

Commercial Area Transit Node Housing Program Rental Housing Program Application Guidelines (Amended 2013)

A. Introduction

The Commercial Area Transit Node Housing Program (CATNHP) was authorized by St. 2002, c. 244, Item 7004-7016, also known as the 2002 Housing Bond Bill, and was reauthorized by St. 2008, c. 119, Item 7004-0038, (Act). The CATNHP authorizing legislation includes a funding set-aside for Transit-Oriented Developments as defined below in Section B. The program is administered by the Massachusetts Department of Housing and Community Development (DHCD or the Department) and is intended to produce housing units in commercial areas served by public transit. The Department has developed these guidelines to govern the allocation of funds available through the CATNHP in accordance with the Act.

CATNHP may be used to finance the development of rental units located either within a neighborhood commercial area, for projects with 25 units or less, or a transit-oriented development located proximate to a public transit node, for projects with greater than 25 units, as described below in Section B. Not less than 50% of the units in a project receiving CATNHP financial support shall be occupied by and affordable to households at or below 80% of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

CATNHP applicants may seek funds in the form of zero-interest loans, low-interest loans (i.e. – typically no higher than 2%), deferred payment loans or other DHCD-approved terms.

The total amount of CATNHP funds requested per eligible project may not exceed **\$1,000,000** or **\$50,000** per unit. The CATNHP guidelines are intended to be consistent or compatible with existing DHCD rental housing programs, including the Low Income Housing Tax Credit Program (LIHTC), the HOME Investment Partnerships Program, the Housing Innovations Fund, the Facilities Consolidation Fund, the Housing Stabilization Fund, the Affordable Housing Trust Fund, and the Community-Based Housing Program.

B. Eligible Commercial Area Transit Node Housing Program Projects

CATNHP may be used to finance the development of residential rental housing units, including residential units above commercial space, located either within a Neighborhood Commercial Area, limited to projects 25 units or less, or a Transit-Oriented Development located Proximate to a Public Transit Node, for projects containing more than 25 units, as defined below:

“Neighborhood Commercial Areas” - Areas characterized by a predominance of commercial land uses, a high daytime or business population or a high concentration of daytime traffic and parking, including areas designated as Main Street areas.

“Proximate to Public Transit Nodes” - An area within 0.25 (1/4) miles of a Public Transit Node. A project shall be deemed to be within ¼ mile of an existing Public Transit Node if the

proposed project is located within ¼ mile of any part of the Public Transit Node, including, but not limited to, parking areas proximate to the Public Transit Node, entrance gates, and ticket dispensers. An Eligible Location shall have adequate access to the Public Transit Node or will have adequate access resulting from the proposed project.

“Public Transit Node” - An existing transit station or planned public transit station, including a commuter rail station, subway station, ferry terminal, bus station, bus rapid transit station, or covered bus stop.

“Transit-Oriented Development” - One or more planned, proposed, or existing housing developments around a Public Transit Node characterized by a predominance of the following: higher density, a mix of uses, pedestrian-oriented design, facilities for non-motorized transportation such as bicycle transportation, parking ratios that reflect access to transit, and direct and convenient access to a Public Transit Node.

Not less than 50% of the units in a project receiving CATNHP funding must be available and affordable to households at or below 80% of the area median income as determined by HUD.

The project sponsor shall be in good standing with the Department and its programs as measured by its prior performance in carrying out previously awarded programs funded by the Department.

In the case of CATNHP funding for residential housing units located within Neighborhood Commercial Areas, the Department shall give priority to developments for which Municipalities have adopted a housing tax increment financing plan in an Urban Center Housing Zone (UHC-TIF Plan) pursuant to M.G.L. c. 40, § 60.

Funds for assisting CATNHP projects are limited. Sponsors are strongly encouraged to schedule meetings with DHCD staff to determine whether their projects are eligible for consideration through the CATNHP program. Also, if additional project sources become available to the project after an award of CATNHP funds, DHCD may reduce its CATNHP award.

C. Threshold Criteria

In order to be considered for CATNHP funds, a project must meet the following thresholds:

1) Project Location

Projects must be located in a located either within a Neighborhood Commercial Area or a Transit-Oriented Development located Proximate to a Public Transit Node, as defined in 760 CMR 62.00 and described above. Additionally, applications for CATNHP funding for projects located within a Neighborhood Commercial Area must contain 25 or fewer units. Applications for CATNHP funding for projects with greater than 25 units must meet the definition of a Transit-Oriented Development located Proximate to a Public Transit Node. Projects must conform to these definitions in order to be considered for CATNHP funding.

2) Evidence of Local Financial Support

A project sponsor must demonstrate to DHCD that the community in which the project is located is willing to participate financially in the proposed project. The Department recognizes that some communities have more resources than others. Regardless, each community must make a financial contribution. Evidence of the community's contribution must be submitted to DHCD for review and approval.

3) Evidence of Site Control

Project sponsors must demonstrate to DHCD's satisfaction that they have control over the site on which the housing will be constructed (i.e. purchase and sale agreement, option to purchase, mortgage, etc.).

4) Evidence of Zoning

The application must contain evidence that the project is consistent with local zoning requirements or that the applicant has begun the formal process for seeking zoning relief for the project. Applicants and communities are encouraged to consider the advantages of a cooperative comprehensive permit strategy in achieving zoning relief. Because CATNHP funding is limited, DHCD will give priority to projects with appropriate zoning in place.

5) Identification of Proposed Financing and Project Feasibility

Project sponsors must identify funding sources sufficient to cover all development and operating costs and must include funding commitments in the One Stop funding application to DHCD.

6) Commitment to Affordability

In accordance with the enabling statute, not less than 50% of the units assisted by the CATNHP program must benefit persons earning not more than 80% of the area median income. The CATNHP program requires a loan term on 30 years, during which the affordability restrictions apply. A loan term may be extended by mutual agreement of the owner and DHCD and, if extended, the affordability restriction must also be extended.

7) Good Standing with DHCD

Project sponsors must be in good standing with DHCD and its programs as measured by prior performance in carrying out previously awarded funds through other DHCD programs.

D. Eligible and Ineligible Rental Housing Costs

CATNHP funds for rental housing may be used solely for development hard costs and soft costs. Eligible hard costs include:

- Cost of constructing or rehabilitating housing;
- Cost of acquiring property or vacant land;

- Cost of essential improvements including energy-related repairs or improvements, improvements to permit use by persons with disabilities, abatement of lead-based paint hazards, and repair or replacement of major housing systems in danger of failure;
- Cost of making utility connections;
- Cost of site improvement such as on-site roads and sewer and water lines; and
- Cost to demolish existing structures.

Eligible soft costs include:

- Financing costs, such as building permits, legal and developer fees, property appraisals, credit and title costs, etc.;
- Engineering, architectural, or related professional services;
- Initial 18 month operating deficit reserves for new construction or rehabilitation projects;
- Project audit costs;
- Relocation costs, affirmative marketing, and fair housing information/education; and
- Developer's fee, developer's overhead directly related to carrying out the project, and development consultants' fees, the sum total of which may not exceed 12.5% of the sum of acquisition, hard and soft costs. DHCD will not permit an increase in the total developer fee, overhead, and consulting costs from the calculation submitted and approved in the DHCD approved One Stop Application at time of award. If CATNHP is funded in conjunction with LIHTC credits, then the total developer fee, overhead, and consulting costs are calculated according to the LIHTC program guidelines.

DHCD requires that all rehabilitation costs are reasonable, with no unusual or excessive amenities proposed; and that project soft costs are "reasonable and necessary." Acquisition costs for properties should not exceed the value determined by as-is fair market appraisals.

CATNHP program funds may not be used to:

- Provide project reserve accounts (except for initial 18 month operating deficit reserves as described above), or operating subsidies;
- Provide project-based rental assistance;
- Provide non-federal matching contributions required under any other federal program;
- Provide public housing operating subsidies;
- Provide compensation for a project's delinquent taxes, fees or charges; or
- Acquire property owned by the Commonwealth of Massachusetts, unless the property is acquired in anticipation of carrying out a CATNHP project.

All costs included in a One Stop Housing Application for CATNHP funding should be consistent with costs allowed through other DHCD programs, such as the HOME, HSF or Low-Income Housing Tax Credits programs.

Please note: applicants who receive CATNHP funding will be required to submit a full cost certification prepared by a Certified Public Accountant at project completion.

E. Evaluation Criteria for Projects

In order to receive CATNHP funds from the DHCD, a project must competitively satisfy all of the following evaluation criteria:

1) Quality of Site

Neighborhood Commercial Area (limited to projects 25 units or less)

Projects seeking CATNHP funds with 25 units or less must be located within Neighborhood Commercial Areas located Proximate to a Public Transit Node. Such projects will be evaluated on the extent to which the project will increase transit use, improve public access to transit, and increase opportunities to walk, bicycle, or use other non-motorized transportation to carry out daily activities such as shopping and commuting.

Transit-Oriented Development located Proximate to a Public Transit Node (projects containing more than 25 units)

Projects greater than 25 units must meet the definition of Transit-Oriented Development projects located Proximate to a Public Transit Node. Transit-oriented development is characterized by a predominance of the following: higher density; a mix of uses (such as residential commercial, institutional and other, that provide for a variety of activities (such as living, working, shopping, educational) throughout the day); pedestrian-oriented design; facilities for non-motorized transportation; site that provides mobility choice; parking rations that reflect access to transit; and direct and convenient access to transit. Applications will also be evaluated on the extent to which the proposed project will enhance, expand, or otherwise create new transit oriented development and the relationship between the project and local and regional plans.

2) Characteristics of the Project

Specific characteristics of the project that make it likely to result in housing of particular benefit to the commercial area and consistent with the legislative intent of the program will be evaluated. Preference will be given to projects that maximize consistency with the Commonwealth's Principles for Sustainable Development. Characteristics such as increased density, mixed uses, adaptive re-use of vacant or underutilized buildings, incorporation of transportation demand management (TDM) methods, pedestrian access, shared parking or parking ratios that encourage transit use and site amenities in support of transit use (dedicated or covered access to transit, secure bicycle facilities, for example) will increase the competitiveness of a proposal.

Project designs that use energy efficient technologies, recycled and/or non-/low-toxic materials, exceed energy codes and otherwise result in waste reduction and conservation of resources are preferable.

Mixed-use transit-oriented development projects:

- Improve housing choice
- Create jobs
- Promote small business
- Generate pedestrian activity

- Improve public safety
- Incentivize private investment
- Increase tax revenue
- Strengthen local economies
- Reduce car dependency
- Encourage public transit ridership, and
- Reduce environmental impacts by concentrating development.

3) Readiness to Proceed

The readiness of a project to proceed to construction will be evaluated based on submission of materials indicating design, engineering, and specifications and contracting progress. All projects should demonstrate the ability to begin construction within six months of funding.

In order to demonstrate readiness to proceed and ensure maximum project competitiveness, the sponsor should be able to meet as many of the following criteria and submit as much of the following documentation as possible:

1. Narratives indicating that the proposed project is consistent with the principles of sustainable development;
2. All other sources of funding must be committed and no project related demolition, remediation and/or construction begun prior to DHCD application submittal;
3. Evidence of as-of-right or zoning approvals and/or a completed 40B or Article 80 process;
4. Evidence of site control for all parcels and buildings (i.e., deed, purchase & sale agreement, purchase options or designated developer agreement);
5. Comprehensive Sources and Uses that addresses such areas as bonding, clerk of works, security, etc.;
6. Reasonable developer fees with projects that include market rate units;
7. 'Draft' plans & specifications for design of the site and building(s);
8. Estimates for construction from a general contractor or professional cost estimator;
9. ASTM Phase I environmental report completed within the last twelve months, lead paint report for both structures and soil, and radon tests for all structures (if any of the reports recommend remediation, the sponsor must submit a soil remediation plan);
10. Submission of as-is appraisal;
11. Sign-off from Massachusetts Historic Commission (this is required for all projects including new construction);
12. Detailed resident selection plan;
13. Detailed marketing plan, including detail on affirmative fair housing marketing;
14. Narrative describing how the marketing, resident selection and other applicable policies will incorporate the Department's Fair Housing Principles, including outreach to households least likely to apply;
15. Marketability data demonstrating marketability for the affordable and market rate units (including comps, demographic data, and property management information);
16. Evidence of neighborhood processing & support; and,
17. Photographs of the buildings or parcels.

F. Property Standards

Housing that is constructed or rehabilitated with CATNHP funds must meet all applicable state and local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. All other CATNHP-assisted housing must meet all applicable State and local housing quality standards and code requirements but at a minimum, Section 8 Housing Quality Standards.

In addition, new construction must meet the model energy code, as published by the Council of American Building Officials and must be built to appropriate Energy Star standards. All new construction or substantial rehabilitation in structures that are three-stories or less must secure Energy Star Certificates of Compliance. In general, rehabilitation projects must demonstrate affirmative efforts to improve energy efficiency.

All housing must also meet the accessibility requirements of MAAB, the Americans with Disabilities Act, and the Fair Housing Act at CFR 100.205. And, new construction of rental housing must meet site and neighborhood standards at 24CFR 893.6(b).

Please note: Applicants should consult the most recent Tax Credit QAP and DHCD HOME/HSF/CATNHP design guidelines for guidance with respect to general design, “green design,” accessibility, and building wiring. All applications should include a completed Appendices G & H, found in the most recent Tax Credit QAP, whether or not a project is seeking Low Income Housing Tax Credits.

G. Expenditure Limits for Rental Production

The total amount of CATNHP funds requested per eligible project may not exceed **\$1,000,000** or **\$50,000** per CATNHP-assisted unit. The amount of CATNHP available each fiscal year will vary based on an annual capital-spending budget approved for DHCD by the Executive Office of Administration & Finance, and by the needs and demands of other capital programs operated by DHCD. It is the Department’s expectation that acquisition costs, construction costs, “soft” costs, and developers’ fees will be reasonable, as defined by and within the standards set forth for other DHCD housing programs.

H. Eligible Occupants of Rental Units

At the time the CATNHP funds are invested or at the time of occupancy, whichever is later, all CATNHP-assisted units must be occupied by households whose annual incomes are at or below 80% of the area median income.

At the time of initial rent up and on an annual basis thereafter, project sponsors must certify tenant incomes, rents, and utility allowances in accordance with HUD’s Technical Guide for Determining Income and Allowances for the HOME Program (the Part 5 Definition) and present findings to DHCD and its monitoring contractor.

I. DHCD Funding Priorities

DHCD has established funding priorities for applications seeking DHCD rental loan funds. The funding priorities have been established to support projects with the following special characteristics:

- Official local support;
- Part of a comprehensive neighborhood planning effort;
- Inclusion of Minority and Women Business Enterprises (M/WBE) members on the development team;
- Inclusion of Section 3 eligible members on the development team;
- Development teams that have demonstrated efficiency in completing past projects;
- Low soft costs and developer's fee;
- Minimal request for DHCD assistance;
- Demonstration of strong need and marketability for all types of units in the project;
- Demonstration of site control;
- Demonstration of zoning;
- Homeless families and individuals as intended beneficiaries;
- Utilization of CATNHP funds in "non-entitlement" communities;
- Projects that include the principles and characteristics of sustainable development; and
- Design that exceeds minimum standards for energy efficiency and healthy homes principles. All new construction must be built to appropriate Energy Star standards.

All applicants should note that priority is given to rental projects that are ready to proceed. Evidence of site control, zoning and other funding commitments should be included in the application submission.

J. Resident Selection

Applications for CATNHP funds must include a detailed description of the process that will be used to select tenants and also must include a detailed description of affirmative fair housing marketing efforts. Applicants must incorporate DHCD's most current Fair Housing Mission Statement and Principles including changes enacted by HR 3221, into project marketing. Additionally, please note the following:

1. A tenant selection plan may not have the effect of excluding non-residents from a project.
2. Only if an applicant can clearly demonstrate local need for the proposed units, and that such preference will not be a violation of duty to affirmatively further fair housing or will not have disparate impact on protected classes, will local preference be considered. Under no circumstances will local preference be afforded to more than 70% of the units. If the percentage calculation of local preference units does not produce a whole number, DHCD will *round down*. There shall not be any durational limits on residency or employment in any plan; any proposed tenant selection plan that includes local

preference shall define local affiliation in accordance with DHCD's 40B Guidelines (Part III, Affirmative Fair Housing Marketing Plan) (2008). Affirmative Fair Housing marketing shall extend to both the local community and surrounding metro area.

3. When scoring applications, DHCD will give higher consideration to projects with wider applicant pools.

K. Annual Data Collection

In order to help DHCD assess the impacts of local preference on affirmative marketing goals and compliance with applicable civil rights laws, all applicants who receive CATNHP funding will be required to report household characteristic data for all CATNHP-assisted units at the time of final rent-up and on an annual basis from that point forward. The report will include but may not be limited to the following data points: capital subsidies restricting the unit, size of the tenant household, income level of the tenant household, race and ethnicity of the head of household (to the extent available), number of children under the age of six, number of children under the age of 18, and type of rental assistance if any. Project owners or their specified designees will be required to report using the web-based data collection system developed by DHCD.

L. Application Process

Project sponsors seeking CATNHP funds must submit applications using the latest version of the One-Stop Affordable Housing application. Only One-Stop forms will be accepted by DHCD. In general, an application for consists of three hard copies, 1 cd and 1 set of plans. If you are seeking multiple DHCD resources, or if you wish to confirm application fee requirements, please refer to the current NOFA for specific submission information.

Although most development projects change over time, and some projects change substantially, DHCD must evaluate all project applications in a fair and equitable way. The One-Stop application essentially is a "snapshot" of a project on the day of submission. Each project will be reviewed based on the materials contained in the One-Stop on the deadline for all submissions.

Applications should be submitted to:

**Division of Housing Development, CATNHP Program
Department of Housing & Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114**

For further information, contact the Department's Division of Housing Development at (617) 573-1300. DHCD's web address is www.mass.gov/dhcd.