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ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

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

All HTF Coordinators

Notice: CPD-17-05
Issued: May 31, 2017
Expires: This Notice is effective until it is
amended, superseded, or rescinded

Cross Reference: 24 CFR Parts 91 and 93

SUBJECT: Guidance for HTF Grantees on Fiscal Year 2017 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

HTF funding comes from assessments on the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae), rather than appropriations. OMB determines the amount of funds available for allocation to the States through the HTF. HUD determines each State’s HTF formula allocation amount and publishes a notice in the Federal Register announcing the availability of the allocations to States.

IV. Consolidated Planning

A. Consolidated Plan and Citizen Participation Requirements

The Interim Rule integrated HTF into the consolidated plan (24 CFR Part 91), including the citizen participation requirements of Part 91, subpart B, 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 annual action plan, although information about the State’s HTF program must also be included in other sections of the consolidated plan.

Except for the HTF allocation plan requirements described in Section IV., D. of this Notice, for FY 2017 the State can comply with consolidated plan and annual action plan requirements for HTF using the eCon Planning Suite in IDIS as described in Sections IV., A, B, and C of this Notice.

The State must reflect the planned use of HTF funds on the following eCon Planning Suite consolidated plan screens in IDIS:

- SP-10 Geographic Priorities,
- SP-25 Priority Needs,
- SP-30 Influence of Market Conditions, and
- SP-35 Anticipated Resources.

If the State submitted a new 5-year consolidated plan for FY 2016 funding or amended its approved consolidated plan to include HTF for FY 2016 funding, the State may not need to make changes to its approved consolidated plan for FY 2017.

B. Strategic Plan Requirements

The State must include HTF in the affordable housing section of its strategic plan. The strategic plan is part of the State's 5-year consolidated plan. In the affordable housing section, the State describes its specific objectives and housing accomplishments it plans to achieve; and specifies the number of extremely low-income families to which it will provide affordable housing, as defined in 24 CFR § 93.302 for rental housing and § 93.304 for homeownership housing over a specific period. The State must reflect this information for HTF funds on the SP-45 Goals screen of the eCon Planning Suite in IDIS.

C. Annual Action Plan Requirements

The State must reflect the planned use of its HTF funds in its annual action plan including the applicable sections of § 91.320(a)-(j). This is accomplished on the following eCon Planning Suite annual action plan screens in IDIS:

- AP-05 Executive Summary,
- AP-15 Expected Resources,
- AP-20 Annual Goals and Objectives,
- AP-25 Allocation Priorities,
- AP-30 Method of Distribution,
- AP-35 Projects,
- AP-50 Geographic Distribution,
- AP-55 Affordable Housing,
- AP-65 Homeless and Other Special Needs Activities,
- AP-75 Barriers to Affordable Housing, and
- AP-85 Other Actions.

D. HTF Allocation Plan Requirements

The State's annual action plan must also include its HTF allocation plan in accordance with § 91.320(k)(5). The HTF allocation plan must describe the distribution of HTF funds and,

specifically, whether the State will distribute funds through subgrantees, directly select recipients, or do a combination.

1. Distribute HTF funds through subgrantees only:

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 annual action plan (§ 91.220(l)(5)) consistent with the State's HTF requirements.

If the State intends to distribute HTF funds through grants to subgrantees, it must describe the method for distributing HTF funds to subgrantees and how those funds will be made available to state agencies and/or units of general local government.

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.

If the State will only distribute HTF funds through grants to subgrantees, its HTF allocation plan must include the following elements:

- a. The plan must reflect the State's decision to distribute HTF funds through grants to subgrantees and must describe its method for distributing HTF funds to subgrantees and how those funds will be made available to state agencies and/or units of general local government.
- b. The plan must also establish the State's maximum per-unit development subsidy limit for housing assisted with HTF funds. The HTF regulation at 24 CFR § 93.300(a) requires the State to establish its own maximum limitations on the total amount of HTF funds that can be invested per-unit for development of non-luxury housing in the area and include the established limits in its HTF allocation plan. The limits must be reasonable, based on actual costs, and adjusted for the number of bedrooms and geographic location of the project. The State may choose to develop its own limits or adopt limits used in other federal programs such as the Low Income Housing Tax Credit (LIHTC) per unit cost limits, HOME's maximum per-unit subsidy amounts, and/or Public Housing Development Cost Limits (TDCs). The State must include a description of how the HTF maximum per-unit development subsidy limits were established or a description of how existing limits developed for another program and being adopted for HTF meet the HTF requirements listed above.

If the State chooses to use subgrantees, the subgrantees must use the maximum per-unit development subsidy amounts established by the State.

- c. If the HTF funds will be used for first-time homebuyers, the HTF allocation plan must include the guidelines for resale and 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.

2. *Distribute HTF funds through recipients:*

Recipients (defined in § 93.2) are organizations, agencies, or other entities (for profit or non-profit) that receive HTF funds to undertake an 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 is selecting applications submitted by eligible recipients, the plan must include the following elements:

- a. Eligible Requirements. The plan must reflect the State's decision to distribute HTF funds through grants to recipients and must describe its method for distributing HTF funds and how those funds will be made available to recipients. The HTF allocation plan must describe eligibility requirements for recipients of the State's HTF funds. Recipient is defined at § 93.2.
- b. Application Requirements. The HTF allocation plan must describe the application requirements for eligible recipients to apply for HTF funds.
- c. Selection Criteria. The HTF allocation plan must describe the selection criteria that the State will use to select applications submitted by eligible recipients. The State's selection criteria must include the following required funding priorities:
 - i. Geographic Diversity. The HTF allocation plan must describe the State's required priority for funding based on geographic diversity, (as defined by the State in the consolidated plan). 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.
 - ii. Applicant Capacity. The applicant's ability to obligate HTF funds and undertake eligible activities in a timely manner.
 - iii. 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.

- iv. 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.
- v. 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.
- vi. Leveraging. The priorities must include the extent to which the application makes use of non-Federal funding sources.
- d. Eligible Activities and Certification. The HTF allocation plan must require the application to describe the eligible activities to be conducted with HTF funds (as provided in § 93.200). This may include a description of the project and the work to be performed with HTF funds. The HTF allocation plan must also require the application contain a certification by the eligible recipient that HTF-assisted housing units will comply with all HTF requirements.
- e. Performance Goals and Benchmarks. The HTF allocation plan must provide for performance goals and benchmarks against which the State will measure its progress, consistent with the State's goals established under 24 CFR 91.315(b)(2). The State can meet this requirement by including HTF in its housing goals in the housing table on the SP-45 Goals and AP-20 Annual Goals and Objective screens.
- f. Maximum Per-unit Development Subsidy Amount. The HTF regulation at 24 CFR 93.300(a) requires the State to establish its own maximum limitations on the total amount of HTF funds that can be invested per-unit for development of non-luxury housing in the area and include the established limits in its HTF allocation plan. The limits must be reasonable, based on actual costs, and adjusted for the number of bedrooms and geographic location of the project. The State may choose to develop its own limits or adopt limits used in other federal programs such as the Low Income Housing Tax Credit (LIHTC) per unit cost limits, HOME's maximum per-unit subsidy amounts, and/or Public Housing Development Cost Limits (TDCs). The State must include a description of how the HTF maximum per-unit development subsidy limits were established or a description of how existing limits developed for another program and being adopted for HTF meet the HTF requirements listed above.

- g. Rehabilitation Standards. In accordance with § 93.301(b)(1), the State must establish rehabilitation standards for all HTF-assisted housing rehabilitation activities that set forth the requirements that the housing must meet upon project completion and include the standards in its HTF allocation plan. The State's description of its standards must be in sufficient detail to determine the required rehabilitation work including methods and materials. The standards may refer to applicable codes or they may establish requirements that exceed the minimum requirements of the codes. In addition, the rehabilitation standards must address each of the following elements: health and safety; major systems; lead-based paint; accessibility; disaster mitigation (where relevant); state and local codes, ordinances, and zoning requirements; Uniform Physical Condition Standards; and Capital Needs Assessments (if applicable).
- h. Resale and Recapture Guidelines. If the State plans to use HTF funds to assist first-time homebuyers, the HTF allocation 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.
- i. HTF Affordable Homeownership Limits. If the State plans to use HTF funds for homebuyer assistance, and does not use the HTF affordable homeownership limits for the area 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).
- j. State Limited Beneficiaries or Preferences. The HTF allocation plan must describe how the State will limit the beneficiaries or give preferences to a particular segment of the extremely low- or very low-income population to serve unmet needs identified in its consolidated plan or annual action plan. Any limitation or preference must not violate nondiscrimination requirements in § 93.350 and § 5.105(a), and 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 action plan.
- k. Refinancing of 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:
 - i. rehabilitation is the primary eligible activity;
 - ii. 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

- iii. 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.

As stated in § 93.201(b)(2), the HTF allocation plan must, at minimum, include refinancing guidelines to ensure that rehabilitation is the primary eligible activity.

E. 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 (§ 93.2). However, the District of Columbia is generally subject to the consolidated plan requirements for local governments and the program regulations (e.g., Community Development Block Grant, Emergency Solutions Grant programs) require the insular areas to comply with consolidated plan regulations for local governments. Their HTF allocation plans must include the information described above.

V. HTF Allocation Plan Submission and eCon Planning Suite

For FY 2017 funding, the State must submit the HTF allocation plan along with its FY 2017 annual action plan (or consolidated plan, if the State is submitting a 5-year consolidated plan for FY 2017) by August 16, 2017. If the State will amend a previously approved FY 2017 annual action plan or consolidated plan to include HTF, the amendment must occur before August 16, 2017. More information on the timing of submission of actions plans is found in HUD Notice CPD 16-18 *Guidance on Submitting Consolidated Plans and Annual Action Plans for Fiscal Year FY 2017*.

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, and programming will not be complete until after HTF allocation plans are required to be submitted in 2017. Therefore, for FY 2017, the State must submit its HTF allocation plan outside of IDIS. To facilitate the submission, HUD will post a sample HTF allocation plan form to the HTF website on HUD Exchange (www.hudexchange.info/programs/htf/). The State is not required to use the sample form; however, the sample form will include all required elements of the HTF allocation plan, so that States that use the sample form as a template will submit a complete HTF allocation plan.

To submit its FY 2017 HTF allocation plan, the State must send an email to the applicable Field Office CPD Director with its completed HTF allocation plan attached to the email as a Microsoft Word document or PDF file. The State must include the Office of Affordable Housing Programs at HTF@hud.gov on the email submission to the Field Office CPD Director for the submission to be considered received by HUD. The submission must also include a completed and signed SF-424 “Application for Federal Assistance” for the State’s HTF funds.

VI. HTF Allocation Plan Approval

HUD will review HTF allocation plans in accordance with consolidated plan regulations (Part 91, subpart F). HUD will review the HTF allocation plan within 45 days of receiving the plan as part of its review of the annual action plan under § 91.500. 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 the required elements, or HUD rejects a certification as inaccurate. Within 15 days after HUD notifies the State of disapproval of its plan, 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.

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.