



A home is the  
*foundation.*

## The New National Housing Trust Fund Frequently Asked Questions\*

The National Housing Trust Fund is a dedicated fund to provide local communities with revenue to build, preserve, and rehabilitate housing for people with the lowest incomes. The Trust Fund was enacted in Public Law 110-289 on July 30, 2008.

### **1. What is the National Housing Trust Fund?**

The National Housing Trust Fund (NHTF) is a permanent federal program with dedicated source(s) of funding not subject to the annual appropriations process.

The purposes of the NHTF are to:

- increase and preserve the supply of rental housing for extremely low and very low income households, including homeless households, and
- increase homeownership for extremely low and very low income households.

### **2. What can NHTF dollars be used for?**

At least 90% of the funds must be used for the production, preservation, rehabilitation, or operation of rental housing. Up to 10% can be used for the following homeownership activities for first-time homebuyers: production, preservation, and rehabilitation; down payment assistance, closing cost assistance, and assistance for interest rate buy-downs.

### **3. Who does the NHTF benefit?**

At least 75% of the funds for rental housing must benefit extremely low income households (30% of area median income or less) or households with incomes below the federal poverty line. All funds must benefit very low income households (50% of area median income or less).

**4. Is the NHTF a new HUD program? Will it compete for funding with other HUD programs?**

The NHTF will be administered by HUD, but it will not compete with other HUD programs for resources. Funding for the NHTF will come from dedicated sources of revenue, not annual appropriations, which fund the rest of HUD programs.

**5. How did H.R. 3221 pay for the NHTF?**

The NHTF, as established in H.R. 3221, was to receive funding from the Government Sponsored Enterprises (GSEs), Freddie Mac and Fannie Mae.

Unfortunately, Fannie and Freddie were taken over by their regulator, the Federal Housing Finance Administration, in September 2008 when they ran into financial trouble due to the foreclosure crisis. The future of Fannie Mae and Freddie Mac remains uncertain, but Congress will undertake a new round of reform of the federal housing finance system. The House Financial Services Committee will consider proposals in the fall of 2010, but new legislation will likely not be introduced until the 112<sup>th</sup> Congress in 2011. Advocates are working to make sure that funding for the NHTF is included.

H.R. 3221 also provides that the NHTF can be funded by other dedicated sources of revenue, such as any appropriations, transfers or credits that Congress may designate in the future.

**6. What about other sources of dedicated funding?**

In his proposed budgets for FY10 and FY11, President Obama included an initial capitalization of \$1 billion for the NHTF.

With the leadership of House Financial Services Committee Chairman Barney Frank and House Ways and Means Committee Chairman Sander Levin, legislation to provide the \$1 billion plus \$65 million for project-based vouchers for use with NHTF units was included in H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010, which passed the House in May 2010. The Senate has been unable to pass its version of the bill as of July 29. The National Housing Trust Fund Campaign will continue to work to secure this \$1.065 billion before the end of the 111<sup>th</sup> Congress.

The NHTF Campaign has identified several other potential dedicated funding sources and has shared them with key Members of Congress and officials in the Administration.

The immediate goal is \$1 billion for FY11, the short term goal is an annual distribution of \$5 billion, and the eventual goal is \$150 billion over 10 years to support 1.5 million homes.

**7. How will HUD distribute the NHTF dollars?**

The NHTF is a HUD-administered block grant to the states, the District of Columbia, and the territories. The bill directs the Secretary of HUD to develop a formula for distribution of the funds. The bill spells out five factors that are to be used in developing the formula. The factors measure the need for affordable rental homes for extremely low income and very low income households, with the greatest emphasis on extremely low income households.

The proposed rule that provides the details of the formula was published in the Federal Register on December 4, 2009. The National Low Income Housing Coalition has calculated what percentage of funds allocated will go to each state, the District of Columbia, Puerto Rico, and the other territories. A chart with these amounts based on \$1 billion is attached. The chart also shows how many jobs would be created in each state.

## **8. What other rules will HUD establish for the NHTF?**

The HUD Secretary must issue regulations on the following financial reporting and auditing requirements:

- HUD must issue an audit at least annually of the state's use of the grants to ensure compliance.
- HUD is authorized to audit, provide for an audit, or verify in another way, the state's activities to ensure compliance.
- Audits must be reviewed by an independent certified public accountant.

HUD must also issue regulations on the allocation plan that states must use to distribute funds to eligible grant recipients.

The regulations that govern the program have been developed by HUD and are being reviewed by the OMB. They are expected to make them public in the form of a proposed rule shortly. Advocates will then be able to comment on the regulations before they are finalized.

## **9. What does each state have to do?**

First, the state agency to administer the program must be designated. Eligible state designees are the state housing authority or state housing finance agency, housing or community development entities, tribally designated housing entities, or any other qualified state entity. In most states, the governor will be the one to make the designation, but in some states, the legislature has that authority.

The administering agency is to develop, make public, and seek public comment on the state allocation plan. The allocation plan must reflect priority housing needs in the state based on these factors:

- geographic diversity,
- the applicant's ability to obligate amounts and undertake funded activities in a timely manner,

- the extent to which rents are affordable in the proposed project,
- the duration of the affordable rents in the proposed project,
- the use of other funding sources in the proposed project, and
- the merits of an applicant's proposed eligible activity.

The state must also insure that rental housing developed with NHTF dollars benefit only extremely low and very low income families.

Finally the state must set performance goals, benchmarks, and timetables for carrying out purposes of the NHTF.

The state can use up to 10% of its grant amount for costs related to administering the program.

#### **10. How long does the state have to spend its funds?**

The state has two years to either commit or spend its funds, or they are returned to HUD, which then is to distribute them to other states.

#### **11. Who is eligible to receive NHTF dollars from states?**

Eligible recipients of grants from the states are organizations and agencies (for-profit and nonprofit) that demonstrate:

- The experience and capacity to produce the kind of housing called for by:
  - its ability to own, construct, rehabilitate, manage, and operate an affordable multi-family rental housing development;
  - proving their experience to design, construct, rehabilitate, or market affordable housing for homeownership; and
  - their ability to provide forms of assistance, such as down payments, closing costs, or interest rate buy-downs for purchasers.
- The financial capacity to undertake, comply, and manage the eligible activity.
- Familiarity with federal, state, and local housing programs that will be used in conjunction with the grant.

#### **12. Are there prohibitions on what the NHTF can be used for?**

Funds cannot be used for political activities, lobbying, counseling, traveling and administrative expenses, or endorsements of a particular candidate or party.

Recipients of the grants from the states cannot use any of the funds for administrative costs.

#### **13. Can NHTF dollars be used for operating costs for rental housing?**

The bill as passed says the funds can be used for the production, preservation, rehabilitation, and *operation* of rental housing, but does not define what operation means. That will be left to the regulatory process.

The NHTF is intended to provide one time capital grants. Because operating costs are ongoing and must be renewed each year, use of the NHTF for operating costs will be difficult. The NHTF campaign has urged HUD to allow 20% of the funds that go to a state to be used to capitalize an operating subsidy fund that can be used in conjunction with units produced with NHTF dollars.

In addition, the NHTF campaign is working to secure funding for project-based vouchers that will go to the state agencies to be distributed to qualifying NHTF projects. The current legislation includes \$65 billion for project-based vouchers.

**14. What happens if the funds are misused?**

The state is required to ensure that all funds are used properly and must submit an annual report to HUD that:

- describes the activities the grants were used for,
- clarifies the manner in which the state or state designee complied with their allocation plan, and
- is made public.

If a state determines that a grant recipient has misused funds, that organization or agency has 12 months to reimburse the state for the amount it had been allocated.

If HUD determines that a state fails to substantially comply with what is required, HUD can:

- reduce the amount of assistance to the state by an amount equal to the amount unused by the state up to that point;
- require the state to repay HUD any amount of the grant not used;
- limit the availability of assistance to the state to activities or recipients not affected by their failure to comply; or
- terminate any assistance to the state.

**16. Is the NHTF considered to be federal financial assistance?**

Yes, for the purposes of federal civil rights laws, the Housing Trust Fund is considered federal financial assistance.

**17. Do other federal laws apply to the NHTF?**

Yes, all activities carried out must comply with federal laws on tenant protection and tenant participation, including laws related to Consolidated Plans, Qualified Allocation Plans, and Public Housing Plans, laws requiring public participation, and fair housing and laws related to accessibility for people with disabilities.

**18. Is there a requirement that NHTF dollars be matched by the state or grant recipients?**

No, there is no match requirement. This is different from other bills that were introduced to establish a National Affordable Housing Trust Fund.

**19. Do NHTF dollars have to be used to develop mixed-income housing?**

No, there are no mixed-income requirements. This is also different from other bills that were introduced to establish a National Affordable Housing Trust Fund.

**20. What can state and local advocates do to help implement the NHTF?**

- Contact their governors to voice their opinions on which state agency should be designated to administer their programs.
- Participate in the development of the state allocation plan, including providing comments on the allocation plan before it is finalized.
- Advocate for dedicated funding.

**For more information, visit [www.nhtf.org](http://www.nhtf.org).**