.

- c. The names and contact information for any witnesses who can confirm the truth of the complaint.
- d. Copies of any documents that will support the complaint. (Do not submit original documents, as they cannot be returned.)

## **H. Cancellation and Defaults**

If HCD is required to repay HUD for HOME funds invested in affordable housing because the Project failed to meet the required minimum period of affordability (pursuant to 24 C.F.R. § 92.252(e)), then the Applicant/Developer/Contractor must repay the same amount back to the Department upon demand.

Terminated Projects: If a HOME Project is terminated pursuant to 24 C.F.R. § 92.205 and the Department must repay any HOME funds invested in the Project to the Department's HOME Investment Trust Fund in accordance with 24 C.F.R. § 92.503(b), then Applicant/Sponsor/Developer/Borrower must repay that money back to the Department, so the Department is made whole.

## **I. Loan Closing Requirements**

Sponsor must submit all Department Closing Checklist items well in advance of the anticipated construction loan closing, occupancy, and permanent loan closing dates.

Sponsors and Borrowers should allow at minimum 60 days after they have submitted to the Department the (i) final due diligence documents; and (ii) final signed transaction summary report for a loan to close. With the Department's current workload, the Department strongly recommends Sponsors and Borrower allow at minimum 90 days after submitting the final signed transaction summary for a HOME loan to close.

Failure by Sponsors and Borrowers to timely submit (i) the required due diligence documentation; and (ii) the final signed transaction summary will result in an unnecessary delay to the date when the Department loan will be able to close and may result in extra costs to Borrower. Sponsors and Borrowers are responsible to plan accordingly to ensure a timely closing.

## **VIII. List of Appendices**

Appendix A: Eligible State HOME Jurisdictions

Appendix B: CHDO Certification

Appendix C: Community Need Scores

Appendix D: Scoring Factors