



STATE OF NEVADA

ACCOUNT FOR LOW-INCOME HOUSING

(TRUST FUNDS)

ADMINISTRATIVE GUIDELINES

2012



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NRS 319-ACCOUNT FOR LOW-INCOME HOUSING
NAC319-ACCOUNT FOR LOW INCOME HOUSING
(ATTACHED)



LOW-INCOME HOUSING TRUST FUND

1. Overview, purpose, and distribution

The Nevada Housing Division (NHD) 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 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 NHD will administer the Trust Fund; it sets up guidelines for 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 using Trust Funds agree to periodic audits as requested by NHD in conjunction with the administration of this program.

NHD will make a geographic distribution of funds based on population estimates from the Nevada Department of Taxation and the Nevada State Demographer. The funds will be made available by announcement of amounts (or estimates of amounts) available to each area. NHD will administer projects, or provide technical assistance, for those areas that request help in developing the facility to do affordable housing projects.

2. To establish local shares, NHD will separate the Trust Funds to be allocated to the areas of:

- a. Washoe County, in aggregate; or separate as the City of Reno, the City of Sparks, and unincorporated Washoe County; or any combination chosen by those local governments and made known to NHD;
- b. The Clark County HOME Consortium, City of Henderson and the City of Las Vegas, separate; or in aggregate if made known to NHD; and
- c. The remaining cities/counties in the State.

3. The Trust Fund is divided into three areas of project activity:

- a. Fifteen percent of Trust Funds are designated for Welfare Division activities and will be released to local governments and/or designated private non-profit entities for use in accordance with established guidelines;
 - (1) Local governments, or their designees, must apply to NHD for funds under this section;
 - (2) Before Trust Funds are released under this section, local governments, or their designees, must adopt regulations governing the use of money under this program, and
 - (a) Submit an application to NHD for approval.
- b. Seventy-five percent of Trust Funds are designated for projects sponsored by local governments;
 - (1) Local governments, who are not direct HUD Participating Jurisdictions, must submit proposals and applications for funding:
 - (a) Money deposited in the account for low-income housing must be used by public or private non-profit charitable organizations, housing authorities, or local governments.



- (b) An entity that applies for money from the fund is not ineligible to receive money from the fund solely because it has been in a limited partnership or plans to form a limited partnership with a for-profit organization for the purpose of financing or operating a project.
 - (2) Local governments 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 NHD.
 - (3) NHD will accept recommendations furnished by the local government for projects to be administered by the state; and
- c. Ten percent of Trust Funds will be administered by NHD; funds under this section are reserved to insure that federal match requirements are satisfied.

4. Eligible Activities

- 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 or 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 manners in which to assist eligible families in obtaining or keeping housing, including use as the State's contribution to facilitate the receipt of related federal money;
- b. Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing;
- c. 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 is new construction for purposes of this part;
- d. Conversion of an existing structure to affordable housing is rehabilitation;
- e. An administrative agent (local government) 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 part, deferred payment loans, grants, or other forms of assistance to be consistent with the purposes of this part; and
- f. Termination before completion. If Trust Funds are spent on a project that is terminated before completion, the funds must be repaid to the Trust Fund.



5. Prohibited Activities

a. Trust Funds may not be used to:

- (1) Provide a project reserve account for replacement, a project reserve account for unanticipated increases in operating costs, or operating subsidies;
- (2) Provide rental assistance to any PHA project under the conventional low-rent public housing program as authorized under the Federal Housing Act of 1937, as amended;

6. Rental Rehabilitation

a. The use of Trust Funds for rental housing production (acquisition, rehabilitation, and new construction), has the following guidelines:

- (1) Rents must be restricted for the established period of affordability determined by NHD or the administering agency;
- (2) All tenants may earn no greater than 60 percent of the area median income as adjusted by household size;
- (3) Rental housing projects must have an established minimum period of affordability reflected in the written agreement; and
- (4) 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.

b. When an increase in tenant income exists, and the annual income of tenants occupying Trust Fund-assisted units exceeds 60 percent of the median income, they may stay in their Trust Fund-assisted units, but must pay a minimum of 30 percent of their adjusted income for rent and utilities, and the next available unit must be rented to an eligible household;

c. Tenant-income recertification requirements mandate that the income of tenants in Trust Fund-assisted rental units must be re-examined annually. Entities may perform this function themselves or indirectly through owners, property managers, or other third parties. Regardless of the method used, the administrative agent is responsible for ensuring annual income re-examination is appropriately completed;

d. Ineligible properties:

- (5) Properties assisted under the Rental Rehabilitation program of the HUD Section 8 Housing Assistance Payments Program;
- (6) PHA developments under the conventional low-rent public housing program as authorized under the Federal Housing Act of 1937, as amended; and
- (7) Projects assisted under Title VI of NAHA.

e. Required property standards:



- (1) HUD's Uniform Physical Condition Standards (UPCS) upon acquisition or when applicable, after rehabilitation;
 - (2) 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:
 - (a) New construction: Model Energy Code published by the Council of American Building Officials; and
 - (b) Substantial rehabilitation costs, including but not limited to Trust Funds: cost effective energy conservation and effectiveness standards found in 24 CFR Part 39.
- b. 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 NHD;
- c. Trust Fund-assisted units:
- (1) 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);
 - (a) Trust Fund-assisted units to total number of units; and
 - (b) Trust Funds invested in the project to project costs at the time the project is planned for inclusion of Trust Funds.
 - (2) 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; and
 - (3) Units may not be refused for leasing to a holder of a Section 8 certificate or voucher, or Trust Fund rental assistance certificate.
- d. Initial Trust Fund rents:
- (1) Units in projects assisted with Trust Funds are subject to rent restrictions (controls) as established annually during the affordability term. The rules governing maximum Trust Fund rents that may be charged to tenants occupying Trust Fund-assisted units are as follows:
 - (a) Trust Fund-assisted rental units must bear rents not greater than the lesser of:
 - i) 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
 - ii) A rent that does not exceed 30 percent of the adjusted income of a



household whose gross income equals 60 percent of median income for the region minus tenant-paid utilities (excluding telephone).

- (b) HUD-established maximum rents used will be published at least annually for each area (county). The deduction for tenant-paid utilities should be drawn from a local public housing authority or established by the local jurisdiction. NHD will supply the rent limits to the entities as received by HUD;
- (c) Eligible uses of funds and forms of assistance:
 - iii) Equity investments;
 - iv) Interest bearing loans or advances;
 - v) Interest subsidies;
 - vi) Deferred payment loans;
 - vii) Grants; and
 - viii) Other uses as approved by NHD.
- (d) Costs that may be funded with Trust Funds in the acquisition and/or rehabilitation of rental housing properties are:
 - i) Development hard costs. The actual cost of constructing or rehabilitating housing. These costs include the following:
 - a) For new construction, costs to meet the applicable new construction standards;
 - b) For rehabilitation, costs to meet the applicable rehabilitation standards correcting sub-standard conditions (minimally the HQS) to make essential improvements including energy-related repairs or improvements, improvements necessary to permit the use by handicapped families, and the abatement of lead-based paint hazards; and
 - c) For both new construction and rehabilitation, 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.
 - ii) Acquisition costs:
 - a) Related soft costs. Other 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;

- b) 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 developers fees;
- c) Costs of a project audit that NHD may require with respect to the development of the project; and
- d) 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.

7. Homebuyer Program

- a. Purchase with or without rehabilitation. Housing that is for purchase by a family qualifies as affordable housing only if the housing:
 - (1) Has an initial purchase price that does not exceed 95 percent of the median purchase price for the type of a single family housing (1- to 4-family residence, condominium unit, cooperative unit, combination manufactured home and lot) for the jurisdiction as determined by NHD; and
 - (2) Has an estimated appraised value at acquisition, if standard, or after any repair needed to meet property standards, that does not exceed the limit described in Paragraph (a) (1) of this section;
 - (3) Is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;
 - (a) Administrative agents will choose the term of affordability for their homebuyer program and;
 - (b) Any repaid funds will be utilized by the administrative agent to assist with other eligible Trust Fund projects;
 - (c) In order to insure compliance with their recapture provisions, deed restrictions will be incorporated into each project Deed of Trust, and a Promissory Note (if applicable) as well as a signed written agreement will be executed. The deed restrictions are as follows:
 - i) NHD (or administrative agent) may reserve the right of first refusal;
 - ii) The property must be used as the purchaser's principal residence;



- iii) No sub-leases are allowed;
- iv) If sold within the term of affordability, the administrative agents procedures must determine the amount of Trust Funds that will be paid back to the local Trust Fund Account upon sale of the property;
- v) In the event of foreclosure or short sale where the borrower does not receive any funds back from the sale of the property, 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, administrative agents that select to recapture a portion of the equity must develop acceptable program guidelines and receive prior approval from NHD.

8. Homeowner Rehabilitation

- a. NHD will make available through entities, Trust Funds to eligible applicants residing within their area of jurisdiction under the following conditions:
 - (1) Entities shall develop terms of affordability when trust Funds invested in the assisted unit; in the case of recapture this shall be in the Deferred Loan Agreement or Promissory Note, whichever instrument is used under the local program and secured by a recorded Deed of Trust;
 - (2) Any recaptured Trust Funds may be retained by the local administrative agent provided that the funds are used for other Trust Fund-eligible projects.
- b. Maximum Trust Fund investment must be within HUD 221(d)(3) limits;
- c. Rehabilitation standards shall be in conformance with HUD's Uniform Physical Condition Standards (UPCS) at a minimum.
- d. Trust Funds may be used to perform work necessary to bring a house, or a mobile or manufactured home on a permanent foundation, up to UPCS. Construction of a permanent foundation for mobile or manufactured homes is eligible. General property improvements may be allowed if the improvements are of a nature to make the home more livable for the applicant.

9. Rental Assistance

- a. Eligible administrative agents:
 - (1) PHAs; and
 - (2) Approved contracted agents;
- b. (1) Eligible units:
 - (2) Units in which rent levels 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;



- (3) The number of families per dwelling unit must conform with Section 8 guidelines;
 - (4) Units owned by the administrative agent that do not already receive a form of federally funded rental assistance; and
 - (5) Units must meet federal Section 8 HQS.
- c. Selection of tenants:
- (1) All tenants assisted with Trust Fund resources shall be selected by the administrative agent, and be selected from:
 - (a) Waiting lists established by designated existing PHAs serving specific delineated geographic areas; or
 - (b) 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 families and approved by NHD, or the local government.
 - (2) Residents of units designated for Trust Fund assistance may use the rental assistance in their existing unit or a comparable unit at another site; and
 - (3) Trust Fund-assisted tenants may not earn more than 60 percent of the area median adjusted by family size, as amended annually. All families 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.
- d. Maximum and Minimum Subsidy Amounts and Tenant Contributions:
- (1) 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 30 percent of the tenant's/family's monthly adjusted income.
- e. Payment Process:
- (1) Payments shall be made directly to landlords.
 - (2) Prior to the release of funds by the State, there shall be a written Trust Fund agreement between NHD and the grantee or administrative agent.
- f. Term of a long-term Rental Assistance Contract:
- (3) 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 family, 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 a family enters into a new lease; and



- (4) If a Trust Fund-assisted family 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.

g. Eligible costs:

- (1) The actual cost of rental subsidy paid on behalf of a family; and
- (2) Security Deposits. 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.

h. Security deposits:

- (1) An administrative agent may use Trust Funds provided for rental assistance to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units whether or not the administrative agent provides any other rental assistance;
- (2) The relevant state or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purposes of this part, except the amount of funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit;
- (3) Only the prospective tenant may apply for Trust Fund security deposit assistance, although the funds shall be paid directly to the landlord;
- (4) 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; and
- (5) Trust Funds for security deposits may be provided as a grant or as a loan. If they are provided as a loan the recouped funds are to be used for eligible projects.

10. Welfare Set-Aside

- a. Pursuant to NAC 319.140 and 319.520, the Division will distribute money from the Account pursuant to subsection 3 of NRS 319.510. The Division will distribute fifteen percent of the allocation to local governments and nonprofit charitable organizations in order for them to assist eligible persons or families with housing needs.
 - (1) Entities requesting funds under this section must have procedures governing the use of the money and submit them to NHD for review prior to receiving the funds;
 - (2) The funds received under this section must be used solely for activities relating to low-income housing that are consistent with provisions of this instruction;
 - (3) To receive disbursements under this section, entities will submit:



- (a) An executed Agreement at the beginning of the grant year, including a completed project set-up form that reflects "Welfare Set-aside" as the activity, and a completed Drawdown Authorization form;
 - (b) A Draw Reimbursement Request form submitted at least quarterly; and
 - (c) A Monthly Report of Clients Served attached to the Draw Reimbursement Request Form. (In lieu of the Monthly Report of Clients Served report, the Division may require agencies to enter specific client data into the local Continuum of Care's Homeless Management Information System (HMIS) database. Reports will then be generated and submitted with the Welfare Set-Aside Draw Reimbursement Request form at least quarterly)
- b. Reporting forms may be procured through NHD.



11. Tenant and Participant Protection

- a. 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;
- b. Prohibited lease terms:
 - (1) 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;
 - (2) 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;
 - (3) 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;
 - (4) Waiver of notice - Agreement by the tenant that the owner may institute a lawsuit without the notice to the tenant;
 - (5) 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;
 - (6) Waiver of a jury trial - Agreement by the tenant to waive any right to a trial by jury;
 - (7) 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
 - (8) 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.

12. Written Agreements

- a. The recipients of Trust Funds are responsible for insuring that funds are used in accordance with all program requirements. The use of contractors does not relieve the recipient of this responsibility;
- b. Before Trust Funds are disbursed, there must be a written agreement ensuring compliance with the requirements of this part. The agreement will remain in effect during the term of affordability; and
- c. Provisions of the written agreement. At a minimum, the written agreement must include provisions concerning the following items:
 - (1) 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;



- (2) 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;
- (3) 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;
- (4) Project requirements. The agreement must require compliance with project requirements as applicable in accordance with the type of project assisted;
- (5) HQS. 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;
- (6) Pre-development. The agreement must describe all activities/expenses for which a drawdown will be requested prior to implementation of the permanent financing. Only such activities/expenses listed in the immediately following subparagraphs will be permitted for pre-development. The agreement will include the additional constraints against such pre-development drawdown described in Section 16.e. concerning funds disbursement. To the extent practical, such drawdowns will be secured by project assets and subject to the following:
 - (a) Initial Feasibility Phase
 - i) Option payment(s) to secure the purchase of the building or site
 - ii) Application fees
 - iii) Consultant fees
 - iv) Inspection/assessment expenses
 - (b) Due Diligence Phase
 - i) Preliminary architectural and engineering expenses
 - ii) Phase I environmental expenses
 - iii) Soils testing expenses
 - iv) Consultant fees
 - (c) Preconstruction Phase
 - i) Appraisal
 - ii) Working drawings/specification expenses
 - iii) Tax Credit reservation fees



- iv) Loan fees
 - v) Consultant fees
 - vi) Attorney fees
 - vii) Insurance expenses
 - viii) Property taxes
- (7) 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;
- (8) 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;
- (9) 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
- (10) Duration of the agreement. The agreement must specify that the agreement is in effect for the term of affordability required by the State.

13. Monitoring

- a. The administrative agent is responsible for managing the day-to-day operation of its Trust Funds, for monitoring the performance of all entities receiving Trust Funds from the State to assure compliance with the requirements of this part, and for taking appropriate action when performance problems arise:
- (1) The administrative agent must review the activities of owners of rental housing assisted with Trust Funds to assess compliance with the requirement of this part. For multifamily housing, each review must include on-site inspection to determine compliance with housing codes and requirement 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. The results of each review must be included in the administrative agent's performance report and must be made available to the public;
 - (2) The administering agency must review the performance of each contractor used to provide service; and
 - (3) Requirements under Section 13, Monitoring, and Section 14, Recordkeeping, are met if the project conforms to the monitoring and recordkeeping requirements of other federal or State low-income housing programs. Trust Funds expended in Low Income Housing Tax Credit projects will be monitored by the Housing Division during the tax credit compliance period, however, if the project has HOME funds the administering agency will be responsible for monitoring their HOME units.





14. Recordkeeping

- a. Each administrative agent must establish and maintain sufficient records to enable NHD to determine whether the administrative agent has met the requirements of this instruction. Records must be kept in a manner that identifies the source of funds of each project. At a minimum, the following records are needed:
- (1) Records providing a full description of each activity assisted with Trust Funds, including census tract location (if the activity has a geographical locus), the amount of Trust Funds expended for the activity;
 - (2) Records that document assistance provided under the Welfare Set-Aside;
 - (3) Records that document assistance provided as rental assistance;
 - (4) 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 family assisted;
 - (5) Records that demonstrate compliance for tenant and participant protection;
 - (6) Records that demonstrate compliance with the requirements for affordable housing: homeownership, including the initial purchase price and appraised value (after rehabilitation, if required) of the property. Records must be kept for each family assisted;
 - (7) Records that indicate whether a project is mixed-income or mixed use; and
 - (8) Records evidencing the guidelines adopted by the administrative agent and supporting the certification for each housing project that the combination of public assistance to the project is not any more than is necessary to provide affordable housing.

15. Obtaining Funds from the Trust Fund Account

- a. The Trust Fund account will be maintained at a \$250,000 minimum;
- b. Authorized individuals (designated by local entities) may request Trust Funds. On receipt of "LIHTF-1", approval will be given to request funds; each administrative agent may designate up to three persons for authorization;
- c. 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:
- (1) 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;



- (2) Homeownership Assistance/Rental Housing. Homeownership Assistance projects or rental housing projects may be set up in the categories defined below:
 - (a) Rental Production/New Construction. Rental projects funded from an administrative agent's rental production set-aside. (See New Construction definition below); and
 - (b) Rental Production/Substantial Rehabilitation. Rental projects funded from an administrative agent's rental production set-aside. (See New Construction definition below).
- (3) 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;
- (4) Moderate Rehabilitation:
 - (a) Any project involving the improvement of existing units;
 - (b) Any project involving the reconfiguration of a structure to reduce the total units in order to increase the number of large units;
 - (c) 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
 - (d) 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.
- (5) 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;
- (6) New Construction:
 - (a) Any project consisting of one structure involving adding units outside of the existing walls of the structure;
 - (b) Any project involving the acquisition of land or the demolition of an existing structure for the purpose of constructing a new structure; and
 - (c) Acquisition of a structure that has received an initial certificate of occupancy within one-year prior to acquisition.



- d. Project set-ups
- (1) A project set-up form must be submitted to NHD to set up a project. This action will serve to commit Trust Funds.
 - (2) NHD will assign a number to the project for inclusion on the Project Set-up Form.
- e. Funds disbursement
- (1) A drawdown for funds against a project funded under Paragraph 13.c.(6), 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.
 - (2) To initiate a drawdown form must be submitted to NHD.
 - (3) On receipt of the drawdown form, NHD will deposit funds to the account of the jurisdiction requesting the drawdown. For planning purposes please allow 21 days to receive the funds.
 - (4) Monies withdrawn from the Trust Fund must be expended on committed projects within three years of the end of the State fiscal year in which the project was set-up.
 - (5) In order for the Division to remain within budgetary authority or address other administrative issues the Division may:
 - (a) Approve uncommitted funds for drawdown in special circumstances; or
 - (b) Initiate disbursements of funds that have been allocated to a jurisdiction; and
 - (c) In no case is it intended for the Division to with-hold properly committed funds.
- f. A Project Completion Report must be submitted to NHD within 120 days of the project completion. If a project completion report is not submitted by the due date, NHD will 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.

Trust Funds requested under this document must be used within the guidelines contained herein. Requests for exceptions to, or variances from, these guidelines must be submitted to the NHD Trust Fund program administrator for approval. In case of a denial, appeals of a decision made by the Trust Fund program administrator may be submitted to the Administrator of NHD for adjudication.



NRS 319 -ACCOUNT FOR LOW-INCOME HOUSING

NRS 319.500 Creation; investment of money; claims.

1. There is hereby created in the State General Fund the Account for Low-Income Housing, to be administered by the Division. All money that is collected for the use of the Account from any source, including pursuant to a specific statute, tax, legislative appropriation, gift or grant, or from interest earned on specified public or private accounts, must be deposited in the Account.

2. The money in the Account must be invested as provided in [chapters 355](#) and [356](#) of NRS. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. All claims against the Account must be paid as other claims against the State are paid.

(Added to NRS by 1989, 1211; A 1993, 641)

NRS 319.510 Use and distribution of money in Account.

1. Money deposited in the Account for Low-Income Housing must be used:

(a) For the acquisition, construction or rehabilitation of housing for eligible families by public or private nonprofit charitable organizations, housing authorities or local governments through loans, grants or subsidies;

(b) To provide technical and financial assistance to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction or rehabilitation of housing for eligible families;

(c) To provide funding for projects of public or private nonprofit charitable organizations, housing authorities or local governments that provide assistance to or guarantee the payment of rent or deposits as security for rent for eligible families, including homeless persons;

(d) To reimburse the Division for the costs of administering the Account; and

(e) In any other manner consistent with this section to assist eligible families in obtaining or keeping housing, including use as the State's contribution to facilitate the receipt of related federal money.

2. Except as otherwise provided in this subsection, the Division may expend money from the Account as reimbursement for the necessary costs of efficiently administering the Account and any money received pursuant to 42 U.S.C. §§ 12701 et seq. In no case may the Division expend more than \$40,000 per year or an amount equal to 6 percent of any money made available to the State pursuant to 42 U.S.C. §§ 12701 et seq., whichever is greater. In addition, the Division may expend not more than \$175,000 per year from the Account to create and maintain the statewide low-income housing database required by [NRS 319.143](#). Of the remaining money allocated from the Account:

(a) Except as otherwise provided in subsection 3, 15 percent must be distributed to the Division of Welfare and Supportive Services of the Department of Health and Human Services for use in its program developed pursuant to 45 C.F.R. § 233.120 to provide emergency assistance to needy families with children, subject to the following:

(1) The Division of Welfare and Supportive Services shall adopt regulations governing the use of the money that are consistent with the provisions of this section.

(2) The money must be used solely for activities relating to low-income housing that are consistent with the provisions of this section.

(3) The money must be made available to families that have children and whose income is at or below the federally designated level signifying poverty.

(4) All money provided by the Federal Government to match the money distributed to the Division of Welfare and Supportive Services pursuant to this section must be expended for activities consistent with the provisions of this section.

(b) Eighty-five percent must be distributed to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction and rehabilitation of housing for eligible families, subject to the following:

(1) Priority must be given to those projects that qualify for the federal tax credit relating to low-income housing.

(2) Priority must be given to those projects that anticipate receiving federal money to match the state money distributed to them.

(3) Priority must be given to those projects that have the commitment of a local government to provide assistance to them.



(4) All money must be used to benefit families whose income does not exceed 60 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.

(5) Not less than 15 percent of the units acquired, constructed or rehabilitated must be affordable to persons whose income is at or below the federally designated level signifying poverty. For the purposes of this subparagraph, a unit is affordable if a family does not have to pay more than 30 percent of its gross income for housing costs, including both utility and mortgage or rental costs.

(6) To be eligible to receive money pursuant to this paragraph, a project must be sponsored by a local government.

3. The Division may, pursuant to contract and in lieu of distributing money to the Division of Welfare and Supportive Services pursuant to paragraph (a) of subsection 2, distribute any amount of that money to private or public nonprofit entities for use consistent with the provisions of this section.

(Added to NRS by 1989, 1211; A 1991, 1639; 1993, 641; [2009, 540](#))

NRS 319.520 Regulations concerning distribution and use of money in Account; requirements for recipient of money.

1. The Administrator shall consult with representatives of housing authorities, organizations of persons with low income, providers of housing, financial institutions and other persons interested in the provision of low-income housing, and adopt regulations establishing:

(a) Criteria for the distribution and use of money from the Account for Low-Income Housing; and

(b) Procedures for the Division and the local governments that receive money pursuant to [NRS 319.510](#) to monitor the use of money from the Account and to enforce the provisions of this section and [NRS 319.500](#) and [319.510](#).

↳ The regulations must be designed to maximize the efficient use of money in the Account and to promote the participation and assistance of local governments.

2. A recipient of money from the Account shall comply with the regulations of the Administrator and provide such reports to the Division and the local governments that receive money pursuant to [NRS 319.510](#) upon the use of the money as the Administrator requires.

(Added to NRS by 1989, 1213; A 1993, 642)

UNLAWFUL ACTS

NRS 319.900 False statements; penalty. Any person who knowingly makes or causes to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing concerning an applicant's income, employment, financial position, the size of the applicant's family, the intent of the applicant to occupy premises as his or her primary residence or the cost of the residence, with intent that the statement be relied upon for the purpose of obtaining financial assistance from the Division is guilty of a gross misdemeanor.

(Added to NRS by 1981, 877; A 1989, 1215)—(Substituted in revision for NRS 319.400)



NAC 319 - ACCOUNT FOR LOW-INCOME HOUSING

NAC 319.885 Definitions. ([NRS 319.140](#), [319.520](#)) As used in [NAC 319.885](#) to [319.950](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 319.8855](#) to [319.899](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.8855 “Account” defined. ([NRS 319.140](#), [319.520](#)) “Account” means the Account for Low-Income Housing established by [NRS 319.500](#).

(Added to NAC by Housing Div., eff. 6-20-90)—(Substituted in revision for NAC 319.889)

NAC 319.887 “Eligible family” defined. ([NRS 319.140](#), [319.520](#)) “Eligible family” means a family of one or more persons whose income is not more than 60 percent of the median income for a family of that size residing in the same county. The median income will be based on statistics from the United States Department of Housing and Urban Development.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.893 “Housing authority” defined. ([NRS 319.140](#), [319.520](#)) “Housing authority” means a housing authority created pursuant to [chapter 315](#) of NRS.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.895 “Local government” defined. ([NRS 319.140](#), [319.520](#)) “Local government” means any county or incorporated city in the State, including Carson City.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.897 “Local share” defined. ([NRS 319.140](#), [319.520](#)) “Local share” means the percentage of money in the Account that is available to any participating jurisdiction in this State. The percentage of money is calculated annually by dividing the most recent state estimate of the population of a participating jurisdiction by the most recent state estimate of the population of the entire State. As used in this section, “state estimate of the population” means the estimate of the population of this State and its political subdivisions determined by the demographer employed pursuant to [NRS 360.283](#).

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.8985 “Participating jurisdiction” defined. ([NRS 319.140](#), [319.520](#)) “Participating jurisdiction” means any county, city or town in this State that receives federal money appropriated pursuant to 42 U.S.C. §§ 12701 et seq.

(Added to NAC by Housing Div. by R001-02, eff. 6-28-2002)

NAC 319.899 “Project” defined. ([NRS 319.140](#), [319.520](#)) “Project” means an activity for which an applicant seeks money from the Account.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.906 Entities eligible to apply for money. ([NRS 319.140](#), [319.520](#))

1. The following entities may apply for money from the Account:

(a) A public or private nonprofit charitable organization that is registered and in good standing with the Secretary of State;



- (b) A housing authority; or
- (c) A local government.

2. As used in this section, “private nonprofit charitable organization” means a nonprofit organization formed for educational or charitable purposes pursuant to the law of this State.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.908 Eligibility of entity in limited partnership with for-profit organization. ([NRS 319.140](#), [319.520](#)) An entity that applies for money from the Account is not ineligible to receive money from the Account solely because it has been in a limited partnership or plans to form a limited partnership with a for-profit organization for the purpose of financing or operating a project.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.910 Allocation and administration of money by Division. ([NRS 319.140](#), [319.520](#))

1. Except as otherwise provided in this section, in each round of funding, the total amount of money available for distribution will be allocated according to the local share available to each participating jurisdiction.

2. A participating jurisdiction shall determine whether to accept or reject the local share available to the participating jurisdiction. If the participating jurisdiction rejects the local share, the Division will administer the local share for that participating jurisdiction and consider any proposal for a project in that participating jurisdiction.

3. The Division will set aside 10 percent of the money allocated to the Account each year to accept any proposal for a project located in any participating jurisdiction that it deems appropriate. A proposal for a project may be submitted to the Division throughout the year.

4. In addition to the money from the Account that will be set aside pursuant to subsection 3, the Administrator may set aside money from the Account to:

(a) If the proposal for a project is an eligible project pursuant to [NRS 319.510](#) and all local participating jurisdictions agree, ensure that money in the Account will be available to match federal money offered for such a proposal for a project that requires the State to match such federal money as a condition of receiving the federal money; and

(b) Provide for certain proposals for projects, not to exceed \$750,000 per year without the approval from all participating jurisdictions to set aside an amount exceeding \$750,000 per year, that the Administrator deems appropriate to carry out the provisions of this chapter.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.912 Balance required before distribution; notice of solicitation of proposals; deadline for submission of proposals. ([NRS 319.140](#), [319.520](#))

1. Money will not be allocated from the Account until there is \$1,500,000 available for distribution in the Account.

2. Upon the initial accumulation of \$1,000,000 in the Account, the Division will give public notice of a solicitation of each proposal for a project. The notice will specify:

(a) The amount of money available for distribution in that round of funding, including the amount of each local share;

(b) Where and in what form a proposal must be submitted;

(c) The deadline for the submission of a proposal to the Division;

(d) The amount of the application fee, if any, that must be submitted with the proposal;



- (e) The criteria used by the Division to evaluate a proposal; and
- (f) The expected schedule for the Division's review and approval or denial of a proposal.

3. The deadline for the submission of a proposal to the Division will be at least 90 days after the date of the public notice.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.914 Solicitation of proposals and notification of money available following initial round of funding. ([NRS 319.140](#), [319.520](#)) After the initial round of funding, the Division will give public notice of a solicitation of each proposal for a project and notify each participating jurisdiction of the money available to the participating jurisdiction if:

1. The amount of money in the Account is \$1,000,000 or more; and
2. The Division determines that the amount of money in the Account is sufficient to fund projects in each participating jurisdiction.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.916 Submission of proposals between rounds of funding. ([NRS 319.140](#), [319.520](#)) Upon good cause as determined by the Division, an applicant may submit a proposal for a project to the Division between rounds of funding. The Division will evaluate such a proposal in accordance with its standard criteria for review. If the proposal is awarded money from the Account, the money will be allocated from the 10 percent of the money in the Account set aside each year by the Division pursuant to subsection 3 of [NAC 319.910](#).

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.918 Proposals for projects not sought through local participating jurisdiction. ([NRS 319.140](#), [319.520](#)) A proposal for a project that is not sought through a local participating jurisdiction must:

1. Be sponsored by the local government within whose jurisdiction the project will be located, as demonstrated by a letter of support or resolution or such other evidence acceptable to the Division;
2. If it is a proposal for construction or rehabilitation of a multi-unit residential project, demonstrate the project's ability to provide housing at a low cost to eligible families for not less than 30 years; and
3. Where applicable, meet the Division's standards for fiscal underwriting.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.920 Refusal to consider proposal for failure to perform certain obligations. ([NRS 319.140](#), [319.520](#)) 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 adequately to perform its obligations in regard to an application for a federal tax credit or financing that involves the Division.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.922 Evaluation of proposals and determination of money awarded by participating jurisdiction; evaluation and approval of proposals by Division. ([NRS 319.140](#), [319.520](#))

1. A participating jurisdiction that accepts its local share shall evaluate each proposal for a project and determine which proposal for a project will be awarded money from its local share.



2. To be eligible for money from the Account, each proposal for a project must be evaluated and approved by the Division using the criteria established pursuant to [NRS 319.510](#) and the annual plan developed by the Division.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.940 Execution of documents by successful applicants. ([NRS 319.140](#), [319.520](#)) A successful applicant must execute any documents deemed appropriate by the Division before receiving an award of money from the Account.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.942 Distribution of money to other entities in lieu of Division of Welfare and Supportive Services. ([NRS 319.140](#), [319.520](#)) The Division may distribute money from the Account pursuant to subsection 3 of [NRS 319.510](#) if the Division of Welfare and Supportive Services of the Department of Health and Human Services fails to comply with paragraph (a) of subsection 2 of that section.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.944 Auditing of projects receiving money. ([NRS 319.140](#), [319.520](#)) A project which receives money from the Account is subject to regular audits by the Division. The Division may audit a project at any reasonable time to determine compliance with the provisions of [NAC 319.885](#) to [319.950](#), inclusive, and may require the project to pay the cost of the audit.

(Added to NAC by Housing Div., eff. 6-20-90)

NAC 319.946 Periodic reports on use of money received. ([NRS 319.140](#), [319.520](#)) Each recipient of money from the Account shall, at least two times annually, report upon the use of the money as required by subsection 2 of [NRS 319.520](#).

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.948 Return of money to Division: Failure to use within 3 years. ([NRS 319.140](#), [319.520](#)) Except as otherwise provided in this section, if money awarded from the Account has not been expended in relation to the project within 3 years after its award to an applicant, it 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 1 year.

(Added to NAC by Housing Div., eff. 6-20-90; A by R001-02, 6-28-2002)

NAC 319.950 Return of money to Division: Defunct projects; failure to benefit eligible families. ([NRS 319.140](#), [319.520](#)) If a project ceases to exist or ceases to be used to benefit eligible families, any money awarded to the project from the Account that has not been disbursed or expended must be returned to the Account.

(Added to NAC by Housing Div., eff. 6-20-90)