

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

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June 22, 2020

**MEMORANDUM FOR:** All Potential Applicants

**FROM:** Jennifer Seeger, Acting Deputy Director  
Division of Financial Assistance

**SUBJECT:** **Housing for a Healthy California Program, Article I  
National Housing Trust Fund Allocation Funds  
2020 Amended Notice of Funding Availability**

The California Department of Housing and Community Development (Department) is amending this Notice of Funding Availability (NOFA) to clarify the combined amount of approximately \$43.5 million available in Article I National Housing Trust Fund (NHTF) Allocation funds are as follows:

- 2020 NHTF funds available approximately \$33 million
- 2019 NHTF funds available approximately \$10.5 million

for a total of approximately \$43.5 million in Article I NHTF Allocation funds for the Housing for a Healthy California (HHC) Program. The amendment includes clarification of the project commitment and permanent loan closing deadlines.

This funding furthers the goal of [Assembly Bill 74](#) (Chapter 777, Statutes of 2017), as amended by [Assembly Bill 957](#), by providing capital loans and operating reserve grants to developers for permanent Supportive housing for individuals who are Chronically homeless, or Homeless and a High-cost health user.

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

This NOFA is subject to state Housing for a Healthy California, Article I Guidelines and federal NHTF regulations and makes funding available competitively to developers in all jurisdictions of California. The Department will reserve at least 20 percent of the funding for projects located in Rural Areas.

A complete original application and electronic copies on a flash drive with all applicable information must be received by the Department no later than **5:00 p.m. on Thursday, July 23, 2020**. The Department will only accept applications through a carrier service such as U.S. Postal Service, UPS, FedEx, or other carrier services that provide date stamp verification confirming delivery to the Department's office. Please contact the Department if delivery is not completed by fault of the carrier service. The delivery address is:

Department of Housing and Community Development  
Division of Financial Assistance, Federal Program Section  
HOUSING FOR A HEALTHY CALIFORNIA PROGRAM  
2020 West El Camino Avenue, Suite 200 Sacramento, CA 95833

Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, electronically transmitted, or walk-in application packages will be accepted.

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

Attachment

# **Housing for a Healthy California, Article I National Housing Trust Fund Allocation**

## **2020 Notice of Funding Availability**

### **Amendment**



**Gavin Newsom, Governor  
State of California**

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

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

Division of Financial Assistance, Federal Programs Branch  
Housing for a Healthy California  
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HHC Program Email: [HHCNOFA@hcd.ca.gov](mailto:HHCNOFA@hcd.ca.gov)

**February 28, 2020  
Amended June 22, 2020**

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**HOUSING FOR A HEALTHY CALIFORNIA PROGRAM, ARTICLE I  
NATIONAL HOUSING TRUST FUND ALLOCATION  
AMENDED NOTICE OF FUNDING AVAILABILITY**

**I. Overview**

**A. Notice of Funding Availability**

The California Department of Housing and Community Development (Department) is pleased to announce this Notice of Funding Availability (NOFA) to clarify the combined amount of \$43.5 million available in the Article I National Housing Trust Fund (NHTF) Allocation funds are as follows:

- 2020 NHTF funds available approximately \$33 million
- 2019 NHTF funds available approximately \$10.5 million

Funding for this Notice of Funding Availability (NOFA) is provided pursuant to [Assembly Bill 74](#), as amended by [Assembly Bill 957 Housing Omnibus](#) in October of 2019. The intent of the bill is to create permanent Supportive housing opportunities for those that are Chronically homeless or Homeless and a High-cost health user.

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

**B. Timeline**

<b>NOFA Release</b>	<b>February 28, 2020</b>
<b>Application Due Date</b>	<b>July 23, 2020</b>
<b>Award Announcements</b>	<b>November 2020</b>

Applicants applying for the 2019 NHTF funds as “Shovel Ready” projects are encouraged to submit an application prior to the July 23, 2020 due date. Please include a written request with the application binder acknowledging the project will be able to meet the 2019 NHTF project commitment deadline and 2019 permanent loan closing deadline found in section **I. State and Federal requirements 1**. Timeframes for using funds of this NOFA. The Department’s intent is to review and award projects using 2019 funds prior to the November 2020 date indicated in this NOFA.

**C. Authorizing Legislation, Regulations, and Guidelines**

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

- [Assembly Bill 74, \(Chapter 777, Statutes of 2017\)](#), as amended by [Assembly Bill 957 Housing Omnibus](#)

- [Housing for a Healthy California Program \(Article I\) Guidelines](#)
- [Federal Housing Trust Fund regulations](#)
- [State Uniform Multifamily Regulations \(UMRs\)](#)

**Note:** 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 more strict) shall control.

This NOFA does not include the text of all applicable requirements that may be important to projects. For proper completion of the application, the Department encourages Applicants to consult the guidelines, regulations, statutes linked above, and other cross-cutting regulations such as, but not limited to, those referred to in 2 Code of Federal Regulations (CFR) Part 200, a portion of which applies to HHC-funded rental projects.

If state or federal statutes or regulations, or other laws governing HHC and the National Housing Trust Fund or its funding, are modified by Congress, the United States 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. The Department reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such action occurs, the Department will notify interested parties through the [listserv](#). To sign up for listserv notifications for the HHC program, please follow the listserv link and select “federal programs.”

## **II. Program requirements**

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

### **A. Eligible Applicants**

Applicants must be owners or developers that meet the requirements set forth in Guidelines Section 102, Minimum Requirements.

All Applicants must be in good standing with the laws, regulations, guidelines, and programs of the Department, 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.

## **B. Eligible Uses**

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

1. Loans for acquisition and/or new construction. Rehabilitation is not an eligible activity under this NOFA.
2. Grants for project-based operating assistance in the form of a Capitalized Operating Subsidy Reserve (COSR).

## **C. Allocation of funding and loan limits**

This NOFA makes funding available competitively to developers in all jurisdictions of California. The Department will set-aside at least 20 percent of the funding for projects located in Rural Areas, as noted in the NHTF allocation plan. If the rural set-aside is not utilized, then the 20 percent of the funding is re-allocated to the entire allocation; it is not rolled over into future funding rounds.

NHTF loans shall be used in accordance with Guidelines Section 103, Uses and Terms, and 24 CFR Part 93, Subpart E. HHC assistance provided as post-construction permanent loans shall have an initial term of 55 years or longer to match the period of affordability restrictions under the tax credit program, commencing on the date of recordation of the HHC loan documents.

Award limits: The maximum loan limit per Applicant is \$20 million. The limit on the amount that can be used for the COSR will be one-third of the total loan amount in accordance with 24 CFR 93.200(a)(1). Additional loan limits, including maximum per-unit loan amounts, are set forth in Guidelines Section 103, Uses and Terms and Section 108, Capitalized Operating Subsidy Reserves (COSR).

Applicants should consult the capital per-unit subsidy limits beginning on [page 41 of the Department's per-unit loan limits table](#). 9 percent tax credits projects and projects without 9 percent tax credits for the current per-unit subsidy limits for HHC projects are based on the utilization of tax credits, Area Median Income (AMI) levels being targeted, and the number of bedrooms per unit.

## **D. Occupancy and income requirements**

Household income shall be determined in accordance with the rules in 24 CFR Part 93.151 and in Guidelines Section 105, Occupancy and Income Requirements. At the time of move-in, the household income shall not exceed the established Extremely Low-Income (ELI) limits or the limit for families with incomes at or below the poverty line (whichever is greater) pursuant to 24 CFR Part 93.250(a). Income levels shall be expressed in 5 percent increments as a percentage of AMI. The income limits are posted on the Department's [website](#). Assisted Units will be restricted per the income limits set forth in the project Regulatory Agreement.

## E. Rent limits

Assisted Unit rent will be restricted in accordance with the NHTF rent and income limits in 24 CFR Part 93.302 and in Guidelines Section 106, Rent Limits.

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

## F. Minimum requirements

Applicants and projects are required to meet the program minimum requirements found in Guidelines Section 102, Minimum Requirements and Section 110, Application Process.

## G. Rating and Ranking

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

	<b>Maximum Applicable Points</b>
Development team experience	35
Supportive housing units	25
Supportive Services plan	25
Utilization of funds to offset requests	10
Leverage of rent/op subsidies	15
Readiness to proceed	30
Confirmation of local need	5
Location efficiency and access to destinations	5
<b>TOTAL APPLICABLE POINTS</b>	<b>150</b>

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

- Development team experience – 18 points
- Supportive Services plan – 10 points
- Readiness to proceed – 15 points

In the event there are insufficient funds to fully fund an application based on the final



score, a partial award can be made. If the applicant wishes to pass on the partial award, the next eligible applicant in line will be offered the funds until the funds are awarded or held over to the next NOFA. In the event of tied point scores, the following tiebreakers shall be used to determine which project is selected for funding, in the order listed:

- Readiness to proceed
- Supportive Services plan

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

### **Allocation of the (5) Bonus Points**

In order to incentivize the use of 2019 NHTF funds, the HHC Program will manually apply five bonus points for Applicants who have included a written request acknowledging its project will meet the 2019 NHTF project commitment deadline and permanent loan closing deadline found in section I. **State and Federal requirements** 1. Timeframes for using funds of this NOFA. It is the Department's intent to review and award projects using 2019 funds prior to the November 2020 date indicated in this NOFA.

## **H. Appeals**

### 1. Basis of appeals

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

### 2. Appeal process and deadlines

- a. To lodge an appeal, Applicants must submit to the Department, by the deadline set forth in subsection b. 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 provides clarification and substantiation for the basis of the appeal. No new or additional information will be considered if this information would result in a competitive advantage to an Applicant. Once the written appeal is submitted to the Department, no further information or materials will be accepted or considered thereafter.

The Department will accept appeals through a carrier service that provides date stamp verification of delivery such as the U.S. Postal Service, UPS, FedEx, or other carrier services. Deliveries must be received during the Department's weekday (non-state holiday) business hours of 9:00 a.m. to 5:00 p.m. Pacific Daylight Time. Emails to the email address listed below will be accepted as long as the email time stamp is prior to the appeal deadline.

- Appeals are to be submitted to the Department at [HHCNOFA@hcd.ca.gov](mailto:HHCNOFA@hcd.ca.gov) according to the deadline set forth in Department review letters.

- b. Appeals must be received by the Department no later than five business days from the date of the Department's minimum requirements review or initial score letters representing the Department's decision made in response to the application.

### 3. Decision

- a. Any request to amend the Department's decision shall be reviewed for compliance with the state NHTF allocation plan, state Guidelines, UMR (if applicable), this NOFA, and application for funding. It is the Department's intent to render its decision in writing within 15 business days of receipt of the Applicant's written appeal. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department with respect to the appeal.
- b. In the event that the statute, regulations, and/or Guidelines governing this program contain an existing process for appealing decisions of the Department with respect to NOFA awards made under such programs, then this section shall be inapplicable and such existing authority shall govern all appeals.

## I. **State and Federal requirements**

### 1. Timeframes for using funds

Successful Applicants of NHTF funds (also referred to as successful Applicants) are subject to progress deadlines and expenditure deadlines as defined in the federal NHTF regulations, and the state NHTF allocation plan, and specified in the Standard Agreement. Specifically:

- 2019 NHTF funded projects must meet a February 1, 2021 project commitment deadline and a February 1, 2024 permanent loan closing deadline, or funding will be lost.
- 2020 NHTF funded projects must meet an October 22, 2021 project commitment deadline and an October 22, 2024 permanent loan closing deadline, or funding will be lost.

Allocation of the (5) Bonus Points

In order to incentivize the use of 2019 NHTF funds, the HHC Program will manually apply five bonus points for Applicants who have included a written request acknowledging its project will meet the 2019 NHTF project commitment deadline and permanent loan closing deadline found in this section of the NOFA. It is the Department’s intent to review and award projects using 2019 funds prior to the November 2020 date indicated in this NOFA.

If a project fails to meet one or more of the deadlines outlined in the state NHTF allocation plan, the Applicant, as well as the project’s owner and managing general partner, may receive a performance points penalty on the next project application in which they are involved. If a project fails to meet three or more deadlines, the Applicant shall be held out of future NHTF project funding rounds until that project is completed, occupancy is obtained, all expenditures are made, and all necessary NHTF funds are drawn. The Applicant and the project’s developer, owner, and managing general partner may also receive a performance points penalty on the next project application in which they are involved.

2. Monitoring fees

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

The Department charges an annual monitoring fee, as follows:	
<b>Number of Units</b>	<b>2020</b>
12 or fewer	\$5,792
13 to 60	\$11,584
More than 60	\$17,372

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

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

Lump sum payment made from development funds is not allowed for projects. Payments made must be pursuant to the Regulatory Agreement.

### 3. Forms of assistance

NHTF funds are provided as post-construction permanent loans. Program loans shall have an initial term of 55 years or longer to match the period of affordability restrictions under the Low-Income Housing Tax Credit Program.

Permanent loans shall be secured by the project's real property and improvements, which may be subject only to liens, encumbrances, and other matters of record approved by the Department, and which are consistent with 25 California Code of Regulations, Section 8316 of the UMRs.

### 4. Reporting requirements

The Recipient must collect and report data to the Department at annual and midyear intervals, as described in the Health & Safety Code, Section 53593 and pursuant to the Standard Agreement provisions.

If a Recipient is a local government, they must comply with 2 CFR Part 200.512 Single Audit Report Submission requirements. Single Audit reporting packages are due to the California State Controller's Office (SCO) nine months after the entity's fiscal year-end under 2 CFR Part 200.512. For most California entities, the reporting package is due March 31 of each fiscal year. Entities with approved extensions on file must submit their reporting package by the due date indicated in their approved extension letter. The Department will make the determination on the status of 2 CFR Part 200.512 Single Audit reporting compliance as of June 4, 2020 by consultation with SCO. Jurisdictions that are exempt from filing a 2 CFR Part 200.512 Single Audit report because the level of federal funds is below the federal threshold must submit a copy of the letter notifying SCO of their exempt status with their application, in addition to notifying SCO. For additional information, see Section V. A. Federal overlays of this NOFA.

Recipient(s) must file regular monthly project status reports during the entire timeframe that includes award until completion of construction. Recipient(s) must also submit annual performance reports as required by the Department on forms provided by the Department. Recipient(s) are responsible for disclosing all changes to the project since submitting the application. Such changes could include, but are not limited to, higher costs, the need for additional funds, the intent to apply for additional funds, changes in project financing, cost savings, environmental issues, project timeline changes, development team member changes, Applicant authorized representative and/or Applicant contact changes, and changes in relationship among members of the development team. The Department may request documentation of

the change, as necessary, to analyze the significance of the change. Failure to report accurately may result in a loss of points in future NHTF funding rounds.

**Note:** Project recipients must file monthly project status reports with the Department, starting the month after the Standard Agreement is executed, which are due no later than the tenth day of the following month and the tenth day of each month thereafter, until the project is completed. If the due date falls on a nontraditional business day, the report is due the next traditional business day.

Annual performance reports are due to the Department's Asset Management and Compliance (AMC) Branch on the last traditional working day of July, following the end of the fiscal year ending June 30. Reports due at the midyear intervals shall be due to the AMC Branch the last traditional workday that is 10 workdays following the end of the calendar year ending December 31.

### III. Application, submission and workshops

#### A. Application forms

Project applications submitted under this NOFA will be funded on a competitive basis, as set forth in the Guidelines. Application forms, program Guidelines, and application training information are available on the HHC program [website](#).

1. Universal Rental Project Application Form – This form contains information needed to evaluate project financial feasibility for projects underwritten by the Department.
2. HHC program Supplement Application Form – This form contains information needed to evaluate application threshold compliance for projects underwritten by the Department. The program Supplement Application Form also contains information Applicants must submit in order to utilize their NHTF allocation funds.

The application forms are available on the Department's HHC [website](#).

#### B. Application Submission Process

A complete original application, and electronic copies on a flash drive with all applicable information must be received by the Department no later than **5:00 p.m. Pacific Daylight Time on Thursday, July 23, 2020**. The Department will only accept applications through a carrier service that provides date stamp verification confirming delivery to the Department's office, such as U.S. Postal Service, UPS, FedEx, or other carrier services. Please contact the Department if delivery is not completed by fault of the carrier service. The delivery address is:

California Department of Housing and Community Development  
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Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, electronically transmitted, or walk-in application packages will be accepted.

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

Applications must meet all eligibility requirements upon submission. Applications having material internal inconsistencies will not be rated and ranked. It is the Applicant's responsibility to ensure that the application is clear, complete, and accurate. After the application deadline, Department staff may request clarifying information, and/or inquire as to where in the application specific information is located, provided that such information does not affect the competitive rating of the application. No information, whether written or oral, will be solicited or accepted if this information would result in a competitive advantage to an Applicant or a competitive disadvantage to other Applicants. No Applicant may appeal the Department's evaluation of another Applicant's application.

### **C. Application workshops**

Applicants are strongly encouraged to attend an HHC workshop to gain information critical for preparing a competitive application, which will be discussed at the workshop. HHC workshop dates, times, and locations are located on the Department's HHC [website](#). These in-person workshops will cover the NOFA and application. To register for a workshop, please sign up through Eventbrite.

If you have questions regarding any of these workshops, send an email to [HHCNOFA@hcd.ca.gov](mailto:HHCNOFA@hcd.ca.gov).

### **D. 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). 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 request.

#### **IV. Award announcements and contracts**

##### **A. Award announcements**

Upon initial scoring of applications, recommended projects will be presented to the Internal Loan Committee for review and approval. The Department intends to send award letters by Nove 2020 for all successful Applicants. Please note that successful Applicants may hereinafter be referred to as “Recipients.”

For Applicants requesting the 2019 NHTF funds, it is the Department’s intent to recommend projects and present on an Over-the-Counter basis to HCD’s Internal Loan Committee for review and approval before the November 2020 Award Announcement date.

##### **B. Contracts**

Recipient(s) will 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.

- Projects utilizing 2019 NHTF funds must meet the February 1, 2021 project commitment deadline and the February 1, 2024, permanent loan closing, or funding will no longer be available. There will be no exceptions.
- Projects utilizing 2020 NHTF funds must meet an October 22, 2021, project commitment deadline and an October 22, 2024, permanent loan closing, or funding will no longer be available. There will be no exceptions.

The Standard Agreement will contain deadlines that are consistent with federal requirements; failure to meet these deadlines will be considered a material breach of the Standard Agreement.

The Recipient(s) shall remain a party to the Standard Agreement for the entire term of the Standard Agreement; removal of the Recipient(s) shall be prohibited.

#### **V. Program overlays**

##### **A. Federal overlays**

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

## 1. NHTF Environmental Provisions

The NHTF regulations establish specific property standards for housing that receives NHTF funds. These standards include Environmental Provisions for projects involving new construction and rehabilitation. The NHTF Environmental Provisions for new construction and rehabilitation under the Property Standards at 24 CFR § 93.301(f)(1) and (2) are similar to HUD's Environmental Regulations at 24 CFR Parts 50 and 58. NHTF projects are subject to the same environmental concerns that HUD-assisted projects are subject to. The main difference is that the NHTF Environmental Provisions are outcome based and exclude consultation procedures that would be applicable if NHTF project selection was a federal action. Parts 50 and 58 are process based and include consultation procedures for several laws and authorities where there may be environmental impacts. Due to the outcome-based nature of the NHTF Environmental Provisions and lack of a federal action, compliance with some environmental property standards is streamlined because consultation is not required.

Timing - NHTF housing projects must meet the applicable Property Standards, including the NHTF Environmental Provisions at 24 CFR § 93.301(f)(1) or (2) at project completion [§ 93.407(a)(2)(iv)]. Project completion as defined at 24 CFR § 93.2 requires, among other things, that the project complies with the requirements of Part 93 (including the property standards under 24 CFR § 93.301). However, it should be determined prior to construction if a project will meet the NHTF Environmental Provisions. If a project cannot meet the NHTF Environmental Provisions, the project cannot be funded by NHTF. For example, if a project will impact a wetland, it cannot be funded by NHTF. It is possible to fund projects that do not meet the Environmental Provisions with other HUD funds after completion of a Part 50 or Part 58 environmental review.

Recordkeeping and Resources - The state, state-designated entity, or subgrantee administering NHTF must maintain documentation demonstrating that each project meets the NHTF Environmental Provisions at project completion [§ 93.407(a)(2)(iv)]. Appendices B and C of the HUD Notice-CPD-16-14, lay out the NHTF Environmental Provisions for new construction and rehabilitation and provide resources for each of the environmental requirements and how to document compliance.

Due to the streamlined NHTF Environmental Provisions, the HUD Environmental Review Online System (HEROS) may not be used to document the Environmental Provisions for projects funded by NHTF.

Combining with Other HUD Funding Sources - In order to effectively assist low- and very low-income families it is likely that state agencies and NHTF subgrantees will combine NHTF funding with other HUD funding sources. Other HUD funding sources include, but are not limited to, HOME Investment Partnerships (HOME), Rental Assistance Demonstration (RAD), or Public



Housing Capital Funds that are subject to environmental review under 24 CFR Part 50 or Part 58.

When combining NHTF with these funding sources, a Part 50 or Part 58 environmental review must be done, and the review must meet the NHTF Environmental Provisions. Depending on the type of HUD funding that is being used for the project, an environmental review will be completed by HUD staff under Part 50, or a Responsible Entity under Part 58. The HUD Grantee must be informed early on that the NHTF Environmental Provisions must also be met as part of the environmental review.

For more information, please refer to the [Notice: CPD-16-14](#).

## 2. Relocation

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

The sources and uses submitted with the application must adequately budget for relocation costs.

The relocation plan or other relocation documentation shall be subject to the review and approval by the Department prior to the beginning of construction.

## 3. Single Audit Report, 2 CFR Part 200.512

Local governments that expend in excess of \$750,000 in federal funds during the fiscal year are required to submit a Single Audit Report package to SCO. The 2018-19 audit package will be due by March 31, 2020.

For local government Applicants, the Department will make the determination on the status compliance as of the date the application is received by consultation with SCO only. Jurisdictions that are exempt from filing a Single Audit Report package because the level of federal funds is below the threshold must also submit a copy of the letter to SCO notifying their exempt status with their application. For more information on the required content of the letter, see the SCO [website](#).

**Note:** It is strongly recommended that each local government Applicant check with SCO to confirm receipt of a complete Single Audit Report package submission by the NOFA application due date, and that the submission is properly reflected on SCO's status list.

You may check your jurisdiction’s compliance status on the SCO [website](#).

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

The Department will only be able to indicate whether a jurisdiction is in compliance according to SCO’s Single Audit Report Status report. Technical questions related to why the jurisdiction is deemed not in compliance must be directed to SCO.

## **B. State Overlays**

### **1. Article XXXIV of the California Constitution**

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

Applicants must submit documentation that shows the project’s compliance with or exemption from Article XXXIV.

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

- a. The name and date of the proposition and the number of units that were approved.
- b. A copy of the referendum and a certified vote tally.
- c. The number of units that remain in the locality’s “bank” of Article XXXIV authority (i.e., the number of units that are still available for allocation).
- d. The number of units that the locality will commit to this project.

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

## 2. State Prevailing Wages

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

## **VI. Other terms and conditions**

### **A. Right to modify or suspend**

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including, without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties via [listserv](#) and will post the revisions to the Department's website.

### **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 more strict) shall control.