



# DELAWARE STATE HOUSING AUTHORITY

## National Housing Trust Fund

### 2016 Allocation Plan

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**STATE OF DELAWARE**  
**DELAWARE STATE HOUSING AUTHORITY**  
**NATIONAL HOUSING TRUST FUND ALLOCATION PLAN AND**  
**SUBSTANTIAL AMENDMENT TO THE 2015-2019 CONSOLIDATED PLAN**  
**AND ANNUAL ACTION PLAN**  
**2016**

**I. Introduction**

**A. Purpose**

The National Housing Trust Fund (NHTF) is a new affordable housing production program that will complement existing Federal, State, and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low-income (ELI) and very low-income households (VLI), including homeless families. This plan serves as a Substantial Amendment to Delaware State Housing Authority's (DSHA) 2015-2019 Consolidated Plan and 2016 Annual Action Plan.

**B. Background**

The NHTF was established under Title I of the Housing and Economic Recovery Act (HERA) of 2008, Section 1131 (Public Law 110-289). Section 1131 of HERA amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) to add a new section 1337, entitled "Affordable Housing Allocation" and a new section 1338 entitled "Housing Trust Fund."

The U.S. Department of Housing and Urban Development (HUD) published the proposed NHTF formula rule (FR-5246-P-01) on December 4, 2009, and the proposed program rule (FR-5246-P-02) on October 29, 2010. On January 30, 2015, HUD published an interim program rule (FR-5246-I-03). The interim rule provides the guidelines for states to implement the NHTF.

On April 26, 2016, HUD issued a notice (CPD-16-07) to provide guidance to NHTF grantees on Fiscal Year 2016 NHTF Allocation Plans. The Fiscal Year 2016 NHTF formula allocation amounts for NHTF were published on May 6, 2016.

HUD plans to issue a final rule for the NHTF after states have had experience administering the program and are able to offer comments regarding the initial implementation. The first year of the program is crucial in demonstrating states' ability to effectively use this new funding source.

**C. Program Design and Funding Source**

Funding for the NHTF comes from an assessment on loans made by Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae). The amount available for allocation is the amount set aside by Fannie Mae and Freddie Mac for the NHTF during their fiscal year (January 1-December 31). Allocations will be formula based,

but statute requires that each state receive a minimum allocation of \$3 million. If additional funds are available after each state and the District of Columbia (DC) receives the minimum allocation, Puerto Rico and each insular area will receive an allocation. However, if NHTF funds are insufficient to provide the minimum grant to each state and DC, HUD will publish a notice in the federal register for public comment, describing an alternative method for allocating grants. Any amounts that become available for reallocation (i.e. grant reductions, recaptured funds, etc.) shall be added to the amounts for formula allocation in the succeeding fiscal year.

As per the HUD published allocation amount, for Fiscal Year (federal) 2016, Delaware will receive \$3 million.

#### **D. Administration**

The NHTF for the State of Delaware is administered by DSHA. The mission of DSHA is to efficiently provide, and to assist others to provide, quality, affordable housing opportunities and appropriate supportive services to low- and moderate-income Delawareans. As prescribed in the interim rule, DSHA may use up to 10% of the NHTF grant and program income received to cover administrative and planning costs of the NHTF program.

As per 24 CFR §93.400, HUD will reduce or recapture funds in the NHTF Treasury account by the amount of any fiscal year grant funds that are not committed within 24 months after the date of HUD's execution of the NHTF grant agreement and any fiscal year grant funds in the NHTF local account that are not expended within five (5) years after the date of HUD's execution of the NHTF grant agreement.

#### **E. Citizen Participation**

Citizen participation for the NHTF Allocation Plan began in the spring of 2016 with a public information process that included a public meeting on March 22, 2016 at the Dover Public Library and a webinar on March 23, 2016. All comments received were incorporated in the development of the NHTF Allocation Plan.

The Draft Allocation Plan, and Substantial Amendment to the 2015-2019 Consolidated Plan and 2016 Annual Action Plan was made available for public comment from June 13 through July 18, 2016. The draft was posted on DSHA's website, as well as hard copies available at specific locations, at least one in each of Delaware's three counties. The public comment period was advertised in two statewide newspapers and extensively publicized via DSHA's website and mailing lists. During the public comment period, one public hearing was held on July 14, 2016. These events were held to provide a summary of the plan, answer questions, and receive comments on the draft from interested citizens.

## **II. Distribution of Funds**

Funds will be awarded to locally-driven projects that address the criteria outlined in this allocation plan, as well as the priority housing needs as identified in Delaware's Consolidated Plan. Distribution will be made consistently with DSHA's other affordable housing programs, including: Community Development Block Grant (CDBG) program, State Housing Development

Fund (HDF), HOME Investment Partnership Program (HOME), and the Low Income Housing Tax Credit (LIHTC) program. The distribution of annually allocated NHTF funds will be directly administered by DSHA through the application, approval, draw, construction, and monitoring processes in place for the State's HDF and LIHTC programs.

### III. Geographic Distribution

The Analysis of Impediments to Fair Housing Choice (AI) made several recommendations for policies to expand fair housing choice and break down historic patterns of segregation. For some residents of impacted neighborhoods, exercising fair housing choice means moving to another neighborhood that offers economic opportunity, proximity to their workplace, better schools, and/or a more safe and secure environment. Affirmative moves from impacted neighborhoods to areas of opportunity help to break down patterns of segregation. For other residents that live in impacted neighborhoods, exercising fair housing choice means revitalizing the community into a more attractive and safer place so that they may continue to live in their neighborhood and so that others will want to move into the neighborhood.

DSHA's geographic priorities were developed to 1) encourage new development and preservation of affordable housing, especially affordable rental housing, in areas of opportunity; and 2) target community development investments, particularly sustainable homeownership, in areas of concentration of low-income and/or minority households. These geographies and policies are consistent across the primary programs making funds available for these activities: CDBG, HOME, LIHTC, NHTF, and the Housing Development Fund. The map as it applies to DSHA multifamily housing financing, including the National Housing Trust Fund, via the Qualified Allocation Plan is available online at:

<http://delaware.maps.arcgis.com/apps/Viewer/index.html?appid=8bab9ecd370a413191573fe26491c2be> and Reference Guide describing the geographies at [http://destatehousing.com/Developers/lihtc/2016/2016\\_qap\\_map\\_guide.pdf](http://destatehousing.com/Developers/lihtc/2016/2016_qap_map_guide.pdf)

The geographies are based on Market Areas as identified in the Delaware Market Value Analysis and included in the *Delaware Housing Needs Assessment 2015-2010*, HUD data on Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs), and other sources as described in the Reference Guide. Areas are classified as Areas of Opportunity (where new affordable housing options should be supported); Stable (where a balance of market rate with subsidized housing should be supported) and Distressed (areas where development that furthers concentrated areas of poverty or minority populations should be limited and sustainable homeownership supported). New construction and rehabilitation of affordable rental housing in Areas of Opportunity is incentivized.

DSHA also promotes the use of the State Strategies for Policies and Spending by tailoring programs based on identified investment levels. Proposals for new construction or rehabilitation of affordable rental communities must be located in Investment Levels 1, 2, or 3. Level 4 areas are not targeted for growth or state investment in services and infrastructure.

## IV. Uses of Funds

### A. Forms of Assistance

DSHA may provide NHTF funds to developers or sponsors in the forms below:

1. Interest-bearing loans or advances;
2. Non-interest bearing loans or advances;
3. Deferred payment loans; and/or
4. Other forms of assistance approved by HUD.

### B. Allocations and Set-Aside

1. DSHA will reserve a minimum of 20% of Delaware's annual NHTF allocation for permanent supportive housing projects for chronically homeless persons with disabilities. Funding will be awarded through a request for proposal (RFP) process.

For 2016, the permanent supportive housing set-aside amount will be \$600,000.

2. DSHA will allocate the remainder of NHTF funds to affordable rental, multi-family projects in coordination with the HDF and LIHTC programs. HDF and NHTF may be awarded to permanent housing for special populations.

For 2016, the amount available to multi-family projects will be \$2,100,000.

3. Note: As per the HUD regulations, up to 10% of NHTF funds may be used for homeownership. However, for 2016, DSHA will not be utilizing NHTF for homeownership activities as there are currently various other homeownership products available through DSHA that offer greater flexibility to meet the current homeownership needs.

## V. Eligibility Criteria

Eligibility to apply for NHTF will be no more restrictive than required by NHTF regulations. Eligible applicants/recipients of NHTF funds may include nonprofit and for-profit developers and public housing agencies.

Recipients will be assessed on experience and capacity and any other criteria as applied by DSHA, which may include the following:

1. Recipients must make acceptable assurances to DSHA that they will comply with the requirements of the NHTF program during the entire period that begins upon selection of the recipient to receive NHTF funds, and ending upon the conclusion of all NHTF-funded activities.
2. Recipients must demonstrate their ability and financial capacity to undertake, comply, and manage the eligible activity.

3. Recipients must demonstrate their familiarity with the requirements of other federal, state, or local housing programs that may be used in conjunction with NHTF funds to ensure compliance with all applicable requirements and regulations of such programs.
4. Recipients must demonstrate their experience and capacity to conduct an eligible NHTF activity as evidenced by the ability to own, construct or rehabilitate, and manage and operate affordable multifamily rental housing development.

## **VI. Priorities**

Any proposed use of NHTF to further affordable housing activities for the economically disadvantaged and special population groups must be consistent with Delaware's Consolidated Plan.

As noted in the Consolidated Plan for 2015-2019, section SP-25 Priority Needs, affordable rental housing is Delaware's first priority need. The Delaware Housing Needs Assessment and HUD data identify a critical need to develop new affordable rental housing, preserve existing affordable rental housing, and extend affordability restrictions. The Housing Needs Assessment identified affordable rental housing as a critical need for Extremely Low and Low Income populations throughout the state.

Section SP-25 Priority Needs of the Consolidated Plan also cites Permanent Supportive Housing as a high priority need in Delaware. Additional Supportive Housing is needed for persons with Mental, Physical, and Developmental Disabilities, Persons with Alcohol or Other Addictions, and Persons with HIV/AIDS and their families.

As described under III. Geographic Distribution, DSHA has identified geographic areas for targeting different types of housing investments. As the NHTF will be used for rental housing, these maps as they apply to rental housing will apply to the NHTF. The new construction and rehabilitation of affordable rental housing is incentivized in Areas of Opportunity, neutral in Stable areas, and further concentration of subsidized rental housing is not encouraged in distressed areas.

## **VII. Eligible Costs**

### **A. Eligible Project Costs (may include):**

1. Development hard costs;
2. Acquisition costs;
3. Related soft costs;
4. Operating cost assistance and operating cost assistance reserves (less than or equal to one-third of the annual grant amount); and
5. Relocation costs.

**B. Operating Cost Assistance and Reserves**

NHTF may be used to pay for operating cost assistance and operating cost assistance reserves for rental housing that is acquired, rehabilitated, reconstructed, or newly constructed with NHTF funds. DSHA may provide up to one-third (33%) of each annual allocation for operating assistance and operating cost assistance reserves. For 2016, a maximum of \$990,000 can be used for this purpose.

The following conditions will apply to Operating Cost Assistance and Reserves:

1. Eligible costs include insurance, utilities, real property taxes, maintenance, and scheduled payments to a reserve for replacement of major systems.
2. Eligible costs must be calculated using the method described in this section.
3. Operating cost assistance must be based on the underwriting of the project and must be specified in the written agreement between DSHA and the recipient.
4. For reserves funded with non-NHTF funds, the assistance must be calculated using HUD methodology and the reserve may be funded for the amount estimated to be necessary for the entire period of affordability at the time of executing the written agreement.
5. For reserves funded with NHTF funds, the assistance must be calculated using HUD methodology and for each grant, assistance is limited to the amount necessary for a period of up to five years.
6. Funding for operating cost assistance may be provided in addition to funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months).

**VIII. Subsidy Limits**

The maximum per-unit subsidy limits for NHTF will be set at the Section 234 Basic Mortgage Limits established by HUD and also utilized under the HOME Program.

Effective 12/01/2015, the following limits apply:

<u>0 Bedroom</u>	<u>1 Bedroom</u>	<u>2 Bedroom</u>	<u>3 Bedroom</u>	<u>4 Bedroom</u>
\$140,107	\$160,615	\$195,305	\$252,662	\$277,344

**IX. Periods of Affordability**

NHTF-assisted units must meet the affordability requirements for a period of not less than 30 years, which begins at project completion. DSHA may impose longer periods of affordability.

**X. Income Targeting**

NHTF income targeting requirements will be based on the annual amount of NHTF funds available.

1. In any fiscal years in which the total NHTF funds available are less than \$1 billion, all states must target 100% of the NHTF funds for the benefit of ELI families or families with incomes at or below the poverty line, whichever is greater.
2. When the total NHTF funds available are equal to or exceed \$1 billion, the states must use at least 75% of the NHTF funds for the benefit of ELI families or families with incomes at or below the poverty level, whichever is greater.
3. Any grant funds not used to serve ELI families must be used for the benefit of VLI families.
4. Further income targeting may be required under DSHA's LIHTC, HOME and HDF programs.

For 2016, NHTF funds available are estimated to equal or exceed \$1 billion, therefore 75% of the NHTF funds must be used for the benefit of ELI families or families with incomes at or below the poverty level, whichever is greater.

## **XI. Performance Goals and Benchmarks**

This method of distribution will support Delaware's Consolidated Plan goals to create additional affordable housing units. It is estimated that NHTF funds will assist approximately 1-2 supportive housing projects (approximately 10 units); approximately 1-2 LIHTC or HDF multifamily projects (approximately 20 units); and 1-2 group homes or housing for special populations (approximately 5 units)

## **XII. Additional Requirements and Conditions**

### **A. HUD Regulations**

This plan is subject to change upon additional regulations and/or guidance from HUD.

### **B. Subsidy Layering Review**

All NHTF projects will be subject to a subsidy layering review administered by DSHA. Prior to the commitment of NHTF funds to a project, DSHA will evaluate the project and will not invest any more NHTF funds in combination with other federal assistance than is necessary to provide affordable housing.

### **C. Underwriting**

All projects will be subject to DSHA's underwriting criteria (found in the Qualified Allocation Plan (QAP) and HDF Supplement).

### **D. Site and Neighborhood Standards**

HUD has adopted 24 CFR § 93.150 (see below), with an updated cross-reference to the applicable standard for new construction projects at 24 CFR 983.57(e). As with the HOME program, HUD is not applying site and neighborhood standards to rehabilitation projects

under NHTF. However, if project-based vouchers are used in an NHTF rehabilitation unit, the site and neighborhood standards for project based vouchers will apply. In addition, the requirements of 24 CFR part 8 (which implemented section 504 of the Rehabilitation Act of 1973) apply to the NHTF, and specifically address the site selection with respect to accessibility for persons with disabilities.

24 CFR § 93.150 Site and neighborhood standards.

- (a) General. A grantee must administer its NHTF program in a manner that provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601 et seq., E.O. 11063, 3 CFR, 1959-1963 Comp. p. 652) and HUD regulations issued pursuant thereto; and promotes greater choice of housing opportunities.
- (b) New rental housing. In carrying out the site and neighborhood requirements with respect to new construction of rental housing, a grantee is responsible for making the determination that proposed sites for new construction meet the requirements of 24 CFR 983.57 (e) (2).

#### **E. Minimum Construction/Rehabilitation Standards**

DSHA's minimum construction/rehabilitation standards will apply to all NHTF projects. Each recipient will be responsible for complying with DSHA's minimum construction and rehabilitation standards along with all rules, ordinances, and laws (which may include disaster mitigation standards) of all legal entities and authorities having jurisdiction over the project, and the construction and/or alteration of the project, whether or not such requirements are specifically addressed in the plans and specifications or by DSHA's review.

For projects that will be rehabilitated, at a minimum the HUD's Rehabilitation Standards - § 91.320(k)(5)(iv) and § 93.301(b) will apply. However, where DSHA's minimum construction/rehabilitation standards exceed the HUD standards, the most stringent standard will apply.

#### **F. Environmental Review**

All new construction, acquisition or acquisition rehabilitation activities must meet the applicable environmental requirements specified in 24 CFR 93.301(f) for historic preservation, archaeological resources, farmland, airport zones, Coastal Barrier Resource System, coastal zone management, floodplains, wetlands, explosives and hazards, contamination, noise, endangered species, wild and scenic rivers, safe drinking water, and sole source aquifers.

Note: NHTF is not subject to 24 CFR part 58, but in the administration of NHTF, HUD is required to comply with the National Environmental Protection Act. Therefore, the interim rule establishes environmental review standards for NHTF which are included in the property standards section. These standards are substantively the same, or very similar to the

requirements of 24 CFR part 58. HUD expects to issue guidance on the implementation of these standards.

#### **G. Uniform Relocation Act**

All NHTF financed projects must follow all federal Uniform Relocation Act regulations as applicable and DSHA's Relocation Policy. Relocation assistance must be included as part of construction costs. DSHA must approve all relocation plans and correspondence to residents.

#### **H. Accessibility (Section 504, etc.)**

All NHTF projects are required by law to meet the handicap accessibility standards outlined in the Americans with Disabilities Act (ADA). The law provides that failure to design and construct certain public accommodations to include certain features of accessible design will be regarded as unlawful discrimination.

Section 504 of the Rehabilitation Act of 1973 states: No otherwise qualified individual with a disability in the United States shall solely by reason of her or his disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. (29 U.S.C. 794). This means that Section 504 prohibits discrimination on the basis of disability in any program or activity that receives financial assistance from any federal agency, including HUD, as well as in programs conducted by federal agencies, including HUD.

#### **I. Lead-Based Paint**

Projects assisted with NHTF funds are subject to the regulations at 24 CFR part 35, subparts A, B, J, K, and R.

#### **J. Section 3**

Documentation must be provided of actions undertaken to meet the requirements of 24 CFR part 135, which implements Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

#### **K. Minority, Women and Veteran Business Enterprises Outreach Program (MBE/WBE/VBE)**

It is the policy of DSHA to ensure the inclusion, to the maximum extent possible, of minorities, women, and/or veterans, including without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by DSHA with such persons or entities, public and private, in order to facilitate

the activities of DSHA to provide affordable housing authorized under the National Affordable Housing Act or any other federal housing law applicable to DSHA.

#### **L. Affirmative Marketing and Fair Housing**

The federal requirements set forth in 24 CFR §93.350 will apply to participants in the NHTF program. The requirements include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended, or ineligible contractor; and drug-free workplace.

For all NHTF projects, an Affirmative Fair Housing Marketing Plan must be reviewed and approved by either DSHA or HUD. This plan must be updated every 5 years.

All NHTF applicants must comply with the provisions of any federal, state or local law prohibiting discrimination in housing on the grounds of race, color, sex, creed, handicap/disability and familial status, sexual orientation, or national origin, including but not limited to: Title VI of the Civil Rights Act of 1964 (Public Law 88 352, 78 Stat. 241), all requirements imposed by or pursuant to the Regulations of HUD 24 CFR Subtitle A, Part 100 issued pursuant to that title; regulations issued pursuant to Executive Order 11063, and Title VII of the 1968 Civil Rights Act, as amended by the Fair Housing Amendment Act (Public Law 100-430)

#### **XIII. DSHA Reporting Requirements**

As the administrator of NHTF, DSHA will be required to meet all applicable record-keeping and reporting requirements as outlined in 24 CFR §93.407.

Performance of the NHTF in Delaware will be tracked annually through DSHA's Consolidated Annual Performance and Evaluation Report (CAPER), which is submitted annually to HUD, and the DSHA Annual Assistance Report (DAPR), which is submitted to the Governor and State Leadership.

#### **XIV. Applicable Fees**

DSHA will charge a \$1,250 application fee for NHTF funds. Waiver requests may be considered for special populations.

#### **XV. Application Selection and Screening**

Application for NHTF for multi-family projects shall be made through the application and approval process in place for the HDF and/or LIHTC programs. The following items will be taken into consideration by DSHA staff when determining the merits of an application for NHTF funds:

1. Organization and development team's past performance and current capacity.
2. Demonstrated need for the project.
3. Suitability of the project location.

4. Cost efficiency of the project.
5. Amount of loan per unit serving extremely low and very low-/low-income persons:
  - a. Applications serving extremely low income families will be given priority to the extent possible to comply with statutory requirements.
  - b. Applications serving very low income families will be considered only if allowed by statutory requirements. Such determination will be announced prior to any announcement of funding opportunity.
6. Length of payback period.
7. Position of loan and how it is secured/length of repayment.
8. Source(s) of permanent financing (if appropriate).
9. Percentage of total project cost funded by NHTF/DSHA.
10. Cash and non-cash equity participation of developer.
11. Evidence that alternate sources of financing have been utilized and/or exhausted.
12. Evidence that housing will be provided in neighborhoods where there is little very low-income housing available.
13. Extent to which the proposal will assist in revitalization of deteriorating neighborhood.
14. Extent to which any current DSHA loans to the applicant or affiliated parties are in good standing.

Upon application review by DSHA staff, a panel consisting of members of DSHA's Housing Development Section, Policy and Planning Section, and any other DSHA employees with applicable experience will convene. Members of the Council on Housing will also be invited to participate. The panel will discuss each application received and its preliminary ranking. A consensus of all members present will determine the final ranking of the applications, along with funding level recommendations. Applications recommended for funding will be presented to the Director of DSHA for final approval.