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October 8, 2019

MEMORANDUM FOR: Stakeholders and Interested Parties

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

SUBJECT: **Local Housing Trust Fund Program
Draft Guidelines**

The California Department of Housing and Community Development (Department) is pleased to announce the release of the Local Housing Trust Fund Program (LHTF) draft guidelines.

Health and Safety Code Section 50843.5 authorizes the Department to provide matching grants to eligible Applicants that have created and funded an LHTF. The LHTF funds may be used for predevelopment costs, acquisition costs, and other costs associated with development or rehabilitation of Affordable rental housing projects, Emergency Shelters, Permanent Supportive Housing, Transitional Housing and Affordable Homeownership Projects or Units Within a Homeownership Project. The LHTF funds may also be used for the construction, repair, and reconstruction or rehabilitation of Accessory Dwelling Units or Junior Accessory Dwelling Units.

The LHTF guidelines establish rules regarding Applicant eligibility, Matching Funds, and terms, conditions, and procedures for Applicants to submit applications to the Department for grants from the LHTF, and for funds awarded under the LHTF.

Please submit comments via e-mail to LHTF@hcd.ca.gov by November 12, 2019. The draft guidelines can be accessed, and interested parties may register for Public hearing webinars at this link: <http://www.hcd.ca.gov/grants-funding/active-funding/lhtf.shtml>

Local Housing Trust Fund (LHTF) Program

Draft 2019 Guidelines



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INTRODUCTION

Health and Safety Code (HSC) Section 50843.5 authorizes the Department to provide matching grants to Local Housing Trust Funds established by cities and counties, Native American Tribes and/or which are incorporated as 501(c)(3) non-profit organizations. Funds may be used for predevelopment costs, acquisition costs, and other costs associated with development or rehabilitation of Affordable rental housing projects, Emergency Shelters, Permanent Supportive Housing, Transitional Housing, or Affordable homebuyer/homeowner projects, including assistance to income-eligible households to purchase for-sale units. Funds may also be used for the construction, repair, reconstruction or rehabilitation of Accessory Dwelling Units or Junior Accessory Dwelling Units.

The Department's objective is to expand sources of funding for housing, and to expand the supply of Affordable housing through the creation of new Local Housing Trust Funds, and to support the on-going operation of existing Local Housing Trust Funds.

A Notice of Funding Availability (NOFA) will be released as funds are available.

Section 100. Purpose and Scope

a) These Guidelines implement, interpret and make specific Health and Safety Code HSC Sections 50842.1, 50842.2, 50843.5, ~~50843.5~~ and subdivision (c) of Health and Safety Code Section 54006(f), which govern the Local Housing Trust Fund Program (LHTF or LHTF Program). The principal goal of this Program is to expand sources of funding for housing through the creation of new Local Housing Trust Funds and to support existing Local Housing Trust Funds. Under the Local Housing Trust Fund Program, the Department provides matching grants to eligible Applicants that have a Local Housing Trust Fund. Funds shall be used for predevelopment costs, acquisition costs, and other costs associated with development or rehabilitation of Affordable rental housing projects, Emergency Shelters, Permanent Supportive Housing, Transitional Housing, and Affordable homebuyer/homeowner projects, including assistance to income-eligible households to purchase for-sale units. Funds may also be used for the construction, repair, reconstruction or rehabilitation of Accessory Dwelling Units or Junior Accessory Dwelling Units.

a)b) Proposition 1 of 2018 granted the Department authority to implement the LHTF Program through guidelines.

(c) These Guidelines establish terms, conditions and procedures for Applicants to submit applications to the Department for grants from the Local Housing Trust Fund Program, and for funds awarded under the Local Housing Trust Fund Program.

Note: Authority cited: Health and Safety Code Section ~~50406(n)~~50843.5~~54014~~ subdivision (b). Reference cited: Health and Safety Code Sections 50842.2 and 50843.5.

Section 101. Definitions

The following definitions govern the use of the terms below in this subchapter:

(a) "Accessory Dwelling Unit (ADU) means a dwelling unit which is attached, detached or located within the living area of the existing dwelling or residential dwelling unit and which provides complete independent living facilities for one or more persons pursuant to Government Code Section 65852.2 and 65852.22. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes an efficiency unit, as defined in HSC Section 17958.1, or a manufactured home, as defined in HSC Section 18007.

(b) "Affordable Rent" means ~~the same as in Health and Safety Code~~

Section 50053a housing unit that satisfies at least one of the following criteria:

- (1) If the unit is being rented to Lower Income, Very Low Income or Extremely Low Income Households, it complies with Section 7312(a) of the Multifamily Housing Program guidelines;
- (2) If the unit is being sold, it is offered at an “Affordable housing cost”, as defined in HSC Section 50052.5; or
- (3) If the unit is being rented to Moderate-Income households, it is available at a gross rent, including a utility allowance, that does not exceed 30 percent of the applicable income eligibility level, and complies with the definition of Moderate-Income in these guidelines.

(c) “Applicant” means one of the following:

- (1) A local government or local governments which have created a Local or Regional Housing Trust Fund to receive specific revenue to address local housing needs;
- (2) A Native American Tribe or Tribes which have created a Local or Regional Housing Trust Fund to receive specific revenue to address local housing needs;
- (3) A non-profit Local or Regional Housing Trust Fund incorporated under Section 501(c)(3) of the Internal Revenue Code to receive specific public, or public and private, sources of revenue to address local housing needs.

(d) “Area Median Income” means the most recent applicable county median family income published by the Department, available at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>

(e) “Dedicated Source” means taxes, fees, loan repayments consistent with Section 104(c), and/or public or private contributions, ~~or other source of funds~~ that will provide Ongoing Revenues to the Local Housing Trust Fund sufficient to meet the requirements of the Program.

(f) “Department” means the California Department of Housing and Community Development.

(g) “Eligible Project” means any of the following:

- (1) Rental housing projects including Permanent Supportive Housing. The affordability of all units assisted by Program Funds shall be income and rent restricted for not less than 55 years;
- (2) Emergency ~~shelters~~Shelters and ~~T~~transitional Hhousing, ~~as these terms are defined in these guidelines~~;
- (3) Homeownership Projects or Units Within a Homeownership Project, including Accessory Dwelling Units or Junior Accessory Dwelling Units, as defined in this subsection 7151(j).

(h) "Emergency Shelter" means the same as in 24 CFR 576.2.

(i) "Existing Local Housing Trust Fund" is a Local Housing Trust Fund organized, funded and operated prior to July 1 of the fiscal year the NOFA is issued.

(j) "Extremely Low Income" has the meaning set forth in Health & Safety Code HSC Section 50106, which is a maximum of 30 percent of Area Median Income. Grantees shall utilize income limits issued by the Department at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml> for Extremely Low Income households for each county by household size.

(k) "First-time Homebuyer" means an individual, or individuals, or an individual and his or her spouse, who are in the process of buying a dwelling with the intent to occupy the home as a principal place of residence, and who have not owned a home during the three-year period before the purchase of a home with Program Funds, except that the following individual or individuals may not be excluded from consideration as a first-time homebuyer under this definition:

(1) a displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period, and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment, and worked primarily without remuneration to care for his or her home and family;

(2) a single parent who, while married, owned a home with his or her spouse or resided in a home owned by his or her spouse. A single parent is an individual who is unmarried or legally separated from a his or her spouse, and has one or more minor children for whom the individual has custody or joint custody, or is pregnant; or

(3) an individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with Program Funds, a dwelling unit whose structure is:

- (A) not permanently affixed to a permanent foundation in accordance with local or state regulations; or
- (B) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(l) “Grantee” means an entity that has received an award of Program Funds.

(m) “Homeownership Project or Units Within a Homeownership Project” means an Eligible Project ~~a project that uses in which~~ Program Funds ~~will be used~~ to assist in the acquisition, construction or rehabilitation of owner-occupied housing units in which the homeowner has an ownership interest sufficient to comply with ~~Health and Safety Code~~ HSC Section 50843.5(d)(3), including the construction, repair, reconstruction or rehabilitation of Accessory Dwelling Units or Junior Accessory Dwelling Units.

(n) “Junior Accessory Dwelling Units” (“JADUs”) shall have the same meaning as defined by Government Code Section 65852.22(g)(1).

(o) “Legally-Binding Commitment” means a fully-executed commitment letter to provide Matching Funds, specifying the source(s) of the Matching Funds, the amount of Matching Funds from each source, the date upon which the funds will be deposited into the Local Housing Trust Fund or Regional Housing Trust Fund account, and remedies for not depositing the Matching Funds on that date.

(p) “Local Housing Trust Fund” is a public, joint public and private, or charitable nonprofit organization ~~described in~~ organized under Section 501(c)(3) of the Internal Revenue Code, which was established by legislation, ordinance, resolution (including nonprofit articles of incorporation), or a public-private partnership organized to receive specific public, or public and private, revenue to address local housing needs. The key characteristic of a Local Housing Trust Fund is that it receives Ongoing Revenues from Dedicated Sources of funding sufficient to permit the Local Housing Trust Fund to ~~participate in~~ comply with the requirements of the Program.

(q) “Local Impact Fees” are impact fees, mitigation fees, or capital facility fees imposed on ~~residential~~ development projects by municipalities, county agencies, or other jurisdictions such as utility districts, school districts, water agencies and resource conservation districts. Local Impact Fees may include fees for residential or commercial development (in lieu of building affordable housing), parks and recreation, schools, traffic, street and signals, law enforcement facilities, fire facilities, library facilities, water facilities, waste water treatment, waste water collection, drainage facilities, community development, general facilities, public facilities, governmental facilities, environmental facilities, and facilities assessments.

(r) “Lower Income Households” has the meaning set forth in ~~Health and Safety Code~~ HSC Section 50079.5, which states that Lower Income Households are persons

and families with a maximum income of 80 percent of Area Median Income. Grantees shall utilize income limits issued by the Department at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>~~for Lower Income Households for each county by household size.~~

(s) “Matching Funds” shall mean available funds meeting the requirements of Ssection 7154104.

(t) “Moderate Income ~~Persons and Families Households~~” has the meaning set forth in Health & Safety Code Section 50093, which states that Moderate Income Households are persons and families with a maximum income of 120 percent of Area Median Income. Grantees shall utilize income limits issued by the Department at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

(u) “Native American Lands” means real property located within the State of California which is trust land for which the United States holds title to the tract, or interest in trust, for the benefit of one or more Native American Tribes or individual Indians, or is restricted Indian land for which one or more Native American 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. Native American Lands may be leased for housing development and residential purposes under federal law.

(v) “Native American Tribe or Tribes” means any duly constituted governing body of an Indian reservation or rancheria, or a tribally designated housing entity, as defined in Section 4103 of Title 25 of the United States Code and Section 50104.6.5.

(w) “New Local Housing Trust Fund” is a Local Housing Trust Fund that was created or organized, funded and operated no more than a year prior to the Round 1 NOFA release date, or, for Round 2 and beyond, no more than a year prior to the NOFA release date, or created since the last NOFA was issued (whichever is longer). If an HTF previously received an award, it’s not “new”.

(x) “NOFA” means a Notice of Funding Availability issued by the Department to announce the availability of Program Funds, the terms and conditions of awards, and requirements for the submittal of applications.

(y) “On Deposit” means that the local Matching Funds cash or equivalent are deposited in the Local Housing Trust Fund. The Department shall not disburse Program Funds until the Matching Funds required for the Eligible Project are On Deposit. ~~under the control of the applicant or Grantee at the time of application readily available for use by the Grantee as Matching Funds. Funds on Deposit must be verifiable at the time of application to the satisfaction of the Department.~~

(z) “Ongoing Revenues” means a public or private source, or sources, of revenue totaling a minimum of \$100,000 per year that is dedicated for an indefinite period (beyond annual appropriations); or other revenue that is either: (i) dedicated for a minimum of five years period after the date of the Program award and. If revenues from a source are variable (such as tax or fee revenue), the Applicant shall demonstrate a two year history of annual receipts greater than or equal to the source of that revenue has an income history which can reasonably support the LHTF Program application level of proposed funding request in the application for Program Funds; or (ii) in the case of an existing local housing trust fund, the fund has at least a five-year income history from all sources which could reasonably support the level of proposed funding in the application for Program Funds.

(aa) “Permanent Supportive Housing” has the same meaning as in HSC Section 50675.14: housing, with no limit on the length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Permanent Supportive Housing may include associated facilities if used to provide services to housing residents. Permanent supportive housing does not include “health facility” as defined by HSC Section 1250, or any “alcoholism or drug abuse recovery or treatment facility” as defined by HSC Section 11834.02, or “Community care facility” as defined in HSC Section 1502, or “Mental health rehabilitation centers” as defined in Section 5675 of the Welfare and Institutions Code (WIC), or other residential treatment programs.

(bb) “Program” or “LHTF Program” means the Local Housing Trust Fund Program authorized by ~~Health and Safety Code~~ HSC Section 50843.5, as implemented in these Guidelines subchapter.

(cc) “Program Funds” means the funds provided by the Department to a Local Housing Trust Fund pursuant to these Guidelines subchapter. ~~Each award of Program Funds to a Local Housing Trust Fund shall equal at least one million dollars and shall not exceed two million dollars.~~

(dd) “Regional Housing Trust Fund” means a Trust Fund serving three or more jurisdictions in counties with total populations of 250,000 or less, and serving four or more jurisdictions in counties with total populations of more than 250,000.

(ee) “Transitional Housing” means the same as in 24 CFR 578.3.

(ff) “Very Low Income” has the meaning set forth in HSC Section 50105, which is 50 percent of Area Median Income. Grantees shall utilize income limits issued by the Department for Very Low-Income households for each county at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>

Note: Authority cited: ~~HSC Section 54014 subdivision (b)~~ ~~Health and Safety Code Section 50843.5, subdivision (a)~~. Reference cited: Health and Safety Code Sections 50052.5, 50053, 50079.5, 50081, 50093, 50105, 50106, 50843.5 and 53545.9(c).

~~Section 7152~~ 102. Eligible Applicants

The following entities shall be eligible to apply for Program ~~funds~~ Funds:

(a) A city, county, or city and county that has created, funded, and operated an Existing Local Housing Trust Fund, or that has created and funded a New Local Housing Trust Fund.

(1) The trust fund shall have the following characteristics:

(A) It shall utilize a public, or joint public and private, fund established by legislation, ordinance, resolution, or a public-private partnership, to receive specific revenue to address local housing needs.

(B) It shall be funded from Ongoing Revenues of a minimum of \$100,000 per year from Dedicated Sources of funding such as taxes, fees, loan repayments, or public or private contributions.

(2) The city or county, ~~or city and county~~ shall have, at the time of application, an adopted housing Housing element Element that was adopted by the city or county's governing body and subsequently determined by that the Department ~~has determined, pursuant to be in compliance with state Housing Element law pursuant to GC Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.~~

(3) The city or county shall have submitted to the Department the Annual Progress Report required by GC Code Section 65400 for the current or prior year by the application deadline date.

(4) A Local Housing Trust Fund or Regional Housing Trust Fund that was created, funded, and operated by a combination of one or more cities or counties, shall in its application, agree to utilize Program Funds only for Eligible Projects located in cities or counties that have, at the time of application, an adopted housing Housing element Element meeting the requirements of subparagraph (2) above, and for which the Annual Progress Report was submitted for the current or prior year by the application deadline date, as required by subparagraph (3) above.

(b) A charitable nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code that ~~has created, funded, and operated~~ an Existing Local Housing Trust Fund or ~~has created and funded~~ a New Local Housing Trust Fund.

(1) The trust fund shall have the following characteristics:

(A) It shall consist of a public, or joint public and private, fund established by legislation, ordinance, resolution, or a public-private partnership, to receive specific revenue to address local housing needs.

(B) It shall be funded from Ongoing Revenues of a minimum of \$100,000 per year from Dedicated Sources of funding such as taxes, fees, loan repayments, or public or private contributions.

(2) The charitable nonprofit organization shall, in its application, agree to utilize Program Funds only for Eligible Projects located in cities and counties, ~~or a city and county~~ that have, at the time of application, an adopted housing Housing element-Element that the Department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(3) The charitable nonprofit organization shall, in its application, agree to utilize Program Funds only for Eligible Projects located in cities and counties that have submitted to the Department the Annual Progress Report required by GC Code 65400 for the current year or prior year by the application deadline date.

(c) A Native American Tribe or Tribes that has or have created, funded, and operated an Existing Local Housing Trust Fund, or that has created and funded a New Local Housing Trust Fund.

(1) The trust fund shall have the following characteristics:

(A) It shall utilize a public, or joint public and private, fund established by legislation, ordinance, resolution, or a public-private partnership, to receive specific revenue to address local housing needs.

(B) It shall be funded from Ongoing Revenues of a minimum of \$100,000 per year from Dedicated Sources of funding such as taxes, fees, loan repayments, or public or private contributions.

(2) The Native American Tribe or Tribes shall, in its application, agree to utilize Program Funds only for Eligible Projects either (A) located on Native American Lands or (B) located in cities and counties that have, at the time of application, an adopted Housing Element that the Department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(3) The Native American Tribe or Tribes shall, in its application, agree to utilize Program Funds only for Eligible Projects either (A) located on Native American Lands or (B) in cities and counties that have submitted to the Department the Annual Progress Report required by GC Code 65400 for the current year or prior year by the application deadline date.

Note: Authority cited: HSC Section 54014 subdivision(b)-50406(n). Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

Section 103. Funding Amount Minimums and Maximums

(a) The minimum application request by an Applicant that is an Existing Local Housing Trust Fund shall be \$1 million;

(b) The minimum application request by an Applicant that is a New Local Housing Trust Fund, but which is not a Regional Housing Trust Fund, shall be \$500,000;

(c) The minimum application request by an Applicant that is a New Local Housing Trust Fund, which is also a Regional Housing Trust Fund, and which is utilizing Permanent Local Housing Allocation funds as Matching Funds, shall be \$750,000;

(d) The maximum application request for all Applicants shall be \$5 million.

Note: Authority cited: HSC Section 54014 subdivision(b). Reference: Sections 50843.5 (c) and 53545.9(c), Health and Safety Code.



Section ~~7154-103~~104. Matching Funds Requirements

(a) All Program Funds provided pursuant to this section shall be matched on a dollar for dollar basis with public, or public and private, sources of revenue by the Applicant.

(b) ~~An application for LHTF funds shall not be considered unless the application contains required documentation of the deposit in the Local Housing Trust Fund of the local Matching Funds, and the identity of the source of Matching Funds, or evidence of a legally-binding commitment to deposit the required Matching Funds, and the identity of the source of Matching Funds. For each Program grant applicants shall provide Matching Funds equal to or in excess of the amount of the Program grant.~~

(c) ~~Matching Funds shall be On Deposit at the time of application, and the source of the funds shall be identified.~~

~~(e) Funds restricted for housing use by state or federal law (such as funds from the Home Investment Partnerships Program (“HOME”), the Community Development Block Grant Program (“CDBG”), or redevelopment agency low- and moderate-income housing fund set aside (“LMIHF”)) state housing programs funds administered by the Department), shall not be considered Matching Funds. However, Permanent Local Housing Allocation (PLHA) Program redevelopment agency non-LMIHF funds may be considered Matching Funds for Regional Housing Trust Funds.~~

~~(a)(d) Matching Funds shall be On Deposit prior to disbursement of Program Funds.~~

~~(d) A Local Housing Trust Fund that is exclusively funded by any combination of HOME, CDBG, and redevelopment agency LMIHF funds, or other state or federal funds restricted for housing use shall not be eligible to receive Program Funds.~~

Note: Authority cited: ~~HSC Section 50406(n)54014 subdivision(b), Health and Safety Code~~. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

~~Section 104. Eligible Applicants~~

~~The following entitles shall be eligible to apply for LHTF funds:~~

~~(a) A city, county, or city and county that has created, funded, and operated an Existing Local Housing Trust Fund, or that has created and funded a New Local Housing Trust Fund.~~

~~(1) The trust fund shall have the following characteristics:~~

~~(A) It shall utilize a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.~~

~~(B) It shall be funded from Ongoing Revenues from Dedicated Sources of funding such as taxes, fees, loan repayments, or private contributions.~~

~~(2) The city, county, or city and county shall have, at the time of application an adopted housing element that the Department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.~~

~~(3) A Local Housing Trust Fund that was created, funded, and operated by a combination of one or more cities or counties, shall in its application, agree to utilize Program Funds only for Eligible Projects located in cities or counties that have, at the time of application, an adopted housing element meeting the requirements of subparagraph (2) above.~~

~~(b) A charitable nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code that has created, funded, and operated an Existing Local Housing Trust Fund, or has created and funded a New Local Housing Trust Fund.~~

~~(1) The trust fund shall have the following characteristics:~~

~~(A) It shall consist of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.~~

~~(B) It shall be funded from Ongoing Revenues from Dedicated Sources of funding such as taxes, fees, loan repayments, or private contributions.~~

~~(2) The charitable nonprofit organization shall, in its application, agree to utilize Program Funds only for Eligible Projects located in cities, counties, or a city and county that have, at the time of application, an adopted housing element that the Department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.~~

~~Note: Authority cited: Section 50406(n), Health and Safety Code. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.~~

Section 1057153105. Eligible Uses of Funds

(a) Program Funds shall be used by the Grantee to provide loans for payment of predevelopment expenses~~costs~~, acquisition, construction, or rehabilitation of Eligible Projects.

~~(a)(b) Administrative expenses of up to 5 percent of Program Funds are allowed.~~

(c) At least 30 percent of the ~~total amount of the~~ Program Funds, after deducting administrative expense, and the Matching Funds shall be expended on Eligible Projects

that are ~~affordable~~ Affordable to, and restricted for, Extremely Low-Income households with household income of no more than 30 percent of Area Median Income.

(d) No more than 20 percent of the ~~total amount of the~~ Program Funds, after deducting administrative expense, and the Matching Funds shall be expended on Eligible Projects Affordable to, and restricted for, Moderate Income Persons and Families Households with household income of no more than 120 percent of Area Median Income.

(e) The remaining Program Funds and Matching Funds shall be used for Eligible Projects that are Affordable to, and restricted for, Lower-Income Households with household income of no more than 80 percent of Area Median Income.

~~(c) No Program Funds shall be used for the costs of administering the Local Housing Trust Fund.~~

Note: Authority cited: HSC Section 5040654014 subdivision (bn), ~~Health and Safety Code~~. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

~~(a) Applicant information including: name, address, telephone number, contact person and, for nonprofit corporations, corporate governing documents and financial information (e.g., articles of incorporation and by-laws, certificate of good standing, confirmation of 501(c)(3) status, audited financial statements), identification of the administering entity, and list of legislative representatives for the area where the program or project will be undertaken.~~

~~(b) Governing board resolution which legally authorizes the application.~~

~~(c) Description of the Local Housing Trust Fund sufficient to ensure compliance with Health and Safety Code Section 50843.5 and this subchapter which at a minimum shall include:~~

- ~~(1) Documentation of establishment.~~
- ~~(2) Date of establishment.~~
- ~~(3) Date first funding received.~~
- ~~(4) Ongoing Revenue sources (distinguishing residential and non-residential Local Impact Fees).~~
- ~~(5) Documentation of Matching Funds on Deposit.~~
- ~~(6) Documentation of sufficient Ongoing Revenues.~~
- ~~(7) Documentation of the amount and source of Matching Funds and evidence that Matching Funds are derived from sources that are not restricted to housing uses.~~

~~(d) Local Housing Trust Fund operating guidelines including:~~

- ~~(1) Types of projects in which the fund will invest.~~
- ~~(2) Types of investments the fund will make (e.g., loans, grants).~~

- ~~(3) The required terms and conditions of the investment, including types of security and regulatory agreements, and periods of affordability.~~
- ~~(4) Any per unit or per project expenditure limitations.~~
- ~~(5) The eligible household income limitations and/or income targeting goals.~~
- ~~(6) The developer or owner eligibility requirements.~~
- ~~(7) Underwriting requirements.~~
- ~~(8) The borrower or project match requirements.~~
- ~~(9) Geographic area to be served.~~

~~(e) Amount of Program Funds applied for and the amount to be used for: First-time Homebuyer down-payment assistance; housing for persons or households of Extremely Low Income, Very Low Income; Lower Income Households and housing for Moderate Income Persons and Families.~~

~~(f) Description of the management and staffing of the Local Housing Trust Fund.~~

~~(g) If the applicant proposes to use Program Funds for rental housing projects, a copy of the document to be recorded restricting the affordability of Program-funded projects for at least 55 years.~~

~~(h) If the applicant proposes to use Program Funds for Homeownership Projects, a copy of the document to be recorded that meets the requirements of subdivision (d)(3) of Health and Safety Code Section 50843.5 or a specific statement as to the other public funding source or law in conflict with this requirement.~~

~~(i) Certifications and Acknowledgements:~~

~~(1) Certification that the information submitted in the application is true and correct to the best of the knowledge of the signer, after reasonably diligent investigation.~~

~~(2) Certification of the applicant's intent to maintain the Local Housing Trust Fund in existence for at least five (5) years from the date of application; and acknowledgement and agreement that if the Local Housing Trust Fund ceases to exist sooner, then the applicant agrees to repay any remaining uncommitted Program Funds and to remit to the Department all repayment of loans made with Program Funds until the full amount of the Program grant is repaid.~~

~~(3) Acknowledgement and agreement that any Program Funds that are not encumbered within 36 months of receipt shall be returned to the Department.~~

~~(4) For nonprofit applicants, an acknowledgement and agreement that Program Funds shall be used only for projects located in a city, county, or city and county that have, at the time of application, an adopted housing element that the Department has determined to be in substantial compliance with State housing element law.~~

~~(5) Certification that the applicant has held, or agrees to hold, at least one public hearing to discuss and describe the Eligible Project or Projects that will be financed with Program Funds.~~

~~(6) For nonprofit applicants, an agreement that the applicant will hold at least one public meeting as required by subdivision (g) of Health and Safety Code section 50843.5.~~

~~Note: Authority cited: Section 50406(n), Health and Safety Code. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.~~

Section 1067 Application Process

(a) The Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, the terms and conditions of the award of Program Funds, and the application deadline.

~~(b) For New Local Housing Trust Funds, the Department periodically shall set aside a percentage of the funding made available by each issue a NOFA. that specifies, among other things, the total amount of funds available, the total amount of funds available for New Local Housing Trust Funds in counties of less than 425,000 persons, the terms and conditions of the award of Program Funds and the final deadline for application. Applications will be accepted on an over-the-counter basis, and “complete” applications, as described in subsection (b)(1), will be funded on a first come first serve basis until funds are exhausted, or the final deadline has expired, whichever occurs sooner. In the event that insufficient funds are available to fund all complete applications received on the same date, the applications will be evaluated and funded based on the criteria set forth in subdivision (b)(2), except there will be no preference given for meeting the requirement of subdivision (b)(2)(A).~~

~~(c) Applications shall be on forms made available by the Department. For Existing Local Housing Trust Funds, the Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, the terms and conditions of the award of Program Funds, and the application deadline.~~

(d) Applicants must meet the requirements of HSC Section 50843.5 and Section 102 of these Guidelines.

(e) Only complete applications submitted on or before the application deadline stated in the NOFA shall be considered for funding. In order to be considered “complete”, an application must have substantially all of the information requested and provide adequate documentation and information for the Department to determine the Local Housing Trust Fund's eligibility for funding pursuant to ~~Health and Safety Code~~ HSC Section 50843.5 and ~~these Guidelines~~ subsection. The ~~applicant~~ Applicant shall bear the burden of demonstrating compliance with these requirements. If the total amount of

funding requested by all Applicants under a NOFA is less than the amount of funding available under the NOFA, the Department may allow an Applicant to submit additional or corrected information to amend an application and make it complete. Such amendments may not include a request for a higher funding amount.

(f) In the event that the amount of funding requested in complete and eligible applications exceeds the funds available, applications shall be evaluated and funded using criteria published in the NOFA, ~~including, but not limited to the as follows:ing, with a preference given to applications to the extent they meet the requirements of (A) and (B);~~

~~(1) — Non-Residential Matching Funds: The extent to which the Aapplicant agrees to expend more than 65 percent of its Program Funds for the purpose of providing down payment assistance to First-time Homebuyers.~~

~~(2) —~~

~~(3)~~ (1) ~~(B) The extent to which the applicant agrees to provide~~ Matching Funds from sources other than residential Local Impact Fees.

~~(4) — Deeper Income Targeting: The extent to which the Aapplicant agrees commits to expend more than 30 percent of the total amount of its Program Funds and Matching Funds to serve persons and families of Extremely Low Income.~~

~~(5) —~~

~~(6)~~ (2) ~~(D) The extent to which the applicant agrees to expend less than 20 percent of the total amount of its Program Funds and Matching Funds to serve persons and families Moderate-Income Households with incomes exceeding 120 percent of the area median income.~~

(3) Readiness: The extent to which the application identifies specific projects for which the trust fund has issued Letters of Intent (LOIs) to developers for predevelopment or development financing. Some points will be awarded for LOIs equal to amount of request and more points will be awarded for LOIs in the amount of at least two times the funding request. applicant agrees to provide Matching Funds in excess of the amount of Program Funds.

(4) Increasing the Supply of Affordable Housing: The extent to which the Applicant commits to use Program Funds and Matching Funds for the new construction of rental housing developments Affordable and restricted to households with average incomes of no more than 60 percent of Area Median Income.

(5) Community Need: the rate of the following factors in the jurisdictions to be served will be compared to the rate in jurisdictions to be served by other applicants:

(A) Lower-Income Households paying more than 50 percent of their household income for rent or owner expenses;

(B) Supplemental Poverty Rate;

(6) Regional Housing Trust Funds that include six cities (in counties with total populations of 250,000 or less) or eight cities (in counties with more than 250,000), or that meet the minimum threshold (three cities in counties with total populations of 250,000 or less, or four cities in counties with more than 250,000), and include more than 66 percent of the population of the county or counties.

Note: Authority cited: HSC Section 54014 subdivision (b)Section 50406(n), Health and Safety Code. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

Section 7157107

Protection of Program Funds

(a) In order to protect the Program Funds awarded to a Grantee, the Grantee shall provide the Program Funds in the form of a loan evidenced by a promissory note, the repayment of which shall be secured either by a deed of trust recorded against the title to the real property, or a security interest in the manufactured home being assisted with Program Funds. The promissory note shall contain a special provision that repayment shall be made to the Department in the event that the Grantee is no longer in operation.

(b) Where Program Funds are provided in the form of a construction loan, the Grantee and the housing developer shall enter into a development loan agreement setting forth the terms and conditions required to be met prior to closing escrow, which shall include, but not be limited to, requirements for escrow, title insurance, property insurance, compliance with environmental remediation requirements, and other borrower responsibilities ~~to a rental housing development, emergency shelter, safe haven or transitional housing:~~

~~(1) The Grantee and the housing developer borrower shall enter into a development loan agreement setting forth the terms and conditions for closing and disbursing the Program Funds which shall include, but not be limited to, requirements for title~~

~~insurance for the deed of trust, and the borrower's responsibilities and obligations with respect to hazardous substance detection, disclosure, and remediation.~~

(c) The Grantee shall submit documentation of its loan guidelines and underwriting standards and procedures for review by the Department ~~as part of its Program application.~~

(d) The Department shall have the right to request copies of documentation of the activities of the Local Housing Trust Fund at any time prior to or after disbursement of Program Funds.

(e) Where Program Funds are used for a Homeownership Project ~~or Units Within a Homeownership Project,~~ the Grantee shall record a deed restriction in compliance with Health and Safety Code ~~section~~Section 50843.5(d)(3), unless such a deed restriction would conflict with the requirements of law or another public funding source.

(f) Program Funds shall be disbursed only in amounts necessary to fund Eligible Projects identified to receive a loan from the LHTF within a reasonable period of time, as determined by the Department.

Note: Authority cited: ~~HSC Section 54014 subdivision (b). Section 50406(n), Health and Safety Code.~~ Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

Section 108 LHTF Grantee Responsibilities

(a) Grantees are responsible for administering and implementing the Eligible Projects as proposed in their application.

(b) Grantees must continue the operation of the Local Housing Trust Fund for at least five years after the award date.

(c) Grantees shall have held, or shall hold, a public hearing to discuss and describe the Eligible Project(s) that will be funded.

Note: Authority cited: HSC Section 54014 subdivision (b). Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

Section ~~7158-110109~~ **Repayment**

Encumbrance Deadline and Application

(a) Any Program Funds not encumbered by a Grantee by a loan commitment to the developer of an Eligible Project within ~~36-60~~ months of ~~receipt~~the date of the executed

state Standard Agreement shall be disencumbered by the Department, and any Program Funds advanced to a Grantee shall promptly be returned to the Department.

(b) Repayments of Program Funds received by a Grantee shall be retained by the Grantee in the Local Housing Trust Fund to be used for the purposes set forth in the eseis Guidelines-subchapter.

(c) If a Grantee ceases operations, or Ongoing Revenues cease less than five years from the date of the Grantee's executed Standard Agreement award of Program Funds, all unencumbered Program Funds shall be disencumbered by the Department, and any Program Funds advanced to a Grantee shall promptly be returned to the Department, and all current and future loan repayments shall be remitted to the Department.

~~(d) The total amount paid to the Department pursuant to (a) and (c) above and Section 7157(a) shall not exceed the amount of the Program Funds received by the Grantee.~~

Note: Authority cited: HSC Section 54014 subdivision (b)Section 50406(n), Health and Safety Code. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

Section ~~1107159-111~~

Legal Documents

Upon the award of funds, the Department shall enter into a Sstandard Agreement with the Grantee constituting a conditional commitment of funds. The Sstandard aAgreement shall require the Grantee to comply with the requirements and provisions of these regulations-Guidelines and HSCealth and Safety Code Section 50843.5 and shall, in addition, contain the following:

- (a) Encumbrance deadlines; project completion deadlines; and agreement termination date.
- (b) Grantee contract coordinator.
- (c) Disbursement conditions and documentation.
- (d) Remedies.
- (e) Insurance and inspection requirements.
- (f) Record retention and reporting requirements.
- (g) Prevailing wage requirements as applicable.

Note: Authority cited: HSC Section 54014 subdivision (b)Section 50406(n), Health and Safety Code. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code

Section 111. Termination

- (a) In the event that it is determined, at the sole discretion of the Department, that the Grantee is not meeting the terms and conditions of the Standard Agreement, the Department shall issue a notice to stop work. Immediately upon receiving the written notice to stop work, the Grantee shall cease all work under the Standard Agreement. The Department has the sole discretion to determine the Grantee's compliance with the terms and conditions after issuance of a stop work order, and to deliver a written notice to the Grantee to resume work under this Standard Agreement.
- (b) The Department shall terminate the Standard Agreement if the Grantee is not in compliance with the Guidelines or the terms and conditions of the Standard Agreement. At least 30 days prior to the effective date of the termination of the Standard Agreement, the Department shall provide written notice to the Grantee of its intent to cancel the funding allocation. The notice shall specify the reason for early termination and may permit the Grantee or the Department to cure any deficiency(ies) prior to the early termination date. The Grantee will submit requested documents to the Department within 30 days of the early termination notice.
- (c) Failure to meet reporting requirements will result in notice to the Grantee that it must satisfactorily cure any deficiencies within three months of the notice or it will be ineligible for any additional LHTF award.
- (d) The Department may, as it deems appropriate or necessary, request the repayment of funds from a Grantee, or pursue any other remedies available to it by law for failure to comply with the Guidelines and/or the terms and conditions of the Standard Agreement.

NOTE: Authority cited: HSC Section 54014 subdivision (b). Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

Section 1127160-112

Reporting

Not later than ~~October 4~~July 31 of each year a Grantee shall provide to the Department an annual report, in a format specified by the Department, ~~containing including, but not limited to,~~ the following information:

(a) A narrative summary of the Local Housing Trust Fund activities including:

(1) Work undertaken or completed in the reporting period, including the number, type and size-unit count of Eligible Projects receiving ~~the proceeds of~~ Program Funds.

(2) Activities planned to be undertaken in the next reporting period.

(3) Description of problems encountered in Program implementation; and a description of the solution and ~~timing of when its solution will be implemented.~~

(4) Description of how problems may impact the ability to complete or fulfill obligations under the ~~standard~~Standard agreement~~Agreement.~~

~~(5) Description of any technical assistance desired from the Department.~~

(b) Financial summary including: _____

(1) Amount of Program Funds (by Eligible Project and by activity type) available at the beginning of the reporting period, the amount drawn down to date, amount expended on Eligible Projects restricted to Extremely Low-Income households, amount expended on Eligible Projects restricted to Moderate-Income households, and the remaining balance.

(2) Documentation of Matching Funds, including the amount by source, expended on each Eligible Project during the reporting period.

(3) If requested by the Department, the Grantee shall obtain a report from a qualified, licensed third party that certifies to the amounts of disbursement and identifies the specific Eligible Projects for which the disbursements were made. Such a report is permitted to be a component of the 2 CFR Part 200.512 Single Audit report.

(c) A ~~summary spreadsheet listing of~~ Eligible Projects assisted during the reporting period by unit, including the project name, type of housing (such as multifamily rental housing, homeless shelter, homebuyer new construction project), number of units,

income levels ~~assisted~~restricted in each unit, bedroom count of each unit, and amount of Program Funds expended per unit.

Note: Authority cited: HSC Section 54014 subdivision (b)~~Section 50406(n)~~, ~~Health and Safety Code~~. Reference: Sections 50843.5 and 53545.9(c), Health and Safety Code.

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