



September 15, 2021

Mr. Noel Poyo
Deputy Assistant Secretary for Community Economic Development
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Via email

Dear Noel:

On behalf of our state housing finance agency (HFA) members, the National Council of State Housing Agencies (NCSHA)¹ thanks you for the Treasury Department's efforts, working with states and local communities, to deliver urgently needed housing assistance to millions of working families through the Emergency Rental Assistance Program (ERAP) and the Homeowner Assistance Fund (HAF).

In order for HAF to succeed, state HAF administering agencies should have maximum flexibility to address the specific needs of their states. As Treasury begins to review state HAF plans, we urge you to be open to a broad spectrum of program administration approaches, even those that may differ from the approaches proposed by a majority of states.

We are also following up on earlier correspondence that outlined our policy recommendations for HAF. While further program guidance from Treasury has addressed several of the questions and issues NCSHA raised, more clarification is needed still in several areas to allow HAF administering agencies to fully plan and prepare their HAF programs. These areas include:

- Whether HAF program administrators may recycle funds generated through the HAF program to assist more homeowners;
- Whether HAF program administrators may keep and reuse HAF funds repaid after the program expires;
- The tax status of benefits received through HAF; and
- Treasury's reporting requirements.

¹ NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

HAF Fund Recycling

Several states have told us they intend to propose in their HAF plans to provide assistance to some or all homeowners in the form of loans the borrowers will pay back to the administering agency. Some states may offer the assistance as forgivable loans, which the borrower will pay back only if they move out of the house or under other circumstances. In addition, other HAF administering agencies are considering recording a lien on the property of the homeowner receiving assistance to ensure against fraud or that occupancy requirements for that state's program are met. If the state's conditions are not met, it may require partial or full repayment of the HAF assistance.

In these cases, states should have the ability to propose an approach to Treasury, for its comment and approval, about how to treat returned funds. We have heard from several states that want the ability to reuse or "recycle" HAF funds for eligible program expenses to increase the number of homeowners who benefit from the program. The state plans may also propose that they be allowed to retain a portion of repaid funds for administrative expenses.

End-of-Program Fund Retention

Because states that choose to loan the funds or record a lien with recapture provisions will almost certainly receive repayments after the HAF program ends, we recommend Treasury permit states to retain those funds they receive after the program expires. This will permit each state to develop a HAF program that meets the homeowners' needs in their state and to provide benefits well beyond the end of HAF. Some states may also suggest they be allowed to use repayments for a broader set of expenses after the national program ends. We urge Treasury to be as permissive as the law allows when considering these proposals.

Taxable Status of HAF Benefits

Treasury has not yet released guidance clarifying whether HAF benefits will be considered taxable income. We ask Treasury to quickly clarify that HAF benefits are not considered income for tax purposes. Taxing such benefits will hinder the recipient's ability to rebuild their finances in the wake of the pandemic.

NCSHA appreciates that the Internal Revenue Service previously released a notice (2011-14) stating mortgage assistance provided through the Hardest Hit Fund (HHF) was non-taxable, which some have argued can be applied to HAF as well. However, guidance specifically focused on HAF assistance will provide program administrators the certainty they need to go forward with such an approach. It also will enable housing counselors and others seeking to help COVID-19-impacted homeowners to be clear on this point. Such guidance should also address which, if any, tax forms states have to provide to HAF recipients and how states are to issue any required tax forms if they are not requiring that homeowners provide Social Security or Tax ID numbers.

HAF Reporting Requirements

Finally, with more than 10 states already having launched HAF pilot programs, it is critical Treasury act quickly to develop and publish its program reporting requirements. This will enable HAF administering agencies to ensure they are collecting the required data as soon as possible and to set up and administer their program systems and processes to collect and report to Treasury the required information accurately and in a timely manner. NCSHA would be pleased to work with Treasury in developing these requirements.

Thank you for taking the time to read and consider our recommendations. Feel free to reach out to me to discuss this further at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman", with a long horizontal flourish extending to the right.

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives