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Paula Weber
Compliance Officer
Maine State Housing Authority
<mailto:PWeber@mainehousing.org>

Re: Comments on the National Housing Trust Fund Draft Allocation Plan for 2016

Dear Ms. Weber:

I am submitting these comments on behalf of Maine Equal Justice Partners (MEJP). MEJP is a civil legal services organization and we work with and for people with low income seeking solutions to poverty through policy, education and legal representation.

Housing insecurity is an urgent and growing problem in Maine. As you and your colleagues at MSHA are acutely aware, the need for safe and affordable housing far outweighs the supply, which is why the work you do is so critically important for so many.

Not surprisingly, people with extremely low income feel the brunt of the affordable housing crisis. For this reason we were pleased to learn that the National Housing Trust Fund (HTF) requires that its funds are used to serve this particular population. Though limited, these funds are critically important and represent an exciting new opportunity for the State.

There is much we appreciate about MSHA's draft allocation plan for the HTF, but it also raises several concerns for us that we outline in our comments.

We appreciate the plan's clarity as well as the process and opportunity to provide input. We value the apparent flexibility within the plan that would allow for different kinds of applications for funding. This flexibility lends itself to a variety of different kinds of projects to help meet the diverse needs of extremely low income households in Maine. It is important that the needs of various populations are considered and addressed, including, but not limited to, supportive housing for veterans and homeless people as well as affordable units for extremely low income families and individuals who do not need housing support services, but who are one missed rent check away from becoming homeless.

We also appreciate the decision to give “additional scoring points” to applicants who commit to building in high opportunity areas to ensure that those who benefit from this program will not have to live in segregated areas without access to services or economic opportunities.

We were pleased to see the recent change to the plan, which increased the minimum period of affordability to 45 years and we support that decision. Most importantly, we support Maine Housing’s plan to make these units truly affordable to people by setting the rents at 30% of household income.

As stated above, we do have several concerns with the plan:

1. **MSHA’s goal of 15-20 units is far too small.** Given the amount of trust fund money that will be available after administrative costs - \$2.7 million - and given the great level of need for more affordable units, we are concerned that Maine Housing’s goal of creating 15-20 units is far too small. For 15 units, the average subsidy per unit would be \$180,000. For 20 units, the average subsidy would be \$135,000 per unit. We understand that there are ways to significantly leverage the trust fund dollars to help fund more units and urge you to explore these opportunities. For example, combining the trust fund dollars with the Low Income Housing Tax Credit (LIHTC) could stretch these funds further. Our understanding is that recent LIHTC supported projects in Maine have required as little as \$29,000 in per unit subsidies. At that rate, the HTF could help fund the creation of 93 new units. Although the draft allocation plan does give some priority to projects that can leverage non-federal funds, it remains unclear what those funds may be.

For these reasons, we strongly recommend that MSHA change the allocation plan to prioritize applicants that plan to use LIHTC. Maine Housing is allowed to make this change under the NHTF law. In fact, HUD has indicated that it expects HTF funds to be used in combination with LIHTC. From their interim rule:ⁱ

- “HUD expects that HTF funds will be combined with other sources of private funding and financing typically used for the development of affordable housing, such as LIHTCs.”
- “In order to allow maximum flexibility when combining and coordinating the HTF with other Federal funding sources, HUD streamlined the HTF requirements and aligned them with other Federal programs (e.g., HOME, LIHTC, Federal Housing Administration (FHA), Public Housing, and other HUD programs) to the greatest extent possible, given statutory constraints and policy decisions by HUD. “

And from HUD’s proposed rule:ⁱⁱ

- “Department expects that HTF funds will be combined with the other sources of private funding and financing typically used for the development of affordable housing, such as Low-Income Housing Tax Credits (LIHTCs).”

These are just a few examples of references HUD has made regarding the agency’s expectation for HTF funds to be combined with other Federal programs including LIHTC.

We are not recommending that all of the money be used with LIHTC projects, but instead for MSHA to consider and take full advantage of all opportunities to maximize the HTF and create more affordable housing for people who desperately need it. Language in the current draft plan suggests that Maine Housing plans to do the opposite, and to only pair funds with LIHTC projects as a last resort.

2. **It is unclear whether or not the current plan constitutes an efficient use of Section 8 and HTF resources.** As previously mentioned, we fully support MSHA's plan to limit HTF units rental cost to no more than 30 percent of household income. However we do have concerns about how MSHA plans to achieve this objective. By using project based Section 8 vouchers, MSHA will be tapping into an already limited resource that would make housing affordable with or without money from the HTF. Therefore, it is not clear how the HTF will be contributing to the affordability of these units or how it will be adding to the supply of affordable units in the state.

Under this plan it appears that landlords of these units will be allowed to charge MSHA's current Section 8 payment standards, therefore receiving rents at about 90-110% Fair Market Rent. This seems like a windfall to the landlord that will do little to benefit renters with extremely low income who will pay the same amount in rent, with or without the HTF. If a building owner is able to build units with mostly grant money that includes HTF money, they will have little to no debt to pay and therefore low operating costs. In this circumstance, a landlord should not be able to charge the regular payment standards associated with Section 8. A landlord who has paid virtually nothing to build new units should not then be able to charge 90-110% Fair Market Rent. This would be an extremely inefficient use of both the trust fund money and Section 8 dollars – both of which are incredibly scarce. **For these reasons we strongly recommend that you set reasonable rent standards based on the landlord's operating costs, which should be much lower than MSHA's current Section 8 payment standards thanks to the funding owners will receive through the HTF.**

3. **Period of affordability could be further strengthened.** Maine Housing's current plan is to require a minimum of 45 years of affordability for HTF funded units. Again, we are pleased to see that this was changed from 30 years in the original draft. We recommend that MSHA go one step further. As much as we would like this to be true, we believe that the need for affordable housing for extremely low income people will continue 45 years from now. In fact, it is common that when affordable housing developments reach the end of their periods of affordability, low income tenants lose their homes and are replaced with new, higher income tenants who are able to pay market rates. **We believe that it would be a bold and appropriate decision for Maine Housing to require that these units be affordable in perpetuity.** Vermont's draft Allocation Plan for the HTF sets as a "threshold" criterion that applicants commit to keeping the units "perpetually affordable."ⁱⁱⁱ **If permanent affordability is not possible for any reason, then we strongly recommend providing additional scoring points to applicants who are willing to commit to 50 years of affordability or more.**

4. **The plan omits relevant details.** While the draft allocation plan lists aspects of the selection criteria MSHA plans to use for rewarding HTF money, there are important details missing. For

instance, the plan does not indicate how many “scoring points” each criterion would receive. Similarly, it refers to certain criteria that would earn “additional scoring points.” We urge MSHA to provide more details on how many points each criterion would receive and about the overall point scoring system in general. For instance, will applications be graded on a 100 point scale? We understand that these details will likely be revealed once the Request for Proposals is issued, but at that point, the public will no longer have an opportunity to comment and weigh in on these details, which may significantly shape the outcome of the program.

5. **Recommendations regarding listed application priorities.** Page four of the draft allocation plan lists certain application criteria in order of priority. We recommend the following changes:
- **Priorities 1, 5 and 7.** MSHA should consider these as threshold requirements and not list them as priorities to be included in the point scoring system since any applicant must meet these criteria in order to be eligible for HTF funds.
 - **Priority 6.** The description of MSHA’s Consolidated Plan priorities is very generic and the plan would benefit from more details related to these priorities. For instance, MSHA could identify concrete goals related to each of the Con Plan priorities listed. In particular, it would be beneficial to see specific goals related to expanding the supply of affordable housing. **We recommend that MSHA include an explicit target for housing people in Maine living at 15% or less of AMI.**
 - **Priority 7.** As stated above, we recommend providing incentive to go beyond the required minimum period of affordability. If this change is made, then we recommend giving this criteria higher priority as opposed to its current position near the bottom of the list.
 - **Priority 8.** As stated above, we question whether this is an efficient use of both Section 8 and HTF resources and whether this will result in the creation of additional affordable units to the State. **We urge MSHA to ensure that the increase in the total number of units that are affordable to people with extremely low income be the highest priority for deciding who receives HTF funds.**

Thank you for the thought and work you have put into your plan and for the opportunity to provide input. We hope that you will consider our recommendations in order to maximize the impact of this new and desperately needed resource.

Respectfully,

Joby Thoyalil

Policy Analyst
Maine Equal Justice Partners

ⁱ <https://www.gpo.gov/fdsys/pkg/FR-2015-01-30/pdf/2015-01642.pdf>

ⁱⁱ <https://www.gpo.gov/fdsys/pkg/FR-2010-10-29/pdf/2010-27069.pdf>

ⁱⁱⁱ http://nlihc.org/sites/default/files/nhtf/vt/Vermont_2016_NHTF_Allocation_Plan_Draft.pdf