



# Arizona Department of Housing

---

**State Housing Trust Funds and National Housing Trust Funds**

## **FY2024 Notice of Funding Availability**

---

**Date Issued: November 30, 2023**

1110 West Washington Street, Suite 280 | Phoenix, AZ 85007

Telephone: (602) 771-1000 | Facsimile: (602) 771-1002 | TTY: (602) 771-1001



**Table of Contents**

I. Introduction..... 3

    1.1 Changes to the NOFA ..... 4

II. Application ..... 5

    2.1 Application Selection Criteria and Fees..... 5

    2.2 Application and Submittal Format..... 6

    2.3 Eligible Projects and Other Eligibility Requirements ..... 6

        A. Application Submittal ..... 7

        B. Authorized Signatures ..... 7

        C. Eligible Recipients ..... 7

        D. Project Team Disqualification ..... 7

        E. Eligible Projects ..... 8

        F. Application Deadline and Eligible Award Amount ..... 8

        G. Eligible Area Median Income Requirements ..... 8

    2.4 Threshold ..... 8

        A. Floodway, Historic Structures..... 8

        B. Financial Ability to Proceed ..... 9

    3.2 Loan Closing ..... 10

        A. Loan Documentation ..... 10

III. General Regulations ..... 12

    4.1 False Filing ..... 12

    4.2 Satisfactory Progress..... 12

    4.3 Disclaimer and Limitation of Liability ..... 12

    4.4 ADOH Funding Agreement ..... 13

    4.5 Forms ..... 13

    4.6 Definitions..... 13

IV. Underwriting..... 13

    5.1 Underwriting Financial Evaluation Requirements ..... 13

V. Compliance Requirements for NHTF ..... 16

6.1 Liability..... 16

6.2 Capitalized Terms..... 16

6.3 Labor Standards ..... 16

6.4 Environmental Review ..... 16

6.5 Tenant Selection Criteria..... 18

6.6 Subsidy Layering Review ..... 18

## I. Introduction

The Arizona Department of Housing is pleased to announce a FY2024 State Housing Trust Fund and National Housing Trust Fund Notice of Funding Availability (NOFA). Projects financed with 9% Low Income Housing Tax Credit reservations (as permitted below) will be eligible for gap financing from the State Housing Trust Fund or National Housing Trust Fund. The available resources under this NOFA include \$27,892,020.64 million dollars in State Housing Trust Funds (SHTF) and National Housing Trust Funds (NHTF).

### Funding Availability – Total

Fund Type	Total Amount Available
National Housing Trust Fund	\$ 2,892,020.64
State Housing Trust Fund	\$ 25,000,000.00
<b>TOTAL</b>	<b>\$ 27,892,020.64</b>

### Amount Available to 9% LIHTC Projects with LIHTC Reservations

Fund Type	Total Amount Available
National Housing Trust Fund	\$ 2,892,020.64
State Housing Trust Fund	\$ 10,000,000.00
<b>TOTAL</b>	<b>\$ 12,892,020.64</b>

### Amount Available to New 2024 9% LIHTC Projects

Fund Type	Total Amount Available
State Housing Trust Fund for Projects with Permanent Supportive Housing (PSH)	\$ 4,000,000.00
State Housing Trust Fund	\$ 11,000,000.00
<b>TOTAL</b>	<b>\$ 15,000,000.00</b>

**This NOFA will remain in effect until further notice is posted on the Publications page of ADOH’s website.**

Additional Documents Incorporated Herein by Reference. The following documents provide additional compliance requirements for the funding sources in this NOFA and are incorporated herein by reference. The NOFA may be more restrictive than the regulations in these documents. In the event that these or other requirements are inconsistent, the most restrictive requirements shall govern.

- 2022-2023 Qualified Allocation Plan (“QAP”) pursuant to Low Income Housing Tax Credits (“LIHTC”), including all forms and exhibits thereto
- 2024-2025 QAP pursuant to LIHTC (as currently adopted or as amended and adopted), including all forms and exhibits thereto
- Arizona Department of Housing Funding Agreement, Loan Documents, and Subordination Agreements
- 24 CFR parts 91 and 92, as amended, HOME Investment Partnership Program: Improving Performance and Accountability; Updating Property Standards, July 24, 2013 (**applicable to State Housing Trust Funds**)
- 24 CFR parts 91 and 93, as amended, Housing Trust Fund; Interim Rule, January 30, 2015
- Docket No. FR 5890-F-02 published in the Federal Register on December 20, 2016 *“Narrowing the Digital Divide Through Installation of Broadband Infrastructure in HUD-Funded New Construction and Substantial Rehabilitation of Multifamily Rental Housing”* commonly known as the Final Broadband Rule
- ADOH NHTF Rehabilitation Standards
- National Housing Trust Fund Rent and Income Limits

## 1.1 Changes to the NOFA

Modifications to the NOFA. ADOH may modify this NOFA, including its compliance and monitoring provisions, from time to time, or for any other reasons as determined by ADOH: 1) to reflect any changes, additions, deletions, interpretations or other matters necessary to comply with the Code of Federal Regulations; 2) to respond to changes in the market for Affordable Housing; 3) to insert such provisions clarifying matters or questions arising under this NOFA as are necessary or desirable and that are contrary or are inconsistent with this NOFA; or 4) to cure any ambiguity, supply any omission or correct any defect or inconsistent provision with this NOFA or the laws and regulations governing the funding sources being made available in this NOFA.

NOFA Clarifications. ADOH will periodically post written clarifications to this NOFA on its website. The clarifications elaborate on the meaning of the text within this NOFA and may sometimes add additional guidance on how to interpret this NOFA. NOFA clarifications are to be considered a part of this NOFA. Applicants are responsible for checking the clarifications and submitting an Application that is in conformance with the clarifications. Requests for clarification must be made in writing via email or letter via US Mail and will be responded to in the written clarifications to the NOFA on ADOH’s website.

## II. Application

### 2.1 Application Selection Criteria and Fees

Projects deemed eligible pursuant to this NOFA will be awarded in accordance to the following priorities until the funding has been exhausted, subject to the funding availability as outlined in this NOFA:

1. Funds will be provided to projects that are recycling their credits by December 31, 2023 that are seeking ADOH gap financing on a first come, first serve basis by the applicable deadline. *In the event there is not enough gap financing to fully fund a project that has applied, the Department will make a partial award.*
2. Remaining funds will be provided to projects awarded in the 2022 or 2023 9% LIHTC funding round that are seeking ADOH gap financing on a first come, first serve basis by the applicable deadline. Applicant must identify if they are applying for NHTF or SHTF in their application submittal via a cover letter. *In the event there is not enough gap financing to fully fund a project that has applied, the Department will make a partial award.*
3. Funds will be provided to Applicants in the 2024 9% LIHTC round seeking ADOH gap financing that are successfully awarded in the 2024 9% LIHTC round in the following order:
  - a. Up to \$4,000,000 in ADOH gap financing to projects providing a minimum of 15% of the project's units to permanent supportive housing (PSH). If you do not score high enough in the 2024 9% LIHTC round to be awarded tax credits, then you will not be awarded SHTF. *In the event one or more projects submit for this, the highest scoring project under the 2024-2025 QAP will be awarded first and then in descending order of score. In the event there is not enough gap financing to fully fund a project that has applied with PSH, the Department will make a partial award. In the event one or more projects tie in the 2024 9% LIHTC QAP round, the Tiebreakers in the 2024-2025 QAP will apply;*
  - b. Projects will be awarded based on who scores the highest under the 2024-2025 QAP **and** applies for SHTF under this NOFA. For example, the highest scoring project under the 2024-2025 QAP 9% LIHTC round that also applied for gap financing will be awarded first, then the next highest scoring project would be awarded, and then the next and so on. *In the event there is not enough gap financing to fully fund a project that has applied, the Department will make a partial award. In the event one or more projects tie in the 2024 9% LIHTC QAP round, the Tiebreakers in the 2024-2025 QAP will apply. If you do not score high enough in the 2024 9% LIHTC round to be awarded tax credits, then you will not be awarded SHTF.*

### **Application Fee**

A non-refundable gap financing application fee in the amount of \$1,500 is due with the gap application submittal. Fees may be remitted through the ADOH Payment Portal or via check with the hard copy materials specified in Section 2.2 below to the following address:

Arizona Department of Housing  
Attn: Rental Programs Administrator  
1110 West Washington Street, Suite 280  
Phoenix, AZ 85007

## **2.2 Application and Submittal Format**

Applicant must submit one (1) electronic copy of a complete 9% LIHTC Application pursuant to the applicable QAP with all exhibits and forms via the ADOH Portal, along with an ADOH Gap Financing Application form. Applicants previously awarded a reservation of LIHTC in a 9% LIHTC round may submit the updated documents for any changes to the 9% LIHTC Application along with the ADOH Gap Financing Application. However, the materials for each Tab shall be submitted organized to correspond to the Tabs in the applicable QAP. An updated Form 3 must be submitted in both Excel and PDF formats. Each Tab shall be one (1) separate easy to read document in PDF format and named as follows: "Project name - Tab # - Name of Section". Tabs with large documents should be bookmarked or in a PDF Binder to clearly show each exhibit required in the Tab.

Each Application must comply with the format and content of this NOFA. ADOH may reject any Application or Application information that does not conform to the requirements of this NOFA.

Applicants shall make every effort to ensure that documents submitted are easy to read, and wherever possible shall convert original electronic documents to a PDF format, rather than scan them. Documents that are not easy to read, in ADOH's sole discretion, shall be rejected by ADOH. ADOH, in its sole discretion, may request that such documents be replaced with legible documents.

ADOH may engage a third party or cost estimator to verify cost reasonableness. Funding will be allocated up to the verifiable gap, which is not to exceed the State Maximum Investment Per Unit.

## **2.3 Eligible Projects and Other Eligibility Requirements**

ADOH will evaluate all Applications in accordance with this NOFA. ADOH shall deny any Application that fails to meet eligibility requirements regardless of its score. **The following criteria must be met in order to meet the eligibility requirements:**

**A. Application Submittal**

One (1) complete 9% LIHTC Application or as applicable the updated 9% Application forms organized in the prescribed sequence and format, ADOH Gap Financing Application and other materials specified in this NOFA.

**B. Authorized Signatures**

All documents that require a signature must be signed by the Applicant's authorized representative. Electronic signatures are permitted if preceded by "/s/" or other indications that an electronic signature is intended. Applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the applicable Arizona state agency for the type of Applicant entity. ADOH will not consider forms signed on behalf of an entity that is not duly formed or by a representative without authority. The Applicant's authorized representative must sign the ADOH forms rather than an attached signature page.

**C. Eligible Recipients**

1. Non-Profit Organizations
2. For-Profit Organizations
3. Local Jurisdictions

**D. Project Team Disqualification**

ADOH may disqualify any Applicant, Owner, or Person with a Controlling Interest in either such entity, Agent, or management agent who:

1. Is not an existing legal entity authorized to conduct business in Arizona and in good standing with the applicable Arizona state agency for the type of entity;
2. Has been found to be directly or indirectly responsible for any other project within the past five (5) years in which there is or was uncorrected noncompliance with state or federal rules, regulations or standards for more than three (3) months from the date of notification by the ADOH;
3. Has outstanding compliance issues with ADOH;
4. Has been involved in any ADOH project where there has been a Material Change in the project, general partners, or managing members, that ADOH did not approve in writing;
5. Has been removed by the ADOH from the ownership of a project that is subject of an Application;
6. Has failed to make Satisfactory Progress on previous and/or current projects; or



7. Has past due ADOH loan payments for which no deferral is currently pending.

**E. Eligible Projects**

Only the following projects, in conformance with the applicable QAP, are eligible:

1. Awarded 9% LIHTC projects that are recycling their credits by December 31, 2023 seeking gap financing;
2. Awarded 2022 and 2023 9% LIHTC projects seeking gap financing that have not completed equity close;
3. New 9% Low Income Housing Tax Credit Applications in the 2024 round.

**F. Application Deadline and Eligible Award Amount**

Project Type	Application Deadline	Gap Source	Amount of Gap the Project is Eligible For
9% LIHTC Applicants recycling credits by 12/31/23	December 31, 2023	SHTF	Up to \$2,000,000
Awarded 9% LIHTC Projects	January 31, 2024	NHTF	Up to \$1,446,010.32
Awarded 9% LIHTC Projects	January 31, 2024	SHTF	Up to \$1,000,000
9% LIHTC Applicants applying in the 2024 9% LIHTC Round	April 1, 2024	SHTF	Up to \$2,000,000

**G. Eligible Area Median Income Requirements**

Fund Type	AMI Requirements for Set-aside Units
National Housing Trust Fund	30% AMI
State Housing Trust Fund with PSH	30% AMI
State Housing Trust Fund	60% AMI

**2.4 Threshold**

Applications must include a minimum “Threshold” of information in the 9% LIHTC Application to advance to the underwriting stage. Additional requirements and exhibits pursuant to the ADOH Gap Financing Application are listed below. ADOH may make written inquiries in order to verify and or clarify the information submitted. ADOH may also verify representations, information, and data in an Application with public information, independent reports, and statistics available through recognized subscription services.

**A. Floodway, Historic Structures**

1. Projects in a Floodway or 100-Year Floodplain

- a. Projects with any improvements located in a Floodway (crosshatched in the A zone of a Flood Insurance Rate Map (“FIRM” map) are ineligible for an award of ADOH funding under this NOFA.
  - b. Projects on parcel(s) of land that include a floodway, but in which the portion of the parcel that is a floodway remains undeveloped are not eligible for ADOH funding under this NOFA.
  - c. Projects located in a 100-Year Floodplain (dark shaded A zone of a FIRM map) may not be eligible for ADOH funding under this NOFA.
2. Historic Structures

Projects with Historic Structure(s) must submit the documentation evidencing that the Section 106 review process under 16 U.S.C. 470 *et seq.* has been completed and that there is No Adverse Effect, and that the scope of work meets the Secretary of the Interior’s Standards for Rehabilitation.

**B. Financial Ability to Proceed**

1. Letters of Interest or Intent shall agree to the terms, conditions and repayment schedule of the ADOH Gap Financing included in this NOFA and ADOH loan documents.
2. Applicant must insert a Certification that there is no pending litigation against the Owner, Developer and (if applicable) Co-Developer that could affect the Project.
3. Insert a Management Plan prepared by the Property Manager that includes:
  - a. Financial Plan – indicating how rents will be collected, and how the Project’s financial operations will be managed;
  - b. Physical Management – indicating how the physical plant will be managed by describing planned/preventative maintenance activities, work order system response, ongoing unit inspections, and maintenance of Uniform Physical Conditions Standards;
  - c. Occupancy Management – Describe how the units will be advertised/marketed, the intake and application process in accordance with the Tenant Selection Policies and Criteria below (including certification and documentation of eligibility to occupy the unit), if an how a waiting list will be maintained, how occupancy standards (i.e., house rules or standards of conduct) will be enforced, and how re-certification and turnover will be managed;
4. Evidence of Rental Assistance award, if applicable.

**C. Permanent Supportive Housing (PSH)**

*This section is only applicable to projects applying with PSH units and differs from the requirements of the Qualified Allocation Plan.*

**Permanent supportive housing is affordable rental housing combined with supportive services.**

1. Insert a Supportive Services Plan – describing the population the PSH units will serve, the approach for managing the outreach, referrals, and waiting lists to successfully identify and house prospective tenants in a timely and efficient manner, and explain whether you will make supportive services available to the residents or will be coordinating the availability of any supportive services through one or more service providers.
2. Clearly identify the number of units in the application that will be PSH units.
3. PSH units must be set aside at 30% AMI Rents.

**D. National Housing Trust Fund**

*This section is only applicable to projects applying for NHTF.*

Applicant must clearly identify in their application via a cover letter that they are applying for NHTF. In the event the NHTF is oversubscribed, Applicant must state they are willing to accept SHTF in lieu of NHTF. *Award is subject to a first come, first serve basis as stated above.*

**Projects must complete equity close by July 31, 2024 if awarded NHTF.** If the ADOH loan of NHTF is not closed by this date, the funds are subject to recapture by ADOH.

**3.2 Loan Closing**

**A. Loan Documentation**

Among other documents necessary to obtain a Lender’s policy with endorsements required by ADOH and properly secure its loan, Applicant will be required to execute the following documents in connection with ADOH’s financing:

- ADOH Funding Agreement
- Promissory Note
- Conditions, Covenants and Restrictions (“CC&Rs”)
- Deed of Trust
- LIHTC Land Use Restriction Agreement that **prohibits** a request for Qualified Contract.

**The Department's loan documents must be used on all transactions. The Department is only open to reviewing minor changes to the approved documents. Any major changes to the Department's documents will be denied. Please review these documents ahead of applying for ADOH gap financing.**

Prior to the closing on ADOH financing, Applicant is not permitted to close on any other financing pursuant to the Project or begin construction (this only applies to applicants that have not closed at the time of applying for gap financing). If applicable, other financing will be required to close in conjunction with the ADOH loan.

### **ADOH Subordination Agreement**

The Department will execute ADOH's form of subordination agreement to a senior lender. ADOH requires each lender that is providing financing subordinate to the funding under this NOFA to execute ADOH's form of subordination agreement. In the event that Freddie Mac or Fannie Mae are in the deal, the Department will use their form of subordination agreement subject to the Department's modifications.

### **ADOH Funding Agreement and CC&Rs**

The Funding Agreement will expire when the Project passes final inspection by ADOH after construction is completed and all State assisted Units are leased. Upon expiration of the Funding Agreement, all real property under Applicant's control that was acquired or improved in whole or in part with SHTF funds must be fully compliant with the encumbrances and obligations described in the Declaration of Conditions, Covenants and Restrictions ("CC&Rs"). The CC&Rs will be recorded in a superior position to any other financing on the property for a Period of Affordability based upon the most restrictive source of ADOH funding to the Project.

1. Applicant must submit the following documents for ADOH's review at least ten business days prior to closing:
  - a. Executed ADOH Funding Agreement
  - b. Final draft settlement statement from title company
  - c. Final draft Lender's title policy in favor of ADOH
  - d. Executed Payment and Performance Bond that is acceptable to ADOH
  - e. Executed construction contracts (general contractor and subcontracts)
  - f. Title company acceptance of final escrow instructions that includes the recording priority of all documents to be recorded in conjunction with the closing
  - g. Acceptance of the ADOH Subordination Agreement from all subordinate lenders
2. In addition to the above, ADOH will require that all financing documents from other sources are executed and deposited into escrow at least 48 hours prior to closing.

Additional subcontractor contracts, if any, shall be required prior to commencement of the work to be performed by the subcontractor.

### **III. General Regulations**

#### **4.1 False Filing**

An Application, including all exhibits, appendices, and attachments thereto, made to ADOH for an award of funding including any materials filed at a later time with ADOH in connection with an Application, is considered to be an “instrument” for the purposes of A.R.S. § 39-161. According to that statute, knowingly including any false information in or with the Application is a class 6 felony. Such an act may also result in barring the Applicant and Development Team members from future awards of ADOH funding and low-income housing Tax Credits. In addition, false filing may be subject to the provisions of A.R.S. § 13-2311 (designating as a class 5 felony the conduct of business with any department or agency of this state by knowingly using any false writing or document).

#### **4.2 Satisfactory Progress**

- A. Applicants who have previously received ADOH funding and or Tax Credits must make Satisfactory Progress and be in substantial compliance with the requirements of federal law with respect to all prior Projects before ADOH may consider a new Application.
- B. ADOH shall monitor both the progress and quality of construction. If progress or quality has not been satisfactory to the ADOH, ADOH shall require corrective action be undertaken by the Applicant. ADOH may also report significant deficiencies to any other funding source or other members of the Project team, and the Project may be subject to revocation of funding due to lack of Satisfactory Progress.

#### **4.3 Disclaimer and Limitation of Liability**

- A. ADOH makes every effort to ensure that the references in this NOFA are accurate. All references in this NOFA to cells, line items and columns on forms are subject to amendments as forms are updated periodically. All references to URL webpages are subject to amendment as they are periodically updated by their webmasters.
- B. Applicants, Development Team members, and other financing sources participate in ADOH programs at their own risk. No member, officer, agent, or employee of ADOH or the State will be liable for any claim arising out of, or in relation to, any Project, including claims for repayment of construction, financing, carrying costs, or consequential damage or loss of any kind incurred by an Applicant, Development Team member, lender or any other Person.

Disclosures. Public disclosure of Applications shall be as provided by Title 39, Chapter 1 Article 2 of the Arizona Revised Statutes. Applicants must only enter confidential information such as taxpayer identification numbers at the specific locations required by the Application materials. All information included in an Application submitted to ADOH is subject to disclosure to the public unless specifically exempted from disclosure by statute. Applicants must redact confidential information from documents if the information is not specifically required by ADOH. ADOH may redact information or withhold records that are protected from disclosure pursuant to Arizona law.

#### 4.4    **ADOH Funding Agreement**

Terms between Owner and ADOH will be further memorialized in the executed ADOH Funding Agreement. Template Funding Agreements will be posted to the ADOH website for interested parties to review.

#### 4.5    **Forms**

The Gap Financing Application for Low Income Housing Tax Credit Projects Financed with Tax Exempt Bonds is hereby incorporated into this NOFA and is to be included with the LIHTC Application, as directed in this NOFA. It is posted on the Department’s website at <https://housing.az.gov/documents-links/forms/rental-development-bonds>.

#### 4.6    **Definitions**

Definitions in the QAP applicable to the funding year shall apply to this NOFA. Terms that are not specifically defined in the QAP shall be interpreted using common meanings typically accepted in the multi-family housing development industry, but will be ultimately be interpreted by ADOH in its discretion.

### **IV.    Underwriting**

ADOH will underwrite the Project in accordance with the applicable QAP. Where additional requirements are applicable, they are noted below. **The most restrictive requirement applies.**

#### **5.1    Underwriting Financial Evaluation Requirements**

##### **A.    ADOH Loan Terms.**

ADOH Gap Financing must be used for construction and permanent financing. In the event that a Funding Agreement has been executed, and all or a portion of the funds are not necessary, ADOH may reduce Low Income Housing Tax Credits (if applicable) to the amount necessary for feasibility based upon its underwriting.

##### **1.    Loan Payment Terms:**

All loans awarded under this NOFA shall be secured through a Deed of Trust and accrue simple interest annually at 3% as of the date the loan closes. The term of the

loan will be 20-30 years depending on the funding source. The annual payment shall be the greater of: (1) an annual simple interest hard payment to be determined by ADOH during underwriting (no less than \$1,000.00) or (2) 50% of Surplus Cash Flow.

If other local governmental lenders are providing sources of funds to the project, the Department is willing to reduce its split of Surplus Cash Flow. In this instance, the Department will require a minimum of 25% Surplus Cash Flow.

The Department’s definition of Surplus Cash Flow in the loan documents matches the Department’s underwriting and will be used without any major changes in all loan documents.

**2. Subordinate Debt**

Subordinate debt, including ADOH Gap Financing, shall fall below the first lien holder’s permanent loan, secondary hard debt, the cost of Supportive Services, the investor’s asset management fee, and Deferred Developer Fee in priority of payment. Local Government financing may follow ADOH Gap Financing in priority of payment. All soft financing, including Seller Carryback loans and related party loans shall fall below ADOH Gap Financing and Local Government financing in priority of payment.

**3. Maximum State Investment:**

Applicants may apply for ADOH financing with the following maximums based on the project type. ADOH may engage a third party or cost estimator to verify cost reasonableness and only allocate funding for up to the verifiable gap which is not to exceed the State Maximum Investment Per Unit.

Project Type	Gap Source	Financing Maximum
Awarded 9% LIHTC Projects recycling credits by 12/31/23	SHTF	Up to \$2,000,000
Awarded 9% LIHTC Projects seeking gap financing	NHTF	Up to \$1,446,010.32
Awarded 9% LIHTC Projects seeking gap financing	SHTF	Up to \$1,000,000
9% LIHTC Applicants applying in the 2024 9% LIHTC Round	SHTF	Up to \$2,000,000

The Maximum State Investment per Assisted Unit permitted is the HOME Maximum per Unit Subsidy Limits which are published by HUD. The most recent limits, found in the following table, were published on April 7, 2023. (The Maximum State Investment per Unit is a ceiling.)

MAXIMUM STATE INVESTMENT PER UNIT				
Unit:	0 bedroom	1 bedroom	2 bedroom	3 bedroom
Maximum:	\$173,011	\$198,331	\$241,176	\$312,005

4. Period of Affordability:

The required Period of Affordability for Projects awarded SHTF will be 20 years.

The required Period of Affordability for Projects awarded NHTF will be 30 years.

5. USDA and HUD-insured loans:

In ADOH’s sole discretion, Applicants with USDA or HUD-insured loans may not be eligible for ADOH Gap Financing from federal sources unless guarantees or equivalent security are provided to ensure full collateralization of the ADOH Gap Financing for the entire Period of Affordability.

**B. Development Budget**

Applicants shall disclose all uses of development funds. Costs are limited to those that are necessary to build the Project. All sources, including reserves and contingency items, must be funded from cash sources that are dedicated to the Project. Letters of credit and cash from operations are not acceptable financing sources to cover financing gaps in the Development Budget.

**C. Pro-Forma**

Applications must:

1. Use an Asset Management Fee as provided in the Limited Partnership Agreement or Operating Agreement, but no greater than \$10,000 increasing annually at 3%;
2. Show at least the minimum gap financing hard payment of \$1,000.

**D. Eligible Uses of SHF**

SHF may be used only for reasonable and customary construction costs (or acquisition and rehabilitation costs of properties to be improved).

**E. Questions to ADOH Regarding this NOFA**

Questions will be accepted by the Department up to three days before the applicable deadline in regards to this NOFA.



## V. Compliance Requirements for NHTF

The following compliance requirements are only applicable for projects funded with NHTF. Projects funded with SHTF will not be subject to the below federal requirements.

### 6.1 Liability

The Owner is responsible for compliance with all applicable laws, regulations, codes, etc. ADOH shall not be liable to third parties for claims arising from an Owner's failure to comply with these. Applicable terms between Owner and ADOH will be further memorialized in the executed ADOH Funding Agreement.

### 6.2 Capitalized Terms

- A. 5-year Operating Deficit Reserve. In addition to the Maximum State Investment per Unit, ADOH may authorize up to five (5) years of operating reserves pursuant to §93.201 for NHTF State Assisted Units to cover the difference between the tenant's monthly rent payment and the NHTF-assisted Unit's share of monthly operating costs.
- B. Rental Assistance Reserve. In lieu of the 5-year Operating Deficit Reserve described above, ADOH will underwrite a Rental Assistance Reserve funded through the Project's equity to cover the difference between the tenant's monthly rent payment and an NHTF-assisted Unit's share of monthly operating costs.

### 6.3 Labor Standards

The applicable Labor Standards will be determined based on the size and scope of the project.

### 6.4 Environmental Review

Projects funded with NHTF are subject to 24 CFR Part 58. Owners will be required to submit the following ERR documentation:

- A. An ASTM E 1527-13 Phase I Assessment (with asbestos and lead based paint reports if a rehabilitation) and an applicable HUD Format Environmental Review in accordance with 24 CFR § 50 or 24 CFR § 58 is required.

The Phase I Assessment (and applicable asbestos and lead based paint reports) may not be dated more than one (1) year prior to the Application is submitted to ADOH for consideration. The lead based paint report may not be dated more than twenty-four (24) months prior to the date of the ADOH funding Award Letter. If the Phase I identifies issues and/or the need for remediation, further testing or a Phase II, Applicant must submit the remediation plan, Phase II and/or studies identified in the Phase I with the Post Award Submittals stipulated in Section 3.1 of this NOFA. Applicant's Form 3 - Development Budget, must also include the costs associated

with the need for further testing Phase II or additional studies (hard copy also required)

The body of the Phase I Assessment or an executive summary thereof that includes the certification of the professional preparing the report, the site description, findings, and conclusions must be submitted in hard copy and electronic formats. The balance of the Phase I Assessment, including all records reviews and appendices, may be submitted in electronic format.

1. Projects that include rehabilitation or demolition of a pre-1978 building must attach a Lead-Based Paint Analysis with an Operations and Maintenance Plan in accordance with 24 CFR § 35 if federally funded, and in accordance with ADOH's Lead Hazard Control if funded with State monies only.

**B.** Provide the Environmental Record Review applicable to the funding source identified in the ADOH Award Letter on ADOH's forms. A HUD 24 CFR § 50 Assessment must be complete and ready for ADOH's acceptance for its files. A HUD 24 CFR § 58 Assessment must be ready to publish a FONSI/RROF (finding of no significant impact/request for release of funds). HUD Format Environmental Reviews assess the effects of activities carried out with Federal funds including project based Rental Assistance. *The acquisition of property or any physical action taken on a proposed site prior to the completion of HUD Format Environmental Review precludes the ability to use federal funds such as HOME, CDBG, or project based Rental Assistance.* HUD Format Environmental Reviews generally require between thirty (30) and 120 calendar days to complete, depending upon the type of activity and its location, so Applicants are encouraged to begin the HUD Format Environmental Review immediately upon receipt of an award so that the Applicant can meet the deadline identified in this NOFA. The ADOH environmental review forms and Environmental Review Record Handbook are available for download from the following URL on the ADOH website: <https://housing.az.gov/documents-links/handbooks>

**C.** Purchase Agreement requirements for projects with federal funds:

1. As of the effective date for the Project in 24 CFR § 58.22, conditional purchase contracts may only be used for the acquisition of existing multifamily residential properties. Land must be acquired through a purchase option.
2. A purchase option (for land or an existing multifamily residential property) must include language that it is subject to a determination by the recipient on the desirability of the property for the Project as a result of the completion of the environmental review in accordance with 24 CFR § 58 and the cost of the option is limited to a nominal portion of the purchase price.

3. A conditional purchase contract for an existing (vacant) multifamily residential property must include language similar to the following:

*“Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until ADOH (and/or other Responsible Entity, as applicable) has provided Purchase and/or Seller with a written notification that: 1) it has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other Contingencies of this Contract, (a) the purchase may proceed, or (b) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or 2) it has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. ADOH (and/or other Responsible Entity, as applicable) shall use its best efforts to conclude the environmental review of the property expeditiously.”*

## **6.5 Tenant Selection Criteria**

Tenant Selection Policies and Criteria, in compliance with all provisions of 24 CFR 93.350 and 24 CFR 93.303 or 24 CFR 92.253(d), as applicable, and 24 CFR 92.359 (VAWA).

1. Attach document formally adopting the Tenant Selection Policies and Criteria from the governing body of the proposed Owner Entity in the form of a resolution.
2. Attach tenant lease agreement that is compliant with the provisions of the Arizona Residential Tenant Landlord Act, the Fair Housing Act, and 24 CFR 92.253.

## **6.6 Subsidy Layering Review**

If requesting a subsidy layering review (SLR), evidence that ADOH, the Local Government providing the Federal funds, and HUD are listed as authorized users of all third party reports (i.e. appraisal) in the reliance provision of the report. Additional SLR requirements are applicable; please request the checklist from ADOH.