



# National Housing Trust Fund Allocation Plan

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## **National Housing Trust Fund Allocation Plan For Federal Fiscal Year 2016**

The State of Maryland will receive \$3,000,000 in National Housing Trust Funds (HTF) from the U.S. Department of Housing and Urban Development (HUD) for Federal Fiscal Year 2016 (FFY 2016), which runs from October 1, 2016 through September 30, 2017. It is expected that HTF will continue to be funded by HUD in future years.

The Maryland Department of Housing and Community Development (the “Department”) is the State Agency that will administer HTF. The Department is required to ensure that the HTF Program is administered in compliance with all HTF requirements established by HUD. The policies below will govern the use of HTF funds administered by the Department for FFY 2016.

The Department is required to develop this HTF Allocation Plan, which will be included as a component of the State of Maryland’s Consolidated Plan.

In addition to the State’s policies outlined in this document, HTF Funds will be administered in compliance with all applicable Federal rules, including the Housing Trust Fund Interim Rule, published on January 30, 2015 and codified at 24 CFR Part 93, as well as HUD Notice CPD 16-07: Guidance for HTF Grantees on Fiscal Year 2016 Housing Trust Fund (HTF) Allocation Plans, published on April 26, 2016.

### **Introduction**

The Department administers a variety of State and federal programs that finance the development of affordable rental housing. These programs include, but are not limited to, the Low Income Housing Tax Credit Program (LIHTC), the Rental Housing Financing Program (RHFP), which is a combination of the state-funded Rental Housing Program and the federally-funded HOME Investment Partnership Program, Rental Housing Works (RHW), and the Multifamily Bond Program (MBP). The Department may, from time to time, establish new development financing programs to advance its mission.

While there are variations between these programs based on the underlying source of funds, State and federal requirement applicable to specific funding sources, and State and federal policy goals, the Department seeks to align many of its administrative processes that accompany these programs. This alignment makes these programs more user-friendly and contributes to operating efficiencies for the Department and its partners, including owners, investors, and managers of properties financed by these various resources.

This NHT Program Allocation Plan will seek to align many of the Department’s administrative processes as outlined in the attached 2016 Maryland Multifamily Rental Financing Program Guide dated August 9, 2016 (Attachment A).

### **General Requirements**

#### Priority Housing Needs of the State/Eligible Populations Served

The HTF Program priority will be to increase and preserve the supply of decent, safe and sanitary affordable housing for extremely low-income (ELI) households, including homeless families.

Funds available through the HTF Program will be targeted to provide permanent rental housing to ELI households. The need for permanent rental housing for ELI households in Maryland is significant, with the latest estimates indicating that there are over 180,000 households in the State with incomes at or below 30% AMI, and 86% of these households pay in excess of 50% of their income for housing. Additionally, ELI households in Maryland have a high occurrence of disabilities and other special needs.

#### Income Level to be Served

The HTF Program will serve ELI households. ELI households are defined as households with incomes at the greater of:

- 30% of the applicable Area Median Income (AMI); or
- Households with incomes at or below the poverty line.

#### Method of Distribution

FFY 2016 HTF funds will be used to complement and in conjunction with on-going DHCD housing programs to leverage other project funding, make projects financially feasible and increase the number of ELI households served in state-funded projects. HTF funds may be used in projects utilizing Rental Housing Funds Program, (RHFP), Low Income Housing Tax Credits (LIHTC), Multifamily Bond Program (MBP), Shelter and Transitional Housing Grant Program (STHGP) and any other programs administered by the Department. HTF may also be used with projects receiving non-DHCD housing program funds such as other state, federal, local/public or private sources. HTF funds may be requested by a Sponsor as part of a project application or DHCD staff may, in consultation with a sponsor, propose the use of HTF funds during project review and underwriting.

The readiness of the proposed project to proceed with construction or rehabilitation activities will also be a critical factor in the determination of the allocation of HTF funds. DHCD will consider the status of other financing, the local approval process, and other relevant factors in establishing the readiness of a project to proceed.

#### Forms of Assistance

HTF funds may be used as broadly and flexibly as is permitted by federal regulations to address the unique underwriting needs of each project and the number of ELI tenants to be served. Forms of assistance may include:

- Equity Investments;
- Interest-bearing loans or advances;
- Non-Interest bearing loans or advances;
- Deferred payment loans;
- Grants; or
- Other forms of assistance approved by HUD.

## Geographic Diversity

HTF Program funds will be available on a State-wide basis. Ideally, housing opportunities for ELI household will be reasonably dispersed across the state, allowing physical mobility based on a household's own needs and preferences, and in doing so, promoting social and economic mobility for those same households. Achieving this end requires that the state invest in improving neighborhoods that already serve low income residents and providing new housing options in historically less affordable communities that provide residents access to a broad array of jobs, services and amenities. Eligible HTF projects will be required to comply with Site and Neighborhood Standards requirements as established in the HTF interim rule published by HUD (Attachment B). The site and neighborhood standards at § 93.150 apply to new construction of rental projects receiving HTF funds. In addition, all HTF properties must meet one (1) of the Community Context criteria as outlined in the 2016 Multifamily Rental Financing Program Guide, dated August 9, 2016 (Attachment A).

## Affirmative Fair Housing Requirements

The State of Maryland has a compelling interest in creating fair and open access to affordable housing and promoting compliance with state and federal civil rights obligations. Fair Housing requirements apply to the full spectrum of housing activities including but not limited to outreach and marketing, the qualification and selection of residents and occupancy.

Eligible applicants must include a certification that the project will develop and implement an Affirmative Fair Housing Marketing Plan (AFHMP) using form HUD-935.2A.

To provide the greatest access to housing opportunities by Maryland's residents, all AFHMPs must include, at a minimum, the following provisions:

- Prohibit income requirements for prospective tenants under the Section 8 Tenant-based Assistance: Housing Choice Voucher program, VASH, HOME Tenant-based Rental Assistance or similar voucher programs;
- Eliminate local residency preferences;
- Ensure access to leasing offices for persons with disabilities;
- Provide flexible application and office hours to permit working families and individuals to apply;
- Encourage credit references and testing that take into account the needs of persons with disabilities, special needs or homeless families; and
- Give prompt written notification to any rejected applicant describing the ground for any rejection.

An owner of HTF-assisted rental housing must comply with the affirmative marketing requirements above, and adopt and follow written tenant selection policies and criteria that:

- Limit the housing to income eligible families;
- Are reasonably related to the applicant's ability to perform the obligations of the lease;
- Limit eligibility or give preference to a particular segment of the population if permitted in its written agreement with the grantee (and only if described in the grantee's consolidated plan) and preference is established in accordance with the requirements further detailed in this section;

- Do not exclude applicants with vouchers under the Section 8 Tenant-based Assistance: Housing Choice Voucher Program or HOME Tenant-based Rental Assistance; and
- Provide for the selection of tenants from a written waiting list in the chronological order of their applications, insofar as is practicable.

#### Tenant Selection

There must be a written lease between the tenant and owner of HTF-assisted rental housing for a period of not less than 1 year, unless a shorter period is mutually agreed upon. The lease may not contain any of the following provisions:

- Agreement to be sued;
- Treatment of property;
- Excusing owner from responsibility;
- Waiver of notice to be sued;
- Waiver of legal proceedings;
- Waiver of a jury trial;
- Waiver of right to appeal court decision;
- Tenant chargeable with cost of legal actions regardless of outcome; and
- Mandatory supportive services.

#### Eligible Applicants

HTF funds may be allocated to for-profit or non-profit organizations, or other entities which have the demonstrated financial capacity and experience to complete and meet ongoing compliance requirements.

#### Applicant Capacity

The capacity of the applicant for HTF Funds is critical to the successful development and continuing operation of the project. The Department will evaluate the members of the Primary Development Team based on their accomplishments with projects that are similar in size scope and complexity to the proposed project. The Primary Development Team consists of the Developer/Owner, the project's general contractor, architect and property manager. DHCD will also review the financial capacity of the Developer/Owner and Guarantor to determine if the Developer/Owner has access to sufficient working capital to carry the project through pre-development and/or unexpected challenges and the net worth sufficient to provide applicable guarantees of project completion and operations.

#### Project-based Rental Assistance

In the allocation of HTF Funds, the Department will provide a priority for projects with project-based rental subsidies for all of the HTF-assisted units in the project. Documentation must be provided to show that the project-based subsidies will be in place for the term of five (5) years with renewal provision. The project-based assistance may be federal, state, or locally funded. Other forms of project-based assistance will be reviewed on a case by case request.

#### Duration of Affordability Period

HTF-assisted units must meet the affordability requirements for a period of 40 years, which begins at project completion. The affordability requirements will be imposed and recorded in accordance with State recordation laws. The affordability restrictions may be terminated upon foreclosure or transfer in lieu of foreclosure.

### Leveraging

In the allocation of HTF Funds, the Department will provide a priority for projects which leverage non-Federal funding sources. For this purpose, non-Federal funding sources will include equity raised from the sale of Low Income Housing Tax Credits, as well as loans funded from the proceeds of tax-exempt bonds.

### Eligible Activities

HTF funds may only be used for the following eligible costs:

- Development hard costs;
- Acquisition costs;
- Related soft costs; and
- Relocation costs.

Due to the limited amount of the FFY2016 HTF Program fund allocation, HTF funds will not be used for Operating cost assistance and operating cost assistance reserves at this time. The Department will consider this eligible cost in the future.

### Performance Goals and Benchmarks

The Department will measure the progress of projects funded with HTF Funds in a manner that is consistent with the standards in the State's Consolidated Plan.

### Underwriting Standards

All HTF-assisted projects must conform to the underwriting standards as outlined in the 2016 Multifamily Rental Financing Program Guide (Draft) as well as the following additional requirements specific to HTF:

- **Initial Rents and Utility Allowances:** The Department will establish maximum monthly allowances for utilities and services and annually review and approve rents proposed by HTF-assisted project owners;
- **Tenant Income and Over-Income Tenant:** Project owners must determine tenant eligibility by calculating the household's annual income using the two definitions of income, 24 CFR part 5.609 or the IRS Form 1040. Income determinations are conducted at initial occupancy and the project owner must re-examine each tenant's annual income each year during the period of affordability. For HTF units that also receive project-based rental assistance, annual income must be reexamined based on the rules applicable to the project-based assistance. HTF –assisted units continue to qualify as affordable housing despite a temporary non-compliance caused by increases on the

income of the existing tenants. When that occurs, grantees must make every effort to bring the units back into income compliance as soon as it is feasible; and

- **Fixed and Floating HTF Units:** In a project contacting both HTF-assisted and other units, the project owner will designate fixed or floating HTF units at the time of project commitment in the written agreement and the actual HTF units must be identified not later than the time of project completion. Fixed units remain the same throughout the affordability period and floating units are changed to maintain compliance with the requirements of this section during the affordability period.

## Development Quality

### PROPERTY STANDARDS

All projects that receive HTF Funds must comply with threshold requirements detailed in the 2016 Department's Multifamily Financing Program Guide (Draft) (Attachment A). All HTF – assisted projects must meet all applicable State and local codes, ordinances and zoning requirements. In the absence of those codes, the housing must meet the International Residential Code or International Building Code (as applicable). All HTF- assisted projects must meet the following requirements:

- The accessibility requirements of 24 CFR part 8, 28 CFR Parts 35 and 36; and 24 CFR 100-205 as applicable; and other improvements that are not required by the regulations or statute that permit use by a person with a disability;
- The energy efficiency standards established pursuant to Section 109 of the Cranston-Gonzalez National Affordable Housing Act;
- Where relevant, the housing must be constructed or rehabilitated to mitigate the impact of the potential disasters, in accordance with applicable State and local codes, ordinances, and requirements, or other requirements established by HUD.
- The Department will review and approve written cost estimates and ensure that construction contracts and work will meet the all applicable standards in accordance with the 2016 Multifamily Rental Financing Program Guide dated August 9, 2016; and
- The Department will conduct initial, progress and final inspections to ensure work is done in accordance to work write-ups/ architectural specification in accordance with the 2016 Multifamily Rental Financing Program Guide, dated August 9, 2016.

In addition, all rehabilitation projects must meet the following standards:

- If the housing is occupied, it must be free of all life-threatening deficiencies;
- The Department will determine the useful life of major system through a capital needs assessment and require a replacement reserve when the useful life of systems is less than the affordability period
- The housing must meet the lead-based paint requirements at 24 CFR part 35;
- All housing must be decent, safe, sanitary, and in good repair as described at 24 CFR 5.703. HUD will establish the minimum deficiencies that must be corrected under the grantee's rehabilitation standards based on inspectable items and inspectable areas from the HUD prescribed physical inspection procedures (Uniform Physical Condition Standards) pursuant to 24 CFR 5.705

### Maximum Per-Unit Development Subsidy

The maximum per-unit development subsidy amount will use the 2016 Maryland HOME Maximum Subsidy Limits, based on bedroom size. These limits are:

<b>Number of Bedrooms/Unit Size</b>	<b>Maximum HOME Subsidy Limit</b>
Zero bedroom	\$140,107
One Bedroom	\$160,615
Two Bedrooms	\$195,304
Three Bedrooms	\$252,662
Four or More Bedrooms	\$277,344

The Department will use existing HOME Program analysis procedures to determine actual HTF funding allocated to a project. The ratio of HTF units to total units will be proportional to the ratio of HTF funds used to total costs, not to exceed the maximum per-unit subsidy amount.