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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
COMMUNITY PLANNING AND DEVELOPMENT

Special Attention of:
All CPD Division Directors
All HTF Grantees and Subgrantees
All HTF Coordinators

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SUBJECT: Guidance for HTF Grantees on Fiscal Year 2016 Housing Trust Fund (HTF) Allocation Plans

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I. Purpose

This notice provides guidance to States on the submission requirements for the Housing Trust Fund (HTF) program. States are defined as the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and U.S. Virgin Islands.

II. Background

The HTF program was created by section 1131 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289). Section 1131 amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) to add a new section 1337 "Affordable Housing Allocation" and a new section 1338, "Housing Trust Fund." HTF provides formula grants to States to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low-income and very low-income households, including homeless families.

HUD published an interim rule for HTF (Interim Rule) on January 30, 2015. The rule, codified at 24 CFR Part 93, establishes both the program requirements and the formula for allocating grant funds to States.

III. Formula Allocations and State Notification to HUD

HTF funding comes from the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae), rather than from appropriations. The funding for each fiscal year is not deposited into the Treasury and made available to HUD for allocation until several months into the calendar year. After HUD determines the HTF formula allocation amounts, HUD will publish a notice in the Federal Register announcing the availability of the allocations to States. Under the Interim Rule, (§ 93.100) the State must notify HUD in writing of its intent to become a grantee for HTF funding not later than 30 days after HUD publishes the formula allocation amounts in the Federal Register. This notification is only required for the first year of HTF funding.

A State may choose to be the HTF grantee to receive and administer its grant or may designate a qualified instrumentality of the State, such as a State housing finance agency, housing and community development entity, or tribally designated housing entity, to be the HTF grantee. The selection of a State department/agency or the designation of an instrumentality to be the HTF grantee will be made in accordance with State law, typically by the Governor or State Legislature. If a State designates an instrumentality to be the HTF grantee, a copy of the designation must be sent to HUD.

The State's notification to HUD must provide the contact information for the State department/agency or State-designated entity that will administer the State's HTF funds. Only one State department/agency or State-designated entity can be the HTF grantee.

IV. Consolidated Planning

A. General Requirements

The Interim Rule integrated the HTF allocation plan and citizen participation requirements into the consolidated plan (24 CFR Part 91) so that the State incorporates strategic planning and citizen participation for HTF in a comprehensive manner with other formula program funds. Most elements of the HTF allocation plan are in the action plan, although the HTF program is also included in other sections of the consolidated plan.

Especially because the HTF program is new, the State may not be ready to include information for HTF when it is ready to submit its action plan for FY 2016 based on the start date of its consolidated program year. The State may submit the HTF allocation plan as an amendment to its action plan. The action plan amendment for HTF must be submitted by August 16, 2016. More information on the timing of submission of actions plans is found in HUD Notice CPD 16-01 *Guidance on Submitting Consolidated Plans and Annual Action Plans for FY 2016*.

B. Strategic Plan Requirements

Few States are scheduled to provide a full 5 year consolidated plan for FY 2016 funding. However, the State will need to include HTF information as part of its FY 2016 submission whether or not it submits a full 5 year consolidated plan.

The consolidated plan regulations were amended to add § 91.315(b)(2) to specifically include information about HTF, but the State needs to review its current strategic plan to determine how the additional resources provided by HTF affect its strategic plan. For example, the strategic plan must indicate the general priorities for allocating funds geographically within the State and among different activities and needs. The State may decide to change its general priorities based on how it plans to use its HTF funds.

The affordable housing section of the strategic plan (§ 91.315(b)(2)) must be revised to include specific objectives that describe the proposed housing accomplishments the State plans to achieve and specify the number of extremely low-income families to which it will provide affordable housing, as defined in § 93.302 for rental housing and § 93.304 for homeownership housing over a specific period of time. For each objective, the State must identify proposed accomplishments and outcomes in quantitative terms over a specified time period (e.g., one, two, three or more years.)

C. Annual Action Plan/HTF Allocation Plan Requirements

The consolidated plan regulations were amended to require the State's action plan to include its HTF allocation plan. This includes the applicable sections of § 91.320(a)-(j).

The HTF allocation plan requirements (§ 91.320(k)(5)) are:

The plan must describe the distribution of HTF funds. As explained in § 93.101, the State may distribute funds through subgrantees, directly select recipients, or do a combination.

A subgrantee (defined in § 93.2) is a unit of local government or State agency selected by the HTF grantee to administer all or a portion of its HTF program. A local government subgrantee must have a consolidated plan (i.e., must be a local government that receives formula grants from HUD) and must include its own HTF allocation plan in its action plan (§ 91.220(1)(5)) consistent with the State's HTF requirements.

If a subgrantee is a State agency, its HTF allocation plan must be included in the State's consolidated plan because a State has only one consolidated plan. This means the State's HTF allocation plan will cover two HTF allocations plans – one for the State and one for its State agency subgrantee.

The State may impose restrictions on the use of funds by the subgrantee to limit or direct the activities to meet the State's priority needs. The State may also allow a subgrantee to distribute funds to eligible recipients based on the extremely low-income and very low-income goals identified in the State's own strategic plan.

Recipients (defined in § 93.2) are organizations, agencies, or other entities (for profit or non-profit) that receive HTF funds to undertake the eligible project. A recipient must demonstrate the financial capacity necessary to undertake, complete, and manage the proposed project, and have familiarity and understanding of the Federal, State and local housing programs used in conjunction with HTF funds to ensure compliance with all applicable program requirements and regulations.

If the State plans to select applications submitted by eligible recipients, the HTF allocation plan must include the application requirements and the criteria for the selection of applicants to meet the following required funding priorities.

1. Geographic Diversity. The HTF allocation plan must provide priority for funding based on geographic diversity, as defined by the HTF grantee (such as urban and rural). The State's geographic distribution priorities must be consistent with the State's certification that it will affirmatively further fair housing and any applicable Analysis of Impediments.
2. Applicant Capacity. The applicant's ability to obligate HTF funds and undertake eligible activities in a timely manner.
3. Project-based Rental Assistance. In the case of rental housing projects, the HTF allocation plan must include a funding priority that considers the extent to which the project has Federal, State, or local project-based rental assistance so that rents are affordable to extremely low-income families.
4. Duration of Affordability Period. In accordance with § 93.302(d), all HTF units in rental housing projects, must have affordability requirements for a minimum of 30 years. The funding priority in the HTF allocation plan should consider how project underwriting supports the financial feasibility of the project beyond the required 30-year period.

5. Priority Housing Needs of the State. The plan must provide priority for funding based on the merits of the application in meeting the priority housing needs established by the State. Examples of other State priority housing needs might include: housing accessible to transit or employment centers; housing with green building and sustainable development features; or housing that serves special needs populations.
6. Leveraging. The priorities must include the extent to which the application makes use of non-Federal funding sources.
7. Eligible Activities. If the State plans to select applications submitted by eligible recipients, the HTF allocation plan must require the application to describe the eligible activities to be conducted with HTF funds (as provided in § 93.200) and contain a certification by the eligible recipient that HTF-assisted housing units will comply with all HTF requirements.
8. Eligible Recipients. The HTF allocation plan must describe eligibility requirements for recipients, (specified by the definition of recipient at § 93.2).
9. Performance Goals and Benchmarks. The HTF allocation plan must establish the performance goals and benchmarks against which progress will be measured. The performance goals and measures must be consistent with the goals established in the affordable housing section of the strategic plan (§ 91.315(b)(2)).
10. Maximum Per-unit Development Subsidy Limits. The plan must establish the maximum per-unit development subsidy limit for housing assisted with HTF funds, adjusted for the number of bedrooms and based upon the geographic location of the units. If the State chooses to use subgrantees, the subgrantees must use the maximum per-unit development subsidy amounts established by the State.
11. Rehabilitation Standards. The plan must include the State's rehabilitation standards (required by § 93.301(b)(1)) for HTF-assisted housing. The standards must be described in sufficient detail to determine the required rehabilitation work, including methods and materials.
12. Resale and Recapture Provisions. If the State plans to use HTF funds to assist first-time homebuyers, the plan must set forth the guidelines for resale or recapture. As required in § 93.304(f), the resale or recapture guidelines must be reviewed and approved in writing by HUD separately from the review and approval of the consolidated plan and/or annual action plan.
13. Affordable Homeownership Limits. If the State plans to use HTF funds for homebuyer assistance, and does not use the HTF affordable homeownership limits provided by HUD, it must determine 95 percent of the median area purchase price for single family housing and set forth the information in its HTF allocation plan in accordance with § 93.305(a)(2).

14. Limitation on Beneficiaries or Preferences. The State may limit the beneficiaries or give preferences to a particular segment of the extremely low- or very low-income population only if described in the plan. Any limitation or preference must not violate nondiscrimination requirements in § 93.350. The State must not limit or give preferences to students. The State may permit rental housing owners to limit tenants or give a preference in accordance with § 93.303(d)(3) only if the limitation or preference is described in the plan.
15. Refinancing Existing Debt. The HTF allocation plan must describe the conditions under which the HTF grantee will allow the use of HTF funds to refinance existing debt secured by rental housing units that are being rehabilitated with HTF funds. Under the regulation at § 93.201(b)(1), refinancing costs are only permitted when:
 - a. rehabilitation is the primary eligible activity;
 - b. refinancing is necessary to reduce the overall housing cost and to make the housing more affordable and is proportional to the number of HTF-assisted units in the rental project; and
 - c. the rehabilitation cost attributable to the HTF units is greater than the amount of debt to be refinanced that is attributable to the HTF units.

The HTF allocation plan must, at minimum, include refinancing guidelines to ensure that rehabilitation is the primary eligible activity.

D. Special Considerations for the District of Columbia and Insular Areas

The District of Columbia, American Samoa, Guam, the Northern Mariana Islands, and U.S. Virgin Islands are included in the definition of “State” for HTF. However, the consolidated plan regulations cover them as local governments. Their HTF allocation plans must include the information described above.

V. HTF Allocation Plan Submission and eCon Planning Suite

HUD Notice CPD 12-009 requires a State submitting a consolidated plan on or after November 15, 2012 to use the eCon Planning Suite in IDIS to submit this plan and all subsequent consolidated plans, annual action plans, and consolidated annual performance and evaluations reports (CAPERs). The eCon Planning Suite does not currently contain the required HTF allocation plan data fields and enhancements to include these fields are not scheduled until after the first HTF allocation plans are to be submitted in 2016.

There are, however, portions of the existing eCon Planning Suite in IDIS that can accommodate HTF. For example, the required information for the State’s affordable housing section of its strategic plan can be added to the “SP-10 Geographic Priorities” and the “SP-45 Goals” screens in the eCon Planning Suite in IDIS. To update an approved consolidated plan in the system, the State must amend its most recent plan. Once updated, the connected action plan screens, the “AP-20 Annual Goals and Objectives” and “AP-50 Geographic Distribution” screens will be

updated to reflect any changes. States can then update information on these screens to include HTF. The “AP-55 Affordable Housing” screen should also be completed to include HTF. Required sections of the consolidated plan and annual action plan that cannot be added to the existing eCon Planning Suite screens must be submitted with the State’s HTF allocation plan outside of IDIS.

HUD will post a sample HTF allocation plan format to the HTF website on HUD Exchange (www.hudexchange.info/programs/htf/). HUD will notify all HTF grantees once the HTF allocation plan elements are added to the eCon Planning Suite.

For FY 2016, the HTF grantee must send an email to the applicable Field Office CPD Director and the Office of Affordable Housing Programs at HTF@hud.gov with its completed HTF allocation plan attached to the email as a Microsoft Word document or PDF file. The HTF allocation plan must include a form SF-424 “Application for Federal Assistance” and must be submitted by the entity responsible for submitting the State’s consolidated plan.

VI. HTF Allocation Plan Approval

HUD will review HTF allocation plans in accordance with consolidated plan regulations (Part 91, subpart F). For an HTF allocation plan that is submitted with an HTF grantee’s annual action plan, HUD will review and approve the HTF allocation plan as part of its review of the annual action plan under § 91.500. For an HTF allocation plan that is submitted as an amendment to the State’s annual action plan, HUD will review and approve the HTF allocation plan separately, but within 45 days of receiving the plan. The plan will be deemed approved 45 days after HUD receives the plan, unless HUD notifies the HTF grantee that the plan is disapproved before that date.

HUD may disapprove all or a portion of a State’s consolidated plan (e.g., the HTF allocation plan), when HUD determines that it is inconsistent with the purposes of the Cranston-Gonzalez National Affordable Housing Act, or is substantially incomplete. A State’s consolidated plan is substantially incomplete if it was developed without the required citizen participation or consultation, it fails to satisfy all of the required elements, or HUD rejects a certification as inaccurate. HUD will inform the State in writing of the reasons for disapproval and actions that the State could take to meet the criteria for approval within 15 days after HUD notifies the State of disapproval of its plan.

The State may revise or resubmit a plan within 45 days after the first notification of disapproval. HUD must respond to approve or disapprove the plan within 30 days of receiving the revisions or resubmission.

VII. Questions Regarding This Notice

For questions about the guidance provided in this notice, HUD field office staff should contact their Desk Officer in the Office of Affordable Housing Programs; an HTF grantee should contact its local HUD Field Office.