



HOME Investment Partnerships Program



LIHTC/HOME Gap Financing NOFA

## **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 the new construction, acquisition and/or rehabilitation of multi-family complexes for low income renters. To meet this goal, ADFA will provide loans to Developers.

Funds will be awarded to successful Applicants who will act as Developer 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/>

Applicant questions must be directed in writing no later than **January 15th, 2019** to [Robert.Hunt@adfa.arkansas.gov](mailto:Robert.Hunt@adfa.arkansas.gov) and [Deanne.Jennings@adfa.arkansas.gov](mailto: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 five million dollars (\$5,000,000) 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 \$450,000 per application submitted unless a waiver of this limit is requested in writing as part of the application. 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. The minimum award of HOME funds for this NOFA is \$100,000.

## **IV. ELIGIBLE APPLICANTS**

### **A. Developer Role**

Successful Applicants will act as Developers of ADFA HOME funds. Developers are defined in the revised HOME Final Rule of July 24, 2013, as follows:

Individuals, for-profit entities and nonprofits who participate in the HOME Program as owners, developers or sponsors of housing. When CHDOs use HOME funds as owners, developers or sponsors, this use of HOME funds counts toward the 15 percent CHDO set-aside.

Applicants approved for funding under this NOFA will administer the one activity which is outlined in Exhibit "A" of this NOFA.

Administrative responsibilities of the Developer will include, but are not limited to:

- Selecting third party developers to complete eligible activities.
- Conducting assessments of proposed developments and coordinating appropriate work to be completed.
- Evaluating the reasonableness of proposed project costs.
- Ensuring that the work is performed in accordance with all required property standards.
- Submitting required project documentation to ADFA.
- Performing federal compliance oversight.
- Monitoring Program timelines for commitment and expenditure of funds.
- Monitoring compliance with ADFA and HOME Program requirements for the period of affordability.

### **B. Eligible Entities**

The following entities will be considered eligible to act as a Developer under this NOFA:

- Local governments
- Qualified non-profit organizations
- Public Housing Authorities
- Community Housing Development Organizations (CHDO)
- For profit developers

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.

**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.

**D. Additional Eligibility Requirements for Applicants – Local Governments**

In addition to the requirements for all Applicants, Local Governments must also meet the following requirements:

1. Local governments that received a grant award under the Community HOME Investment Program (CHIP) in the 2009 or any prior grant year must have expended all project and administrative funds by December 1, 2013, in order to be qualified as an Applicant.

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

Funds provided to all Developers 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, ADFFA 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 ADFFA to determine completeness. Applicants must respond to any ADFFA 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. ADFFA will evaluate and rank each complete and eligible Application according to the priorities identified herein. For any Applications ranked at the same level, the ADFFA Receipt Date will determine which Application has priority, with the earliest submission ranked the highest. The “ADFFA Receipt Date” is defined as the date and time a complete Application is received by ADFFA.

## **VII. SELECTION PRIORITIES**

### **A. Experience of the Proposed Developer**

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**

ADFFA 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 ADFFA

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 **January 15, 2019 at 8:00 a.m., but no Applications will be accepted after January 28, 2019 at 2:00 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. ADFAs do 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**

Developers may fund the following eligible activities:

- Acquisition of land or existing structures;
- New construction of HOME assisted rental units; and
- Rehabilitation of existing structures for HOME-assisted rental units.

The project must be assisted with HOME funds as a single undertaking. The project includes all activities associated with the site(s) or building(s). HOME funds may be used to assist mixed-income projects (but, only HOME-eligible tenants may occupy HOME-assisted units). Common area costs must be prorated based upon the number of HOME-assisted units and non-HOME-assisted units.

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

### **II. Ineligible Activities**

Developers may not fund the following ineligible activities:

- HOME funds may not be used for development, operations or modernization of public housing financed under the 1937 Act (Public Housing Capital and Operating Funds).
- Projects assisted under 24 CFR Part 248 (Prepayment of Low-Income Housing Mortgages) may not receive HOME funds, *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. Activity Summaries**

**Multi Family Rental Development** - Funds will be provided to construct, acquire, or rehabilitate multi-family units to be rented to low income individuals. All eligible Applicants, including qualified non-profit organizations, are eligible to apply for this activity

#### **IV. 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)

#### **V. 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 multi-family rental developments, 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 multi-family rental new construction, acquisition and/or rehabilitation applications for HOME Funds submitted during the LIHTC/HOME Gap Financing NOFA, 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 to:

[Robert.Hunt@adfa.arkansas.gov](mailto: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.
7. Incomplete applications may result in disqualification.

## **PART I - APPLICATION CHECKLIST**

1. A 2019 Multi-Family Housing Application Excel spreadsheet; the tabs of the spreadsheet that need to be completed as part of this NOFA are the “Application” and “Pro-Forma” tabs, only.

This worksheet can be found at the link below:

[https://adfa.arkansas.gov/media/file/2019\\_Application\\_Workbook\\_11.21.2019\\_1.xlsx](https://adfa.arkansas.gov/media/file/2019_Application_Workbook_11.21.2019_1.xlsx)

2. A completed environmental statutory checklist with supporting documentation.