

CHAPTER TWO FINANCIAL MANAGEMENT

1. AGREEMENT

- A. The written agreement between your organization and THDA will be a very important document throughout the life of the project. The written agreement must be executed before any funds can be disbursed or expended. **FUNDS COMMITTED OR EXPENDED BEFORE THE WRITTEN AGREEMENT IS SIGNED WILL NOT BE REIMBURSED FROM NHTF FUNDS.** The written agreement will ensure compliance with the regulations of the NHTF program.

2. ELIGIBLE COSTS

- A. **DEVELOPMENT HARD COSTS** – The actual cost of constructing or rehabilitating housing. These costs include the following:
1. For new construction projects, costs to meet the new construction standards as codified in § 93.301 and all THDA Design Standards;
 2. For rehabilitation, costs to meet the property standards for rehabilitation projects as codified in § 93.301(b) and all THDA Design Standards;
 3. For both new construction and rehabilitation projects, costs:
 - a. To demolish existing structures;
 - b. To make utility connections including off-site connections from the property line to the adjacent street; and
 - c. To make improvements to the project site that are in keeping with improvements of surrounding, standard projects. Site improvements may include onsite roads and sewer and water lines necessary to the development of the project. The project site is the property, owned by the project owner, upon which the project is located.
 - d. For both new construction and rehabilitation of multifamily rental housing projects, costs to construct or rehabilitate laundry and community facilities that are located within the same building as the housing and which are for the use of the project residents and their guests.
 - e. Costs to make utility connections or to make improvements to the project site, in accordance with the provisions of paragraphs (a)(3)(ii) and (iii) of this section are also eligible in connection with the acquisition of standard housing.
- B. **ACQUISITION COSTS** – Costs of acquiring improved or unimproved property.

C. PROJECT "SOFT" COSTS – Other reasonable and necessary costs incurred by the owner and associated with the financing or development (or both) of new construction, rehabilitation or acquisition of housing assisted with NHTF funds. Eligible project "soft costs" include:

1. Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups. The costs may be paid if they were incurred not more than 24 months before the date that NHTF funds are committed to the project and the grantee expressly permits NHTF funds to be used to pay the costs in the written agreement committing the funds.
2. Costs to process and settle the financing for a project, such as lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorney fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees.
3. Costs of a project audit, including certification of costs performed by a certified public accountant, that the grantee may require with respect to the development of the project.
4. Costs to provide information services such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by § 93.350.
5. For new construction or rehabilitation projects, the cost of funding an initial operating deficit reserve, (if applicable per the application), which is a reserve to meet any shortfall in project income during the period of rent-up (not to exceed 18 months) and which may only be used to pay project operating expenses, scheduled payments to a replacement reserve, and debt service. Any NHTF funds placed in an operating deficit reserve that remain unexpended at the end of the 18 months must be returned to the State's NHTF Trust Account.
6. Staff and overhead costs of the grantee directly related to carrying out the project, such as work specifications preparation, loan processing, and inspections. For multi-unit projects, such costs must be allocated among NHTF-assisted units in a reasonable manner and documented. Although these costs may be charged as project costs, these costs cannot be charged to or paid by the assisted families.
7. For new construction, reconstruction and rehabilitation, costs for the payment of impact fees that are charged for all projects within a jurisdiction.
8. Costs for paint testing, risk assessments, and clearance testing will be paid as soft costs. There is an acceptable range for costs involving these activities. Please contact your specialist for cost approval prior to contracting for these services.
9. Expenses incurred conducting lead activities, interim controls, standard treatments, and abatement.

D. OPERATING COST ASSISTANCE AND OPERATING COST ASSISTANCE RESERVES – For NHTF-assisted units for which project based assistance is not available, when necessary and subject to the limitations in § 93.200(a), NHTF funds may be used to pay for operating cost assistance and operating cost assistance reserves, as follows:

1. Only projects that identified and operating cost assistance or operating cost assistance

reserve contribution in their original application may request operating cost assistance or operating cost assistance reserve funding.

2. Operating costs are costs for insurance, utilities, real property taxes, and maintenance and scheduled payments to a reserve for replacement of major systems (provided that the payments must be based on the useful life of each major system and expected replacement cost) of an NHTF-assisted unit. The eligible amount of NHTF funds per unit for operating cost assistance is determined based on the deficit remaining after the monthly rent payment for the NHTF-assisted unit is applied to the NHTF-assisted unit's share of monthly operating costs. The maximum amount of the operating cost assistance to be provided to an NHTF assisted rental project must be based on the underwriting of the project and must be specified in a written agreement between the grantee and the recipient. The written agreement may commit, from a fiscal year NHTF grant, funds for operating cost assistance for a multiyear period provided that the grantee is able meet its expenditure deadline in § 93.400(d). The grantee may renew operating cost assistance with future fiscal year NHTF grants during the affordability period and the amount must be based on the need for the operating cost assistance at the time the assistance is renewed.
3. An operating cost assistance reserve may be funded by the grantee for NHTF-assisted units in a project where the grantee determines in its underwriting of the project the reserve is necessary to ensure the project's financial feasibility. If the operating cost assistance reserve is funded with appropriated NHTF funds, the allowable amount of the reserve shall not exceed the amount determined by the grantee to be necessary to provide operating cost assistance for NHTF-assisted units, for a period not to exceed 5 years, based on an analysis of potential deficits remaining after the expected rent payments for the NHTF-assisted unit are applied to the NHTF-assisted unit's expected share of operating costs. The grantee may renew operating cost assistance reserves with future fiscal year NHTF grants during the affordability period and the amount must be based on the need for the operating cost assistance reserve at the time the assistance for the reserve is renewed. If the operating cost assistance reserve is funded with non-appropriated NHTF funds, the reserve may be funded for the period of affordability.

E. RELOCATION COSTS

1. The costs of relocation payments and other relocation assistance to persons permanently or temporarily displaced by the project. Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons.
2. Other relocation assistance means staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship.

F. COSTS RELATING TO PAYMENT OF LOANS – If the NHTF funds are not used to directly pay a cost specified in this section, but are used to pay off a construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if:

1. The loan was used for eligible costs specified in this section, and
2. The NHTF assistance is part of the original financing for the project and the project meets the requirements of this part.

G. CONSTRUCTION UNDERTAKEN BEFORE THE NHTF FUNDS ARE COMMITTED TO THE PROJECT

1. NHTF funds cannot be used for development hard costs, as provided in paragraph (a) of this section, or for acquisition, undertaken before the NHTF funds are committed to the project. However, the written agreement committing the NHTF funds to the project may authorize NHTF funds to be used for architectural and engineering costs and other related professional services, as provided in paragraph (d)(1) of this section.

H. ADMINISTRATIVE AND PLANNING COSTS – (92.770 – 92.779) Reasonable and necessary costs for the administration of the NHTF program such as salaries and wages; other employee compensation and benefits; and employee education, training and travel. The cost of completing an environmental review is included under administrative cost. Administrative costs do not include eligible project-related costs that are incurred by and charged to project owners.

<p>3. ESTABLISHING PROCEDURES FOR FINANCIAL MANAGEMENT</p>

- A. REQUIREMENTS** – Applicability of uniform administrative requirements, cost principles, and audits (§ 93.405) - CFR part 200 applies to the grantees receiving NHTF funds, except for the following provisions: §§ 200.307, 200.311, 300.328(b), 200.329, and 200.333. If there is a conflict between the definitions in 2 CFR part 200 and 24 CFR part 93, the definitions in part 93 govern.
- B. GRANTEE RESPONSIBILITY** – The grantee is responsible for managing the day-to-day operations of its NHTF program, ensuring that NHTF funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems or concerns arise. The use of development partners, contractors or third party administrators does not relieve the grantee of this responsibility. The performance and compliance of the grantee will be reviewed at least annually. The grantee must have and follow written policies, procedures, and systems, including a system for assessing risk of activities and projects to ensure that the requirements of this part are met.
- C. AUDITS** – Audits of the grantee will be conducted in accordance with 2 CFR part 200, subpart F.
1. Any financial statement submitted by the grantee to THDA must be reviewed by an independent certified public accountant, in accordance with Statements on Standards for Accounting and Review Services, which is issued by the American Institute of Certified Public Accountants.
 2. The written agreement providing NHTF assistance to the grantee specifies that the grantee will submit to THDA a cost certification performed by a certified public accountant for each project assisted with NHTF funds.

3. The agreement must specify that the recipient will submit to the grantee an annual audit performed on each project assisted with NHTF funds, beginning the first year following the cost certification and with the final annual audit occurring the last year of the affordability period.

D. **RECORDKEEPING** – Each grantee must establish and maintain sufficient records to enable THDA to determine whether the grantee has met the requirements of this part. At a minimum, the following records are needed:

1. Program Records:

- a. The forms of NHTF assistance used in the program.
- b. The subsidy layering guidelines adopted in accordance with § 93.300.
- c. Records documenting compliance with the 24-month commitment deadline of § 93.400(d)(1).
- d. Records documenting compliance with the 10 percent limitation on administrative and planning costs in accordance with § 93.202.

2. Project Records:

- a. A full description of each project assisted with NHTF funds, including the location (address of each unit), form of NHTF assistance, and the units assisted with NHTF funds.
- b. The source and application of funds for each project, including supporting documentation, in accordance with 2 CFR 200.333 through 200.337, and records to document the eligibility and allowability of the project costs, including the documentation of the actual NHTF-eligible development costs of each NHTF-assisted unit (through allocation of costs, if permissible under §93.200(c)) where NHTF funds are used to assist less than all of the units in a multi-unit project.
- c. Records demonstrating that each rental housing project meets the maximum per-unit subsidy amount established pursuant to § 93.300(a), and the subsidy layering and underwriting evaluation in accordance with § 93.300.
- d. Records (e.g., inspection reports) demonstrating that each project meets the property standards of § 93.301 of this part at project completion. In addition, during the period of affordability, records for rental projects demonstrating compliance with the property standards, and financial reviews and actions pursuant to § 93.404(a).
- e. Records demonstrating that each family is income-eligible.
- f. Records demonstrating that each rental housing project meets the affordability and income targeting requirements of § 93.302 for the required period. Records must be kept for each family assisted.

- g. Records demonstrating that each lease for an assisted rental housing unit complies with the tenant and participant protections of § 93.303.
 - i. Records must be kept for each family assisted.
 - h. Records demonstrating that a site and neighborhood standards review was conducted for each project that included new construction of rental housing assisted under this part, to determine that the site meets the requirements of § 93.150.
 - i. Records (written agreements) demonstrating compliance with the written agreements requirements in § 93.404.
3. Financial records:
- a. Records identifying the source and application of funds for each fiscal year, including the annual grant and any reallocation (identified by federal fiscal year).
 - b. Records concerning the project development account and management account, including deposits, disbursements, balances, supporting documentation, and any other information required by the program disbursement and information system established by HUD or the program rules and policies established by THDA.
 - c. Records identifying the source and application of program income.
 - d. Records demonstrating adequate budget control, in accordance with 2 CFR part 200, including evidence of periodic account reconciliations.
4. Program administration records:
- a. Written policies, procedures, and systems, including a system for assessing risk of activities and projects, and a system for monitoring entities consistent with this section, to ensure that the requirements of this part are met.
 - b. Records demonstrating compliance with the applicable uniform administrative requirements required by § 93.405.
 - c. Records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns.
5. Records concerning other Federal requirements:
- a. Equal opportunity and fair housing records, as required under 24 CFR part 121.
 - b. Data on the extent to which each racial and ethnic group and single headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with NHTF funds.
 - c. Documentation of actions undertaken to meet the requirements of 24 CFR part 135, which implements section 3 of the Housing and Urban Development Act of

1968, as amended (12 U.S.C. 1701u).

- d. Records demonstrating compliance with the affirmative marketing procedures and requirements of § 93.350.
- e. Records demonstrating compliance with the lead-based paint requirements of 24 part 35, subparts A, B, J, K, M, and R.
- f. Records demonstrating compliance with requirements of § 93.352 regarding displacement, relocation, and real property acquisition.
- g. Records supporting exceptions to the conflict-of-interest prohibition pursuant to § 93.353.
- h. Debarment and suspension certifications required by 24 CFR5.105(c) and 2 CFR part 2424.
- i. Records demonstrating compliance with § 93.354.
- j. Records demonstrating compliance with 2 CFR 200.321 regarding the grantee's activities related to minority business enterprise (MBE) and women's business enterprise (WBE).

E. RECORD RETENTION – All records pertaining to each fiscal year of NHTF funds must be retained in a secure location for the most recent 5-year period, except as provided below:

- 1. For rental housing projects, records may be retained for 5 years after the project completion date, except that records of individual tenant income verifications, project rents, and project inspections must be retained for the most recent 5-year period, until 5 years after the affordability period terminates.
- 2. Written agreements must be retained for 5 years after the agreement terminates.
- 3. Records covering displacements and acquisitions must be retained for 5 years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled, in accordance with § 93.352.
- 4. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues that arise from it, or until the end of the required period, whichever is later.

F. ACCESS TO RECORDS

- 1. The grantee must provide THDA reasonable access to records, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.
- 2. HUD and the Comptroller General of the United States, and any of their representatives, have the right of access to any pertinent books, documents, papers, or other records of the grantee to make audits, examinations, excerpts, and transcripts.

4. PREPARATION OF AUTOMATIC DEPOSITS FORM AND AUTHORIZED SIGNATURES FORM

- A. **AUTHORIZATION AGREEMENT FOR AUTOMATIC DEPOSITS** – The Authorization Agreement for Automatic Deposits (ACH) tells the State to which financial institution the transfer of NHTF funds should be sent. The ACH forms must be submitted directly to the State of Tennessee Finance and Administration Department. The address for return of the ACH form is included in the instructions for the document.
- B. **SIGNATURE AUTHORIZATION FORM** – The Signature Authorization Form (FM-2) designates who is permitted to sign the community's "Request for Payment". It requires at least two signatures. These forms must be completed carefully with no erasures or corrections. Blank forms will be sent to you with your contract.
- C. **REVISIONS** – If these forms need to be changed (e.g., using a different financial institution or staff members change) simply provide the State with copies of revised forms with original signatures.
- D. **RESUBMISSION** – Grantees with previous NHTF contracts must submit these forms again with each new contract.

5. PROGRAM DISBURSEMENT AND INFORMATION SYSTEM

- A. **IDIS SYSTEM** – The NHTF Investment Trust Fund account established in the U.S. Treasury is managed through a computerized disbursement and information system established by HUD. The computerized system manages, disburses, collects and reports information on the use of NHTF funds. (For purposes of reporting in the Integrated Disbursement and Information System (IDIS), a NHTF project is an activity.
- B. **PROJECT SET UP** – After THDA executes its NHTF Agreement with HUD, complies with the established requirements for release of funds, and submits the appropriate banking and security documents – to the appropriate agency, it may set-up (identify) specific investments in the disbursement and information system. Investments that require the set-up of projects are acquisition, new construction, or rehabilitation of housing. The State is required to enter complete project set-up information at the time of project set-up.
 - 1. Project Set-up Report Form is completed by the Grantees and submitted to THDA.
 - 2. A project, which has been committed in the system for 18 months without an initial disbursement of funds, will also be automatically cancelled.
- C. **DISBURSEMENT OF NHTF FUNDS** – After complete project set-up information is entered into the disbursement and information system, NHTF funds for the project may be drawn down from the U. S. Treasury account by THDA by electronic funds transfer.
 - 1. THDA will request NHTF funds from the U.S. Treasury at the same time it requests funds from the State NHTF account for transfer to the grantees.
 - 2. NHTF funds drawn from Tennessee's U. S. Treasury NHTF account must be expended

for eligible costs within 15 days. Any funds drawn and not expended for eligible costs within 15 days of disbursement must be returned to HUD for deposit in THDA's U. S. Treasury NHTF account.

3. To draw down funds, a grantee must submit a Request for Payment Form with appropriate documentation.
- D. **PAYMENT CERTIFICATION** – As post-documentation of each drawdown of funds from the U.S. Treasury account, THDA or the state recipients with direct access to the disbursement and information system must keep in their project files a payment certification for each drawdown in the form of a NHTF Voucher Request.
- E. **PROJECT COMPLETION REPORTS** – A Project Completion Report must be submitted to HUD within 120 days of the final drawdown request for the project. If a satisfactory Project Completion Report is not submitted by the due date, HUD will suspend further project set-ups for the State or entitlement grantee. Project set-ups will remain suspended until a satisfactory Project Completion Report is received and entered into the system.
- F. **PROJECT REVISIONS** – 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 set by HUD.

6. REQUESTS FOR PAYMENT

- A. **REQUEST FOR PAYMENT FORM** – NHTF funds are requested by using the Request for Payment Form. This form must be completely and accurately filled in or it cannot be processed. If you have questions, please contact your Housing Program Specialist.
- B. **SIGNATURES AND DOCUMENTATION** – The Request for Payment Form must be signed by two people authorized to do so and accompanied by adequate documentation of the expenditures for it to be processed. Submit the original to THDA and retain a copy for your files.
1. For project set-up of rehabilitation projects, please include the following documentation; the Project Set-up Report Form identifying total projected NHTF costs; the construction contract signed by the contractor and developer; and the Status of Compliance with Lead-Based Paint Regulations, LBP Form and LBP inspection or risk assessment (if applicable).
 - a. Interim draws are allowed at 25%, 50% and 75% of the contract amount when the corresponding percentage of the project is completed;
 - b. If making an interim draw, please include the following documentation;
 - i. Copy of the construction contract between the grantee and the general contractor (needed for 1st draw request only) and;
 - ii. The Request for Payment Form and;
 - iii. All supporting documentation for the project expenses being paid with

this draw including;

- a. invoices supporting hard and soft costs; change orders (if applicable) and;
 - b. Mechanics Lien Waivers for all subcontractor expenses representing final payment and;
 - iv. General Contractor's Sworn Construction Statement of percentage of completion and;
 - v. AIA inspection report signed by a licensed architect in support of the draw request indicating that all work and materials to be paid for with this disbursement have been furnished in accordance with the plans and specifications and;
 - vi. 50% Draw must also have a completed and approved THDA Progress Review and passed rough in code inspection reports for all electrical, mechanical and plumbing work.
- c. If making a final draw, please include the following documentation;
- i. The Certification of Completion and Final Inspection and;
 - ii. General Contractor's Sworn Construction Statement of completion;
 - iii. Invoices supporting hard and soft costs and change orders (if applicable) and;
 - iv. If lead hazards were identified a lead clearance report and;
 - v. Certificate of Occupancy or equivalent and;
 - vi. Passed THDA final progress report.

C. TIMEFRAME FOR PAYMENTS – If the request is in order and can be approved, allow thirty working days after THDA receives the request for F&A to process your direct deposit. If the request is not in order, you will be contacted to correct the deficiencies.

D. PAYMENT LIMITATIONS – Drawdowns should only be made in amounts necessary to meet current disbursement needs. Current disbursement needs are those funds that will be expended for eligible costs within fifteen days of THDA drawing the NHTF funds from the U.S. Treasury. Any funds that are drawn down and not expended for eligible costs within the 15 days must be returned to the Treasury and any interest earned after 15 days must also be remitted to the Treasury.

7. NHTF PROGRAM INCOME

A. **DEFINITION OF PROGRAM INCOME** – Program income means gross income received by Grantees which is directly generated from the use of NHTF funds (including NHTF program income) and matching contributions. When program income is generated by housing that is only partially assisted with NHTF funds or matching funds, the income shall be prorated to reflect the percentage of NHTF funds or match used. Program income includes, but is not limited to:

1. Repayments. Any NHTF funds invested in housing that does not meet the affordability requirements for the period specified in § 93.302 or § 93.304, as applicable, must be repaid by the grantee in accordance with paragraph (b)(3) of this section.
2. Any NHTF funds invested in a project that is terminated before completion, either voluntarily or otherwise, must be repaid by the grantee, in accordance with paragraph (b)(3) of this section.
3. Repayments will be made directly to THDA.