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Subpart A—General**§ 93.1 Overview.**

(a) This part implements the Housing Trust Fund (HTF) program established under section 1338 of the Federal Hous-

ing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4501 *et seq.*) (the Act). In general, under the HTF program, HUD allocates funds by formula to eligible States to increase and preserve the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing for extremely low-income and very low-income households, including homeless families.

(b) Section 1337 of the Act requires a percentage of the unpaid principal balance of total new business for the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae) (collectively, the government-sponsored enterprises or GSEs) to be set aside and allocated as a dedicated source of annual funding for the HTF, unless allocations are suspended by the Director of the Federal Housing Finance Agency, the agency that regulates the GSEs. These funds will be deposited into an HTF account established in the Treasury of the United States by the Secretary of the Treasury to carry out the HTF program. The Act also provides that the HTF may be funded with amounts appropriated, transferred, or credited to the HTF under other provisions of law.

§ 93.2 Definitions.

1937 Act means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

Act means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4501 *et seq.*).

Annual income. See § 93.151.

Commitment means:

(1) The grantee has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with an eligible recipient for a project that meets the definition of “commit to a specific local project” of paragraph (2) of this definition.

(2) “Commit to a specific local project” means:

(i) If the project consists of rehabilitation or new construction (with or without acquisition), the grantee and recipient have executed a written legally binding agreement under which

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HTF assistance will be provided to the recipient for an identifiable project for which construction can reasonably be expected to start within 12 months of the agreement date. The written agreement for rehabilitation or new construction of rental housing may also provide operating cost assistance and/or operating cost assistance reserves.

(ii) If the project consists of acquisition of standard housing and the grantee is providing HTF funds to a recipient to acquire rental housing, or to a first-time homebuyer family to acquire single family housing for homeownership, the grantee and recipient or the family have executed a written agreement under which HTF assistance will be provided for the purchase of the rental housing or single family housing and the property title will be transferred to the recipient or family within 6 months of the agreement date. The written agreement for acquisition of rental housing may also provide operating cost assistance and/or operating cost assistance reserves.

(iii) If the project is for renewal of operating cost assistance or operating cost assistance reserves, the grantee and the recipient must have executed a legally binding written agreement under which HTF funds will be provided to the recipient for operating cost assistance or operating cost assistance reserves for the identified HTF project.

Consolidated plan means the plan submitted and approved in accordance with 24 CFR part 91.

Displaced homemaker means an individual who:

- (1) Is an adult;
- (2) Has not worked full-time full-year in the labor force for a number of years, but has, during such years, worked primarily without remuneration to care for the home and family; and
- (3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Extremely low-income families means low-income families whose annual incomes do not exceed 30 percent of the median family income of a geographic area, as determined by HUD with adjustments for smaller and larger families.

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Family has the same meaning given that term in 24 CFR 5.403.

First-time homebuyer means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under this part. The term first-time homebuyer also includes an individual who is a displaced homemaker or single parent, as those terms are defined in this section.

Grantee means the State or the State-designated entity that receives the HTF funds from HUD.

HTF allocation plan means the annual submission to HUD required by the Act that describes how the grantee will distribute its HTF funds, including how it will use the funds to address its priority housing needs, what activities may be undertaken with those funds, and how recipients and projects will be selected to receive those funds. See 24 CFR 91.220(1)(4) and 91.320(k)(5).

HTF funds means funds made available under this part through formula allocations and reallocations, plus program income.

Homeownership means ownership in fee simple title in a 1- to 4-unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.

(1) The land may be owned in fee simple or the homeowner may have a 99-year ground lease.

(i) For housing located in the insular areas, the ground lease must be 40 years or more.

(ii) For housing located on Indian trust or restricted Indian lands or a Community Land Trust, the ground lease must be 50 years or more.

(iii) For manufactured housing, the ground lease must be for a period at least equal to the applicable period of affordability in §93.304(e).

(2) Right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made) is not an equivalent form of ownership.

(3) The ownership interest may be subject only to the restrictions on resale required under §93.304; mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the grantee; or any other

restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

(4) The grantee must determine whether or not ownership or membership in a cooperative or mutual housing project constitutes homeownership under State law; however, if the cooperative or mutual housing project receives low income housing tax credits, the ownership or membership does not constitute homeownership.

Household means one or more persons occupying a housing unit.

Housing includes manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, single-room occupancy housing, and group homes. Housing does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

HUD means the Department of Housing and Urban Development.

Income-eligible means a family, homeowner, or household (as appropriate given the context of the specific regulatory provision) that is very low-income, extremely low-income, or both, depending on the income-targeting requirements set forth in § 93.250.

Insular areas means Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.

Neighborhood means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

Poverty line is defined in section 673 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902).

Program income means gross income received by the grantee that is directly

generated from the use of HTF funds. When program income is generated by housing that is only partially assisted with HTF funds, the income shall be prorated to reflect the percentage of HTF funds used. Program income includes, but is not limited to, the following:

(1) Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HTF funds;

(2) Gross income from the use or rental of real property owned by the grantee that was acquired, rehabilitated, or constructed with HTF funds, minus costs that were incidental to generation of the income; therefore, program income does not include gross income from the use, rental, or sale of real property received by the recipient, unless the funds are paid by the recipient to the grantee;

(3) Payments of principal and interest on loans made using HTF funds;

(4) Proceeds from the sale of loans made with HTF funds;

(5) Proceeds from the sale of obligations secured by loans made with HTF funds;

(6) Interest earned on program income pending its disposition; and

(7) Any other interest or return on the investment of HTF funds, as permitted under § 93.200(b).

Project means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HTF funds as a single undertaking under this part. The project includes all the activities associated with the site and building.

Project completion means that all necessary title transfer requirements and construction work have been performed, the project complies with the requirements of this part (including the property standards under § 93.301 of this part), the final drawdown has been disbursed for the project, and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 93.402(d) of this part,

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project completion occurs upon completion of construction before occupancy.

Recipient means an organization, agency, or other entity (including a public housing agency, or a for-profit entity or a nonprofit entity) that receives HTF assistance from a grantee as an owner or developer to carry out an HTF-assisted project. A recipient must:

(1) Make acceptable assurances to the grantee that it will comply with the requirements of the HTF program during the entire period that begins upon selection of the recipient to receive HTF funds, and ending upon the conclusion of all HTF-funded activities;

(2) Demonstrate the ability and financial capacity to undertake, comply, and manage the eligible activity;

(3) Demonstrate its familiarity with the requirements of other Federal, State, or local housing programs that may be used in conjunction with HTF funds to ensure compliance with all applicable requirements and regulations of such programs; and

(4) Have demonstrated experience and capacity to conduct an eligible HTF activity as evidenced by its ability to:

(i) Own, construct, or rehabilitate, and manage and operate an affordable multifamily rental housing development; or

(ii) Design, construct, or rehabilitate, and market affordable housing for homeownership.

(iii) Provide forms of assistance, such as down payments, closing costs, or interest rate buydowns for purchasers.

Reconstruction means the rebuilding, on the same lot, of housing standing on a site at the time of project commitment, except that housing that was destroyed may be rebuilt on the same lot if HTF funds are committed within 12 months of the date of destruction. The number of housing units on the lot may not be decreased or increased as part of a reconstruction project, but the number of rooms per unit may be increased or decreased. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing. Reconstruction is new construction for purposes of this part.

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Shortage of standard rental units both affordable and available to extremely low-income renter households means

(1) For any State or other geographical area the gap between:

(i) The number of units with complete plumbing and kitchen facilities with a rent that does not exceed 30 percent of 30 percent of the adjusted area median income (AMI) as determined by HUD that either are occupied by extremely low-income renter households or are vacant for rent; and

(ii) The number of extremely low-income renter households.

(2) If the number of units described in paragraph (1)(i) of this definition exceeds the number of extremely low-income households described in paragraph (1)(ii) of this definition, there is no shortage.

Single family housing means a one-to four-family residence, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot.

Single parent means an individual who:

(1) Is unmarried or legally separated from a spouse; and

(2) Has one or more minor children of whom the individual has custody or joint custody, or is pregnant.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

State-designated entity means a State housing finance agency, tribally designated housing entity, or any other qualified instrumentality of the State that is designated by the State to be the grantee.

Subgrantee means a unit of general local government or State agency selected by the grantee to administer all or a portion of its HTF program. A local government subgrantee must have an approved consolidated plan submitted in accordance with 24 CFR part 91. The selection of a subgrantee by a grantee is not subject to the procurement procedures and requirements.

Tribally designated housing entity has the meaning given the term in section

4 of the Native American Housing Assistance and Self-Determination Act of 1997 (25 U.S.C. 4103).

Unit of general local government means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this part. When a county is an urban county, the urban county is the unit of general local government for purposes of the HTF program.

Urban county has the meaning given the term in 24 CFR 570.3.

Very low-income renter households means a household whose income is in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by HUD.

Very low-income families means low-income families whose annual incomes are in excess of 30 percent but not greater than 50 percent of the median family income of a geographic area, as determined by HUD with adjustments for smaller and larger families. "Very low-income family" also includes any family that resides in a nonmetropolitan area that does not exceed the poverty line applicable to the family size involved.

§93.3 Waivers.

HUD may, upon a determination of good cause and subject to statutory limitations, waive any provision of this part and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

Subpart B—Allocation Formula; Reallocations

§93.50 Formula allocation.

(a) *Allocations to States.* HUD will provide to the States allocations of funds in amounts determined by the formula described in this part.

(b) *Amount available for allocation.* The amount of funds available for allocation by the formula is the balance re-

maining after providing for other purposes authorized by Congress, in accordance with the Act and appropriations.

(c) *Allocations for the insular areas.* The allocation amount for each insular area is determined by multiplying the funds available times the ratio of renter households in each insular area to the total number of renter households in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the insular areas.

(d) *Allocations for the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia—(1) Amounts available for allocations.* The amount of funds that is available for allocation by the formula to the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia is determined using the most current data available from the U.S. Census Bureau that is available for the same year for all these geographic areas. The amount is equal to the balance of funds remaining after determining formula allocations for the insular areas under §93.50(c). For purposes of paragraphs (d)(1) and (2) of this section, the term "State" means any of the 50 United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(2) *Allocations.* (i) Allocations to the States are determined using the four needs factors described in §93.51(a) through (d), multiplying each factor by the amount available under §93.51(d)(1) by its priority weight, and summing the four factors for each State.

(ii) The factor described in §93.51(a) is weighted 0.5. The factors described in §93.51(b) and (d) are weighted at 0.125 and the factor described in §93.51(c) of this section is weighted at 0.25.

(iii) The sum of the four needs factors for each State is then multiplied by the construction cost factor described in §93.51(e) of this section and by the total amount of funds available for State allocations.

§93.51 Formula factors.

(a) *Need factor one.* The ratio of the shortage of standard rental units both affordable and available to extremely low-income renter households in the State to the aggregate shortage of standard rental units both affordable