

September 22, 2016
Multifamily Direct Loan Rule Roundtable – Public Comment

A coalition of advocates for the homeless, people with disabilities, fair housing and others have developed recommendations for how Texas can make the most of the rare opportunity to increase housing for extremely low income people (ELI) presented by the National Housing Trust Fund (NHTF).

We thank the staff of TDHCA for considering these recommendations and for allowing public comment on the Direct Loan rulemaking process that will govern NHTF allocation. We submit the comments on the following issues presented in TDHCA's NHTF draft allocation plan, several of which will be resolved by Direct Loan rulemaking:

Supportive Services

The draft allocation plan states that staff believes “supportive services should not be required for either households to occupy a property assisted with NHTF or for a development to receive NHTF funding.” That is consistent our coalition’s requests and we thank staff for listening.

Homeownership

The draft states that “TDHCA may develop a homebuyer program for NHTF in the future, but that use is not contemplated for the 2016 Allocation Plan.” We believe this is appropriate given the small level of funding available in NHTF’s first year.

Vouchers

The draft states that staff agreed that “at least half or some portion of the units created with NHTF funding should serve extremely low income people who do not have rental vouchers” and that this priority would be addressed in the Direct Loan rules in the same manner as in the 2016 Multifamily NOFA. The 2016 NOFA separated Deferred Forgivable Loan Set-Asides for supportive housing or for units targeting ELI households without project-based rental assistance, and we appreciate that the same manner will be used in 2017 for NHTF and other funds despite the lack of applications for units without vouchers last year.

Lengthen affordability

Following the lead of the National Low Income Housing Coalition, which has encouraged states around the country to take advantage of NHTF funding by expanding affordability periods, we asked that TDHCA incentivize a minimum length of affordability for NHTF-funded developments beyond the required 30 years. We don’t anticipate that properties can be underwritten for the full term of affordability without additional funding. Common affordability period requirements used by cities and others don’t require underwriting for 99 years, 50 years or other periods.

Staff indicated that they would address this recommendation through the Direct Loan rule. While we were pleased to see the draft allocation plan state that “applications that propose a longer affordability period could have a scoring advantage,” it did not specify what that advantage would be nor what requirements or incentives would be provided to lengthen the affordability of Trust Fund units. Without those details, it is unlikely that the Trust Fund will result in affordable units for longer than 30 years. We encourage staff to explore ways to add additional points in the NHTF application scoring process for affordability periods beyond 30 years.

Deepen affordability

In order to serve Texans with the most dire need for affordable housing, we recommend that NHTF funding target units serving households at 15 percent AMI to 20 percent AMI

rather than just the required 30 percent AMI. Staff promised to address this recommendation through the Direct Loan rules. The rules could be drafted to award points for units serving those at a lower AMI in a similar manner to current TDHCA statute, scoring and ranking applications to prioritize in descending order criteria beginning with lower AMI.

Expand affordability

NHTF rules require that funding creates new affordability, increasing the total number of units for ELI households rather than replacing, repairing or expanding existing units. Staff indicated that they would address this through the Direct Loan rules. We stress that expanding affordability should be a requirement and not a recommendation. The draft states that “highest priority in the evaluation of applications will be the creation of new units serving ELI households that would not otherwise exist.” This language could be very useful in ensuring that the Trust Fund expands affordability and should be reiterated and strengthened throughout the rules.

Accessibility for small non-profits

One of our coalition’s central requests was that, given the unique nature of NHTF funding, its application process should be more accessible to smaller mission-driven nonprofits and distinct from the tax credit program. Opening up the NHTF application process would encourage diversity, allow nonprofits to serve the deepest levels of income and decrease the cost of applying for organizations whose purpose is to serve extremely low income households.

Staff indicated they would address this recommendation through the Direct Loan rules. We encourage staff to consider:

- Current developer experience requirements are prohibitive to participation by CHDOs and small, mission-driven non-profits. The requirements are tailored to larger developments. Applicants are required to establish experience with 150 units or more, even for deserving projects of less than 30 units. Experience requirements should be proportional to the size of the project and TDHCA should consider other types of construction experience including commercial and office space.
- Proof of experience currently consists of documentation in the name of a development owner or principal (many of whom were not directly involved in the development), disregarding the significant experience of other individuals currently in the organization who are deeply involved in development but who did not have construction contracts or Certificates of Occupancy in their own names. Conversely, those with COs in their name often do not have actual development experience.
- The cost of obtaining all the required third-party reports just in order to apply is prohibitive and can easily cost more than \$20,000. For example, a market analysis costs between \$7,000 and \$10,000 and is required even in markets for which the need has been established by a municipally-sponsored market study.

Lower barriers

Unfortunately, the draft allocation plan does not address or even comment on one of our coalition’s central recommendations: That NHTF funds truly serve ELI households by lowering barriers to access housing. We believe that the plan could award extra points to projects that lower physical barriers to housing by including mobility features and systemic barriers including proof of employment, credit checks, services and case management as a condition of tenancy, limited criminal history and more. While staff did not indicate that they would address this recommendation as part of the Direct Loan rules, we reiterate that without serious consideration of the barriers preventing ELI households from finding housing, the NHTF allocation plan will not serve as many Texans as it could and should.