Non-Discrimination in Services Requirements

FOR THDA SUB-RECIPIENTS
Online Training

• Online training modules posted to THDA’s website.

• Required that sub-recipients view the training “Non-Discrimination in Federally Funded Activities” training, which includes the compliance requirements (in handout).

• To access the training, go to THDA website: “About THDA” from top thread; “Fair Housing-Know your Rights” from sidebar; page down to bottom of page for “Resources.”
About THDA

Our Aspirations:
As the state's leading housing resource, THDA aspires to meaningfully expand safe, sound, affordable housing opportunities for low and moderate income Tennesseans. In addition, we aspire to excel in the management and stewardship of our resources and to produce strong earnings that allow creative reinvestment to meet the housing needs in Tennessee. Programmatically, our aspirations include these areas: to expand homeownership opportunities statewide; support successful, ongoing homeownership; and maximize the value of THDA rental housing programs to Tennesseans and their communities.

What We Do:
The Tennessee Housing Development Agency (THDA) is Tennessee’s housing finance agency, created by
Fair Housing - Know Your Rights

THDA follows all federal and state requirements related to fair housing and discrimination. THDA also takes steps to affirmatively further fair housing in Tennessee to ensure that all of its programs are free of discrimination. To learn more about fair housing and anti-discrimination, please click the links below. Click here to read THDA’s non-discrimination policy.

Title VI Compliance
Title VI of the Civil Rights Act of 1964 prohibits exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on grounds of race, color, or national origin. The intent of the law is to ensure that all persons, regardless of race, color, or national origin, are afforded the opportunity to participate in federally funded programs.

Fair Housing
The Fair Housing Act or Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions based on race, color, national origin, religion, sex, familial status, and disability.

Tennessee Fair Housing Survey – Respond by August 31, 2019
Whether you are a tenant or homeowner, fair and affordable housing matters to everyone. THDA and partners have released a survey for all Tennesseans to tell us about your housing experience. THDA is conducting a study of fair housing in Tennessee called the Analysis of Impediments to Fair Housing Choice. As the name suggests, we are seeking to identify barriers faced to fair and affordable housing choices and determine solutions to remove these barriers.

All Tennesseans are encouraged to click the link below and share with friends, family, neighbors, colleagues, and clients. The survey is available in English and Spanish. Please respond by August 31, 2019.

Click here to complete the Analysis of Impediments to Fair Housing Choice Survey

2013 Tennessee Analysis of Impediments to Fair Housing Choice Final Report
- Executive Summary
- Full Report
- Appendices

Resource List
- Fair Housing Act Presentation PDF
- Fair Housing Act Presentation PPT
- Non-Discrimination in Federally Funded Activities PDF
- Non-Discrimination in Federally Funded Activities PPT
Non-discrimination in Services Self Survey

- Non-discrimination in Services Self Survey form due to THDA by July 31\textsuperscript{st} this year at the absolute latest.

- The non-discrimination activities reported are not new; the form is a new method of collecting information on your activities.

- To access form, go to THDA website: “About THDA” from top thread; “Fair Housing-Know your Rights” from sidebar; “Title VI of the Civil Rights Act of 1964” from sidebar; on Title VI page, page down to “Resources.”
Title VI Compliance

The Tennessee Human Rights Commission is responsible for monitoring Title VI compliance among Tennessee State Agencies. THDA develops and submits the Title VI Compliance Implementation Plan annually to THRC. The Plan To read the plan and learn more about THDA’s procedures and monitoring of Title VI compliance activities, click here.

Title VI & Fair Housing Questions?

For questions about THDA’s Title VI procedures, please contact Laura Swanson, THDA Coordinator at 615-815-1237, or for questions regarding Title VI or Fair Housing and THDA programs, contact THDA Assistant Legal Counsel, Charity Williams.

Discrimination Complaints

Participants in any of THDA’s programs may submit a complaint regarding discrimination directly to THDA. Click here for THDA’s Discrimination Complaint Form. Your complaint may be investigated and answered internally or may be forwarded to the Tennessee Human Rights Commission (THRC) or the Department of Housing and Urban Development for investigation and response. To file a complaint directly with THRC, click here. To file a complaint directly with the Department of Housing and Urban Development, click here.

Tennessee Fair Housing Survey – Respond by August 31, 2019

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Click here to complete the Analysis of Impediment to Fair Housing Choice Survey.

Resource Links

To fill out and sign the Non-Discrimination in Service Survey download the file and open it in Adobe Acrobat.
Questions

Call or email Laura Swanson, THDA Civil Rights Compliance and Housing Strategy Advisor:

615-815-2127 or lswanson@thda.org
National Housing Trust Fund Team

- Allison Moore – Lead Housing Program Coordinator
- Dwayne Hicks – Senior Technical Advisor for Construction
- Eric Hall – Property Standards Coordinator; Section 3 Coordinator
- Craig Stevens – Senior Housing Program Coordinator
- Mia Billingsley – Senior Housing Program Coordinator
- Monica Rutherford – Senior Housing Program Coordinator
- Aaron Toran – Housing Program Manager
- Bill Lord – Assistant Director, Community Programs
- Cynthia Peraza – Director, Community Programs
Highlights

- **Approximately $3.5 million for Tennessee in 2023 Funds**
- THDA will reserve up to 10% of the allocation for administrative costs
- **Acquisition, new construction or rehabilitation of affordable rental housing**
- **Extremely low income; <30% AMI or Poverty**
- **30 Year Affordability Period**
- **Must be organized or licensed to operate in Tennessee**
Background

HOUSING AND ECONOMIC RECOVERY ACT OF 2008 (HERA) ESTABLISHED THE NATIONAL HOUSING TRUST FUND (HTF)

- Administered by HUD
- Granted to designated State entities
- Funded from fees on Fannie Mae and Freddie Mac transactions
2023 Program Description
Grant Round

• **APPLICATIONS FOR THE NHTF PROGRAM MUST BE RECEIVED BY THDA ON OR BEFORE 4:00 PM CDT ON FRIDAY, MAY 5, 2023**

• **THDA ANTICIPATES NOTIFYING SUCCESSFUL APPLICANTS ON OR ABOUT JULY 7, 2023**

• **NHTF GRANT AGREEMENTS WILL BEGIN ON AUGUST 1, 2023 AND WILL END ON JULY 31, 2026.**
General Requirements

- **Income Restricted at 30% < of AMI or Federal Poverty Guideline**
- **Rents Restricted to be Affordable at 30% of AMI (HUD)**
- **30 Year Affordability Period**
- **Ongoing Monitoring for Property Condition and Compliance**
- **No Match Required**
- **Davis Bacon Requirements Do Not Apply**
- **Environmental Review: Similar to HUD Part 58, But a Separate Process**
- **Maximum Per-Unit Subsidy Will Follow HOME Program Limits**
General Requirements
Cont;

• **UNDERWRITING REQUIRED TO DETERMINE APPROPRIATE LEVEL OF SUBSIDY**

• **NEW CONSTRUCTION:** MUST BE BUILT TO CODE AND DESIGN STANDARD

• **ENERGY EFFICIENCY:** MUST MEET MINIMUM EFFICIENCY STANDARDS

• **ACCESSIBILITY AND VISIBILITY PER PROGRAM DESCRIPTION:**

• **LEAD BASED PAINT HAZARD REQUIREMENTS – FOR REHAB BUILT PRIOR TO 1978 MUST COMPLY WITH 24 CFR.35**

• **TENANT PROTECTIONS: LEASE REQUIRED, PROHIBITED LEASE TERMS, TERMINATION ONLY FOR CAUSE**

• **FAIR HOUSING, ADA, VAWA AND OTHER APPLICABLE LAWS APPLY**
Eligible Applicants

NON-PROFIT DEVELOPERS AND PUBLIC HOUSING AUTHORITIES

• **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.**
Eligible Applicants

NON-PROFIT DEVELOPERS AND PUBLIC HOUSING AUTHORITIES

• DEMONSTRATE FINANCIAL CAPACITY FOR THE PROJECT
• MINIMUM 2 YEARS EXPERIENCE WITH AFFORDABLE RENTAL HOUSING DEVELOPMENT
• DEMONSTRATE FINANCIAL VIABILITY THROUGHOUT THE 30 YEAR AFFORDABILITY PERIOD
• CAPACITY TO DEVELOP AND MANAGE RENTAL HOUSING IN COMPLIANCE WITH PROGRAM REQUIREMENTS
Some Likely Applicants

EXPERIENCE AND CAPACITY ARE VITAL QUALIFICATIONS FOR THE NHTF PROGRAM

- Community Housing Development Organizations (CHDO’s) with experience using HOME and/or LIHTC programs
- Non-profit organizations with experience developing HOME rental projects, 811 or 202 projects or similar, or other low-income rental housing projects
- Public housing authorities with experience using LIHTC, Choice Neighborhoods or other complex programs or are in a RAD conversion.
PHA’s

PHA’S CAN USE HTF FOR NEW CONSTRUCTION OR REHABILITATION OF PUBLIC HOUSING ONLY:

• **AS PART OF THE CHOICE NEIGHBORHOODS PROGRAM**

• **WHERE UNITS WILL BE CONVERTED UNDER THE RAD PROGRAM**

• **NOTE: A PHA MAY USE HTF FUNDS TO DEVELOP AFFORDABLE HOUSING IN A PROJECT CONTAINING PUBLIC HOUSING UNITS, IF THE HTF FUNDS ARE NOT USED IN THOSE UNITS**

This does not prohibit PHA’s from undertaking other Low Income Housing Development that is not supported by Public Housing Capital or Operating Funds using NHTF.
Grant Funding

Minimum Grant: $100,000
Maximum Grant: $1,500,000

- Grants awarded through competitive application process
- Applications scored by three grand divisions
- Highest ranking qualified application in each division awarded
- If funds available remaining applications ranked by score
- THDA reserves the right to limit awards to one per county
Affordability

Units assisted with HTF funds must remain affordable for 30 years after completion

- Longer than many programs
- Requires careful evaluation of the project’s financial viability
- Will include annual reporting and regular, periodic inspections and file review (monitoring)
- Requires skilled management to succeed
  - Careful tenant selection
  - Strong management team
  - Budgeting for the long haul (completion of 30 year proforma)
Eligible Activities

PRODUCE OR PRESERVE AFFORDABLE, PERMANENT RENTAL HOUSING TO ADDRESS THE NEEDS OF EXTREMELY LOW-INCOME HOUSEHOLDS

- NEW CONSTRUCTION OF RENTAL HOUSING UNITS.
- ACQUISITION AND/OR REHABILITATION OF EXISTING RENTAL HOUSING UNITS.
- FUNDING OF AN OPERATING COST RESERVE ASSOCIATED WITH THE NEW CONSTRUCTION OR ACQUISITION AND REHABILITATION OF HOUSING ASSISTED WITH NHTF FUNDS
Ineligible Activities

- Providing tenant-based rental assistance
- Assisting or developing emergency shelters, nursing homes, hospitals, treatment or correctional facilities or dorms.
- Providing any form of housing that is considered short term or transitional
- Providing NHTF assistance to rental units that require reconstruction
- Using NHTF funds to refinance existing debt
Ineligible Activities

Cont;

• **Providing non-federal matching contributions required under any other federal program**

• **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.**

• **Paying for any cost that is not eligible under 24 CFR 92.730 through 93.200**

• **Other uses prohibited by THDA’s program description**

• **Additional funding to a project already funded under a previous NHTF grant**
THE INVESTMENT OF NHTF FUNDS MUST CONFORM TO THE FOLLOWING MINIMUM AND MAXIMUM STANDARDS PER UNIT:

- **Minimum NHTF Funds:** $1,000 per unit
- **Maximum NHTF Funds Per Unit:**
  - $119,815 0-Bedroom (Efficiency) Limit
  - $137,349 1-Bedroom Limit
  - $167,020 2-Bedroom Limit
  - $216,250 3-Bedroom Limit
  - $237,177 4-Bedroom Limit

*Current levels; subject to change*
Eligible Costs

**Funds from the NHTF Award may only be expended for eligible costs specific to or prorated to committed units.**

- Acquisition of real property
- Site improvements
- Conversion from other uses
- Demolition
- New construction
- Rehabilitation
- Approved project soft costs
- Other reasonable costs as approved
Layering

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

- THDA will review each project to ensure that only the minimum amount of NHTF assistance needed is allocated to the project.
- Total NHTF resources allocated to any project cannot exceed the current maximum per unit subsidy limit.
Possible Projects

This is not an all inclusive list. Other types of projects may qualify.

- **Multi-family rental development (typically LIHTC) with a specified number of HTF units reserved for ELI**

  - If/when income increases, a different unit would be designated as the HTF unit (if ‘floating’)

- **Targeted special needs housing where supportive services are critical and available (but not required)**

  - May require ‘internal’ subsidy or other sources of operating funds to be viable
Possible Projects

Cont;

• **Rental (not transitional) housing for homeless families and individuals**
  • Could be limited # of homeless units in a larger property (such as LIHTC)

• Could be stand-alone property or scattered sites, but might need other resources to cash flow

• Could work well with supportive housing, or perhaps 811/202.

• Preserve and revitalize older properties with project based rental assistance (PBRA).
Design Standards

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)
- All zoning ordinances
NHTF Only??

**Funding a development with only HTF funds would be possible but very difficult**

- **Deep rent limits – 30% of AMI or Poverty**
- **Increasing operating expenses over time**
- **Property must cash flow for 30 years**
- **Best scenarios will involve layers of funding with different income limits, or…**
- **Other sources of revenue to support operations**
Managing Risk

**BIGGEST RISK: 30 YEAR AFFORDABILITY PERIOD FOR ELI**

**FAILURE TO MANAGE RISK MAY RESULT IN POTENTIAL FOR REPAYMENT OF FUNDS**

- **CANNOT INVEST MORE HTF AFTER COMPLETION**
- **AVOIDING AND MANAGING THE RISK**
  - **STRONG DEVELOPMENT TEAM WITH EXPERIENCE**
  - **LAYERING OTHER FINANCING TO REDUCE EXPOSURE**
  - **MIX OF INCOME/RENT RESTRICTIONS**
  - **CAREFUL, ACCURATE ASSESSMENT OF MARKET**
Other Requirements

In addition to the general requirements all projects must also meet other federal requirements

• **Uniform Relocation Act**

• **2 CFR 200 (Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards)**

• **Affirmative Fair Housing Marketing**

• **Conflict of Interest**

• **MBE/WBE Reporting**

• **Section 3**

• **FFATA (Federal Funding Accountability and Transparency Act)**

• **Others as identified**

  **Violence Against Women's Act (VAWA)**
THDA will evaluate each application to determine if the proposal meets threshold criteria.

- Submission of an eligible application
- Upload of required documents into THDA’s PIMS System (Non-Profits) Only
- Proposal of an Eligible Activity
- Submission of a 30 Year Proforma demonstrating financial feasibility for the entire 30 year affordability period. This Proforma is included and will be built out from your operating budget in the application.
- 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
Submission
Instructions

Applications will be available online at:
thda.org/business-partners/NHTF

- Applications are available now at: https://thda.org/business-partners/nhtf
- One original application and all required supporting documents must be received in our EFT system no later than 4:00 PM CDT May 5, 2023. Applications received late will not be considered
- Faxed or emailed applications will not be accepted
- No cover pages or binders
PIMS

- All applicants will be required to upload certain supporting documentation to THDA’s Participant Information Management System (PIMS)

- https://thda.org/business-partners/pims
Proforma

All applications must include a 30 year cash flow proforma

- A template is provided with the application package for the 30 year proforma
- The proforma must be completed and demonstrate that the project will be financially feasible for the entire 30 affordability period
- Funding a replacement reserve is required for the application to pass threshold
Application Scoring

NHTF RENTAL HOUSING SCORING MATRIX UP TO 100 POINTS

- **PROJECT DESIGN** - Up to 30 Points
- **APPLICANT’S CAPACITY AND EXPERIENCE** - Up to 30 Points
- **NEED** - Up to 10 Points
- **AREAS OF OPPORTUNITY SCORE** - Up to 10 Points
- **LEVERAGE** - Up to 10 Points
- **RURAL DESIGNATION** – Up to 5 Points
- **DESIGNATED DISTRESSED COUNTIES** – Up to 5 Points
Project Design

Up to 30 Points Available

- Demonstrates exceptional planning, readiness and capability — Applicant has site control
- Firm financial commitments for non-NHTF resources
- Projects with existing or committed PBRA or PBV will receive 3 points in scoring
- Demonstrates sufficient cash flow without using NHTF operating reserves
- Project meets needs of targeted population
- Project integrates NHTF assisted households with higher income households
- Universal design; Visitability; Energy efficiency
Capacity and Experience

Up to 30 Points Available

• Minimum 2 years experience developing, managing and owning affordable rental units/projects

• Capacity of the management and development team

• Past experience with compliance of Federal, state and local program, requirements

• Past experience in developing and managing THDA rental projects

• Past experience complying with THDA funding requirements and processes

• Financial statements and annual audit indicate sound financial health and diverse funding sources
Need Score

Up to 10 Points Available

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 pop. growth as a % of TN’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
Opportunity Score

Up to 10 Points Available

THDA has determined factors which indicate Census tracts of high opportunity.

- Areas of high median gross rent
- High cost burden
- Proximity to employment
- Prior allocation
- High workforce participation
- Low levels of abandoned housing
- Rental market (LIHTC) vacancy rate
- Pipeline of rental housing financed under the Low Income Housing Tax Credit Program under construction and in lease-up
Leverage

U P T O  1 0  P O I N T S  A V A I L A B L E

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
- PERCENTAGE OF NON-THDA RESOURCES IN THE PROJECT AGAINST THE TOTAL DEVELOPMENT COST
- THERE MUST BE WRITTEN DOCUMENTATION IN THE APPLICATION SUPPORTING THE CONTRIBUTION OF THE NON-THDA LEVERAGED FUNDS TO THE PROJECT
Rural Designation

5 POINTS

THDA WILL AWARD (5) POINTS TO APPLICATIONS LOCATED IN DESIGNATED RURAL AREAS OF TENNESSEE.

- Projects located in areas of Tennessee designated as rural (4) Points will be awarded.
- If the applicant is a Public Housing Authority in a designated rural area an additional (1) points will be awarded.
- 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.
Designated Distressed Counties

5 POINTS

THDA will award (5) points to applications located in designated distressed counties of Tennessee.

- The Appalachian Regional Commission has designated ten (10) counties as distressed, including: Lake, Hardeman, Perry, Clay, Grundy, Bledsoe, Morgan, Scott, Hancock, and Cocke.
Application Dates

Application Posted March 14, 2023

Application Deadline May 5, 2023
4:00 PM CDT

Late applications will not be evaluated after the deadline.
Contact THDA

- Community Programs staff can answer your questions about the NHTF application until the May 5, 2023 submission deadline

- Allison Moore: 615-815-2040
- Craig Stevens: 615-815-2035
- Mia Billingsley: 615-815-2033
- Monica Rutherford: 615-815-2105
- Aaron Toran: 615-815-2037
- Bill Lord: 615-815-2018

Call us or schedule a meeting!
Program Guidance

• **2023 Program Description:** [HTTPS://THDA.ORG/BUSINESS-PARTNERS/NHTF](HTTPS://THDA.ORG/BUSINESS-PARTNERS/NHTF)

• **Interim Rule:**

• **Additional Guidance and Resources:**
  [HTTPS://WWW.HUDEXCHANGE.INFO/PROGRAMS/HTF/](HTTPS://WWW.HUDEXCHANGE.INFO/PROGRAMS/HTF/)
Questions