



**STATE OF NEVADA  
DEPARTMENT OF BUSINESS & INDUSTRY  
HOUSING DIVISION**

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**LOW-INCOME HOUSING TRUST  
FUND**

**ADMINISTRATIVE GUIDELINES**

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## **LOW-INCOME HOUSING TRUST FUND**

### **1. Overview**

The Nevada Housing Division “Division” is the administering agency for the Low-Income Housing Trust Fund “Trust Fund”, established in 1989. The Trust Fund was created to fund low-income housing activities and to serve as a match credit for required federally funded programs. During the 1991 Legislative session the Legislature committed funds from the state's real estate transfer tax to the Trust Fund. A tax equal to \$.10 of every \$500 unencumbered assessed value is paid into the Trust Fund when real estate is transferred. The fund was made accessible when it reached a dollar value of \$1,500,000.

The purpose of this document is to provide a means by which the Division will administer the Trust Fund, and assist recipients using funds within the statutes and regulations of the Nevada Revised Statutes, the Nevada Administrative Code, and 24 CFR Part 92 (42 U.S.C. 12701 et seq.). Entities receiving Trust Funds, known as Participating Jurisdictions, agree to periodic audits as requested by the Division in conjunction with the administration of this program.

This document is to be used as a guideline. It is the responsibility of the Participating Jurisdictions and any other Trust Fund administering agent to become familiar with the regulations of the Nevada Revised Statutes, the Nevada Administrative Code and 24 CFR Part 92 (42 U.S.C. 12701 et seq.) If the recipient is unclear as to the eligibility of a project and would like clarification, they should contact the Division.

### **2. Allocation Procedures**

The Division will make a geographic distribution of funds based on the most recent state estimate of the population “Local Share” as determined by the state’s demographer. Funds will be made available by announcement of amounts, or estimates of amounts, available to each Participating Jurisdiction. The Division will administer projects or provide technical assistance for those areas that request help in developing the facility or program to do affordable housing projects.

Trust Funds will be available for distribution to Participating Jurisdictions on July 1<sup>st</sup> of each year. A Participating Jurisdiction shall determine whether to accept or reject the allocation. If a Participating Jurisdiction rejects the allocation, the Division will administer the local share for that Participating Jurisdiction, and will consider any proposal for a project in the Participating Jurisdiction’s area. In addition, the Division will set aside ten percent (10%) of the total Trust Fund allocation in order to accept proposals for projects located in any area that it deems appropriate. A proposal for a project may be submitted throughout the year.

### **3. Distribution of Trust Funds**

Trust Funds are allocated to Participating Jurisdictions and local governments at the beginning of each fiscal year. Before the local share is calculated, the Administrator of the Division may choose to set aside funds as follows:

- a. If a proposal for a project is received, and is considered to be an eligible project pursuant to NRS 319.510, and all Participating Jurisdictions agree, funds may be set aside to be made available as a match to federal money offered for a project that requires the State to match funding as a condition of receiving the federal funds; or
- b. Providing proposals for projects do not exceed \$750,000 per year without the approval of all Participating Jurisdictions, funds may be set aside for an eligible project pursuant to NRS 319.510 that the Administrator deems appropriate in order to carry out the provisions of the Trust Fund program.

Once the appropriate funding is set aside by the Administrator, funds will then be distributed by the Division in the following manner:

- a. Fifteen percent (15%) of Trust Funds will be designated for emergency assistance activities, and will be released to local governments and/or designated private non-profit entities for use in accordance with established guidelines reflected in Section 11 of this manual. Local governments, or their designees, must apply to the Division for these funds, and must adopt regulations governing the use of funds. Agencies must submit the regulations to the Division for approval, and should include a certification that fifteen

percent (15%) of the allocation will serve poverty-level households. Poverty-level income limits will be supplied by the Division as it is updated by the Department of Housing and Urban Development.

- b. Seventy-five percent (75%) of the Trust Funds will be allocated to Participating Jurisdictions based on the local share formula, and may be used for the following activities:
  - i. Acquisition, construction or rehabilitation of housing for eligible households by public or private non-profit charitable organizations, housing authorities or local governments through loans, grants or subsidies;
  - ii. To provide technical and financial assistance to public or private non-profit charitable organizations, housing authorities and local governments for the acquisition, construction or rehabilitation of housing for eligible households;
  - iii. Any program which assists households in obtaining or keeping housing, including use as the state's contribution to facilitate the receipt of related federal monies.
- c. Ten percent (10%) of the Trust Funds will be administered by the Division to insure that the federal match requirements are satisfied. This allocation is referred to as the Discretionary Fund. The Division will accept submissions of proposals from Participating Jurisdictions, local governments and non-profits for projects funded from the Discretionary Fund, and will evaluate such proposals in accordance with its standard criteria for review.

Participating Jurisdictions must agree that Trust Funds will be used to satisfy federal match requirements, if necessary, and that they will make the same requirement of entities they sponsor to use Trust Funds. When Trust Funds are used to satisfy HOME Program federal match requirements, program income generated as a result of the activity must be returned to the Local HOME Account and re-used in accordance with HOME Program regulations. If the local government does not establish a Local HOME Account, Trust Funds generated under this section must be returned to the Local HOME Account established by the Division.

#### **4. Eligible Activities**

Trust Fund regulations require that fifteen percent (15%) of all expended funds must serve households at or below the federally designated level signifying poverty. A household is defined as all persons residing in the housing unit, and shall include the income of all household members 18 years of age and older. The following is a list of eligible activities pursuant to NRS 319.510:

- a. The Trust Fund may be used to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate to substantial rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvement, conversion, demolition and other expenses, including financing costs, to provide rental assistance, including security deposits and other programs to assist eligible households in obtaining or keeping housing, including use of the State's contribution to facilitate the receipt of related federal money;
- b. The Trust Fund may be used for technical assistance provided the activity falls within program guidelines;
- c. Acquisition of vacant land or demolition is allowed only with respect to a particular housing project intended to provide affordable housing;
- d. Conversion of an existing structure to affordable housing;
- e. An Administrative Agent may invest Trust Funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies consistent with the purposes of this section, deferred payment loans, grants, or other forms of assistance determined by the Division to be consistent with the purposes of this section; and

- f. The Trust Fund may be used to provide Tenant-Based Rental Assistance to households that meet the eligible criteria as reflected in the HOME Investment Partnership Program (24 CFR 92.209), taking into consideration that the household incomes cannot exceed sixty percent (60%) of area median income.

NOTE: Housing that has received an initial certificate of occupancy or equivalent document within a one-year period before an Administrative Agent commits Trust Funds to the project can be considered new construction for purposes of this part. **Termination of a project or activity before completion will result in the funds being repaid to the Division.**

## **5. Prohibited Activities**

The following is a list of prohibited activities as determined by the Division:

- a. Providing Trust Funds to a project reserve account for replacement, a project reserve account for unanticipated increases in operating costs, or operating subsidies;
- b. Providing assistance (other than rental assistance or assistance to a homebuyer to acquire housing previously assisted with Trust Funds) to a project previously assisted with Home funds or Trust Funds during the term of affordability. However, additional Trust Funds may be committed to a project up to one year after project completion, but the amount of funds in the project may not exceed the maximum per-unit subsidy established.

## **6. Proposed Project Evaluation**

Proposals for projects and programs that are not sought through the local Participating Jurisdiction must:

- a. Be sponsored by the local government within the jurisdiction the project will be located as demonstrated by a letter of support or resolution or such other evidence acceptable to the Division;
- b. Demonstrate the project's ability to provide housing at a low cost to eligible households for not less than thirty (30) years (for new construction or rehabilitation of a multi-family residential project); and
- c. Where applicable, meet the Division's standards for fiscal underwriting.

The Division may refuse to consider a proposal for a project if the sponsor, a partner of the sponsor, a member of the project development team, or any other party affiliated with the proposal has failed to adequately perform its obligations in regard to an application for a federal tax credit or other Division financing.

A Participating Jurisdiction that accepts its local share of Trust Funds from the Division shall evaluate each proposal for a project and determine which proposal will be awarded funds from its local share.

To be eligible for Trust Funds, each proposal for a project must be evaluated and approved either by the Division or a Participating Jurisdiction using the criteria established pursuant to NRS 319.510 and the HUD Annual Plan developed by the Division and/or Participating Jurisdictions.

## **7. Rental Projects Guidelines**

Trust Funds used for rental housing production (acquisition, rehabilitation, and new construction) must meet the following guidelines:

- a. Rents must be restricted for the established period of affordability;
- b. Household incomes cannot exceed sixty percent (60%) of the area median income as adjusted by household size;
- c. Rental housing projects must have an established minimum 30-year period of affordability;

- d. Both the rent and income targeting requirements must be enforced by deed restriction, without regard to the term of the mortgage or to transfer of ownership, and must specify the remedy for breach of the provisions;
- e. Certification is required on acceptance of funds that there will not be any investment of Trust Funds in combination with any other government assistance than is necessary to provide affordable housing;
- f. Original Trust Fund applicants must be a public or private non-profit agency. This does not preclude partnerships with a for-profit developer;
- g. When an increase in tenant income exists, and the annual income of tenants occupying Trust Fund-assisted units exceeds sixty percent (60%) of the median income, they may stay in their Trust Fund-assisted units, but the next available unit must be rented to an eligible household and designated as a new Trust Fund unit;
- h. Typically, each tenant's income will be examined on the anniversary of the original income evaluation or at lease renewal. However, the project may adopt an annual schedule and perform all verifications at the same time. In addition to collecting source documentation, projects have the option to recertify income with:
  - i. A written statement from the household indicating household size and annual income. This must include a certification from that household that information is complete and accurate, and must indicate that source documents will be provided upon request; or
  - ii. A written statement from the administrator of another government program under which the household receives a benefit, and that examines the annual (gross) income of the household each year (such as Section 8 Voucher Program). The statement must also indicate the household size, or provide the current income limit for the program and a statement that the household's income does not exceed that limit.

If either of the two alternative methods described above is used, the project must collect full source documentation every sixth year.

- i. The lease between a tenant and an owner of rental housing assisted with Trust Funds must be for not less than one year, unless by mutual agreement between the tenant and the owner. The lease must not contain the followed prohibited lease terms:
  - i. Agreement to be sued - Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
  - ii. Treatment of property - Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and court decision on the rights of the parties;
  - iii. Excusing the owner from responsibility - Agreement by the tenant not to hold the owner or the owner's agents legally responsible for actions or failure to act, whether intentional or negligent;
  - iv. Waiver of notice - Agreement by the tenant that the owner may institute a lawsuit without the notice to the tenant;
  - v. Waiver of legal proceedings - Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties;

- vi. Waiver of a jury trial - Agreement by the tenant to waive any right to a trial by jury;
  - vii. Waiver of right to appeal court decision - Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
  - viii. Tenant chargeable with cost of legal actions regardless of outcome - Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
  - j. Projects must meet the Section 8 existing Housing Quality Standards (HQS) upon acquisition or when applicable, after rehabilitation. Projects must continue to meet the HQS Standards throughout the thirty (30) year period of affordability;
  - k. New construction and substantial rehabilitation (\$25,000 in total development costs per unit) projects must meet local codes, ordinances and zoning as well as the following energy standards:
    - i. New construction: Model Energy Code published by the Council of American Building Officials;
    - ii. Substantial rehabilitation costs, including but not limited to Trust Funds; and
    - iii. Cost effective energy conservation and effectiveness standards in 24 CFR Part 39.
  - l. Projects must meet the following Subsidy Requirements:
    - i. Maximum Trust Fund subsidy per unit will be the current dollar limits under Section 221(d)(3)(ii) of the National Housing Act. The maximum unit subsidy limits for the Trust Fund will be provided to each Administrative Agent by the Division.
  - m. A minimum number of Trust Fund-assisted units must be designated by the following ratios (more units may be designated as Trust Fund-assisted by agreement between fund source and fund recipient, especially if there is determined to be additional need by the fund source):
    - i. Trust Fund-assisted units to total number of units; and
    - ii. Trust Funds invested in the project, to project costs, at the time the project is planned for inclusion of Trust Funds.
- Only units receiving Trust Funds are considered Trust Fund-assisted units; therefore, maximum Trust Fund subsidies, rent and occupancy rules apply only to Trust Fund-assisted units.
- n. Units in projects assisted with Trust Funds are subject to rent restrictions (controls) as established annually during the thirty (30) year affordability term. The rules governing maximum Trust Fund rents that may be charged to tenants occupying Trust Fund-assisted units are as follows:
    - i. Trust Fund-assisted rental units must bear rents not greater than the lesser of the fair market rent (FMR) for existing housing for comparable units in the area as established by HUD, minus tenant-paid utilities (excluding telephone), or a rent that does not exceed thirty percent (30%) of the adjusted income of a household whose gross income equals sixty percent (60%) of median income for the region minus tenant-paid utilities (excluding telephone).

HUD-established maximum rents used will be published at least annually for each area (county), and are available on the Division's web site at [www.nvhousing.state.nv.us](http://www.nvhousing.state.nv.us). Eligible utility allowance schedules may be acquired from the local public housing authority. Utility adjustments that differ from the local public housing authority's allowances must be approved in advance by the Division, and must be supported by documentation.

- o. Trust Funds may be used for the following uses and forms of assistance:
- i. Equity investments;
  - ii. Interest bearing loans or advances;
  - iii. Interest subsidies;
  - iv. Deferred payment loans;
  - v. Grants; and
  - vi. Other uses as approved by the Division
- p. Costs that may be funded with Trust Funds in the acquisition and/or rehabilitation of rental housing properties are limited as described below:
- i. Development hard costs: (The actual cost of constructing or rehabilitating housing):
    - New construction-costs that meet the applicable new construction standards of the Administrative Agent;
    - Rehabilitation-costs that meet the applicable rehabilitation standards of the Administrative Agent or correcting sub-standard conditions (minimally the HQS Standards) to make essential improvements including energy-related repairs or improvements, improvements necessary to permit the use by handicapped households, and the abatement of lead-based paint hazards. NOTE: Costs to demolish existing structures and for improvements to the project site that are in keeping with improvements of surrounding, standard projects, and costs to make utility connections are allowed for both new construction and rehabilitation projects.
  - ii. Related soft costs that are considered reasonable and necessary costs incurred by the owner and associated with financing, or development (or both) of new construction, rehabilitation or acquisition of housing assisted with Trust Funds. These costs include, but are not limited to:
    - Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write ups;
    - Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys' fees, private appraisal fees and fees for an independent cost estimate, builders or developer's fees;
    - Costs of a project audit that the Administrative Agent may require with respect to the development of the project; and
    - For new construction or substantial rehabilitation, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of rent-up (not to exceed 18 months) and which may only be used to pay operating expenses, reserve for replacement payments, and debt service. Any Trust Funds placed in an operating deficit reserve that remain unexpended when the reserve terminates must be returned to the Administrative Agent's local Trust Fund account.

## **8. Homebuyer Program Guidelines**

Trust Funds used to assist households with homeownership programs must meet the following guidelines:

- a. Funds must be used for the purchase of a single-family dwelling (1-4 unit family residence, condominium, cooperative unit, or combination manufactured home and lot) with or without rehabilitation;
- b. Funds must be used for the purchase of a single-family dwelling only if the property meets the following criteria:
  - i. The initial purchase price may not exceed ninety-five percent (95%) of the median purchase price for the type of a single-family housing for the jurisdiction as determined by the Division; and
  - ii. Has an estimated appraised value at acquisition, if standard, or after any repair needed to meet HQS Standards, that does not exceed ninety-five percent (95%) of the median purchase price for the type of single-family housing; and
  - iii. Once the purchase is completed, the project must be the principal residence of the household who qualifies as a low-income household at the time of purchase.
- c. If a sale of the property or transfer of title of the Trust Fund-assisted project should occur, funds may be recaptured from the net proceeds. If the net proceeds (sales price minus loan repayment and closing costs) are insufficient to recapture the full Trust Fund investment, plus enable the homeowner to recover the amount of the homeowner's down payment, the Trust Fund investment amount to be recaptured may be reduced. The recapture provisions may not allow the homeowner to recover more than the amount of homeowner's down payment, principal payments, and any capital improvement investment. NOTE: Repaid funds must be utilized by the Administrative Agent to assist with other eligible Trust Fund projects;
- d. In order to insure compliance with the recapture provisions, deed restrictions must be incorporated into each project Deed of Trust, and a Promissory Note as well as a signed written agreement will be executed. The deed restrictions are as follows:
  - i. The State (or Administrative Agent) reserves the right of first refusal;
  - ii. The property must be used as the purchaser's principal residence;
  - iii. No sub-leases are allowed;
  - iv. Trust Funds must be repaid upon sale of the property;
  - v. In the event of foreclosure, all deed restrictions may be canceled; and
  - vi. The Administrative Agent may also choose to recapture a portion of the equity as a local program option. However, entities that select to recapture a portion of the equity must develop acceptable program guidelines and receive prior approval from the Division.

## **9. Homeowner Rehabilitation Guidelines**

Trust Funds used to assist homeowners with rehabilitation must meet the following guidelines:

- a. Trust Funds may be used to perform the work necessary to rehabilitate a 1-4 unit single-family home. Construction of a permanent foundation for mobile or manufactured homes is also eligible. General property improvements may be allowed if the improvements are of a nature to make the home more livable for the applicant. Projects that are rehabilitated must at a minimum meet HQS Standards and local building codes;

- b. Maximum Trust Fund investment must be within HUD 221(d)(3) limits;
- c. If the sale of the property or transfer of title of the Trust Fund-assisted project should occur, funds may be recaptured from the net proceeds. If the net proceeds (sales price minus loan repayment and closing costs) are insufficient to recapture the full Trust Fund investment, the Trust Fund investment amount to be recaptured may be reduced. The recapture provisions may not allow the homeowner to recover more than the amount of homeowner's down payment, principal payments, and any capital improvement investment. NOTE: Repaid funds must be utilized by the Administrative Agent to assist with other eligible HOME/Trust Fund projects;
- d. In order to insure compliance with the recapture provisions, deed restrictions must be incorporated into each project Deed of Trust, and a Promissory Note as well as a signed written agreement will be executed. The deed restrictions are as follows:
  - i. The State (or Administrative Agent) reserves the right of first refusal;
  - ii. The property must be used as the purchaser's principal residence;
  - iii. No sub-leases are allowed;
  - iv. Trust Funds must be repaid upon sale of the property;
  - v. In the event of foreclosure, all deed restrictions may be canceled; and
  - vi. The Administrative Agent may also choose to recapture a portion of the equity as a local program option. However, entities that select to recapture a portion of the equity must develop acceptable program guidelines and receive prior approval from the Division.

## **10. Rental Assistance Guidelines**

Trust Funds used to provide tenant-based rental assistance "TBRA" to low-income households must meet the following guidelines:

- a. Trust Funds are used to assist low and very low-income households, similar to the Section 8 certificate and voucher programs in that the tenants choose their housing within guidelines established by the Division or Participating Jurisdiction. Trust Fund-assisted tenants may not earn more than sixty percent (60%) of the area median adjusted by household size, as amended annually. All households receiving assistance under the Trust Fund must be income eligible at the time of application and throughout the period they receive Trust Fund assistance. Income re-certifications shall occur at least annually;
- b. Units must meet HQS Standards;
- c. Trust Funds may be used to support programs such as self-sufficiency and homeownership initiatives and provide assistance to special populations;
- d. Trust Funds may be used to provide security deposit assistance to tenants regardless of whether they are TBRA funds. Utility deposit assistance may be provided only in conjunction with the TBRA program or security deposit program.

The relevant state or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purpose of this part, except that the amount of Trust Funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit. The security deposit may be provided as a grant or a loan. If they are provided as a loan, the recouped funds are to be deposited into the local Trust Fund account.

Only the prospective tenant may apply for Trust Fund security deposit assistance, although the funds shall be paid directly to the landlord.

The lease between a tenant and an owner of rental housing for which security deposit assistance is provided must be for not less than one year, unless by mutual agreement between the tenant and the owner.

- e. Program Administration Agents may be a Participating Jurisdiction, local Public Housing Agency, another public or private agency, a non-profit organization, or the Division;
- f. Units must have rent levels that do not exceed existing Section 8 fair market rent levels for the region by housing type as amended annually, and must be reasonable when compared with rents charged for comparable unassisted units in the area;
- g. The number of households per dwelling unit must conform with Section 8 guidelines;
- h. TBRA funds may not be provided to projects that already receive some form of federally funded rental assistance;
- i. Tenants assisted with Trust Fund resources may be selected by the Administrative Agent, and be selected from:
  - i. Waiting lists established by designated existing PHA's serving specific delineated geographic areas; or
  - ii. Lists established by approved Administrative Agents in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income households and approved by the Division or the Participating Jurisdiction.
- j. Residents of units designated for Trust Fund assistance may use the rental assistance in their existing unit or a comparable unit at another site;
- k. The maximum tenant subsidy shall be up to the difference between the applicable contract rent for the unit (under existing Section 8 certificate program in the region, as amended), and thirty percent (30%) of the tenant's/household's monthly **adjusted** income;
- l. The minimum tenant contribution shall be five percent (5%) of the household's gross income;
- m. Payments shall be made directly to landlords pursuant to applicable guidelines covering the HUD Section 8 Existing Housing Program (certificates/vouchers);
- n. Prior to the release of funds by the State, there shall be a written Trust Fund agreement between the Division and the grantee or Administrative Agent;
- o. The lease between a tenant and an owner shall not be for less than one year, unless by mutual agreement between the tenant and the owner;
- p. Upon award of Trust Funds for rental assistance and prior to the release of funds, a rental assistance contract shall be executed. The agreement shall be for a period not to exceed 48 months and must begin on the first day of the term of the lease. For a rental assistance contract between an eligible Administrative Agent and an owner, the term of the contract must terminate on termination of the lease. For a rental assistance contract between an eligible Administrative Agent and a eligible household, the term of the contract need not end on the termination of the lease, but no payments may be made after termination of the lease until the household enters into a new lease;

- q. If a Trust Fund-assisted household originally selected from an existing Section 8 waiting list exits the program for any reason, the tenant shall be placed on the PHA's existing waiting list based on policies established and adopted prior to authorized Trust Fund disbursements by the State. Upon expiration of Trust Fund assistance, tenants selected from the PHA's waiting list shall return to the PHA's waiting list and qualify for the same tenant selection preferences as when they were selected for the Trust Fund assistance.

NOTE: Trust Funds may *not* be used for the following activities

- a. To assist resident owners of cooperative housing that qualifies as homeownership housing (cooperative and mutual housing may qualify as either rental or owner-occupied housing under this program, depending upon the provisions of the agreement applying to the unit). TBRA funds may, however, be used by a tenant who is renting from a cooperative unit owner;
- b. To prevent the displacement of tenants from projects assisted with Rental Rehabilitation Program funds;
- c. To provide TBRA vouchers to homeless persons for overnight or temporary shelter. TBRA subsidies must be sufficient to enable the homeless person to rent a transitional or permanent housing unit that meets HQS Standards.

## **11. Welfare Set-Aside Guidelines**

Fifteen percent (15%) of Trust Fund receipts can be set-aside for the Welfare Set-Aside Program for emergency assistance. Funds are provided to public or private non-profit entities, and must be used to assist households in danger of becoming homeless or who are homeless at the time of application, subject to the following criteria;

- a. Entities requesting funds under this section must adopt regulations governing the use of the money and submit them to the Division for review prior to receiving the funds;
- b. Funds received under this section must be used solely for activities relating to low-income housing that are consistent with provisions of this instruction;
- c. Funds must be made available to households whose incomes do not exceed sixty percent (60%) of area median income. Fifteen percent (15%) of clients served must be at or below the federally designated level signifying poverty. The income level signifying poverty will be furnished by the Division as it is updated by HUD. A household is defined as all persons residing in the housing unit, and shall include the income of all household members 18 years of age and older;
- d. Funds can be used for the following emergency assistance activities:
  - i. Rental Assistance
  - ii. Utility Assistance
  - iii. Utility Deposits
  - iv. Security Deposits
  - v. Mortgage Assistance to prevent foreclosure
  - vi. Motel Vouchers
- e. Entities requesting reimbursement of funds must submit a Draw Request equal to the amount of funds expended during the prior month. Draw Requests cannot exceed the total amount of funds allocated to the recipient at the beginning of the fiscal year. Request forms will be provided by the Division and are also available on the Division's web site at [www.nvhousing.state.nv.us](http://www.nvhousing.state.nv.us);
- f. A report of clients served must be provided to the Division at the same time as the Draw Request. Request forms will be provided by the Division and are also available on the Division's web site at [www.nvhousing.state.nv.us](http://www.nvhousing.state.nv.us);

## 12. Written Agreements

Participating Jurisdictions and other recipients of Trust Funds are responsible for insuring that funds are used in accordance with all program requirements. Before Trust Funds are disbursed, there must be a Written Agreement ensuring compliance with all Trust Fund requirements. The agreement will remain in effect during the term of affordability. At a minimum, the Written Agreement must include provisions concerning the following items:

- a. Use of Trust Funds: The agreement must describe the use of Trust Funds, including the tasks to be performed, a schedule of completing the tasks, and a budget. These items must be in sufficient detail to provide a sound basis for the Administrative Agent to effectively monitor performance under this agreement;
- b. Affordability: The agreement must require housing assisted with Trust Funds to meet the affordability requirements of the Trust Fund, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period;
- c. Repayments: The agreement must state if repayment, interest, and other return on the investment of Trust Funds are to be remitted to the Trust Fund or are to be retained by the Administrative Agent for additional eligible activities;
- d. Project requirements: The agreement must require compliance with project requirements as applicable in accordance with the type of project assisted;
- e. HQS Standards: The agreement must require owners of rental housing assisted with Trust Funds to maintain the housing in compliance with applicable HQS and local housing code requirements for the duration of the agreement;
- f. Pre-development: The agreement must describe all activities/expenses for which a draw down will be requested prior to implementation of the permanent financing. Only such activities/expenses reflected below will be permitted for pre-development. The agreement will include the additional constraints against such pre-development drawdown described in Section 15(e) concerning funds disbursement. To the extent practical, such draw downs will be secured by project assets and subject to the following:
  - i. Initial Feasibility Phase
    - Option payment(s) to secure the purchase of the building or site
    - Application fees
    - Consultant fees
    - Inspection/assessment expenses
  - ii. Due Diligence Phase
    - Preliminary architectural and engineering expenses
    - Phase I environmental expenses
    - Soils testing expenses
    - Consultant fees
  - iii. Preconstruction Phase
    - Appraisal
    - Working drawings/specification expenses
    - Tax Credit reservation fees
    - Loan fees

- Consultant fees
  - Attorney fees
  - Insurance expenses
  - Property taxes
- g. Requests for disbursements of funds: The agreement must specify that the Administrative Agent may not request disbursement of funds under the agreement until funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed;
- h. Records and Reports: The agreement must specify the particular records that must be submitted in order to assist the Administrative Agent in meeting its recordkeeping and reporting requirements;
- i. Enforcement of the agreement: The agreement must provide for a means of enforcement by the Administrative Agent or the intended beneficiaries. This means the enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the provisions of the agreement; and
- j. Duration of the agreement: The agreement must specify that the agreement is in effect for the term of affordability required by the State, not to exceed thirty (30) years.

### **13. Monitoring**

The Division is responsible for managing the day-to-day operation of its Trust Funds. This includes monitoring the performance of all entities and Participating Jurisdictions that receive Trust Funds in order to ensure compliance with the requirements of the Nevada Revised Statutes, the Nevada Administrative Code and the Administrative Guidelines. The Division must also take appropriate action when performance issues arise. Monitoring activities include, but are not limited to, the following:

- a. Reviewing the activities of owners of rental housing assisted with Trust Funds to assess compliance with the requirements of this part. For multi-family housing, each review must include on-site inspection to determine compliance with housing codes and requirements of this part. For rental housing containing one to four dwelling units, an on-site review must be made once within each two-year period. For TBRA programs, files will be reviewed at the contracting agency to ensure program requirements have been met.
- b. The Division will conduct compliance review visits for each Participating Jurisdiction to ensure monitoring requirements are being met for projects and programs funded by Trust Funds. It is the responsibility of each Participating Jurisdiction to monitor projects funded by their agency, and to keep accurate records of monitoring activities as they will be reviewed by the Division. A more detailed list of the record requirements is reflected in Section 14.

NOTE: Requirements under this Section and Section 14 below are met if the project conforms to the monitoring and recordkeeping requirements of other federal or State low-income housing programs.

### **14. Recordkeeping**

Each Participating Jurisdiction must establish and maintain sufficient records to enable the Division to determine whether they have met the requirements of the Trust Fund program. Records pertaining to Trust Funds must be retained for the most recent five year period as follows;

- a. For rental housing projects, records may be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five year period, until five years after the affordability period terminates.

- b. For homeownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates.
- c. For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates.
- d. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention, all records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

Records must be kept in a manner that identifies the source of funds for each project, and at a minimum, files should contain the following records:

- a. Records providing a full description of each activity assisted with Trust Funds, including census tract location (if the activity has a geographical component), and the amount of Trust Funds expended for the activity;
- b. Records that document assistance provided under the Welfare Set-Aside;
- c. Records that document assistance provided as rental assistance;
- d. Records that demonstrate that each rental housing project meets the requirements of the Trust Fund for the required term of affordability. Records must be kept for each household assisted;
- e. Records that demonstrate compliance for tenant and participant protection;
- f. Records that demonstrate compliance with the requirements for affordable housing, including Homeownership records. This should include the initial purchase price and appraised value (after rehabilitation, if required) of the property. Records must be kept for each household assisted;
- g. Records that indicate whether a project is mixed-income or mixed use;
- h. Records evidencing the guidelines adopted by the Division, including a certification for each housing project that the combination of public assistance to the project is no more than is necessary to provide affordable housing; and
- i. Compliance records reflected in Section 13, as applicable.

## **15. Procedures for Obtaining Trust Funds from the Division**

Authorized individuals (designated by local entities) may request Trust Funds from the Division by completing a Low-Income Housing Trust Fund Application and the Line of Credit Authorization Form as follows. Each Administrative Agent may designate up to three persons for authorization to request funds:

- a. Trust Fund recipients must individually identify each project for which they wish to commit funds. Trust Fund projects may be set up in the categories defined below:
  - i. Rental Assistance: A project must be set up by identifying who will be distributing the funds for rental assistance. A monthly distribution sheet must be kept in recipient's file identifying each tenant and the amount of rental assistance;
  - ii. Homeownership Assistance/Rental Housing: Homeownership Assistance projects or rental housing projects may be set up in the categories defined below:

- Rental Production/New Construction-Rental projects funded from an Administrative Agent's rental production set-aside. (See New Construction definition below); and
  - Rental Production/Substantial Rehabilitation-Rental projects funded from an Administrative Agent's rental production set-aside. (See New Construction definition below).
- iii. Acquisition Only. Acquisition of a structure which received a certificate of occupancy at least 12 months prior to acquisition, which does not require additional expenditures of Trust Funds for rehabilitation and will be used to provide affordable rental housing or homeownership units;
- iv. Moderate Rehabilitation:
- Any project involving the improvement of existing units;
  - Any project involving the reconfiguration of a structure to reduce the total units in order to increase the number of large units;
  - Any project involving adding a room or rooms (e.g. bedroom or bathroom) outside of existing walls for purposes of meeting occupancy or code standards; and
  - Any project involving the acquisition of a structure which received a certificate of occupancy at least 12 months prior to acquisition, which requires additional expenses of Trust Funds for rehabilitation and will be used to provide affordable rental housing or homeownership units. The average cost for the project is \$25,000.00 or less per unit.
- v. Substantial Rehabilitation: The rehabilitation of residential property (as defined above) at an average cost for the project in excess of \$25,000 per dwelling unit;
- vi. New Construction:
- Any project consisting of one structure involving adding units outside of the existing walls of the structure;
  - Any project involving the acquisition of land or the demolition of an existing structure for the purpose of constructing a new structure; and
  - Acquisition of a structure that has received an initial certificate of occupancy within one-year prior to acquisition.
- b. Project set-ups
- i. A completed Low-Income Housing Project Set-up Form and a properly executed Written Agreement must be submitted to the Division in order to set up a project. This action will serve to commit Trust Funds;
  - ii. Trust Funds must be committed by August 31 following the State's fiscal year in which they were allocated. It is imperative that funds be drawn down by the deadline date in order to protect the integrity of the fund;
  - iii. The Division will assign a number to the project for inclusion on the Project Set-up Form.
- c. Funds disbursement

- i. A drawdown for funds against a project funded under Paragraph (f), Pre-development, may be requested prior to the execution of the Written Agreement, but funds will not be disbursed until after such agreement has been signed;
- ii. To initiate a drawdown, an executed Low-Income Housing Trust Fund Request for Drawdown form must be submitted to the Division. Failure to submit the draw request within 30 days after the funds are committed may result in the suspension of your ability to drawdown funds;
- iii. Upon receipt of an executed Low-Income Housing Request for Drawdown Form, the Division will deposit funds to the account of the jurisdiction requesting the drawdown. For planning purposes please allow 14 days to receive the funds;
- iv. Monies withdrawn from the Trust Fund not expended on committed projects within three (3) years must be returned to the Division. Upon written request by the applicant and for good cause, the Division may extend the period of the grant for not more than one (1) year;
- v. A Drawdown for Pre-development is subject to the following limitations:
  - During the Initial Feasibility Phase under Section 12(f)(i) it may not exceed 3% of the Trust Funds awarded the project;
  - During the Due Diligence Phase under Section 12(f)(ii) it may not exceed 5% of the Trust Funds awarded the project;
  - During the Pre-construction Phase under Section 13(f)(iii) it may not exceed 20% of the Trust Funds awarded the project;
  - Drawdowns for Substantial Rehabilitation are not allowed unless all project financing is committed and firm.
- vi. In order for the Division to remain within budgetary authority or address other administrative issues the Division may:
  - Approve uncommitted funds for drawdown in special circumstances; or
  - Initiate disbursements of funds that have been allocated to a jurisdiction; and

In no case is it the Division's intention to withhold properly committed funds.
- d. A Project Completion Report must be submitted to the Division within 120 days of the project completion. If a project completion report is not submitted by the due date, the Division may suspend further project set-ups and notify the recipient of this in writing. Project set-ups will remain suspended until an acceptable completion report is received or differences are resolved in another manner.

## 16. Glossary

**Activity** – An eligible project or program that has received Trust Funds from the Division.

**Adjusted Income** – Annual (gross) income reduced by deductions for dependents, elderly households, medical expenses, handicap assistance expenses and childcare.

**Allocation** – The distribution of Trust Funds based on the most recent estimate of the population as determined by the states demographer. Funds accumulate throughout the year, and are made available to Participating Jurisdictions and Local Governments on July 1<sup>st</sup> of each year.

**Annual Income** – The annual household income is the gross amount of income anticipated by all adults in a household during the 12 months following the effective date of the determination, and must be calculated using the Section 8 definition of annual income. Income from persons in the household 18 years of age and older must be included in the calculations to determine the annual gross household income.

**Area Median Income** – A determination made through statistical methods establishing a middle point for determining income limits in a geographical area. Median is the amount that divides the distribution into two equal groups; one group above the median and one group having income below the median.

**Assets** – Items of value, other than necessary personal items, which are considered in determining the eligibility of a household. All assets must be verified and documented. Where the household has net household assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

**Assisted Unit** – A term that refers to the units within a Trust Fund project for which rent, occupancy and/or resale restrictions may apply.

**Completion Report** – A form that is to be submitted to the Division upon completion of a project that provides a breakdown of all project costs and funding sources. Also included is a listing of household characteristics that includes a description of households receiving assistance.

**Compliance** – The act of meeting the requirements and conditions specified under the law and the Trust Fund program.

**Division** – Nevada Housing Division

**Drawdown** – The process of requesting and receiving Trust Funds from the Division.

**Household** – All persons residing in the housing unit, and shall include the income of all household members 18 years of age and older.

**Household Characteristics** – The data requested by the Division on the Completion Form for each unit of a Trust Fund-assisted project.

**Housing Quality Standards (HQS)** – Property standard criteria established by HUD to ensure “decent, safe and sanitary” housing for program recipients.

**Income Certification** – Document by which the tenant certifies his/her income, for the purposes of determining whether the tenant will be of low-income according to the provisions of the Trust Fund program.

**Income Verification** – Information from a third party which is collected in order to verify the accuracy of information concerning income provided by the applicants.

**Lease Agreement** – The legal agreement between the tenant and the project sponsor which defines the terms and conditions of the rental unit.

**Local Government** – A unit of local government designated by the Division to receive an allocation of Trust Funds.

**Monitoring** – Regulations governing the Trust Fund program requires the Division to monitor the performance of recipients to ensure compliance with program requirements. In addition, the Division is required to monitor recipients receiving Trust Funds to confirm that their activities are addressing the state’s affordable housing needs.

**Participating Jurisdiction** – A jurisdiction that has been designated by HUD.

**Period of Affordability** – The length of time that a Trust Fund-assisted project must meet the rent and occupancy restrictions as described in the Written Agreement. The Period of Affordability period for projects is thirty (30) years.

**Project** – A site or entire building or two or more buildings, together with the site or sites on which the building or buildings is located, that are under common ownership, management and financing and are to be assisted with Trust Funds, under a commitment by the owner, as a single undertaking.

**Project Completion Report** – See Completion Report.

**Rents** – Established rents that are published at least annually for each county, and are utilized to determine the maximum allowable rents to charge Trust Fund-assisted households. The maximum rent must include applicable utility allowances, as determined by the local Public Housing Authority.

**Section 8 of the U.S. Housing Act of 1937, as Amended** – Regulations used in defining and determining income and Housing Quality Standards as required of Section 103(b) of the Internal Revenue Code of 1954, as amended.

**Tenant** – Occupant(s) of a unit, age 18 years of age and over, to whom the unit is leased.

**Tenant-Based Rental Assistance** – A rental assistance program that provides on-going rental assistance to an eligible household, similar to the Section 8 Housing Voucher Program.

**Trust Funds** – The Low-Income Housing Trust Fund established in 1989 by the Nevada Legislature to fund low-income housing activities, and to serve as a match credit for required federally funded programs.

**Utility Allowance** – An amount determined by a local Public Housing Authority to be an average cost of utilities, as determined by bedroom size. This allowance is to be deducted from the maximum allowable rent if the cost of the utilities is the responsibility of the tenant.

**Welfare Set-Aside Program** – Fifteen percent (15%) of Trust Fund receipts that are set aside for emergency assistance. Funds are provided to public or private non-profit entities, and must be used to assist households in danger of becoming homeless or who are homeless at the time of application.

**Written Agreement** – The contract between the Division and a recipient that states the conditions under which Trust Funds are provided.



State of Nevada  
**DEPARTMENT OF BUSINESS & INDUSTRY**  
**Housing Division**

1802 North Carson Street, Suite 154  
 Carson City NV 89710  
 (775) 687-4258 / (800) 227-4960  
 Fax (775) 687-4040  
[www.nvhousing.state.nv.us](http://www.nvhousing.state.nv.us)

**LOW-INCOME HOUSING TRUST FUND**  
 Line of Credit Authorization

Pursuant to the Low-Income Housing Trust Fund Administrative Guidelines, the following person(s) is/are authorized to execute drawdown functions and deliver all instruments required by or contemplated in connection therewith on behalf of the below named Administrative Agent:

Administrative Agent: _____  Address: _____ _____ _____  Phone: _____  Tax ID #: _____	Type of function: (mark one)  1 <input type="checkbox"/> New User 2 <input type="checkbox"/> Add/Change Authority 3 <input type="checkbox"/> Terminate Authority
<b>Authorized User's Name/Title</b>	<b>Authorized User's Signature</b>

I authorize the above-identified person(s) to drawdown funds on behalf of the above-referenced Administrative Agent according to the Low-Income Housing Trust Fund Administrative Guidelines:

\_\_\_\_\_ Date \_\_\_\_\_ Signature and Title



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**LOW-INCOME HOUSING TRUST FUND**

Project Set-up Report

Check appropriate box:  <input type="checkbox"/> Original submission <input type="checkbox"/> Revision	Project Number:	Type of Project:  <input type="checkbox"/> Acquisition only <input type="checkbox"/> New Construction <input type="checkbox"/> Moderate Rehab <input type="checkbox"/> Rental Assistance <input type="checkbox"/> Substantial Rehab <input type="checkbox"/> Welfare Set-aside	Trust Funds Requested for Project:  \$
<input type="checkbox"/> Check box if project involves Tax-Credits			

Project Information

Street Address of Project	City	State	Zip
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Last Name of Owner or Name of organization	First Name
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Mailing Address	City	State	Zip
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Phone Number:	Total Units in Project Prior to Assistance:	Tenure Type: (Check one box) <input type="checkbox"/> Rental <input type="checkbox"/> Homeownership First-time buyer <input type="checkbox"/> Homeownership Rehabilitation	Total Trust Fund Units Upon Completion:
Estimated date of completion:	Type of Ownership: (Check one box) <input type="checkbox"/> Individual <input type="checkbox"/> Publicly owned <input type="checkbox"/> Partnership <input type="checkbox"/> Other <input type="checkbox"/> Corporation	Tenure Type: (Check one box) <input type="checkbox"/> Rental <input type="checkbox"/> Homeownership First-time buyer <input type="checkbox"/> Homeownership Rehabilitation	Census Tract

Match Information

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Organization \_\_\_\_\_

Signature and Title \_\_\_\_\_

Date \_\_\_\_\_

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**LOW-INCOME HOUSING TRUST FUND**

**Request for Drawdown**

Participant Name & Address		Project Number:
Project Address:		Type of Disbursement: <input type="checkbox"/> Partial <input type="checkbox"/> Final
Total Drawdown: \$	Name & Phone Number of Authorized Drawdown Person:	
Signature:		Date of Request:



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**LOW-INCOME HOUSING TRUST FUND**

**Project Completion Report**

Mark appropriate box: <input type="checkbox"/> Original Submission <input type="checkbox"/> Revision	Project Number:	Name of Participant:		
Name & phone number of person completing form:				
Type of property: (check one)				
<input type="checkbox"/> 1-4 Single Family <input type="checkbox"/> Condominium <input type="checkbox"/> Single Room Occupancy <input type="checkbox"/> Cooperative <input type="checkbox"/> Manufactured Home <input type="checkbox"/> Other				
Financial Structure of Project				
Type of activity financed: (check one)				
<input type="checkbox"/> Rehabilitation only <input type="checkbox"/> New construction only <input type="checkbox"/> Acquisition only <input type="checkbox"/> Acquisition & Rehabilitation <input type="checkbox"/> Acquisition and new construction				
Project Costs	(1) Direct Loan	Annual Interest Rate	Amortization Period	
1. Trust Funds		%	yrs.	\$
	(2) Grant			\$
	(3) Deferred Payment Loan (DPL)	Annual Interest Rate	Amortization Period	
		%	yrs.	\$
	(4) Other:			\$
	<b>Total Trust Funds</b> (Total Items (1) - (4))			\$
2. Public Funds	(1) Other Federal Funds			\$
	(2) State/Local Appropriated Funds			\$
	(3) State/Local Tax Exempt Bond Proceeds			\$
	<b>Total Public Funds</b> (Total Items (1) - (3))			\$
3. Private Funds	(1) Private Loan Funds	Annual Interest Rate	Amortization Period	
		%	yrs.	\$
	(2) Owner Cash Contribution			\$
	(3) Net Syndication Proceeds (No Low-Income Housing Tax Credits)			\$
	(4) Private Grants			\$
	<b>Total Private Funds</b> (Total Items (1) - (4))			\$
4. Low-Income Housing Tax Credit Syndication Proceeds				\$
<b>5. Total Project Cost</b> (Total Items 1. - 4.)				\$





