

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

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January 19, 2024

MEMORANDUM FOR: ALL POTENTIAL APPLICANTS

FROM: Sasha Hauswald, Deputy Director
Division of Federal Financial Assistance

SUBJECT: HOME Investment Partnerships Program (HOME)
2022-2023 Notice of Funding Availability

The California Department of Housing and Community Development (Department) is pleased to announce the release of this Notice of Funding Availability (NOFA) for approximately \$120 million in federal funds for the HOME Investment Partnerships Program (HOME). Funding for this NOFA is from the FY 2022 and FY 2023 allocations, plus unencumbered funds and Program Income from previous years' allocations. The funding level may change due to the factors listed in the Section I (A) of this NOFA. This funding provides loans or grants to eligible HOME Applicants serving low-income [at or below 80 percent (80%) of Area Median Income (AMI)] and very low-income [at or below 50 percent (50%) of AMI] households. 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 the Project or Program.

The Department will also target \$18 million of HOME funding for eligible activities located in Federally Declared Disaster Areas, as set forth and provided in this NOFA.

The HOME funds provided through this NOFA will be awarded on a competitive basis for State Recipients (including Native American Entities), CHDOs, and Developers as defined in this NOFA. Funding may be used for the following eligible uses:

Project Activities

- Multi-family Rental Projects (new construction and/or rehabilitation with or without acquisition); and
- First-Time Homebuyer ("FTHB") Projects (subdivision development)

Program Activities

- FTHB Programs, including in-fill new construction programs where feasible;
- Owner-Occupied Rehabilitation ("OOR") Programs; and
- Tenant-Based Rental Assistance ("TBRA") Programs

To be considered, each Applicant must submit a complete application for each HOME Project Activity and/or a Program Activity combined application 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 **February 12, 2024**. 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 April 9, 2024**. For Native American Entity Applicants (whether a Federally Recognized Tribe or Non-Federally Recognized Tribe), each completed application package must be by **no later than 5:00 P.M. PDT on May 9, 2024**.

Timeline

NOFA Release	January 19, 2024
Webinars	February 2024
Competitive application submittal period for cities, counties, CHDOs, and Developers	From February 12, 2024, through April 9, 2024, 5:00 P.M. PDT
Competitive application submittal period for Native American Entities (NAE-FRTs and NAE-NFRTs)	From February 12, 2024, through May 9, 2024, 5:00 P.M. PDT

If the NOFA results in insufficient applications to award all available funds, the Department reserves the right to reopen the application submission period for over-the-counter (OTC) applications on a first come, first served basis.

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 encouraged to set up their profiles and upload attachments and documents in the eCivis GMS Portal located at <https://portal.ecivis.com/#/login> 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.

The Department will hold a series of webinars in February 2024 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>. 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 website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program>

Additionally, technical assistance sessions will be offered during the application period to assist Applicants with questions regarding the application and application process. Applicant seeking technical assistance can send email to the HOMENOFA@hcd.ca.gov email address and a session will be scheduled.

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.

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>. 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.

Attachments

**HOME INVESTMENT PARTNERSHIPS
PROGRAM (HOME)
2022-2023 Notice of Funding Availability**



**Gavin Newsom, Governor
State of California**

**Melinda Grant, Undersecretary
Business, Consumer Services and Housing Agency**

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

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January 19, 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 Notice of Funding Availability (NOFA) for approximately \$120 million in 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,” 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 for every funding source anticipated to be used in the development the Project.

Pursuant to both federal and state law, all HOME costs must be: (1) necessary, (2) reasonable, (3) contain no duplication of benefit, (4) not 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 2022-2023 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;

- Addressing and preventing homelessness; and
- Recovery assistance for natural disaster survivors

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>).

Table 1 – Timeline	
NOFA Release	January 19, 2024
Competitive application due date for cities, counties, CHDOs, and Developers	April 9, 2024, by 5:00 P.M. Pacific Daylight Time (PDT)
Competitive application due date for Native American Entities (NAE-FRTs and NAE-NFRTs)	May 9, 2024, by 5:00 P.M. PDT
<u>Anticipated Award Announcements</u>	
Program Activities	July 2024
Project Activities with 9% tax credits	September/October 2024
Project Activities with 4% tax credits and no tax credits	September/October 2024*
	*Based on volume these dates may change.

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:

- State HOME Regulations (25 C.C.R. § 8200 et seq.)
<https://www.hcd.ca.gov/grants-and-funding/programs-active/home-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.C. 12701 et seq.

https://www.hud.gov/sites/documents/19576_HOMELAWS.PDF

- Federal HOME Regulations (24 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 2022-2023 Annual Action Plan
<https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/plan-report/StateofCADraft-2022-2023-AAP-12-6-22.pdf>

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

Other helpful resources, including 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, the U.S. Department of Housing and Urban Development (HUD), the state 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 the 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), (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 cannot be used to modify or waive federal HOME statutory and regulatory requirements or state statutory requirements.** 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. Native American Entity Applicants are encouraged to begin the AB 1010 waiver process before their application is submitted in order to allow time for the Department to review and make a legal decision on the request.

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 current forms are available on the HOME website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program>.

All 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.

After the applicable application deadline, Department staff may request clarifying information and/or inquire as to where in the application specific information is located, provided that such information does not affect the competitive rating of the application. No information, whether written or oral, will be solicited or accepted if this information would result in a competitive advantage to an Applicant or a competitive disadvantage to other Applicants. If the Department deems the application incomplete, or it fails to provide the minimum requirements, the Applicant may appeal the determination following the guidance in Section IV (H) 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

The Department understands the unique challenges of the current funding environment. Therefore, the Department will allow HOME NOFA Applicants to pursue funding from more than one Department funding Program. Separate concurrent application(s) to other HCD Program funding source(s) is permitted under this HOME NOFA. These Applicants, however, MUST submit within each application a disclosure of 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.). For all anticipated applications with NOFAs subsequent to the HOME NOFA application due date, Applicants must immediately notify HOME Program staff via the HOME NOFA mailbox at the time the additional application is submitted (HOMENOFAs@hcd.ca.gov). In instances where such Applicants are competitive for an award, the Department will also engage in consultation with Applicants to discern which funding scenario(s) are optimal for Project feasibility while balancing cost containment. If a concurrent application is for Department-administered state program funding and the Project receives a state program award, this may result in a reduction of either award amount. The HOME Program's approach for HOME NOFA Applicants may be to reduce the Department-administered state program award commensurately with any amounts awarded under the HOME Program NOFA.

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.

“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. So even if HOME funds are only used to pay for a portion of the overall Project, Awardees and Subrecipients should still be aware of the activities involved that are considered Choice-Limiting Actions. 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.

“Homeless” 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 in a 1- to 4-unit dwelling or in a 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 Indian trust or restricted Indian lands or a Community Land Trust, 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 only apply as 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 NAL 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 under this part. The Project includes all the activities associated with the site and building. For tenant-based rental assistance and program activities, 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).

Additionally, if the Department or the Awardee is providing HOME assistance to a family to acquire single-family housing for homeownership, the Department or the Awardee and the family have executed a written agreement under which the HOME assistance will be provided, and the property title will be transferred to the family or purchaser within six months of the agreement date.

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

“Project Completion” means that all necessary title transfer requirements and construction work have been performed; the Project complies with the requirements of this part (including the property standards under 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 the disbursement and information system established by HUD, except that with respect to rental housing Project Completion, for the purposes of 24 C.F.R. § 92.502(d) of this part, Project Completion occurs upon completion of construction and before occupancy. For tenant-based rental assistance, Project Completion means the final drawdown has been disbursed for the Project. Depending on the Project’s funding mix, the Department may also require a recorded Notice of Completion, Certificate of Occupancy, and/or evidence of stabilized rents to demonstrate Project Completion.

“Special Needs Populations” means the same as defined under section 7301 of the Multifamily Housing Program guidelines: agricultural workers, individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental disabilities, serious mental illness, or substance abuse

disorders; individuals who are survivors of domestic violence, sexual assault, and human trafficking; individuals who are experiencing homelessness; individuals with HIV; homeless youth as defined in California Government Code § 129571(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; frequent users of public health or mental health services, as identified by a public health or mental health agency; frail elderly persons; 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 Entities” means the legal entity or combination of legal entities with continuing control of the HOME Project and conforms with 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, as provided at 24 C.F.R. § 92.201(b)(2) and 25 C.C.R. § 8201(ii) and includes 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 the State HOME Program to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance. A public agency or nonprofit organization that receives HOME funds solely as a Developer or owner of a housing project is not a Subrecipient, as provided at 24 C.F.R. § 92.2.

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 only 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 2022 and 2023 federal HOME funds are listed in Appendix A. If a city or county jurisdiction (jurisdiction) is not listed in Appendix A and is of the opinion that the jurisdiction is eligible to apply to the Department for HOME funds, the jurisdiction must submit a copy of the consortium or urban county agreement indicating that the jurisdiction is not a participant of a FY 2022-2023 or FY 2023-2024 HOME consortium or Urban County Agreement. The copy must be submitted no later than April 9, 2024, to the Department at HOMENOFA@hcd.ca.gov.

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 will be 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 corporation's financial statement that is dated no more than 12 months prior to the date Applicant applies for certification.
 - (3) A copy of the corporation's bylaws, containing at a minimum, the governing board composition, the fulfillment and maintenance of 1/3 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 requirement in 24 C.F.R. § 92.2, disclosure of relationships with for-profit individuals and or entities, if any, as they relate to the governance of the corporation.
 - (4) A copy of the corporation'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 a rental project 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 any proposed HOME activity, 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 funding 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 within which housing to be assisted with HOME funds is to 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 having experience and capacity to own and operate affordable rental housing but lack 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.

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 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

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

NOTE: 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 fifty percent (50%) of the aggregate total of program funds originally awarded by this NOFA's applicable application due date.

Potential Applicants with no open 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. By way of example and not limitation, if an Applicant is a business entity, such entity must be qualified to do business in California and currently in good standing with the California Secretary of State and the California Franchise Tax Board.

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; 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 property acquisition.

Pursuant to 24 C.F.R. § 92.205(a), “acquisition” is considered a transfer of real property between unaffiliated third parties. Therefore, a “rehabilitation with acquisition Project” is eligible only if there will be an acquisition of real property. A title or vesting

change of current ownership is not acquisition of property, whether or not monies were exchanged.

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

NOTE: Projects proposed for acquisition only are not eligible for funding.

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 a HOME-eligible Applicant to provide loans to homebuyers for acquisition of a modest dwelling that the homebuyer selects from the open market.

NOTE: CHDOs are ineligible for this activity.

- (2) Infill New Construction – funds are awarded to an eligible State Recipient or CHDO 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 held in 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.

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%) as recognized by the 90-day “posted yield” for 30-year fixed rate loans, established by Fannie Mae. Rates are available at <https://singlefamily.fanniemae.com/pricing-execution/historical-daily-required-net-yields>.

For Infill New Construction Projects with costs that exceed 100 percent (100%) of the appraised value, this activity is eligible only if the applicant clearly documents the availability of grant funds or building sites currently owned by the Applicant or Developer. For example, if the Project includes a development grant as a funding source, then the Applicant must provide a commitment letter from the funding source in form and content acceptable to the Department in its sole discretion.

b. Owner-Occupied Rehabilitation (OOR) Program

Funds to a HOME-eligible Applicant to assist owners whose primary residence is in need of 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 as long as HOME funds are committed within 12 months of the date of destruction.

c. Tenant-Based Rental Assistance (TBRA) Program

For funds provided to a HOME Applicant to administer a program 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 where the TBRA funds were awarded.

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 deposit to the replacement reserve as required by 25 C.C.R. § 8309. Therefore, in a Project where HOME is the only source of financing, or if other lenders/equity partners will not pay for these costs, the Developer must pay them;
2. Provide tenant-based rental assistance for the special purposes of the existing section 8 program;
3. Provide 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 2022-2023 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 and cannot be available to the general public.

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

A separate application must be submitted for each project activity. For program activities, one main application must be submitted, along with a

sub-application for each desired program activity. Project and program activities are rated and ranked separately.

CHDOs may apply for multiple eligible activities as follows:

1. One rental Project and one FTHB Project; or
2. One rental Project or FTHB Project and one FTHB Program Activity of 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 targets cited below, to the extent eligible applications are available to fund.

Table 2 - Allocation of Funding	
Funding Targets and Statutory Set-Asides	Amount
<p>CHDO Set-Aside Pursuant to 24 C.F.R. § 92.300(a), the Department will allocate 15 percent (15%) of total funds available after state administrative costs for HOME allocation for housing to be owned, developed or sponsored by CHDOs.</p>	\$ 18,000,000
<p>Program Activities Target Pursuant to 25 C.C.R. § 8212.1, the Department will allocate 40 percent (40%) of total funds available after state administrative costs for Program Activities.</p>	\$ 48,000,000
<p>Rental Projects Target Pursuant to 25 C.C.R. § 8212.1, the Department will allocate 55 percent (55%) of total funds available after state administrative costs for rental Projects. This amount includes a 15% CHDO set-aside.</p>	\$ 66,000,000

<p>First-Time Homebuyer Projects Target</p> <p>Pursuant to 25 C.C.R. § 8212.1, the Department will allocate 5 percent (5%) of total funds available after state administrative costs for FTHB Projects. This amount includes a 15% CHDO set-aside.</p>	<p>\$ 6,000,000</p>										
<p>Rural Areas Target</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 after state administrative costs, for use in Rural areas as defined in the HSC § 50199.21.</p>	<p>\$ 60,000,000</p>										
<p>Native American Entity Target</p> <p>The Department will target 20 percent (20%) of total funds available after state administrative costs, to target Native American Entity Applications (as either State Recipients or Developers).</p> <p>In the event target funds remain, the allocation will be used to fund non-Native American eligible Applicants until all funds available for this NOFA are awarded.</p> <p>All Native American Entity Applicants must pass threshold and meet any minimum score requirements to be eligible for awards.</p>	<p>\$ 24,000,000</p>										
<p>Federally-Declared Disaster Areas Target</p> <p>The Department will target \$18,000,000 for Projects and Programs located in Federally-Declared Disaster Areas pursuant to the HUD memorandum dated May 17, 2023, referencing the federally-declared disaster areas under title IV of the Stafford Act, DR-4699-CA dated April 3, 2023, and DR-4683-CA dated January 27, 2023, as may be amended https://www.fema.gov/disaster/4699 https://www.fema.gov/disaster-federal-register-notice/dr-4683-ca-public-notice-001). The Federally-Declared Disaster Areas are the following counties:</p> <p><u>DR-4683 & DR-4699 IA-Declared Counties</u></p> <table border="0"> <tr> <td>Alameda (County)</td> <td>Amador (County)</td> </tr> <tr> <td>Butte (County)</td> <td>Calaveras (County)</td> </tr> <tr> <td>Contra Costa (County)</td> <td>Kern (County)</td> </tr> <tr> <td>Madera (County)</td> <td>Mariposa (County)</td> </tr> <tr> <td>Mendocino (County)</td> <td>Merced (County)</td> </tr> </table>	Alameda (County)	Amador (County)	Butte (County)	Calaveras (County)	Contra Costa (County)	Kern (County)	Madera (County)	Mariposa (County)	Mendocino (County)	Merced (County)	<p>\$18,000,000 – from unsubscribed funds (2021-2022 NOFA)</p>
Alameda (County)	Amador (County)										
Butte (County)	Calaveras (County)										
Contra Costa (County)	Kern (County)										
Madera (County)	Mariposa (County)										
Mendocino (County)	Merced (County)										

Mono (County)	Monterey (County)	
Nevada (County)	Sacramento (County)	
San Benito (County)	San Bernardino (County)	
San Joaquin (County)	San Luis Obispo (County)	
San Mateo (County)	Santa Barbara (County)	
Santa Clara (County)	Santa Cruz (County)	
Tulare (County)	Tuolumne (County)	
Ventura (County)		
Sources:		
https://www.fema.gov/disaster/4683/designated-areas		
https://www.fema.gov/disaster/4699/designated-areas		
In the event target funds remain, the allocation will be used to fund non-disaster area eligible Applicants until all funds available for this NOFA are awarded.		
All disaster area Applicants must pass threshold and meet any minimum score requirements to be eligible for awards.		
NOTE: The Project Commitment deadline for Projects awarded under this target is May 17, 2025.		

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 feasible applications in another allocation..

If the amount requested by all HOME Applicants competitively is lower than the available funds, the remaining HOME funding may be made available on an over-the-counter (OTC) basis. The Department will notify all parties through an “HCD Listserv” announcement if there will be a subsequent OTC HOME NOFA funding opportunity.

G. Activity Funding Amounts and Limits

Award limits apply to the combined amount of funds requested through this NOFA and any HOME Program Income (PI) that will be committed to the Project.

State Recipients (excluding Developers) may apply for up to \$12,000,000 for a multifamily rental Project, up to \$75,000 for administrative costs, and up to \$75,000 for Project-related soft costs, for a maximum total request of \$12,150,000.

CHDOs may apply for up to \$12,000,000 for a multifamily rental Project and up to \$150,000 for CHDO operating costs, for a total maximum request of \$12,150,000.

Developers may apply for up to \$12,000,000 for a Project. Developers are not eligible for reimbursement of administrative costs or Project related soft-costs.

Prior to the issuance of 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.

Homebuyer Project Loan Limits:

- Down Payment assistance cannot exceed 50 percent (50%) of the proposed unit sales price plus closing costs. Applicants will need to consider the pool of potential participants' income levels 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

Table 3 - Funding Limits by Project Activity	
Rental new construction or rehabilitation with or without acquisition	\$12,000,000
FTHB Projects	\$3,000,000
CHDO Operating Funds Grant* - when applying for \$6,000,000 or more in Project development activity funds	\$150,000
CHDO Operating Funds Grant* - when applying for less than \$6,000,000 in Project development activity funds	\$100,000
Administrative Funds Grant*	\$75,000
Project-Related Soft Costs Grant*	\$75,000

*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. This requirement does not apply to TBRA funding.

For example, a Project with 30 units, of which 15 units are HOME-assisted, requires a minimum HOME investment of \$75,000.

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 (usually updated annually), 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

The maximum amount of HOME funds invested in a Project (when combined with other financing and assistance), must accomplish the following:

- a. 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](#).
- b. For rental Projects of five or more units, achieve a debt-service coverage ratio in accordance with 25 C.C.R. § 8310.

The current income and rent limits 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, 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.

Federally-Declared Disaster Area Waivers

HUD has established the availability of potential suspensions and waivers of certain statutory and regulatory requirements associated with the HOME program (including, but not limited to, the suspension of maximum per-unit subsidy limits) for areas covered by a major disaster declaration under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), DR-4699-CA, dated April 3, 2023, and DR-4683-CA dated January 27, 2023, as may be amended.

The following Federally-Declared Disaster Areas are permitted to suspend the maximum per-unit subsidy limits, pursuant to this NOFA:

Alameda (County)	Amador (County)
Butte (County)	Calaveras (County)
Contra Costa (County)	Kern (County)
Madera (County)	Mariposa (County)
Mendocino (County)	Merced (County)
Mono (County)	Monterey (County)
Nevada (County)	Sacramento (County)
San Benito (County)	San Bernardino (County)
San Joaquin (County)	San Luis Obispo (County)
San Mateo (County)	Santa Barbara (County)
Santa Clara (County)	Santa Cruz (County)
Tulare (County)	Tuolumne (County)
Ventura (County)	

For more information, see [HUD Memo: Availability of Waivers of Community Planning and Development Grant Program and Consolidated Plan Requirements to Facilitate Recovery from California Severe Winter Storms, Flooding, Landslides, and Mudslides](#) (DR-4683-CA) and [HUD Memo:](#)

[Availability of Waivers of CPD Grant Program and Consolidated Plan Requirements to facilitate Recovery from California Severe Winter Storms, Straight-Line Winds, Flooding, Landslides, and Mudslides \(DR-4699-CA\).](#)

Program Activities Funding Limits

Maximum: \$1,500,000 (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:

Table 4 - HOME Expenditure Rate* Achieved	
Expenditure Rate for Applicant’s 16-HOME, 18-HOME, and 19-HOME Program Activities Contracts	Maximum Application Amount
60 percent or more	\$1,500,000
55 – 59.99 percent	\$1,000,000
0 – 54.99 percent	\$500,000

*See “Expended Funds” definition in 25 C.C.R. § 8204(b).

NOTE: Applicants that do not have open HOME Program Activities contracts past the expenditure deadline as of the NOFA application due date may apply for up to \$500,000.

Successful Applicants (Awardees) will be evaluated periodically to determine if their 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 that all Program Income (PI) and Recaptured Funds (RF) to be used in accordance with HOME regulations and only for HOME eligible activities, and PI and RF 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 (fiscal year) but must be committed to a Project in the next 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 any anticipated to be received in the next program year, must be reported to the Department to comply with HUD reporting requirements. Additionally, the 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 Annual Performance Report to the Department.

I. Periods of Affordability

All Projects that receive HOME funds are subject to 24 C.F.R. § 92.252 and 24 C.F.R. § 92.254 for a minimum 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.

The requirements of this Subsection run concurrently with the requirements of the Subsection below, outlining the “State Affordability Period” requirements. 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.

Table 5 – Federal Period of Affordability for Rental Housing	
Minimum Period of Affordability (in years)	Housing Activity
5	Rehabilitation or acquisition of existing housing per unit amount of HOME funds; Under \$15,000
10	Rehabilitation or acquisition of existing housing per unit amount of HOME funds; \$15,000 to \$40,000
15	Rehabilitation or acquisition of existing housing per unit amount of HOME funds; Over \$40,000 or rehabilitation involving refinancing
20	New construction or acquisition of newly constructed housing

Table 6 – Federal Period of Affordability for Homeownership	
Minimum Period of Affordability (in years)	Homeownership Assistance HOME Amount Per-Unit
5	Under \$15,000
10	\$15,000 to \$40,000
15	Over \$40,000

All Projects that receive HOME funds are also subject to 25 C.C.R. § 8208 for a minimum number of years, as specified in the following table. 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.

Table 7 - State Period of Affordability	
Minimum Period of Affordability (in years)	Project Type
55 years	Developments on fee land
50 years	Developments on Native American Lands (as defined by 25 C.C.R. § 8201 (y)(1))

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 CFR Section 92.300(a)(1) shall comply with the financing provisions as required for the following activities:
 - For 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 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, so 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 Applicants 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. Developers of a Project shall not act as an administrative subcontractor 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, who are applying for \$6,000,000 or more in Project development activity funds, may request up to

\$125,000 for administrative costs. If requesting less than \$6,000,000 in Project development activity costs, Applicants may request up to \$75,000 for administrative costs.

CHDOs applying for \$6,000,000 or more in Project development activity funds may request up to \$150,000 in CHDO operating funding. If requesting less than \$6,000,000 in Project development activity funds may request up to \$100,000 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 in administrative funds. CHDOs undertaking a FTHB program activity will receive CHDO operation 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.

TBRA Activities

In addition to the 2.5 percent (2.5%) described above for Program Activities, TBRA Applicants may request up to an additional 7.5 percent (7.5%) of the total TBRA application amount for general administrative costs (total of ten percent (10%) of TBRA funds). The maximum amount of administrative funding for this purpose is \$200,000. If there is more demand for TBRA administrative funds than available, only the highest-rated TBRA Applicants will receive administrative funds in addition to the regular 2.5 percent (2.5%) allocation. All TBRA Applicants will receive the initial 2.5 percent (2.5%) amount for administrative costs.

L. Project-Related Soft Costs

Project Activities

Eligible State Recipients of rental and homebuyer Projects may receive up to \$75,000 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 if 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. At the time of set-up (i.e., when the HOME Awardee is ready to begin drawing activity funds) a request for Project-related soft costs may be made for actual expenses:

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 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 involving acquisition with rehabilitation.
3. Up to 5 percent (5%) of the HOME TBRA payment, per household, for unit inspection and income determination activities.
4. Up to 6.5 percent (6.5%) of the HOME amount for all other program activities.

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 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

Table 8 - HOME Project Activity Deadlines	
Project Commitment of HOME Funds (Standard Agreement execution)	September 30, 2026
Project Commitment of HOME Funds (Standard Agreement execution) <i>– specifically, the Federally-Declared Disaster Areas Target, 2021-2022 HOME funds</i>	May 17, 2025
All non-HOME funding sources committed to the Project	July 31, 2025
Construction Loan Closing	Within 12 months from Standard Agreement execution date (in accordance with 24 C.F.R. § 92.2)

Project Completion	Within 4 years from Project Commitment of HOME funds (Standard Agreement execution)
Expenditure	September 1, 2030

Program Activities Deadlines

Table 9 - HOME Program Activity Deadlines	
Project Commitment of HOME Funds (Standard Agreement execution)	September 30, 2026
Project Commitment of HOME Funds (Standard Agreement execution) – <i>specifically, the Federally-Declared Disaster Areas Target, 2021-2022 HOME funds</i>	May 17, 2025
Expenditure Deadline	September 1, 2030

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 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 deadline established in the Standard Agreement. 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, only if the Applicant shows there was 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, match must be reported to the Department in each Project Completion Report. The Department continues to track all match funds in

Projects.

Pursuant to 24 C.F.R. § 92.220(a)(8) and § 92.354(b), a single rate established by HUD shall be applicable for determining the value of unskilled labor. The value of skilled labor or professional services shall be determined by the rate that the individual or entity performing the labor or service normally charges.

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 § 60468, 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 in this NOFA.

Developer and CHDO Projects

The Department charges an annual monitoring fee as follows:

Table 10 – Estimated 2023 Monitoring Fees	
Number of HOME Units	Annual Fee
12 or fewer	\$ 6,077
13 to 24	\$9,888
25 to 36	\$12,051
37-48	\$12,360
49-60	\$14,781
61 or more	\$17,304

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. 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 payment made from development funds is not allowed for HOME Projects. Payments made must be 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. An amount equal to 10 percent (10%) of the monitoring fee which is charged to the Project must be paid by the State Recipient to the Department to cover the Department's costs of monitoring the State Recipient's rental Project compliance activities.

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 will waive 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 and the Federally-Declared Disaster Areas 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, as required by 24 C.F.R. § 92.2. Pursuant to Federal HOME regulations, 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 NOFA Section II. Program Requirements);
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; and
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.
13. When applying for Project Activities, the Applicant must have site control of the Project subject to the HOME funding award as required by 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;

[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](#)]

- 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 clearance or any other federal requirement; or

[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.]

- A conditional purchase contract is 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.

[For more information, 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. Rating and Ranking

After meeting the threshold requirements, applications will be scored as follows. The Department will rate, 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 (H) 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.

Once the set-asides and targets have been achieved, remaining applications may 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.

C. Project Activity Application Scoring Factors and Evaluation

Pursuant to 25 C.C.R. § 8212(d)(5), HOME Project Activity applications must receive a minimum score of 930 points in the following categories to be funded.

<u>HOME Project Activities</u>	
Rental New Construction Rental Rehabilitation First-Time Homebuyer	
Scoring Factors	Points
<p>Factor: Housing Element</p> <p>Applicants that meet the definition of a Local Public Entity (cities and counties) are required to be in substantive compliance with state Housing Element Law, as defined in 25 C.C.R. § 8201(t), as of the NOFA application due date. The current Housing Element Compliance Report can be found at https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-review-and-compliance-report.</p> <p>Newly incorporated cities are exempt from this factor, until such time as the city is required to submit its housing element to the Department for approval. It is the responsibility of the city to know its reporting requirements. If unsure, please send an email inquiry to the HOME Program at HOMENOFA@hcd.ca.gov.</p> <p>CHDOs, Developers, and NAE-FRTs where Project or Activity is located on Native American Lands, are exempt from this requirement and shall receive full points for this scoring factor.</p>	50
<p>Factor: HUD Direct HOME Allocation (Declined)</p> <p>A jurisdiction that is eligible to receive a direct HOME allocation from HUD and declines the funding to preserve their state HOME eligibility, shall receive full points for this scoring factor.</p>	50
<p>Factor: Rural Communities</p> <p>Activities proposed in rural communities (as defined in the HSC § 50199.21) shall receive full points for this scoring factor.</p>	50

<p>Factor: Capacity – Prior Applicant Experience</p> <p>Applicants that demonstrate experience implementing local, state, or federal affordable housing and/or community development projects, during the most recent seven (7) calendar years (1/1/2016 – 12/31/2022), until application deadline, shall receive points for this scoring factor. List no more than 10 entries of housing and community development experience.</p> <p>Native American Entities: Experience may include implementation of affordable housing and/or community development activities under the NAHASDA program.</p> <ul style="list-style-type: none"> • 10 points for each project completed creating 4 or more units of affordable housing • 10 points awarded for each project completed as defined in the HOME Supplemental Application • Maximum of 50 points 	50
<p>Factor: Capacity – Prior Developer Team Experience</p> <p>Developers that demonstrate the Project team has experience developing the same housing activity type of subsidized project as proposed in the application, during the last five (5) calendar years (1/1/2019 – 12/31/2023), shall receive points for this scoring factor. Experience can be demonstrated by any member of the development team (owner, Developer, Sponsor, etc.).</p> <ul style="list-style-type: none"> • 1 project completed — 100 points • 2 projects completed — 150 points • 3 projects completed — 200 points 	200
<p>Factor: Capacity – Prior Performance</p> <p>For prior performance scoring, all applications receive the maximum 200 points for the factor. As applications are reviewed and rated, points will be deducted for each of the following sub-factor deficiencies up to a maximum 200-point deduction.</p>	

<p>Sub-factor #1: Project Deadlines</p> <p>If, by the NOFA application due date, an Applicant, Developer, owner, and/or managing general partner of any HOME Project contract (rental and FTHB) awarded between 1/1/2019 – 12/31/2023, failed to meet the Project deadlines (milestones) as outlined in the Standard Agreement, unless extended in writing by the Department, points shall be deducted for this scoring sub-factor as follows:</p> <ul style="list-style-type: none"> • Permanent financing deadline — (5 points) • Project set-up deadline — (10 points) • Construction loan-closing deadline — (10 points) • Project Completion deadline — (80 points) • Expenditure deadline — (20 points) 	<p>Maximum 200-point deduction</p>
<p>Sub-factor #2: Applicant Reporting</p> <p>Reporting is an essential condition and a responsibility of accepting HOME funds; therefore, Applicants that were required to submit reports but failed to do so are subject to a deduction of up to 50 points. Applicants may submit missing reports prior to the application deadline to reduce the number of points deducted.</p> <p>This applies to any HOME Project monthly and/or quarterly PI reports, annual reports, and Project Completion reports due between 1/1/2019 – 12/31/2023.</p> <ul style="list-style-type: none"> • Late or missing Monthly Project Status Reports — (5 points deducted for each missing report, 2 points deducted for each late report) • Late or missing Quarterly Program Income Reports (QPIR), if applicable — (5 points deducted for each missing report, 2 points deducted for each late report) • Late or missing Annual Performance Reports (APRs), applicable to State Recipients only — (25 points deducted for each missing report, 10 points deducted for each late report) • Late or missing Project Completion Reports (PCRs) — (50 points deducted for each missing report, 25 points deducted for each late report) 	<p>Maximum 50-point deduction</p>

<p>Sub-factor #3: Material Misrepresentation</p> <p>If between 1/1/2019 – 12/31/2023, an Applicant, Developer, owner, and/or managing general partner made any material misrepresentation or omission in the HOME application, application documentation, Project reports, and/or any other document, significant in nature, that could jeopardize the Department’s HOME funding in a Project or place the Department at risk of a HUD monitoring finding, up to 200 points shall deducted for this scoring sub-factor. This is evidenced by receipt of a letter from the Department outlining the infraction and the points deduction levied by the Department.</p>	<p>Maximum 200-point deduction</p>
<p>Sub-factor #4: Monitoring Noncompliance (1/1/2019 – 12/31/2023)</p> <p>There are two noncompliance categories for which up to 100 points may be deducted.</p> <ol style="list-style-type: none"> 1. Monitoring. Points will be deducted in this category for any application for which the Applicant, owner, and/or managing general partner have failed to remedy any HOME monitoring findings and concerns, identified by the Department. 2. Late reports. Points will be deducted in this category for any 2020-2021 NOFA Project applications for which the Applicant, owner, and/or managing general partner failed to submit timely reports for occupied HOME rental Projects. Point deductions shall be as follows: <ul style="list-style-type: none"> a. <u>Local Public Entity</u> <ul style="list-style-type: none"> • Annual monitoring report — (10 points each) • Annual report — (10 points each) <p>(including financial audit, schedule of rental income, and annual affirmative marketing analysis)</p> b. <u>CHDOs/Developers</u> <ul style="list-style-type: none"> • Annual operating budget — (10 points each) • Annual report — (10 points each) <p>(including financial audit, schedule of rental income, and annual affirmative marketing analysis)</p> 	<p>Maximum 100-point deduction</p>
<p>Factor: Community Need</p> <p>The community need point scoring by activity type is based on the data available in Appendix C at the HOME website.</p>	<p>Up to 250</p>

<p>Factor: Project Feasibility</p> <p>1. State and federal requirements (including UMRs for rental Projects) – 150 points</p> <p>To receive the full 150 points, Applicant must submit a complete self-evaluation feasibility worksheet within the application.</p> <p>2. Highest percentage of HOME-assisted units – Up to 50 points</p> <p>Points will be awarded within five scoring levels, ranging from 10 to 50 points, based on the highest number of HOME units proposed in a Project.</p>	<p>200</p>
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Factor: Project Readiness

The Project Readiness point scoring is based on activity type. Project readiness factors and documentation minimum requirements are further detailed in the HOME Supplemental Application, found at the Department's [HOME Program website](#).

Project Development Plan (PDP). Points will be awarded if the following required* items were prepared and submitted within the applicable timeframes and meet the minimum requirements as specified in the HOME Supplemental Application. The PDP will be reviewed on applications scored high enough for funding.

*The Geotechnical Report is not required as part of the application and will not be considered for scoring purposes.

1. Rental New Construction Projects. Points will be awarded based on the following complete documents submitted with the application: market study (35 points); appraisal (10 points); Phase I/II Environmental Report (35 points); floodplain analysis (25 points); construction cost estimate (5 points); Relocation General Information Notice and relocation plan (30 points); zoning verification (40 points); water/sewer (5 points); local government approval (80 points); design progress (10 points); and permanent financing commitments (25 points).
2. Rental Rehabilitation Projects. Points will be awarded based on the following complete documents submitted with the application: market study (10 points); appraisal (30 points); floodplain analysis (25 points); lead/mold/asbestos reports (25 points); construction cost estimate (20 points); Relocation General Information Notice and relocation plan (75 points); Physical Needs Assessment (74 points); local government approval (1 point); design progress (5 points); and permanent financing commitments (35 points)
3. Homebuyer Projects. Project readiness factors are available in the Homebuyer Project Application (Part B), available on the Department's [HOME Program website](#). Points will be awarded based on the following complete documents submitted with the application: market study (40 points); appraisal (10 points); Phase I/II Environmental Report (30 points); floodplain analysis (55 points); construction cost estimate (5 points); local government approval (75 points); impact fees (30 points); zoning verification (10 points); design progress (10 points); and financing commitments (35 points)

300

Factor: State Objectives

For the State Objectives scoring, there are three sub-factors for which Applicants can receive points, up to 200 points maximum. As applications are reviewed and rated, points will be awarded to Projects that meet the following objectives, in accordance with the Department’s 2022-2023 Annual Action Plan, based on the following sub-factors:

1. Committed financing to increase affordable housing;
2. Recovery assistance for natural disaster survivors; and
3. Addressing and preventing Homelessness, and/or assisting Special Needs Populations and Extremely Low-Income Families

Sub-factor #1: Committed Financing to Increase Affordable Housing

Applications will be scored based on the percentage of non-HOME permanent financing committed to the Project by the application due date (10 points will be awarded for each 10 percent (10%) increment).

For Projects anticipating applying for **any type of tax credits** -- a future tax credit award will not be considered as committed financing, and are thus not eligible for these points.

For example, if the Applicant has 50 percent (50%) of its non-HOME permanent financing committed to the Project by the application due date, but intends to also apply for tax credits in the future, the application will receive 50 points out of a possible 100 points.

100

Sub-factor #2: Recovery Assistance for Natural Disaster Survivors

Full points shall be awarded for Projects located in federally-declared disaster areas pursuant to the HUD memorandum dated May 17, 2023, referencing the federally-declared disaster areas under title IV of the Stafford Act, DR-4699-CA dated April 3, 2023, and DR-4683-CA dated January 27, 2023, as may be amended (<https://www.fema.gov/disaster/4699>) (<https://www.fema.gov/disaster-federal-register-notice/dr-4683-ca-public-notice-001>). The Federally-Declared Disaster Areas are the following counties:

DR-4683 & DR-4699 IA-Declared Counties

- | | |
|-----------------------|--------------------------|
| Alameda (County) | Amador (County) |
| Butte (County) | Calaveras (County) |
| Contra Costa (County) | Kern (County) |
| Madera (County) | Mariposa (County) |
| Mendocino (County) | Merced (County) |
| Mono (County) | Monterey (County) |
| Nevada (County) | Sacramento (County) |
| San Benito (County) | San Bernardino (County) |
| San Joaquin (County) | San Luis Obispo (County) |
| San Mateo (County) | Santa Barbara (County) |
| Santa Clara (County) | Santa Cruz (County) |
| Tulare (County) | Tuolumne (County) |
| Ventura (County) | |

Sources:

<https://www.fema.gov/disaster/4683/designated-areas>

<https://www.fema.gov/disaster/4699/designated-areas>

30

<p>Sub-factor #3: Special Needs Populations, Homelessness, or Extremely Low-Income – See Table #11 below for scoring breakdown.</p> <p><u>Funding Commitments for Special Needs Populations (up to 70 points)</u></p> <p>Points shall be awarded to applications that propose rental Projects with funding commitments to target Special Needs Populations, using any of the following funding:</p> <ul style="list-style-type: none"> • HUD 811 • HUD Supportive Housing Program • State Mental Health Services Act (MHSA) • HCD -- No Place Like Home Program • HCD -- Veterans Housing and Homelessness Program • HCD -- National Housing Trust Fund Program • HCD -- Multifamily Housing Program • HCD -- Joe Serna, Jr. Farmworker Housing Grant Program • Points may also be awarded to Projects that provide project-based rental assistance, under the terms of a MHSA or Veterans Affairs Supportive Housing Voucher (HUD-VASH). <p style="text-align: center;">– or –</p> <p><u>Homelessness (up to 70 points)</u></p> <p>Points shall be awarded to applications that propose rental Projects primarily serving people experiencing Homelessness and/or those At Risk of Homelessness as defined in at 24 C.F.R. § 578.3.</p> <p>NOTE: If serving Special Needs or Homeless populations, the Projects must include supportive services in accordance with the “Core components of Housing First” under Welfare and Institutions Code § 8255.</p> <p style="text-align: center;">– or –</p> <p><u>Extremely Low-Income (ELI) (up to 70 points)</u></p> <p>Points shall be awarded to applications that propose rental Projects primarily serving Extremely Low-Income Families, which means low-income families whose annual incomes do not exceed 30 percent of the median family income of a geographic area, as determined by HUD with adjustments for smaller and larger families.</p> <p>NOTE: This scoring category is not applicable to Homebuyer Projects. Homebuyer Projects will automatically receive full points in this category.</p>	70
TOTAL AVAILABLE POINTS FOR PROJECT ACTIVITIES	1550

Table 11 – Subfactor #3 Scoring Breakdown	
Percent of Units Committed to Special Needs, Homeless, or ELI Families	Points
51% or more	70
41-50%	60
31-40%	50
26-30%	40
21-25%	30
16-20%	20
10-15%	15
6-10%	10
1-5 %	5

D. Program Activities Application Scoring Factors and Evaluation

HOME Program Activities	
Scoring Factors	Points
<p>Factor: Housing Element</p> <p>Cities and counties are required to be in substantive compliance with state Housing Element Law, as defined in 25 C.C.R. § 8201(t), as of the NOFA application due date. Housing Element Annual Progress Reports are available at https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-review-and-compliance-report. Newly incorporated cities are exempt from this factor, until which time the city is required to submit the housing element to the Department for approval. It is the responsibility of the city to know their reporting requirements. If unsure, please send an email inquiry to the HOME NOFA Unit, HOMENOFA@hcd.ca.gov.</p> <p>CHDOs, Developers, and Native American Entities are exempt from this requirement and shall receive full points for this scoring factor.</p>	50

<p>Factor: HUD Direct HOME Allocation (Declined)</p> <p>A jurisdiction that proposes activities that is eligible to receive HUD direct HOME allocation funds (and declines the funding for the purpose of preserving their state HOME eligibility) shall receive full points for this scoring factor.</p>	<p>50</p>
<p>Factor: Rural Communities</p> <p>Activities proposed in a rural community (as defined in the HSC § 50199.21) shall receive full points for this scoring factor.</p>	<p>50</p>
<p>Factor: Capacity – Applicant Experience</p> <p>Applicants that demonstrate experience administering HOME and/or other local, state, or federal affordable housing and/or community development projects during the last seven calendar years (1/1/2016 – 12/31/2022), plus 2023 year-to-date, shall receive full points for this scoring factor.</p>	<p>100</p>
<p>Factor: Capacity – Prior Performance</p> <p>For prior performance scoring, all applications receive 150 points. As applications are reviewed and rated, points will be deducted for each of the following sub-factor deficiencies, up to a maximum 150-point deduction for two sub-factors:</p> <ul style="list-style-type: none"> • Reporting noncompliance • Monitoring noncompliance 	
<p>Sub-factor #1: Reporting</p> <p>Reporting is an essential condition and responsibility of accepting HOME funds; therefore, Applicants that previously failed to comply with reporting requirements are subject to a deduction of up to 50 points.</p> <ul style="list-style-type: none"> • In assigning these points, the Department will review the Applicant’s history of submitting quarterly reports and quarterly PI reports (for both Program Activities and Projects contracts numbered 16-HOME through 19-HOME), and Annual Performance Reports for FY 20-21, 21-22, and 22-23. Applicants may submit missing reports prior to application deadline to reduce the number of points deducted. • Late or missing Quarterly Program Status Reports — (5 points each missing 2 points each late) • Late or missing Quarterly Program Income Reports (QPIR), if applicable — (5 points each missing, 2 points each late) • Late or missing Annual Performance Reports (APRs) — (25 points each missing, 10 points each late) 	<p>Maximum 50-point deduction</p>

<p>Sub-factor #2: Monitoring Noncompliance (1/1/2019 – 12/31/2023)</p> <p>One hundred (100) points will be deducted for noncompliance with monitoring or contract requirements identified in the last five calendar years.</p>	<p>Maximum 100-point deduction</p>
<p>Factor: Community Need</p> <p>The community need point scoring by activity type is based on data available in Appendix C of this NOFA, available on the Department’s HOME Program website at https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program.</p>	<p>250</p>
<p>Factor: Project Feasibility</p> <p>Project feasibility scoring has two scoring categories: activity type and program guidelines, described as follows:</p> <ol style="list-style-type: none"> 1. Activity type scoring criteria (up to 75 points): <ol style="list-style-type: none"> a. FTHB program scoring is determined by the percentage of all homes sold in the city or county in the last 12-month period that are affordable to lower-income families. b. OOR program scoring is determined by the number of overcrowded households by tenure, low-income owner-occupied households, substandard housing conditions, and the age of the housing stock by tenure, in the city or county as reflected in U.S. Census data. c. TBRA program scoring is determined by the overpayment by low-income renter households as reflected in U.S. Census data. 2. Program guidelines will be evaluated by the extent they reflect state and federal requirements (up to 25 points). 	<p>100</p>
<p>Factor: State Objectives</p> <p>For State Objectives scoring, there are two sub-factors for which Applicants can receive up to 200 points maximum. As applications are reviewed and rated, points will be awarded for the following objectives, in accordance with the Department’s 2022-2023 Annual Action Plan:</p> <ol style="list-style-type: none"> 1. Increasing affordable housing; 2. Addressing and preventing Homelessness 	

<p>Sub-factor #1: Increasing Affordable Housing</p> <p>Applicants that have higher expenditure rates (i.e., expenditure rates of 55 percent and above) for all 2015-2018 HOME Program Activities contracts shall receive state objectives points as follows:</p> <ul style="list-style-type: none"> • Expenditure rate at or above 60 percent. (90 points) • Expenditure rate between 55 percent to 59.99 percent. (60 points) <p>Expenditure rates will be calculated in accordance with the “Expended Funds” as defined by 25 C.C.R. § 8204(b).</p>	90
<p>Sub-factor #2: Homelessness or Extremely Low-Income</p> <p>Points shall be awarded for actions to prevent or address Homelessness. These points will be awarded to Applicants that:</p> <ol style="list-style-type: none"> 1. Apply for TBRA; or 2. Proposed Project will primarily serve (50% or more) people experiencing Homelessness and/or those At Risk of Homelessness as defined in at 24 C.F.R. § 578.3; or 3. Proposed Project will primarily serve (50% or more) Extremely Low-Income Families, which means low-income families whose annual incomes do not exceed 30 percent of the median family income of a geographic area, as determined by HUD with adjustments for smaller and larger families. 	110
TOTAL POINTS FOR PROGRAM ACTIVITIES	950

E. Point Deduction Rules

Pursuant to 25 C.C.R. § 8217, Applicants who disencumbered a Project contract between June 1, 2019, and December 31, 2023, and their Developers, owners, and managing general partners, if any, for these Projects shall receive point deductions according to the above schedule for the deadlines the Project did not meet before the contract was disencumbered.

Pursuant to 25 C.C.R. § 8217(b)(3), Projects that fail to meet deadlines outlined in the state regulations are subject to performance penalties, including point deductions for Projects, unless an exception has been granted by the Department in accordance with 25 C.C.R. § 8217(c). See Section III (B) of this NOFA for more specifics on point deductions.

F. Rental Project Scoring and Notification

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

G. 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.

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 issues
- Local government approvals
- Project market
- Prevailing wages
- Elevation above a flood plain
- 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 adjacent to, or in close proximity to, 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, and a 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.

H. 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. No Applicant shall 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 Program Manager 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 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.

3. Decision

- a. Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with this NOFA. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department.

V. **Award Announcements and Contracts**

A. **Award Announcements**

Subject to the availability of funds, the Department intends to send Award letters by July 2024 for Program Activities and by September/October 2024 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 will contain deadlines that are consistent with state and federal HOME regulations. Failure to meet these deadlines will be considered a material breach of the Standard Agreement.

NOTE: The Standard Agreement may be delayed if 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 Awardee has the legal authority to contract with the Department.

A condition of award will be that a Standard Agreement is executed by the Awardee(s) within 90 days (contracting period) of the Awardees' receipt of the Standard Agreement. Failure to execute and return the Standard Agreement(s) to the Department within the contracting period may result in award cancellation. The Awardee(s) shall remain a party to the Standard Agreement for the full term of the Standard Agreement; removal of the Awardee(s) shall be prohibited.

VI. Federal and State Overlays

All activities funded with HOME funds 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. Single Audit Report 2 C.F.R. Part 200; and

l. 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 shall not engage in any Choice-Limiting Actions as defined in this NOFA. 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 the few 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 Chapter V of the HOME Contract Management Manual at <https://www.hcd.ca.gov/grants-and-funding/programs-active/home-investment-partnerships-program/home-contract-management-manual>.

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 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.

Federal Prevailing Wage Requirements (Davis-Bacon)

Federal prevailing wages must be paid on Projects involving site development, construction, and rehabilitation, where there are 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 enforce federal labor standards, then it is highly recommended that an outside labor consultant be hired.

For Projects located on Native American Lands as defined by 25 C.C.R. § 8201(y)(1) and 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 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. 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 and make a determination as to whether a relocation plan is necessary. Relocation considerations include the following:

- 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 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.

Procurement Requirements for State Recipients Using Administrative Subcontractors

Except for procurement of the NEPA consultant, which can be accomplished using the small purchase procurement method (i.e., by use of informal price quotations), State Recipients using administrative subcontractors paid with HOME Funds must follow 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 HOME Contract Management Manual at <http://www.hcd.ca.gov/grants-funding/active-funding/home/cmm.shtml>

Single Audit Report Documentation and Reporting Requirements

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, and annual performance reports must be submitted to the Department during the entire affordability period pertaining to the outcomes of the program and pursuant to the Regulatory Agreement provisions.

Local government Applicants must comply with [2 C.F.R. Part 200.512](#) Single Audit Report Submission requirements. The Department will make the determination on the status of the Single Audit reporting compliance as of the date of application submission by consultation with the California State Controller's Office (SCO). Jurisdictions that are exempt from filing must submit a copy of the exemption letter notifying the SCO of their exempt status with their application.

Applicants/Awardees are responsible for disclosing all changes to the Project since submitting the application. Such changes could include, but are not limited to, development team member changes, increased or decreased costs, intent to apply for additional funds, changed Project description, environmental issues, and Project timeline changes.

Questions regarding compliance with the submittal requirements can be directed to HOMENOFA@hcd.ca.gov.

Violence Against Women Act Requirements

Projects must implement policies and practices that comply with the Violence Against Women Act (“VAWA”) (Title VI-Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – Section 601 – 603 and 81 C.F.R. § 80724), in accordance with federal HOME regulations at 24 C.F.R. § 92.359.

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. To the greatest extent possible, Section 3 requires that recipients of certain HUD financial assistance (which includes HOME funds) provide job training and employment opportunities to low- or very low-income residents in connection with HOME Projects and activities in their neighborhoods.

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. 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.

C. 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.

D. 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 wants to stop 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.

E. 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

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
(213) 534-2518

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

300 North Los Angeles Street
Los Angeles, CA 90012
(213) 534-2518.

F. 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,
 - 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 to 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). 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/contactus/complaint>.

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.)

G. 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 has to repay any HOME funds invested in the Project to the participating jurisdiction'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 can be made whole.

H. 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 HOME Jurisdictions

Appendix B: CHDO Certification Instructions

Appendix C: Community Needs Score