



## Local Housing Trust Fund Program

NOFA Date: April 05, 2022

Frequently asked Questions

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# 2022 LHTF Frequently asked Questions

This Frequently asked Questions (FAQs) document represents key information and responses to questions asked by applicants for the LHTF Program. The questions and answers published below provide clarification and additional detail on the LHTF program Guidelines, statutory requirements, and application process.

This FAQ document is published in response for the April 5, 2022, NOFA allocation funding. This document is posted on the [California Department of Housing and Community Development](https://www.hcd.ca.gov/) website <https://www.hcd.ca.gov/>.

For additional program questions, please email the LHTF program staff at [LHTF@hcd.ca.gov](mailto:LHTF@hcd.ca.gov). Questions received in this inbox will be answered via email.

For any questions regarding the LHTF Request for Funds Form (available on our webpage) email the State Grants Management staff at [LHTFSGM@hcd.ca.gov](mailto:LHTFSGM@hcd.ca.gov).

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## **Application**

1. Are we able to start an application in the portal and save, then go back later to complete?

Answer: Yes, you can, but we recommend downloading the 2022 LHTF application first and complete it before starting on the portal.

## **Eligible Applicants**

1. As a city we have been approved to join a Regional Housing Trust Fund. Can you confirm whether we could apply as a RHTF or by ourselves in our own Local Housing Trust Fund?

Answer: Each applicant can only submit one application. If you apply as part of a RHTF you would not be able to apply as your own LHTF.

2. If the city already has a LHTF, can a nonprofit establish one as well?

Answer: Yes, there can be a public Housing Trust Fund and a Nonprofit Housing Trust Fund serving the same city.

3. Are nonprofit organizations able to apply for the funds, or is this solely for cities and counties?

Answer: Yes, nonprofits can create a Local Housing Trust Fund through a resolution, and then incorporate the HTF as a 501(c)(3) if there are local sources of Matching Funds that can be dedicated to the HTF. See Section 104 for eligible Matching Funds requirements.

4. Does the city apply for these funds independently or can they apply with a local nonprofit as co-applicant or sub-recipient?

Answer: The applicant must be a Housing Trust Fund for the LHTF Program. If a city has an established HTF, it could apply for the funds, and then issue a NOFA to which nonprofits would apply (proposing affordable housing projects). Then the city would select the nonprofit(s) and the project(s) that it will make loans to. Through that method, a nonprofit could be a sub-recipient.

5. Can a joint powers authority specifically formed for housing apply for funding?

Answer: The LHTF Guidelines require applicants to be either a city or county which establishes an HTF, or nonprofit 501(c)(3) HTF, or a Native American Tribe which has established an HTF.

There are two ways JPAs can access the LHTF funds:

- a. If the city/county established a JPA, which administers the HTF for the city/county, the JPA can apply ON BEHALF OF the city or county. The city or county must pass the required resolution approving the application for funding, and must sign the application, and meet all application requirements;

- b. If the JPA is a 501(c)(3), it can establish a nonprofit HTF and can then apply in the name of the HTF. The HTF must meet all program requirements.

### **Eligible Uses of Funds**

1. Can a LHTF award be added from one year and from a second year into one project?

Answer: No, you may not award the same project twice.

2. Is there a limit of LHTF program funds for one single project?

Answer: The maximum application request for all applicants is \$5 million.

3. Is transitional and emergency housing counted as multi-family rental for purposes of scoring, under Increasing the Supply of Lower-Income Rental Housing?

Answer: No, for both.

- a. Emergency shelters are not multifamily rental housing projects, so they don't get these points.
- b. Transitional housing may be built exactly like a multifamily rental housing project, but the guidelines only require a 15-year regulatory agreement for transitional housing, whereas 55 years is required for a multifamily rental project. If a transitional housing project could be used for permanent housing, and if the HTF requires a 55-year regulatory agreement on the transitional housing, then it could be considered multifamily for purposes of the scoring. This will have to be demonstrated and explained adequately in the application.

4. Why is acquisition alone not an eligible activity?

Answer: Loans made solely for predevelopment or acquisition are not permitted to be made from Program funds by the Guidelines. Predevelopment and land acquisition costs are eligible development costs and may be included as part of the construction loan and/or permanent loan.

5. Would "tiny house villages" be allowed as emergency housing for people experiencing homelessness?

Answer: The definition in 24 CFR 576.2 that is cited in the LHTF guidelines states: "Emergency shelter means any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements. Any project funded as an emergency shelter under a Fiscal Year 2010 Emergency Solutions grant may continue to be funded under ESG." This definition, combined with the rule that a 15-year loan and Regulatory Agreement must be recorded on the structure makes it difficult to see how a tiny house village could meet the LHTF requirement.

6. Can a LHTF provide rental assistance?

Answer: No, rental assistance is not an eligible use of LHTF funds, nor of Matching Funds.

### **Matching Funds Requirements**

1. Can we use No Place Like Home Program funds as Matching Funds?

Answer: Funds restricted for the use of housing by State or Federal law may not be used as matching funds. Please refer to Guidelines Section 104 for more info.

2. Can a developer donate land to the city and then the city apply for LHTF using the value of the donated land?

Answer: The land donation must be to the LHTF. The LHTF will need an appraisal that is *no more than six months old*, and a *preliminary title report* showing the last arms' length transaction. The LHTF must have the funds in the trust fund before the application deadline or must have a legally binding commitment to receive the land or funds.

3. For a RHTF to use land as Matching Funds, does the RHTF have to be on title for the land, or can a RHTF member city be on title?

Answer: The land must be donated to the RHTF.

4. If the land is part of DDA, does that disqualify it from being counted as Matching Funds?

Answer: If the land is part of a DDA, it means the jurisdiction already owns it and is donating it to a developer for a specific project. It would have to be an affordable housing project to qualify as Matching Funds under LHTF guidelines, but if it is an affordable housing project and the land is being donated by the jurisdiction to the project, it can be counted as Matching Funds.

5. Would an existing Housing Trust Fund have to have \$5 million Matching Funds through a land donation or \$5 million from the land donation plus an average of \$100,000 ongoing yearly?

Answer: In order to be eligible for \$5 million of LHTF funds, if the source of the Matching Funds is a land donation, an existing HTF would have to have the \$5 million in Matching Funds from the land donation (supported by an appraisal that is no more than six months old) and would also have to have an average of at least \$100,000 in Ongoing Revenue for three years after the date of the Program award.

6. Are local inclusionary funds an eligible local match?

Answer: Yes, local inclusionary funds are an eligible local match.

7. Can multiple qualified dedicated sources create the annual matching amount?  
Answer: Yes, having more than one dedicated source of funding to derive the required Matching Funds is acceptable.
8. A City is contemplating establishing a LHTF with former Redevelopment Agency program income (former LMIH funds). Are LMIH funds eligible as matching funds?  
Answer: No, LMIH funds are not an eligible source of Matching Funds for LHTF, because they are restricted by State law to use for housing.
9. If a city dedicates the non-20% portion of a City-RDA loan repayment to affordable housing, is that portion considered matching funds?  
Answer: HCD understands that all RDA assets were swept, so there shouldn't be any RDA loan repayments available to be used as Matching Funds.
10. Would the City's proceeds from the 2018 voter-approved affordable housing bond qualify as Matching Funds?  
Answer: Yes, the proceeds from locally approved affordable housing bonds are eligible Matching Funds.
11. Which sources would be considered "Matching Funds?"  
Answer: Matching Funds are defined in Section 101 of the LHTF Guidelines. They include dedicated sources of funds, including taxes, fees, and loan repayments, and/or public or private contributions, including land donations, grants, and bequests. Matching Funds do not include loans or lines of credit received by the HTF. Matching Funds do not include monies restricted for housing purposes under any federal or State law, except for the State Permanent Local Housing Allocation, which can be used as Matching Funds for Regional HTFs only.
12. Why the difference between the Local and Regional Housing Trust Funds in terms of using PLHA as match?  
Answer: The Legislature felt that Regional Housing Trust Funds would have a more beneficial impact on increasing the supply of affordable housing because they would have greater amounts of Matching Funds and could fund larger projects. For that reason, the Legislature amended the LHTF statute in 2019 to allow Regional Housing Trust Funds to use PLHA formula allocation funds as Matching Funds, as a way of incentivizing the creation of Regional Housing Trust Funds.
13. Can we loan our local funds on one project and the LHTF funds on another project?  
Answer: No, you can't use local Matching Funds on one project and the LHTF funds on a different project, due to statutory requirements on expenditure of Matching Funds. Guidelines Section 104(e) requires Matching Funds to be utilized on a dollar-for-dollar basis for the same Eligible Project for which

Program Funds are used.

14. If a city has a Local Housing Trust Fund with impact fees, and that city loans a portion of its Local Housing Trust Fund to a Regional Housing Trust Fund, does the Regional Housing Trust Fund need to claim impact fees as the source of its funding?

Answer: The city cannot loan Matching Funds to an HTF—the Matching Funds must be granted, with no requirement to be paid back. Loans and Lines of Credit are not eligible as Matching Funds.

15. Are 501(c)3 tax-exempt bonds allowed to be matching funds?

Answer: Mortgage revenue bonds are not an eligible form of Matching Funds because they are restricted by federal law and State law for housing.

16. If the City LHTF is dedicating land for an affordable housing project, does the City LHTF provide an appraisal to count the land value as Matching Funds for the State LHTF funds?

Answer: Yes, and the appraisal must be no more than six months old. If the land has been sold in the last few years, then the maximum amount of Matching Funds will be the lower of the last sales price or the current land value based on the appraisal.

17. What constitutes as a legally binding agreement?

Answer: “Legally Binding Commitment”, as defined in the Definitions of the Guidelines, means:

- a. a fully executed commitment letter or a fully executed contract to provide Matching Funds,
- b. specifying the source(s) of the Matching Funds,
- c. the amount of Matching Funds from each source,
- d. the date upon which the funds will be deposited into the Local Housing Trust Fund or Regional Housing Trust Fund account, and
- e. remedies for not depositing the Matching Funds on that date.

18. The City received an allocation of County A1 bond funds. Some of these funds were committed to the project. Would these count towards "Non-Residential Matching Funds"? What do we need to demonstrate for this to be considered "Non-Residential Matching Funds"?

Answer: Yes, General Obligation bonds issued by local governments are eligible Matching Funds and count as non-residential Matching Funds. Non-residential matching funds are eligible Matching Funds that are not derived from residential development impact fees or residential in lieu fees.

19. Regarding local non-residential funds, does this mean money received from commercial linkage fees are not eligible?  
Answer: No, non-residential Matching Funds are prioritized in the statute and eligible.
20. Can a local jurisdiction count Measure A1 funds toward matching funds if it's the developer that receives the funds?  
Answer: No, the Matching Funds must be received by the HTF and then loaned to the developer.
21. Do projects included in the application have to be funded by eligible matching funds from the local jurisdiction before it can receive LHTF money?  
Answer: Yes, if the specific project(s) in the application received the commitment, the LHTF Program Funds are required to be used on the same project(s). Applicants don't have to invest their Matching Funds **prior to** receipt of the LHTF Program Funds. Generally, all funds are invested through a simultaneous loan closing on the same day.
22. Can Matching Funds be used for administrative purposes (e.g., staffing)?  
Answer: Up to 5 percent of Matching Funds and up to 5 percent of LHTF Program funds can be used for administrative costs.

### **On-Deposit**

1. If Matching Funds are on deposit with a jurisdiction who is a regional housing trust member, does this qualify as "on-deposit" for the RHTF's application?  
Answer: The RHTF is required to have the Matching Funds, so the funds need to be donated by the jurisdiction to the RHTF.
2. Would you clarify when Matching Funds must be deposited in the trust fund?  
Answer: Section 104(b) requires the Matching Funds to be deposited in the LHTF on application deadline, or that the application includes a "Legally-binding commitment" to deposit the required Matching Funds on a later date, but in no event later than when a disbursement of Program Funds will be needed. All Matching Funds required for the entire contract must be on deposit when a disbursement is requested.

3. How long do the matching funds need to be committed? Do they need to be committed before a certain amount of time?

Answer: The Matching Funds need to be set aside in the trust fund account from at least the LHTF application deadline until the project has reached at least construction loan closing, when they can be loaned to the project.

Please Note: If the Matching Funds are committed prior to application submittal, make sure that the project doesn't need to close and require Matching funds and Program funds before the LHTF award can be disbursed by HCD.

4. Does executed Affordable Housing Agreements that commit a developer to pay a certain amount of in-lieu fees count as Matching Funds?

Answer: Matching Funds must be "On Deposit" on the application deadline.

Please refer to the definition of "On Deposit". This Affordable Housing Agreement would have to meet the requirements stated in the definition of "Legally Binding Commitment" in order for the in-lieu fees to be counted as "On Deposit".

5. If we have made a commitment and legal documents were executed but funds have not been disbursed, are the funds considered "On Deposit"?

Answer: If the Matching Funds are being used for the LHTF project to which you made a commitment and executed legal documents, then those funds would be considered "On Deposit." If the funds were committed to a different non-LHTF project, and haven't been expended yet, then those funds cannot be used as the Matching Funds for the LHTF project because they are not actually available. Applicants must demonstrate that the Matching Funds are in the Trust Fund and are available to the project(s) they are committed to.

### **On-going Revenues**

1. Would a General Fund contribution large enough to sustain annual operations for five years be considered adequate on-going revenue?

Answer: Proper documentation is required to prove the match is from a General Fund (i.e. Home funds, CDBG funds are not eligible); if the contribution from taxes or local sources of funds is large enough and it is a new HTF then yes, it is an eligible match.

2. Can a Regional Housing Trust Fund have a different source of committed, legally binding funding for each of the five years? For example, a committed source for year one and a different committed source for year two and so forth?

Answer: To be ongoing, the source must last for all 5 years. There could be several different sources of Ongoing Revenue, but they all must be ongoing, not one-time funds.

Please Note: The Ongoing Revenue requirement is different than the plain old Matching Funds requirement—Matching Funds can be from one-time sources (like a land donation), whereas the \$100,000 average of ongoing annual revenue must be from a consistent annual funding source.

## **Regional Housing Trust Fund/New Housing Trust Fund Requirements**

1. Is a County a regional trust fund since it serves not only unincorporated areas but also cities within the county?

Answer: No, a county trust fund would still have to meet the requirements of the definition of Regional Housing Trust Fund in Section 101, which is different depending on the population of the county and of the jurisdictions that are members of the trust fund.

## **Accessory Dwelling Units**

1. Can funds be used to legalize existing unpermitted ADUs?

Answer: If it's being rehabbed, then yes. They can't be made legal without rehab. The requirement is either new construction, conversion, or rehab of an ADU.

2. Who is eligible to apply for LHTF funds and build ADU's?

Answer: Any eligible Applicant can apply for LHTF funds to make loans to homeowners to build ADUs either as part of a homebuyer or homeowner activity, or as a stand-alone program, in which the local government operates an ADU program like a rental project, and takes responsibility for screening tenants, conducting tenant income certifications, and monitoring of the ADUs annually, including inspections.

3. Do HTFs have to have a specific program set up for ADUs?

Answer: It's advisable to have an ADU program set up so that you can assist a first-time homebuyer who chooses to build or rehab an ADU as part of their home purchase. If you choose to have a free-standing ADU program, that will have to be set up so that you could market the program to potential homeowners who might be interested in building or rehabbing an ADU.

4. If we plan to build ADUs, do they have to be deed restricted?

Answer: Yes, the deed restriction is a minimum of 10 years, and it requires that the households be income verified and that the rents be restricted at Affordable amounts, as published on the HCD website, this would be an eligible activity. The city or the Housing Trust Fund would have to monitor the incomes and rents for 10 years.

## **Increasing the Supply of Lower-Income Rental Housing Rating Factor**

1. In the scoring criteria there are a few instances where dedicating 100 percent of the funds garners the maximum number of points, such as for lower-income households or permanent financing on affordable rental developments. I wanted to ask if this is before or after administrative costs are taken out. For instance, if we set aside 1 percent of total funds for administration, but devoted the rest to lower-income households, would that garner the maximum points or be considered less than 100 percent?

Answer: The administrative costs (up to the 5 percent limit) are deducted from the total funds before calculating the percent of funds committed to serving households with incomes less than moderate-income, and before calculating the percent of funds committed to increasing the supply of affordable housing.

2. Can Program Funds and Matching Funds be committed to a portion of a project and receive points for a portion of the project? For example, if a 30-unit project has 21 units at 60 percent AMI, and 8 units at 80 percent AMI, can it receive points on the 60 percent AMI units?

Answer: For this scoring factor, the projects must have an average of 60 percent AMI restricted incomes and rents. These are projects that are eligible under the TCAC Low-Income Housing Tax Credit Program. The example you provided doesn't quite fit the requirement, but if, instead, the 30-unit project had: 4 units at 30% AMI, 4 units at 50% AMI, 14 units at 60% AMI and 8 units at 80% AMI, it would be an average of 60% AMI. To calculate the average affordability, please use the [TCAC 2022 Non-competitive 4% TCAC Application](#) for Low-Income Housing Tax Credits, Section III. Project Financing – Section 3: Income Information spreadsheet available on the California's Treasurer website: [CTCAC Application Information](#).

### **Readiness Points**

1. Do ADU applications still need to compete with multifamily applications that got readiness points if ADUs are not covered by the points category?

Answer: Yes, all applications will be scored based on the criteria listed in the 2022 NOFA.

2. Can regional housing trust funds receive readiness points for projects in cities that are not currently in compliance with Housing Element Law?

Answer: The RHTF can apply by the May 25<sup>th</sup> deadline, but funds will be restricted to use in those jurisdictions that achieve compliance by the time of application.

3. Is the NOFA process required to be completed before the May 25<sup>th</sup>, application deadline?

Answer: Yes, the first phase funding process must have been completed, and the results posted on your website.

4. Please clarify what needs to be posted on the city website.

Answer: The list of applicants, names of the projects, address of projects, AMI levels, funding amount requested, amount awarded or tentatively awarded.), and an indication of which projects have either received a funding commitment or have been informed they can submit a full application once the HTF receives the State award of LHTF funds.

5. How can a new LHTF compete for the "Readiness" and "Tiebreaker"

categories?

Answer: A new HTF shouldn't have a problem issuing a NOFA and receiving preliminary applications and making preliminary approvals, as they are not binding commitments. A new HTF should be able to get the same amount of points as a veteran HTF in this category. The Tiebreaker would not be as easy, but please note that the LHTF Guidelines require a set-aside of 15 percent of funds for new HTFs, so a new HTF doesn't have to score as well as an existing HTF.

6. Can you please clarify what is meant by "first phase funding completed?"

Answer: The first phase process is the release of a NOFA or RFQ, receipt of preliminary applications from developers, and issuance of preliminary approvals so that the project can progress to the second phase of the funding process, with these approvals published on the HTF's web site. The second phase of the funding process consists of a NOFA issuance, full application submittals from developers, underwriting and review of the full applications, selection of projects to be funded, and legally binding loan commitments to those projects executed by the HTF. If some HTFs only do one application process (the full application process) prior to receipt of the HTF award, then the commitments that are codified through the legally binding commitment letters and the publishing of these awards on the HTF website can substitute for the completion of a first phase funding process, subject to the required amounts of commitments stated in the NOFA and application.

7. To get readiness points, do you have to have a two-phase funding process? What if the jurisdiction only has a one phase process, and has made commitments to projects?

Answer: As stated in the previous question, if the HTF has completed its one-phase process and made legally binding commitments to multifamily rental projects, and posted these awards on its web site, that could be used in the Readiness factor, subject to the required amounts of committed funds to earn the points. For the Readiness rating factor, applicants must have granted preliminary approvals to at least 2 times the LHTF application request to receive points, but if you have made commitments for that amount of funding to projects, yes, that could be used instead. The legally binding commitments can also be used for the Tie Breaker.

8. To get readiness points do we have to fund the projects identified as having application requests in with the awarded LHTF dollars?

Answer: The implication is that you would fund a project that you have previously approved through an initial funding process, after having issued a preliminary approval and publishing it on your website.

9. Is a Council resolution or staff report sufficient for a Phase one funding commitment?

Answer: If the Council resolution or staff report includes the specific project information required (Developer name, Project name, Project address, type of project, number of units, amount of LHTF funds and Matching Funds requested, amount and source of other proposed funding, and AMI level), and is posted on the city's website, it should be sufficient to demonstrate a first phase funding approval.

10. Regarding getting points for readiness of a project: can you describe in detail what HCD wants in terms of "status of project" they would like to be described on our websites?

Answer: For projects approved to progress to the final application phase, the following specific project information is required to be posted on the HTF website: developer name, project name, project address, type of project, jurisdiction of projects, number of units, amount of LHTF funds and Matching Funds requested, amount and source of other proposed funding, and AMI level.

### **Tie Breaker**

1. It sounds like you are assuming that all letters of intent identify the funding source for the loan, is that a requirement of the LOI to qualify for tiebreaker credit?

Answer: All commitment letters must identify the funding source, so if an LHTF commitment was issued, it would have to identify LHTF as the source of the funds.

### **Underwriting, Administration, and Reporting**

1. Where do we find what specifically must be included in the Local Fund authorizing Legislation as far as project underwriting requirements? What if our Fund is set up with an Ordinance (Inclusionary Zoning), and has ongoing dedicated revenues, but no specific underwriting guidelines for new Affordable projects funded by this?

Answer: Your HTF is required to adopt underwriting requirements and loan guidelines to guide your decisions about which projects and/or homebuyers to make loans to versus which are too risky. If you don't have time to develop your own, you are always welcome to use the Department's Uniform Multifamily Regulations (UMRs), which are a good safe harbor for rental project underwriting. However, the UMRs don't cover homebuyer underwriting.

2. I don't see anything in NOFA about site control being required before a commitment is made to a project, so are there no strict requirements for this?

Answer: The Department has left it up to the HTFs to set their own underwriting standards, which would include such items as site control. That said, the Department recommends that HTFs require all developers who submit

applications for projects to have site control.

### **Other Application Questions**

1. Is there a regional limitation on the funding or is there a statewide distribution of the funds?

Answer: No, there is no regional limitation on the distribution of the funds.

2. Is there a minimum point score required to pass threshold?

Answer: No, there is no minimum point score required to pass threshold.

3. Where do we find the figures for Community Need?

Answer: The specific data source used is HUD CHAS. It's available on the U.S. [Department of Housing and Urban Development](https://www.huduser.gov/portal/datasets/cp.html#2006-2016_data-collapse) (HUD) website: [https://www.huduser.gov/portal/datasets/cp.html#2006-2016\\_data-collapse](https://www.huduser.gov/portal/datasets/cp.html#2006-2016_data-collapse).

4. Does the application assume you have project-specific info?

Answer: No, project specific information is required, except in the Readiness point factor, for which basic project information is required to demonstrate that the HTF has approved a preliminary funding request for projects. Also, the Letters of Intent for the Tiebreaker would require project specific info.

5. Would an application be more competitive if it includes more projects in its application? Or should we try to find one, highly competitive project to include in the application?

Answer: There is not a great deal of project specific information required except in the Readiness point factor. The scores are based on what the HTF commits to doing with the funds. If a HTF commits to, for example, expending all its LHTF funds on rental projects that are affordable to households with average incomes of 60% AMI, and then does not make loans to these projects, the points will be deducted and the HTF will likely lose its award and suffer negative performance points the next time it applies.

6. Can a city request funds under LHTF for more than one project? In that case, would the application be evaluated as a whole, or individually for each project?

Answer: Yes, the city can request funds for more than one project. The application is evaluated as a whole—either all of it receives funding or none of it does.

7. The City is seeking LHTF funds for a project which has other HCD sources committed. Would there be a subsidy layering issue?

Answer: The LHTF program doesn't require a subsidy layering analysis, but the other HCD programs probably do. The debt service coverage ratio requirement of the Uniform Multifamily Regulations (UMRs) would have to be complied with for most HCD programs. Also, some HCD programs cannot be layered with other HCD programs, but there is no such rule regarding LHTF.

## **Housing Element Law Compliance**

1. At what point do cities need to be in compliance with HE law to be awarded and receive funds through the LHTF program?

*Answer: At time of the application submittal; LHTF Guidelines Section 102 Eligible Applicants (a)(2) The city or county shall have, at the time of application, a Housing Element that was adopted by the city or county's governing body and subsequently determined by the Department to be in compliance with state Housing Element law pursuant to GC Section 65585.*

Please note: RHTFs who serve multiple jurisdictions can apply by the May 25<sup>th</sup> deadline, but funds will be restricted to use in those jurisdictions that achieve compliance by the time of application deadline.