

National Housing Trust Fund Allocation Plan

Texas

April 22, 2016

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National Low Income Housing Coalition

A Very Brief Overview National Housing Trust Fund



Before getting into the NHTF Allocation Plan,
first a very short description of the NHTF
to make sure we are all on same page.

Getting to Know the NHTF Program

(Five Minute Overview)

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What Is the National Housing Trust Fund?



- The National Housing Trust Fund (NHTF) is a federal program with dedicated sources of funding not subject to the annual Congressional appropriations process.
- The NHTF became law as part of the Housing and Economic Recovery Act of 2008 (HERA).

What Is the National Housing Trust Fund? *(continued)*



The primary purpose of the NHTF is to increase and preserve the supply of **rental** housing for **extremely low income** (ELI) households, those earning less than 30% of area median income (AMI).

How Is the NHTF Funded?

The NHTF is to be funded with dedicated sources of revenue.

- HERA requires annual assessment of 0.042% on new business of Fannie Mae and Freddie Mac.
- 65% to go to the NHTF.
- Due to banking crisis of 2008, this source of money was put on hold.

How Is the NHTF Funded?

(continued)



- On December 11, 2014 the hold was removed.
- Fannie and Freddie began to set aside funds on January 1, 2015
- Funds had to be transferred to HUD by March 1, 2016.
- On April 4, HUD announced nearly \$174 million for 2016.
- Funds will reach states early summer 2016.
- HUD published interim regulations on January 30, 2015.

How Can NHTF Be Used?

- The law requires at least 90% of the funds be used for the production, preservation, rehabilitation, or operation of **rental** housing.
- Up to 10% can be used for homeownership activities that include constructing, rehabilitating, or preserving housing for first-time homebuyers, as well as providing down payment and closing cost assistance.

Who Is Served by the NHTF?

- The law requires at least 75% of the funds for rental housing benefit **extremely low income** (ELI) households or households with income below the federal poverty line.
- Up to 25% of the funds for rental housing may benefit very low income (VLI) households (earning less than 50% of area median income).
- All homeowner activities must benefit ELI or VLI.
- When there is less than \$1 billion, 100% must benefit ELI.

How Is NHTF Money Distributed?

- The NHTF law requires money to be distributed as block grants to states by formula.
- 75% of the formula's value goes to two factors reflecting the **shortage of rental housing** affordable and available to ELI households, and the extent ELI renter households pay **more than half of their income** for rent and utilities.

How Is NHTF Money Administered?

- The law requires states to select a state agency (such as a housing finance agency or a housing department) to receive and administer NHTF resources.
- Each state must prepare an annual Allocation Plan showing how it will distribute NHTF money based on its priority housing needs.
- The Allocation Plan must be inserted as a component of a state's Consolidated Plan that requires public input.

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NHTF Is Block Grant to States

There are two conditions that each state must meet in order to receive its NHTF allocation:

- State must designate entity to administer NHTF and notify HUD Secretary of the administering entity.
 - Texas Department of Housing and Community Affairs
 - Marni Holloway, Multifamily Finance Director
221 East 11th Street, Austin, TX 78701
512-475-1676
- State must prepare and submit NHTF Allocation Plan to HUD.

Tentative Timeline



- April 4: HUD announces nearly \$174 million for NHTF for 2016.
- Late April: HUD publishes NHTF Allocation Plan guidance.
- Late April: HUD publishes NHTF allocations to states in *Federal Register*.
NLIHC estimates Texas will receive **\$4,810,000**.
- April-May: Texas Department of Housing and Community Affairs (TDHCA) develops NHTF Allocation Plan following ConPlan public participation procedures, including at least 30-day comment period.
- June: TDHCA submits NHTF Allocation Plan.
HUD has 45 days to review.
- Summer: When Secretary Castro wants to distribute NHTF funds.

www.nlihc.org/issues/nhtf

Statute, Regulation, or Suggestion?



Information in this presentation is based on:

- NHTF statute is **ST**.
- NHTF regulation is **REG**.
- NLIHC suggestion is **SUG**.

NHTF Allocation Plan and Texas ConPlan (part 1)



- NHTF Allocation Plan is part of Annual Action Plan Texas must submit as update to Consolidated Plan (ConPlan).
- TDHCA submits ConPlan and Annual Action Plan.
- TDHCA will draft NHTF Allocation Plan.

NHTF Allocation Plan and Texas ConPlan (part 2)



- Texas' ConPlan only covers non-entitlement jurisdictions – giving incomplete picture of housing needs.
- Advocates need to be familiar with state ConPlan and state's public participation process.
- For 2016 NHTF Allocation Plan will be “substantial amendment” to Annual Action Plan.
 - Triggers ConPlan public participation procedures.
 - 30-day comment period is required.

Definitions

- **Grantee (ST).**

State entity that prepares NHTF Allocation Plan, receives NHTF dollars, administers NHTF.

- **Subgrantee (REG).**

State may choose to designate local jurisdiction to administer NHTF in a city or county.

- **Eligible Recipient (ST).** Organization or agency that applies to grantee for NHTF money to carry out NHTF project.

NLIHC Suggestions (Part 1)

ALL SUGGESTIONS

- Advocates should seek **deepest possible affordability** for rents in NHTF-assisted units and **longest possible affordability periods**.
- All funds in first year should be used for **rental housing**.
- All funds should be distributed by state to eligible recipients (no subgrantees).

NLIHC Suggestions (Part 2)

ALL SUGGESTIONS

- All funds first year should be used to expand ELI housing.
 - Prevent supplanting.
 - Minimize use for preservation of existing federally assisted housing.
- Maximize affordability,
 - Projects should have as little debt service as possible.
 - Grants or no interest loans preferred.
- Given small amount of money first year, focus on projects with most impact.
 - Don't give small amounts of money to many projects.

14 Elements of NHTF Allocation Plan

(those in **bold** covered here) Part 1



- 1. Description of distribution of funds (ST)**
- 2. Application requirements (REG)**
- 3. Criteria for selecting applications submitted by recipients (ST)**
- 4. State's maximum per-unit development subsidy limit for NHTF-assisted housing (REG)**
5. If funds used for first-time homebuyers, identify resale or recapture provisions (REG)
6. Whether state will distribute funds directly, and/or use subgrantees (REG)
- 7. Funding priority based on six factors (ST)**

14 Elements of NHTF Allocation Plan

(those in **bold** covered here) Part 2



8. **Description of eligible activities and recipient eligibility requirements (ST)**
9. Recipient certification, NHTF-assisted units will comply with NHTF requirements (ST)
10. **Performance goals and benchmarks consistent with state's proposed accomplishments (ST)**
11. Rehabilitation standards NHTF-assisted projects must meet (REG)
12. NHTF affordable homeownership limits (REG)
13. **Preferences or limitations to a particular segment of ELI population (REG)**
14. Refinancing requirements and conditions (REG)

1. Description, Distribution of Funds

ALL SUGGESTIONS

- TDHCA will use **Request for Proposals (RFPs)** describing: eligible applicant, eligible activities, what must be included in an application, when and where applications are to be submitted, application evaluation criteria, who will review applications, and when grant awards are to be made.
- RFP will indicate ConPlan **priority housing need(s)** Texas intends to address based on NHTF public participation process.
- TDHCA convenes application review panel composed of:
 - state officials
 - at least two private housing and homeless advocates.

2. Application Requirements (Part 1)



NLIHC suggests TDHCA detail 9 application requirements in RFPs. They include (SUGGESTIONS):

- Project information similar to LIHTC applications.
- How project responds to Texas' priority housing needs.
- How project responds to six priority factors in statute.
- Plan and methods for achieving affordability (rent at no more than 30% of household income) for households at 30% AMI, 20% AMI, and 10% AMI.
- How NHTF-assisted units will be integrated with units having higher income targeting.

2. Application Requirements (Part 2)



NLIHC suggests TDHCA detail 9 application requirements in RFPs. They include (SUGGESTIONS):

- How project affirmatively furthers fair housing.
- Description of tenant recruitment and selection process.
- Definition of a successful resident; description of services and subsidies to be provided to maximize resident success.
- Applicant's credentials to carry out project, including evidence of successful completion and operation of similar projects.

3. Criteria for Selecting Applications



(Part 1)

NLIHC suggests (SUGGESTIONS):

a. Threshold criteria:

- Responsiveness to application requirements.
- Project reflects priority housing need(s) in ConPlan.

b. Final criteria, rating based on:

- Six priority factors in statute.
- Creativity and innovation.
- Feasibility.
- Potential for resident success.
- Applicant's credentials.

3. Criteria for Selecting Applications

(Part 2)



According to Texas 2015-2019 ConPlan:

“Needs Assessment Section 10 also reveals that the most common housing problems are cost burden [paying more than 30% of income for rent and utilities] and severe cost burden [paying more than 50% of income for rent and utilities], especially for households with income between 0-30% of the area median income (AMI). [page 72]

“Housing problems fell hardest on households with 0-30% AMI...Approximately 70% of small related families, 78% of large related families, and 70% of other types of families who are renters with severe cost burden had incomes at the 0-30% category.” [page 83]

3. Criteria for Selecting Applications

(Part 3)



According to Texas 2015-2019 ConPlan:

“While there appears to be a sufficient supply of rental housing for the number of households in the greater than 30%-50% and 50%-80% AMI categories, there were 498,730 of those renter households (74%) in the 0-30% AMI category that were living in a home that results in cost burden.”

[page 149]

3. Criteria for Selecting Applications



(Part 4)

According to Texas 2015-2019 ConPlan:

Relevant to the NHTF is **production of new multifamily rental units and rehab of multifamily rental units** for: ELI, low income, moderate income, large families, families with children, elderly, frail elderly, persons with mental disabilities, persons with physical disabilities, persons with developmental disabilities, persons with alcohol or other addictions, persons with HIV/AIDS and their families, victims of domestic violence, public housing residents, rural populations, chronically homeless people, veterans, unaccompanied youth. [pages 187-189]

4. Texas'

Maximum Per-Unit Subsidy Limit



Texas must set maximum limits on total amount of NHTF funds that can be invested per-unit:

- Adjustments based on number of bedrooms and location.
- Limits must be reasonable and based on actual costs. REG

HUD will issue guidance.

- Limit likely to be higher than HOME limits.
- HUD recognizes that deeper targeting for NHTF units will require more subsidy.

7. Six Priority Factors (Part 1)

State must give priority in awarding funds to applications based on six factors (ST, REG).

Statute and regulation do not weigh factors.

NLIHC suggests awarding NHTF to applicants based on applicant's total points, up to 100 points (SUGGESTIONS).

- a. Geographic diversity. **(Maximum points = 0)**
- b. Applicant's ability to obligate funds and undertake activities in a timely manner.
(Maximum points = 10)

7. Six Priority Factors (Part 2)

c. For rental housing:

- “extent to which rents...are affordable, especially for ELI households” (ST);
- “extent to which the project has federal, state, or local project-based rental assistance so that rents are affordable to extremely low income families (REG).

(Maximum points = 40)

d. For rental housing, duration of unit’s affordability period. **(Maximum points = 15)**

7. Six Priority Factors (Part 3)

- e. Merits of application in meeting state's priority housing needs. **(Maximum points = 25)**
- f. Extent application makes use of non-federal funding sources. **(Maximum points = 10)**

Factor a: Geographic Diversity

Geographic diversity (ST). **(Maximum points = 0)**

Given relatively small amount of money
available first year,

NLIHC suggests focusing on projects with most impact,
rather than distributing small amounts of money
to many projects (SUGGESTION).

Factor b: Ability to Obligate Funds



Applicant's ability to obligate funds and undertake activities in a timely manner (ST). (Maximum points = 10)

- Regulation defines “commitment” for recipients as:
 - For new construction or rehabilitation, starting construction within 12 months of date of contract between recipient and state (REG).
 - For acquisition of existing housing, receipt of title within 6 months of date of contract between recipient and state (REG).

Factor c: Rent Affordability (Part 1)



- *For rental housing, extent to which rents are affordable, especially to extremely low income families (ST).*
- *For states, rule is extent to which project has federal, state, or local project-based rental assistance so rents are affordable to extremely low income families (REG).*

(Maximum points = 40)

Factor c: Rent Affordability (Part 2)



- “Affordable” defined as not paying more than 30% of household income for housing costs, including utilities (SUGGESTION).
- “Project-based rental assistance” includes, unit-based rental assistance, operating subsidies, or cross-subsidization of rents within project (SUGGESTION).
- 33% of state’s NHTF allocation may be used for operating cost assistance and/or operating cost assistance reserves for NHTF-assisted units (REG).
 - NOTE: HUD intends to issue guidance on operating costs for NHTF in the next year.

Factor d: Duration of Affordability



For rental housing, duration of the units' affordability period (ST). (Maximum points = 15)

- Minimum affordability period is 30 years (REG).
- Extent project exceeds 30 year minimum determines duration points, to maximum of 15 points for projects that commit to affordability in perpetuity (SUGGESTION).

Factor e: Merits of the Application

(Part 1)



Merits (ST) of application in meeting state's priority housing needs (REG). (Maximum points = 25)

- Extent project meets needs of lowest income households within state's priority housing needs (SUGGESTION).
- Examples (SUGGESTIONS):
 - Projects serving special needs populations, homeless, individuals leaving correctional institutions.
 - Projects affordable to households with income less than 15% of AMI.
 - Projects proposed by nonprofits.
 - Phased rehabilitation projects that do not cause displacement.

Factor e: Merits of the Application

(Part 2)



According to the Texas 2015-2019 ConPlan:

- “Needs Assessment Section 10 also reveals that the most common housing problems are cost burden [paying more than 30% of income for rent and utilities] and severe cost burden [paying more than 50% of income for rent and utilities], especially for households with income between 0-30% of the area median income (AMI). [page 72]
- “Housing problems fell hardest on households with 0-30% AMI...Approximately 70% of small related families, 78% of large related families, and 70% of other types of families who are renters with severe cost burden had incomes at the 0-30% category.” [page 83]

Factor e: Merits of the Application

(Part 3)



According to the Texas 2015-2019 ConPlan:

“While there appears to be a sufficient supply of rental housing for the number of households in the greater than 30%-50% and 50%-80% AMI categories, there were 498,730 of those renter households (74%) in the 0-30% AMI category that were living in a home that results in cost burden.”

[page 149]

Factor e: Merits of the Application

(Part 4)



According to the Texas 2015-2019 ConPlan:

Relevant to the NHTF is **production of new multifamily rental units and rehab of multifamily rental units** for: ELI, low income, moderate income, large families, families with children, elderly, frail elderly, persons with mental disabilities, persons with physical disabilities, persons with developmental disabilities, persons with alcohol or other addictions, persons with HIV/AIDS and their families, victims of domestic violence, public housing residents, rural populations, chronically homeless people, veterans, unaccompanied youth. [pages 187-189]

Factor f: Use of Non-Federal Resources

Extent application makes use of non-federal funding (ST).

(Maximum points = 10)

- Extent application makes use of:
 - State and local publicly-controlled funds and/or land donated by state or local government to achieve deep affordability for ELI households (SUG).
 - Private funds or in-kind commitments, including donation of land, for production, preservation, or operation to achieve deep affordability for ELI households (SUG).

8a. Eligible Activities

NLIHC suggests eligible activities be limited to:

- Production and rehabilitation of rental housing affordable to extremely low income households (SUGGESTION).
- Up to 33% for operating cost assistance and/or operating cost assistance reserves (SUG allowed by REG).

SUGGESTION:

“Texas does not intend to permit NHTF funds to be used for homeownership activities or for new construction, rehabilitation, or preservation of federally assisted housing in the 2016 funding cycle.”

8b. Eligible Recipients (Part 1)

Eligible recipient is organization, agency, including nonprofit or for-profit (ST), or public housing agency (REG).

Consider limiting recipients to nonprofits first year, or to for-profits that limit profits or rate of return (SUGGESTION).

8b. Eligible Recipients (Part 2)

Recipient must:

- Have demonstrated experience and capacity to conduct NHTF activity, evidenced by ability to:
 - Own, construct, or rehabilitate, and manage and operate affordable multifamily rental housing (ST); and
 - Serve extremely low income households and special needs populations, such as homeless families and people with disabilities (SUGGESTION);

10. Performance Goals and Benchmarks (Part 1)



Refers to proposed accomplishments in affordable housing section of Strategic Plan part of ConPlan.

State must specify number of extremely low income, low income, and moderate income families for whom state will provide affordable rental housing.

Affordable rents defined as not exceeding greater of 30% of federal poverty line or 30% of 30% AMI (REG).

10. Performance Goals and Benchmarks (Part 2)

NLIHC suggests, to achieve maximum affordability, NHTF Allocation Plan should set performance goals about:

- How many extremely low income families and homeless people will have affordable housing, with affordability defined as 30% of household income (SUGGESTION), or
- How many households will have rents set at 30% of 20% AMI or 30% of 10% AMI (SUGGESTION).

10. Performance Goals and Benchmarks (Part 3)

Over five-year period in Texas 2015-2019 ConPlan:

- 300 multifamily rental units to be constructed
- 75 multifamily rental units to be rehabbed. [page 236]

Using HOME affordability standards, Texas planned to provide affordable housing to 30 households with income less than 50% of AMI each year of the five-year period – for a total of 150 units.

No goals were stated for ELI households, even though ConPlan regulations require such a breakdown by income categories. [page 244]

14. Preference or Limitation to Particular Segment of ELI Population (Part 1)



Texas can limit or give preference to a particular segment of ELI population based on priority housing needs in ConPlan.

Any preference or limitation must be in written agreement between state and recipient (REG).

- Texas 2015-2019 ConPlan lists as high priority, array of population characteristics too broad to be genuine indication of priority housing needs.

14. Preference or Limitation to Particular Segment of ELI Population (Part 2)



Texas 2015-2019 ConPlan:

Relevant to NHTF is production of new multifamily rental units and rehab of multifamily rental units for:

ELI, low income, moderate income, large families, families with children, elderly, frail elderly, persons with mental disabilities, persons with physical disabilities, persons with developmental disabilities, persons with alcohol or other addictions, persons with HIV/AIDS and their families, victims of domestic violence, public housing residents, rural populations, chronically homeless people, veterans, unaccompanied youth. [pages 187-189]

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14. Preferences or Limitations to Particular Segment of ELI Population (Part 3)



Any limitation or preference must not violate nondiscrimination requirements.

Fair housing requirements, including affirmatively further fair housing, apply to NHTF program.

Limitation does not violate nondiscrimination requirements if housing also receives funding from federal program that limits eligibility to particular segment of population (e.g. Housing Opportunity for Persons Living with AIDS, Section 202, and Section 811) (REG).

Questions?



Questions?

NHTE

www.nlihc.org/issues/nhtf

For More Information



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