

Title 15. Natural Resources and Economic Development
Chapter VII. Arkansas Development Finance Authority, Department of Commerce
Subchapter C. Housing
Part 93. Arkansas Housing Trust Fund Program Rules

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

"AS ADOPTED BY THE BOARD OF DIRECTORS OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY ("ADFA")"

Subpart 1. Generally

15 CAR § 93-101. Purposes of the Arkansas Housing Trust Fund.

As contained in Arkansas Code § 15-5-1702(3) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., the purposes of the Arkansas Housing Trust Fund shall be:

- (1) To provide a flexible source of funds for communities to address their affordable housing needs;
- (2) To help families attain economic stability;
- (3) To revitalize distressed neighborhoods and build healthy, vibrant communities by developing high-quality affordable housing;
- (4) To leverage additional private investment in Arkansas communities;
- (5) To contribute to economic growth through increased housing production, employment, and tax revenues, thereby benefitting all the citizens of the state;
- (6) To alleviate deficiencies in the supply of safe, accessible, and affordable housing for the citizens of the state most likely, because of low incomes, to suffer from these deficiencies, including without limitation persons who are homeless, disabled, elderly, or victims of domestic violence; and

(7) To alleviate deficiencies in the supply of safe, accessible, and affordable housing for the citizens of the state living in rural areas.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-102. Eligible beneficiaries.

As contained in Arkansas Code § 15-5-1709(a)(1) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., eligible beneficiaries of Arkansas Housing Trust Fund activities must have total annual household incomes equal to or less than eighty percent (80%) of the United States Department of Housing and Urban Development area median income, adjusted for family size.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-103. Eligible activities.

As contained in Arkansas Code § 15-5-1708(b) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., the eligible activities of the Arkansas Housing Trust Fund may include, without limitation or priority, the following:

- (1) New construction, reconstruction, or rehabilitation of rental housing or housing designed for owner occupancy;
- (2) Rental assistance;
- (3) Land acquisition;
- (4) Predevelopment costs;
- (5) Infrastructure;
- (6) Transitional housing;
- (7) Down payment assistance;
- (8) Housing and foreclosure counseling; and
- (9) Technical assistance.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-104. Eligible applicants.

As contained in Arkansas Code § 15-5-1708(c) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., eligible applicants of assistance from the Arkansas Housing Trust Fund shall include, without limitation or priority, the following:

- (1) Local governments;
- (2) Public housing authorities, public housing agencies, and public housing facilities boards;
- (3) Nonprofit organizations (must have Internal Revenue Service 501(c)(3) designation);
- (4) Nonprofit housing developers; and
- (5) For-profit housing developers.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-105. Eligible uses of Arkansas Housing Trust Fund resources.

As contained in Arkansas Code § 15-5-1708(a) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., the uses of the Arkansas Housing Trust Fund shall be to provide assistance for eligible activities proposed by eligible applicants, including without limitation grants, loans, and loan subsidies.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-106. Minimum requirements.

As contained in Arkansas Code § 15-5-1709(a) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., for an activity to be eligible for Arkansas Housing Trust Fund support, the following minimum requirements must be present:

(1) Beneficiaries of the activity must have total annual household income equal to or less than eighty percent (80%) of the United States Department of Housing and Urban Development area median household income, adjusted for family size;

(2) Housing funded by the Arkansas Housing Trust Fund must have the same duration of affordability as set forth in the rules of the Arkansas Development Finance Authority HOME Investment Partnerships Program;

(3) Housing funded by the Arkansas Housing Trust Fund must adhere to the universal design criteria set forth in the rules of the authority;

(4) Housing funded by the Arkansas Housing Trust Fund must meet all building and maintenance standards set forth in the rules of the authority; and

(5) Housing funded by the Arkansas Housing Trust Fund may not expend more than ten percent (10%) of the project budget for administrative costs or developer fees.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-107. Other minimum requirements.

(a) Applications or proposals for use of Arkansas Housing Trust Fund resources for development or redevelopment activities may not provide for fewer than five (5) affordable housing units.

(b) All applications or proposals for use of Arkansas Housing Trust Fund resources must be accompanied by a letter of support from the chief elected official or a majority of the members of the elected governing board or council of the jurisdiction where the affordable housing is to be located.

(c) All applications or proposals for use of Arkansas Housing Trust Fund resources for development or redevelopment activities must include a current market study, compiled by an Arkansas Development Finance Authority-approved market study provider, or a housing needs assessment, preapproved by the authority, dependent upon the application or proposal submitted, evidencing the need for the affordable housing units proposed.

(d) Relative to all applications or proposals for use of Arkansas Housing Trust Fund resources for development or redevelopment activities, all contractors and eligible subcontractors must be in good standing and have an active contractor's license issued by the Contractors Licensing Board.

(e) Per-project allocation maximum for development or redevelopment activities shall not exceed the applicable maximum per-project allocation of a similar authority program.

(f)(1) Per-unit allocation maximum for development or redevelopment activities shall not exceed the applicable maximum per-unit allocation of a similar authority program.

(2) For affordable housing nonconstruction activities, the per-unit allocation maximums will not apply.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-108. Fund distribution — Set-asides, incentives, inducements.

(a) As contained in Arkansas Code § 15-5-1709(b) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., the following rules shall apply to distribution of any Arkansas Housing Trust Fund resources:

(1) Activities shall be selected through a competitive process; and

(2) The following groups served shall be eligible for set-asides or incentives, without limitation:

(A) Persons with very low income;

(B) Persons living in rural areas;

(C) Homeless persons;

(D) Persons with disabilities;

(E) Elderly persons; and

(F) Victims of domestic violence.

(b) **Other set-asides.** Veterans.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-109. Other fund distribution requirements.

(a) Arkansas Housing Trust Fund resources will be provided to approved recipients in a manner consistent with fund distribution of other Arkansas Development Finance Authority housing resources.

(b) This requirement includes meeting the following conditions, at a minimum, prior to fund disbursement:

(1)(A) All Arkansas Housing Trust Fund recipients will be required to execute an Arkansas Housing Trust Fund Agreement drafted by the authority's staff.

(B) The agreement, when executed by all parties, will:

(i) Serve as the commitment of Arkansas Housing Trust Fund funds by the authority; and

(ii) Outline all applicable requirements to be accomplished by the Arkansas Housing Trust Fund recipient;

(2) Satisfactory execution of the Arkansas Housing Trust Fund agreement, closing documents, and filing of the applicable documents, as required, including the filing of a mortgage and note in favor of the authority for the full amount of Arkansas Housing Trust Fund resources allocated as loans;

(3) A preconstruction or preimplementation conference is conducted with the recipient and the authority's representatives present;

(4)(A) The authority will issue one (1) written Notice to Proceed applicable to all authority housing programs approved for the Arkansas Housing Trust Fund-assisted activity.

(B) It is imperative the recipient does not begin the project or activity until the written Notice to Proceed is issued by the authority and received by the recipient; and

(5) For all activities involving construction, rehabilitation, land acquisition, or infrastructure, the recipient must complete and the authority must approve the

appropriate United States Department of Housing and Urban Development environmental review process.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-110. Terms of Arkansas Housing Trust Fund loan assistance.

(a) If Arkansas Housing Trust Fund funds are provided to eligible recipients in the form of a loan, the funds will be loaned at a minimum interest rate of one percent (1%) per annum for a minimum loan term of twenty (20) years, amortized over twenty (20) years.

(b) For projects utilizing Arkansas Housing Trust Fund resources and United States Department of Agriculture Rural Development funds, the Arkansas Housing Trust Fund loan may match the terms of the United States Department of Agriculture Rural Development loan.

(c) For projects utilizing Arkansas Housing Trust Fund resources and United States Department of Housing and Urban Development funds, the Arkansas Housing Trust Fund loan may match the terms of the United States Department of Housing and Urban Development loan.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-111. Program income.

(a) Arkansas Housing Trust Fund activity that generates program income, as defined in the Arkansas Housing Trust Fund grant or loan agreement between the recipient and the Arkansas Development Finance Authority, as a direct result of Arkansas Housing Trust Fund-funded activity, the recipient must remit such program income received from Arkansas Housing Trust Fund activity directly to the authority within sixty (60) days of receipt of the program income.

(b) The authority will reallocate any program income received to eligible Arkansas Housing Trust Fund applicants for eligible Arkansas Housing Trust Fund activities.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-112. Evaluation criteria.

(a) As contained in Arkansas Code § 15-5-1709(b)(3) of the Arkansas Housing Trust Fund Act of 2009, Arkansas Code § 15-5-1701 et seq., the following evaluation criteria, without limitation, shall be used to determine recipients of funding from the Arkansas Housing Trust Fund:

(1) The experience of the entity making the proposal, determined through consideration of the proposer's past history in completing activities of a similar scale and nature;

(2) If rental housing is being proposed, an evaluation of the property management history of the developer and management agent;

(3) The timeliness with which units will be developed or the activity implemented and completed;

(4) The number of years a development shall maintain units at affordable rents or sales prices and the strength of enforcement mechanisms to ensure long-term affordability;

(5) The number of affordable units being made available to households with household incomes at or below fifty percent (50%) and thirty percent (30%) of the United States Department of Housing and Urban Development area median household income, adjusted for family size;

(6)(A) The degree to which Arkansas Housing Trust Fund resources are used to leverage additional funding.

(B) Applicants are encouraged to leverage Arkansas Housing Trust Fund resources to the maximum extent possible with funds from other sources.

(C) The extent to which Arkansas Housing Trust Fund resources will be returned through repayment;

(7) The extent to which the activity will leverage or augment local community affordable housing goals or locally adopted affordable housing plans such as revitalization areas or other geographic areas targeted for investment;

(8) The extent to which the activity will minimize negative impacts on existing tenants and community members, with particular emphasis on displacement;

(9) The extent to which housing produced will be part of a mixed income development or neighborhood;

(10) The extent to which the activity serves households with special needs, including persons living in rural areas, persons who are elderly, disabled, homeless, or victims of domestic violence;

(11) The extent to which the activity adheres to energy efficiency and other environmental and sustainability standards, as adopted by Arkansas Development Finance Authority;

(12) The extent to which housing will be located near transit, shopping, community services, and other amenities;

(13) The extent to which financial and homeownership counseling is provided to households served by the activity; and

(14) The amount of the activity budget spent on administrative costs or developer fees, with such costs or fees capped at ten percent (10%) of total development costs.

(b) Other evaluation criteria:

(1) The amount of Arkansas Housing Trust Fund resources requested, the total development budget, provision of firm financial commitments of all other funding budgeted, per-unit costs, and the reasonableness of all development costs associated with the Arkansas Housing Trust Fund-financed activity;

(2) The appropriateness, quantity, and quality of any supportive services to be provided in conjunction with the affordable housing to be developed or redeveloped; and

(3) The extent to which the activity may serve veterans.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-113. Affordable rents.

Rents for eligible tenants will be considered to be affordable if the rent does not exceed thirty percent (30%) of the household's income at eighty percent (80%), sixty percent (60%), fifty percent (50%), and thirty percent (30%) of the United States Department of Housing and Urban Development area median income, adjusted for family size, for the area where the Arkansas Housing Trust Fund-assisted activity is located or is to be located.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-114. Project reporting.

(a) All Arkansas Housing Trust Fund recipients will be required to and are responsible for reporting information related to the uses of Arkansas Housing Trust Fund resources to the Arkansas Development Finance Authority in a timely manner to facilitate the authority's reporting requirements.

(b) Specific reporting requirements will be delineated in the Arkansas Housing Trust Fund agreement executed between the authority and the recipient.

Authority. Arkansas Code § 15-5-207.

15 CAR § 93-115. Project monitoring.

(a)(1) All activities funded by Arkansas Housing Trust Fund resources will be periodically monitored for compliance.

(2) During project implementation, Arkansas Development Finance Authority inspectors will inspect any work completed using Arkansas Housing Trust Fund funds.

(3) The timing of such inspections will be addressed in a preimplementation conference, but the authority reserves the right to inspect any activity completed with Arkansas Housing Trust Fund funds at any time.

(4) This right extends to:

(A) Arkansas Housing Trust Fund Advisory Committee [abolished] members;

(B) State officials; and

(C) Any other authorized entity with oversight responsibilities of the Arkansas Housing Trust Fund.

(5) After the affordable housing activity is completed and placed in service and for the full applicable affordability period, the authority's Compliance Monitoring staff will periodically perform on-site property inspections, review of documentation, and monitor adherence to all applicable Arkansas Housing Trust Fund and authority requirements.

(b)(1) The purpose of the compliance monitoring inspections will be to determine and ultimately ensure compliance with all applicable program rules and requirements contained in these policies and the rules of any applicable authority program used in the Arkansas Housing Trust Fund activity.

(2) In the event noncompliance occurs, the authority's staff will work with the project owner to reestablish compliance.

(3) Should the noncompliance continue or if the Arkansas Housing Trust Fund activity is incapable of being brought into compliance, the authority may use any and all lawful means at its disposal to recapture the Arkansas Housing Trust Fund funds and reallocate them to other eligible Arkansas Housing Trust Fund activities.

(c)(1) Failure to adhere to all applicable requirements as contained in this part and the Arkansas Housing Trust Fund agreement will be considered a default of the Arkansas Housing Trust Fund agreement and may be addressed by the authority using any and all available remedies, as provided by law.

(2) The intent of any remedies implemented is to establish or reestablish program and agreement compliance.

(3) If full compliance by the recipient is not possible, the authority may take any and all lawful actions necessary to ensure compliance with all applicable requirements up to and including recapture of all Arkansas Housing Trust Fund funds.

(d)(1) The Board of Directors of the Arkansas Development Finance Authority reserves the right, in its sole and absolute discretion subject to applicable law, to allocate Arkansas Housing Trust Fund resources and to refrain from making Arkansas Housing Trust Fund allocations based upon:

- (A) Available funding;
- (B) Quality of applications received; and
- (C) Other criteria.

(2) The board may, at its discretion, implement changes to this part at any time to ensure compliance with state and federal law, grant waivers or exceptions to Arkansas Housing Trust Fund requirements, and exhibit flexibility in their interpretation of this part and the authority's policies and procedures associated with Arkansas Housing Trust Fund resources to fully and more efficiently utilize the Arkansas Housing Trust Fund resources for their intended purposes.

(3) In accordance with Arkansas Code § 15-5-1707(b)(1) [repealed], the Arkansas Housing Trust Fund Advisory Committee [abolished] will collaborate with the staff of the authority to draft rules, compliance responsibilities, incentives, and funding priorities for the Arkansas Housing Trust Fund and the programs funded by the Arkansas Housing Trust Fund, which rules and policies will be referred by the advisory committee [abolished] to the authority for its review and approval.

Authority. Arkansas Code § 15-5-207.

Codification Notes. The Arkansas Housing Trust Fund Advisory Committee was abolished by Acts 2023, No. 365, § 1.

Arkansas Code § 15-5-1707 was repealed by Acts 2023, No. 365, § 31.