NATIONAL HOUSING TRUST FUND 2019

PROGRAM DESCRIPTION

Tennessee Housing Development Agency

The Tennessee Housing Development Agency (THDA) administers the federally funded National Housing Trust Fund (NHTF) which is designed for the production and preservation of affordable rental housing through the acquisition, new construction, or rehabilitation of affordable housing for households with extremely low incomes. The purpose of this Program Description is to explain the program requirements and application process.

NHTF grants are awarded through a competitive application process to Public Housing Authorities and non-profit entities. Applications for the NHTF program must be received by THDA on or before 4:00 PM CDT on Thursday, October 3, 2019. THDA anticipates notifying successful applicants on or about December 15, 2019. NHTF grant agreements will begin on February, 1, 2020 and will end on January 31, 2023.

The application package for NHTF resources as well as additional program documentation will be made available on THDA's website beginning August 15, 2019 at https://thda.org/business-partners/nhtf.

DEFINITION OF TERMS

For purposes of the NHTF program, the following definitions shall apply.

Developer Fee: Means the sum of the Developer's overhead and Developer's profit. Consulting fees and guarantor fees are also considered part of the total Developer Fee calculation.

Housing for the Elderly: Means housing intended for, and solely occupied by, individuals sixty two (62) years of age or older.

Housing for Older Persons: Means housing intended and operated for occupancy by at least one individual 55 years of age or older per unit, where at least 80% of the total housing units are occupied by at least one individual who is fifty five (55) years of age or older; and where the Owner publishes and adheres to policies and procedures which demonstrate an intent by the Owner and manager to provide housing for individuals fifty five 55 years of age or older.

Extremely Low Income: Means an individual or household whose income does not exceed thirty percent (30%) of the area median income, adjusted for household size or households with incomes at or below the poverty line (whichever is greater).

Family Housing: Means housing designed for families which does not meet the definition of "Elderly Housing" or "Housing for Older Persons".

Grantee: Means the state entity that prepares the NHTF Allocation Plan, receives the NHTF dollars from HUD, and administers the NHTF in the state. THDA is the NHTF grantee for the State of Tennessee.

Layering: Means the combining of more than one governmental resource on a NHTF-assisted project.

Leverage: Means a contribution of value in the form of cash, materials or labor in a pre-approved form and method toward the hard development costs of a project.

Modular Housing: Means housing as defined in Tennessee Code Annotated Title 68 -126-202 & 303

- *"Modular Building Unit"*: Means a structural unit, or preassembled component unit, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building. "Modular building unit" does not apply to temporary structures used exclusively for construction purposes, nonresidential farm buildings, or ready-removables that are not modular structures;
- *"Ready-removable"*: Means a structure without any foundation, footings, or other support mechanisms that allow a structure to be easily relocated but which may include electrical wiring. Ready-removable structures include, but are not limited to, stadium press boxes, guard shelters, or structures that contain only electrical, electronic, or mechanical equipment that are solely occupied for service or maintenance of such equipment; and
- *"Structure"*: Means any building or improvement and its components, systems, fixtures, and appurtenances at the time of completion or construction.

Manufactured Housing: Means housing as defined in Tennessee Code Annotated Title 68 -126-202 & 303

- *"Manufactured Home"*: Means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure; except that "manufactured home" includes any structure that meets all the requirements of this subdivision (2), except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary;

- *"Manufacturer"*: Means any person engaged in manufacturing or assembling new manufactured homes.
- *"Mobile Home"*: Means a structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, compiled in 42 U.S.C. § 5401 et seq. It is a structure that is transportable in one (1) or more sections that in the traveling mode is eight (8) body-feet or more in width and forty (40) body-feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet and that is built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes any plumbing, heating, air conditioning and electrical systems contained in the structure;

Multifamily Housing: Means any building or group of buildings totaling more than four permanent residential rental units operated as a single housing project.

NHTF-Assisted Unit: Means a housing unit which meets the NHTF eligibility requirements and benefits from financial assistance from the NHTF.

Period of Affordability: Also, "Affordability Period". Means the thirty (30) year timeframe beginning at time of Project Completion as defined at 24 CFR §93.2 during which projects receiving NHTF assistance will be required to maintain affordability to households at or below 30% AMI and must maintain compliance with NHTF regulations.

Proforma: Means a cash flow projection for a specific period of time that takes into account expected income and expenses of a rental property and projects financial viability and affordability over the period.

Recipient: Means an organization, agency or other entity (including a public housing authority, a for-profit entity or a nonprofit entity) that receives NHTF assistance from THDA and is the owner of a NHTF–assisted project.

Rent Restricted: Means rent, including utilities and tenant-based rental assistance that does not exceed the published Maximum NHTF Rent Limit, which is affordable to households at 30% AMI and based on an assumed (1.5) persons per bedroom (single person in an efficiency).

Single Family Housing: Means a structure that contains at least one but no more than four permanent residential units.

Stabilized Occupancy: Means occupancy of at least ninety percent (90%) of the units in the property for a continuous period of at least ninety (90) calendar days.

Substantial Rehabilitation: Means the rehabilitation of a project in which the rehabilitation costs will be seventy five percent (75%) or more of the replacement cost.

Total Development Cost: Means the all-in cost of developing the project including acquisition, predevelopment costs, hard and soft construction or rehab costs, financing costs, developer fees, and reserve account capitalization.

Uniform Physical Condition Standards (UPCS): Means the standardized inspection code created by HUD and Congress in 1998 as a way of establishing a dynamic inspection code that could satisfy the diverse housing stock monitored by the U.S. Department of Housing and Urban Development (HUD). The inspection code predominately provides a set of minimum standards for components found in real estate.

THE NATIONAL HOUSING TRUST FUND

The NHTF was established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289). Section 1131 of HERA amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) (Act) to add a new section 1337, entitled "Affordable Housing Allocation" and a new section 1338, entitled "Housing Trust Fund."

This program is governed by Title 24 Code of Federal Regulations, Parts 91 and 93; Interim Rule. Those regulations are incorporated by reference in this Program Description. In cases of conflicting requirements, the more stringent requirement will apply.

Tennessee operates a THDA-funded Housing Trust Fund commonly known as the “Housing Trust Fund”, “HTF”, or the “Tennessee Housing Trust Fund” While all references in this program description and other related documentation refer to this funding as the “National HTF” or “NHTF”, all federal requirements will identify this resource as the "Housing Trust Fund” or “HTF”. Applicants and recipients of NHTF funding must maintain awareness of this distinction in all program documentation.

1) ALLOCATION OF FUNDS

a. The total allocation for this round of NHTF funding under this program description will be $3,377,390. THDA will award ninety percent (90%) of the allocated amount in NHTF grants to successful applicants though a competitive application process. Each award will be a minimum of two hundred fifty thousand dollars ($250,000) and a maximum of nine hundred thousand dollars ($900,000).

b. NHTF funding will be allocated as provided in the State of Tennessee's Consolidated Plan, as amended. THDA will use ten percent (10%) of the NHTF allocation for its own administrative expenses.

2) ELIGIBLE RECIPIENTS

a. THDA will accept applications for the NHTF program from public housing authorities, and non-profit entities that will be the owner of the proposed rental project. If the Applicant is involved in a partnership associated with a low income housing tax credit project, the

Applicant must be the sole general partner or the sole managing member of the ownership entity or own 100% of the stock of a corporate ownership entity. The Applicant must materially participate (regular, continuous, and substantial on-site involvement) in the development and operation of the development throughout the compliance period.

b. To be eligible the entity must meet the following criteria:
   i) Be organized and existing to do business in the State of Tennessee, or if organized in another state, must be qualified to do business in the State of Tennessee.

   ii) Demonstrate at least two years of related housing experience in Tennessee. For the purposes of this program, "related housing experience" means the development, ownership and management of affordable rental housing.

   iii) Demonstrate the financial capacity necessary to undertake, complete, and manage the proposed project, as demonstrated by its ability to own, construct, or rehabilitate and manage and operate affordable rental housing. THDA will evaluate the experience of the entire proposed team with owning, developing and managing projects of similar size and scope serving the intended population proposed. Applicants and their development team must undergo an evaluation by THDA of their capacity before the applicant may qualify as an eligible Recipient.

   iv) Have demonstrated understanding of the Federal, State and local housing programs used in conjunction with NHTF funds to ensure compliance with all applicable program requirements and regulations.

   v) Not be debarred or excluded from receiving federal assistance or THDA assistance prior to selection or entering into the written agreement with THDA.

   vi) Certify that housing units assisted with the NHTF will comply with NHTF program requirements during the entire period that begins upon selection and ending upon the conclusion of all NHTF-funded activities.

3) FORM OF ASSISTANCE

a. NHTF funds will be awarded as a grant secured by a note, deed of trust, and a restrictive covenant.

   i) Grantee will be required to record a note, deed of trust and restrictive covenants during the construction phase prior to requesting any draws.

   ii) Final legal documents including a grant note, deed of trust and restrictive covenants must be recorded at time of final closing. A copy of all recorded final legal documents must be submitted to THDA within 30 days of final closing.

4) LEVEL OF SUBSIDY

a. The investment of NHTF funds must conform to the following minimum and maximum standards per unit:

i) Minimum NHTF Funds: $1,000 per unit

ii) Maximum NHTF Funds Per Unit:

$62,445	0-Bedroom (Efficiency) Limit
$71,584	1-Bedroom Limit
$87,047	2-Bedroom Limit
$112,611	3-Bedroom Limit
$123,611	4-Bedroom Limit

5) DEVELOPER FEE

a. A Developer Fee of up to fifteen percent (15%) of the NHTF development costs, net of the development fee, acquisition costs and any permanent financing costs may be charged as a project soft cost.

6) ELIGIBLE ACTIVITIES

a. NHTF funds must be used to produce or preserve affordable, permanent rental housing that addresses the needs of extremely low-income households. The housing may be stick built or Modular Housing, provided that the housing meets all the applicable state and local codes. NHTF funds may only be charged to NHTF units or residential buildings where NHTF fixed or floating units are located per the allocation formula in HUD's final rule for the "National" Housing Trust Fund. Eligible housing activities include:

i) New construction of rental housing units.

ii) Acquisition and/or rehabilitation of existing rental housing units.

iii) Funding of an operating cost reserve associated with the new construction or acquisition and rehabilitation of housing assisted with NHTF funds

7) UNIT DESIGNATION

a. Fixed and floating HTF units. In a project containing HTF-assisted and other units, the grantee may designate fixed or floating HTF units.

b. This designation will be required in the application and must be included in the written agreement between THDA and the recipient.

8) PROHIBITED ACTIVITIES

a. Providing tenant-based rental assistance for the special purposes of the existing Section 8 program, in accordance with Section 212(d) of the Act.

b. Assisting or developing emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, dormitories, including those for farm workers or housing for students.

c. Providing any form of housing that is considered short term or transitional.

d. Providing NHTF assistance to rental units that require reconstruction.

e. Providing NHTF assistance to rental units that are Manufactured Housing and/or Manufactured Housing lots.

f. Using NHTF funds to refinance existing debt.

g. Using NHTF funds for the acquisition and rehabilitation or new construction of housing for sale to home buyers.

h. Providing non-federal matching contributions required under any other Federal program.

i. Providing assistance authorized under Section 9 of the 1937 Act (annual contributions for operation of public housing).

j. Carrying out activities authorized under 24 CFR Part 968 (Public Housing Modernization).

k. Providing assistance to eligible low-income housing under 24 CFR Part 248 (Prepayment of Low Income Housing Mortgages).

l. Providing assistance to a project previously assisted with NHTF funds during the period of affordability established by HUD and THDA in the written agreement with the Recipient as stated in § 93.205(a) except as permitted for renewal of funds committed to operating cost assistance.

    i) Additional NHTF funds may be committed to a project up to one year after project completion, but the amount of NHTF funds in the project may not exceed the maximum per-unit subsidy amount as determined by HUD. HUD has prescribed the use of the

Section 234 – Condominium Housing Limits from the Annual Indexing of Basic Statutory Mortgage: Limits for Multi-Family Housing Programs as described in the Interim Rule; (See Paragraph 4 above)

m. Using NHTF funds for political activities; advocacy; lobbying, whether directly or through other parties; counseling services; travel expenses; and preparing or providing advice on tax returns.

n. Using NHTF funds for administrative, outreach, or other costs of the Recipient, or any other Recipient of such grant amounts, subject to the exception in Section 1338(c)(10)(D)(iii) of the Act,

o. Paying for any cost that is not eligible under 24 CFR 92.730 through 93.200.

9) LAYERING

a. Layering is the combination of government resources on a NHTF-assisted project.

b. THDA will review each project to ensure that only the minimum amount of NHTF assistance needed is allocated to the project.

c. Total NHTF resources allocated to any project cannot exceed the current maximum per unit subsidy limit.

10) LEASE-UP AND INITIAL OCCUPANCY

a. Projects must be fully occupied by income eligible tenants within six (6) months of issuance of a certificate of occupancy for the completed units. If all units are not fully occupied by income eligible tenants within six (6) months of completion of construction or acquisition and rehabilitation, the grant Recipient must report to THDA on current marketing efforts in a form and with substance as required by THDA.

b. If a rental project has not achieved initial occupancy within eighteen (18) months of Completion, all NHTF funds invested in the rental project must be repaid to THDA.

11) LEVERAGE

a. Leverage must be in the form of contributions to the project's hard development costs.

b. In the scoring matrix, any project that has leveraged funds will receive additional points. Leveraged funds are funds provided by the applicant and grants from other sources. The value of land acquired through non-NHTF resources may be counted as leverage when the appraised value is documented and proof of ownership at the time of application is demonstrated. Loan proceeds from a lending institution do not count as leverage. However, the savings generated from a below market interest rate will count as leverage when properly documented. Administrative funds, anticipated fund-raising revenues and construction loans do not count toward leverage. Leveraged funds counted in one program year do not qualify again as leverage in subsequent years. All proposed leverage must be thoroughly supported by appropriate back-up documentation, including firm commitment letters, award letters, and warranty deeds.

c. The value of donated labor, materials and land will count toward leverage. The value of unskilled labor is set at the current minimum wage, and the value of skilled labor is set at twice the current minimum wage. The value of land and/or a building donated or acquired for a project prior to the application will count as leverage, but there must be an appraisal or tax assessment included in the application to document its value. In order to count donated supplies or materials, only the documented value of the actual goods or materials will be considered and they must be legitimately required by the project. The donor must provide a letter to confirm the amount of the supplies or materials. Proposed discounts will not count as leverage.

12) MARKET

a. Applicants must document that neighborhood market conditions demonstrate a need for the project.

13) MIXED INCOME TENANCY

a. For the purpose of the NHTF Program, a "mixed income" project contains at least one residential unit that is set aside for an extremely low income household and one or more other residential units available to tenants in other higher income designations as defined by HUD; very low income, low income, moderate income and/or above.

b. NHTF funds may only be used for NHTF qualifying residential units.

14) MIXED USE PROJECTS

a. For purposes of the NHTF Program, a "mixed-use" project contains, in addition to at least one residential unit, other non-residential space which is available to the public. If laundry and/or community facilities are for use exclusively by the project tenants and their guests, then the project is not considered mixed-use. Neither a leasing office nor a maintenance area will trigger the mixed-use requirements. No NHTF funds can be used to fund the commercial or non-residential portion of a mixed-use project. Therefore, if a NHTF-assisted project contains such commercial or non-residential space, other sources of funding must be used to finance that space. In order to be eligible for NHTF funding, a mixed-use project must meet the following conditions:

i) Residential living space in the project must constitute at least fifty one percent (51%) of the total project space.

ii) Each building in the project must contain residential living space

b. NHTF funds can only be used to fund the residential portion of the mixed-use project which meets the NHTF rent limits and income requirements. If the rental project will contain a model apartment that will be shown to potential renters, the model apartment will be considered a non-residential area subject to the mixed-use requirements, unless the model apartment will be rented in the event of high occupancy.

15) RENT LEVELS AND UTILITY ALLOWANCES

a. Every NHTF assisted unit is subject to rent limits designed to make sure that rents are affordable to extremely low income households. These maximum rents may be referred to as NHTF rents. Available at https://thda.org/business-partners/nhtf.

b. Rents are limited for the length of the Period of Affordability. These rents are determined on an annual basis by HUD. The Recipient/Owner will be provided with these rents, which include all utilities.

c. The cost of utilities paid by tenants must be subtracted (using applicable utility allowances) from the published NHTF rents to determine the maximum allowable rents.

d. THDA must annually review and approve the rents for each NHTF-assisted rental project. In addition, THDA must determine individual utility allowances for each rental project either by using the HUD Utility Schedule Model or determining the utility allowance based on the specific utilities used at the project. Utility allowances are reviewed and updated annually. Use of utility allowances provided by public housing authorities is not permitted.

e. NHTF rents are not necessarily representative of market conditions and NHTF rents may increase or decrease from year to year. Regardless of changes in fair market rents and in median income over time, the NHTF rents for a project are not required to be lower than the NHTF rents for the project in effect at the time of Commitment as defined at 24 CFR §93.2

f. Each Recipient must be aware of the market conditions of the area in which the project is located. Rents shall not exceed the published NHTF rents, adjusted for utility arrangements and bedroom size.

g. If the NHTF-assisted unit receives project-based rental subsidy, and the tenant pays a contribution toward rent of not more than 30% of the tenant's adjusted income, then the maximum rent for the NHTF-assisted unit (only and specifically for the unit in which the project based rental subsidy is designated) is the rent allowable under the project-based rental subsidy program, also known as the payment standard.

16) LONG TERM OCCUPANCY REQUIREMENTS

a. Tenants whose annual incomes increase to over 30% of median may remain in occupancy but must pay no less than thirty percent (30%) of their adjusted monthly income for rent and utilities.

17) INCOME LIMITS

a. NHTF funds must be used to benefit only Extremely Low-Income households.

b. The income limits apply to the incomes of the tenants, not to the owners of the property. 100% of the tenant households in NHTF-assisted units must be Extremely Low Income. Households must meet the NHTF Income Limit established by HUD and effective at the time of application for occupancy of a NHTF-assisted unit.

c. Income Determination: To ensure that the income targeting requirements are met, a Recipient must verify that each household occupying an NHTF-assisted unit is income-eligible by determining the household's annual income. When determining eligibility, the Recipient must calculate annual income as defined at 24 CFR 5.6091. The method for determining and calculating annual income for tenants are also addressed in the full text of the interim rule.

d. The income of the household to be reported for purposes of eligibility is the sum of the annual gross income of the beneficiary, the beneficiary's spouse, and any other household member residing in the rental unit. Annual gross income is "anticipated" for the next twelve (12) months, based upon current circumstances or known upcoming changes, minus certain income exclusions.

e. Current limits are in available at https://thda.org/business-partners/nhtf.

   i) Median income for an area of the state shall be that median income value established by HUD.

   ii) Median incomes change when HUD makes revised estimates.

18) HOUSING SET-ASIDES FOR INDIVIDUALS WITH DISABILITIES

a. Applications that propose housing in which more than twenty percent (20%) of the assisted units will be set-aside for individuals with disabilities must meet the qualities of settings that are eligible for reimbursement under the Medicaid home and community-based services that were established by the Centers for Medicare and Medicaid Services (CMS) in the final rule dated January 16, 2014:

   https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider.

b. The final rule requires that all home and community-based settings meet certain qualifications, including:

   i) Is integrated and supports full access to the greater community.

   ii) Is selected by the individual from among setting options.

   iii) Ensures individual rights of privacy, dignity, and respect, and freedom from coercion and restraint.

   iv) Optimizes autonomy and independence in making life choices.

   v) Facilitates choice regarding services and who provides them.

c. For provider owned or controlled residential settings, the following additional requirements apply:

   i) The individual has a lease or other legally enforceable agreement providing similar protections.

   ii) The individual has privacy in their unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit.

   iii) The individual controls his/her own schedule, including access to food at any time.

   iv) The individual can have visitors at any time.

   v) The setting is physically accessible.

19) PROPERTY AND DESIGN STANDARDS

a. Property standards must be met when NHTF funds are used for a project. All rental housing constructed or rehabilitated with NHTF funds must meet all THDA Design Standards, applicable local, county and state codes, rehabilitation standards, Uniform Property Condition Standards (UPCS), and zoning ordinances at the time of project completion.

b. In the absence of a local code, new construction of single-family units for rental must meet the current, State-adopted edition of the International Residential Code for One- and Two-Family Dwellings. The newly constructed units must also meet accessibility requirements and mitigate disaster impact as applicable per State and local codes, ordinances, etc. Rehabilitation of existing single-family units for rental must meet the current, State-adopted edition of the International Existing Building Code.

c. NHTF funded units must also conform to the THDA Minimum Design Standards for New Construction of Single Family and Multifamily Units or to the THDA Design Standards for Rehabilitation of Single Family and Multifamily Housing Units, as applicable. THDA must review and approve plans, work write-ups and written cost estimates and determine cost reasonableness for both new construction and rehabilitation prior to putting the project out to bid.

d. Additional design standards include:

    i) Energy Code. New construction projects must also meet the State-adopted edition of the International Energy Conservation Code. Copies of the Energy Code may also be obtained from the International Code Council at the address listed above.

    ii) Energy Conservation. In addition to meeting the State-adopted edition of the International Energy Conservation Code, new construction projects must be Energy Star qualified as certified by an independent Home Energy Rating System (HERS) rater.

    iii) Broadband Infrastructure. THDA requires that newly constructed rental units and those which are substantially rehabilitated must be wired for broadband internet access.

    iv) Modular Housing must be certified by the state of Tennessee

e. Section 504

    i) Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted activities and programs on the basis of disability, and imposes requirements to ensure accessibility for qualified individuals with disabilities to these programs and activities.

ii) For new construction of Multifamily Housing (five or more units), a minimum of 5% of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and at a minimum, an additional two percent (2%) of the units (but not less than one unit) must be accessible to individuals with sensory impairments. The total number of units in a NHTF-assisted project, regardless of whether all units are NHTF-assisted, is used as the basis for determining the minimum number of accessible units. Also, in a project where not all the units are NHTF-assisted, the accessible units may be either NHTF-assisted or non-NHTF-assisted.

iii) The Section 504 definition of substantial rehabilitation for Multifamily Housing includes construction in a project with fifteen (15) or more units for which the rehabilitation costs will be seventy five percent (75%) or more of the replacement cost. In such projects, a minimum of five percent (5%) of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional two (2%), at a minimum, (but not less than one unit) must be accessible to individuals with sensory impairments. As in the case of new construction, the total number of units in a NHTF-assisted, regardless of whether they are all NHTF-assisted, is used as the basis for determining the minimum number of accessible units, and, in a project where not all of the units are NHTF-assisted, the accessible units may be either NHTF-assisted or non-NHTF-assisted.

iv) When rehabilitation less extensive than Substantial Rehabilitation is undertaken in projects of fifteen (15) or more units, alterations must, to the maximum extent feasible, make the units accessible to and usable by individuals with a disability, until a minimum of five percent (5%) of the units (but not less than one (1) unit) are accessible to people with mobility impairments. For this category of rehabilitation, the additional two percent (2%) of unit's requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible.

f. Fair Housing Act of 1968, as amended. In buildings that are ready for first occupancy after March 13, 1991, and that have an elevator and four or more units, the public and common areas must be accessible to persons with disabilities; doors and hallways must be wide enough for wheelchairs; and all units must have the following:

i) An accessible route into and through the unit.

ii) Accessible light switches, electrical outlets, thermostats and other environmental controls.

iii) Reinforced bathroom walls to allow later installation of grab bars; and kitchens and bathrooms that can be used by people in wheelchairs.

iv) If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.

v) These requirements for new construction do not replace any more stringent standards in State or local law.

g. Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131–12189) implemented at 28 CFR parts 35 and 36, as applicable.

20) UNIVERSAL DESIGN AND VISITABILITY

a. THDA encourages the inclusion of features that allow individuals with physical disabilities to reside and/or visit the units constructed or rehabilitated with federal NHTF funds through the use of Universal Design and Visitability.

b. Universal Design

i) Universal Design is a building concept that incorporates products, general design layouts and other characteristics to a housing unit in order to:

(1) Make the unit usable by the greatest number of people.
(2) Respond to the changing needs of the resident.
(3) Improve the marketability of the unit.

ii) The goal of universal design seeks to build housing that meets the needs of the greatest number of residents within a community. Universal design differs from accessible design, which is primarily intended to meet the needs of persons with disabilities. However, universal design is inclusive of adaptable design as universal design incorporates structural features that will allow a housing unit to be adapted to an individual's current or future needs. Universal design features include, but are not limited to:

(1) Stepless entrances. Minimum 5' x 5' level clear space inside and outside entry door.
(2) Broad blocking in walls around toilet, tub and shower for future placement of grab bars.
(3) Full-extension, pull-out drawers, shelves and racks in base cabinets in kitchen.
(4) Front mounted controls on all appliances.
(5) Lever door handles.
(6) Loop handle pulls on drawers and cabinet doors.

iii) More information on Universal Design may be found at The Center for Universal Design at North Carolina State University: http://www.ncsu.edu/ncsu/design/cud/index.htm.

c. Visitability

i) Visitability refers to homes that are designed and built in a manner that allows individuals who have trouble with steps or use wheelchairs or walkers to live in or visit the unit. These features include:

(1) One zero-step entrance.
(2) Doors with thirty two (32) inches of clear passage space.
(3) One bathroom on the main floor that is accessible to a person using a wheelchair.

ii) More information on Visitability can be found at: http://www.visitability.org.

21) ENVIRONMENTAL REVIEW

a. In implementing the NHTF program, regulations establish specific property standards for units assisted with NHTF funds. These standards include Environmental Provisions for projects involving new construction and rehabilitation. The NHTF Environmental Provisions for new construction and rehabilitation under the Property Standards at 24 CFR § 93.301(f)(1) and (2) are similar to HUD's Environmental Regulations at 24 CFR Parts 50 and 58. NHTF projects are subject to the same environmental concerns to which HUD-assisted projects are subject. The main difference is that the NHTF Environmental Provisions are outcome based, and exclude consultation procedures that would be applicable if NHTF project selection was a Federal action. Parts 50 and 58 are process based, and include consultation procedures for several laws and authorities where there may be environmental impacts.

b. THDA and the Recipient will be responsible for carrying out environmental reviews in accordance with HUD Notice CPD-16-14. Each Recipient will be responsible for gathering the information required for the environmental reviews. NHTF funds cannot be committed until the environmental review process has been completed. The Environmental Review covers the entire project, not just the portion funded by NHTF.

22) LEAD-BASED PAINT

a. Units assisted with NHTF funds are subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR Part 35, Subparts C through M. The lead-based paint provisions of 982.401(j) also apply, irrespective of the applicable property standard under 24 CFR 92.251. The Lead-Based Paint regulations are available at www.hud.gov/lea or by contacting 1-Fthe lead-based paint requirements apply to all units and common areas in the project.

23) FLOOD PLAINS

a. NHTF funds may not be used to construct housing in an area identified by the Federal Emergency Management Agency as having special flood hazards. In addition, THDA strongly discourages the rehabilitation of units located in special flood hazard areas, but in a few limited instances and with written permission from THDA, units located in a floodplain may be assisted. The community must be participating in the National Flood Insurance Program and flood insurance must be obtained on the units.

24) PROCUREMENT

a. It is important to keep the solicitation of bids for goods and services as well as professional services and construction contracts open and competitive.

    i) At a minimum all Recipients must comply with 24 CFR 200.318 - 326.

    ii) All Recipients must have adopted procurement policies and procedures that meet state and federal requirements.

    iii) Recipients must seek to obtain three (3) to five (5) quotes or bids using formal advertising or requests for proposals for the procurement of professional or construction services.

    iv) There must be an established selection procedure and a written rationale for selecting the successful bid or proposal.

25) CONFLICT OF INTEREST

a. In the procurement of property and services by THDA and Recipients, the conflict of interest provisions in 2 CFR 200.318 apply. In all cases not governed by 2 CFR 200.318, the provisions described in this Section 24 apply.

b. The NHTF conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, elected official or appointed official of THDA or the Recipient. No person listed above who exercise or have exercised any functions or responsibilities with respect to activities assisted with NHTF funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from a NHTF-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to the NHTF-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

c. No owner of a project assisted with NHTF funds (or officer, employee, agent, elected or appointed official, board member, consultant, of the owner or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, board member, consultant, of the owner) whether private, for profit or non-profit may occupy a NHTF-assisted affordable housing unit in a project during the required period of affordability. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person. This provision does not apply to an employee or agent of the owner of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

d. Recipients shall avoid conflicts of interest associated with their NHTF funded project. THDA will not request exceptions to the conflict of interest provisions from HUD. In the event a conflict of interest is discovered, Recipients shall repay that portion of the NHTF grant related to the conflict of interest or may have all or some portion of the NHTF grant rescinded, all as determined by THDA in its sole discretion.

26) DEBARMENT AND SUSPENSION

a. On all NHTF funded projects, Recipients shall certify that no vendor, its principals or managers are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from the covered transaction or listed on the "Excluded Parties List System" found at www.SAM.gov.

27) PROFORMA

a. All Applicants shall complete Thirty (30) Year Affordability Proforma included in the application. The applicant must demonstrate a need for the NHTF funds. If the project development costs require additional financing, including other grant source funding, prior to making any NHTF draws documentation must be provided by Recipient that all other financing or grant funding has been identified and secured.

b. If the project can support debt, other financing is required and will be a threshold requirement.

28) PROJECT SOFT COSTS

a. In planning their programs, Applicants may include, as a project soft costs, the reasonable and customary costs for work write-up and inspections. In addition, the costs for inspections and work write-ups, the costs for lead-based paint inspections, environmental reviews, risk assessments and clearance testing, and architectural and engineering fees are also paid as project soft costs. All project soft costs count toward the maximum per unit subsidy limit.

29) REPLACEMENT RESERVE ACCOUNTS

a. All projects shall maintain a replacement reserve account beginning at the time of completion for the term of the NHTF period of affordability.

b. The replacement reserve requirement for new construction properties and the substantial rehabilitation of Housing for the Elderly shall, initially, be two hundred fifty dollars ($250) per unit per year, inflated at three percent (3%) annually.

c. The replacement reserve requirement for the substantial rehabilitation of Housing for Older Persons shall, initially, be two hundred fifty dollars ($250) per unit, inflated at three percent (3%) annually.

d. The replacement reserve requirement for all properties designed for families as well as all rehabilitation developments shall, initially, be three hundred dollars ($300) per unit per year, inflated at three percent (3%) annually.

e. This account shall be used only for capital improvements and the replacement of long-lived capital assets, and not for routine maintenance and upkeep expenses.

f. The replacement reserve shall be, and shall remain, an asset of the project, and shall not be distributed to the Owner or any entity or person affiliated with the Owner at any time during or after the Period of Affordability.

g. Owners shall provide THDA with a record of all activity associated with the replacement reserve account during the prior fiscal year in conjunction with submission of the project's annual compliance monitoring materials.

h. The replacement reserve account must be maintained in a separate account in a federally insured financial institution.

i. Reserve accounts must also be separate from the project's ordinary operating account.

30) OPERATING RESERVE ACCOUNT

a. All projects shall establish and maintain, until the project has achieved a minimum of five (5) years of Stabilized Occupancy, an operating reserve equal to a minimum of six (6) months of projected operating expenses plus must-pay debt service payments and annual replacement reserve payments.

b. This requirement can be met with an up-front cash reserve; a guarantee from the owner with a surety bond to stand behind the guarantee; or partnership documents specifying satisfactory establishment of an operating reserve.

c. The operating reserve account must be maintained in a separate account in a federally insured financial institution.

d. If operating cost assistance is provided as part of a project's NHTF award, the Owner must submit annual audited financial statements, specific to the project.

e. Based on an analysis of the financial statements, THDA will determine the amount of operating cost assistance that is eligible to be disbursed from the operating reserve account for the previous fiscal year.

f. The analysis will determine the deficit remaining after the annual rent revenue of the NHTF-assisted units is applied to the NHTF-assisted units' share of eligible operating costs.

g. For purposes of this paragraph, eligible operating costs are limited to insurance, utilities, real property taxes, maintenance, and replacement reserve payments.

31) REPAYMENT

a. All NHTF awards will be structured as a grant to a Recipient with a Period of Affordability of 30 years. Repayment of NHTF funds may be required in the event that the final total development costs were such that NHTF assistance provided by THDA exceeds established program limits, or exceeded that which was necessary to make the project financially feasible.

b. Compliance with income requirements, rent restrictions, design standards and UPCS requirements is required for the entire Period of Affordability for each project. Failure to comply with any of these requirements may trigger repayment of the NHTF grant.

c. A NHTF assisted project that is terminated before completion, either voluntarily or otherwise, constitutes an ineligible activity and the Recipient must repay any NHTF funds invested in the project to THDA.

d. In the event of a foreclosure or transfer in lieu of foreclosure, the Recipient must repay the full NHTF investment in the project.

32) COMPLIANCE

a. NHTF assisted rental units are rent and income limited for the thirty (30) year Period of Affordability.

b. Recipients/Owners of rental property shall maintain occupancy of NHTF assisted units by Extremely Low Income Persons for the Period of Affordability.

c. During the Period of Affordability, the Recipient shall:

   i) Certify annually the income of tenants.

   ii) Adhere to the NHTF rent and income guidelines.

   iii) Comply with all applicable adopted housing codes and the Uniform Physical Condition Standards (UPCS).

   iv) Report to THDA in a form and with substance as required by THDA.

d. Prior to drawing down NHTF funds, Owners of projects with NHTF assisted units shall sign a grant note, deed of trust and restrictive covenant to enforce the NHTF Affordability Period.

e. Once NHTF funds are awarded to a Recipient, THDA will monitor compliance by reviewing certain records related to the NHTF-assisted project. THDA will monitor compliance by conducting desk and/or on-site reviews of the project.

f. THDA will conduct an on-site inspection at project completion in order to confirm that the project meets the Rehabilitation Standards listed in the NHTF Allocation Plan and THDA's Minimum Design Standards for New Construction or THDA's Minimum Design Standards for Rehabilitation, as applicable.

g. At a minimum THDA will conduct desk compliance reviews annually.

h. THDA will conduct on-site property inspections during the Period of Affordability in order to determine compliance with income and rent requirements, tenant selection, affirmative marketing requirements, and property and design standards and to verify any information submitted by the Recipient to THDA.

i) THDA will perform onsite inspection of all NHTF assisted projects no less than every three (3) years during the Period of Affordability.

ii) For NHTF assisted projects of four (4) NHTF assisted residential units or less, THDA will perform an on-site inspection of one hundred percent (100%) of the units no less than every three (3) years during the Period of Affordability.

iii) For NHTF assisted projects consisting of five (5) or more units, THDA will inspect a minimum of 20% of the NHTF assisted units no less than every three (3) years during the Period of Affordability.

iv) The on-site inspection may include a review of records for all or a sample of the income and rent restricted units including, but not limited to, tenant files, rent rolls, approved and declined tenant applications, documentation supporting tenant income and employment verification, marketing materials and advertisements, and documentation of requests for reasonable accommodations.

v) The on-site review may also include a review of any local health, safety, or building code violation reports or notices and an inspection of the property to determine if the buildings are suitable for occupancy, taking into account local health, safety, and building codes, applicable THDA Design Standards, and UPCS standards as prescribed by HUD.

vi) Any reports made by state or local government units of violations, with documentation of correction, will be reviewed.

i. Each year during the Period of Affordability, the Recipient shall submit to THDA, within one hundred twenty (120) days after the end of the project's fiscal year, each of the following:

i) Audited financial statements for the Owner.

ii) Audited financial statements for the project.

iii) Bank statements for operating reserve and replacement reserve accounts as of the end of the project fiscal year.

iv) Proof of sufficient property and liability insurance coverage with THDA listed as mortgagee.

v) Documentation to show the current utility allowance is being used (i.e. a copy of the utility allowance table).

vi) For projects that received points at initial NHTF application for pledging to provide permanent supportive services to special needs populations, an affidavit attesting to the supportive services provided to the project's population during the fiscal year must be provided by the provider(s) of such services.

vii) Compliance monitoring fees from previous years re-inspections if applicable.

viii) Such other information as may be requested in writing by THDA in its sole discretion.

33) MONITORING FEES

a. THDA charges a monitoring fee for all NHTF assisted units. NHTF Recipients shall pay the entire fee covering the 30-year Period of Affordability as indicated in the current NHTF Operating Manual - Schedule of Monitoring Fees; but no less than $600 per NHTF assisted unit.

  i) The monitoring fee must be paid prior to the Recipient making the request for Developer Fees to be drawn from the NHTF grant.

b. Additional fees may be charged when follow-up is required due to non-compliance findings. Failure to pay these fees will be considered an administrative noncompliance issue.

  i) The fee will be the current approved fee as published in the NHTF manual and the most current program description at the time the fee is incurred but no less than:

    (1) Reinspection of a file or reinspection of a 1-4 unit property: Two Hundred Dollars ($200) per unit inspected
    (2) Reinspection of a NHTF project with five (5) or more units:
      (a) Two hundred dollars ($200) per unit inspected;
      (b) Standard mileage rate in effect under the current State of Tennessee travel regulations at the time of the reinspection from Nashville to the property and back to Nashville;
      (c) Applicable state allowed per-diem for one staff person;
      (d) Lodging expenses as allowed under then current State of Tennessee travel regulations;
      (e) Any other expenses incurred by THDA relating to the project reinspection.

c. Fees for reinspections will be due to THDA prior to issuance of reinspection results or release of any additional NHTF-funded operating subsidy.

34) RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN

a. Recipients shall replace all occupied and vacant habitable low income housing demolished or converted to a use other than as lower income housing in connection with a project assisted with NHTF funds.

    i) All replacement housing will be provided within three years after the commencement of the demolition or conversion. Before entering into a working agreement committing THDA to provide funds for a project that will directly result in the demolition or conversion, THDA will make public by and submit to the HUD/Knoxville NHTF coordinator certain information. Each applicant proposing demolition or any reduction in lower income housing units shall submit the following information to THDA in connection with their application:

        (1) A description of the proposed assisted project;

            (a) The address, number of bedrooms, and location on a map of lower income housing that will be demolished or converted to a use other than as lower income housing as a result of an assisted project.
            (b) A time schedule for the commencement and completion of the demolition or conversion.
            (c) To the extent known, the address, number of bedrooms and location on a map of the replacement housing that has been or will be provided.
            (d) The source of funding and a time schedule for the provision of the replacement housing.
            (e) The basis for concluding that the replacement housing will remain lower income housing for at least ten (10) years from the date of initial occupancy.
            (f) Information demonstrating that any proposed replacement of housing units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the approved Consolidated Plan.

35) NHTF RELOCATION REQUIREMENTS

a. THDA DISCOURAGES PROJECTS INVOLVING DISPLACEMENT OR RELOCATION of households. Prior to application, contact THDA if you are planning any project that may involve displacement or relocation.

i) A Displaced person is any person (household, individual, business, farm, or non-profit organization) that moves from the real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted with NHTF funds. Relocation requirements apply to all occupants of a project/site for which NHTF assistance is sought even if less than one hundred percent (100%) of the units are NHTF assisted.

(1) Before Application displacement is triggered when a tenant moves permanently from the project before the owner submits an application for NHTF assistance if THDA or HUD determines that the displacement was a direct result of the rehabilitation, demolition, or acquisition for the NHTF project. (e.g., THDA determines that the owner displaced tenants in order to propose a vacant building for NHTF assistance.)

(2) After Application displacement is triggered when a tenant moves permanently from the project after submission of the application, or, if the applicant does not have site control, the date THDA or the Recipient approves the site because:

(a) The owner requires the tenant to move permanently; or

(b) The owner fails to provide timely required notices to the tenant; or

(c) The tenant is required to move temporarily and the owner does not pay all actual, reasonable out-of-pocket expenses or because the conditions of the move are unreasonable.

(3) After Execution of Agreement displacement is triggered when tenant moves permanently from the project after execution of the agreement covering the acquisition, rehabilitation or demolition because the tenant is not provided the opportunity to lease a suitable, affordable unit in the project.

b) A Displaced person is not:

(1) A tenant evicted for cause, assuming the eviction was not undertaken to evade URA obligations.

(2) A person with no legal right to occupy the project under State or local law (e.g., squatter).

(3) A tenant who moved in after the application was submitted but before signing a lease and commencing occupancy, was provided written notice of the planned project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or experience a rent increase), and the fact that the person would not qualify as a "displaced person" (or for any assistance under URA) as a result of the project.

(4) A person, after being fully informed of their rights, waives them by signing a Waiver Form.

c) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), and its implementing regulations at 49 CFR Part 24, requires relocation assistance where acquisition has occurred under the Uniform Act. In addition, the Uniform Act coverage was expanded in 1987 amendments to cover displacement of individuals resulting from rehabilitation, demolition or private acquisition carried out under a federally assisted project or program.

d) Section 104(d) of the Housing and Community Development Act ("The Barney Frank Amendments") and HUD's Residential Anti-Displacement and Relocation Assistance Plan include additional relocation requirements. This extra level of relocation protection may be triggered for low-income households when units are converted or demolished with CDBG, UDAG, HOME, or NHTF funds. In addition, when Section 104(d) is triggered, jurisdictions may need to replace any low/moderate income dwelling units that are lost due to the conversion or demolition. This section refers only to residential relocation. If non-residential (commercial/industrial) relocation is involved, contact THDA.

e) Understanding how relocation requirements are triggered, alternate ways of meeting them, and the costs of the alternatives is essential in making NHTF program decisions. Concerns about relocation may cause a Recipient to consider establishing a preference for vacant buildings. However, Recipients should also consider that vacant buildings are often in various states of deterioration. Rehabilitating an occupied building, even with the cost of assisting tenants to remain or relocate, may be less costly than rehabilitating a vacant building. In occupied buildings, Recipients must consider whether occupants will be able to return after rehabilitation and whether Section 8 assistance is available to help meet relocation costs. Selecting vacant projects does not relieve all relocation concerns. Vacant buildings in good condition may have been recently occupied. If so, the Recipient must consider whether the owner removed the tenants in order to apply for NHTF assistance for a vacant building. If so, these tenants are displaced persons.

f) Skilled staff can save the local program money and build goodwill with owners and tenants. Failure to understand and follow relocation requirements can result in unnecessary costs for the local program. It is possible for uninformed owners and staff to take steps that would obligate the local program to provide significant relocation benefits and services. Early briefings for owners and program staff on relocation rules are essential. Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition consolidates relocation requirements for NHTF and other HUD programs in one document. It is available from HUD Field Offices or by contacting THDA. HUD informational booklets for persons who are displaced or whose property is to be acquired are also available from HUD Field Offices or from THDA.

g) URA requirements are triggered at the time the application is being prepared, and additional requirements are triggered at the time the working agreement is signed between THDA and the Recipient and when rehabilitation is completed. Treatment of displaced persons depends upon whether the displaced person is (1) a tenant or owner; (2) a business or household; (3) has income above or below the Section 8 Lower Income Limit.

31) SITE AND NEIGHBORHOOD STANDARDS

a) Housing provided through the NHTF program must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD regulations issued pursuant thereto; and must promote greater choice of housing opportunities.

b) New construction rental housing. In carrying out the site and neighborhood requirements for new construction, the Recipient shall provide documentation as THDA may require, in THDA's sole discretion, to determine that proposed sites for new construction meet the requirements in 24 CFR 93.150 with cross reference to 983.6(b) which places limiting conditions on building in areas of "minority concentration" and "racially mixed" areas.

c) Rehabilitation of rental housing. Site and neighborhood standards do not general apply to rehabilitation projects funded under NHTF unless project-based vouchers are used in an NHTF rehabilitation unit. In such case, the site and neighborhood standards for project-based vouchers will apply as determined by the issuing authority for the project-based vouchers.

32) EQUAL OPPORTUNITY AND FAIR HOUSING

a) No person in the United States shall on the grounds of race, color, religion, sex, familial status, national origin, or disability be excluded from participation, denied benefits or subjected to discrimination under any program funded in whole or in part by NHTF funds.

b) The following Federal requirements as set forth in 24 CFR 5.105(a), Nondiscrimination and equal opportunity, are applicable to NHTF projects:

i) Fair Housing Act (24 CFR Part 100)

ii) Executive Order 11063, as amended (24 CFR Part 107 - Equal Opportunity in Housing)

iii) Title VI of the Civil Rights Act of 1964 (24 CFR Part 1 - Nondiscrimination in Federal programs)

iv) Age Discrimination Act of 1975 (24 CFR Part 146)

v) Section 504 of the Rehabilitation Act of 1973 (24 CFR Part 8)

vi) Section 109 of Title I of the Housing and Community Development Act of 1974 (24 CFR Part 6)

vii) Title II of the Americans with Disabilities Act 42 U.S.C. §12101 et seq.

viii) Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity 24 CRF Parts 5, 200, 203, 236, 400, 570, 574, 882, 891 and 982

ix) Section 3 of the Housing & Urban Development Act of 1968 24 CFR 135 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135

(1) Section 3 requires that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low-income persons, particularly those who are recipients of government assistance for housing.

x) Executive Order 11246, as amended 41 CFR 60 (Equal Employment Opportunity Programs)

xi) Executive Order 11625, as amended (Minority Business Enterprises)

xii) Executive Order 12432, as amended (Minority Business Enterprise Development)

xiii) Executive Order 12138, as amended (Women's Business Enterprise)

xiv) Executive Orders 11625, 12432, and 12138 (Minority/Women's Business Enterprise) require that Recipients prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women and entities owned by minorities and women in all contracts. Recipients must also develop acceptable policies and procedures if their application is approved by THDA.

c) The HUD Office of Fair Housing also includes the following fair housing laws and Presidential Executive Orders which are not included in 24 CFR 5.105(a) but which are applicable to federally-assisted programs:

i) Architectural Barriers Act of 1968 42 U.S.C. §4151 et seq.

ii) Executive Order 12892, as amended (Affirmatively Furthering Fair Housing)

iii) Executive Order 12898

iv) Executive Order 13166 (Limited English Proficiency)

v) Executive Order 13217 (Community-based living arrangements for persons with disabilities)

d) In addition to the above requirements, the Recipient must assure that its Equal Opportunity and Fair Housing policies in the NHTF Program are consistent with the State's current Consolidated Plan.

33) AFFIRMATIVE MARKETING

a) Prior to beginning a NHTF project, Recipients must adopt affirmative marketing procedures and requirements for all NHTF rental projects with five or more units. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. The Recipient must also identify and take steps to attract populations that are least likely to apply for the housing to be created. Requirements and procedures must include:

i) Methods for informing the public, owners and potential tenants about fair housing laws and the Recipient's policies;

ii) A description of what the Recipient will do to affirmatively market housing assisted with NHTF funds;

iii) A description of what the Recipient will do to inform persons not likely to apply for housing without special outreach;

iv) Maintenance of records to document actions taken to affirmatively market NHTF-assisted units and to assess marketing effectiveness; and

v) Description of how efforts will be assessed and what corrective actions will be taken where requirements are not met.

b) All projects that receive NHTF grants must advertise all vacant units on the www.TNhousingsearch.org website.

34) APPLICATION AND EVALUATION PROCEDURE

a) THDA will evaluate each application to determine if the proposal meets threshold criteria. Threshold criteria includes:

i) Submission by an eligible applicant of a complete application, including any documentation required to be submitted through THDA's Participant Information Management System (PIMS).

ii) Proposal of an eligible activity; proposal of a project that in the opinion of THDA is physically, financially and administratively feasible; proposal of a project that meets the requirements of 24 CFR Parts 91 and 93, as amended.

iii) Submission of a 30-Year Proforma demonstrating a need for the NHTF funds.

iv) Proposals that will set-aside more than 20% of the units for individuals with disabilities must demonstrate that the project will meet the qualities of settings that are eligible for reimbursement under the Medicaid home and community-based services that were established by the Centers for Medicare and Medicaid Services (CMS) in the final rule dated January 16, 2014:
https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider.

v) Receipt of a score that equals at least 60% of the total points available.

b) Applications meeting the threshold requirements will be scored and ranked by Grand Division, as defined in Tennessee Code Annotated Title 4, Chapter 1, Part 2, in descending numerical order based on the scoring matrix provided in #2 of this section.

c) THDA will first select the highest scoring application from each Grand Division of Tennessee.

d) If additional funding is available, THDA will combine all remaining applications into a single ranking by score. THDA will award funding starting with the highest score to lowest score until all funds are allocated or the amount of funds available is less than the need for the next highest scoring application.

e) Given the limited funding available statewide and in order to distribute NHTF funding across Tennessee, THDA reserves the right to limit funding to only one award per county.

f) When the amount of funds available is less than the request for funding identified in the application, THDA reserves the right to offer partial funding pending the applicant's ability to secure additional financing within a timeframe established by THDA or to not select a proposed project if sufficient funding is not available to award all funds requested by the applicant.

1. When the applicant is not able to secure additional financing within THDA's identified timeline, THDA, subsequently and at its sole discretion, may move to the next lower scoring application(s) in order to meet its commitment obligations under the NHTF program.
2. When THDA opts to not select a proposed project if sufficient funding is not available to award all funds requested by the applicant, THDA may move to the next lower scoring project (s) in order to meet its commitment obligations under the NHTF program.

In the event of a tie score between applications, THDA will prioritize that application with the highest combined total of the Need and Opportunity Score. In the event that a tie still remains, the application with the highest Opportunity Score will be selected.

35) NHTF RENTAL HOUSING SCORING MATRIX   Up to 100 Points

a) PROJECT DESIGN - Up to 30 points

i) The proposed project demonstrates exceptional planning, readiness to proceed, and administrative capability. All necessary components to accomplish the project have been identified in the application. The applicant has site control of the proposed site to be developed.
ii) Firm financial commitments for non-NHTF resources have been secured, are current, and are demonstrated within the application.
iii) The extent to which the project has a binding commitment for Federal, State, or local project-based rental assistance so rents are affordable to extremely low income families and sufficient funds support the project's operation. Projects that preserve existing housing with project-based rental assistance are preferred.
iv) The project's proforma demonstrates sufficient cash flow to supports the project's operation without a contribution of NHTF funds by THDA to an operating reserve account for the project.
v) The extent to which the proposed project fills the need demonstrated by the neighborhood market conditions.
vi) The extent to which the design of the proposed project is appropriate and meets the needs of the targeted population to be served.
vii) The extent to which formal partnerships have been established and demonstrated within the application to provide voluntary and appropriate support services for the targeted population.
viii) The extent to which the proposed project provides easy access to community living, including retail, employment, transportation, medical, education, recreation, and government services.
ix) The extent to which the proposed project integrates the NHTF-assisted households with households of higher incomes within the project. These will be determined using

the standard HUD definitions of extremely Low Income, very Low Income, Low Income, and incomes above 80% AMI.

x) The extent to which universal design and visitability features will be included in the design of the projects.

xi) The extent to which energy efficiency features exceed the requirements of THDA's Design Standards for New Construction or Rehabilitation, as applicable.

b) <u>APPLICANT'S CAPACITY AND EXPERIENCE - Up to 30 points</u>

i) The applicant's experience with owning, developing and managing rental units of similar size and scope serving the intended population proposed.

ii) The capacity of the applicant and its development and management team to carry out the proposed project within the schedule proposed.

iii) The past experience of the applicant and its development and management team to successfully develop or manage rental housing in compliance with all Federal, state or local program requirements.

iv) The past experience of the applicant and its development and management team to undertake THDA rental development projects in a timely manner.

v) The past history of the applicant in serving the community in which the proposed project is to be located.

vi) The past history of the applicant and its development and management team to comply with THDA funding requirements and processes.

vii) The applicant's financial statements and audit indicate a healthy financial position and include diverse funding sources.

c) <u>NEED - Up to 10 points</u>

THDA has determined rental housing need factors for households who are extremely low income. The county need factors are the percentage of extremely low income tenant households that are cost burdened; projected 10-year population growth rate; county's projected 10-year population growth as a percent of the state's overall growth; prior allocation amount per extremely low income household; prior allocation; rental market (LIHTC) vacancy rate, and the pipeline of rental housing financed under the Low Income Housing Tax Credit Program under construction and in lease-up. Scores to be used in the evaluation of rental projects are available at https://thda.org/business-partners/nhtf.

d) <u>AREAS OF OPPORTUNITY SCORE - Up to 10 Points</u>

THDA has determined factors which indicate census tracts of high opportunity. These factors include areas of high median gross rent, high cost burden, proximity to employment, high workforce participation, low levels of abandoned housing, rental market (LIHTC) vacancy rate, and the pipeline of rental housing financed under the Low Income Housing Tax Credit Program under construction and in lease-up.

Scores to be used in the evaluation of areas of opportunity are available at https://thda.org/business-partners/nhtf.

e) LEVERAGE - Up to 10 points

THDA may award up to 10 points to applications that include the use of non-THDA resources towards the development costs of the project. Rental assistance and permanent financing resources will not be considered in this category. THDA will award points based on the percentage of non-THDA resources in the project against the total development cost for the project. In order to receive points, there must be written documentation in the application supporting the contribution of the non-THDA leveraged funds to the project.

f) RURAL DESIGNATION – 5 points

THDA will award up to 5 points for application with projects located in designated rural areas of Tennessee. For this program description, "rural" is defined as all Tennessee counties except the following: Anderson, Blount, Bradley, Carter, Coffee, Davidson, Dyer, Gibson, Hamilton, Hamblen, Haywood, Knox, Loudon, Madison, Maury, Montgomery, Putnam, Roane, Rutherford, Shelby, Sumner, Unicoi, Williamson and Wilson. All other counties are considered Rural.

g) DESIGNATED DISTRESSED COUNTIES – 5 points

Tennessee Governor Bill Lee issued an executive order designating fifteen Tennessee Counties as distressed, including: Lake, Lauderdale, Hardeman, McNairy, Perry, Jackson, Clay, Grundy, Van Buren, Bledsoe, Fentress, Morgan, Scott, Hancock and Cocke. THDA will award up to 5 points for applications with projects in the designated distressed counties.