


Submitted in HCED Committee ^{11/23/11}
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Item No.: 10

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER *Report from the CAO*

Date: November 22, 2011
To: The Mayor
The Council
From: Miguel A. Santana, City Administrative Officer 
Reference: Los Angeles Housing Department Transmittal dated November 10, 2011; Received by the City Administrative Officer on November 14, 2011; Additional information received through November 22, 2011
Subject: **REQUEST FOR APPROVAL OF THE 2012 AFFORDABLE HOUSING TRUST FUND NOTICE OF FUNDING AVAILABILITY AND RELATED ACTIONS**

SUMMARY

The Los Angeles Housing Department (LAHD) requests approval of various actions including approval of the draft 2012 Affordable Housing Trust Fund (AHTF) Notice of Funding Availability (NOFA) which will be issued to fund the rehabilitation, construction and preservation of multi-family rental housing for low and very-low income households throughout the City. The LAHD anticipates releasing up to three funding rounds for 2012 and awarding up to \$21.2 million in Round One (Round 1 NOFA). Funding for the Round 1 NOFA is provided from previously approved HOME Investment Partnerships Program funds (\$21.2 million). The submission deadline will be January 12, 2012. Applications will be accepted from non-profit and for-profit developers, joint ventures, limited liability companies and limited partnerships. LAHD will review applications and prepare recommendations for Council and Mayor approval prior to the California Tax Credit Allocation Committee (CTCAC) application deadline of mid-March 2012.

The LAHD has proposed setting aside \$10 million of the \$21.2 million Round 1 NOFA funding for Permanent Supportive projects serving homeless individuals and families and \$3 million for Preservation/At-Risk projects to preserve existing affordable housing that is in jeopardy of converting to market rate due to expiring affordability covenants. The remaining \$8.2 million will be available to affordable housing projects.

The LAHD proposes to make the following changes to the 2012 AHTF NOFA in order to improve contractor accountability, and in an effort to implement the priorities of the Mayor and City Council regarding improving the supply of housing for homeless persons: 1) the sunseting of the LAHD/Los Angeles Department of Water and Power (LADWP) Sustainable Building Incentive Program due to depletion of funds; 2) various policy changes to improve contractor accountability; 3) revised language in the NOFA and LAHD loan documents that would allow for an increase in the allowance for coordination of supportive services; 4) the implementation of an online application; and, 5) the implementation of a collaborative NOFA process for permanent supportive housing projects, which will offer capital, operating subsidy, and supportive services funding via one funding application, including partnering with the Housing Authority of the City of Los Angeles (HACLA) on Project Based Section 8 Vouchers (PBV) and the County of Los Angeles for providing supportive services.

This Office recommends approval of the requests as proposed by LAHD. Additional information concerning these requests is provided in the Findings Section of this report. Approval of the report recommendations will result in no additional impact on the General Fund. These recommendations comply with City Financial Policies because dedicated funding sources will fully fund any resulting commitments to projects selected under the NOFA. Future NOFA rounds will be funded with HOME funds allocated through the 2012-13 Federal Housing and Community Development Consolidated Plan (38th Program Year) and other special fund sources as identified.

Background

The NOFA funds are to be used to fill the financing gap between the projected Total Development Cost (TDC) of a project and other available funding sources. Through the 2012 NOFA, LAHD will seek to prioritize projects that can move quickly from predevelopment into construction and completion. Funds are available for acquisition, new construction (including construction and permanent financing expenses), reconstruction, or rehabilitation of non-luxury housing. Funds may be used for real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs and relocation expenses. If a new construction project entails relocation or permanent displacement, the project must net a minimum of 100 percent more units than the amount to be demolished. Activities that may not be paid for with AHTF funding include refinancing of existing debt, reapplying for the same project using another leveraging source while an existing AHTF commitment is pending, repayment of multi-family loans made or insured by any Federal program and payment of delinquent taxes.

Projects submitted under the 2012 NOFA must be structured utilizing one or more of the following funding sources:

- Nine Percent Low Income Housing Tax Credits, including projects competing in the nonprofit homeless set-aside; or
- Multi-Family Housing Program (MHP) funds combined with Four Percent Tax Credits and tax-exempt bonds; or
- Other public or private sources that have been committed to the project.

The Department reports that, as of November 10, 2011, a total of approximately \$581 million has been committed to 168 developments with 10,125 affordable housing units since the first AHTF NOFA was issued in 2003. Of these developments, 110 have been completed, 36 are under construction and 21 developments are in the pre-development phase. The LAHD reports that the AHTF and Permanent Supportive Housing Programs have leveraged \$2.55 billion from public and private sources. This represents a total development cost of \$3.13 billion. Every one AHTF dollar leverages \$4.38 private/public investment dollars. These figures are summarized in Attachment 2 of the LAHD Transmittal.

RECOMMENDATIONS

That the Council, subject to approval by the Mayor:

1. Approve the 2012 Affordable Housing Trust Fund (AHTF) Notice of Funding Availability (NOFA), in substantial conformance with the document attached to the Los Angeles Housing Department (LAHD) transmittal dated November 10, 2011 (Transmittal);

2. Authorize the General Manager, LAHD, or designee, to:
- A. Implement an allocation schedule for the 2012 AHTF to include up to three funding rounds to coincide with applicable funding cycles for federal, state, and/or local affordable multi-family housing development programs;
 - B. Evaluate AHTF applications submitted in the first funding round of 2012 based on the availability of the funding source identified below, to the extent that projects are eligible for this source, and return for Council and Mayor approval of final recommendations:

<u>Source</u>	<u>Fund No. / Account No.</u>	<u>Amount</u>
HOME	561/43H212	\$21,237,737

- C. Solicit AHTF applications for subsequent rounds based on availability of funds allocated for this purpose pursuant to the approval of the 2012-13 Federal Housing and Community Development Consolidated Plan and the 2012-13 City Budget process and return for Council and Mayor approval of final recommendations; and,
- D. Amend the AHTF NOFA as necessary to be consistent with income or geographic targeting requirements of any applicable leveraged funding sources, which may be revised or become available during the 2012 calendar year, and also provide a summary of such changes for Council and Mayor review in conjunction with the release of such amended AHTF NOFAs.

FISCAL IMPACT STATEMENT

There is no impact to the General Fund. Approval of these recommendations authorize the Los Angeles Housing Department (LAHD) to release the 2012 Affordable Housing Trust Fund (AHTF) Notice of Funding Availability (NOFA) Round One in the amount of \$21.2 million based on the availability of previously approved HOME Investment Partnerships Program funds. The LAHD must report back to the Mayor and Council with recommendations for final award based on the results of the 2012 AHTF NOFA. These recommendations comply with City Financial Policies because dedicated funding sources will fully fund any resulting commitments to projects selected under the NOFA.

FINDINGS

1. Basis for Report

In a transmittal dated November 10, 2011, the Los Angeles Housing Department (LAHD) requests Council and Mayor authority to issue the 2012 Affordable Housing Trust Fund (AHTF) Notices of Funding Availability (NOFA) and related actions (C.F. 11-1920). This Office was instructed to report on this matter.

2. AHTF NOFA Funding Source

The LAHD identified approximately \$21.2 million in HOME Investment Partnership funds for the Round 1 NOFA, to the extent that the projects meet eligibility and use requirements to be allocated to the funding categories as follows:

- \$10 million for Permanent Supportive projects serving homeless individuals and families;
- \$3 million for Preservation/At-Risk projects; and
- \$8.2 million for Affordable Housing projects.

Projects submitted under the 2012 NOFA must be structured utilizing one or more of the following funding sources:

- Nine Percent Low Income Housing Tax Credits, including projects competing in the nonprofit homeless set-aside; or
- Multi-Family Housing Program (MHP) funds combined with Four Percent Tax Credits and tax-exempt bonds; or
- Other public or private sources that have been committed to the project.

3. AHTF NOFA Highlights

Part One of the draft 2012 AHTF NOFA details the program regulations. The maximum Letter of Commitment (LOC) award amount to any one project is \$14 million. AHTF commitments will be withdrawn if proposers are unsuccessful in obtaining funding from their primary leveraging source, as specified in the NOFA. All units funded through the AHTF NOFA must be affordable to households at or below 60 percent of the area median income (AMI) levels for the Los Angeles Metropolitan Statistical Area. Rents for the affordable units must be set at least 10 percent below market rents in that neighborhood (as verified by a recent independent appraisal or market study). Also, housing units must comply with the affordability requirements of the proposer's identified leveraging source. The LAHD will not issue a LOC until a National Environmental Policy Act environmental review has been completed and the City receives a Release of Funds document from HUD. Projects that receive an award through this NOFA and require the issuance of bonds must use LAHD as the issuer of those bonds.

The maximum term of any LOC issued in the 2012 Round 1 NOFA will be valid for two TCAC funding rounds. The NOFA also includes the following limits on awards: 1) The number of allocations that can be awarded to any one applicant (developer or any partners) is limited to two per NOFA round; and, 2) the number of awards issued to senior housing projects proposing to use nine percent tax credits will be limited to no more than two awards per round.

There is one incentive program available to proposers under the 2011 AHTF NOFA. The LAHD's Lead-Based Paint Hazard Remediation Program provides assistance of up to \$4,500 per unit (a maximum of \$225,000 per project) in additional funding for the performance of remediation of lead-based paint hazards (Exhibit 6 of the NOFA). These funds would not be subject to the subsidy limits outlined in Section 1.9 of the NOFA.

The Round 1 NOFA includes an opportunity for applicants to apply online. In addition, Projects seeking Section 8 Project Based Vouchers (PBV) that intend to compete in TCAC's Non-Profit Homeless or SRO Set Asides, or MHP's Supportive or Homeless Youth programs are eligible to apply in this NOFA. Additional information regarding these changes to the NOFA is provided in Section 5.

4. Threshold Requirements and Selection Criteria

A bidder's conference is tentatively scheduled for December 22, 2011. All responses to technical assistance questions received from prospective proposers will be posted on the LAHD website. The deadline for submissions will be January 12, 2011. Following an appeals process, the LAHD expects to return for final Council and Mayor approval of recommendations based on the results of the NOFA in mid-March 2012.

Projects which do not satisfy the AHTF NOFA threshold requirements will not be evaluated. Projects are evaluated and scored according to the criteria established by the respective leveraging funding source that has been selected by the proposer. LAHD will also factor eligibility of projects against available NOFA fund sources. In addition, the factors summarized below and detailed in the draft NOFA (Part One – Program Regulations, Part Two – Threshold Requirements and Part Three – Selection Criteria) will be utilized during the final ranking and selection process:

- Project Feasibility - Consists of an assessment of cost, LAHD subsidy, and long-term viability;
- Architectural Design and Review - Consists of a review of the project's conceptual design, design and energy efficiency features, neighborhood compatibility and site amenities; and,
- Negative Points - Up to ten points may be deducted if the project partners previously participated in a failed project due to noncompliance with NOFA requirements. Also, proposers receiving an AHTF commitment that fail to apply for the primary leveraging source will have their LAHD commitment revoked. In addition, the applicant may be assessed a points penalty in any subsequent loan application made to the LAHD.

As detailed in the NOFA, the following subsidy boosts are available to eligible projects:

Category	Subsidy Boost
South Los Angeles (within specific geographic boundaries)	5%
Transit-Oriented District (TOD) (within one-quarter mile from a Transit Station)	5%
"Balanced Communities" (projects located within a high income area)	5%
New Generation Fund (NGF) or Supportive Housing Loan Fund (SHLF)	15%
Elimination of Physical or Economic Blight	5%
Additional Support from Local Community Groups	2%

Subsidy boosts may be combined and applied cumulatively, but in no case shall the maximum subsidy exceed the maximum per-unit subsidy limits under the HOME Program, as outlined in the table below:

Bedrooms	HOME Maximum Subsidy
0	\$128,698
1	\$147,530
2	\$179,398
3	\$232,080
4+	\$254,753

The Department's Occupancy Monitoring Unit will conduct a background check of all AHTF proposals. The LAHD reports that awards may be denied to proposals with projects determined to be out of compliance with occupancy monitoring requirements.

5. Proposed NOFA Policy and other Changes

The LAHD proposes to make various changes to the 2012 AHTF NOFA in order to improve contractor accountability and in an effort to implement the priorities of the Mayor and City Council regarding improving the supply of housing for homeless persons. Proposed revisions to the 2012 AHTF NOFA were presented at a panel discussion at the Southern California Association for Non-Profit Housing (SCANPH) Conference on October 14, 2011 and at the LAHD Stakeholders' meeting on October 17, 2011. In addition, the LAHD notes that the proposed changes were released publicly on October 18, 2011 via the LAHD website.

Changes to the 2012 AHTF NOFA include: 1) the sunseting of the LAHD/Los Angeles Department of Water and Power (LADWP) Sustainable Building Incentive Program due to depletion of funds; 2) various policy changes to improve contractor accountability; 3) revised language in the NOFA and LAHD loan documents that would allow for an increase in the allowance for coordination of supportive services; 4) the implementation of an online application; and, 5) the implementation of a collaborative NOFA process for permanent supportive housing projects, which will offer capital, operating subsidy, and supportive services funding via one funding application, including partnering with the Housing Authority of the City of Los Angeles (HACLA) for Project Based Section 8 Vouchers (PBV) and the County of Los Angeles for supportive services.

Additional details regarding the proposed changes to the 2012 NOFA are provided below:

Sunsetting of Sustainable Building Incentive Program

The LAHD notes that after 10 years, the Sustainable Building Incentive Program with the LADWP is ending as these funds are no longer available.

Contractor Accountability

- General Contractors will be required to use a Guaranteed Maximum (GMAX) price contract with a cap of 14 percent on profit, overhead, and general conditions. The 14 percent cap is already a requirement of the State and the City; however, enforceable language in the loan documents is lacking. The exact language and format will be developed by the City Attorney in collaboration with LAHD. This language will be added to the City loan documents to enforce

the 14 percent cap on profit, overhead and general conditions that includes penalties, fees, and possible debarment of the borrower, contractor and/or their principals.

- Changes to the Construction Contract Audit policy will require an audit of the construction contract be incorporated into the Cost Certification process at project conclusion. The Cost Certification process is already in place. LAHD will require that the third party accountant's opinion include a calculation of profit, overhead, and general conditions as a percentage of the total contract amount.
- Contractors will be required to report to LAHD's Prevailing Wage Compliance Unit using the Labor Compliance Program (LCP) Tracker labor compliance software, which LAHD notes is used by many public agencies to capture, monitor, and report prevailing wage compliance in projects financed with public funds. LAHD states that the system significantly reduces paperwork, eliminates subjectivity on completeness and timing of submission, and minimizes processing and approval time. An amount equal to .03% of the construction contract will be paid in monthly installments by the contractors to support the system.

Supportive Services Coordination

The LAHD is recommending that project sponsors be allowed to deduct the following costs from the project sponsor's cash flow to pay for service coordination:

- \$4,000 per unit per year for the chronically homeless
- \$2,250 per unit per year for homeless with special needs.

Previous NOFAs allowed project sponsors to deduct \$800 for chronic homeless housing units and \$400 for homeless housing units, per unit per year. Income generated by the project could not be utilized to fund supportive services. Based on the level of staffing LAHD requires, the project sponsors indicated that the amount LAHD was allowing them to deduct from their cash flow to pay for service coordination was inadequate as grant funding for services is the most challenging to obtain, and often the funding commitments are short term.

The LAHD has been in discussions with the United Way of Greater Los Angeles, Corporation for Supportive Housing, Enterprise Community partners, and the Los Angeles Permanent Supportive Housing Alliance (Alliance), regarding the Alliance's proposal to increase the allowable deduction from a project's residual receipts to pay for supportive services for the vulnerable populations with multiple disabilities. In response to a request from the development community and after evaluating the Alliance proposal, LAHD conducted an internal analysis and recommends that project sponsors be allowed to deposit funds into a Supportive Services Reserve Fund prior to the residual receipts calculation. This would allow the project sponsors to build up cash reserves to pay for service coordination in the event that grants are not renewed. It would also give LAHD control to ensure the developers are making efforts to secure funding. LAHD indicates that the increased social service reserve is intended to improve the stability of the housing and project operations. Disbursements from the Supportive Services Reserve Fund will be controlled by LAHD, and are subject to project sponsors meeting pre-determined conditions.

Online NOFA Application


Beginning with Round 1 of the 2012 NOFA, LAHD will implement an online application system, which will eliminate paper applications, saving applicants significant time and expense in the production and delivery costs of their applications, while improving departmental efficiency. For Round 1 only, applicants will have the option of submitting a copy of the application on compact disc instead of completing the online application. The online application has been developed by

LAHD's Systems Division and is currently undergoing testing. As part of the collaborative NOFA process described below, the online application system will allow applicants to apply for capital, operating subsidy, and supportive services funding via one online funding application.

"Home For Good" Funders Collaborative

The Round 1 NOFA will also be the first round of the Collaborative NOFA for Permanent Supportive Housing, in which LAHD, HACLA, and three Los Angeles County Health agencies (Department of Health Services, Department of Mental Health, and Department of Public Health) will combine resources to provide capital, operating subsidy, and supportive services funding via one application system. LAHD reports that HACLA will make available 300 Project Based Section 8 Vouchers (PBV) and award them in collaboration with this NOFA. The PBVs may be used to provide permanent supportive housing and housing assistance to extremely low and very low-income families and seniors. A total of 397 PBVs were awarded to NOFA recipients under HACLA's 2011 NOFA. LAHD's online system will be the intake vehicle for the applications from all partner agencies, and funding decisions will be made collaboratively.

The creation of a funding collaborative was a key component of the "Home for Good" plan (Plan), which was released by the United Way of Greater Los Angeles and the Los Angeles Area Chamber of Commerce. LAHD notes that the Plan was endorsed by the Mayor, Council, and LAHD's General Manager. The Plan's vision was to provide sponsors of Permanent Supportive Housing projects a single application for multiple funding sources. As such, LAHD is also recommending \$10 million in the Round 1 NOFA be made available for Permanent Supportive Housing in coordination with the other Home for Good Collaborative Funding agencies.

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