

**National Housing Trust Fund  
Key Changes Between Proposed Rule and Interim Rule**

REQUIREMENT	PROPOSED RULE (FR-5246-P-01)	INTERIM RULE (FR-5246-I-03)
<b>General Notes</b>	HUD revised several provisions in the National Housing Trust Fund (HTF) proposed rule and published an interim rule on January 30, 2015. HUD will solicit public comments once funding is available and the grantees gain experience administering the HTF program. This chart is an overview of the key changes made to the HTF interim rule. Where possible, the HTF regulations were made consistent with those of the HOME Investment Partnerships (HOME) program final rule published on July 24, 2013.	
<b>Codified Regulation</b>	24 CFR Part 92 Subpart N	24 CFR Part 93
<b>Definition of Commitment</b>	<p>§92.702</p> <p>The separate definition would have permitted a unit of general local government to acquire the land for transit-oriented development projects in advance of having specific project plans.</p> <ul style="list-style-type: none"> <li>• Required to hold title to the land for the transit-oriented development, and</li> <li>• Provided 36 months to commit additional funds to a specific project after acquiring property.</li> </ul>	<p>§93.2</p> <p>HUD removed the separate definition of commitment and lets grantees determine how best to use HTF funds in transit-oriented development within the requirements of the definition of commitment and grantee’s allocation plan.</p>
<b>Definition of Extremely Low-Income (ELI) and Very Low-Income (VLI) Families</b>	<p>§92.702</p> <p>Definition would have allowed HUD to establish income ceilings higher or lower than 30 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. This would align with adjustments made in the HOME program.</p>	<p>§93.2</p> <ul style="list-style-type: none"> <li>• HUD will no longer make these adjustments to the definition of ELI and VLI and will only make adjustments permitted by the HTF Statute.</li> <li>• HUD defined “rural area” in the definition of VLI families as “all non-metropolitan areas.”</li> </ul>

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<b>Minimum Formula Allocation</b>	Section 1338(c)(4)(C) of FHEFSSA Per the statute, each State and Washington DC was to receive a minimum allocation of \$3 million.	§93.52(b) HUD added a provision that will allow an alternative methodology to determine minimum allocations if the total amount of HTF funds is insufficient to provide the minimum award of \$3 million. The alternative methodology for formula allocation will be published in the federal register for public comment.
<b>Eligible Activities</b>	§92.730(a)(1) HTF-assisted housing must be permanent or transitional housing.	§93.200(a)(1) HUD removed transitional housing as an eligible type of housing.
<b>Operating Cost Assistance and Operating Cost Assistance Reserves</b>	§92.730(a)(1), §92.731(e)(1) and (2) <ul style="list-style-type: none"> <li>• HUD limited the amount of HTF funds that could be used for operating cost assistance to 20 percent of each annual grant.</li> <li>• Operating cost assistance could only be awarded in two-year increments and renewed during the period of affordability.</li> <li>• HUD limited the time that grantees could provide as operating cost assistance reserves to five years.</li> </ul>	§93.201(e) <ul style="list-style-type: none"> <li>• HUD increased the limit of HTF funds that can be used for operating cost assistance/reserves to one third of each annual grant.</li> <li>• HUD deleted the two-year timeframe for providing operating cost assistance and permits assistance to be provided over multiple years but the grantee must meet its five-year expenditure deadline in §93.400(d).</li> <li>• The grantee may renew operating cost assistance with future grants during the affordability period.</li> <li>• Renewal of funds committed to project as operating cost assistance or reserves are not subject to §93.205(a) – prohibited activities, providing additional funds to HTF project.</li> </ul>

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<p><b>Non-Appropriated and Appropriated HTF Funded Operating Cost Reserves</b></p>	<p>§92.731(e)(2) The proposed rule did not have a distinction on the use of operating costs reserves based on whether the funds are appropriated or non-appropriated HTF funds.</p>	<p>§93.201(e)(2) The initial allocation of HTF is non-appropriated funds. Future allocations of HTF may include appropriated funds. HUD added a distinction on the limits that apply to operating cost reserves:</p> <p>Reserves funded with non-appropriated HTF funds (i.e., the allocations from Fannie Mae and Freddie Mac):</p> <ul style="list-style-type: none"> <li>• The assistance must be calculated using HUD methodology.</li> <li>• The reserve may be funded for the amount estimated to be necessary for the entire period of affordability up front.</li> </ul> <p>Reserves funded with appropriated HTF funds:</p> <ul style="list-style-type: none"> <li>• The assistance must be calculated using HUD methodology.</li> <li>• For each grant, assistance is limited to the amount necessary for a period of up to five years.</li> </ul>
<p><b>Eligible Administrative and Planning Costs/Prohibited Activities</b></p>	<p>§92.732 The grantee may charge reasonable costs of monitoring an HTF project as administrative cost.</p>	<p>§93.204(6)(b)(1), §93.404(c)(1)(xiv)(A) HUD kept this language and added language to permit grantees and subgrantees to charge property owners reasonable monitoring fees. HUD clarified that the rule does not allow grantees to charge fees for the entire period of affordability “up front.”</p>

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<b>Property Standards</b>	<p>§§92.741-92.745</p> <p>The rule listed the property standards and environmental requirements applicable to the following projects during the period of affordability:</p> <ul style="list-style-type: none"> <li>• New construction and gut rehabilitation- §92.741,</li> <li>• Rehabilitation- §92.742,</li> <li>• Acquisition of standard housing- §92.743,</li> <li>• Manufactured housing- §92.744, and</li> <li>• Rental housing- §92.745.</li> </ul>	<p>§93.301</p> <p>The HTF interim rule adopted the language used in the 2013 HOME Final Rule on property standards at §92.251 with the exception of the environmental review requirements.</p>
<b>Energy Efficiency Standards</b>	<p>§92.741(d)</p> <p>HTF units that are newly constructed or gut rehabilitated must meet Energy Star and Water Sense certifications.</p>	<p>§92.301(a)(2)(ii)</p> <ul style="list-style-type: none"> <li>• HUD removed the requirement to meet Energy Star and Water Sense certifications.</li> </ul> <p>For new construction, HTF projects must meet the energy efficiency standards established under section 109 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 U.S.C. 12709) which was amended by Section 481 of the Energy Independence and Security Act of 2007. In general, this means that single family buildings must comply with energy efficiency standards of the 2009 edition of the International Energy Conservation Code (IECC) and multi-family buildings must comply with the standards of the 2007 edition of the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE) 90.1.</p>

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<b>Inspections</b>	<p>§92.741(h), §92.742(e) and (f), §92.745 Required the grantee to establish written inspection procedures (initial, ongoing and final) and comply with the ongoing inspection requirements during the period of affordability.</p>	<p>§93.301(a)(2)(v), §93.301(b)(3), §93.301(e)(2) and (4), §93.404(d) Wording changes were made so that the language in the HTF regulations matches the HOME regulations.</p>
<b>Resale and Recapture</b>	<p>§92.748(e) and (f) Grantees must use resale provisions on all HTF-assisted homeownership projects and meet the affordability requirements of not less than 30 years.</p>	<p>§93.305(b)(2)</p> <ul style="list-style-type: none"> <li>• HUD added and permits the use of recapture provisions.</li> <li>• Recapture periods of affordability depend on the amount of direct subsidy: <ul style="list-style-type: none"> <li>- Under \$30,000: 10 years</li> <li>- \$30,000-\$50,000: 20 years</li> <li>- \$Over \$50,000: 30 years.</li> </ul> </li> </ul>

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<p><b>HTF &amp; Public Housing</b></p>	<p>§92.734 Prohibited the use of HTF funds for public housing, including public housing that is developed under the HOPE VI program.</p>	<p>§93.203 HTF funds may be used for new construction or rehabilitation of public housing units that are part of the Choice Neighborhoods (Choice) program or that will receive Low Income Housing Tax Credits.</p> <ul style="list-style-type: none"> <li>• Units developed with HTF funds is limited to replacement of units that were removed under the Choice program or as part of a mixed-financed development project authorized by section 35 of the Housing Act of 1937.</li> <li>• Units developed with HTF funds must receive Public Housing Operating Fund assistance (and may receive Public Housing Capital Fund assistance) under section 9 of the 1937 Act.</li> <li>• HTF-assisted public housing units that receive Public Housing Operating or Capital Funds may <u>not</u> receive HTF operating cost assistance or operating cost assistance reserves.</li> </ul> <p>HTF funds can also be used in Rental Assistance Demonstration (RAD) projects involving rehabilitation of existing public units that will be converted under RAD, or for new construction of units in a RAD project.</p>

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<b>Income Targeting</b>	<p>§§92.736-92.737 HUD proposed to require 100 percent of HTF funds to benefit ELI families for the first year of funding.</p>	<p>§93.250 HUD did not adopt proposed language, instead set income-targeting requirements based on the amount of HTF funding available.</p> <ul style="list-style-type: none"> <li>• If the amount of HTF funds available in a fiscal year is &lt; \$1 billion, grantees must spend 100 percent of the funds for the benefit of ELI households.</li> <li>• If the amount of HTF funds available in a fiscal year is ≥ \$1 billion, grantees must spend at least 75 percent of funds for the benefit of ELI households.</li> </ul>
<b>Grantee Responsibilities: Written Agreements and Financial Oversight</b>	<p>§92.774</p> <ul style="list-style-type: none"> <li>• HUD required that procurement contracts shall be governed by 24 CFR 85.36 and 84.44.</li> <li>• HUD would allow for one single written agreement to be used to enforce requirements of both HOME and HTF funds when combing funds.</li> </ul>	<p>§93.404</p> <ul style="list-style-type: none"> <li>• HUD deleted the reference to part 24 CFR 85.36 and 84.44 and updated all citations related to the uniform administrative requirements which are now codified at 2 CFR Part 200.</li> <li>• HUD will no longer permit one single written agreement to be used to enforce both HOME and HTF requirements.</li> <li>• HUD clarified that subgrantees are units of general local governments and must submit a consolidated plan under 24 CFR Part 91.</li> <li>• HUD added a list of reasonable fees that be charged to project owners, HTF applicants, and HTF beneficiaries (under rental and homebuyer projects and programs).</li> <li>• HUD made changes in this section related to inspection requirements to conform to those of the 2013 HOME Final Rule.</li> </ul>