



Development
Services Agency

Draft Program Year 2020 Ohio Consolidated Plan National Housing Trust Fund Allocation Plan

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Introduction

National Housing Trust Fund Overview

The National Housing Trust Fund (NHTF) was established by Title I of the Housing and Economic Recovery Act of 2008 (HERA), Section 1131 (Public Law 110-289) to increase and preserve rental housing as well as increase homeownership for very low- and moderate-income (LMI) families, including those experiencing homelessness, through formula grants to states. HERA authorized Fannie Mae and Freddie Mac (the Government Sponsored Enterprises (GSE's)) to set aside 4.2 basis points of unpaid principal purchases. Of those set asides, 65% is dedicated to the NHTF while the remaining 35% is reserved for the Capital Magnet Fund. Contributions to the NHTF were originally scheduled to begin in FY 2010 but were suspended following the GSE's conservatorship. In December 2014, the GSEs were instructed to set aside NHTF funds beginning in FY 2015.

HERA did not make Davis-Bacon labor standards applicable to the NHTF and the U.S. Department of Housing and Urban Development (HUD) did not require Davis-Bacon labor standards in the NHTF Final Rule. The Affirmatively Furthering Fair Housing requirements applicable to HUD funding recipients and all fair housing laws do apply to NHTF activities, including HUD's April 4, 2016, guidance regarding the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions.

On February 8, 2016, then Governor John Kasich sent a designation letter to HUD Secretary Julian Castro identifying the Ohio Development Services Agency (Development) as Ohio's NHTF administrator and the Ohio Housing Finance Agency (OHFA) as the allocating entity. HUD interpreted this designation to name Development as the grantee and OHFA as the subgrantee. OHFA will not subgrant any NHTF funds. The Program Year 2020 Housing Trust Fund Allocation Notice was issued by HUD on April 24, 2020.

Development is required to submit an annual allocation plan for the state, as well as an annual action plan for the subgrantee OHFA. This NHTF Allocation Plan will serve as Development's NHTF Allocation Plan. The final submittal will include both Development's and OHFA's NHTF Allocation Plans. The grant agreement, which outlines the subgrantee requirements are included in Attachment A.

Ohio's NHTF Planning Process

Original Allocation Plan: Development held a NHTF Public Forum on February 25, 2016, to discuss implementing Ohio's expected allocation. Federal, state, and local agencies; advocacy organizations; and members of the development community attended the forum. Following the Public Forum, Development posted an open invitation online encouraging interested parties to attend three Advisory Group Work Sessions. Held between March and May 2016, these sessions identified and refined the following public objectives for the NHTF:

- achieving lower rents in Housing Tax Credit properties,
- allocating dollars to support non-Housing Tax Credit multifamily developments, and
- preserving existing affordable housing through the leveraging of 4% Housing Tax Credits.

The Advisory Group did not recommend preferences or limitations to a particular segment of extremely- or very-low income households; accordingly, Ohio does not intend to limit beneficiaries or give preferences to a particular segment of the extremely low-income population in its NHTF program.

With this information, Development submitted a draft Allocation Plan for posting on its website commencing the formal comment period on June 24, 2016. Development held a public forum on the draft Allocation Plan on June 21, 2016, and a public hearing on June 26, 2016. In response to feedback received through these public comment opportunities, Development completed a final Allocation Plan, revised to incorporate HUD suggestions. HUD approved the plan on December 30, 2016.

Also See: 24 CFR §91.100

Program Year 2020 Updates: This Program Year 2020 (PY20) Allocation Plan builds upon the original allocation plan to implement best practices identified in operating the NHTF program and to incorporate changes and revisions necessary to comply with the Interim Rule or HUD approval requirements. This PY20 Allocation Plan was released for public comment on April 9, 2020, with a public hearing to follow on May 26, 2020, with a public comment period to occur from May 25 to June 1, 2020. The final draft will be submitted to HUD once the public comment period has concluded.

Note: All NHTF activities must adhere to the requirements of 24 CFR Part 93; to any extent this Allocation Plan conflicts with that Interim Rule, the Rule shall govern. These guidelines may be subject to change pending developments in federal and state legislative requirements and/or Development policy. All awards are contingent upon the availability of funds to Development's Office of Community Development.

Questions concerning the NHTF should be directed to:

Ian Thomas at ian.thomas@development.ohio.gov

Ohio Consolidated Plan Housing Goals

As a formula block grant, NHTF allocations must be made in accordance with Ohio's Consolidated Plan (Con Plan). Development, through a public input process, develops the five-year Con Plan to identify affordable housing and community development needs and implements a framework to address those needs.

As articulated in the Con Plan, the goal of the Housing Development Assistance Program (HDAP) is "to support the capacity of housing development organizations and to provide financing for eligible housing developments to expand the supply of decent, safe, affordable housing for very low-income to moderate-income persons and households in the state of Ohio." HDAP and, through it, NHTF, as part of HDAP, helps to achieve the following goals and objectives from the State of Ohio's PY Program Year 2020-2024 Con Plan:

1. **Housing Preservation and Accessibility.** To provide funding for a flexible, community-wide approach to preserving and making accessible affordable owner and rental housing for low- and moderate-income (LMI) households by bringing the housing unit up to program standards and codes, eliminating hazards and deficiencies in major systems and reducing maintenance cost.
2. **Creating New Affordable Housing Opportunities.** To provide funding for a flexible, community-wide approach to creating new affordable housing opportunities for low- and moderate-income (LMI) persons.

Distribution of Funds

Distribution of Funds through OHFA Programs

As permitted by the Interim Rule, up to 10% of the \$8,755,082 PY20 allocation will be used to offset administrative costs. All programmatic funds will be distributed through OHFA's existing Housing Development Assistance Program (HDAP).

OHFA will prioritize using NHTF funds to expand the overall number of housing units available to the Extremely Low Income (ELI) population and to prevent supplementing existing resources that are already creating ELI units. Subject to applicant demand and qualification, OHFA anticipates the NHTF assistance being awarded through the HDAP as follows:

- 60% through the Bond Gap Financing (BGF) program
- 40% through the Housing Development Gap Financing (HDGF) program

Applicants may apply for no more than \$3 million in NHTF per project. If there are insufficient qualifying applications to commit the full NHTF award through BGF or HDGF, any remaining funds will be distributed through the Housing Credit Gap Financing (HCGF) program.

HDAP funds are awarded on a competitive basis and must receive approval from the OHFA Board. Awarded funds are structured as a deferred loan with payment due on sale. The mandatory rental affordability period and the loan term are a minimum of 30 years. The interest rate is 0%.

Contract Execution & Draws¹

All NHTF recipients must execute a funding agreement, as drafted by OHFA, that meets the requirements of 24 CFR §93.404. A [Guide to Requesting HDAP Funds](#) is available to assist applicants as they work with OHFA staff during the construction phase.

Eligibility Requirements

Eligible Applicants

Eligible applicants include private for-profit housing developers, not-for-profit 501(c)(3) and 501(c)(4) organizations, and public housing authorities. Applicants must demonstrate sufficient experience and capacity to:

- Own, construct, rehabilitate, manage, and operate affordable multifamily rental housing;
- Undertake, comply, and manage eligible NHTF activity; and
- Manage other programs that may be used in conjunction with NHTF funds including, but not limited to, HDAP.

Additional eligibility criteria are set forth in the HDGF Guidelines and BGF Guidelines and incorporated here. Applicants must make acceptable assurances that they will comply with the NHTF requirements during the entire program period.

Eligible Activities²

¹ See 24 CFR §91.220(l)(5)(B), 24 CFR §91.320(k)(5), 24 CFR §93.200

² See 24 CFR §91.220(l)(5)(B), 24 CFR §91.220(l)(5)(E), 24 CFR §91.220(l)(5)(F), 24 CFR §91.220(l)(5)(H), 24 CFR §91.320(k)(5), 24 CFR §93.200

NHTF funds may be used for producing, preserving, and rehabilitating affordable rental housing. Eligible activities include, but may not be limited to, acquiring, constructing, reconstructing, or rehabilitating non-luxury housing with suitable amenities. More specifically, this includes real property acquisition, site improvements, conversion, demolition, financing costs, and relocation expenses of any displaced persons. NHTF funds may only be used for public housing in limited circumstances³.

Applicants for NHTF funds will be required to describe the eligible activities to be conducted with HTF funds (as provided in 24 CFR § 93.200) as well as certify that HTF-assisted housing units will comply with all HTF requirements. Applicants must meet all OHTF/HOME eligibility criteria to also be eligible for a NHTF award.

Ohio's NHTF funds are not available for operating subsidies or to refinance existing debt secured to rental housing units. Additionally, OHFA does not intend to use any NHTF funds for homebuyer activities in the PY20 funding cycle. As such, there are no applicable resale, recapture, or affordability provisions related to homebuyer activities.

Rehabilitation Standards⁴

Minimum rehabilitation standards are governed by the [Housing Rehabilitation Handbook Part II](#), as issued by Development. This guide includes standards for:

- Health and safety;
- Major systems;
- Lead-based paint;
- Accessibility;
- Disaster mitigation;
- State and local codes, ordinances, and zoning requirements; and
- Inspectable areas and observable deficiencies from HUD's Uniform Physical Condition Standards identified by HUD as applicable to NHTF-assisted housing.

In addition, all NHTF activities must meet minimum standards as set forth in the current [HDGF Guidelines](#), the [BGF Guidelines](#), the [Multifamily Underwriting Guidelines](#), the [Design & Architectural Standards](#), and all other multifamily program guides utilized by the development. The OHFA Multifamily Underwriting Guidelines outline requirements for completing a Physical Capital Needs Assessment, which OHFA requires for all projects involving rehabilitation. Specific to projects utilizing NHTF, if the remaining useful life of one or more major system is less than the affordability period, NHTF recipients will be required to establish a replacement reserve and make monthly payments to the reserve that are adequate to repair or replace the systems as needed.

NHTF-funded housing must meet the accessibility requirements in 24 CFR part 8, which implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. For "Covered multifamily dwellings," as defined at 24 CFR 100.201, the housing must meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619). NHTF funds may be used for

³ See 24 CFR §93.203 for further information.

⁴ See 24 CFR §91.220(l)(5)(D), 24 CFR §93.200, 24 CFR §93.301(b)(1)

improvements that permit use by a person with disabilities, even if they are not required by statute or regulation.

Awardees must adhere to the standards set forth in OHFA's [Uniform Relocation Documents](#) to minimize displacement of residents during rehabilitation activities.

Maximum Per-Unit Development Subsidy⁵

NHTF may not be used in connection with luxury housing. NHTF expenditures must be reasonable and based on actual costs. The maximum per-unit development subsidy shall be the same as the HOME Program (HOME) maximum per-unit subsidy limit as determined by HUD. These limits vary by bedroom and, in some program years, geographic location. The current HOME maximum per-unit subsidy limits are specifically incorporated in this document and listed below:

| Efficiency | 1br | 2br | 3br | 4br |
|------------|-----------|-----------|-----------|-----------|
| \$149,868 | \$171,802 | \$208,913 | \$270,266 | \$296,666 |

The designation of HOME maximum per-unit subsidy limits is justified, reasonable, and appropriate under the NHTF Interim Rule.

HUD allows setting the NHTF maximum per-unit subsidy limits at the existing HOME limits and cost data indicate using HOME limits is appropriate as the initial baseline cap for the amount of NHTF investment that may be put into any NHTF- assisted unit. However, it is important to note that the cap is not the only mechanism OHFA will use to allocate no more NHTF funds than allowable and necessary for project quality and affordability. Each application for NHTF funding will be reviewed and analyzed in accordance with OHFA's Multifamily Underwriting Guidelines. Further, OHFA staff has extensive experience in this area, including allocating and administering the HOME program. The review includes examining sources and uses, including any operating or project-based rental assistance, and a determination that all costs are reasonable. Through its underwriting process, OHFA will ensure that the level of NHTF subsidy provided:

1. does not exceed the actual NHTF eligible development cost of the unit,
2. that the costs are reasonable and in line with similar projects across the state,
3. the developer is not receiving excessive profit, and
4. NHTF funding does not exceed the amount necessary for the project to be successful for the affordability period.

Application Requirements

Application Submission and Fee

Submissions will flow through the respective Housing Development Assistance Program (HDAP) (Bond Gap Financing, Housing Development Gap Financing, or Housing Credit Gap Financing). All applicants must submit a complete HDAP application and a NHTF Supplemental Application. Please see the [HDGF Guidelines and/or BGF Guidelines](#) for full application instructions.

⁵ See 24 CFR §93.300

Threshold Requirements⁶

Applicants must submit a qualifying application and meet all requirements of the respective Housing Development Assistance Program (HDAP) to which they are applying. Refer to the Housing Development Gap Financing Guidelines and/or Bond Gap Financing Guidelines for further information.

Supplemental Application

In addition, applicants must complete a NHTF Supplemental Application. The Supplemental Application will collect the below mandatory information. Failure to respond to or satisfy these threshold requirements will result in removal from NHTF consideration.

- Experience and Capacity
- Description of eligible activities to be conducted with NHTF funds
- Description of applicant's ability to undertake eligible activities in a timely manner
- Statement describing if/how NHTF units will be integrated with higher income units
- Statement describing tenant recruitment and selection process
- Certification of Compliance with all NHTF requirements

Affordability

In addition to other HDAP affordability requirements⁷, NHTF-funded projects must commit to providing affordable rents to extremely low-income households through the greater of either:

- 10% of affordable units rent restricted at 30% of 30% Area Median Income (AMI); or
- Five (5) units rent restricted at 30% of 30% AMI

Developments utilizing both Ohio Housing Trust Fund (OHTF) and/or HOME Program (HOME) and NHTF funding must incorporate the rent restrictions for each funding type without overlap. In no case shall rent plus utilities on any NHTF-assisted unit(s) exceed 30% of AMI.

All NHTF rent restrictions must be reflected in the HDAP application. OHFA encourages applicants to offer rents below the 30% of AMI minimum requirements. If an applicant does not qualify, or is not selected for NHTF funding, OHFA will reevaluate the budget for HDAP funding through OHTF/HOME with or without the additional NHTF rent restrictions and applicants may amend the budget accordingly at the final application.

Tenant Selection⁸

To promote inclusionary screening practices, NHTF recipients must consider mitigating criteria in deciding whether to select any tenant-applicant, including but not limited to:

- Tenant-applicants lacking proof of employment and/or income at three or more times the monthly cost of rent;
- Tenant-applicants with no credit history; and
- Tenant-applicants with an eviction history.

⁶ See 24 CFR §91.220(l)(5)(B), 24 CFR §91.320(k)(5)(ii), 24 CFR §93.250, 24 CFR §93.302(b)(1)(i)

⁷ All HDAP developments must commit to one of the following selections, based on the location of the proposed project: (A) HUD Participating Jurisdiction: A minimum of 40 percent of the affordable units must be affordable to households with incomes at or below 50 percent of AMI (B) Non-HUD Participating Jurisdiction: A minimum of 35 percent of the affordable units must be affordable to households with incomes at or below 50 percent of AMI.

⁸ See 24 CFR §91.220(l)(5)(B), 24 CFR §91.320(k)(5)(ii), 24 CFR §93.250, 24 CFR §93.302(b)(1)(i)

NHTF recipients must adhere to all guidance contained in HUD's [Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions](#) including but not limited to prohibitions on exclusionary policies based on arrests without convictions and requirements to consider mitigating circumstances for conviction records.

Priority Funding Criteria⁹

In addition to threshold criteria, the NHTF Supplemental Application will collect the following priority funding information. Where scoring is necessary, this information will be used to prioritize applications for funding in conjunction with any other competitive criteria for the specific funding program.

- a. Geographic Diversity¹⁰ (up to 10 points)
 - i. Priority given to projects located in either a Moderate, High, or Very High Opportunity Area or are of Slight, Strong, or Strongest Growth as defined by the [OHFA USR Opportunity Index](#).
- b. Project-based Rental Assistance (up to 10 points)
 - i. Priority given to projects that commit to a higher number of units in the development with one or more of the subsidies below.
 1. Section 8 or Rural Development Rent Subsidy; and/or
 2. Other local, state, or federal subsidy as determined by OHFA that limits tenant rental contribution to 30% of gross household income.
- c. Duration of Affordability Period (up to 10 points)
 - i. Priority given to projects that can demonstrate positive or breakeven cash flow through year 30.
- d. Priority Housing Needs of the State (up to 10 points)
 - i. Affordable Housing Demand: Priority given to projects that are located in a census tract that has 100 or fewer available and affordable rental units per 100 very-low income (VLI) renters.
 - ii. Severe Housing Needs: Priority given to projects that are located in a county with a high percentage of severe housing problems for renters as defined in the Fiscal Year 2020 Ohio Housing Needs Assessment.
- e. Leveraging (up to 10 points)
 - i. Priority given to projects with a budget that includes more than 50% financing from non-federal, non-OHFA sources¹¹.

In the event of a tie score, the following criteria will determine funding priority:

1. Developments with other funding requiring affordability restrictions beyond 30 years
2. Developments with the most units affordable at or below 30% AMI
3. Developments that receive the most points under the Geographic Diversity category

⁹ 24 CFR §91.220(l)(5)(A), 24 CFR §91.320(k)(5)(i)

¹⁰ This geographic distribution priority is consistent with Ohio's Consolidated Plan and the certification that Ohio will affirmatively further fair housing.

¹¹ Non-Federal funding sources include but are not limited to equity, private debt, Federal Home Loan Bank's Affordable Housing Program, foundations, in-kind donations, tax abatements, and other state and local resources.

State-Limited Beneficiaries¹²

During the initial public input process, stakeholders, including the advisory group, did not recommend preferences or limitations to a particular segment of extremely- or very-low income households; accordingly, Ohio does not intend to limit beneficiaries or give preferences to a particular segment of the extremely low income population in its NHTF program at this time.

Rental housing owners may limit tenants or give a preference in accordance with 24 CFR §93.303(d)(3) only to the extent such a preference complies with all fair housing requirements and is described in the Consolidated Plan.

Also see: 24 CFR §91.220(l)(5)(G); 24 CFR §93.303(d)(3)

Performance Goals and Benchmarks

Performance goals in PY20 are subject to HUD allocation amounts, which are not yet available. OHFA expects that in PY20, NHTF will support approximately eight new or preserved housing developments and will create approximately 100 units with rents that do not exceed 30% of 30% AMI and are therefore affordable to extremely low-income families. Recipients of NHTF funds will be responsible for compliance with applicable reporting, file and physical inspections, and record keeping requirements described in guidance published on the OHFA Compliance Division website.

Also see: 24 CFR §91.220(l)(5)(C), 24 CFR §91.320(k)(5)(iii)

¹² 24 CFR §91.220(l)(5)(G); 24 CFR §93.303(d)(3)