2017 National Housing Trust Fund Allocation Plan

November 7, 2017

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EQUAL HOUSING OPPORTUNITY

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The State of Maryland (the "State") will receive $3,017,109 in National Housing Trust Funds (HTF) from the U.S. Department of Housing and Urban Development (HUD) for Federal Fiscal Year 2017 (FFY 2017), which runs from October 1, 2017 through September 30, 2018. It is expected that HTF will continue to be funded by HUD in future years.

The Maryland Department of Housing and Community Development (the "Department") is the State Agency that will administer HTF. The Department is required to ensure that the HTF Program is administered in compliance with all HTF requirements established by HUD. The policies below will govern the use of HTF funds administered by the Department for FFY 2017.

The Department is required to develop this HTF Allocation Plan, which will be included as a component of the State of Maryland's Consolidated Plan.

In addition to the State's policies outlined in this document, HTF Funds will be administered in compliance with all applicable Federal rules, including the Housing Trust Fund Interim Rule (attached as Exhibit A), published on January 30, 2015 and codified at 24 CFR Part 93, as well as HUD Notice CPD 17-05-: Guidance for HTF Grantees on Fiscal Year 2017 Housing Trust Fund (HTF) Allocation Plans, published on June 21, 2017.

1 Introduction

The Department administers a variety of State and federal programs that finance the development of affordable rental housing. These programs include, but are not limited to, the Low Income Housing Tax Credit Program (LIHTC), the Rental Housing Financing Program (RHFP), which is a combination of the state-funded Rental Housing Program and the federally-funded HOME Investment Partnership Program, Rental Housing Works (RHW), and the Multifamily Bond Program (MBP). The Department may, from time to time, establish new development financing programs to advance its mission.

While there are variations between these programs based on the underlying source of funds, State and federal requirements applicable to specific funding sources, and State and federal policy goals, the Department seeks to align many of its administrative processes that accompany these programs. This alignment makes these programs more user-friendly and contributes to operating efficiencies for the Department and its partners, including owners, investors, and managers of properties financed by these various resources. The Department seeks to include its HTF in these alignment efforts.

2 General Requirements

2.1 Priority Housing Needs of the State/Eligible Populations Served

The Department has determined that a broader set of priorities is necessary to ensure the availability of important resources to all areas and populations in the State. Additionally, it has been determined that the established priorities should serve to guide -- not limit -- funding awards by the Department. The criteria outlined in this HTF Allocation Plan provide incentives for developments that meet these priorities.

Accordingly, the Department has established the following set of priorities to guide the award of NHT funding:

1. **Family Housing in Communities of Opportunity**
2. **Housing in Community Revitalization and Investment Areas**
3. **Integrated Permanent Supportive Housing Opportunities**
4. **Preservation of Existing Affordable Housing**
5. **Elderly Housing in Rural Areas of the State Outside Communities of Opportunity**
6. **Housing for the Homeless**

It is the Department's intent to ensure that Maryland's affordable housing development resources, including HTF funding, are fairly deployed in a manner that best serves Maryland residents; including families, seniors, and persons with disabilities or special needs, and the continuing demand for quality, affordable rental housing across the State.

Funds available through the HTF Program will be targeted to provide permanent rental housing to extremely low income (ELI) households. The need for permanent rental housing for ELI households in Maryland is significant, with the latest estimates indicating that there are over 180,000 households in the State with incomes at or below 30% AMI, and 86% of these households pay in excess of 50% of their income for housing. Additionally, ELI households in Maryland have a high occurrence of disabilities and other special needs.

The HTF Program priority will be to increase the supply of decent, safe and sanitary affordable housing for ELI households, including homeless families. HTF funds may be used for the production, preservation and rehabilitation of affordable rental housing through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities.

2.2 Income Level to be Served

The HTF Program will serve ELI households. ELI households are defined as households with incomes at the greater of:

- 30% of the applicable Area Median Income (AMI); or
- Households with incomes at or below the poverty line.

2.3 Method of Distribution

Ninety percent (90%) of the HTF annual allocation will be used for the production, preservation and rehabilitation of affordable rental housing through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities. The Department will retain ten percent (10%) of the HTF annual allocation for allowable administrative and planning expenses.

The HTF program requires the Department to commit funds within 24 months of HUD's execution of the HTF grant Agreement.

2.4 Forms of Assistance

HTF funds may be used as broadly and flexibly as is permitted by federal regulations to address the unique underwriting needs of each project and the number of ELI tenants to be served. Forms of assistance may include:

- Equity Investments;
- Interest-bearing loans or advances;

- Non-Interest bearing loans or advances;
- Deferred payment loans;
- Grants; or
- Other forms of assistance approved by HUD.

2.5 Application and Award Process

HTF projects will be selected by the Department for funding consideration, subject to availability of funds. Applications will be reviewed for eligibility and evaluated using the Threshold Criteria set forth below. HTF funds will be awarded to eligible projects through a non-competitive, first-ready first-served basis and will be used to complement and in conjunction with on-going Department housing programs to leverage other project funding, make projects financially feasible and increase the number of ELI households served in state-funded projects. HTF funds may be used in projects utilizing RHFP, LIHTC, MBP, Shelter and Transitional Housing Grant Program (STHGP) and any other programs administered by the Department. HTF may also be used with projects receiving non-Department housing program funds such as other state, federal, local/public or private sources. HTF <u>may not</u> be used with any funding sources that cannot be combined with HTF (e.g., Public Housing per 24 CFR §93.203). HTF funds may be requested by a Sponsor as part of a project application or Department staff may, in consultation with a sponsor, propose the use of HTF funds during project review and underwriting. Successful recipients will receive a Notice of Award, which will state the Department's intent to award HTF funds.

3 Eligibility Requirements

3.1 Eligible Activities

HTF funds may only be used for the following eligible costs:

- Development hard costs;
- Acquisition costs;
- Related soft costs; and
- Relocation costs.

The Department will require that all applications for HTF funds must contain a description of the eligible activities to be conducted with the HTF funds.

HTF projects must also comply with Site and Neighborhood Standards requirements as established in the HTF interim rule published by HUD (Exhibit A). The Site and Neighborhood Standards at § 93.150 apply to new construction of rental projects receiving HTF funds.

All rehabilitation projects must meet the applicable HTF rehabilitation standards and the requirements of 24 CFR §93.301(b).

Due to the limited amount of the FFY 2017 HTF Program fund allocation, HTF funds will not be used for operating cost assistance and operating cost assistance reserves at this time. The Department will consider this eligible cost in the future. The Department will not use HTF funds for refinancing of existing debt.

3.2 Eligible Recipients

HTF funds may be allocated to for-profit or non-profit organizations, or other entities which have the demonstrated financial capacity and experience to complete and meet ongoing compliance requirements. A recipient must:

a. Provide a certification to the Department that it will comply with the requirements of the HTF program during the entire period that begins upon the selection of the recipient to receive HTF funds, and ending upon the conclusion of all HTF-funded activities,
b. Demonstrate the ability and financial capacity to undertake, comply, and manage the eligible activity;
c. Demonstrate its familiarity with requirements of other federal, state, or local housing programs that may be used in conjunction with HTF funds to ensure compliance with all applicable requirements and regulations of such programs; and
d. Have demonstrated experience and capacity to conduct an eligible HTF activity as evidenced by its ability to own, construct, rehabilitate, manage and operate an affordable multifamily rental housing development.

3.3 Minimum Threshold Requirements

DHCD staff will review all applicants to ensure compliance with the minimum threshold requirements as outlined in Section 3.3. If an application does not meet all of the minimum threshold requirements the application will not be considered for financing.

3.3.1 Market Assessment: A market assessment of the housing needs of ELI individuals to be served by the project must be submitted as part of the application. The assessment should review the neighborhood and other relevant market data to determine there is a current demand for the type and number of housing units being developed.

3.3.2 Site Control: Sponsors must have sufficient site control to allow projects to move forward if they receive an award of HTF funds. At the time of application, site control should extend for at least one-hundred and eighty (180) calendar days after the date of the application (including extension options). Acceptable evidence of site control includes deeds, contracts of sale, leases, purchase options, Land Disposition Agreement and other similar agreements from a local government, or other evidence at the Department's discretion.

3.3.3 Capital Needs Assessment (For projects acquiring an existing property): To ensure that the proposed rehabilitation of the project is adequate and that the property will have a useful life that exceeds the affordability period; a Capital Needs Assessment (CNA) of the property by a competent third party shall be submitted with the application. A CNA shall identify any work that must be complete immediately to address health and safety issues, violations of federal or state law, violation of local code, or any work necessary to ensure that the building can continue to operate as affordable housing.

3.3.4 Phase I Environmental Site Assessment: Each project must comply with applicable requirements of local, State, and federal environmental laws and regulations. As part of the Application Submission Package, an environmental assessment checklist or environmental report, if available, must be included. Environmental assessments must not be more than one (1) year old as dated from application submission. For acquisition/rehabilitation projects, the Phase I environmental Assessment must include lead-based paint and asbestos testing.

3.3.5 Utility: Evidence that public water, sewer, electric, gas, telephone, internet, and cable services are at project sites or will be available during the construction or rehabilitation period must be provided. Acceptable evidence of utility availability may include a letter from the Development Team's civil engineer, the utility company providing the service, a responsible local official, or, for existing buildings, copies of recent utility bills. Alternatively, the applicant may provide a certification in a form to be approved by the Department.

3.3.6 Zoning: Sites must be properly zoned for their intended use. If a zoning change, variance, or exception is required, sponsors must provide the following information in the application:

- Documentation illustrating the present status of the proposed zoning change and the local planning and zoning process;
- Contact information for a local official familiar with the project and responsible for the approval process; and
- A detailed schedule with projected dates for obtaining the required approvals corresponding to the project schedule in the Application Submission Package.

3.3.7 New Construction - Priority Funding Areas (PFA): All projects involving any new construction must be located in a Priority Funding Area (PFA) under Maryland's Smart Green and Growing Initiative. PFAs include:

- All incorporated municipalities including Baltimore City, with some exceptions related to water, sewer, and density for areas annexed after January 1, 1997;
- All areas between the Baltimore beltway and the Baltimore City limits and the Washington, DC beltway and the Washington, DC boundary;
- All areas designated as Sustainable Communities, as defined by the Maryland Annotated Code, Housing and Community Development Article, Section 6-201(l);
- Federal and State enterprise zones;
- All areas designated by county governments as PFAs, including rural villages designated in county comprehensive plans as of July 1, 1998; and
- Certified heritage areas within locally designated growth areas.

All applications for projects involving any new construction must include a letter from the local government that certifies the project is located in a PFA. Information regarding PFAs may also be found at the link below:

http://www.mdp.state.md.us/ourproducts/pfamap.shtml

3.3.8 Timeliness and Readiness to Proceed: The readiness of the proposed project to proceed with construction or rehabilitation activities will also be a critical factor in the determination of the award of HTF funds. The Department will consider the status of other financing (firm written financial commitments for other financing is required prior to the commitment of HTF funds), the local approval process, and other relevant factors in establishing the readiness of a project to proceed. As part of the Application Submission Package, sponsors must complete the Anticipated Development Schedule. This schedule should be consistent with the Department's underwriting and construction review process. If a project is approved it is expected to meet the development schedule as proposed. In cases where a zoning change, variance, or exception is necessary, schedules must be consistent with the analysis provided by the Development Team's zoning attorney or engineer. In all cases, the Anticipated Development Schedule should reflect the project's readiness to proceed. Additionally, all projects must be financially feasible in accordance with the Department underwriting standards and generally accepted industry practices.

3.3.9 **Underwriting Standards**: All HTF-assisted projects must be consistent with regulatory requirements outlined in 24 CFR §93.300(b). All HTF-assisted must also conform to the following underwriting standards:

3.3.9.1 *Vacancy.* All projects will be underwritten with a minimum vacancy rate of 5%. Additionally, the Market Study must fully support the proposed vacancy level. The Department reserves the right to reject as infeasible any project that requires a vacancy rate of 10% or more.

3.3.9.2 *Operating Expenses.* Annual operating expenses, including all real estate taxes but excluding replacement reserve deposits, should be no less than $4,000 per unit per year and no more than $7,000 per unit per year. Waivers may be requested for small projects of up to forty (40) units, projects with master-metered (i.e. project paid) utilities, or other unusual circumstances.

3.3.9.3 *Reserves for Replacement.* All projects must budget at least $300 per unit per year in reserves for replacement (RFR) deposits. Additionally, RFR deposits must be adequate to support the project as determined by a CNA prepared by a qualified third party. The Department reserves the right, in its sole discretion, to require a new CNA every five (5) to ten (10) years and adjust RFR deposits based upon such new CNA.

3.3.9.4 *Operating Reserves.* Each project must establish an operating reserve equal to between three (3) and six (6) months of underwritten operating expenses, debt service payments, and required deposits to other reserves. At a minimum, capitalized operating reserves must remain in place until the project has achieved a minimum 1.15 debt service coverage ratio, economic break-even operations for one complete fiscal year as confirmed by the project's annual audit, and reached and sustained 90% occupancy for twelve (12) consecutive months. In the discretion of the Department, the operating reserve may be released over the next three (3) years provided the project continues to achieve economic break-even operations and sustains 90% occupancy. Upon release, operating reserves generally may be used to pay any outstanding deferred Developer's Fee, reduce any State loan, fund other reserves, fund project betterments, or otherwise be applied as approved by the Department.

3.3.9.5 *Trending.* In evaluating the long term viability of the project, the Department requires that rents and other revenue from the project be projected to increase by no more than 2% annually. Operating expenses (including property taxes) must be projected to increase by not less than 3% annually.

3.3.9.6 *Debt Service Coverage Ratio.* All projects must be underwritten to a minimum debt service coverage ratio (DSCR) of 1.15 in the first year of stabilized operations. The DSCR will be calculated including all must-pay debt service payments.

3.3.9.7 Market Analysis. All applications must provide a Market Study commissioned by the applicant that must demonstrate the need for affordable rental housing in the local market and must meet the following criteria:

- The Market Study must be prepared by an independent professional who has experience with affordable multifamily rental housing in Maryland and whose firm who have undergone peer review by the National Council of Housing Market Analysts (NCHMA).
- The Market Study shall be not more than six (6) months old as dated from application submission;
- The Market Study must meet the requirements of the HOME Rule at §92.250(b)(2) and provide a concise executive summary of the data, analysis , and conclusions of the report covering; a detailed description of the project including the proposed number of units by number of bedrooms, unit size in square feet, utility allowances for tenant paid utilities and rents; a geographic definition of the primary market area (PMA) and secondary market area (SMA) in including maps; and a complete and accurate description of the site and the immediate surrounding area.   The Market Study must also assess the market for the planned units and determine if there is sufficient demand to rent the assisted units within in 18 months of project

completion (§92.252); evaluate the capture rate, absorption rate and analyze the completion in the market.

3.3.10 Developer Experience: The capacity of the applicant for HTF Funds is critical to the successful development and continuing operation of the project. In the allocation of HTF Funds, the Department will only fund projects with a strong development team meeting the requirements below. The Primary Development Team consists of the Developer/Owner, the project's general contractor, architect and property manager. Capacity will be based on the demonstrated relevant experience and qualifications of the Primary Development Team. The Department will evaluate the Primary Development Team based on their record of accomplishment during the past five (5) years with projects that are similar in size, scope, and complexity to the proposed project. Primary Development Team members without appropriate experience should establish partnerships with experienced entities.

3.3.11 Developer Financial Capacity: The Department will also review the financial capacity of the Developer/Owner and Guarantor to determine if the Developer/Owner has access to sufficient working capital to carry the project through pre-development and/or unexpected challenges and the net worth sufficient to provide applicable guarantees of project completion and operations. The financial capacity of the Developer, including the project sponsor, guarantor, and general partner/managing member with an ownership interest in the project's ownership entity whether such roles are held by individuals, corporate entities, partnerships, or limited liability companies will be reviewed.

Financial statements for the three fiscal years prior to the application and the interim financial statements through the previous quarter are required for the project sponsor, project owner, guarantor, and general partner/managing member with an ownership interest in the project's ownership entity whether such roles are held by individuals, corporate entities, partnerships or limited liability companies. Each financial statement must identify all contingent liabilities including guarantees on other developments in process, income taxes estimated or accrued, and operating deficits. The required financial statements must include calculations of Total Assets, Total Liabilities, Current Assets, and Current Liabilities. The Department will use these figures to assess the Developer's financial capacity, assessing whether the Developer has access to sufficient working capital to carry the project through pre-development and/or unexpected challenges, and net worth (net assets for nonprofit organizations) sufficient to provide applicable guarantees of project completion and operations. Upon written request and at the Department's sole discretion, the requirement for Audited Financial Statements may be waived.

3.3.12 Geographic Diversity: HTF Program funds will be available on a State-wide basis. Ideally, housing opportunities for ELI household will be reasonably dispersed across the state, allowing physical mobility based on a household's own needs and preferences, and in doing so, promoting social and economic mobility for those same households. Achieving this end requires that the State invest in improving neighborhoods that already serve low income residents and providing new housing options in historically less affordable communities that provide residents access to a broad array of jobs, services and amenities.

Some projects not only provide needed affordable housing, but provide synergy, contributing to and expanding upon broader State and local community development investments. <u>In order to ensure that HTF funds are reasonably dispersed across the State, an eligible HTF project must be located within one of the areas below:</u>

1. NHT funds may be awarded to any elderly or family project, new construction or rehabilitation, in a Qualified Census Tract (QCT) or Difficult Development Area (DDA) (this does not include any State-designated DDA under the authority granted in §42, more commonly referred to as a "state-designated basis boost") that contributes to a concerted community revitalization plan.

   To qualify for points in this category, a concerted community revitalization plan must meet the following requirements:

   a) Officially adopted or endorsed by a Local Government or created with Local Government involvement;
   b) Established to increase investment in the community or build from an existing community asset;
   c) Developed and approved in accordance with local planning requirements;
   d) Includes evidence of community and stakeholder engagement;

e) Has a defined geographic boundary, that includes the proposed site or is focused within a single municipality, jurisdiction, or targeted area;

f) If there is a housing component in the plan, the plan should include rehabilitation or new construction of rental housing as a goal for the community;

g) Includes details of implementation measures along with specific time frames for the achievement of such policies and housing activities; and

h) Provides a list of other investment occurring or planned within the immediate area.

A community revitalization plan will be considered <u>ineligible</u> if it:

a) Was formulated solely by a Development Team member. This requirement shall not exclude a plan which included Development Team member(s) as a participant in the planning process;

b) Is a comprehensive plan, consolidated plan, municipal zoning plan or land use plan; unless such plan includes a neighborhood-based or other location specific strategy that articulates where development may occur; or

c) Is not relevant to current neighborhood conditions.

Documentation must be submitted as part of the Application Submission Package that supports each of the elements above, including:

a) Certification form executed by both the applicant and the local government through the local planning department or zoning board that demonstrates that the plan meets the requirements of the Department;

b) A copy of the full revitalization plan; and

c) A map of area targeted by the plan identifying location of project.

2. NHT may be awarded to family projects with reasonable access to jobs, quality schools, and other economic and social benefits, as demonstrated by meeting at least one (1) of the following two (2) criteria:

1. Be located in a "Community of Opportunity" as shown on the Maryland QAP Comprehensive Opportunity Maps posted to the Department's Web site at: http://www.dhcd.state.md.us/GIS/multifamily/index.html

   The Communities of Opportunity designated on the Maryland QAP Comprehensive Opportunity Maps are based on a "Composite Opportunity Index" developed by the Department. The Composite Opportunity Index uses publicly-available data and is based on three major factors: community health, economic opportunity, and educational opportunity. To be designated a Community of Opportunity, and mapped as such to the Maryland QAP Comprehensive Opportunity Maps, the community must have a Composite Opportunity Index that it is above the statewide average.

   The three major indicators that comprise the Composite Opportunity Index are:

   - *Community Health.* The community health indicator represents the wealth and quality of life in a community relative to the State average. The community health indicator has six (6) components, as follows:
     - Median household income obtained from the U.S. Census' American Community Survey (ACS) 2007-2011, five-year estimate. Household income is positively correlated with community health. Higher household incomes support a more diversified economic base and enhance the tax basis and services of its local government.
     - Ratio of owner-occupied to all occupied housing units (a proxy for homeownership rate) obtained from the ACS 2007-2011, five-year estimate. A higher homeownership rate indicates the economic stability of a community, which is positively correlated with community health.
     - Median value of owner-occupied housing units obtained from the ACS 2007-2011, five-year estimate. This statistic indicates the strength of a community's real estate market relative to the average statewide market condition and is highly correlated with community health.

- Population growth between 2010 and 2012 obtained from the Economic and Social Research Institute (ESRI) 2012 community profile. A component of population growth is the number of people relocating to a community so this measures the quality of life in a community and is positively correlated with community health.
- Poverty rate, obtained from the ACS 2007-2011, five-year estimate. The poverty rate highlights the detrimental impact of concentrated poverty on quality of life in a community. This variable is inversely correlated with community health.
- Property vacancy rate obtained from the ESRI 2012 community profile. An elevated property vacancy rate negatively impacts community health. Vacant property is often correlated with higher crime and depreciation of property values in a community.

- *Economic Opportunity.* Economic opportunity measures the extent to which a community provides employment opportunity and mobility to its residents. Employment opportunity is measured by the following variables:
  - Prevailing unemployment rate obtained from the ACS 2007-2011, five-year estimate. This variable, which measures employment opportunity in a community, is inversely related with economic opportunity.
  - Median commute time to work obtained from the ACS 2007-2011, five-year estimate. The commute time measures proximity to regional employment opportunities and is inversely related with economic opportunity.
- *Educational Opportunity.* Educational opportunity measures the outcomes of student performance and educational attainment in the community. This indicator is measured by the following variables:
  - Maryland School Assessment (MSA) scores, proficient and advanced, for elementary, middle, and high school students

obtained from Maryland Department of Education for the 2011/2012 academic year. These scores play a key role in determining educational advancement as well as opportunities available to students. The MSA scores are positively correlated with educational opportunity.

- Percent of population with a college degree (both undergraduate and graduate degrees) obtained from the ACS 2007-2011, five-year estimate. This variable is positively related to educational opportunity.
- Percent of population with no high school diploma, obtained from the ACS 2007-2011, five-year estimate. This variable is inversely related with educational opportunity.

2. Be located in a geographic area defined by applicable law as a community of opportunity for affordable family housing or identified as such by an order or consent decree entered by a federal or State court of competent jurisdiction or by a settlement agreement to which the Department or a local government in Maryland is a party. As of the publication of this Guide, the Department is aware of two such settlements:
   1) Baltimore City: The case of *Thompson v. HUD*. The following link provides information on census tracts designated as Communities of Opportunity in the *Thompson* case: http://www.brhp.org
   2) Baltimore County: The Conciliation Agreement among HUD, several complainants, and Baltimore County to designate 116 census tracts in Baltimore County as Communities of Opportunity. These census tracts are outlined in Exhibit F of the Conciliation Agreement found at the following website:

http://www.baltimorecountymd.gov/Agencies/planning/fairhousing/hudconciliation.html
http://www.baltimorecountymd.gov/Agencies/planning/fairhousing/hudconciliation.html

3. NHT funds may also be awarded to a project that is located in one of the following:
    - Be located in a rural area. For purposes of this section, a rural area includes any area eligible under the U.S. Department of Agriculture's Rural Development programs or any area in Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, or Worcester Counties that are not otherwise Community Development Block Grant (CDBG) entitlement communities or HOME Participating Jurisdictions. Or
    - Be located in any of the following: Certified Heritage Areas within county designated growth areas; Sustainable Communities; Empowerment Zones; Federal or Maryland Enterprise Zones; Main Street/Maple Street Maryland communities; or rural villages designated in county comprehensive plans as of July 1, 1998 and where there is evidence of other recent public investment in the plan area.
        - o The Sustainable Communities Program is a place-based designation offering a comprehensive package of resources that support holistic strategies for community development, revitalization, and sustainability. The following link provides a list of approved Sustainable Communities: http://dhcd.maryland.gov/Communities/Pages/dn/default.aspxhttp://dhcd.maryland.gov/Communities/Pages/dn/default.aspx

http://dhcd.maryland.gov/Communities/Pages/dn/default.aspx

3.3.13 Duration of Affordability Period: HTF-assisted units must meet the affordability requirements for a period of 40 years, which begins at project completion. The affordability requirements will be imposed by a Regulatory Agreement or other similar document recorded in accordance with State recordation laws. The affordability restrictions may be terminated upon foreclosure or transfer in lieu of foreclosure. Each application must include a project pro forma to cover the 40 year HTF affordability period and include rents that are affordable to the ELI household.

4 Priority Criteria

The following factors will also be evaluated by the Department in its review of applications for HTF funding:

1. **State Housing Priority Needs:** The HTF is primarily a production program meant to add units to the supply of affordable housing units for ELI household. The extent to which the project proposed to meet this objective will be evaluated by the number of ELI units proposed along with the merits of the application in meeting the priority housing of the locality where the project is located such as accessibility to transit or employment enters, housing that includes green building and sustainable development features or housing that serves special needs populations;
2. **Project-Based Funding:** The Department will provide a priority for projects with project-based rental subsidies for all of the HTF-assisted units in the project. Documentation from the local Public Housing Authority or other entity must be provided to show that the project-based subsidies will be in place for the term of at least five (5) years with renewal provision. The project-based assistance may be federal, state, or locally funded. Other forms of project-based assistance will be reviewed on a case by case request. For Example: If the Department receives two equal applications, the one with documented project-based rental assistance will be given priority. [1]
3. **Leveraging:** In the award of HTF Funds, the Department will provide a priority for projects which leverage non-Federal funding sources. For this purpose, non-Federal funding sources will include equity raised from the sale of Low Income Housing Tax Credits, as well as loans funded from the proceeds of tax-exempt bonds. The Department will evaluate the percentage of total development costs funded by non-state resources. For purposes of this section State resources, in accordance with the chart below, include:
    - All equity generated from competitive LIHTC awards from the State's LIHTC ceiling except any LIHTC awarded as the result of a federally or state designated basis boost;

[1] Public comments received requested DHCD not score the applications received.

- Department-administered rental housing resources, including, but not limited to, RHFP, RHW, HOME, NHT, CDBG, the Community Legacy Program, Demolition Funds, and the Partnership Rental Housing Program.

Leveraged funding may include:

- Equity from a federal or state basis boost;
- Equity from non-competitive 4% LIHTC awards;
- The proceeds of MBP financing;
- Local contributions (as described below);
- Locally-controlled federal resources such as HOME, CDBG, or State Small Cities CDBG;
- Other non-Department State funding;
- Private financing; and
- Private or philanthropic funding.

Projected equity from federal Historic Tax Credits (HTC) is also considered leveraged funding. To qualify the applicant must (i) provide evidence that the Part 1-Historic Preservation Certification Application has been submitted to the Maryland Historical Trust (MHT); (ii) document that MHT has recommended approval of the Part 1 Application or documents that the project building(s) is already listed in the National Register; and (iii) certify that the applicant will complete the HTC application process and diligently pursue HTC equity investment.

All calculations for this section will be based on Department underwriting of a project which may include adjustments to LIHTC equity based on Department assumptions about credit pricing as announced by the Department. Additionally, for projects with market rate (i.e. non-income restricted) units and mixed-use projects, the Department will consider only leveraged funds applicable to the affordable units by prorating both sources and uses to remove non-residential and market rate components of the project. Residential costs will be prorated based on the project's Applicable Fraction (as defined in the Internal Revenue Code) unless the Department determines that market rate and affordable units are not comparable in which case the Department, in its sole discretion, may require greater itemization of costs to allocate sources and uses to the affordable portion of the project.

Finally, because projects in rural areas have higher fixed transaction costs due to their relatively smaller size and have less access to locally controlled sources of leverage, the Department will calculate percentages for rural projects, as defined below, on a higher scale than for non-rural projects. Additionally, because family projects located in Communities of Opportunity are an important priority of the Department, percentages will be calculated on a higher scale as well.

For purposes of this section, a rural area includes any area eligible under the U.S. Department of Agriculture's Rural Development programs or any area in Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, or Worcester Counties that are not otherwise CDBG entitlement communities or HOME Participating Jurisdictions.

DIRECT LEVERAGING (Sec. 4.5.1 of the Guide)		**0**
Project Located in QCT/DDA or 9%LIHTC Area of Opportunity?	choose one:	
If "yes," enter acquisition credit, if any, amount:	(See Form 202, Tax Credit tab)	
Is project considered a rural transaction?		
Is project a Family Project located in a Community of Opportunity?		
1. Tax Credit Subsidy		
Annual LIH Tax Credits (allocated credits only)	Note: do not include automatic 4% LIHTC	
Less Adjust for QCT 130%	Qualified Census Tract Table Generator	$ -
Credit Period		10
Total LIH Tax Credits		$0
Imputed Raise-Up		0.94
LIH Tax Credit Subsidy		$0
2. Total DHCD Subsidy		
Rental Housing Funds	Note: include DHCD, but not Local, HOME funds	$0
PRHP		$0
Other DHCD Funds	Note: do not include Tax-Exempt or Taxable Bonds	$0
Total State Funds		$ -
Tax Credit Subsidy		$0
Total DHCD Subsidy		$0
3. All Project Costs		$0
4. Adjusted Costs		

November 7, 2017

# Affordable BRs	0
Total BRs	0
% Affordable	0%
All Project Costs	$0
Adjusted Costs	$0
5. Leverage Evaluation	
Total DHCD Subsidy	$0
Adjusted Costs	$0
% DHCD Funds	0.00%
% Leveraged Funds	100.00%

Percentages will be calculated as follows:

Leveraged Funding: Family Projects Located in a Community of Opportunity	Leveraged Funding: Rural	Leveraged Funding: All Other Projects
40%+	45%+	50%+
35% to <40%	40% to <45%	45% to < 50%
30% to <35%	35% to <40%	40% to <45%
25% to <30%	30% to <35%	36% to <40%
20% to <25%	25% to <30%	33% to < 36%
15% to <20%	20% to <25%	30% to <33%
10% to <15%	15% to <20%	27% to <30%
5% to <10%	10% to <15%	24% to <27%
3% to <5%	5% to <10%	22% to <24%
2% to <3%	3% to <5%	20% to <22%
<2%	<3%	< 20%

Priority will be given to projects that demonstrate the highest leverage percentage of non –Department resources, including HTF to other private resources.

5 Additional Program Requirements

5.1 Affirmative Fair Housing Requirements

The State of Maryland has a compelling interest in creating fair and open access to affordable housing and promoting compliance with state and federal civil rights obligations. Fair Housing requirements apply to the full spectrum of housing activities including but not limited to outreach and marketing, the qualification and selection of residents and occupancy.

Eligible applicants must include a certification that the project will develop and implement an Affirmative Fair Housing Marketing Plan (AFHMP) using form HUD-935.2A.

To provide the greatest access to housing opportunities by Maryland's residents, all AFHMPs must include, at a minimum, the following provisions:

- Prohibit income requirements for prospective tenants under the Section 8 Tenant-based Assistance: Housing Choice Voucher program, VASH, HOME Tenant-based Rental Assistance or similar voucher programs;
- Eliminate local residency preferences;
- Ensure access to leasing offices for persons with disabilities;
- Provide flexible application and office hours to permit working families and individuals to apply;
- Encourage credit references and testing that take into account the needs of persons with disabilities, special needs or homeless families; and
- Give prompt written notification to any rejected applicant describing the ground for any rejection.

An owner of HTF-assisted rental housing must comply with the affirmative marketing requirements above, and adopt and follow written tenant selection policies and criteria that:

- Limit the housing to income eligible families;
- Are reasonably related to the applicant's ability to perform the obligations of the lease;
- Limit eligibility or give preference to a particular segment of the population if permitted in its written agreement with the grantee (and only if described in the grantee's consolidated plan) and preference is established in accordance with the requirements further detailed in this section;

- Do not exclude applicants with vouchers under the Section 8 Tenant-based Assistance: Housing Choice Voucher Program or HOME Tenant-based Rental Assistance; and
- Provide for the selection of tenants from a written waiting list in the chronological order of their applications, insofar as is practicable.

5.2 Tenant Selection

There must be a written lease between the tenant and owner of HTF-assisted rental housing for a period of not less than 1 year, unless a shorter period is mutually agreed upon. The lease may not contain any of the following provisions:

- Agreement to be sued;
- Treatment of property;
- Excusing owner from responsibility;
- Waiver of notice to be sued;
- Waiver of legal proceedings;
- Waiver of a jury trial;
- Waiver of right to appeal court decision;
- Tenant chargeable with cost of legal actions regardless of outcome; and
- Mandatory supportive services.

5.3 Other Additional Requirements:

HTF projects must also meet the following requirements:

- *Initial Rents and Utility Allowances.* The Department will establish maximum monthly allowances for utilities and services and annually review and approve rents proposed by HTF-assisted project owners;
- *Tenant Income and Over-Income Tenant.* Project owners must determine tenant eligibility by calculating the household's annual income using the definition of income, 24 CFR part 5.609. Income determinations are conducted at initial occupancy and the project owner must re-examine each tenant's annual income each year during the period of affordability. For HTF units that also receive project-based rental assistance, annual income must be reexamined based on the rules applicable to the project-based assistance. HTF –assisted units continue to qualify as affordable housing despite a temporary non-compliance caused by increases on the income of

the existing tenants. When that occurs, grantees must make every effort to bring the units back into income compliance as soon as it is feasible; and

- *Fixed and Floating HTF Units.* In a project containing both HTF-assisted and other units, the grantee will designate fixed or floating HTF units at the time of project commitment in the written agreement between the grantee and the recipient. The actual HTF units must be identified not later than the time of project completion. Fixed units remain the same throughout the affordability period and floating units are changed to maintain compliance with the requirements of 24 CFR §93.302(g) during the affordability period.

6 Development Quality

6.1 Property Standards

Projects are eligible for HTF funds only if the housing will meet the applicable property standards upon completion. All HTF – assisted projects must meet all applicable State and local codes, ordinances and zoning requirements. In the absence of those codes, the housing must meet the International Residential Code or International Building Code (as applicable). All HTF - assisted projects (both new construction and rehabilitation) must meet the following requirements**:**

- The accessibility requirements of 24 CFR part 8, Titles II and III of the Americans with Disabilities Act implemented at 28 CFR Parts 35 and 36; and 24 CFR 100-205 as applicable; and other improvements that are not required by the regulations or statute that permit use by a person with a disability;
- The energy efficiency standards established pursuant to Section 109 of the Cranston-Gonzalez National Affordable Housing Act;
- Where relevant, the housing must be constructed or rehabilitated to mitigate the impact of the potential disasters, in accordance with applicable State and local codes, ordinances, and requirements, or other requirements established by HUD.
- The Department will review and approve written cost estimates and ensure that construction contracts and work will meet the all applicable standards; and
- The Department will conduct initial, progress and final inspections to ensure work is done in accordance to work write-ups/ architectural specification.

- The Department will determine the useful life of major system through a capital needs assessment and require a replacement reserve when the useful life of systems is less than the affordability period
- The housing must meet the lead-based paint requirements at 24 CFR part 35;
- All housing must be decent, safe, sanitary, and in good repair as described at 24 CFR 5.703. HUD will establish the minimum deficiencies that must be corrected under these rehabilitation standards based on inspectable items and inspectable areas from the HUD prescribed physical inspection procedures (Uniform Physical Condition Standards) pursuant to 24 CFR 5.705

6.1.1 Health and Safety Violations

Health and safety violations can be divided into non-life threatening and exigent, life threatening conditions. Non-life threatening violations include items such as pavement and walkway problems that create the potential for tripping and falling; missing or non-functioning sinks and bathroom components in individual units that impair human sanitation; missing exterior doors; and floor covering damage. Such violations must be addressed within thirty (30) days.

If the housing is occupied at the time of the rehabilitation, exigent health and safety and fire hazards must be addressed immediately (within 72 hours) because of their life-threatening potential. Exigent health and safety violations include exposed electrical wires or water leaks on or near electrical equipment; propane /natural gas/methane gas detected; emergency/fire exits that are blocked; unusable fire escapes; gas or oil fired hot water heaters with missing or misaligned chimneys that pose carbon monoxide hazards. Fire safety hazards include missing or inoperative smoke detectors; fire extinguishers expired or window security bars preventing egress from a building.

In addition, all rehabilitation projects must meet the NHT, and HOME rehabilitation standards (attached as Exhibit B).

6.2 Maximum Per-Unit Development Subsidy

As a Housing Credit Agency (HCA) and the administrator of HOME funds for over twenty-five years for the state of Maryland, DHCD is charged with determining project cost reasonableness on an annual basis. This is achieved by aggregating expenditures per historical cost certification data of completed projects for FY 2016 as illustrated in the chart below. Construction and land costs serve as a benchmarking mechanism and are categorized by geographical area. Some of the unique features of NHT, such as low-income targeting, have no impact on rental housing development costs in Maryland. Based on unit size/number of bedrooms, the maximum per-unit development subsidy amount will be the lesser of DHCD's 2016 Actual Per Unit Cost and the 2016 Maryland HOME Subsidy Limit (effective May 24, 2017). At no time will the per-unit development subsidy exceed the 2016 Maryland HOME Maximum Subsidy Limits (effective May 24, 2017); these limits are:

Unit Size/Number of Bedrooms	**Washington, DC and Baltimore PMSA 2016 Actual Per Unit Cost**	**Other Areas of State 2016 Actual Per Unit Cost**	**2016 HOME Subsidy Limit (effective May 24, 2017)**
0	$134,415	$115,347	$141,088
1	$166,099	$138,415	$161,738
2	$199,318	$166,099	$196,672
3	$239,182	$199,319	$254,431
4	$286,797	$238,998	$279,285