

PROPERTY/OWNER INFORMATION

Property Name

Property Address (Street, City, State, & Zip)

Property Owner, Company

PROPERTY AFFORDABILITY COVENANT

By participating in the Low Income Weatherization Program (LIWP), the Participant agrees to comply with and maintain the LIWP income affordability of the property's rental units for a period of 10 years as a condition of receiving LIWP property improvement funds. The Participant must confirm that at least 66% of households are at or below 80% Area Median Income (AMI)¹. This may be done through two major eligibility pathways. Any projects that follow Pathway 1 are immediately eligible for the LIWP program. Pathway 2 options will require additional approvals by Program Administrators on a project-by-project basis. Both pathways are described on the following pages.

OTHER COMPLIANCE REQUIREMENTS

1. This LIWP Property Affordability Covenant shall be maintained for at least 10 years post-completion of LIWP-incentivized upgrades.
2. The Participant agrees to comply with Assembly Bill 1232 legislation requirements by submitting the following forms on a bi-annual basis for up to 10 years: current rent rolls, rate of rent increases, and a narrative explaining any tenant long-term relocations or evictions. Compliance assists with the program's goal of better enforcing or adjusting affordability contracts and measures.
3. The participant agrees not to evict or commence any eviction proceeding against any tenant(s) of any qualifying dwelling unit in the building, except for cause and subject to all legal requirements and procedures for any such eviction and/or proceeding. This restriction is in force for a period of not less than ten years. This period commences on the date the Incentive Reservation Participating Agreement (IRPA) is executed.
4. Rents may not be increased as a direct result of LIWP work. In situations where the property's funding requires annual adjustments to utility allowances (UA) or where funding allows voluntary adjustments to UA, which impacts rents, LIWP would not interfere with required or allowable UA adjustments except in cases of solar electricity bill VNEM credits. In all cases where a LIWP-incentivized solar system allocated solar benefits to residents, owners may not recoup these through UA adjustments unless required by the rules of their funding mechanism's UA requirements.
5. For qualifying dwelling units subject to statutorily authorized rent control or rent stabilization, this agreement does not prohibit the owner from receiving approval for standard, periodic, incremental rent increases granted by the local rent control guidelines board.
6. Unless the property is subject to using a Public Housing Authority utility allowance schedule for energy efficiency or electrification upgrades or the California Utility Allowance Calculator (CUAC), the Participant

¹ See <https://www.huduser.gov/portal/datasets/il.html#year2023> to see AMI levels by County.

agrees that the rents for the qualified low-income dwelling units shall not be increased for the sole reason of the solar and/or energy efficiency upgrades and major capital improvements included as part of the LIWP Incentive Reservation and Participation Agreement.

7. The Participant agrees that any dwelling units which are designated as vacant as of the effective date of the Incentive Reservation and Participation Agreement shall be rented to or occupied by a household at an income level such that at least 66% of households residing at the property earn less than 80% AMI.
8. Properties with an existing regulatory agreement that already meets the rent and occupancy requirements at reservation will be considered compliant if the property complies with the regulatory agreement. The Participant agrees that any dwelling units which are designated as vacant as of the effective date of program reservation shall be rented at a price such that at least 66% of the property's units will be rented at or below the Rent Affordability Standard.
9. The Participant shall notify the LIWP program (LIWPInfo@aeacleanenergy.org) about any intent to sell or transfer any property enrolled in LIWP as early as possible but no less than 30 days prior to the execution of a transfer agreement.
10. Only requirements #1 and #9 are applicable to homeless shelters.

PROPERTY ELIGIBILITY PATHWAYS

Pathway 1: Demonstrating Low-Income Eligibility with a Regulatory Agreement

To demonstrate low-income eligibility, the simplest method is to provide proof of a valid rent regulatory agreement with either a federal, state, or local agency identifying that at least 66% of households are at or below 80% AMI.

The regulatory agreement(s) must continue to be in place for at least 10 years after receipt of LIWP incentives (i.e. 10 years after the energy improvements are completed). For properties with less than 10 years remaining on the regulatory agreement, see following paragraph.

In instances where property has less than 10 years remaining on the regulatory agreement, in order to receive LIWP incentives, the owner agrees to extend the affordability requirement at the property such that 66% of households are \leq 80% AMI for a total period of 10 years post construction. Owner signature to this document confirms agreement that the property will provide at least this minimum level of affordability after expiration of the regulatory agreement.

If a deed-restricted property only has 3 years or less on their Regulatory Agreement (RA), the following documentation would need to be shown as proof of receiving a new RA:

- A. Application for new RA
 - If this is the only documentation the property has, then they must wait until they have either B or C, below.
- B. Proof of acceptance either in letter/email form
- C. Email/letter from HCD confirming that the property WILL be issued the RA and therefore it is safe for LIWP to proceed with construction work

Property has a valid regulatory agreement serving any tenant population (e.g. families, seniors, special needs, etc.) and for any housing type, including senior housing, farmworker housing, permanent supportive housing, and tribal housing as well as adaptive reuse.

The following are the most common agencies that issue regulatory agreements.

- U.S. Housing and Urban Development (HUD)
 - Various financing and rental assistance programs
- U.S. Department of Agriculture (USDA) Loans and Rental Assistance
 - Section 514 and Section 516 programs
- California Department of Housing and Community Development's (HCD)
 - Including HomeKey Program, Portfolio Preservation Program, Joe Serna Jr. Farmworker Housing Grant and many more
- California Tax Credit Allocation Committee's (TCAC)
 - TCAC's Low Income Housing Tax Credits (LIHTC) program may cover any population, set aside and housing type, including farmworker, rural, and tribal housing
- California Housing Finance Agency (CalHFA)
- Public and Private Issuers of Tax-Exempt Bonds to Finance Low-Income Multifamily Housing
- Local Housing Agency

To verify eligibility as a property serving people experiencing homelessness, provide a housing regulatory agreement demonstrating that at least 50% of the building's units are committed to serving residents experiencing homelessness. For organizations providing services who do not own the property, a master lease agreement must be submitted which identifies the terms of the lease including the length of the lease.

The primary way to demonstrate farmworker housing eligibility is through one of the farmworker housing regulatory agreements and rental assistance listed above, identifying that at least 50% of households are available to, and occupied by, farmworkers and their households. This includes any of the following programs: USDA Section 514/516, or HCD Joe Serna, Jr., Farmworker Housing Grant Program, or TCAC Farmworker Housing Assistance Tax Credit Program. For properties with USDA 514/516 regulatory agreements, the Participant may only qualify farmworker households at or below 80% AMI. For purposes of LIWP, farmworker households with moderate incomes are not eligible.

Participating tribal housing may qualify a property using a regulatory agreement issued by TCAC, HCD, or local agency for a tribal housing program. In addition, a Participant must demonstrate that at least 50% of the units are set aside for tribal members and may also utilize documentation by:

- Bureau of Indian Affairs (BIA): BIA Lease document or similar
- Indian Housing Block Grant (IHBG): Indian Housing Plan (IHP)
- Native American Housing Assistance and Self-Determination Act (NAHASDA): Useful Life/Use Restriction document

Properties with an existing regulatory agreement that does not specify details about the affordability mix or the term of the agreement, such as USDA regulatory agreements, shall provide other official documentation from the agency issuing the regulatory agreement that includes the missing information. Alternatively, the Participant may request an email from the agency, addressed to the LIWP Implementors (LIWPInfo@aeacleanenergy.org, nonprofit@liwp-lmf.org, forprofit@liwp-lmf.org) that confirms the below property details:

- Property name
- Property address
- Affordability mix with unit totals
- Term of agreement and years remaining

Pathway 2: Waiver Required, Documenting Low-Income Eligibility without a Regulatory Agreement and Other Property Scenarios

For properties that do not have such regulatory agreements, there are potential options under Pathway 2 that all require requesting a waiver to the program requirement that properties demonstrate income eligibility through a regulatory deed-restriction with a minimum of 10 years remaining, post LIWP retrofit. Pathway 2 will require that Applicants utilize one or a combination of the following documentation requirements.

For all options under Pathway 2, approval is at the sole discretion of the California Department of Community Services and Development (CSD). CSD will also consider the Applicant's track record building and/or operating deed-restricted affordable housing. All properties seeking approval through the waiver process must show documentation that the project will remain affordable and/or operating as a homeless shelter for no less than 10 years after LIWP retrofit work is complete. CSD reserves the right to request additional information about the Applicant, including but not limited to, a list of deed-restricted affordable housing that they own and operate and/or a Certificate of Good Standing. Please note, Pathway 2 options are not guaranteed and will take additional time for CSD to review and determine eligibility.

Pathway 2A: Affordable Housing Funding Commitment Letter

Applicants that have secured a funding commitment from any of the federal, state, or local agencies listed under Pathway 1 for property upgrades may apply to LIWP on a provisional basis. Upon application approval, the Applicant will be able to receive technical assistance for the property. A valid regulatory agreement must be received by the program prior to issuing any incentive payments, and failure to do so may put incentive reservation at risk.

Pathway 2B: Office of Migrant Services (OMS) Migrant Centers

Applicants that participate in HCD's OMS Migrant Center program may qualify the property by providing documents showing the property is active and households participate in affordable seasonal rental housing for migrant farmworker families primarily available to those with income levels less than 80% AMI. This pathway must be paired with a regulatory agreement or similar that maintains the property for OMS services for a period of at least 10 years. Participants must notify the LIWP Service Provider and CSD no less than 30 calendar days prior to changes to the property occupancy and affordability requirements.

Pathway 2C: Property in the Process of a Sale Transaction or Transfer

A multifamily property that is currently in the process of a sale transaction or transfer may be considered for participation in LIWP and receive technical assistance if the Applicant is able to provide documentation that the property will become a deed-restricted affordable property after the sale transaction or transfer is complete. The sale transaction or property transfer must be completed, and regulatory agreement must be executed prior to incentive reservation.

Pathway 2D: Homeless Housing Funding Source Confirmation

Providers of housing for people experiencing homelessness that receive funding through one of the programs below, but does not have a regulatory agreement or master lease may submit documentation of that funding as part of the waiver application:

- [Emergency Solutions Grant \(ESG\)](#);
- [Community Development Block Grant \(CDBG\)](#); or
- [Continuum of Care \(CoC\)](#) documentation by the local office confirming Participant membership

For all above program recipients, documentation must confirm that funds are utilized for the Emergency Shelter or transitional housing program components. Documentation Funding sources can only serve as a component of the waiver packet. Applicant must also include proof that the status of the building as a shelter or transitional

housing for homeless or formerly homeless people will continue for at least 10 years.

Pathway 2E: Homeless Housing Self Certification

Participants may also demonstrate property eligibility via a self-certification by signing this document confirming that at least 50% of the population served are people experiencing homelessness. This self-certification approach must be combined with documentation of permanence to demonstrate that the facility will continue to serve homeless populations for at least 10 years at this site (e.g. lease agreement) and an Affordability Covenant. Participants must also provide confirmation of funding, if applicable, from an alternative program source not listed above in order to demonstrate that at least 50% of units or beds will continue to serve people experiencing homelessness. Mark all options that apply below under Owner Declaration.

By signing this eligibility Affordability Covenant under Pathway 2E, Participant hereby certifies that at least 50% of the units or beds served on site are specifically dedicated to house homeless or formerly homeless residents and can demonstrate that this commitment to serving homeless or formerly homeless populations will continue for at least 10 years post LIWP services. Participant organization agrees to the following requirements:

1. Provide documentation of current occupancy level and/or historical occupancy levels for the past five years.
2. Certify status as a property housing homeless or formerly homeless populations through documentation of required reporting protocols (Homeless Management Information System, CoC reporting requirements, etc.).
3. Provide documentation of permanence (10+ years) and alternative funding source related to serving homeless populations, including program guidelines.
4. Agree to maintain a percentage of homeless housing units or shelter beds at the property such that at least 50% of the units or shelter beds will continue to serve people experiencing homelessness for a total period of 10 years.

Pathway 2F: Resolution by Tribal Government or Housing Authority or Similar Tribal Entity

Tribal housing Participants that are not able to income qualify a property under Pathway 1 and other Pathway 2 options may provide a tribal resolution. The LIWP Program provider will consider eligibility as long as the tribal resolutions includes the following information:

- At least 50% of the units are reserved for tribal members.
- At least 66% of the households earn at or below 80% AMI.
- Tribal Government and/or Tribal Housing Authority certifies that the property is and will continue to be maintained as affordable housing for low-income households for a period of not less than 10 years.
- The document is authored and signed by the appropriate tribal authority.
- The documents lists the name(s) and address(es) of the property or properties in question.

OWNER DECLARATION

1: Regulatory Agreement

Type of Regulatory Agreement: _____

Compliance Years Remaining on Agreement: _____

2A: Affordable Housing Funding Commitment Letter

Agency: _____

Date Issued: _____

- I have provided an official funding commitment letter by a federal, state, or local agency and will report to CSD the official recorded regulatory agreement upon approval.
- I have proof of a valid regulatory agreement application or confirmation.

2B: Office of Migrant Services

- I have provided the supporting documents to the program and confirm that the property is an active OMS Migrant Center.
- Proof of a regulatory agreement or similar that maintains the property for OMS services for a period of at least 10 years.

2C: Sale Transaction or Transfer

- I have provided a copy of the property sales contract and confirm that I will report to the LIWP Service Provider and CSD the official regulatory agreement upon approval.
- Other Pathway 1 or 2 Option(s) used: _____

2D: Homeless Housing Funding Source Confirmation

- Source of Funding: _____
- Type of Document: _____
- Compliance years remaining: _____
- I have documentation of permanence (10+ years) and alternative funding source related to serving homeless populations, including program guidelines.
- I can provide proof of occupancy, including numbers of residents, at the property by homeless populations for a period of ____ years.

2E: Homeless Housing Self-Confirmation

- I have provided documents 1-3 under the Homeless Self Certification option and confirm that at least 50% of the units and/or residents served are people experiencing homelessness.
- I have documentation of permanence to demonstrate that the facility will continue to serve homeless populations for at least 10 years at this site (e.g. lease agreement).
- I have proof of funding documentation.

2F: Tribal Housing Resolution

- Signed resolution with required program eligibility details as outlined in Pathway 2F above.
- Certifies that the property is and will continue to be maintained as affordable housing for low-income households for a period of not less than 10 years.

I understand the ability to access future funding from CSD will be evaluated based on the Participant's adherence to this Affordability Covenant.

By signing below, I agree to the terms and requirements of the LIWP Affordability Covenant and attest that the supporting documents provided are true and accurate for the property I am enrolling in the LIWP Program.

Participant Printed Name, Title

Participant Organization

Participant Signature

Date