The National Housing Trust Fund

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Administering agency: HUD's Office of Affordable Housing Programs within the Office of Community Planning and Development (CPD)

History: Enacted by the Housing and Economic Recovery Act of 2008 (HERA) on July 30, 2008

Population targeted: Extremely low income renters

FY17 funding: Estimate nearly $220 million.

See also: National Housing Trust Fund: Funding, Mortgage Interest Deduction Reform, Fannie Mae, Freddie Mac, and Housing Finance Reform

The national Housing Trust Fund (HTF) was established as a provision of the Housing and Economic Recovery Act of 2008, which was signed into law by President George W. Bush. Passage of national Housing Trust Fund legislation was a major victory for the lowest income people who have the most serious needs, including people who are homeless.

The primary purpose of the HTF is to close the gap between the number of extremely low income renter households and the number of homes renting at prices they can afford. NLIHC interprets the statute as requiring at least 90% of the funds to be used to build, rehabilitate, preserve, or operate rental housing (HUD guidance sets the minimum at 80%). In addition, at least 75% of the funds used for rental housing must benefit extremely low income households. One hundred percent of all HTF dollars must be used for households with very low income or less.

In the years since enacting the HTF, the shortage of rental housing that the lowest income people can afford has only gotten worse. The foreclosure crisis, the recession, and persistent low wages have made millions more at risk of homelessness, including families with children, seniors, people with disabilities, and veterans. The HTF offers the means to end and prevent homelessness if funded at the level advocated by NLIHC.

HISTORY AND ADMINISTRATION

The national Housing Trust Fund was created on July 30, 2008 when the president signed into law, the Housing and Economic Recovery Act of 2008 (HERA) [Public Law 110-289, 12 U.S.C 4588]. The statute specified an initial dedicated source of revenue to come from an assessment of 4.2 basis points (0.042%) on the new business of Fannie Mae and Freddie Mac. (This is unrelated to profits.) The HTF was to receive 65% of the assessment, and the Capital Magnet Fund (CMF) was to receive 35%. However due to the financial crisis in September of 2008, Fannie Mae and Freddie Mac were placed into a conservatorship overseen by the Federal Housing Finance Agency (FHFA), which placed a temporary suspension on any assessments for the HTF and CMF.

On December 11, 2014, the FHFA Director lifted the temporary suspension of Fannie Mae and Freddie Mac set-asides for the HTF and CMF, directing Fannie Mae and Freddie Mac to begin setting aside the required 4.2 basis points on January 1, 2015. Sixty days after the close of calendar year 2015, the amounts set aside were to be transferred to HUD for the HTF and to the Department of the Treasury for the CMF.

On April 4, HUD announced that there was nearly $174 million for the HTF in calendar year 2016. On May 5, HUD published a notice in the Federal Register indicating how much HTF money each state and the District of Columbia would receive in 2016.

HUD published proposed regulations to implement the HTF on October 29, 2010. NLIHC and others provided extensive comments on how the regulations could be improved. On January 30, 2015, an HTF Interim Rule was published in the *Federal Register*. HUD explains that after states have gained experience implementing the HTF, HUD will open the interim rule for public comment and possibly amend the rule.

The HTF is administered by HUD's Office of Affordable Housing Programs within the Office of Community Planning and Development (CPD). The interim HTF regulations are at 24 CFR part 93. Where the HTF statute did not require specific provisions, HUD modeled the HTF interim rule on the HOME regulations.

PROGRAM SUMMARY

The HTF is principally for the production, rehabilitation, preservation, and operation of rental housing for extremely low income households (ELI), those with income less than 30% of the area median income (AMI) or with income less than the federal poverty line. It is funded with dedicated sources of revenue on the mandatory side of the federal budget, and thus it does not compete with existing HUD programs funded by appropriations on the discretionary side of the federal budget.

The HTF is a block grant to states. The funds are to be distributed by formula to states based four factors that only consider renter household needs. Seventy-five percent of the value of the formula goes to the two factors that reflect the needs of ELI renters because the HTF statute requires the formula to give priority to them. The other two factors concern the renter needs of very low income (VLI) households, those with income between 31% and 50% of AMI. A state entity will administer the state's HTF program and make grants to capable entities to create new affordable housing opportunities. The state designated entity might be the state housing finance agency, a state department of housing or community development, or a tribally designated housing entity. HUD's list of designated entities is at https://www.hudexchange.info/programs/htf/grantees.

KEY PROGRAM DETAILS

Funding. As a result of the decision by FHFA to lift the suspension on Fannie Mae and Freddie Mac's obligation to fund the HTF and the CMF, the first funds for the HTF became available for distribution to the states in summer 2016. The amount of funding was determined by the volume of the business conducted by Fannie and Freddie in calendar year 2015, which yielded nearly $174 million of the HTF for 2016. Based on their total business for 2016, 4.2 basis points is estimated to be nearly $220 million for the HTF in 2017. The final number will not be known until around April 2017.

The statute calls for 65% to go to the HTF and 35% to the CMF. However, the statute also requires that 25% go to the Hope Reserve Fund to cover potential losses from the Hope for Homeowners program, also created in HERA. Although it is expected that the 25% that goes to the Hope Reserve Fund in FY16 will more than cover any risk of losses from Hope for Homeowners, an additional 25% is planned for FY 17. Subsequent years should not be subject to this 25% reduction.

Targeted to rental housing. The overview section of the interim rule declares that the HTF program will provide grants to states to increase and preserve the supply of housing, with primary attention to rental housing for extremely low income (ELI) and very low income (VLI) households. VLI is generally defined as income between 31% and 50% AMI; the HTF statute adds that for rural areas VLI may also be income less than the federal poverty line. The statute limits the amount of HTF used for homeownership activities to 10%, inferring that at least 90% of a state's annual HTF allocation must be used for rental housing activities. However, the preamble to the interim rule interprets the law differently, asserting that only 80% must be used for rental activities.

Income targeting. The HTF statute requires that at least 75% of each grant to a state used for rental housing benefit ELI households or households with income less than the federal poverty line, whichever is higher. No more than 25% may be used to benefit VLI renter households. For homeowner activities, the statute requires that all assisted homeowners have income less than 50% of AMI. When there is less than $1 billion for the HTF, the rule requires 100% of a state's allocation benefit ELI households.

HTF distribution formula. To distribute HTF dollars, the statute established a formula based on the number of ELI and VLI households with severe cost burden (households paying more than half of their income for rent and utilities), as well as the shortage of rental properties affordable and available to ELI and VLI households, with priority for ELI households. Small states and the District of Columbia are to receive a minimum of $3 million. On December 4, 2009 HUD issued a proposed rule, endorsed by NLIHC, describing the factors to be used in the formula. Responding to the statute's requirement that the formula give priority to ELI households, HUD's interim rule formula assigns 75% of the formula's weight to the two ELI factors. The interim rule adds a provision for instances in which there are not sufficient funds in the HTF to allocate at least $3 million to each state and the District of Columbia; HUD will propose an alternative distribution and publish it for comment in the *Federal Register*.

NLIHC has estimated how much each state would receive based on $250 million and $500 million at http://bit.ly/2ilbOyw. NLIHC has also estimated state allocations when the HTF reaches $5 billion, http://bit.ly/1m9orp0.

State distribution of HTF money. States are to designate an entity, such as a housing finance agency, housing and community development entity, tribally designated housing entity, or any other instrumentality of the state to receive HTF dollars and administer an HTF program. Each state must distribute its HTF dollars throughout the state according to the state's assessment of priority housing needs as identified in its approved Consolidated Plan (ConPlan). HUD's list of designated entities is at https://www.hudexchange.info/programs/htf/grantees. See also *Consolidated Planning Process*.

Allocation Plans. The HTF statute requires each state to prepare an Allocation Plan every year, showing how it will distribute the funds based on priority housing needs. The interim rule amends the ConPlan regulations by adding HTF-specific Allocation Plan requirements to the ConPlan's Annual Action Plan rule.

The interim regulation gives states the option of passing funds to local governments or other state agencies as "subgrantees" to administer a portion or all of the state's HTF program and to in turn provide funds to "recipients" to carry out projects. If a local subgrantee is to administer HTF dollars, then it too must have a local ConPlan containing a local HTF Allocation Plan that is consistent with the state's HTF requirements. Due to the limited amount of funds in the HTF for 2016, only one state, Hawaii, opted to use subgrantees.

A recipient is an agency or organization (nonprofit or for-profit) that receives HTF dollars from a state grantee or local subgrantee to carry out an HTF-assisted project as an owner or developer. To be eligible, a recipient must meet four tests:

- Have the capacity to own, construct, or rehabilitate, and manage and operate, an affordable multifamily rental development; or construct or rehabilitate homeownership housing; or provide down payment, closing cost, or interest rate buy-down assistance for homeowners.
- Have the financial capacity and ability to undertake and manage the project.
- Demonstrate familiarity with requirements of federal, state, or local housing programs that will be used in conjunction with HTF money.
- Assure the state that it will comply with all program requirements.

A state's or subgrantee's Allocation Plan must describe the application requirements for recipients, and the criteria that will be used to select applications for funding. The statute requires Allocation Plans to give priority in awarding HTF money to applications based on six factors listed in the statute, including:

- The extent to which rents are affordable, "especially" for ELI households.
- The length of time rents will remain affordable.
- The project's merit. The interim rule gives as examples, housing that serves people with special needs, housing accessible to transit or employment centers, and housing that includes green building and sustainable development elements.

HUD issued Notice CPD 2016-7 providing guidance regarding the HTF Allocation Plan; it is at http://bit.ly/2hzerJ3. HUD also issued an HTF Grantee Sample Allocation Plan Form; it is at http://bit.ly/2hkgu7J. NLIHC drafted a model Allocation Plan with recommendations for the first year; it is at http://bit.ly/1WqjT0J

Public participation. The statute requires public participation in the development of the HTF Allocation Plan. However, the interim rule does not explicitly declare that in order to receive HTF money that states and subgrantees must develop their Allocation Plans using the ConPlan public participation rules. The interim rule merely requires states to submit a ConPlan following the ConPlan rule, which does have public participation requirements.

Period of affordability. The statute does not prescribe how long HTF-assisted units must remain affordable. The interim regulation requires rental units to be affordable for at least 30 years, allowing states and any subgrantees to have longer affordability periods. The 30-year affordability period reflects HUD's prediction that the HTF will be used in conjunction with Low Income Housing Tax Credits (LIHTCs).

Maximum rent. NLIHC recommended that the regulations adopt the Brooke rule so that ELI households would not pay more than 30% of their income for rent and utilities. However, the interim rule sets a fixed maximum rent, including utilities, at 30% of 30% of the area median income (AMI), or 30% of the federal poverty level, whichever is greater. Consequently, households earning substantially less than 30% of AMI will almost certainly pay more than 30% of their income for rent, unless additional subsidies are available. HUD acknowledged in the preamble to the proposed rule that some tenants will be rent-burdened, but that a fixed rent is necessary for financial underwriting purposes.

NLIHC urges advocates to convince their states to have their Allocation Plans require HTF-assisted units have maximum rent set at "the lesser of" 30% of 30% of AMI or 30% of the poverty line. This is because in 92% of the counties in the nation, 30% of the poverty line is greater than 30% of 30% AMI. If 30% of the poverty line is used in these counties, HTF-assisted households will end up cost burdened, paying more than 30% of their income for rent and utilities. Households with income around 20% of AMI (approximately the income of households with Supplemental Security Income, SSI) would almost always be severely cost-burdened, paying more than 50% of their income. Advocates can find the 2016 values for their states and counties at http://bit.ly/2bnPRYZ.

While NLIHC thinks HTF-assisted households should not be cost burdened, underwriting developments with variable Brooke rents (households paying 30% of their actual income) can be very difficult. One possible approach to avoid or minimize causing HTF-assisted households from being cost-burdened is to give priority to HTF projects that have a mix of units with fixed rents set at 30% of 30% AMI, 30% of 20% AMI, and 30% of 15% AMI or 30% of 10% AMI.

A volunteer Developer Advisory Group prepared two papers addressing "Funding Strategies for Developing and Operating ELI Housing," http://bit.ly/1OKhLQm and "HTF Operating Assistance Options and Considerations," http://bit.ly/1WEu1nS.

Tenant protections and selection. According to the HTF statute, activities must comply with laws relating to tenant protections and tenants' rights to participate in the decision making regarding their homes. The interim rule does not address tenants' rights to participate in decision making. However, the interim rule provides for a number of tenant protections, including:

- Owners of HTF-assisted projects may not reject applicants who have vouchers or are using HOME tenant-based rental assistance.
- There must be a lease, generally for one year.
- Owners may only terminate tenancy or refuse to renew a lease for good cause.
- Owners must have and follow certain tenant selection policies. Tenants must be selected from a written waiting list, in chronological order, if practical.
- Eligibility may be limited to or preference may be given to people with disabilities if:
  - The housing also receives funding from federal programs that limit eligibility; or
  - The disability significantly interferes with the disabled person's ability to obtain and keep housing and the disabled person could not obtain or remain in the housing without appropriate supportive services, and the services cannot be provided in non-segregated settings.
- The Consortium for Citizens with Disabilities has been trying to convince HUD that these preference provisions might cause states to interpret the rule to mean that they can only do single-site permanent supportive housing, not integrated supportive housing.

Homeowner provisions. As provided by the statute, up to 10% of HTF money may be used to produce, rehabilitate, or preserve homeowner housing. HTF money may also be used to provide assistance with down payments, closing costs, or interest rate buy-downs. As required by the statute, homes must be bought by first-time homebuyers with income below 50% of AMI who have had HUD-certified counseling, and the home must be their principal residence. The affordability period is generally 30 years (see exception below).

Although not in the statute, the interim rule requires the assisted housing to meet the HOME definition of single-family housing, which includes one-to-four unit residences, condominiums and cooperatives, manufactured homes and lots, or just manufactured home lots. Following the statute and echoing the HOME regulations, the value of an assisted home must not exceed 95% of the median purchase price for the area.

As required by the statute, the interim rule's homeowner resale provisions echo the HOME regulations. If a homeowner unit is sold during the affordability period, the state or subgrantee must ensure the housing will remain affordable to a reasonable range (as defined by the state or subgrantee) of income-eligible homebuyers. The sale price must provide the original owner a fair return, defined as the owner's original investment plus capital improvements. The interim rule added a recapture alternative for states and subgrantees to use instead of a resale provision. The purpose of a recapture option is to ensure that a state or subgrantee can recoup some or all of its HTF investment. It modifies the affordability period based on the amount of the HTF assistance: 30 years if more than $50,000, 20 years if between $30,000 and $50,000, and 10 years if less than $30,000.

Lease-purchase. Mirroring the HOME regulations, the interim rule allows HTF money to help a homebuyer through a lease-purchase arrangement, as long as the home is purchased within 36 months. Also, HTF dollars may be used to buy an existing home with the intent to resell to a homebuyer through lease-purchase; if the unit is not sold within 42 months, the HTF rent affordability provisions apply.

General eligible activities. The interim regulation echoes the statute by providing a basic list of eligible activities such as the production, rehabilitation, and preservation of affordable rental homes and homes for first-time homebuyers through new construction, reconstruction, rehabilitation, or acquisition. No more than 10% of a state's annual allocation may be used for homeownership. HTF-assisted units may be in a project that also contains non-HTF-assisted units. Assistance may be in the form of equity investments, loans (including no-interest loans and deferred payment loans), grants, and other forms. The interim rule limits HTF assistance to permanent housing.

Manufactured housing. The interim rule allows HTF money to be used to buy or rehabilitate manufactured homes, or to purchase the land on which a manufactured home sits. The home must, at the time of project completion, be on land that is owned by the homeowner, or on land for which the homeowner has a lease for a period that at least equals the affordability period.

Timeframe for demolition or for acquisition of vacant land. Use of HTF money for demolition or for acquiring vacant land is limited to projects for which construction of "particular, affordable housing" can reasonably be expected to start within one year.

Eligible project costs. Eligible project costs include property acquisition, relocation payments, development hard costs such as construction, soft costs associated with financing and development, and refinancing existing debt on rental property if HTF is also used for rehabilitation. Operating costs are also eligible project costs.

Development hard costs. Development hard costs are the actual costs of construction or rehabilitation, including demolition, laundry and community facilities, utility connections, and site improvements, which include onsite roads, sewers, and water connections.

Related soft costs. Mirroring the HOME regulations, other soft costs "associated with financing and/or development" include: architectural and engineering services, origination fees and credit reports, builder's or developer's fees, audits, affirmative marketing and fair housing information to prospective occupants, initial operating deficit reserves to meet any shortfall in project income during the first 18 months of project rent-up, staff and overhead of the state or subgrantee directly related to carrying out the project (work specs, inspections, loan processing), impact fees, and costs to meet environmental and historic preservation requirements.

Loan repayments. HTF may be used to pay principal and interest on construction loans, bridge financing, a guaranteed loan, and others.

Operating costs and operating cost assistance reserve. According to the statute, HTF dollars may be used to meet operating costs at HTF-assisted rental housing. The interim rule allows HTF resources to be used to provide operating cost assistance and to establish an operating cost assistance reserve for rental housing acquired, rehabilitated, preserved, or newly constructed with

HTF money. Operating costs include insurance, utilities, real property taxes, maintenance, and scheduled payments to a reserve for replacement of major systems (for example, roof, heating and cooling, elevators). The purpose of an operating cost assistance reserve is to cover inadequate rent income to ensure a project's long-term financial feasibility.

The interim rule caps at one-third, the amount of a state's annual grant that may be used for operating cost assistance and for contributing to an operating cost assistance reserve. The preamble to the rule explains that HUD established the cap because it views the HTF as primarily a production program meant to add units to the supply of affordable housing for ELI and VLI households. HUD assumes the HTF will be used in combination with other sources to produce and preserve units, mostly in mixed-income projects.

The preamble indicates that states have discretion in how to allocate operating cost assistance. For example, states may decide to limit each development to the one-third cap, or to raise the cap for developments that need more operating cost assistance while lowering the cap for those that do not need as much – as long as no more than one-third of a state's annual grant is used for operating cost assistance and reserves.

States and subgrantees may provide operating cost assistance to a project for a multiyear period from the same fiscal year HTF grant, as long as the funds are spent within five years. An operating cost assistance agreement between a state or subgrantee and a property owner may be renewed throughout the affordability period.

For non-appropriated sources, such as the proceeds from the 4.2 basis point assessments on Fannie Mae and Freddie Mac as called for in the HTF statute, the interim rule provides that an operating cost assistance reserve may be funded upfront for HTF-assisted units for the amount estimated to ensure a project's financial feasibility for the entire affordability period. If this amount would exceed the one-third operating cost assistance cap, it could be funded in phases from future non-appropriated HTF grants. This provision can be very helpful for developers of rental homes at rents that ELI households can afford.

HUD anticipates providing guidance about operating cost assistance and reserves sometime in the future. In the meantime, some general thoughts about using the HTF for operating cost assistance were prepared by NLIHC's volunteer Developer Advisory Group, "HTF Operating Assistance Options and Considerations," http://bit.ly/1WEu1nS.

Administration and planning costs. The statute limits the amount of HTF dollars that may be used for general administration and planning to 10% of a state's annual grant. The interim regulation adds that 10% of any program income (for example, proceeds from the repayment of HTF loans) may also be used for administration and planning. The interim rule also provides that subgrantees may use HTF for administration and planning, but subgrantee use counts toward the state's 10% cap.

General management, oversight, and coordination costs. HTF may be used for a state's or subgrantee's costs of overall HTF program management, coordination, and monitoring. Examples include staff salaries and related costs necessary to ensure compliance with the regulations and to prepare reports to HUD. Other eligible costs include equipment, office rental, and third-party services such as accounting.

Project-specific administration costs. The staff and overhead expenses of a state or subgrantee directly related to carrying out development *projects* may also be eligible administration and planning costs. Examples include loan processing, work specs, inspections, housing counseling, and relocation services. As with HOME, staff and overhead costs directly related to carrying out projects (as distinct from the HTF program in general) may instead be charged as project-related soft costs or relocation costs, and therefore not subject to the 10% cap. However, housing counseling must be counted as an administration cost, as per the statute.

Other administration and planning costs.

- Providing information to residents and community organizations participating in the planning, implementation, or assessment of HTF projects.
- Activities to affirmatively further fair housing.
- Preparation of the ConPlan, including hearings and publication costs.
- Costs of complying with other federal requirements regarding non-discrimination,

affirmative marketing, lead-based paint, displacement and relocation, conflict of interest, and fund accountability.

Public housing. In general, the interim regulation prohibits the use of HTF to rehabilitate or construct new public housing. Nor may HTF-assisted housing get public housing operating assistance during the period of affordability. The interim rule does allow a project to contain both HTF-assisted units and public housing units.

The interim rule allows HTF use for two categories of public housing:

1. HTF resources may be used to rehabilitate existing public housing units that are converted under the Rental Assistance Demonstration (RAD) to project-based rental assistance. Currently up to 185,000 public housing units may be converted under RAD, and HUD continues to seek Congressional approval to allow all public housing units to be converted.
2. HTF resources may be used to rehabilitate or build new public housing as part of the Choice Neighborhoods Initiative (CNI), and to rehabilitate or build new public housing units that have been allocated and will receive Low Income Housing Tax Credit assistance. Public housing units constructed with HTF must replace public housing units removed as part of a CNI grant or as part of a mixed-finance development under Section 35 of the Housing Act of 1937. The number of replacement units cannot be more than the number of units removed. Public housing units constructed or rehabilitated with HTF must receive Public Housing Operating Fund assistance, and may receive Public Housing Capital Fund assistance.

NLIHC is extremely concerned about these new provisions regarding public housing because using HTF to rehabilitate or build new public housing units to replace demolished units will not increase housing opportunities for ELI households, and would result in an overall loss of resources for housing if Congress chooses to reduce appropriated resources for public housing due to the availability of HTF resources.

Ineligible activities. Although not in the statute, the interim rule prohibits the use of HTF money for a project previously assisted with HTF during the period of affordability, except for the first year after completion.

Fees for administering the HTF program are not eligible uses (e.g. servicing or origination fees). However, annual fees may be charged to owners of HTF-assisted rental projects to cover a state's or subgrantee's cost of monitoring compliance with income and rent restrictions during the affordability period.

The statute expressly prohibits use of HTF dollars for "political activities, lobbying, counseling, traveling, or endorsements of a particular candidate or party."

HTF must be committed within two years. As required by the statute, the interim regulation requires HTF dollars to be committed within 24 months, or HUD will reduce or recapture uncommitted HTF dollars. Committed is defined in the interim rule as the state or subgrantee having a legally binding agreement with a recipient owner or developer for a specific local project that can reasonably be expected to begin rehabilitation or construction within 12 months. If HTF is used to acquire standard housing for rent or for homeownership, commitment means the property title will be transferred to a recipient or family within six months. The interim rule adds that HTF money must be spent within five years.

Public accountability. The statute requires each state to submit an annual report to HUD describing activities assisted that year with HTF dollars and demonstrating that the state complied with its annual Allocation Plan. This report must be available to the public. The interim rule requires jurisdictions receiving HTF dollars to submit a performance report according to the ConPlan regulations. The HTF performance report must describe a jurisdiction's HTF program accomplishments, and the extent to which the jurisdiction complied with its approved HTF Allocation Plan and all of the requirements of the HTF rule.

The interim regulation presents a number of data collection obligations, including actions taken to comply with Section 3 hiring and contracting goals, and the extent to which each racial and ethnic group, as well as single-heads of households, have applied for, participated in, or benefitted from the HTF. In general, records must be kept for five years after project completion. Records regarding individual tenant income verifications, project rents, and project inspections must be kept for the most recent five-year period until five years after the affordability period ends. Similar language applies to homeowner activities. Regarding displacement, records must be kept for five years after all people displaced have received final compensation payments. The public must have access to the records, subject to state and local privacy laws.

INFLUENCING HOW HTF IS USED IN YOUR STATE

Advocates are urged to be actively engaged in HTF implementation at the state level, and perhaps also at the local level.

The HTF Allocation Plan. The law requires states to prepare an Allocation Plan every year showing how the state will allot the HTF dollars it will receive in the upcoming year. Action around the HTF Allocation Plan begins at the state level, and could then flow to the local level if a state decides to allocate some or all of the HTF to local subgrantees. The state HTF Allocation Plan will be tied to a state's ConPlan, and if there is a local subgrantee then a local government's HTF Allocation Plan will be tied to a locality's ConPlan.

- For advocates only accustomed to ConPlan advocacy at the local level because they have focused on attempting to influence how their local government allocates local CDBG and HOME, the state HTF process will be an important new experience.
- To better ensure that HTF dollars get to a locality in the appropriate amounts and for the appropriate uses, it will be necessary for advocates to learn how to influence their state Allocation Plan and ConPlan first.
- Some state draft Allocation Plans in 2016 only showed the public changes to the state ConPlan and Annual Action Plan. It was difficult if not impossible to determine key issues such as which ELI populations those states prioritized for assisting with HTF in 2016. All states will be fully integrating their HTF Allocation Plans into state ConPlan Annual Action Plans in 2017. State ConPlans and Annual Action Plans are generic documents that aggregate information about a number of programs such as HOME, LIHTC, state housing trust funds, CDBG, etc. Consequently it can be difficult if not impossible to determine a state's HTF intentions for the upcoming year. Advocates may need to press their state HTF agency to provide a simple, stand-alone HTF document clearly explaining the HTF program (because it is still a unique, novel program focused on rental housing for ELI households), HTF target populations, types of project, priority project features, and geographic locations.
- Many draft HTF Allocation Plans in 2016 gave equal weight to the six statutory priority factors. These states did not indicate relative priorities. NLIHC asserts that genuine affordability, length of affordability, and merit features of a proposed project warrant greater relative weight or priority than the other three statutory factors. On a related note, too many states gave disproportionate weight to the statutory factor regarding the ability of an applicant to obligate HTF funds and carry out projects in a timely manner. NLIHC thinks this factor should be a threshold factor that ought to be a first-cut consideration before weighing affordability, merit, and length of affordability. If an applicant lacks the capacity to obligate funds and carry out a project in timely fashion, it should not make the initial cut. See NLIHC's Model Allocation Plan for ideas, http://bit.ly/1WqjT0J

Advocates should inform learn which agency in their state administers the HTF program and get to know the day-to-day person running it. HUD's list of state-designated HTF agencies is at http://bit.ly/1ONwHwN. Let the state HTF agency know that you are interested in being informed about and participating in the process for planning where and how HTF money will be used.

Keep in mind that the amount of HTF your state will receive is based on ELI and VLI households spending more than half of their income for rent and utilities (severely cost-burdened), and on the shortage of rental homes that are affordable and available to ELI and VLI households; with 75% of the formula's weight assigned to ELI factors. See NLIHC's Gap Analysis for information about your state, http://nlihc.org/research/gap-report.

Each year it will be important for advocates to work first at the state level, and then perhaps at the local level to:

- Ensure that the agency responsible for drafting the HTF Allocation Plan writes it to meet the genuine, high-priority housing needs of extremely low income people.

  - Advocate for HTF-assisted projects that are truly affordable to extremely low income people, that they do not pay more than 30% of their income for rent and utilities. The statute offers advocates a handle because it requires funding priority to be based on the extent to which rents are affordable for ELI households.
  - Advocate for HTF-assisted projects that will be affordable to extremely low income households for as long as possible – aiming for at least 50 years. The statute offers advocates a handle because it requires funding priority to be based on the extent of the duration for which rents will remain affordable.
  - Advocate for projects that have features that give them special merit, such as serving households with income less than 15% AMI, have disabilities, are homeless, or are re-entering the community from correctional institutions.
  - Advocate for the types of projects (new construction, rehabilitation, preservation) that are most needed.
  - Advocate for the bedroom size mix that is most needed.
  - Advocate for the populations to be served that are the ones who most need affordable homes (large families, people with special needs, people who are homeless, formerly incarcerated people, senior citizens).
- Make sure that the public participation obligations are truly met, that the state does not just "go through the motions".
- Make sure that HTF-assisted projects affirmatively further fair housing.

FORECAST FOR 2017

The HTF faces significant threats in 2017. Congress could cut or eliminate the HTF as part of a budget reconciliation bill or use its funding to fill gaps in the HUD budget. Conservative opponents to the HTF in Congress could introduce legislation to eliminate the HTF altogether.

It is important that advocates continue to educate their Senators and Representatives on the HTF and the critical role it plays in serving households with the most acute housing needs.

FOR MORE INFORMATION

NLIHC's National Housing Trust Fund webpage, www.nhtf.org

- A five-part series all about the new rules regarding implementation of the NHTF http://nlihc.org/issues/nhtf/videos
- PowerPoint slides highlighting the key features of the NHTF law and regulations, http://bit.ly/1T7tKD9
- Key features of the NHTF law and interim regulations presented in 15 short papers broken down by topics, http://nlihc.org/issues/nhtf/resources
- NLIHC Volunteer Developer Advisory Group, http://bit.ly/1Sj1uOp

The interim regulation, http://www.gpo.gov/fdsys/pkg/FR-2015-01-30/pdf/2015-01642.pdf

HUD NHTF webpage, https://www.hudexchange.info/htf, including FAQs, https://www.hudexchange.info/resource/4420/htf-faqs