

# THE HFA INSTITUTE 2024

## Housing Trust Fund Essentials Part 2

January 8, 2023  
4:15 pm – 5:30 pm



National Council of  
State Housing Agencies



**MRBs and  
Other Federal  
Homeownership  
Programs**  
JANUARY 10 – 12



**Housing Credit**  
JANUARY 9 – 11



**Section 8 and  
Other Federal  
Multifamily  
Programs**  
JANUARY 10 – 12



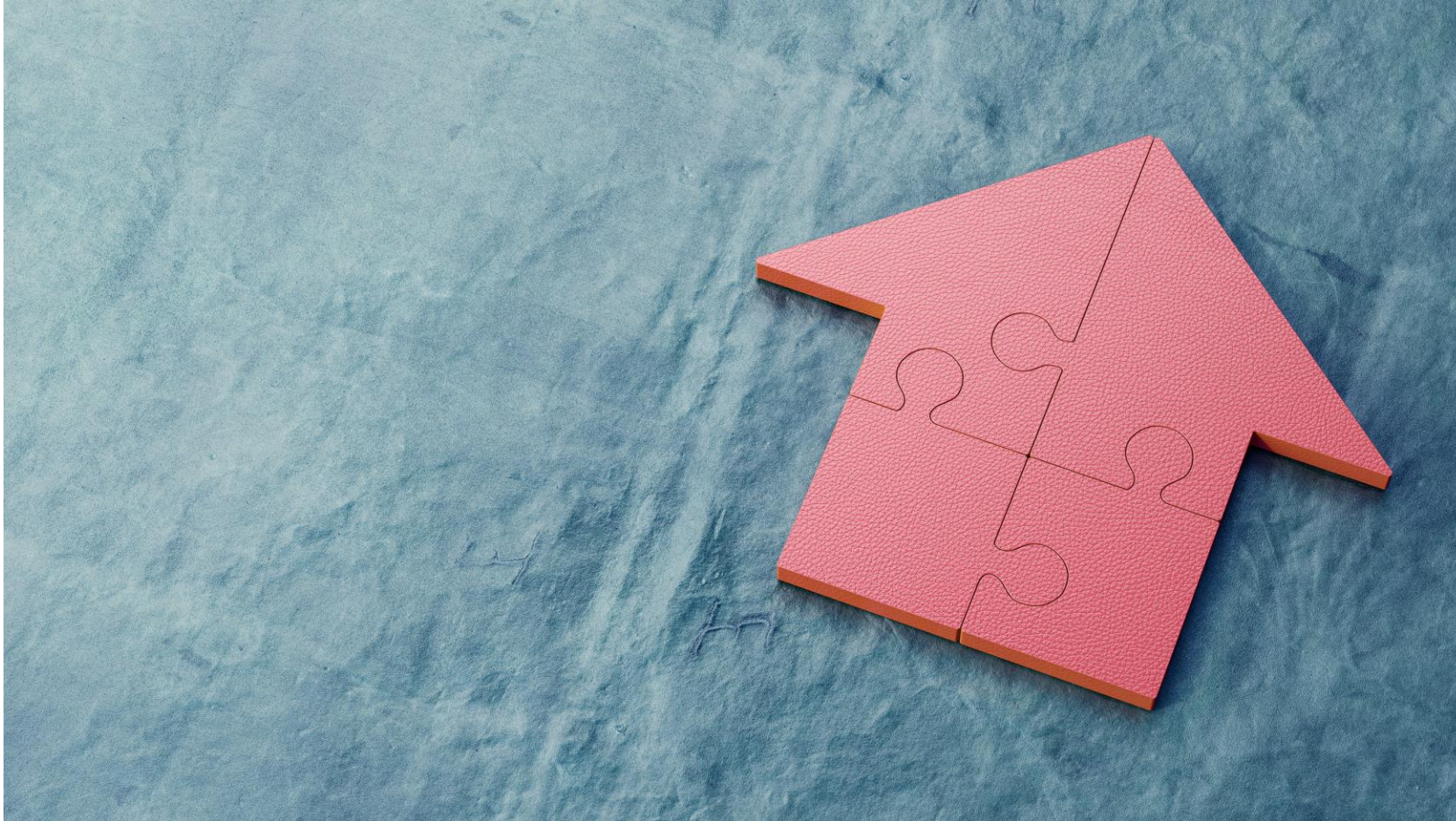
**HOME and  
Housing Trust  
Fund**  
JANUARY 7 – 9



# Trainer:

Les Warner, ICF

# Project Requirements: Subpart G



# Maximum Per-Unit Development Subsidy Amount

- Grantee must establish maximum limitations on the total amount of HTF funds that may be invested per-unit for development of non-luxury housing, with adjustments for the number of bedrooms and the geographic location of the project
- These limits must be reasonable and based on actual costs of developing non-luxury housing in the area
- The grantee must include these limits in its consolidated plan and update these limits annually

# Underwriting and Subsidy Layering

Before committing funds to a project, the grantee:

- Must adopt underwriting and subsidy layering guidelines
- Must evaluate the project in accordance with guidelines to determine a reasonable level of profit or return on recipient's investment
- Must not invest any more HTF funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability in §93.302 or §93.304)
- Will not provide a profit or return on the recipient's investment that exceeds the grantee's established standards for the size, type, and complexity of the project

# Property Standards

- New construction projects
  - Must meet all applicable State and local codes, ordinances, and zoning requirements.
  - Must meet State or local residential and building codes, as applicable
  - In the absence of a State or local building code, must meet the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council.
  - The housing must meet the applicable requirements upon project completion



# New Construction Standards

- Accessibility – must meet the Section 504 and Fair Housing Act standards
- Energy Efficiency standards as defined by Section 109 of the Cranston Gonzalez National Affordable Housing Act
- Disaster Mitigation – Projects located in areas at risk of impact from disasters such as earthquakes, hurricanes, flooding, and wildfires are required to adopt appropriate disaster mitigations standards to address the risks(s)
- Contracts and construction documents must provide adequate detail so that inspections can be done to document compliance

# Rehabilitation Standards

- Grantees must establish HTF rehabilitation standards
- Standards must define life threatening deficiencies to be addressed prior to occupancy
- Remaining useful life for all major systems must be at least equal to the affordability period or ensure adequate reserves to handle replacements
- Projects with 26 or more units total must complete a capital needs assessment
- Units constructed prior to 1978 need to comply with the Lead Safe Housing Rule requirements at 24 CFR Part 35

# Acquisition of Standard Housing

- Housing acquired that is newly constructed or rehabilitated within the last 12 months prior to the HTF commitment must meet the applicable property standards for new or existing structures
- Grantees must review and approve building plans and the Certificates of Occupancy to determine compliance
  - Review must be completed within 90 days of the commitment of the HTF assistance.
- Any property to be acquired that does not meet the applicable HTF building standards will need to be rehabilitated to meet the rehabilitation standards

# Manufactured Housing

- Manufactured Housing Unit eligible for purchase or rehabilitation
- Land acquisition is eligible
- At project completion
  - Must be connected to permanent utility hook-ups
  - Located on land owned by the manufactured housing unit owner; or
  - Manufactured housing unit owner must have a lease for a period at least equal to the applicable period of affordability

# Ongoing Property Standards: Rental

- HTF grantees must establish ongoing property standards to be enforced throughout the affordability period
- Standards must ensure:
  - The units remain decent, safe, and sanitary
  - Units are free from health and safety defects
  - Lead based paint requirements at 24 CFR Part 35 are met
  - Ongoing property inspections must be completed within 12 months of project completion and at least once every three years thereafter until the completion of the affordability period

# Eligible Tenants

- HTF units must be occupied by income eligible households
- Eligibility is limited by the income targeting requirements at 93.250
- Applicable limits depends on amount of HTF funds made available by GSEs
- Tenant incomes must be determined initially in accord with 93.151
- Tenant incomes must be re-certified annually in accord with 93.151(b)
- Source documentation of at least 2 months must be reviewed at initial determination and every 6th year of the affordability period

# Rent Limitations

- HUD will publish the HTF rent limits annually based on number of bedrooms
- HUD publishes HTF rents limits with adjustments for the number of bedrooms annually
- Maximum rent limits include the tenant paid rent along with all tenant paid utilities
  - Extremely Low-Income rent limits (30% and below)
    - Rent plus utilities may not exceed the ELI HTF limits as determined by HUD annually
  - Very Low-Income rent limits (50% and below)
    - Rent plus utilities may not exceed the VLI HTF Rent as determined by HUD annually
- Maximum rent for HTF units in combination with project-based subsidies can go up to the maximum Federal or State rental subsidy limits if the tenant pay no more than 30% of their adjusted household income

# Rental Housing Requirements

- Tenant selection requirements
  - Waiting lists in chronological order of application
  - Can be targeted to specific populations
  - Must be included in written agreement and HTF Allocation Plan/Con Plan
  - Preferences cannot violate nondiscrimination requirements
- Must have written lease between tenant and owner
- Owner may not terminate tenancy or refuse to renew the lease for HTF units except for serious or repeated violation of the lease terms

# Additional Rent Requirements

- Grantees must establish an initial rent schedule and utility schedule prior to committing HTF dollars
- Grantees must review and approve proposed rent and utility schedules annually
- Rents cannot exceed the maximum HTF rent limits minus tenant paid utilities
- Leases may not include any prohibited clauses 93.303(b)(1-9)

# Tenant Income Certifications

- Annual income definition
  - Annual income as defined at 24 CFR 5.609 (Part 5); or
  - Adjusted gross income as defined for purposes of reporting under the IRS Form 1040
- One definition per program and rental housing project
- Subsequent Annual Income Determinations:
  - Source documents; or
  - Written statement and certification from family; or
  - Written statement from government program administrator

# Affordability Period

- HTF units must remain affordable for a minimum of 30 years
- Grantees may impose longer periods of affordability
- The affordability period is not tied to the term of the loan for the HTF assistance
- Affordability restrictions must be enforced through the use of a deed restriction or land covenant restricting the use of the property during the HTF affordability period and ensuring occupancy and affordability requirements

# Foreclosure

- If the terms of the affordability period are terminated due to foreclosure or transfer in lieu of foreclosure the project will be in violation of the HTF requirements
- Grantees may impose a right of first refusal to allow for preemptive purchase of housing if the property is at risk due to a pending foreclosure to preserve the affordability

# Over Income Tenants

- Annual income re-certification may determine current tenants are over-income but tenants will not be required to move
- HTF units occupied by over income tenants will be considered in temporary non-compliance until the non-compliance can be corrected
- Property owners/managers are expected to make corrections to the unit mix, when possible, to bring the temporary non-compliant units back into compliance
- The corrective action is based on whether the unit has been designated as a fixed or floating unit

# Fixed Versus Floating Units

## Fixed Units

- Fixed units keep their unit designation throughout the affordability period
- Over income tenants in a fixed unit will have their rent raised to 30% of their adjusted household income at lease renewal

## Floating Units

- Floating units allow the property manager to redesignate units within the property to maintain compliance with the required unit mix and affordability requirements
- Over income tenants in a floating fixed unit will have their rent raised to 30% of their adjusted household income or area market rents (whichever is lower) at lease renewal

# Homeownership Housing

- Projects include new construction, acquisition/rehab, or direct assistance to homebuyers
- Limited to first-time homebuyers
- Must use as principal residence
- Housing counseling is required before purchase
- Resale/recapture requirements apply



# Modest Housing

- Housing for acquisition must qualify as modest
  - The purchase price cannot exceed 95 percent of the median purchase price for either new construction or existing housing in standard condition
- HUD provides limits for both newly constructed units and existing housing; annual limits are posted at <https://www.hudexchange.info/resource/4982/housing-trust-fund-homeownership-value-limits/>
- Grantees may choose to complete a local study of aggregate sales data as outlined at 93.305(a)(2) and submit for HUD review as a part of their consolidated plan and action plan

# Recapture/Resale

- At project commitment, the grantee must select the compliance requirement during the period of affordability – Recapture or Resale
  - HTF requires a 30-year affordability period for Homebuyer projects
- Grantee must choose Resale OR Recapture
- Option must be described in Consolidated Plan
- Recapture/Resale provisions need to be adequately described within the Con Plan to provide transparency on how the grantee will implement either provision

## Other Federal Requirements

- Title VI of the Civil Rights Act of 1964, the Fair Housing Act
- Affirmative Marketing
- Lead Based Paint - Lead Safe Housing Rule (LSHR)
- URA – applies for displacement, relocation, and acquisition
- Conflict of Interest
- Different Environmental Requirements
- No Part 58 requirement for HTF
- Environmental laws included in property standards
- Fewer Federal cross-cutting requirements for HTF
- **No** Davis-Bacon labor rates or Section 104(d)

# HTF Environmental Regulations

- HTF Environmental Provisions for new construction and rehabilitation under the Property Standards at 24 CFR § 93.301(f)(1) and (2) are similar to HUD's Environmental Regulations at 24 CFR Parts 50 and 58
- HTF Environmental Provisions are outcome based, and exclude consultation procedures that would be applicable if HTF project selection was a federal action
- Parts 50 and 58 are process-based and include consultation procedures for several laws and authorities where there may be environmental impacts.

# Environmental Provisions

## Same as Part 50/58 process:

- HTF Environmental Provisions Coastal Barrier Resources System
- Coastal Zone Management
- Explosives and Hazards
- Endangered Species (informal consultation)
- Wild and Scenic Rivers
- Sole Source Aquifers

## Not the same as Part 50/58 process:

- Historic Preservation
- Farmlands
- Airport Zones
- Floodplains
- Wetlands
- Contamination
- Noise
- Safe Drinking Water

# Additional Requirements

- FFATA
  - HTF grants are considered a federal award and must comply with the Federal Funding Accountability and Transparency Act of 2006
- Eminent Domain
  - HTF cannot be used in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, public use shall not be construed to include economic development that primarily benefits any private entity.

# VAWA

- Violence Against Women Reauthorization Act (VAWA) as defined in 24 CFR part 5, subpart L applies to all rental housing assisted with HTF funds
- VAWA protects any person who is either an applicant or tenant of a covered project **and is also a** survivor of domestic violence, dating violence, sexual assault, or stalking

## VAWA - cont'd

- Grantee must provide a notice and certification form per 24 CFR 5.2005(a) to applicant denied a unit or to tenants at the time they are admitted to a HTF unit; notice also provided with eviction from a HTF unit
- Must allow tenants who qualify to transfer to another HOME/HTF unit in same project if considered safe or may assist to move out of project into another HOME/HTF project
- May bifurcate lease to evict abuser and allow other family members to remain in the unit
- Grantees are required to adopt an emergency transfer plans

# HTF Accounts

- HTF grantees are required to establish a separate HTF local interest-bearing account or a subsidiary account within its general fund;
- The local HTF account will include fund disbursements, program income, and any HTF repayments
- HTF funding requirements:
  - HTF not committed within 24 months will be recaptured by HUD
  - HTF not expended within 5 years after the execution of the HUD funding agreement will be recaptured
  - HTF will be subject to recapture for non-compliance; other actions include a freeze on future withdrawals or removal from HTF allocations or suspension

# Grantee Responsibilities

- Grantee is responsible for the day-to-day operation of the HTF program to ensure funds are used in compliance with the program requirements
- The use of subgrantees or contractors does not relieve the grantee of its responsibility
- If performance issues arise, the grantee is responsible for taking appropriate action to address the problem
- Grantee is required to have written policies and procedures
- Written agreements must be executed for all commitments of HTF
- Performance of contractors and subrecipients must be evaluated on an annual basis
- Grantees must establish a risk-based system for monitoring

# Written Agreements

- Written agreement must be entered into before any HTF funds are committed or disbursed in IDIS
- Written agreements must be in place for subgrantees and eligible recipients
- Required content vary by organization type – refer to 93.404(c) for lists of required provisions
- Grantee is required to have written policies and procedures for evaluating risk of activities along with systems to monitor
- The written agreement is a key document to establish requirements and may also link subgrantees and recipients to policies and procedures

# Onsite Inspections

- Grantees must perform onsite inspection at project completion and certify that the housing meets the property standards
- Grantee must establish inspection procedures to ensure HTF assisted housing meets the property standards of 93.301
- Ongoing Inspection Requirements:
  - Rental housing must remain in compliance with the ongoing property standards through the duration of the affordability period
  - Periodic onsite inspections beginning within 12 months after project completion and then at least every three years during the period of affordability
  - Grantees may establish a list of non-hazardous deficiencies that can be verified by a third party rather than require reinspection
  - Grantee will need to establish procedures to address any observed deficiencies of the grantee's inspectable items
  - Owners must annually certify property meets ongoing property standards

# Recordkeeping Requirements

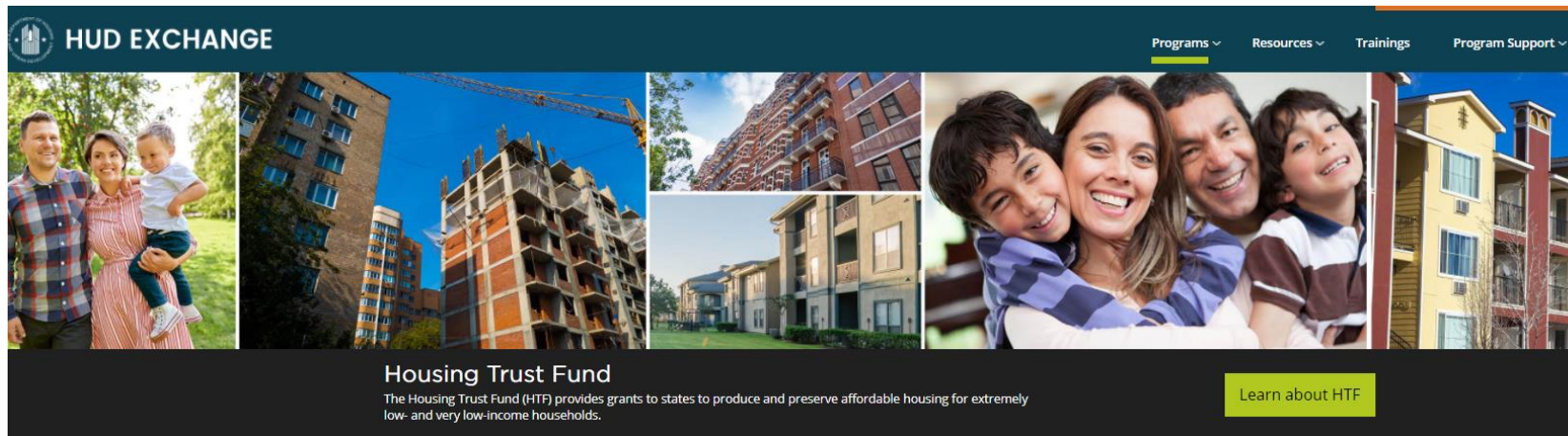
- **Written policies and procedures**
- **Subsidy Layering Guidelines**
- **Risk assessment**
- **Other Federal Requirements**
- **Displacement and Acquisition – URA**
- **Recapture Resale**

- **Full project description**
- **Eligibility and allowability of costs**
- **Allocation of costs for mixed unit projects**
- **Per Unit Subsidy and Underwriting**
- **Inspection reports**
- **Affordability period compliance records**
- **First time homebuyer and housing counseling**

- **Document compliance with 2 CFR Part 200**
- **Audit reports**
- **Financial reports for HTF account**
- **Program Income**
- **Budgetary control**

## Resources

<https://www.hudexchange.info/programs/htf/>



The screenshot shows the HUD EXCHANGE website header for the Housing Trust Fund. The navigation bar includes 'Programs', 'Resources', 'Trainings', and 'Program Support'. The main banner features a collage of images: a family, a building under construction, a completed apartment building, and a family smiling. Below the images, the text reads: 'Housing Trust Fund' and 'The Housing Trust Fund (HTF) provides grants to states to produce and preserve affordable housing for extremely low- and very low-income households.' A green button labeled 'Learn about HTF' is positioned on the right side of the banner.

Home > Programs > HTF: Housing Trust Fund

 <p><b>Policy Guidance</b></p> <ul style="list-style-type: none"><li>HTF COVID-19 Guidance</li><li>HTF Laws and Regulations</li><li>HTF CPD Notices</li><li>HTF FAQs</li></ul>	 <p><b>Limits &amp; Allocations</b></p> <ul style="list-style-type: none"><li>Homeownership Value Limits</li><li>Income Limits</li><li>Rent Limits</li><li>HTF Formula Allocations</li></ul>	 <p><b>Reports</b></p> <ul style="list-style-type: none"><li>HTF Deadline Compliance Status Reports</li><li>HTF Open Activities Reports</li><li>HTF Vacant Units Reports</li></ul>	 <p><b>Reporting Systems</b></p> <ul style="list-style-type: none"><li>IDIS: Integrated Disbursement and Information System</li><li>eCon Planning Suite (Consolidated Plan)</li></ul>
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## Related Resources

- [HTF Laws and Regulations](https://www.hudexchange.info/programs/htf/laws-regulations/)  
<https://www.hudexchange.info/programs/htf/laws-regulations/>
- [Income Calculator](https://www.hudexchange.info/incomecalculator/)  
<https://www.hudexchange.info/incomecalculator/>
- [Using IDIS for HTF](https://www.hudexchange.info/trainings/idis-htf/)  
<https://www.hudexchange.info/trainings/idis-htf/>
- [Building HOME Online Training Series – provides detailed training on recapture/resale,](https://www.hudexchange.info/trainings/building-home/)  
<https://www.hudexchange.info/trainings/building-home/>

