

Title 15. Natural Resources and Economic Development
Chapter VII. Arkansas Development Finance Authority, Department of
Commerce
Subchapter C. Housing
Part 91. National Housing Trust Fund Operations Manual

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Effective Date: May 3, 2018"

Subpart 1. Generally

15 CAR § 91-101. The national Housing Trust Fund.

(a) The national Housing Trust Fund (HTF) 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 thirty percent (30%) of area median income .

(b) Per 24 C.F.R. § 93.250(a), in any fiscal year in which the total amount available for allocation of HTF funds is less than one billion dollars (\$1,000,000,000), the Arkansas Development Finance Authority will use one hundred percent (100%) of its HTF grant for the benefit of ELI families or families with incomes at or below the poverty line, whichever is greater.

(c) As specified in its enabling legislation, grantees, like the authority in its role as the designated administrator of HTF funds for the State of Arkansas:

(1) Must use at least eighty percent (80%) of each annual grant for rental housing;

(2) May use up to ten percent (10%) of each annual grant for homeownership housing; and

(3) May use up to ten percent (10%) of each annual grant for the grantee's reasonable administrative and planning costs.

(d) All applicable affordability periods must be followed:

(1) All HTF-assisted rental housing must meet a minimum affordability period of thirty (30) years; and

(2) All HTF-assisted homeownership housing must meet the minimum affordability period of ten (10), twenty (20), or thirty (30) years based on the amount of HTF funds invested in the unit.

Authority. Arkansas Code § 15-5-207.

15 CAR § 91-102. Arkansas Development Finance Authority's specific use and allocation of national Housing Trust Fund funds.

(a) The Arkansas Development Finance Authority will administer the national Housing Trust Fund 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.

(b) Preference will be given to ELI veterans:

(1) With special needs;

(2) Who are homeless or may become homeless;

(3) With mental health issues; and/or

(4) Who are leaving correctional facilities.

(c) Preference will also be given to surviving spouses of deceased veterans.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "ELI" means extremely low-income.

15 CAR § 91-103. General Housing Trust Fund requirements.

(a) Where economically feasible, applicants will have an opportunity to compete for funding to address their unmet rental housing needs.

(b) The Arkansas Development Finance Authority has established certain basic housing requirements to be used in the allocation of national Housing Trust Fund funds, which are found in the scoring matrix.

Authority. Arkansas Code § 15-5-207.

15 CAR § 91-104. Eligible activities.

(a)(1) Eligible activities must comply with the requirements of 24 C.F.R. §§ 93.200, 93.201, and 93.301.

(2) Under 24 C.F.R. § 93.200, national Housing Trust Fund (HTF) funds may be used for the production of affordable housing and rental housing.

(3) Under 24 C.F.R. § 93.201, HTF funds may be used to pay eligible costs, such as:

- (A) Development hard costs;
- (B) Refinancing costs;
- (C) Acquisition costs; and
- (D) Related costs.

(4) Under 24 C.F.R. § 93.301, new construction projects must meet all applicable state and local codes, ordinances, zoning requirements, and the Multi-Family Housing Minimum Design Standards, 15 CAR pt. 96.

(b) The Arkansas Development Finance Authority permits and encourages applicants to exceed these Multi-Family Housing Minimum Design Standards project standards

(http://adfa.arkansas.gov/Websites/adfa/images/LIHTC_Docuemnts/LIHTC_2016/Multi-Family_Housing_Minimum_Design_Standards_Final.pdf).

Authority. Arkansas Code § 15-5-207.

15 CAR § 91-105. Eligible recipients.

(a) Under 24 C.F.R. § 93.2, a recipient is defined as an organization, agency, or other entity (including a public housing agency, a for-profit entity, or a nonprofit entity) that receives national Housing Trust Fund (HTF) assistance from a grantee as an owner or developer to carry out an HTF-assisted project.

(b)(1) In order to qualify as a recipient of HTF funds under 24 C.F.R. § 93.2, the entity must meet four (4) requirements.

(2) These requirements state that a recipient must:

(A) 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;

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

(C) 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

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

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

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

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

(c) When selecting eligible recipients, the Arkansas Development Finance Authority will measure these requirements per:

(1) Methods listed in the scoring matrix; and

(2) Documents submitted with the application (<http://adfa.arkansas.gov/lihtc-application>).

(d) No HTF application will be processed for any applicant or related entity that is not in good standing with the:

(1) Arkansas Development Finance Authority and any other state housing finance authority;

(2) Arkansas Economic Development Commission;

(3) United States Department of Housing and Urban Development; and/or

(4) United States Department of Agriculture Rural Development.

(e) An applicant can be denied consideration of the HTF funds under Arkansas's HTF program if the applicant or its related parties have a history of:

(1) Payment delinquencies;

(2) Bankruptcy;

(3) Foreclosure; or

(4) Activities determined to be unsound or unlawful.

(f) Arkansas Development Finance Authority will distribute HTF funds by directly selecting applications submitted from eligible recipients and will not use subgrantees.

(g) 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.

(h) 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.

(i) An "eligible applicant" consists of:

(1) The development team; and

(2) A nonprofit that specializes in support services for veterans.

(j)(1) 24 C.F.R. § 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, familial status, or disability".

(2) Arkansas Development Finance Authority will ensure the recipient's compliance with this regulation by requiring that each application package to the Arkansas Development Finance Authority include the United States Department of Housing and Urban Development Form 935.2A, which outlines the development teams' affirmative fair housing 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).

(k) The development team's property manager will ensure compliance with 24 C.F.R. § 93.303(d)(3), which requires that the nondiscrimination provisions of 24 C.F.R. § 93.350 (listed above) be followed.

(l)(1) Arkansas Development Finance Authority will award HTF funds as forgivable grants to recipients whose proposed developments are approved for funding.

(2) The HTF grant will remain a forgivable grant, as long as the development remains in compliance with HTF and Arkansas Development Finance Authority requirements for the entire affordability period of thirty (30) years.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "ELI" means extremely low-income.

15 CAR § 91-106. Maximum per-unit development subsidy limits.

(a)(1) As the administrator of the low-income housing tax credit and HOME Investment Partnerships Program funds, Arkansas Development Finance Authority 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 the authority's third-party construction consultant reports.

(2) The authority has used the same methodology in determining the maximum per-unit development subsidy limit for housing assisted with national Housing Trust Fund funds for all areas of the state.

(b)(1) No single recipient may receive more than one million dollars (\$1,000,000).

(2) However, the authority has the right to waive this per-recipient allocation cap.

(c)(1) Per-unit cost is calculated by dividing the total development cost by the total number of units.

(2) The maximum per-unit development subsidy limit is adjusted every two (2) years through the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., also known as the "APA" process.

(3) The authority'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.

(d)(1) At time of the authority's underwriting of each application, the costs are thoroughly reviewed and adjusted for under-estimates or excessive costs.

(2) The authority 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.

(3) The authority 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.

(4) Upon request by the authority's staff, applicants may provide justification and supporting documentation of costs.

(5) The authority will review the items submitted and make a final determination.

(6) The authority's determination will be set forth in writing as to whether the application will be further considered or rejected.

(e) Based on the example below, approximately seventeen (17) units could be developed through allocation of three million dollars (\$3,000,000) by the authority.

Authority. Arkansas Code § 15-5-207.

15 CAR § 91-107. 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.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "ELI" means extremely low-income.

15 CAR § 91-108. Application process.

(a)(1) Arkansas Development Finance Authority will evaluate each application to determine which projects should receive an award of national Housing Trust Fund (HTF) funds.

(2) All applicants must submit an application, with supporting documentation, including evidence sufficient to the authority that the applicant's proposed project at minimum meets all of the housing priority factors in order to be considered for funding.

(b) Link for application is at <http://adfa.arkansas.gov/lihtc-application>.

(c) The authority may conduct a site visit or visits to inspect the proposed project site or sites and/or consult with a third party for professional services in evaluating each application requesting HTF funds.

(d) To facilitate the evaluation process, all applicants must complete the following basic steps:

(1)(A) All required authority-provided forms may be found at <http://adfa.arkansas.gov/lihtc-application>.

(B) All authority-provided forms should be submitted with original signatures, legible and all applicable spaces fully completed, and with all required third-party documents.

(C) The authority will post the HTF 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;

(2) All applicants must comply in all respects with ASTM E1527-13 (the ASTM Standards) as to content and adhere to the authority's environmental policy requirements for purposes of determining whether the property is environmentally suitable for construction of residential housing;

(3)(A) After the initial review, each applicant will be contacted via email regarding any missing or incomplete items or documents.

(B) Upon notice, applicants must submit all missing and/or incomplete items or documents in order to be considered for funding;

(4)(A) The application must demonstrate that the project is an eligible activity under this HTF plan and meets basic occupancy and rent restrictions required of HTF regulations.

(B) The rental housing units must be under common ownership, deed, financing, and property management; and

(5) The application must also demonstrate that the project is financially feasible and is sustainable for the thirty-year affordability period with the authority's requirements and the HTF regulations.

Authority. Arkansas Code § 15-5-207.

15 CAR § 91-109. Arkansas Development Finance Authority housing priorities and scoring criteria.

(a)(1) Funds will be awarded based on the application, at a minimum, meeting the general national Housing Trust Fund (HTF) requirements listed in 15 CAR § 91-108 and the total score of the application.

(2) Once Arkansas Development Finance Authority has determined that the application meets or exceeds all requirements, the authority will award funds to the highest-scoring project until all HTF funds have been allocated.

(3) There is no minimum score.

(b)(1) The authority's selection of eligible recipients will be based upon those applicants achieving the highest scores, and awarded in that order, until funds are depleted.

(2) The reviewing underwriter will score each application using the scoring matrix.

(c)(1) The authority reserves the right to deny an HTF allocation to any applicant or project, regardless of that applicant's point ranking if, in the authority's sole determination, the applicant's proposed project is not financially feasible or viable.

(2) Regardless of strict numerical ranking, the scoring does not operate to vest in an applicant or project any right of allocation in HTF funds in any amount.

(3) The authority will in all instances reserve and allocate HTF funds consistent with:

- (A) Sound and reasonable judgment;
- (B) Prudent business practices; and
- (C) The exercise of its inherent discretion.

Authority. Arkansas Code § 15-5-207.

15 CAR § 91-110. Barriers to addressing the ELI and veteran ELI population.

(a)(1) Various obstacles to addressing the targeted ELI veterans population exist across Arkansas.

(2) In the rural counties, transportation is a major issue.

(3) 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.

(b)(1) 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.

(2) Arkansas Development Finance Authority will work with every applicant and respective stakeholder (mental health and physical health service providers, veterans advocates and groups, nonprofits, and local governments) to be proactive toward:

- (A) Providing additional funding sources and incentives as available;
- (B) Helping to remove regulatory and discriminatory barriers; and
- (C) Seeking experienced development partners to assist in creating

housing solutions for Arkansas veterans.

(3) The authority's multi-family and HOME Investment Partnerships Program underwriters are open to calls to assist with the application, and the authority's compliance department holds regular technical assistance trainings.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "ELI" means extremely low-income.

15 CAR § 91-111. Compliance with national Housing Trust Fund regulations.

(a)(1) Each eligible recipient must certify that housing units assisted with national Housing Trust Fund (HTF) funds will comply with all HTF requirements.

(2) The certification must include:

(A) The number of units in an HTF-assisted project by income group:

(i) ELI;

(ii) VLI;

(iii) Moderate income; and

(iv) Above-moderate income;

(B) A statement declaring that all tenants of an HTF-assisted development meet the income limits as required by relevant program guidelines; and

(C) A statement declaring that recipient will comply with rent limits, determined to be no more than thirty percent (30%) of the area median income.

(b)(1) Arkansas Development Finance Authority staff will monitor each HTF project on-site at least once prior to the completion of the project and at least once every three (3) years through the entire affordability period.

(2) The authority will review for compliance with:

(A) The HTF plan;

(B) Eligibility requirements;

(C) Housing construction standards, 24 C.F.R. § 93.301;

(D) Rent reasonableness;

(E) Affirmative outreach, 24 C.F.R. § 93.350;

(F) Tenant protections and selection, 24 C.F.R. § 93.303;

(G) Fair housing; and

(H) Financial management.

(3) The authority's 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.pdf and <http://adfa.publishpath.com/compliance-and-monitoring-forms>.

(c)(1) After each monitoring visit, written correspondence will be sent to the HTF 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.

(2) Monitoring determinations will range from "acceptable" to "findings" with appropriate corrective measures imposed.

(3) Corrective measures may include:

(A) Certifications that inadequacies will be resolved;

(B) Documentary evidence that corrective actions have been instituted; or

(C) Reimbursement of disallowed costs.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "ELI" means extremely low-income.

"VLI" means very low-income.

15 CAR § 91-112. Performance goals.

(a) Arkansas Development Finance Authority's goal in administering the national Housing Trust Fund (HTF) program is the new construction of decent, safe, and sanitary rental housing, primarily targeting a specific underserved group: the ELI veteran population in Arkansas.

(b) Preference will be given to ELI veterans:

(1) With special needs;

(2) Who are homeless or may become homeless;

(3) With mental health issues; and/or

(4) Who are leaving correctional facilities.

(c) Preference will also be given to surviving spouses of deceased veterans.

(d)(1) Recipients will develop performance goals that best quantify the HTF developments' impact for their local areas' ELI veterans.

(2) Performance goals specific to the specific geographic area will be evaluated to determine if the HTF goals have been achieved.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "ELI" means extremely low-income.