NHTF: The National Housing Trust Fund

NATIONAL HOUSING TRUST FUND

National Housing Trust Fund Implementation

Virginia Housing Alliance

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National Low Income Housing Coalition

What Is the National Housing Trust Fund?

- National Housing Trust Fund (HTF) is a new federal program with dedicated sources of funding not subject to Congressional appropriations process.
- Became law as part of Housing and Economic Recovery Act of 2008 (HERA).
- Is block grant to states.
- Primary purpose of HTF is to increase supply of **rental** housing for **extremely low income** (ELI), earning less than 30% of area median income (AMI).

How Is the HTF Funded?

- First dedicated sources of revenue:
  - Annual assessment of 0.042% (4.2 basis points) on new business of Fannie Mae and Freddie Mac.
  - 65% to HTF, 35% to Capital Magnet Fund.
- Due to banking crisis of 2008, this source of money was put on hold.
- December 11, 2014, hold was removed.
- Fannie and Freddie set aside funds January 1, 2015 through December 31.
- April 4, HUD announced nearly $174 million for 2016.

How Is HTF Money Distributed?

HTF law requires money to be distributed
as block grants to states by formula with four factors.

- 75% of formula’s value goes to two factors reflecting **shortage of rental housing** affordable and available to ELI households, and extent ELI renter households pay **more than half of their income** for rent and utilities.
- Other two factors also based on renter needs, very low income households, VLI, with income less than 50% AMI but more than 30% AMI.

HTF Focused on Renters

- Law requires at least 90% (80%) of state's HTF allocation be used for to produce, rehab, preserve, or operate **rental** housing.

- Up to 10% can be used for homeownership activities.

HTF Focused on ELI Renters

- Law requires at least 75% of state's funds used for rental housing benefit **extremely low income** (ELI) households or households with income below the federal poverty line.
- Up to 25% of funds for rental housing may benefit very low income (VLI) households (earning less than 50% of area median income).
- Interim regulation: When there is less than $1 billion, 100% must benefit ELI.

How is HTF Administered?

- Law requires states to select a state agency, such as housing finance agency or housing department to receive and administer HTF.
- Virginia selected: Department of Housing and Community Development.
  - William Shelton, Director, 600 East Main Street, Suite 300, Richmond, VA 23219, 804.371.7077, bill.Shelton@dhcd.Virginia.gov
- Lyndsi Austin, lyndsi.austin@dhcd.virginia.gov, DHCD person involved day-to-day basis.
- Virginia will receive $3,139,830 in 2016.

HTF Allocation Plan and Virginia ConPlan (part 1)

- Law requires each state to prepare annual HTF Allocation Plan.
- Allocation Plan must show how state will distribute HTF money based on priority housing needs in its Consolidated Plan (ConPlan).
- Allocation Plan must be inserted as component of state's Consolidated Plan.

HTF Allocation Plan and Virginia ConPlan (part 2)

- When preparing Allocation Plan,
  law requires states to:
  - Notify the public that Allocation Plan will be drafted.
  - Provide for public comment.
- HTF law requires compliance with
  Consolidated Plan's public participation requirements.
- Advocates used to ConPlan advocacy only at
  local level need to learn how to advocate at state level;
  Virginia Housing Alliance can help.

Allocation Plan: “Recipients”

Allocation Plan must describe requirements “recipients” must meet when applying for HTF.

- Recipients may be nonprofit, for-profit, or public entity.
- States award HTF to “recipients” to carry out specific projects.

Allocation Plan:
Selecting Applications for HTF

- Allocation Plan must describe criteria state will use for selecting applications from potential recipients.
- Allocation Plan must give priority in awarding HTF to projects based on:
  1. Extent rents are affordable, especially for ELI.
  2. Length of time units will remain affordable.
  3. Merit of project in meeting ConPlan priority housing needs.
  4. Geographic diversity, as reflected in ConPlan.
  5. Extent project will use non-federal funds.
  6. Applicant's ability to obligate HTF and carry out projects in timely manner.

QUESTIONS AND SUGGESTIONS

First, Weighing the Six Statutory Priority Factors.

HTF statute requires states to give priority in awarding HTF to projects based on six factors.

Statute and regulation do not give weight to factors.

Advocates might suggest awarding HTF to applicants based on applicant's total points, up to 100 points.

Six Statutory Priority Factors: 1. Affordability (part 1)

Advocates might suggest 40 points for affordability.

Will rents be affordable?

- A basic housing policy is “Brooke rule” which considers housing “affordable” only if households use no more than 30% of their income for rent and utilities.

- Neither HTF law nor HUD’s rule cap resident rent and utility payments at 30% of their income.

Six Statutory Priority Factors: 1. Affordability (part 2)

NATIONAL HOUSING TRUST FUND

- HUD's rule sets maximum rent (including utilities) household pays at **fixed amount** equal to 30% of 30% AMI, or 30% of poverty level, whichever is greater.

- HUD recognizes some residents will pay more than 30% of their income.

- HUD thinks fixed rent is necessary so owners and lenders can budget for future revenues from fixed, known rents.

Six Statutory Priority Factors: 1. Affordability (part 3)

- Statute: Extent to which rents are affordable, especially to extremely low income families.
- Regulation for States: extent to which project has federal, state, or local project-based rental assistance so rents are affordable to ELI.
- No basis in statute for narrowing to "federal, state, local project-based assistance".

Six Statutory Priority Factors:
1. Affordability (part 4)

- Advocates might seek to have Allocation Plan define “affordability” to mean:
  - Household spending no more than 30% of income for rent and utilities – “Brooke Rents” or
  - Mix of units with fixed rents at:
    - 30% of 30% AMI,
    - 30% of 20% AMI, and
    - 30% of 10% AMI
- NLIHC Developer Advisory Group knows this is difficult, but possible, because they have done it without vouchers.

How Can The Money Be Used?
Operating Cost Assistance

- HTF may be used at HTF-assisted rental homes to provide operating cost assistance.
- Operating cost assistance **reserve** may be funded upfront for HTF-assisted units to ensure project feasibility for affordability period.
- Up to 33% of state’s HTF annual allocation may be used for operating cost assistance or reserves.

Six Statutory Priority Factors:
2. Length of Affordability

Advocates might suggest 15 points for length of affordability.

How long will HTF-assisted units be affordable?

- Regulation requires minimum affordability period of 30 years.
- Advocates might suggest, extent project exceeds 30-year minimum determines points, to maximum of 15 points for projects committing to permanent affordability.

Six Statutory Priority Factors: 3. Merit of Project (part 1)

Advocates might suggest 25 points for project's "merit".

- Statute requires states to consider merit of project.
- Regulation refines: merit of project in meeting ConPlan priority housing needs.
- Examples in regulation:
  - Housing that serves people with special needs
  - Housing accessible to transit and employment
  - Housing that is energy efficient

Six Statutory Priority Factors:
3. Merit of Project (part 2)

- Advocates might suggest awarding points on extent project meets needs of lowest income households within state's ConPlan priority housing needs.
- Examples:
  - Projects serving special needs populations, homeless people, or individuals leaving correctional institutions.
  - Projects proposed by nonprofits.
  - Projects that do not cause displacement.
  - Projects affordable to households with income less than 15% of AMI.

Six Statutory Priority Factors:
3. Merit of Project (part 3)

Projects affordable to households with incomes less than 15% AMI or whose sole income is SSI.

- Virginia has shortage of 86,000 rental units affordable and available to households with income less than 15% of AMI ($11,625 in Virginia).
- For every 100 renter households with income less than 15% AMI, are only 20 units affordable and available to them.
- 88% paying more than half of their income for rent and utilities.

Six Statutory Priority Factors:
3. Merit of Project (part 4)

NATIONAL HOUSING TRUST FUND

Virginia's 2013-2018 ConPlan Priority Housing Needs [page 66]

- "Lack of affordable housing" is a "high" priority.
- Goal is to "increase the number of affordable housing units and increase the number of special needs housing units."
- Population targeted:
  - extremely low, low, and moderate income households;
  - large families, families with children, elderly, persons with mental disabilities, persons with physical disabilities, and persons with developmental disabilities.

Virginia, like most states, does not establish genuine priority housing needs.

Six Statutory Priority Factors:
4. Geographic Diversity

Advocates might suggest 0 points for geographic diversity.

- Given small amount of HTF money first year, suggest focusing on projects with most impact, rather than distribute small amounts of money to many projects.
- HUD stresses importance of affirmatively furthering fair housing when considering geographic diversity.
- In future when HTF is more robust, geographic diversity will be very important.

Six Statutory Priority Factors:
5. Use of Non-Federal Resources

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Advocates might suggest 10 points for use of non-federal resources.

- 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.
  - Private funds or in-kind commitments, including donation of land, for production, preservation, or operation to achieve deep affordability for ELI households.

Six Statutory Priority Factors:
6. Ability to Obligate HTF (part 1)

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Advocates might suggest 10 points for ability to obligate funds and undertake activities in timely manner.

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

Six Statutory Priority Factors: 6. Ability to Obligate HTF (part 2)

- Statute requires recipient to have demonstrated experience and capacity to conduct HTF activity, evidenced by ability to:
  - Own, construct, or rehabilitate, and manage and operate affordable multifamily rental housing.

Six Statutory Priority Factors: 6. Ability to Obligate HTF (part 3)

Advocates might suggest considering applicant's:

- Experience serving extremely low income households and special needs populations, such as homeless families and people with disabilities.
- Successful completion of similar projects.

Advocates might suggest limiting recipients to mission-driven nonprofits, or
for-profits with proven track record of providing and operating rental housing for ELI households.

Additional Suggestions

- Given the small amount of HTF for 2016, Advocates might suggest HTF in first year only be used to produce and rehabilitate rental housing.
  - Do not use for homeowner activities.
  - Do not use to build, rehab, or preserve federally assisted housing.
- Maximize affordability:
  - Projects should have as little debt service as possible.
  - Provide HTF as grants or zero-interest loans.

How Can The Money Be Used?
Forms of Assistance

- HTF assistance may be:
  - Loans, including no-interest loans and deferred payment loans
  - Grants
  - Interest subsidies
  - Equity investments
  - Other forms
- States may decide terms of assistance.

How Can The Money Be Used? Project Costs

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Many eligible “project costs” may be met with HTF:

- Buying property
- Development “hard costs” associated with construction
- Relocation
- Demolition
- Utility connections
- Site improvements
- Project “soft costs” associated with financing and development
  - Architectural, engineering, related professional services
  - Affirmative marketing to prospective tenants and homeowners
  - Builders and developers fees
- Refinancing
- Paying construction loans
- Staff costs directly related to carrying out a project
- Operating assistance

Tenant Protections and Selection

- Must be a written lease for at least one year.
- Tenants can only lose tenancy for “good cause.”
- Owner must:
  - Not turn down someone wanting to rent HTF unit because they have a voucher.
  - Comply with state’s affirmative marketing requirements.
  - Select tenants from written waiting list in chronological order.

Key Timeframes To Know About

- HTF law requires money to be “committed” within two years.
- Rule defines “committed” to mean having legal agreement with recipient for specific project:
  - New construction or rehab – can reasonably be expected to start in 12 months.
  - Acquire standard housing – transfer title within 6 months.
- Rule adds HTF must be spent in five years.

Become an NLIHC Member

- Members are essential in helping NLIHC advocate on behalf of low income people in need of safe and affordable housing.
- Membership is open to individuals, organizations, corporations, and government agencies.
- Join NLIHC at http://nlihc.org/membership
- Questions?
- Contact Sarah Jemison, sjemison@nlihc.org, 202.662.1530 x 244.

Contact Us

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