



June 25, 2021

HUD Regulations Division
Office of Community Planning and Development
U.S. Department of Housing and Urban Development
451 Seventh Street SW
Washington, DC 20410-7000

Re: Housing Trust Fund - Request for Public Comment on Prior Interim Rule, Docket No. FR-5246-N-04

To whom it may concern:

On behalf of [Stewards of Affordable Housing for the Future \(SAHF\)](#), thank you for the opportunity to provide comments on the National Housing Trust Fund's (HTF) interim rule and implementation as HUD considers further rulemaking for the program. HTF has the potential to be a powerful tool to build, preserve and operate rental housing for people living with the lowest incomes but in the few years it has been active, it has not fully lived up to this potential, as grantees have been stymied in the ability to allocate and developers in utilizing HTF operating assistance. Our comments below are focused on ways in which HUD can provide more clarity and flexibility to the program especially as it relates to operating costs.

About SAHF

SAHF is a collaborative of thirteen exemplary multi-state nonprofits who collectively own, operate, and manage more than 147,500 affordable rental homes in 2,000 properties across the country. SAHF members leverage the Low Income Housing Tax Credit (Housing Credit), HOME Investment Partnerships (HOME) Program and other resources to advance the preservation of healthy, sustainable affordable rental homes that foster equity, opportunity, and wellness for people of limited economic resources. SAHF members have been less successful in utilizing HTF, citing funding and program limitations.

The Housing Trust Fund provides an important source of capital for developing deeply affordable rental homes and we appreciate that the Biden Administration has most recently proposed to fund HTF at \$45 billion in the American Jobs Plan. The program has been underfunded for years, leading to some of the concerns we discuss below. We urge HUD as it seeks to engage in final rulemaking to consider how this program will work both if there is a large infusion or if it remains relatively small as it has in the past few years. Flexibility is key in both scenarios. It is also critically important that a portion of HTF funds be able to be utilized for operating assistance and reserves, as rental assistance sources remain scarce in most markets and are often not project-based or aligned to the full term of the property's financing.

Operating Assistance and Reserves: Operating assistance and reserves are critical in allowing housing providers to make up for the deficit between rents received and a unit's share of operating costs, including maintenance, insurance, and taxes. Although HTF can be a source of defraying operating costs by reducing or eliminating any debt services payments, there are still many costs

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associated with maintaining a healthy stable home for residents. The resident portion of rent may only be a few hundred dollars per month and insufficient to cover these expenses. Additional sources of funding are needed to close the gap. This is especially important in serving people with extremely low incomes, as that deficit between rent and operating costs is larger, and operating assistance can mean the difference between serving those households or not.

There are very few sources of ongoing operating assistance for affordable housing and policymakers sought to address this mismatch through HTF. Unfortunately, HTF operating assistance has been extremely underutilized. First, the HTF Interim Final Rule allows only up to one-third of a state's annual allocation to be used to provide for operating assistance and reserves. This cap coupled with low allocations from 2016 to 2020 have meant grantees and developers have not sought operating assistance and reserves as they may have done with more flexibility. SAHF recommends that HUD remove the current limitation on operating assistance in further rulemaking, and instead provide discretion to state agencies for projects that may require more operating assistance than would be allowed under these restrictions, when leveraged to make deep affordability.

Another challenge in utilizing operating assistance through HTF has been the definition included in the interim rule, which limits operating costs to "maintenance, utilities, insurance, property taxes, and scheduled payments to reserve for replacement of major systems". This definition does not fully address the operating costs incurred, especially when serving persons with extremely low incomes that may have more needs. For instance, this omits the cost of professional property management, which is necessary for safe property operations and compliance with HUD requirements. SAHF recommends that HUD expand the operating assistance definition to provide more flexibility and discretion to grantees in what is included to allow assistance or reserves to provide the financial certainty needed for all property operations.

Rent Setting: The interim rule sets a fixed maximum rent, including utilities, that mirrors income targeting so for people with extremely low incomes the rent would be the greater of 30% of 30% AMI, or 30% of the federal poverty level. We understand that there is concern that this could potentially mean residents earning less than 30% AMI could technically spend more than 30% of their income on rent, and that some advocates have pushed to change maximum rent to instead be at 30% of individual income. While we understand the desire to ensure that families are not cost burdened, such a change would create serious challenges to underwriting and financial feasibility of the entire project. SAHF therefore recommends that HUD maintain fixed rents as is currently allowed, and seek to address potential resident cost burdens with more flexible use of operating assistance.

Affordability Period: The HTF interim rule requires a minimum 30-year affordability period, and grantees are permitted to impose longer periods. SAHF is fully committed to long term affordability but understand that this must be coupled with resources to ensure the homes remain healthy, stable places to live. SAHF urges HUD to reconsider the current prohibition (24 CFR 93.204(a)(1) of grantees committing more HTF funds to developments in the affordability period. Additional support to developments may be necessary to ensure their health, long-term success and financial feasibility. Additional support could also be used to preserve deeply affordable housing as maturity of the initial affordability period approaches.



We would be happy to provide additional information on any of our comments. Please feel free to contact Althea Arnold, SVP Policy at aarnold@sahfnet.org or (202) 737 -5972.

Sincerely,

Althea Arnold
Senior Vice President, Policy

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750 9TH Street NW Suite 650, Washington, D.C. 20001-4793 • P (202)737-5970 • www.sahfnet.com