National Housing Trust Fund Allocation Plan

Program Year 2023

Draft

Office of Multifamily Housing, Development Division | **January 2023**

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1. Introduction

1.1 NHTF 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 extremely low-income families, including those experiencing homelessness, through formula grants to states. HERA authorized Fannie Mae and Freddie Mac (the GSEs) to set aside 4.2 basis points of unpaid principal purchases. Sixty-five percent of those set asides are dedicated to the NHTF while the remaining 35 percent is reserved for the Capital Magnet Fund. Contributions to the NHTF were originally scheduled to begin in FY2010 but suspended following the GSE's conservatorship. In December 2014, the GSEs were instructed to set aside NHTF funds beginning in FY2015.

HERA did not make the labor standards of Davis-Bacon 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. Ohio Prevailing Wage requirements may apply.

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, Governor Kasich sent a designation letter to HUD Secretary Julian Castro identifying the Ohio Development Services Agency (ODSA), now known as the Ohio Department of Development (ODOD) as Ohio's NHTF administrator and the Ohio Housing Finance Agency (OHFA) as the allocating entity. HUD interpreted this designation to name ODOD as the Grantee and OHFA as the Subgrantee. OHFA will not subgrant any NHTF funds.

The State is required to submit an annual National Housing Trust Fund Allocation Plan; this document serves that purpose. HUD has not yet published the program year 2023 Housing Trust Fund Allocation Notice.

Also see: §93.303(d)

1.2 Ohio's NHTF Planning Process

Original Allocation Plan: OHFA hosted multiple public forums, advisory group work sessions, and received stakeholder feedback in 2016 to discuss implementing Ohio's expected allocation of NHTF. As a result of the feedback, OHFA identified 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 percent Housing Tax Credits. OHFA received HUD approval of the first NHTF Allocation Plan on December 30, 2016.

Program Year 2023 (PY23) Updates: This PY23 Allocation Plan builds upon the previous allocation plans to implement best practices identified in operations of the NHTF program and to incorporate changes and revisions necessary to comply with the Interim Rule or HUD approval requirements. This PY23 Allocation Plan will be released for public comment on March 1, 2023 and will be the subject of a Public Hearing as part of the Ohio Consolidated Plan Public Hearing on March 15, 2023.

Note that 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 OHFA policy. All awards are contingent upon the availability of funds to OHFA.

Questions concerning the NHTF should be directed to:
Ohio Housing Finance Agency
Office of Multifamily Housing, Development Division
57 East Main Street
Columbus, Ohio 43215
NHTFAllocation@ohiohome.org

1.3 Ohio Consolidated Plan Housing Goals

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

As articulated in the Consolidated Plan, the goal of OHFA's **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." NHTF, as part of HDAP, helps to achieve the following goals and objectives from the **State of Ohio's PY 2020-2024 Consolidated 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. **Create New Affordable Housing.** To provide funding for a flexible, community-wide approach to creating new affordable housing opportunities for low- and moderate-income (LMI) persons.

Also see: 24 CFR §91.100

2. Distribution of Funds

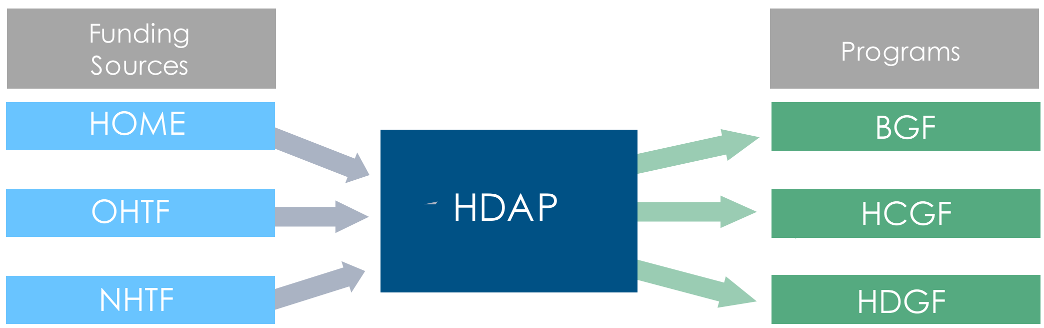
2.1 Distribution of Funds through OHFA Programs

As permitted by the Interim Rule, up to 10 percent of the to-be-announced PY23 allocation will be used to offset administrative costs. All programmatic funds will be distributed through OHFA's existing HDAP.

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

- 75 percent through the Bond Gap Financing (BGF) program
- 25 percent through the Housing Development Gap Financing (HDGF) program

Applicants may apply for no more than $5 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 through the BGF Program and a noncompetitive basis through the HDGF Program 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 is a minimum of 30 years. The interest rate is 0.00%.

2.2 Contract Execution & Draws

All recipients of NHTF 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.

Also see: §91.220(l)(5)(B), §91.320(k)(5), §93.200

3. Eligibility Requirements

3.1 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, HOME, LIHTC, and OHTF.

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

3.2 Eligible Activities

NHTF funds may be used for the production, preservation, and rehabilitation of affordable rental housing. Eligible activities include, acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities. NHTF funds may only be used for public housing in limited circumstances. See 24 CFR § 93.203 for further information.

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

Due to the limited amount of funding available in the 2023 funding cycle, 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 2023 funding cycle. As such, there are no applicable resale, recapture, or affordability provisions related to homebuyer activities.

3.3 Affordability Requirements

In addition to other HDAP affordability requirements[1], NHTF-funded projects must commit to providing affordable rents to extremely low income households through

- the number of units as determined by the process outlined in **24 CFR 93.200(c)**

Developments utilizing both OHTF/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 the Housing Trust Fund Rent Limit, as established annually by HUD. All NHTF rent restrictions must be reflected in the HDAP application.

3.4 Tenant Protections and Selection

Recipients must meet the requirements for tenant protections and selection as outlined in § 93.303, including requirements for affirmative marketing in § 93.350.

Additionally, OHFA requires that recipients of NHTF funds 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

[1] 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.

monthly cost of rent;
- Tenant-applicants with no credit history; and
- Tenant-applicants with an eviction history.

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.

Also see: §91.220, §91.320, §93.200, §93.250, §93.302, §93.303

4. Rehabilitation Standards

Minimum rehabilitation standards are governed by the **Housing Rehabilitation Handbook Part II** as issued by ODOD. 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**, **BGF Guidelines**, the **Multifamily Underwriting Guidelines**, the **Design & Architectural Standards**, and all other multifamily program guides utilized by the development. The OHFA Design and Architectural Standards 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). Note that NHTF funds may be used for 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.

Also see: §91.220(l)(5)(D), §93.200, §93.301(b)(1)

5. Maximum Per-Unit Development Subsidy

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 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 herein and set forth below:

Efficiency	1br	2br	3br	4br
$158,404	$179,467	$218,232	$282,326	$309,914

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

Setting the NHTF maximum per-unit subsidy limits at the existing HOME limits is allowed by HUD and cost data indicate the use of the 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 through its allocation and administration of the HOME program. The review includes an examination of 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.

Also see: §93.300

6. Application Requirements

6.1 Application Submission and Fee

Submissions will flow through the respective HDAP program (BGF, HDGF, or HCGF). All applicants must submit a complete HDAP application which includes required NHTF criteria. Please see the **HDGF Guidelines and/or BGF Guidelines** for full application instructions and application fees for the program year.

6.2 Threshold Requirements

Applicants must submit a qualifying application and meet all requirements of the respective HDAP program to which they are applying, including the **OHFA Multifamily Underwriting Guidelines** and **Design & Architectural Standards**. Refer to the HDGF Guidelines and/or BGF Guidelines for further information.

For programs in which NHTF will be made available, applicants will be required meet all NHTF eligibility requirements including providing responses to the below NHTF-specific criteria. Failure to respond to or satisfy these threshold requirements will result in removal from NHTF consideration.

- Description of experience and capacity, including the applicant's ability to undertake eligible activities in a timely manner and meet the eligibility requirements for the program (see **3.1 Eligible Applicants**);
- Description of eligible activities to be conducted with NHTF funds;
- Certification that housing units assisted with NHTF will comply with NHTF requirements.

7. Priority Funding Criteria

In addition to threshold criteria, the 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 Diversity[2]
   i. Priority given to projects located in either a Moderate, High, or Very High Opportunity Area or are of Slight Growth, Growth, or Strong Growth as defined by the **OHFA USR Opportunity Index**.
b. Project-based Rental Assistance
   i. Priority given to projects that commit to a higher number of units in the development with one or more of the below subsidies.
      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
   i. Priority given to projects with affordability periods longer than 30 years as required by other state or federal funding sources.
d. Priority Housing Needs of the State
   i. Percent of Very Low Income Households: Priority given to projects that are located in a census tract with a high percentage of VLI Households, as shown in the applicable **OHFA Interactive Map**
   ii. Underserved Counties: Developments located in a county where the volume of HTC per capita is less than what the county would have received if allocations were based solely on population size, as shown in the applicable **OHFA Interactive Map**.
e. Leveraging
   i. Priority given to projects with a budget that includes greater than 40% financing from non-federal, non-OHFA sources[3].

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

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

[3] Non-Federal, non-OHFA funding sources include private debt from a non-related entity, funds from the Federal Home Loan Bank's Affordable Housing Program, state historic tax credit equity, private capital from a non-related entity, and grants or loans from the state or local government.

1. Developments with the most units affordable at or below the Housing Trust Fund Rent Limit.
2. Developments that receive the most points under the Geographic Diversity category

Also see: §91.220(l)(5)(A), §91.320(k)(5)(i)

8. State-Limited Beneficiaries or Preferences

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: §91.220(l)(5)(G); §93.303(d)(3)

9. Performance Goals and Benchmarks

Performance goals in PY23 are subject to HUD allocation amounts, which are not yet available. Based on previous funding amounts, OHFA expects that in PY23, NHTF will support approximately ten new or preserved housing developments and will create approximately 1,000 total units with at least 150 of those units with rents that do not exceed the Housing Trust Fund Rent Limit and are therefore affordable to extremely low income families (NHTF-assisted units). 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: §91.220(l)(5)(C), §91.320(k)(5)(iii)