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# A home is the *foundation.*

June 2011

**National Low Income Housing Coalition  
National Housing Trust Fund**  
Side-by-Side Summary and Analysis of Key Provisions of NHTF Proposed Rule

<b>PROPOSED REGULATION</b>	<b>COMMENTS</b>
<p align="center"><b>TARGETED TO RENTAL HOUSING</b></p> <p>NHTF 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, including homeless families.</p> <p align="right">§92.701(a)</p>	<p>Endorsed</p>
<p align="center"><b>10% LIMIT FOR HOMEOWNER ACTIVITIES</b></p> <p>The statute and reg limits the amount of NHTF used for homeownership activities to 10%, inferring that at least 90% of a state's annual NHTF grant must be used for rental housing activities. (However, preamble and other HUD writings say the minimum amount for rental is 80%; see Admin and Planning discussion.)</p> <p align="right">§92.730(a)(1)</p>	<p>Regulation must clearly state that a minimum of 90% of any grant amount, after any admin and planning deduction, must be used for rental housing activities.</p>
<p align="center"><b>TARGETED TO EXTREMELY LOW INCOME</b></p> <p>The NHTF statute requires that at least 75% of each grant to a state used for rental housing benefit ELI households or households with income below the poverty line. The proposed rule adopts this requirement for rental housing.</p> <p align="right">§92.736 &amp; §92.746(a)</p> <p>TARGETED TO EXTREMELY LOW INCOME <i>continues</i></p>	<p>Reg does not state that the upper income limit for either rental or homeowner is 50% AMI, the rule must explicitly do so.</p>

<p>TARGETED TO EXTREMELY LOW INCOME <i>continued</i></p> <p>Although not required by statute, the reg adds the 75% ELI/poverty level targeting requirement to homeownership activities. §92.737</p> <p>Requires that for the first year, 100% of a grantee’s funds for rental and homeowner projects benefit the ELI or poverty income groups. §92.736 &amp; §92.737</p> <p>In subsequent years HUD will advise states whether the target amount must be greater than 75% for both rental and homeownership. §92.736 &amp; §92.737</p> <p>Requires each NHTF unit in a rental project to be occupied by an ELI household. §92.746(a)</p>	<p>Endorsed</p> <p>Endorsed</p> <p>This language is not tied to the first year of the program; therefore, the rule would require 100% benefit to ELI every year and ignore the statute’s leeway allowing up to 25% of the rental funds to benefit VLI households.</p>
<p style="text-align: center;"><b>DISTRIBUTION OF NHTF DOLLARS</b></p> <p>NHTF is distributed to states, which can choose a state-designated agency, such as a housing finance agency, tribally designated housing entity, or any other instrumentality of the state to receive and administer the program. §92.725(a)</p> <p>Each state must distribute NHTF dollars throughout the state according to its assessment of priority housing needs as identified in its approved Consolidated Plan or ConPlan, (see “Allocation Plan”). §92.725(b)</p> <p>In some years HUD might direct how NHTF should be distributed. §92.725(b)</p>	<p>NLIHC recommends the final rule correct the definition of “state-designated entity” which, as proposed, leaves out “housing and community development entity” which is specifically indicated in the statute. §92.702 §1338(c)(2)</p> <p>NLIHC suggests that §92.725(b) be modified to directly set forth that the Allocation Plan is to be included in the ConPlan’s Annual Action Plan in order to underscore the statutory requirement for a NHTF Allocation Plan.</p>

**Subgrantees**

Gives states the option of passing funds to local governments as subgrantees to in turn provide funds to recipients (defined next) to carry out projects. Any subgrantees must have a ConPlan that includes a NHTF Allocation Plan (see “Allocation Plan”), and must select projects according to the subgrantee’s NHTF Allocation Plan.

§92.725(c), §92.702

**Recipients**

A recipient is an organization, agency, or other entity (including nonprofits and for-profits) that receives NHTF dollars from a grantee to carry out a NHTF-assisted project as an owner or developer.

An “eligible” recipient is one which meets four tests:

- Will comply with the program requirements during the entire affordability period.
- Has demonstrated ability and financial capacity.
- Is familiar with the requirements of other federal, state, and local housing programs.
- Has the experience and capacity to either:
  - Own, construct, or rehabilitate, and manage and operate an affordable multifamily rental development;
  - Design, construct, or rehabilitate, and market homeowner housing; or,
  - Provide down payment, closing cost, or interest rate buydown assistance for homeowners.

§92.702

The statute does not provide for the distribution of NHTF to subgrantees. (See additional concern at “Allocation Plan”)

§92.725(c) should be modified to echo §92.725(b) by stating that the subgrantee’s ConPlan must be one that is “approved”.

The definition also says “A local government subgrantee must have an approved consolidated plan submitted in accordance with 24 CFR part 91.” NLIHC suggests that the definition include a specific reference to the NHTF Allocation Plan as a required component of the ConPlan, citing §91.220(1)(4).

The NHTF Campaign requested that public housing agencies (PHAs) be explicitly listed as potential recipients. The proposed rule does not explicitly list PHAs as eligible recipients.

**ALLOCATION PLAN**

The NHTF statute requires each state to prepare an Allocation Plan every year, showing how it will distribute the funds based on priority housing needs.

Proposed reg at subpart N requires states to submit a ConPlan.

§92.720(b)

Amends ConPlan regs, adding NHTF-specific Allocation Plan requirements to the ConPlan's Annual Plan rule.

§91.320(k)(5)

If a subgrantee is to administer NHTF, then it too must have a ConPlan containing the NHTF Allocation Plan which is consistent with the state's NHTF requirements.

§92.725(c), §91.220(l)(4)

ALLOCATION PLAN *continues*

The proposed rule does not specifically mention the Allocation Plan in subpart N. NLIHC recommends that §92.720(b) also refer to the NHTF Allocation Plan and specifically cite 24 CFR 91.320(k)(5).

§92.725(c) and §91.220(l)(4) should explicitly require the subgrantee's Allocation Plan to be consistent with state's Allocation Plan.

The proposed rule does not establish clear criteria for determining how a state can choose subgrantees. However §92.725(b) says that a grantee is responsible for ensuring that NHTF funds are distributed throughout the state according to the state's assessment of priority housing needs, as identified in the state's approved ConPlan. NLIHC recommends that the language of §91.320(k)(5) be amended to require the state Allocation Plan to specify that any decision to use subgrantees, which subgrantees to use, or how to distribute funds among subgrantees be clearly done and based on the state's declared priority housing needs.

ALLOCATION PLAN *continued*

Allocation Plan must describe the application requirements for recipients and the criteria that will be used to select applications for funding. Applications from potential recipients must describe activities for which funds are sought.

§91.320(k)(5) & §91.220(l)(4)

Allocation Plans must provide priority for funding applications based on a number of features listed in the statute, including:

- Geographic diversity.
- The extent to which rents are affordable, especially to ELI households. Rule modifies statute by adding (for states) the extent to which a project “has federal, state, or local project-based rental assistance” (rule for local governments does not have the added language regarding project-based assistance).
- The duration of a unit’s affordability.
- The “merit” of the project. Rule offers examples of merit: housing accessible to transit or employment centers; housing that includes green building and sustainable development elements; and, housing that serves people with special needs.

§91.320(k)(5)(i) & §91.220(l)(4)(i)

Rule should require states to allocate NHTF dollars based on the relative need in rural as well as urban areas.

Rule for local governments does not have the added language regarding project-based assistance, final rule should be consistent between states and subgrantees.

The statute says application selection shall provide for “**priority funding to be based on:**” and lists six items. Rule does not precisely follow this construction. Consequently, the emphasis on “priority funding [shall] be based on” could be misread to apply only to “geographic diversity”. The simple insertion of a colon in (i) could rectify this, “The plan must provide priority for funding based on: geographic diversity...”

<p style="text-align: center;"><b>PUBLIC PARTICIPATION</b></p> <p>Statute requires public participation in the development of the NHTF Allocation Plan. Rule merely requires states to submit a ConPlan following the ConPlan rule – which does have public participation requirements.  <p style="text-align: right;">§92.720(b)</p> <p>Statute requires states to follow the public participation requirements for the Public Housing Agency Plan and the Qualified Allocation Plan (for Low Income Housing Tax Credits).  <p style="text-align: right;">§1338(c)(8)(B)</p> </p></p>	<p>Recommend the rule contain a §92.720(c) clearly stating that public participation requirements must be followed at 24 CFR 91.115 for states and 24 CFR 91.105 for local jurisdictions serving as subgrantees.</p> <p>Rule should address this statutory requirement.</p>
<p style="text-align: center;"><b>PERIOD OF AFFORDABILITY</b></p> <p>Both rental and homeowner units must be affordable for at least 30 years. States and any subgrantees may establish longer affordability periods.  <p style="text-align: right;">§92.746(d)(1) rental, §92.748(e) homeowner</p> </p>	<p>NHTF Campaign strongly urged a 50-year affordability period, and preferences for projects with affordability periods greater than 50 years.</p>
<p style="text-align: center;"><b>MAXIMUM RENT</b></p> <p>Maximum rent and utility costs is fixed at 30% of 30% of the area median income, or 30% of the poverty level, whichever is greater.  <p style="text-align: right;">§92.746(b)</p> <p>If an NHTF unit receives federal or state project-based rental subsidy, the maximum rent is the rent allowable under the federal or state project-based program.</p> </p>	<p>NHTF Campaign recommended the Brooke rule so that ELI and VLI households would not pay more than 30% of their income for rent and utilities.</p> <p>Clarify that the NHTF maximum rent applies at other housing programs which do not provide project-based subsidies, such as the LIHTC, Section 236, and Section 221(d)(3)BMIR.</p>

**TENANT PROTECTIONS and SELECTION**

Statute requires activities to comply with laws relating to tenant protections and tenants' rights to participate in the decision making regarding their homes.

§1338(c)(8)(A)

Prohibits owners from rejecting applicants with a voucher or HOME tenant-based assistance.

§92.746(h)(i) & §92.747(d)(4)

Provides for a number lease provisions.

§92.747(a) & (b)

Owners may only terminate tenancy or refuse to renew a lease for good cause.

§92.747 (c)

Owners must have and follow tenant selection policies.

§92.747 (d)

- 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 (such as the Supportive Housing program); or if not tied to such federal programs or other law, as long as a project is in the most integrated setting appropriate to meet the needs of the people with disabilities.

§92.747 (d)(3)

Rule does not address tenants' rights to participate in decision making regarding their residences.

Recommend that people with state-issued tenant-based assistance also be protected.

There should be a reference to VAWA, the Violence Against Women Act protections.

## GENERAL ELIGIBLE ACTIVITIES

Rule echoes statute, providing a basic list of eligible activities such as the production, preservation, and rehabilitation of affordable rental homes and homes for first-time homebuyers through new construction, reconstruction, rehabilitation, or acquisition.

NHTF-assisted homes must be permanent or transitional housing.

§92.730(a)(1)

NHTF assistance can be in the form of equity investments, loans, grants, and other forms approved by HUD. Grantees may decide the terms of assistance.

§92.730(b)

### Manufactured Housing

NHTF can be used to buy and/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...located on land that is owned by the home owner, or land for which the home owner has a lease for a period that at least equals the affordability period.

§92.730(a)(4)

### Mixed-Unit Projects

NHTF-assisted units can be in a project that also contains non-NHTF-assisted units. After project completion, the number of NHTF-assisted units may not be reduced.

§92.730(c)

GENERAL ELIGIBLE ACTIVITIES *continues*

All NHTF-assisted units should be “permanent”; “transitional” units should not be eligible.



GENERAL ELIGIBLE ACTIVITIES *continued*

Timeframe for Demolition or Acquiring Vacant Land

Use of NHTF for demolition or acquiring vacant land limited to specific affordable housing projects for which construction can reasonably be expected to start within one year (or 42 months for transit oriented development).

§92.730(a)(2)  
§92.702(b)

Transit Oriented Development (TOD)

NHTF may be used by a local government to purchase land to be used for NHTF-assisted units as part of a transit oriented development (TOD) if title to the land will be transferred to the local government within six months and will then be held by the local government; and, if within 36 months from the date of transfer, the local government commits additional NHTF money or other resources to a specific housing new construction or rehabilitation project that can reasonably be expected to start within 12 months. If there is no commitment to a specific NHTF project within 36 months, the local government must repay the NHTF amount or the current value of the property, whichever is greater.

§92.730(a)(3)  
§92.702

NLIHC is concerned about this loose provision because NHTF resources could be tied up for substantial periods (as long as 54 months) without single unit being built (42 months under the definition of TOD “commitment”, plus 12 months under definition of specific project “commitment”).

The relationship between the “unit of local government” and the definitions of grantee, subgrantee, and recipient are unclear. Rule must clarify whether a unit of local government, for purposes of TOD, is a grantee, subgrantee or recipient.

The definition of “commitment” at §92.702(b)(3), which is cited, should be tightened because it could be interpreted to allow units that do not benefit ELI if “other resources” are used.

**ELIGIBLE PROJECT COSTS**

Eligible project costs include: acquisition; relocation; development hard costs such as construction; soft costs associated with financing and/or development; and, refinancing existing debt on rental property if NHTF is also used to for rehabilitation. Operating costs are also eligible project costs (see next).

§92.731

Operating Cost Assistance

The statute makes the use of NHTF for operating costs an eligible activity. HUD limits operating cost assistance to 20% of a state’s annual grant.

§92.730(a)(1)

Operating cost assistance may only be provided if project-based assistance is not available.

§92.730(e)

Can provide operating cost assistance to a project for up to two years from the same fiscal year NHTF grant; operating cost assistance can be renewed during the entire affordability period.

An operating cost assistance reserve can be created to cover up to a five-year period of inadequate rent income in order to ensure a project’s financial feasibility.

NHTF Campaign recommended a 20% limit, but also recommended limiting the use of operating cost assistance to ELI units. Rule merely limits operating costs to HTF-assisted units.

Campaign recommended requiring states to give priority to projects that obtained operating subsidies from sources other than the NHTF.

Campaign recommended limiting the use of operating costs to:

- 1) provide project-based rental assistance for not more than 12 months, or
- 2) establish a capitalized project operating reserve account in order to realize deeper affordability levels.

Rule must clarify how the two-year and five-year provisions can work together. How can a reserve be established for five years given the two-year limitation? For TOD, more than two years is allowed to secure a commitment.

## ADMINISTRATION AND PLANNING COSTS

The statute limits the amount of NHTF that can be used for general administration and planning to 10% of a state's annual grant. The rule adds that 10% of any program income can also be used for admin and planning. The rule also provides that subgrantees may use NHTF for administration and planning, but subgrantee use counts toward the state's 10% cap.

§92.732(a)

The rule is silent, but the preamble to the rule and HUD's website use the 10% admin and planning cap to claim that only 80% of NHTF fund dollars must be used for rental activities. HUD explains that it intends to take the 10% allowable for administration and planning from the minimum amount available for rental projects, resulting in HUD's 80% figure.

However, the statute does not construct the minimum amount for rental activities in this fashion. The statute limits the amount that can be used for homeowner activities to 10%; therefore, 90% of the funds must be used for rental projects. The statute also limits the amount of a NHTF grant that can be used for administration and planning to 10%. The proper approach then, as has been traditionally used with the CDBG program, is to apply the 10% administration and planning cap to the entire NHTF grant amount, and then calculate 90% for rental and 10% for homeowner.

The rule should explicitly provide that after administrative costs have been determined – which cannot exceed 10% of a grant amount – grantees are required to use at least 90% of an annual NHTF grant for rental activities. The remainder can be used for homeownership activities.

<p><u>Some Other Administration and Planning Costs</u></p> <ul style="list-style-type: none"> <li>• Providing information to residents and community organizations participating in the planning, implementation, or assessment of NHTF projects. §92.732(d)</li> <li>• Activities to affirmatively further fair housing (AFFH). §92.732(e)</li> <li>• Preparation of the ConPlan, including hearings, and publication. §92.732(g)</li> <li>• Costs of complying with other federal requirements regarding: non-discrimination, affirmative marketing, lead-based paint, displacement and relocation, conflict of interest, and fund accountability. §92.732(h)</li> </ul>	<p>The rule should provide that these administration and planning costs should be proportional to the degree to which NHTF is involved in “public information”, AFFH, ConPlan preparation, and compliance with other federal laws. Elsewhere in the proposed rule HUD is rigorous about NHTF cost allocation being proportionate. Without a proportionate allocation requirement with respect to these costs, a grantee could substitute NHTF money intended to increase the supply of affordable ELI homes for CDBG money otherwise being used for ConPlan preparation, etc.</p>
<p style="text-align: center;"><b>INELIGIBLE ACTIVITIES</b></p> <p>NHTF resources cannot be used for public housing, including HOPE VI. Nor can NHTF housing get public housing operating assistance during the period of affordability. A project may contain both NHTF-assisted units and public housing units. §92.734</p> <p>Although not in the statute, the rule echoes the HOME regulations, prohibiting the use of NHTF money for a project previously assisted with NHTF during the period of affordability – except for the first year after completion. §92.735(a)(1)</p> <p>Fees (e.g. servicing, origination) for administering the NHTF program are not eligible uses; however, annual fees may be charged to owners of NHTF-assisted rental projects to cover the cost of monitoring compliance with income and rent restrictions during the affordability period. §92.735(b)(1)</p>	<p>Endorsed</p> <p>The rule should allow HUD to waive this in exchange for a proportionate extension of the affordability period.</p> <p>NLIHC opposed; monitoring funds should be covered by the 10% administrative cost set aside, the grantee requires more than the minimum affordability period.</p>

**NHTF MUST BE COMMITTED WITHIN TWO YEARS**

As required by statute, the rule requires NHTF to be committed within 24 months, or HUD will reduce or recapture uncommitted NHTF.

Although not required by statute, the rule adds that NHTF must be spent within five years.

§92.770(d)

Committed is defined as the state or subgrantee having a legally binding agreement with a recipient owner/developer for a specific project that can reasonably be expected to begin rehabilitation or construction within 12 months; or if NHTF is used to acquire standard housing for rent or for homeownership, the property title will be transferred to a recipient or family within six months.

§92.702

## HOMEOWNER PROVISIONS

As required by statute, homes must be bought by income-eligible “first-time homebuyers” who have had counseling, and the home must be their principle residence.

§92.748(d)

Although not in the statute, the rule requires the assisted housing to meet the HOME definition of “single family housing”, which includes one-to-four family residences, condominiums and cooperatives, a manufactured home and lot or just a manufactured home lot.

§92.748(b), §92.2

Affordability period is at least 30 years.

§92.748(e)

As required by statute, an assisted home’s value must not exceed 95% of the median purchase price for the area.

§92.749

### Resale of Homeowner a Unit During Period of Affordability

As required by statute, rule echoes HOME rule. To ensure continued affordability grantees may use the HOME resale provisions or develop their own NHTF provisions and include such provisions in the ConPlan.

If a homeowner unit is sold during the affordability period, subsequent purchasers must be NHTF-eligible, and the sale price must provide the original owner a “fair return”. Grantee must specify “fair return”. If a homeowner unit is sold during the affordability period, grantee must ensure the house will remain affordable to a reasonable range of income-eligible homebuyers. Grantee must specify the meaning of “reasonable range”.

Affordability restrictions may terminate upon foreclosure, transfer in lieu, or assignment of an FHA-insured mortgage. Grantee may use purchase options, rights of first refusal, etc. before foreclosure to preserve affordability.

§92.748(f)

HOME regs at §92.254(a)(5)(ii) provide extensive recapture provisions, requiring grantees to ensure that they recoup all or a portion of HOME if the housing does not continue to be a homeowner’s principle residence during the affordability period. NHTF rule should have equally rigorous provisions.

Affordability restrictions must continue if a mortgage is transferred to FHA.

<p style="text-align: center;"><b>FAIR HOUSING AND CIVIL RIGHTS</b></p> <p>The following apply to the NHTF: The Fair Housing Act; Title VI of the Civil Rights Act of 1964; The Age Discrimination Act of 1973; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act; and, Section 3 of the Housing and Urban Development Act of 1968.</p> <p style="text-align: right;">§92.760(a)</p>	
<p style="text-align: center;"><b>MISCELLANEOUS PROVISIONS</b></p> <p><u>Maximum Per-Unit Subsidy Amount and Subsidy Layering</u></p> <p>Grantees must establish maximum limitations on the total dollar amount of NHTF invested per unit, with adjustments for size and geographic location. The limits must be in the ConPlan and adjusted annually. This is not required by the statute.</p> <p style="text-align: right;">§92.740(a)</p> <p>Grantees must establish and use subsidy layering guidelines to review all forms of government assistance going into a project in order to ensure that no more government assistance is provided than necessary and to ensure no undue return to owners.</p> <p style="text-align: right;">§92.740(b)</p> <p><u>Performance Reports</u></p> <p>HUD will provide states and subgrantees with formats for submitting annual performance reports. HUD will make grantees' performance reports publicly available.</p> <p style="text-align: right;">§92.779</p> <p>MISCELLANEOUS PROVISIONS <i>continues</i></p>	<p>Endorsed</p> <p>The rule should require states and subgrantees to make performance reports directly available to the public by requiring them to provide copies and by requiring them to prominently post performance reports on the state's or subgrantee's website.</p>

<p>MISCELLANEOUS PROVISIONS <i>continued</i></p> <p><u>Property Standards</u></p> <p>A variety of property standards are listed, with separate sections for new construction and gut rehab; rehab; acquisition of “standard” housing (a term used in HOME but nowhere defined; in context it means acquisition of a home not needing rehab); manufactured homes; and “ongoing” for rental. There is an emphasis on energy and water efficiency requirements.</p> <p style="text-align: right;">§92.741-45</p>	<p>NLIHC commends efforts to increase energy efficiency and cited comments from the National Housing Trust, which included suggesting a slightly reduced standard when NHTF is used to gut rehab buildings with four or more stories.</p>
<p style="text-align: center;"><b>INCONSISTENT USE OF THE TERMS “FAMILY” AND “HOUSEHOLD”</b></p> <p>Throughout the rule, there is not a consistent use of the terms “family” and “household”.</p>	<p>NLIHC recommends use of the term “household” instead of “family” throughout.</p>



**NHTF NEEDS CLEARER IDENTITY IN PART 92**

The title of 24 CFR part 92, is “Part 92 – HOME Investment Partnership Program”.

The beginning of the existing HOME regulation, which the proposed rule would not modify, simply states “This part implements the HOME Investment Partnership Act (the HOME Investment Partnerships Program)...”, and continues with a long paragraph describing only the HOME program.

§92.1

Another example of the potential for the NHTF program to be obscured is in the proposed rule itself which reads:

“Other subparts of part 92 are not applicable to the HTF program, except as expressly provided in subpart N. To the extent that the sections of other subparts of this part are made applicable, **references to HOME shall mean HTF** and references to participating jurisdictions shall mean grantees.”

§92.701 (c)

NHTF NEEDS CLEARER IDENTITY IN PART 92 *continues*

It makes sense to weave the NHTF regs in with the HOME regs. However, the rule does not provide adequate identification of the NHTF program as a distinct program.

There are a number of other examples of this, beginning with the title of part 92. The existence of the NHTF program is hidden unless there is prominent reference to it in the title. HUD’s “menu” of housing production programs would seem incomplete. Part 92 should be re-titled to more clearly and directly reflect the complete content of part 92, perhaps to “*Part 92 – HOME and Housing Trust Fund Programs*”.

This further obscures the NHTF program at the start of part N. §92.1 must be modified to add that the part also implements the NHTF program and provide a comparable description.

References to HOME should not also mean NHTF; when appropriate, simply add “...and NHTF”.

NHTF NEEDS CLEARER IDENTITY IN PART 92 *continued*

The rule at item #8 under the current title of part 92 declares that “The authority for 24 CFR part 92 continues to read as follows: Authority: 42 USC 3535(d), 12701-12839, and 12 USC 1301 et seq.”

The proposed rule only cites the authority for the NHTF later [at §92.701(a)] as §1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 as amended by the Federal Housing Finance Regulatory Reform Act of 200812 (USC 4568).

The statutory authority for the existence of the NHTF program is must also be at #8.

The ConPlan regs must also be amended to refer to the NHTF program as an “applicable” program at §91.2(a) as well as among the other ConPlan-applicable programs listed regarding the consolidated program year at §91.10(a).

The ConPlan regs sections that list the general housing market characteristics that must be described in a ConPlan [§91.210(a) and §91.310(a)] should add the market characteristics that are the foundation of the NHTF formula: shortage of rental units both affordable and available to extremely low income renter households; shortage of rental units both affordable and available to very low income renter households; the ratio of extremely low income renter households that are paying more than 50% of income for housing costs, or are overcrowded, or lack complete kitchen and plumbing facilities; and, the ratio of very low income renter households that are paying more than 50% of income for housing costs.

Because the NHTF program could become eclipsed as a result of inadequate references to it in the HOME portions of part 92, those implementing the NHTF program, as well as advocates, might lose or never gain awareness that the NHTF program is a separate and distinct program, rendering it vulnerable to diminished consideration in future years. This problem is easily remedied by simply adding specific references such as “HOME and HTF” when appropriate.