



HOME Investment Partnerships Program



September 2018 Community Development Housing
Organization Notice of Funds Availability

I. OVERVIEW

The Arkansas Development Finance Authority (ADFA) hereby notifies interested Applicants of the availability of funds allocated from the HOME Investment Partnerships Program (HOME). The availability and use of these funds is subject to Federal HOME regulations (24 CFR Parts 91 and 92) and any amendments thereto, including the final regulations published by the Department of Housing and Urban Development (HUD) in the Federal Register on or about July 24, 2013, and is further subject to ADFA's policies and program requirements.

In releasing this Notice of Funding Availability (NOFA), ADFA's goal is to facilitate Community Development Housing Organizations (CHDO) to provide safe, sanitary, and affordable housing solutions to low income Arkansans.. To meet this goal, ADFA will provide loans or grants depending on the type of activity to CHDO's.

Funds will be awarded to successful Applicants who will act in an eligible role of a CHDO of ADFA HOME funded projects to administer the programs set out in this NOFA.

Interested parties may find the regulations governing the use of HOME funds under Title 24, Part 92, of the Code of Federal Regulations. Additional HOME information may also be found at the following link:

<https://adfa.arkansas.gov/files/>

A copy of this NOFA and the Application package and other related materials will be available on the ADFA website at the link listed below within seven (7) business days of the posting of this NOFA.

Applicant questions must be directed in writing no later than **October 1, 2018** to bob.hunt@adfa.arkansas.gov and Deanne.jennings@adfa.arkansas.gov. Questions and Answers to these NOFAs as well as other program updates will be posted to the website noted above regularly.

II. AMOUNT OF FUNDS AVAILABLE FOR AWARD

ADFA anticipates that approximately two million dollars (\$2,000,000) will be available under this NOFA. ADFA reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA. ADFA may also reallocate funds from this NOFA to other projects if it determines that such a substitution is necessary to further its administration of programs.

III. MINIMUM AND MAXIMUM AMOUNTS OF HOME FUNDS PER DEVELOPMENT

ADFA will not award more than \$900,000 per application submitted unless a waiver is requested. ADFA's award of funds will be subject to subsidy layering guidelines and underwriting criteria to ensure the project's success. Eligible Applicants may submit only one Application per property.

IV. ELIGIBLE APPLICANTS

A. Developer Role

Successful CHDO's may act in of the following roles of owner, developer, or sponsor.

These roles are defined in the ADFA HOME policy manual as:

- ADFA provides CHDO set-aside funds to CHDOs acting as owners, developers and sponsors of projects that create new units of affordable housing in their communities. To qualify for the set-aside funds, the CHDO must have effective project control (decision making authority.)
- ◆ CHDO set-aside funds may be used by CHDOs for those HOME activities where the CHDO acts as the developer, sponsor and/or owner of the housing.
- ◆ **Owner.** The CHDO as an **“owner”** is required to own (in fee simple absolute or long-term ground lease) the multifamily or single family housing that is to be rented to low-income families. □ The CHDO **“owner”** must own the HOME project during the development and throughout the period of affordability.
- □ The CHDO is required to oversee all aspects of the development process.
- □ The CHDO may hire a project manager or contract with a development contractor to oversee all aspects of the development.
- □ A CHDO is permitted to acquire housing that is in standard condition (and meets property standards at §92.251) provided it owns the housing throughout the affordability period.
- ◆ **Developer.** A CHDO is a **“developer”** when it owns a property (in fee simple absolute or long-term ground lease) and develops a project. □ The CHDO is owner of the property must be in sole charge of all aspects of the development process, to include obtaining zoning, securing non-HOME funds, selecting contractors, overseeing the progress of the work, and determining the reasonableness of costs.
- □ The CHDO must own the development throughout both the development process and the affordability period.
- □ At project completion, the CHDO must maintain ownership of the HOME-assisted housing throughout the period affordability and manage the project over the period of affordability.
- ◆ **Sponsor.** A CHDO is a **“sponsor”** for HOME-assisted rental according to the conditions outlined below:
 - □ The CHDO **“sponsors”** a project when the property is **“owned”** or **“developed”** by:
 - □ A subsidiary of the CHDO (in which case the subsidiary, which may be a for-profit or nonprofit organization, must be wholly owned by the CHDO);

- A limited partnership (in which the CHDO or its wholly owned subsidiary must be the sole general partner); or
- A limited liability company (in which the CHDO or its wholly owned subsidiary must be the sole managing member).
- The HOME funds are invested in the project must be provided to the entity that owns the project.
- The CHDO “*sponsors*” a project when the CHDO owns and develops the housing and agrees to convey the housing to a private nonprofit organization (that does not need to be a CHDO but cannot be created by governmental entity) at a predetermined time after completion of the project development.
- The CHDO is required to own the property before the development phase of the project.
- The CHDO sponsor is required to select the nonprofit organization before entering into an agreement with ADFA that *commits* the HOME funds.
- The other nonprofit will assume from the CHDO at a specified time all HOME obligations (including repayment of loans and tenant and rent requirements) for the project. If the property is not transferred to the nonprofit organization, the CHDO sponsor will remain liable for all HOME obligations.
- The CHDO sponsor must provide sufficient resources to the nonprofit organization to ensure the completion of development and long-term operation of the project.

B. Eligible Entities

The following entities will be considered eligible under this NOFA:

- Community Housing Development Organizations (CHDO)

All Applicants must meet the following requirements:

1. The Applicant must show the capacity to carry out the proposed development by having either staff or entities under contract with relevant experience in successfully completing the administration of other developments of a similar nature and scope.
2. Applicants must not be out of material compliance or disqualified from any program administered by ADFA or under debarment, proposed debarment or suspension by a federal agency.
3. CHDO’s will have to be recertified as a CHDO at the time of application.
4. Applicants must not have had a failed project in the last thirty-six (36) months.

C. Additional Qualification Requirements for Applicant Entities – Nonprofits

In addition, an Applicant formed as a nonprofit must be determined by ADFA to be qualified to act as a Developer. The nonprofit must be able to demonstrate technical expertise of staff and other project partners in housing production and

management and meet the following criteria:

1. A proven track record in affordable housing development and project management for a minimum period of three (3) years prior to the application submission date.
2. The healthy operating sustainability of the organization, including fiscal longevity.
3. The sound management and governance of the non-profit.

V. FORMS OF HOME ASSISTANCE AND DEVELOPER AND PROJECT DELIVERY FEES

Funds provided to CHDO's will be in the form of a loan from ADFA. Program income generated must be returned to ADFA.

ADFA uses HOME funds to expand the supply of affordable rental housing for very low-income and low-income households. To ensure that HOME funds are used effectively and efficiently, and to meet the requirements of the HOME Program, Recipients of rental funds must meet the rules set forth in Home Program Operations manual. First, HOME has specific project requirements regarding eligible Recipients and activities, forms of assistance, eligible costs and property type and property standards. After the project is established, it must be leased up in accordance with HOME occupancy requirements. Over the course of its affordability period, the project must be managed to maintain compliance with HOME rent and occupancy requirements. This means continued attention to eligible tenants, income verification and recertification, adjusting rents as tenant income increases and the requirements for proper leases. Recordkeeping responsibilities include the maintenance of records at the property and program level to document compliance with all program requirements. Additionally, to extend the impact and reach of these funds, ADFA encourages the use of HOME funds with other resources (both public and private) available for the development of affordable rental housing. Developers of the affordable housing project may be local governments, public housing authorities, Community Housing Development Organizations (CHDOs) and other nonprofits, and for-profit entities. In particular, the eligible Recipient will be the entity responsible for project development, but may also include all affiliated entities, such as an owner that is also the property manager.

More details are provided in Section III of Exhibit A (Activity Summaries).

VI. APPLICATION REVIEW PROCESS

All Applications will initially be reviewed by ADFA to determine completeness. Applicants must respond to any ADFA clarification request within three (3) business days from receipt. Failure to meet this deadline will cause the Application to be deemed incomplete and the Application will not be reviewed further.

Complete Applications will be screened to determine whether the Application meets the minimum NOFA eligibility requirements. ADFA will evaluate and rank each complete and eligible Application according to the priorities identified herein. For any Applications ranked at the same level, the ADFA Receipt Date will determine which Application has priority, with the earliest submission ranked the highest. The “ADFA Receipt Date” is defined as the date and time a complete Application is received by ADFA.

VII. SELECTION PRIORITIES

A. Experience of the CHDO

Both the experience of the Applicant in administering HOME funds as a Developer and/or the Applicant’s experience in developing or administering the development of similar units will be considered.

B. Project Concept

ADFA will evaluate each Applicant’s proposal for administration of any awarded funds. The evaluation will include, but not be limited to, the appropriateness of the proposed service area, the type of housing to be developed, the income of the population to be served, the amount of HOME investment per unit, and the demonstrated demand for the completed units. Proposals will also be evaluated for completeness, existing delivery systems and the plan for meeting ADFA program deadlines.

C. Readiness to Proceed

Applications that can demonstrate the greatest readiness to proceed with program implementation will be given the highest priority.

VIII. APPLICATION PROCEDURES AND AWARD ANNOUNCEMENTS

A. Application Submission

One (1) Application on ADFA forms (electronic submissions only) must be submitted to ADFA along with all supporting documents. The Application may be submitted anytime on or after May 1, 2018 at 8:00 a.m., **but no Applications will be accepted after October 31st at 4:30 p.m.** All Applications must arrive at ADFA by the date and time indicated in order to be considered.

All applications must be emailed at the following address:

Robert.Hunt@adfa.arkansas.gov

B. Application Award and Notification

All applications will be reviewed, evaluated, and ranked according to the priorities and preferences outlined in Section VII. ADFA will consider the geographic distribution of these resources across the State prior to making final funding decisions. All award results will be posted on the ADFA web site and Applicants notified in writing.

IX. TIMEFRAME FOR COMMENCEMENT AND COMPLETION OF DEVELOPMENT

Project must begin construction within one year of award and completion should occur within 18 (eighteen) months of the Notice to Proceed. All HOME funds must generally be expended within forty-eight (48) months of ADFA's award date. All development activity must be completed within four (4) years of award.

“Completion” is defined as all construction activities being complete, all development funds expended, all final inspections have taken place, and certificates of occupancy issued.

X. COMPLIANCE WITH OTHER FEDERAL REQUIREMENTS

In addition to the basic HOME rules previously outlined, a number of other federal and state regulations must be adhered to in the course of administering HOME funds. The certifying official of the Applicant is responsible for ensuring that the proposed program, activities, goals and timetables are in compliance with all federal and state laws, regulations and executive orders. The major applicable federal laws, regulations and executive orders include, but are not limited to, the areas outlined below:

A. Non-Discrimination and Equal Access

Applicants must take measures to ensure non-discriminatory treatment, outreach and access to HOME resources. This applies to employment and contracting, as well as to marketing and selection of program participants. ADFA does not discriminate based on disability in the administration of Federal HOME funds.

B. Fair Housing and Equal Opportunity

Applicants and their activities must comply with all of the federal laws, executive orders and regulations pertaining to fair housing and equal opportunity listed below:

- Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.)
- The Fair Housing Act (41 U.S.C. 3601-3620)

- Section 104(b) (2) of the Fair Housing Act
- Fair Housing Act implementing regulations for HUD programs at 24 CFR Part 100-115
- Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)
- Equal Opportunity in Housing Regulations at 24 CFR Part 107
- Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101)
- Title VIII of Civil Rights Act of 1968 (2 U.S.C. 3601 et. seq. and implementing regulations, as amended)
- Affirmative marketing in accordance with the HOME Investment Partnerships Act and 24 CFR 92.351
- Section 3 of the Housing and Urban Development Act of 1968
- Arkansas Fair Housing Act

C. Accessibility for Individuals with Disabilities

- Section 504 of the Rehabilitation Act of 1973

D. Equal Opportunity

- Equal Employment Opportunity Executive Order 11246, as amended, and implementing regulations at 41 CFR Part 60

E. Contracting and Procurement

- 2 CFR Part 200, General Procurement Standards

F. Environmental

- National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR Parts 50 and 58

G. Lead Based Paint:

- Section 1012 and 1013 of the Residential Anti-Lead Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992 and implementing regulations at 24 CFR Part 35

H. Acquisition and Relocation

- Uniform Relocation Act (URA)
- Section 104(d) of the Housing and Community Development Act, known as the Barney Frank Amendments

I. Financial Management

- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

J. Housing

- The Truth in Lending Act (Regulation Z)
- Title I Consumer Protection Act (PL 90321)
- Construction Industry Licensing Board Act (O.C.G.A. Section 43-14-1, et. seq.)
- Mandatory State Construction Codes, as well as the International Energy Conservation Code
- Construction and Safety Standards at 24 CFR 3280 for new manufactured housing

K. Labor Standards

- Every contract for the new construction or rehabilitation of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as pre-determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-5). Such contracts are also subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).
- Contractors, subcontractors, and other HOME fund recipients must comply with regulations issued under these acts and with other Federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs).

L. General

- Title II of the National Affordable Housing Act of 1990, As Amended
- 24 CFR Part 92, HOME Investment Partnerships Program
- 24 CFR Part 5 A, 5.105, Other Federal Requirements

XI. COMPLIANCE WITH STATE REQUIREMENTS

In addition to the basic HOME rules and Federal requirements, the certifying official of the Applicant is responsible for ensuring that the proposed program, activities, goals and timetables are in compliance with all state laws, regulations and executive orders.

EXHIBIT “A”

I. Eligible Activities

CHDO’s may fund the following eligible activities:

New construction involves the development of new housing units on vacated or improved land. Improved land that has existing structures must be either owner occupied or vacant at the time of purchase. If units are occupied by businesses or tenants, approval in advance from ADFA is required prior to application.

- ◆ New construction must be performed according to ADFA’s written property standard as well as the applicable state and local codes. See section below for further information on property standards requirements.

Homeownership units must be converted to rental housing units if there is not a ratified sale contract with an eligible homebuyer within nine (9) months of the completion of construction or rehabilitation.

There are no preferences for project or unit size or style.

II. Ineligible Activities

Developers may not fund the following ineligible activities:

- The development, operations or modernization of public housing financed under the 1937 Act (Public Housing Capital and Operating Funds).
- HOME funds may be used in a project that also contains public housing units, provided that HOME funds are not used in the public housing units and the HOME units are separately designated.
- Projects assisted under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages), *unless* assistance is provided to “priority purchasers” of such housing.
- A priority purchaser is a resident council organized to acquire a project in accordance with a resident homeownership program, or any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the project. Organizations or agencies affiliated with a for-profit entity for the purposes of purchasing a property do not qualify as priority purchasers.
- Projects assisted under Title VI of NAHA (prepayment of mortgages insured by HUD).

- Emergency shelters with limited occupancy requirements.
- All types of student housing.
- Projects where developers/contractors do not have a valid Arkansas contractor's license.
- Projects that do not have a written verification in support of the proposed development from the chief elected official of the area where the project will be located.

III. Property Standards

All funded properties must meet certain property standards. At minimum, all units must meet HUD's Uniform Physical Condition Standards (UPCS). However, the HOME regulation also requires that all housing that is rehabilitated or financed with HOME funds must meet all applicable local codes (including state codes), rehabilitation standards, ordinances, and zoning ordinances at the time of development completion. The State Code can be found at the following link:

[http://adfa.arkansas.gov/Websites/adfa/images/HOME_Program/Documents/Arkansas_Usability_Standards_in_Housing_\(Universal_Design\).pdf](http://adfa.arkansas.gov/Websites/adfa/images/HOME_Program/Documents/Arkansas_Usability_Standards_in_Housing_(Universal_Design).pdf)

IV. Period of Affordability Compliance

During the Period of Affordability, Developers will be required to carry out ongoing compliance monitoring activities as dictated by HOME rules. ADFA will monitor their performance in completing these activities. The period of affordability will be determined by the level of assistance provided each unit as outlined in the HOME regulations in Sections 92.252 (e) for rental units and Section 92.254 for multi-family rental units and can vary from 5 to 20 years. All rental units funded under this NOFA will be subject to all HOME compliance and affordability requirements throughout this period of affordability, including periodic tenant file reviews and unit inspections to ensure all ongoing HOME requirements are met.

For single family residence construction, the liens will be considered satisfied by income eligible tenants continued occupancy in the unit as their primary residence as verified throughout the period of affordability. Failure to fulfill this requirement during this time frame will result in a recapture of net proceeds as described in The State of Arkansas's 2015-2019 Consolidated Plan including the 2016 Annual Action Plan.

INSTRUCTIONS FOR SUBMITTING PROGRAM APPLICATIONS

All applications for HOME Funds submitted during the **August 2018 Community Development Housing Organization Notice of Funds Availability** must be submitted in the required format and use the following instructions for submitting an Application:

1. Submit one (1) signed original application in electronic form, together with supporting documents. Submit application to:

Robert.Hunt@adfa.arkansas.gov

2. A copy of a completed Federal Form 424 must be submitted to the State Clearinghouse. If the applicant is not a state agency, a copy of this same information must also be submitted to the appropriate Area-wide Clearinghouse. **The address of the State Clearinghouse is:**

**Arkansas Dept. of Finance & Administration
State Clearinghouse
1515 Building, Room 417
Little Rock, Arkansas 72201**

3. Please retain a copy of the full application for your files.
4. Answer all questions. If not applicable to your program, mark "NA."
5. Use and include application checklist and only mark items included in the application.
6. **ONLY MATERIALS** submitted on the enclosed forms (or copies of the forms) will be accepted for review. Others will be returned. Use only forms provided and additional sheets as necessary. Failure to comply may result in disqualification.

Incomplete applications will be returned and may result in disqualification.

PART I - APPLICATION CHECKLIST

A complete Application, the application will be dependent of the activity with supporting documents, exhibits, and environmental clearance worksheets, and CHDO recertification documents.