

National Housing Trust Fund

Notice of Funding Availability (NOFA)

Introduction and Background

The National Housing Trust Fund (NHTF) was established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131. In December 2014, the Federal Housing Finance Agency directed Fannie Mae and Freddie Mac to set aside and allocate funds to the NHTF. On January 30, 2015, the U.S. Department of Housing and Urban Development (HUD) published an interim rule (24 CFR Parts 91 and 93) providing guidelines for states to implement the NHTF. Each state's allocation was published on May 4, 2016, and New Mexico received an allocation of \$3 million. New Mexico Mortgage Finance Authority (MFA) will distribute these funds in accordance with 24 CFR Parts 91 and 93.

MFA is a governmental instrumentality separate and apart from the state, created by the New Mexico Mortgage Finance Authority Act for the purpose of financing affordable housing for low- and moderate-income New Mexico residents. The state of New Mexico designated MFA as the administrator of the state's NHTF program. Ten percent of MFA's allocation and of future program income will be used for eligible administrative and planning costs, in accordance with 24 CFR 93.202. MFA will distribute the remaining NHTF funds directly to recipients; no funds will be distributed to sub-grantees. Funds will be distributed in the form of forgivable loans, in accordance with the guidelines set forth in this NOFA, as well as priority housing needs identified in the state's Consolidated Plan.

The purpose of the NHTF is to provide 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 households whose incomes do not exceed the greater of 30% of Area Median Income (AMI) or the federal poverty line (hereinafter collectively defined as Extremely Low Income or "ELI" households). One hundred percent of rental units funded by NHTF will be occupied by ELI households.

Contact Person

Applicants are encouraged to direct questions regarding the New Mexico Housing Trust Fund Notice of Funding Availability (NOFA) and Funding Application Guidelines to:

Jacobo Martinez
New Mexico Mortgage Finance Authority
344 Fourth Street SW
Albuquerque, NM 87102
Phone: (505)767-2285 or toll-free statewide (800) 444-6880
E-mail: jmartinez@housingnm.org

TTY/Voice: 711, or if no answer, 1-800-659-8331 (English) OR 1-800-327-1857 (Spanish)

Application Submission

Subject to fund availability, final funding decisions will be made by MFA's Board of Directors. MFA will hold an initial funding round for which applications must be received and date-stamped at MFA's office no later than 5 p.m. on October 16, 2017. All applications received by this deadline will be evaluated concurrently. If sufficient funds are not available to fund all applications that meet the requirements outlined in this NOFA, the application receiving the highest score will be recommended to the MFA Board of Directors for approval, followed by the next highest scoring application, etc., until the remaining funds are no longer sufficient to fulfill the next highest scoring application's requested loan amount.

If funds remain following the initial funding round, MFA will post an announcement on its website stating the amount of funds still available to be awarded. Thereafter, applications must be received no later than 60 days prior to a regularly scheduled meeting of the MFA Board of Directors in order to be considered at that meeting. Meetings of the MFA Board of Directors are generally held every third Wednesday of the month. All applications submitted by the deadline for a particular meeting of the MFA Board of Directors will be treated as one funding round and evaluated concurrently. If sufficient funds are not available to fund all projects in a funding round that meets the requirements outlined in this NOFA, the project receiving the highest score will be recommended to the Board for approval, followed by the next highest scoring project, etc. until the remaining funds are no longer sufficient to fulfill the next highest scoring project's requested loan amount.

Application forms will be provided electronically and may be downloaded from MFA's website at <http://www.housingnm.org/developers>.

Eligible Applicants

Eligible recipients include nonprofit entities, for-profit entities, public housing agencies, and tribally designated housing entities. Participating recipients must be approved by MFA and must have demonstrated experience and capacity to conduct eligible activities that meet the requirements of 24 CFR 93.200. To be eligible to receive NHTF assistance:

- Applicant must not currently be suspended, debarred or otherwise restricted by any department or agency of the federal government or state government from doing business with such department or agency because of misconduct or alleged misconduct.
- Applicant and all members of the development team (developer, general partner, contractor, management company, consultant(s), architect, attorney, and accountant, etc.) of the proposed project must be in good standing with MFA and all other state and federal affordable housing agencies or departments. For example, debarment from HUD, MFA, or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed projects (for example, late payments within the 18-month period prior to the application deadline, misuse of reserves and/or other project funds, default, fair housing violations, non-compliance (e.g. with the terms of Land Use Restriction Agreements on other projects), or failure to meet development deadlines or documentation requirements) on the part of any proposed development team member or project owner or other principal may result in rejection of an application by MFA.

- If applicant has an audited financial statement, the following types of audit findings may disqualify applicant from funding:
 - Repeat of unresolved audit findings, as determined by MFA;
 - If applicant has received greater than \$750,000 in federal funds in the fiscal year ending in 2016 and its single audit did not meet the requirements of 2 CFR 200 Subpart F;
 - For any such single audit, no proof of Federal Audit Clearinghouse submission (FOR SF-SAC);
 - If referenced in audit as a separate communication, no submission of management, response letter and management response to concerns noted in the management letter; and
 - If any findings, no submission of management response to findings.

Eligible Activities

Eligible activities include the production, preservation and rehabilitation of affordable rental housing units for ELI households. The use of funds for new construction or rehabilitation of public housing must remain within 24 CFR 93.203 guidelines. Projects may include, but are not limited to, permanent rental housing for individuals or households experiencing homelessness, Single Room Occupancy (SRO) projects, senior projects and other special needs projects. Dormitories and transient housing (e.g. emergency shelters for homeless households) are ineligible. Given the high need for rental housing among ELI households, MFA will not fund any homebuyer activities.

MFA may, at its discretion, use NHTF funds for refinancing only when needed in order to permit or continue affordability of rental units when (1) rehabilitation is the primary activity, (2) the use of NHTF funds is proportional to the number of NHTF-assisted units in the project, and (3) the rehabilitation cost attributable to the NHTF units is greater than the amount of debt to be refinanced that is attributed to the NHTF units. MFA's minimum affordability period and underwriting standards for an initial investment of NHTF funds would apply, which include: adequacy of management and owner, feasibility of project to meet operational and debt service requirements, consistency with the market, and review of total development costs and sources available to meet these needs.

Eligible costs are the following: development hard costs, refinancing costs, acquisition costs, related soft costs and relocation costs as defined in 24 CFR 93.201. Up to 10 percent of MFA's allocation and of future program income will be used for eligible administrative and planning costs, in accordance with 24 CFR 93.202. For NHTF-assisted units for which project-based assistance is not available, when necessary and subject to the limitations in 24 CFR 93.200 (a) and in accordance with the requirements found in 24 CFR 93.201 (e), NHTF funds may be available to pay for operating cost assistance and operating cost assistance reserves.

Beneficiary Income Limits and Rent Restrictions

Beneficiaries or occupants of units financed by the NHTF must have incomes at or the NHTF income limits published by HUD, which the applicant shall be required to verify. Rents may not exceed the NHTF rent limits published by HUD.

Affordability Period

The minimum affordability period for NHTF-assisted units is 30 years, as set forth in 24 CFR 93.302(d).

Projects will be subject to an annual Compliance Monitoring Fee of \$45.00 per NHTF unit, paid annually in advance, which must be reflected in the project's operating budget. MFA may establish a minimum annual Compliance Monitoring Fee that is based on the number of NHTF units in the project. This fee may be waived if required under another MFA funding source, as it is MFA's intent to collect one fee per NHTF unit.

Limitation on Beneficiaries or Preferences

Preferences defined in this NOFA may not violate nondiscrimination requirements in the NHTF interim rule at 24 CFR 93.350. Projects may not limit occupancy to or provide preference to students. For NHTF-funded units, owners of NHTF-assisted projects are permitted to limit occupancy to or provide preference to the following populations:

- Households or individuals experiencing homelessness;
- Individuals with disabilities;
- Individuals with severe mental illnesses;
- Individuals with alcohol or other addictions;
- Individuals with HIV/AIDS;
- Victims of domestic violence;
- Senior Housing;
- Veterans;
- Individuals on public housing waiting lists;
- Youth transitioning out of foster care; and
- Ex-offenders.

See the Definitions section at the end of this NOFA. At the applicant's request, MFA may consider alternative definitions on a case-by-case basis.

While not required to limit occupancy or provide preferences to the populations described above, owners of NHTF-assisted projects who do must do so in accordance with 24 CFR 93.303(d). The intent is merely to allow owners of NHTF-assisted projects to limit occupancy to or provide preference to populations identified within this section as well as the priority housing needs identified in the NM Consolidated Plan.

Any limitation or preference must not violate nondiscrimination requirements. Federal fair housing requirements, including the duty to affirmatively further fair housing, are applicable to the NHTF program. A limitation does not violate nondiscrimination requirements if the project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g. Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).

Environmental Requirements

New construction and rehabilitation projects funded with NHTF must be assessed in accordance with the NHTF Environmental Provisions described in 24 CFR 93.301(f)(1) and (2) as well as HUD Notice CPD-16-14, "Requirements for Housing Trust Fund Environmental Provisions." Copies of all NHTF Environmental Provisions are posted on MFA website for review at <http://housingnm.org/developers/national-housing-trust-fund-environmental-review>.

Other Federal Requirements

All projects must meet the affirmative marketing, lead-based paint, relocation, conflict of interest, and other federal requirements described in 24 CFR Section 93 Subpart H.

Property Standards

All projects must meet the standards described in 24 CFR 93.301. All rehabilitation projects must meet the requirements found in Attachment A: National Housing Trust Fund Rehabilitation Standards.

In addition, all projects must meet the requirements described in the MFA Mandatory Design Standards for Multifamily Housing in effect at the time of application.

Funding Limits and Restrictions

Awards of NHTF funds are contingent on sufficient appropriations and authorization being made by HUD and the state of New Mexico and are further subject to applicable law. If these are not available, any loan or other agreement between MFA and any successful, eligible applicant shall terminate upon written notice being given by MFA to the applicant. MFA's decision as to whether sufficient appropriations are available or whether NHTF assistance may be awarded subject to applicable law shall be accepted by any applicant and shall be final.

Awards of NHTF funds to projects that receive 9% low-income housing tax credits are limited to \$400,000 per project. Awards of NHTF funds to all other projects are limited only by the maximum per-unit subsidy limits below and by MFA's underwriting guidelines. Projects that will include accommodations for individuals with disabilities are likely to have higher development costs. Projects will be evaluated separately for cost-efficiency.

Maximum Per-Unit Subsidy Limits - To allow maximum flexibility, the maximum per-unit subsidy limits for NHTF will be set at HUD's applicable limits for the HOME Program effective at the time of commitment of NHTF funds. The current limits are as follows:

	Per-Unit Subsidy Limit
Bedrooms	as of May 2017
0	\$126,392
1	\$144,891
2	\$176,186
3	\$227,928
4+	\$250,193

Developer and Consultant Fees - Developer fees, inclusive of consultant fees, are limited to the following percentages of acquisition and site improvements, hard construction costs, professional fees, financing costs, and soft costs, unless further restricted by other funding sources. Exceptions will be allowed in the case of Low Income Housing Tax Credit (LIHTC) projects, in which developer and consultant fees are subject to the limits set forth in the applicable LIHTC Qualified Allocation Plan issued by MFA.

Small project (five or fewer units):	15%
Standard project (six or more units):	12%

Builder Fees - “Builder Fees” generally cover builder overhead, profit and general requirements and are limited to 14 percent of site improvements and hard construction costs, unless further restricted by other funding sources.

Project Readiness Standards

MFA intends to make NHTF awards only to projects that are significantly ready to proceed. At the time of application, the project must have all required zoning in place and the applicant should have all significant environmental issues identified with a plan to address such issues. Preference will be given to projects that have all funding commitments, other than MFA resources, in place. The applicant must be able to represent to MFA that there are no unusual circumstances that would delay a loan closing.

Funding Terms and Conditions

All awards will be subject to the availability of funds and applicable laws and regulations. MFA will allocate only the minimum amount of funds that it determines to be necessary for the financial feasibility of a project and its viability throughout the affordability period. Principles of sound underwriting and risk management will be applied when reviewing all applications.

NHTF financing that will be used as a financing resource in a property also allocating LIHTC will be in the form of non-interest-bearing cash flow loans (applicants seeking credits will need to ensure that the proposed loan meets IRS requirements to be included in eligible basis).

NHTF financing that will be used as a financing resource in a property that will **not** use LIHTC will be in the form of a non-interest bearing “compliance loan.” If all of the regulatory and contractual requirements are completed, the loan will be forgiven at the end of the NHTF Period of Affordability, and MFA’s secured interest released. MFA would have the right to foreclose on the security deed in the event of a determination of nonperformance or substantial noncompliance with the NHTF program requirements.

Loans will be secured by mortgages and/or other appropriate liens. Land Use Restriction Agreements (LURAs) will be required for all loans. LURAs will remain in place throughout the required affordability period (30 years) regardless of the status of the loan or changes in ownership, unless equal or more restrictive restrictions are in place from other funding sources or are imposed through permanent affordability mechanisms such as deed restrictions or land trusts.

Evaluation of Applications and Documentation

MFA staff will evaluate applications submitted based on the following Scoring Criteria and all required documentation as outlined in the 2017 Universal Rental Development Application. Staff may contact applicants for clarification of information provided. In the event of a tie score, staff will recommend approval based on financial need and applications that are deemed to be most advantageous to achieving the goals of the NHTF.

Scoring Criteria

All projects must meet the following threshold criteria:

- NHTF-assisted units must provide permanent rental housing for ELI households;
- NHTF-assisted units must remain affordable to ELI households for at least 30 years;
- The applicant must certify that NHTF-assisted units will comply with all NHTF requirements;
- The project must be financially feasible;
- NHTF-assisted rehabilitation projects must comply with the rehabilitation standards found in Attachment A: National Housing Trust Fund Rehabilitation Standards; and
- The project must include at least four (4) rental units.

	Scoring Criteria	Points
	Geographic diversity <i>No other Low Income Housing Tax Credit, public housing, or federally-subsidized housing projects within:</i> <ul style="list-style-type: none"> • $\frac{1}{4}$ mile radius = 3 points • $\frac{1}{2}$ mile radius = 5 points 	3 or 5
	Duration of the affordability period beyond the required 30 years <i>Projects committed to an additional five or more years</i>	5
	Energy efficiency <i>Projects achieving a HERS rating lower than 75 for rehabilitation projects and 65 for new construction projects</i>	5
	Organization type <i>Developer/general partner is a New Mexico nonprofit organization, a Tribal Designated Housing Entity (TDHE), or a public housing authority</i>	5
	Absence of project-based rental assistance <i>Projects without project-based rental assistance or projects that have or will have project-based rental assistance covering less than or equal to 25% of the total units</i>	5
	Transit-oriented development <i>Projects within 1/2-mile radius of public transportation Public transportation must be established and provided on a fixed route with scheduled service. Alternative forms of transportation may be acceptable, provided sufficient documentation is submitted that establishes the alternative form of transportation is acceptable to MFA. A future promise to provide service does not satisfy this scoring criterion.</i>	10
	Rural location <i>Projects located in cities with populations of 50,000 or less (per latest U.S. Census)</i>	10

	<p>Creation of new units serving ELI households, through new construction, adaptive reuse or conversion of market-rate units</p> <p>Examples:</p> <ul style="list-style-type: none"> • New construction of 4 new units (minimum project size) consisting of 3 market rate units and 1 ELI unit = 1 point • Adaptive reuse of a hotel into 30 units consisting of 10 market rate units, 10 units at 50% AMI, and 10 ELI units = 10 points <p><i>Each new ELI unit = 1 points (Capped at 10 points)</i></p>	Up to 10
	<p>Applicant’s ability to obligate NHTF funds and undertake eligible activities in a timely manner</p> <p><i>Projects that have</i></p> <p><i>(1) evidence of site control =5 points</i></p> <p><i>(2) evidence that the current zoning of the proposed site does not prohibit multifamily housing = 5 points</i></p> <p><i>(3) evidence of all other non-MFA funding sources</i></p> <p><i>a.) letters of interest from all other non-MFA funding = 5 points</i></p> <p><i>b.) commitment letters from all other non-MFA funding sources = 10 points</i></p>	Up to 20
	<p>Use of state, local and private funding sources</p> <p><i>Projects that have funding sources outside of federal funding sources, low-income housing tax credits, bond financing, and MFA funding sources, as follows:</i></p> <p><i>10% of NHTF funds requested = 4 points</i></p> <p><i>20% of NHTF funds requested = 8 points</i></p> <p><i>30% of NHTF funds requested = 12 points</i></p> <p><i>40% of NHTF funds requested = 16 points</i></p> <p><i>50% of NHTF funds requested = 20 points</i></p>	Up to 20
	<p>Extent to which the project meets any of the following priority housing needs identified in the NM Consolidated Plan: housing for the elderly and frail elderly, housing for persons with severe mental illness, housing for persons with disabilities, housing for persons with alcohol or other addictions, housing for persons with HIV/AIDS, housing for victims of domestic violence, housing for individuals or households experiencing homelessness, as follows:</p> <p><i>10% of NHTF units targeted to any priority housing need = 4 points</i></p> <p><i>20% of NHTF units targeted to any priority housing need = 8 points</i></p> <p><i>30% of NHTF units targeted to any priority housing need = 12 points</i></p> <p><i>40% of NHTF units targeted to any priority housing need = 16 points</i></p> <p><i>50% of NHTF units targeted to any priority housing need = 20 points</i></p>	Up to 20
	<p>Total Possible Points = 115</p> <p>Minimum Points Required = 40</p>	

Changes to the application/project after award require MFA’s approval and applicant/owner must notify MFA in writing of any changes and include a \$500 Change Fee with the request. If the project received funding under another program that requires payment of the Change Fee, the NHTF Change Fee may be waived. It is the intent of MFA to charge this fee only once per change. Changes to the application/project after award, including changes in funding sources, will result in an additional review against the Scoring Criteria. Changes that impact the initial score can result in the loss or reduction of an NHTF award.

Application Format and Instructions to Applicants

All proposals must include the items requested in the application checklist on MFA's website located at <http://www.housingnm.org/developers>. The checklist includes, but is not limited to, such items as application, schedules, resumes, audits, narrative, certifications and disclosures.

The application fee for NHTF will be \$250.

Incurred Expenses

MFA shall not be responsible for any expenses incurred by an applicant in applying for NHTF funding. All costs incurred by an applicant in the preparation, transmittal or presentation of any application or material submitted in response to this NOFA will be borne solely by the applicant.

Award Notice

MFA shall provide written notice of the award to all applicants within fifteen (15) days of the date of the award. The award shall be contingent upon meeting all loan closing conditions determined by MFA and execution of all final loan documents.

Application Confidentiality

Prior to the application deadline, MFA encourages inquiries from potential applicants regarding the NOFA. MFA shall not disclose any information regarding a proposed application provided during such inquiries to any third party. After the application deadline and until awards are made and notice given to all applicants, MFA will not disclose the contents of any application or discuss the contents of any proposal with an applicant or potential applicant, so as to make the contents of any offer available to competing or potential applicants.

After awards have been made and notice given to all applicants, all applications shall be available and open to the public for review.

Irregularities in Applications

MFA may waive any technical irregularities in an application selected for award that do not alter the nature or the quality of the services offered. Note especially that the date and time of application submission indicated herein under "Application Submission and Due Date" cannot be waived under any circumstances.

Responsibility of Applicants

If an applicant who otherwise would have been awarded funds is found not to be a responsible applicant, a determination setting forth the basis of the finding shall be prepared and the applicant disqualified from receiving the award.

A responsible applicant means an applicant who submits an application that conforms in all material respects to the requirements of this NOFA and the NHTF application and who has furnished, when

required, information and data to prove that the applicant's financial resources, facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in this NOFA.

Protest

Any applicant who is aggrieved in connection with this NOFA or the award of a loan agreement pursuant to the NHTF application process may protest to MFA. The protest must be written and addressed to the Contact Person. The protest must be delivered to MFA within five (5) calendar days after the notice of award or decline. Upon the timely filing of a protest, the Contact Person shall give notice of the protest to all applicants who appear to have a reasonable prospect of being affected by the outcome of the protest. The applicants receiving notice may file responses to the protest within five (5) calendar days of notice of protest. A committee appointed by the MFA Board Chair shall review the protest and responses to the protest and shall make a recommendation to the Board of Directors regarding the disposition of the protest.

The Board of Directors shall make a final determination regarding the disposition of the protest. Applicants or their representatives shall not communicate with MFA Board of Directors or staff members regarding any proposal under consideration, except when specifically permitted to present testimony to the committee of the Board of Directors. A proposal will be deemed ineligible if the applicant or any person or entity acting on behalf of applicant attempts to influence members of the Board of Directors or staff during any portion of the review process, or does not follow the prescribed Application and Protest process.

Code of Conduct

Applicant has no current or proposed business transaction with MFA or any of its Board members or employees, nor is aware of any other potential conflict which may give rise to a claim of conflict of interest. Any violation of this provision, as determined by MFA, will render the contract void, unless it is approved by the Board of Directors after full disclosure.

Applicant shall provide a statement disclosing any political contribution or gift valued in excess of \$250 (singularly or in the aggregate) made by Applicant or on Applicant's behalf to any elected official of the State of New Mexico currently serving or who has served on the MFA Board of Directors in the last three (3) years.

Applicant shall warrant that it has no interest, direct or indirect, which would conflict in any manner or degree with the performance of services related to this application. Applicant shall at all times conduct itself in a manner consistent with the MFA Code of Conduct. A copy of the MFA Code of Conduct is posted on the MFA website for review at <http://www.housingnm.org/rfp>. Upon request by MFA, Applicant shall disclose information the MFA may reasonably request relating to conflicts or potential conflicts of interest.

Use of Electronic Versions of this NOFA

This NOFA is being made available by electronic means. If accepted by such means, the Applicant acknowledges and accepts full responsibility to ensure that no changes are made to the NOFA. In the event of conflict between a version of the NOFA in the Applicant's possession and the version maintained by

MFA, the version maintained by MFA shall govern.

Definitions

Households or individuals experiencing homelessness – A household or individual is considered homeless when residing in one of the places described below:

- In places not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings (on the street);
- In an emergency shelter;
- In transitional or supportive housing for homeless households/individuals who originally came from the streets or emergency shelters;
- In any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution;
- Is being evicted within a week from a private dwelling unit and no subsequent residence has been identified and the individual/household lacks the resources and support networks needed to obtain housing;
- Is being discharged within a week from an institution, such as a mental health or substance abuse treatment facility or a jail/prison, in which the person has been a resident for more than 30 consecutive days and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing; and/or
- Is fleeing a domestic violence housing situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

Individuals with disabilities - Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment. In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks and caring for oneself.

Individuals with severe mental illnesses - Serious mental illness (SMI) as defined by the Substance Abuse and Mental Health Services Administration (SAMHSA) - adults aged 18 or older who currently or at any time in the past year have had a diagnosable mental, behavioral, or emotional disorder (excluding developmental and substance use disorders) of sufficient duration to meet diagnostic criteria specified within the 4th edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) that has resulted in serious functional impairment, which substantially interferes with or limits one or more major life activities. Treatment Severe mental illness is often defined by its length of duration and the disability it produces. These illnesses include disorders that produce psychotic symptoms, such as schizophrenia and schizoaffective disorder and severe forms of other disorders such as major depression and bipolar disorder.

Senior Housing - The Fair Housing Act specifically exempts some senior housing facilities and communities from liability for familial status discrimination. Exempt senior housing facilities or communities can lawfully refuse to sell or rent dwellings to families with minor children. In order to qualify for the "housing for older persons" exemption, a facility or community must prove that its housing is:

- Provided under any State or Federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
- Intended for, and **solely** occupied by persons 62 years of age or older; or
- Intended and operated for occupancy by persons 55 years of age or older.

In order to qualify for the "55 or older" housing exemption, a facility or community must satisfy each of the following requirements:

- At least 80 percent of the units must have at least one occupant who is 55 years of age or older; and
- The facility or community must publish and adhere to policies and procedures that demonstrate the intent to operate as "55 or older" housing; and
- The facility or community must comply with HUD's regulatory requirements for age verification of residents.