

NHHTF • The National
• Housing
• Trust Fund



National Housing Trust Fund Allocation Plan

Supportive Housing Network of New York

June 23, 2016

Ed Gramlich

National Low Income Housing Coalition

A Very Brief Overview National Housing Trust Fund



Before getting into the NHTF Allocation Plan,
first a very short description of the NHTF
to make sure we are all on same page.

NHETF

• The National
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Getting to Know the NHETF Program (Five Minute Overview)

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What Is the National Housing Trust Fund?



- The National Housing Trust Fund (NHTF) is a federal program with dedicated sources of funding not subject to the annual Congressional appropriations process.
- The NHTF became law as part of the Housing and Economic Recovery Act of 2008 (HERA).

What Is the National Housing Trust Fund? *(continued)*



The primary purpose of the NHTF is to increase and preserve the supply of **rental** housing for **extremely low income** (ELI) households, those earning less than 30% of area median income (AMI).

How Is the NHTF Funded?

The NHTF is to be funded with dedicated sources of revenue.

- HERA requires annual assessment of 0.042% on new business of Fannie Mae and Freddie Mac.
- 65% to go to the NHTF.
- Due to banking crisis of 2008, this source of money was put on hold.

How Is the NHTF Funded?

(continued)



- On December 11, 2014 the hold was removed.
- Fannie and Freddie began to set aside funds on January 1, 2015
- Funds had to be transferred to HUD by March 1, 2016.
- On April 4, HUD announced nearly \$174 million for 2016.
- On May 5, *Federal Register* notice announces how much NHTF each state will get for 2016.
- HUD published interim regulations on January 30, 2015.

How Can NHTF Be Used?

- The law requires at least 90% of the funds be used for the production, preservation, rehabilitation, or operation of **rental** housing.
- Up to 10% can be used for homeownership activities that include constructing, rehabilitating, or preserving housing for first-time homebuyers, as well as providing down payment and closing cost assistance.

Who Is Served by the NHTF?

- The law requires at least 75% of the funds for rental housing benefit **extremely low income (ELI)** households or households with income below the federal poverty line.
- Up to 25% of the funds for rental housing may benefit very low income (VLI) households (earning less than 50% of area median income).
- All homeowner activities must benefit ELI or VLI.
- When there is less than \$1 billion, 100% must benefit ELI.

How Is NHTF Money Distributed?

- The NHTF law requires money to be distributed as block grants to states by formula with four factors.
- 75% of the formula's value goes to two factors reflecting the **shortage of rental housing** affordable and available to ELI households, and the extent ELI renter households pay **more than half of their income** for rent and utilities.
- Other two factors also based on renter needs, those of very low income households.

How Is NHTF Money Administered?

- The law requires states to select a state agency (such as a housing finance agency or a housing department) to receive and administer NHTF resources.
- Each state must prepare an annual Allocation Plan showing how it will distribute NHTF money based on its priority housing needs.
- The Allocation Plan must be inserted as a component of a state's Consolidated Plan following the ConPlan reg's public participation process

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NHTF Is Block Grant to States (Part 1)

There are two conditions that each state must meet in order to receive its NHTF allocation:

- State must designate entity to administer NHTF and notify HUD Secretary of the administering entity.
- State must prepare and submit NHTF Allocation Plan to HUD.

NHTF Is Block Grant to States (Part 2)

New York selected New York Housing Finance Agency (HFA)

Official in charge of New York's NHTF Allocation Plan is:

RuthAnne Visnaukas, Executive Deputy Commissioner

New York State Homes & Community Renewal

641 Lexington Avenue, New York, NY 10022

Phone: 212.872.0309, Ruthanne.visnaukas@nyshcr.org

Timeline (part 1)



- April 4: HUD announced nearly \$174 million for NHTF, 2016.
- April 26: HUD published NHTF Allocation Plan guidance, Notice CPD-16-07.
- May 5: HUD published NHTF allocations to states in *Federal Register*. New York will receive **\$7,013,963**.
- June 20: HFA posted draft NHTF Allocation Plan as substantial amendment to 2016-2020 ConPlan.

Timeline (part 2)



- June 20 – July 20: Comment period following New York’s ConPlan public participation procedures.
 - Comments mailed to Rachel Yerdon, HCR, 38-40 State St, Albany, NY, 12207-2804.
 - Comments emails to HCRConPln@nyshcr.org
 - No public hearing or meeting mentioned.
- Early August: HFA submits NHTF Allocation Plan. Must submit by August 16. HUD has 45 days to review.
- HFA and HUD sign Grant Agreement, funds now available.

Statute, Regulation, or Suggestion?



Information in this presentation is based on:

- NHTF statute is **ST**.
- NHTF regulation is **REG**.
- NLIHC suggestion is **SUG**.

NHTF Allocation Plan and New York ConPlan (part 1)



- NHTF Allocation Plan is part of Annual Action Plan New York submits as update to Consolidated Plan(ConPlan).
- Division of Housing and Community Renewal (HCR) lead entity for submitting ConPlan and Annual Action Plan. Housing Finance Agency (HFA) will administer NHTF.
- Advocates need to be familiar with state ConPlan and state's public participation process.
- New York's ConPlan just covers non-entitlement jurisdictions – giving incomplete picture of housing needs.

NHTF Allocation Plan and New York ConPlan (part 2)



- April 26, 2016 Notice CPD-16-07 indicates NHTF Allocation Plans will simply be “amendments” to ConPlan.
- Only “substantial amendment” requires 30-day comment period.
- HFA considers the NHTF a “substantial amendment”, is providing 30-day comment period.
- May 17 HUD letter and sample form make clear public participation required.

Definitions



- **Grantee (ST).**

State entity that prepares NHTF Allocation Plan, receives NHTF dollars, administers NHTF.

For New York grantee is HFA.

- **Subgrantee (REG).**

State may choose to designate local jurisdiction to administer NHTF in a city or urban county.

- **Recipient (ST).** Organization or agency that applies to grantee for NHTF money to carry out NHTF project.

NLIHC Suggestions (Part 1)

ALL SUGGESTIONS

- Advocates should seek:
 - **Deepest possible affordability** for rents
 - **Longest possible affordability periods.**
- All funds in first year should be used for **rental housing.**
- All funds should be distributed by state to eligible recipients (no subgrantees).
 - **New York draft NHTF Allocation Plan: no subgrantees.**

NLIHC Suggestions (Part 2)

ALL SUGGESTIONS

- All funds first year should be used to expand ELI housing.
 - Prevent supplanting.
 - Minimize use for preservation of existing federally assisted housing.
- Maximize affordability,
 - Projects should have as little debt service as possible.
 - Grants or no interest loans preferred (be careful if LIHTC).
- Given small amount of money first year, focus on projects with most impact.
 - Don't give small amounts of money to many projects.

14 Elements of NHTF Allocation Plan



(those in **bold** covered here) Part 1

- 1. Description of distribution of funds (ST)**
- 2. Application requirements (REG)**
- 3. Criteria for selecting applications submitted by recipients (ST)**
- 4. State's maximum per-unit development subsidy limit for NHTF-assisted housing (REG)**
5. If funds used for first-time homebuyers, identify resale or recapture provisions (REG)
6. Whether state will distribute funds directly, and/or use subgrantees (REG)
- 7. Funding priority based on six factors (ST)**

14 Elements of NHTF Allocation Plan



(those in **bold** covered here) Part 2

8. **Description of eligible activities and recipient eligibility requirements (ST)**
9. Recipient certification, NHTF-assisted units will comply with NHTF requirements (ST)
10. **Performance goals and benchmarks consistent with state's proposed accomplishments (ST)**
11. Rehabilitation standards NHTF-assisted projects must meet (REG)
12. NHTF affordable homeownership limits (REG)
13. **Preferences or limitations to a particular segment of ELI population (REG)**
14. Refinancing requirements and conditions (REG)

1. Description, Distribution of Funds

All SUGGESTIONS

- HFA should use **Request for Proposals (RFPs)** describing: eligible applicant, eligible activities, what must be included in an application, when and where applications are to be submitted, application evaluation criteria, who will review applications, and when grant awards are to be made.
 - **New York draft Allocation Plan:**
HFA will use its “Open Window” RFP.
- RFP should indicate ConPlan **priority housing need(s)** that New York intends to address based on NHTF public participation process.
- HFA should convene application review panel composed of:
 - state officials
 - at least two housing and homeless advocates.

2. Application Requirements (Part 1)



NLIHC suggests HFA detail 9 application requirements in RFPs. They include (SUGGESTIONS):

- Project information similar to LIHTC applications.
- How project responds to New York's priority housing needs.
- How project responds to statute's six priority factors.
- Plan and methods for achieving affordability (rent at no more than 30% of household income) for households at 30% AMI, 20% AMI, and 10% AMI.
- How NHTF-assisted units will be integrated with units having higher income targeting.

2. Application Requirements (Part 2)



NLIHC suggests HFA detail 9 application requirements in RFPs. They include (SUGGESTIONS):

- How project affirmatively furthers fair housing.
- Description of tenant recruitment and selection process.
- Definition of a successful resident; description of services and subsidies to be provided to maximize resident success.
- Evidence of applicant's successful completion and operation of similar projects.

3. Criteria for Selecting Applications

(Part 1)



NLIHC suggests (SUGGESTIONS):

a. Threshold criteria:

- Responsiveness to application requirements.
- Project reflects priority housing need(s) in ConPlan.

b. Final criteria, rating based on:

- Six priority factors in statute.
- Creativity and innovation.
- Feasibility.
- Potential for resident success.
- Applicant's credentials.

3. Criteria for Selecting Applications

(Part 2)



New York's 2016-2020 ConPlan general housing needs: [page 38]

- 41% of renter households paid more than 30% of income for rent and utilities.
 - Of these, half paid more than 50% of their income.
 - 25% of homeowner households were cost burdened.
- 78% of ELI renter households had severe cost burden, while 36% of VLI renter households had severe cost burden.
- Small households most numerous type to have cost burden. Nearly twice as many small owner households were cost burdened as small renter households.
- Elderly households next most numerous type to have cost burden. More than twice as many elder owner households were cost burdened than elderly renter households.

3. Criteria for Selecting Applications

(Part 3)



New York's 2016-2020 ConPlan Housing Market Analysis:

- In 18 counties, 72,000 renter households with income less than \$25,000 face a shortage of more than 22,600 units with monthly rents below \$6000, which they can afford with 30% of their income.
- Housing most needed is smaller, energy efficient units because majority of households are two-person households and 27% are single-person households.

[page 79]

3. Criteria for Selecting Applications

(Part 4)



New York's 2016-2020 ConPlan priority housing needs lists as a “high” priority affordable rental housing serving: extremely low income, low income, moderate income, large families, families with children, elderly, rural, chronic homeless, individuals, mentally ill, chronic substance abuse, veterans, domestic violence victims, frail elderly, persons with physical disabilities, persons with developmental disabilities, and persons with alcohol or other addictions.

[pages 122-123]

- NYS does not set genuine priorities by listing every income category and wide array of population characteristics.
- Advocates need to suggest their preferred priority ELI population(s).

4. New York's Maximum Per-Unit Subsidy Limit

New York must set maximum limits on total amount of NHTF funds that can be invested per-unit:

- Adjustments based on number of bedrooms and location.
- Limits must be reasonable and based on actual costs. REG

HUD issued guidance as an FAQ on May 12.

- These are not prescriptive, compared to HOME limits.
- HUD recognizes that deeper targeting for NHTF units will require more subsidy.

➤ **New York draft Allocation Plan: Does not mention HOME maximums.**

7. Six Priority Factors (Part 1)

State must give priority in awarding funds to applications based on six factors (ST, REG).

- Statute and regulation do not weigh factors.

NLIHC suggests awarding NHTF to applicants based on applicant's total points, up to 100 points (SUGGESTIONS).

a. Geographic diversity. **(Maximum points = 0)**

b. Applicant's ability to obligate funds and undertake activities in a timely manner.

(Maximum points = 0)

7. Six Priority Factors (Part 2)

c. For rental housing:

- “extent to which rents...are affordable, especially for ELI households” (ST);
- “extent to which the project has federal, state, or local project-based rental assistance so that rents are affordable to extremely low income families (REG).

(Maximum points = 50)

d. For rental housing, duration of unit’s affordability period. **(Maximum points = 15)**

7. Six Priority Factors (Part 3)

- e. Merits of application in meeting state's priority housing needs. **(Maximum points = 30)**
 - f. Extent application makes use of non-federal funding sources. **(Maximum points = 5)**
- New York draft Allocation Plan: Merely lists the six priority factors without hinting at relative importance.

Factor a: Geographic Diversity

Geographic diversity (ST). **(Maximum points = 0)**

Given relatively small amount of money available first year,

NLIHC suggests focusing on projects with most impact, rather than distributing small amounts of money to many projects (SUGGESTION).

➤ **New York draft Allocation Plan:**
“HTF funds may be used statewide.”

Factor b: Ability to Obligate Funds



Applicant's ability to obligate funds and undertake activities in a timely manner (ST). (Maximum points = 0)

This should be a threshold requirement, hence zero points.

- Regulation defines “commitment” for recipients as:
 - For new construction or rehabilitation, starting construction within 12 months of date of contract between recipient and state (REG).
 - For acquisition of existing housing, receipt of title within 6 months of date of contract between recipient and state (REG).

Factor c: Rent Affordability (Part 1)



- *Extent to which rents are affordable, especially to extremely low income families (ST).*
 - *For states, rule is extent to which project has federal, state, or local project-based rental assistance so rents are affordable to extremely low income families (REG).*
{No basis in statute for narrowing to “federal, state, local project-based assistance.”}
- NHTF-assisted households should not be cost burdened (SUG)
- (Maximum points = 50)**

Factor c: Rent Affordability (Part 2)



- “Affordable” should be defined as not paying more than 30% of household income for housing costs, including utilities (SUGGESTION).
- “Project-based rental assistance” should include, unit-based rental assistance, operating subsidies, or cross-subsidization of rents within project (SUGGESTION).
- 33% of state’s NHTF allocation may be used for operating cost assistance and/or operating cost assistance reserves for NHTF-assisted units (REG).
 - NOTE: HUD intends to issue guidance on operating costs for NHTF in the next year.

Factor d: Duration of Affordability



For rental housing, duration of the units' affordability period (ST). (Maximum points = 15)

- Minimum affordability period is 30 years (REG).
- Extent project exceeds 30 year minimum determines duration points, to maximum of 15 points for projects that commit to affordability in perpetuity (SUGGESTION).

Factor e: Merits of the Application

(Part 1)

Merits (ST) of application in meeting state's priority housing needs (REG). (Maximum points = 30)

- Extent project meets needs of lowest income households within state's priority housing needs (SUGGESTION).
- Examples (SUGGESTIONS):
 - Projects serving special needs populations, homeless, individuals leaving correctional institutions.
 - Projects proposed by nonprofits.
 - Projects that do not cause displacement.
 - Projects affordable to households with income less than 15% of AMI.

Factor e: Merits of the Application

(Part 2)

Merits (ST) of application in meeting state's priority housing needs (REG). (Maximum points = 30)

Projects affordable to households with incomes less than 15% AMI or whose sole income is SSI.

- New York has shortage of 294,000 rental units affordable and available to households with income less than 15% of AMI.
- For every 100 renter households with income less than 15% AMI, are only 16 units affordable and available to them.
- 89% paying more than half of their income for rent and utilities.

Factor e: Merits of the Application

(Part 3)



New York 2016-2020 ConPlan priority housing needs:

- New York's ConPlan lists as "high" priority all income categories and broad array of population characteristics.
- In effect the ConPlan does not provide genuine priorities.
- For NHTF Allocation Plan, advocates will have to weigh in, suggesting which ELI renter household characteristic(s) should be given extra points for merit.

Factor f: Use of Non-Federal Resources

Extent application makes use of non-federal funding (ST).

(Maximum points = 5)

- Extent application makes use of:
 - State and local publicly-controlled funds and/or land donated by state or local government to achieve deep affordability for ELI households (SUG).
 - Private funds or in-kind commitments, including donation of land, for production, preservation, or operation to achieve deep affordability for ELI households (SUG).

Other Priorities HFA Will Use To Evaluate Applications (part 1)



New York's Draft Allocation Plan: Use Standing State Priorities

- **Community Renewal and Revitalization Projects:** Mixed use and/or mixed-income projects in neighborhoods as part of coordinated community redevelopment plan that involve infill new construction and/or demolition and replacement of buildings having blighting impact on community, and for which rehabilitation is impracticable.
- **Integrated Supportive Housing Projects:** Projects that provide permanent supportive housing to variety of special needs populations in integrated housing settings.

Other Priorities HFA Will Use To Evaluate Applications (part 2)



New York's Draft Allocation Plan: Use Standing State Priorities

- **Housing Opportunity Projects:** Projects that propose workforce housing in areas experiencing economic growth that are served by high performing school districts.
- **Workforce Opportunity Projects:** Projects that propose workforce housing projects in close proximity to MTA rail stations outside of NYC, or within a ¼ mile walk of MTA subway station within NYC; or, are in communities that are implementing Transit Oriented Development plans that link project to expanded transportation choices; or, are in close proximity to multi-modal transportation centers that contribute to development of vibrant, mixed-use, high-density neighborhoods.

Other Priorities HFA Will Use To Evaluate Applications (part 3)



New York's Draft Allocation Plan: Use Standing State Priorities

- Disaster Relief Projects: Projects in communities directly impacted by Federal Emergency Office declared disasters, including, Sandy, Irene, Lee, and Summer 2013 Severe Storms and Flooding.
- Economic Development Projects: Projects endorsed in Regional Economic Council Strategic Plans that support construction of new affordable housing and for which significant financial assistance has been made available as part of such plans.

8a. Eligible Activities (part 1)



NLIHC suggests eligible activities be limited to:

- Production and rehabilitation of rental housing affordable to extremely low income households (SUGGESTION).
- Up to 33% may be used for operating cost assistance and/or operating cost assistance reserves (SUG allowed by REG).

SUGGESTION:

“New York does not intend to permit NHTF funds to be used for homeownership activities or for new construction, rehabilitation, or preservation of federally assisted housing in the 2016 funding cycle.”

8a. Eligible Activities (part 2)



- New York draft Allocation Plan:
 - No homeowner activities.
 - HFA will restrict use of HTF funds as source of subsidy for new construction of multifamily rental projects financed by HFA tax-exempt bonds.
 - Will not use HTF funds for rehabilitation.

8b. Eligible Recipients (Part 1)

Eligible recipient is organization, agency, including nonprofit or for-profit (ST), or public housing agency (REG).

Consider limiting recipients to nonprofits first year, or to for-profits that have a proven track record of providing and operating rental housing for ELI households (SUGGESTION).

8b. Eligible Recipients (Part 2)

Recipient must:

- Have demonstrated experience and capacity to conduct NHTF activity, evidenced by ability to:
 - Own, construct, or rehabilitate, and manage and operate affordable multifamily rental housing (ST); and
 - Serve extremely low income households and special needs populations, such as homeless families and people with disabilities (SUGGESTION);

8b. Eligible Recipients (Part 3)

➤ New York draft Allocation Plan:

❖ Eligible recipients include:

- Not-for-profit corporations or charitable organizations;
- Wholly owned subsidiary of such entities;
- Private for-profit developers.

❖ Projects expected to meet normal tax exempt bond and Low Income Housing Tax Credit low income requirements:

- 20% units affordable at income less than 50% AMI or
- 40% units (25% NYC) affordable at income less than 60% AMI.

10. Performance Goals and Benchmarks (Part 1)



Refers to proposed accomplishments in affordable housing section of Strategic Plan part of ConPlan.

State must specify number of extremely low income, low income, and moderate income families, and homeless persons for whom state will provide affordable rental housing.

Affordable rents defined as not exceeding greater of 30% of federal poverty line or 30% of 30% AMI (REG).

- Use of 30% of poverty line will cause cost burden.
- No basis in statute for it.

10. Performance Goals and Benchmarks (Part 2)



NLIHC suggests, to achieve maximum affordability, NHTF Allocation Plan should set performance goals about:

- How many extremely low income families and homeless people will have affordable housing, with affordability defined as 30% of household income (SUGGESTION), or
- How many households will have rents set at 30% of 20% AMI or 30% of 10% AMI (SUGGESTION).

10. Performance Goals and Benchmarks (Part 3)



New York's 2016-2020 ConPlan estimates that out of 2,450 households to be provided affordable housing over five-year period, 515 units (21%) will assist extremely low income households.

Does not give breakdown of renter and owner units.

[page 149]

(Regular Goals section indicates, using:
HOME, will rehab 584 rental units, 1,129 owner units
CDBG, will rehab 680 rental units, 2,720 owner units)

[pages 144-146]

14. Preference or Limitation to Particular Segment of ELI Population (Part 1)



New York can limit or give preference to a particular segment of ELI population based on priority housing needs in ConPlan.

Any preference or limitation must be in written agreement between state and recipient (REG).

The New York 2016-2020 ConPlan does not establish genuine housing priorities.

➤ **New York draft Allocation Plan: No preferences**

14. Preferences or Limitations to Particular Segment of ELI Population (Part 3)



Any limitation or preference must not violate nondiscrimination requirements.

Fair housing requirements, including affirmatively further fair housing, apply to NHTF program.

Limitation does not violate nondiscrimination requirements if housing also receives funding from federal program that limits eligibility to particular segment of population (e.g. Housing Opportunity for Persons Living with AIDS, Section 202, and Section 811) (REG).

Become an NLIHC Member



- Members are essential in helping NLIHC advocate on behalf of low income people in need of safe and affordable housing.
- Membership is open to individuals, organizations, corporations, and government agencies.
- Join NLIHC at <http://nlihc.org/membership>
- Questions?
- Contact your Housing Advocacy Organizer, James Saucedo, jsaucedo@nlihc.org, or call 202-662-1530 x 233

For More Information



Ed Gramlich, egramlich@nlihc.org, 202-507-7469

Questions?



Questions?