

Arkansas Development Finance Authority



National Housing Trust Fund Operations Manual



Effective Date: May 3, 2018



ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



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Effective Date _____ Code Number _____

Name of Agency _____

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Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

(Check One)

Date

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Emergency (ACA 25-15-204)

Legal Notice Published _____

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10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment _____

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CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

Phone Number

E-mail Address

Title

Date

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY
NATIONAL HOUSING TRUST FUND
OPERATIONS MANUAL**

THE NATIONAL HOUSING TRUST FUND

- ❖ The National Housing Trust Fund (“NHTF”) is a new affordable housing production program that will complement existing federal, state and local efforts to increase and preserve the supply of decent, safe and sanitary affordable housing for extremely low-income (“ELI”) households, which are those at or below 30% of area median income (“AMI”).
- ❖ Per 24 CFR 93.250(a), in any fiscal year in which the total amount available for allocation of HTF funds is less than \$1 billion, ADFA will use 100% of its HTF grant for the benefit of
 - ELI families or
 - Families with incomes at or below the poverty line(whichever is greater).
- ❖ As specified in its enabling legislation, Grantees, like the Arkansas Development Finance Authority (“ADFA”) in its role as the designated administrator of NHTF funds for the State of Arkansas (“State”),
 - Must use at least eighty (80) percent of each annual grant for rental housing,
 - May use up to ten (10) percent of each annual grant for homeownership housing, and
 - May use up to ten (10) percent of each annual grant for the grantee’s reasonable administrative and planning costs.
- ❖ All applicable affordability periods must be followed:
 - All NHTF-assisted rental housing must meet a minimum affordability period of thirty (30) years.
 - All NHTF-assisted homeownership housing must meet the minimum affordability period of 10, 20 or 30 years based on the amount of NHTF invested in the unit.

ADFA’S SPECIFIC USE AND ALLOCATION OF NHTF FUNDS

- ❖ ADFA will administer the NHTF program to provide funds to develop new construction of decent, safe, and sanitary rental housing, primarily targeting a specific underserved group: The ELI Veteran population in Arkansas.
- ❖ Preference will be given to ELI Veterans
 - With special needs,
 - Who are homeless or may become homeless,
 - With mental health issues, and/or

- Who are leaving correctional facilities.
- ❖ Preference will also be given to surviving spouses of deceased Veterans.

GENERAL HOUSING TRUST FUNDS REQUIREMENTS

- ❖ Where economically feasible, applicants will have an opportunity to compete for funding to address their unmet rental housing needs. ADFA has established certain basic housing requirements to be used in the allocation of NHTFs, which are found in the Scoring Matrix:

ELIGIBLE ACTIVITIES

- ❖ Eligible activities must comply with the requirements of **24 CFR Parts 93.200, 93.201 and 93.301**.
 - Under 24 CFR 93.200, HTF funds may be used for the production of affordable housing and rental housing.
 - Under 24 CFR 93.201, HTF funds may be used to pay eligible costs, such as development hard costs, refinancing costs, acquisition costs, and related costs.
 - Under 24 CFR 93.301, new construction projects must meet all applicable state and local codes, ordinances, zoning requirements and ADFA's Minimum Design Standards ("MDS").
- ❖ ADFA permits and encourages applicants to exceed these MDS project standards.
 - [http://adfa.arkansas.gov/Websites/adfa/images/LIHTC Docuemnts/LIHTC 2016 /Multi-Family Housing Minimum Design Standards Final.pdf](http://adfa.arkansas.gov/Websites/adfa/images/LIHTC_Docuemnts/LIHTC_2016/Multi-Family_Housing_Minimum_Design_Standards_Final.pdf)

ELIGIBLE RECIPIENTS

- ❖ Under 24 CFR §93.2, a Recipient is defined as an organization, agency, or other entity (including a public housing agency, or a for-profit entity or a nonprofit entity) that receives NHTF assistance from a grantee as an owner or developer to carry out an NHTF-assisted project.
- ❖ In order to qualify as a Recipient of NHTF funds under 24 CFR 93.2, the entity must meet four requirements. These requirements state that a Recipient must
 - Make acceptable assurances to the grantee that it will comply with the requirements of the NHTF program during the entire period that begins upon selection of the recipient to receive NHTF funds, and ending upon the conclusion of all NHTF-funded activities,
 - Demonstrate the ability and financial capacity to undertake, comply, and manage the eligible activity,
 - Demonstrate its familiarity with the requirements of other Federal, State, or local housing programs that may be used in conjunction with

- NHTF funds to ensure compliance with all applicable requirements and regulations of such programs, and
- Have demonstrated experience and capacity to conduct an eligible NHTF activity as evidenced by its ability to
 - Own or construct, and manage and operate an affordable multifamily rental housing development; or
 - Design or construct, and market affordable housing for homeownership.
 - Provide forms of assistance, such as down payments, closing costs, or interest rate buydowns for purchasers.
 - ❖ When selecting eligible recipients, ADFA will measure these requirements per methods listed in the Scoring Matrix and per documents submitted with the application (<http://adfa.arkansas.gov/lihtc-application>).
 - ❖ No NHTF application will be processed for any applicant or related entity which is not in good standing with
 - ADFA and any other State housing finance authority,
 - The Arkansas Economic Development Commission (“AEDC”),
 - HUD and/or
 - USDA Rural Development.
 - ❖ An applicant can be denied consideration of the NHTF funds under Arkansas’s NHTF Program if the applicant or its related parties have a history of payment delinquencies, bankruptcy, foreclosure or activities determined to be unsound or unlawful.
 - ❖ ADFA will distribute NHTF by directly selecting applications submitted from eligible recipients and will not use sub-grantees.
 - ❖ The Development Team is the applicant, consultant, contractor, architect, accountant, property manager, and attorney who will work to facilitate the construction of new rental housing (single family, assisted living units, or multi-family units) solely for ELI Veterans and their families.
 - ❖ Under Title 38 of the Code of Federal Regulations, a Veteran is defined as a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.
 - ❖ An “eligible applicant” consists of the Development Team and a Non-Profit which specializes in support services for Veterans.
 - ❖ 24 CFR 93.350 requires that the recipient put affirmative marketing in place to attract eligible persons (here, ELI Veterans and their families) “without regard to race, color, national origin, sex, religion, family status, or disability.” ADFA will ensure the recipient’s compliance with this regulation by requiring that each application package to ADFA include the HUD Form 935.2A, which outlines the Development Team’s Affirmative Fair Marketing Plan and their staff’s Fair Housing training accomplishments.

➤ [http://adfa.arkansas.gov/Websites/adfa/images/HOME_Program/Documents/Affirmative Fair Housing Marketing Plan - Single Family.pdf](http://adfa.arkansas.gov/Websites/adfa/images/HOME_Program/Documents/Affirmative_Fair_Housing_Marketing_Plan_-_Single_Family.pdf)

- ❖ The Development Team’s property manager will ensure compliance with 24 CFR 93.303(d)(3), which requires that the nondiscrimination provisions of 24 CFR 93.350 (listed above) be followed.
- ❖ ADFA will award NHTF funds as forgivable grants to recipients whose proposed developments are approved for funding. The NHTF grant will remain a forgivable grant, as long as the development remains in compliance with NHTF and ADFA requirements for the entire affordability period of thirty (30) years.

MAXIMUM PER-UNIT DEVELOPMENT SUBSIDY LIMITS

- ❖ As the administrator of the Low-Income Housing Tax Credit and HOME funds, ADFA determines the “Reasonableness of Project Costs”—both hard and soft costs—annually by comparing aggregate cost data based on all applications received compared to historical cost certification data of completed projects and current cost data provided by ADFA third-party construction consultant reports. ADFA has used the same methodology in determining the maximum per-unit development subsidy limit for housing assisted with NHTF funds for all areas of State.
- ❖ No single recipient may receive more than \$1,000,000.00; however, ADFA has the right to waive this per-recipient allocation cap.
- ❖ Per Unit Costs is calculated by dividing the total development costs by the total number of units. The maximum Per Unit Development Subsidy Limit is adjusted every two years through ADFA’s Administrative Procedures Act, Arkansas Code Annotated Sections 25-15-201 et seq., also known as the “APA” process. ADFA’s maximum costs limits are deemed reasonable, based on actual costs, and adjusted at time of staff underwriting for the number of bedrooms and geographic location of the project.

Maximum Cost Per-Unit and Minimum Area Requirements

Property Type	#Bedrooms	#Baths	Min. Bedroom Net Area	MAX Cost Per- Unit
Rental Unit	3-4	2	120 sq. ft.	\$151,000
Rental Unit	1-2	1-2	120 sq. ft.	\$120,000
SFD	3-4	2	120 sq. ft.	\$162,000
SFD	2	1-2	120 sq. ft.	\$140,000
Assisted Living	1	1	120 sq. ft.	\$179,000

Unit areas do not include outside storage, covered porches, patios, balconies, etc.

- ❖ At time of ADFA underwriting of each application, the costs are thoroughly reviewed and adjusted for under-estimates or excessive costs. ADFA uses discretion to determine reasonableness of all costs stated in the proposed development budget regardless of whether the costs per-unit comply with the maximum costs per-unit limitation set forth above. ADFA may, within its discretion, deny applications based upon the unreasonableness of costs, regardless of whether the costs per-unit complies with the maximum costs per-unit limitation set forth above. Upon request by ADFA staff, applicants may provide justification and supporting documentation of costs. ADFA will review the items submitted and make a final determination. ADFA's determination will be set forth in writing as to whether the application will be further considered or rejected.
- ❖ Based on the example below, approximately 17 units could be developed through allocation of \$3,000,000.00 by ADFA:

MINIMUM NUMBER OF PROPOSED UNITS

- ❖ A single proposed multi-family development may not contain less than four (4) units designated and reserved for ELI Veterans' households.

APPLICATION PROCESS

- ❖ ADFA will evaluate each application to determine which projects should receive an award of NHTF funds. All applicants must submit an application, with supporting documentation, including evidence sufficient to ADFA that the applicant's proposed project at minimum meets all of the housing priority factors in order to be considered for funding.
 - Link for application is at: <http://adfa.arkansas.gov/lihtc-application>
- ❖ ADFA may conduct a site visit(s) to inspect the proposed project site(s) and/or consult with a third party for professional services in evaluating each application requesting NHTF funds. To facilitate the evaluation process, all applicants must complete the following basic steps:
 - ❖ All required ADFA-provided forms may be found at <http://adfa.arkansas.gov/lihtc-application>. All ADFA-provided forms should be submitted with original signatures, legible and all applicable spaces fully completed, and with all required third-party documents. ADFA will post the NHTF application checklist and instructions for the complete list of required documents as provided at www.ADFA.arkansas.gov prior to the beginning of the application cycle.
 - ❖ All applicants must comply in all respects with ASTM E1527-13 (the "ASTM Standards") as to content and adhere to ADFA's Environmental Policy

Requirements for purposes of determining whether the property is environmentally suitable for construction of residential housing.

- ❖ After the initial review, each applicant will be contacted via e-mail regarding any missing or incomplete items or documents. Upon notice, applicants must submit all missing and/or incomplete items or documents in order to be considered for funding.
- ❖ The application must demonstrate that the project is an eligible activity under this NHTF plan and meets basic occupancy and rent restrictions required of NHTF regulations. The rental housing units must be under common ownership, deed, financing and property management.
- ❖ The application must also demonstrate that the project is financially feasible and is sustainable for the thirty (30) year affordability period with ADFA's requirements and the NHTF Regulations.

ADFA HOUSING PRIORITIES AND SCORING CRITERIA

- ❖ Funds will be awarded based on the application (at a minimum) meeting the general NHTF requirements listed above and the total score of the application. Once ADFA has determined that the application meets or exceeds all requirements, ADFA will award funds to highest-scoring project until all NHTF funds have been allocated. There is no minimum score.
- ❖ ADFA's selection of Eligible Recipients will be based upon those applicants achieving the highest scores, and awarded in that order, until funds are depleted. The reviewing underwriter will score each application, using the Scoring Matrix.
- ❖ ADFA reserves the right to deny an NHTF allocation to any applicant or project, regardless of that applicant's point ranking if, in ADFA's sole determination, the applicant's proposed project is not financially feasible or viable. Regardless of strict numerical ranking, the scoring does not operate to vest in an applicant or project any right of allocation in NHTF funds in any amount. ADFA will in all instances reserve and allocate NHTF funds consistent with sound and reasonable judgment, prudent business practices and the exercise of its inherent discretion.

BARRIERS TO ADDRESSING THE ELI AND VETERAN ELI POPULATION

- ❖ Various obstacles to addressing the targeted ELI Veterans population exist across Arkansas. In the rural counties, transportation is a major issue. The shortage of affordable permanent housing, job loss, unemployment, lack of education, and the lack of affordable healthcare are all barriers to the ELI population to access

affordable housing.

- ❖ It will be very challenging for developments to be successful in reaching specific ELI populations, areas of extremely high ELI households and remain economically feasible for thirty (30) years. ADFA will work with every applicant and respective stakeholder (mental health and physical health service providers, Veterans advocates and groups, non-profits and local governments) to be proactive toward providing additional funding sources and incentives as available; helping to remove regulatory and discriminatory barriers; and seeking experienced development partners to assist in creating housing solutions for Arkansas Veterans. Our multi-family and HOME underwriters are open to calls to assist with the application, and our compliance department holds regular technical assistance trainings.

COMPLIANCE WITH NHTF REGULATIONS

- ❖ Each eligible recipient must certify that housing units assisted with NHTF funds will comply with all NHTF requirements. The certification must include:
 - The number of units in an NHTF-assisted project by income group: ELI, VLI, moderate income and above moderate income; and
 - A Statement declaring that all tenants of an NHTF-assisted development meet the income limits as required by relevant program guidelines; and
 - A Statement declaring that recipient will comply with rent limits, determined to be no more than thirty percent (30%) of the area median income.
- ❖ ADFA staff will monitor each NHTF project on-site at least once prior to the completion of the project and at least once every three years through the entire affordability period. ADFA will review for compliance with the NHTF Plan, eligibility requirements, housing construction standards (24 CFR 93.301), rent reasonableness, affirmative outreach (24 CFR 93.350), tenant protections and selection (24 CFR 93.303), fair housing and financial management. ADFA Project Compliance Guidelines may be found at:
[http://adfa.publishpath.com/Websites/adfa/images/Compliance_Monitoring/2014 - 2015 Compliance Monitoring Policies and Procedures Manual for the LIHTC Program](http://adfa.publishpath.com/Websites/adfa/images/Compliance_Monitoring/2014_-_2015_Compliance_Monitoring_Policies_and_Procedures_Manual_for_the_LIHTC_Program.pdf)
[.pdf](http://adfa.publishpath.com/compliance-and-monitoring-forms.pdf) and <http://adfa.publishpath.com/compliance-and-monitoring-forms>
- ❖ After each monitoring visit, written correspondence will be sent to the NHTF recipient describing the results of the review in sufficient detail to clearly describe the areas that were covered and the basis for any conclusions reached. Monitoring determinations will range from “acceptable” to “findings” with appropriate corrective measures imposed. Corrective measures may include

certifications that inadequacies will be resolved, documentary evidence that corrective actions have been instituted or reimbursement of disallowed costs.

PERFORMANCE GOALS

- ❖ ADFA's goal in administering the NHTF program is the new construction of decent, safe, and sanitary rental housing, primarily targeting a specific underserved group: The ELI Veteran population in Arkansas.
- ❖ Preference will be given to ELI Veterans
 - With special needs,
 - Who are homeless or may become homeless,
 - With mental health issues, and/or
 - Who are leaving correctional facilities.
- ❖ Preference will also be given to surviving spouses of deceased Veterans.
- ❖ Recipients will develop performance goals that best quantify the NHTF developments' impact for their local areas' ELI Veterans. Performance goals specific to the specific geographic area will be evaluated to determine if the NHTF goals have been achieved.