



## State of Wisconsin Department of Administration

*Tony Evers, Governor*

*Kathy Blumenfeld, Secretary*

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### **Housing Trust Fund Eligible Activities and Allocation Policy -NOFO Supplement**

#### **Purpose**

The purpose of this policy is to establish requirements for the allocation, eligibility, documentation, approval, and disbursement of Housing Trust Fund (HTF) funds administered by the Wisconsin Department of Administration (DOA), Division of Energy, Housing and Community Resources (DEHCR).

HTF funds shall be used only for eligible activities and costs permitted under applicable federal HTF requirements, including 24 CFR Part 93, the applicable HTF Notice of Funding Opportunity (NOFO), HUD guidance, the HTF Agreement, and applicable state requirements.

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#### **Eligible Activities**

HTF funds may be used only for eligible activities permitted under applicable HTF requirements. Eligible activities may include:

##### **New Construction**

Construction of new rental housing units that meet HTF program requirements.

##### **Rehabilitation**

Rehabilitation of existing rental housing units that meet HTF program requirements.

##### **Acquisition**

Acquisition of property to be developed or preserved as affordable rental housing, when permitted by the HTF program and approved project budget.

**Site Improvements**

Site improvements directly related to the development of affordable housing and necessary to complete the approved HTF project.

**Temporary Relocation**

Reasonable and eligible temporary relocation costs associated with an HTF-assisted rehabilitation project, when permitted under applicable requirements.

**Hard Costs**

Eligible hard costs may include, but are not limited to:

- Construction labor;
- Construction materials;
- Building systems;
- Rehabilitation work;
- Site work;
- Other eligible construction costs directly attributable to the HTF-assisted development.

**Soft Costs**

Eligible soft costs may include, when directly attributable to the eligible HTF project:

- Architectural services;
- Engineering services;
- Environmental review costs;
- Permitting fees;
- Legal costs when eligible;
- Other professional services directly related to eligible project development; and
- Other costs permitted under applicable HTF requirements.

**Laundry and Community Facilities**

For eligible new construction and rehabilitation of multifamily rental housing projects, HTF funds may support eligible costs associated with laundry facilities and community facilities located within the same building as the HTF housing units when the facilities are for the use of project residents and their guests, subject to applicable HTF requirements.

**Permanent Supportive Housing**

HTF funds may support the development of rental housing that includes permanent supportive housing for persons with disabilities or persons experiencing homelessness, provided the housing and project otherwise meet all applicable HTF requirements.

HTF funds may not be used to pay for supportive services unless specifically authorized as an eligible HTF cost.

**Eligible Loan-Related Costs**

HTF funds may be used to pay eligible costs through payment of a construction loan, bridge financing loan, or guaranteed loan when all applicable requirements are satisfied.

Payment of principal and interest on such a loan is eligible only when:

1. The loan proceeds were used for eligible HTF costs;
2. The HTF assistance is part of the original financing for the project; and
3. The project otherwise meets the applicable HTF requirements.

HTF funds may not be used to refinance existing debt that is not associated with eligible HTF-assisted development.

### **Operating Cost Assistance**

Operating cost assistance may be provided when permitted under applicable HTF requirements, including 24 CFR 93.201(e), and when specifically approved as part of the project's HTF funding structure.

Operating cost assistance must be supported by appropriate documentation and may not be used for costs that are otherwise prohibited under the HTF program.

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## **Allocation of HTF Costs**

### **General Requirement**

HTF funds may be used to assist in the development of two or more housing units in a multi-unit project.

Only the actual HTF-eligible development costs attributable to the HTF-assisted units may be charged to the HTF program.

HTF funds may not be used to subsidize the costs of non-assisted units except to the extent specifically permitted through an approved cost allocation methodology.

### **Comparable Assisted and Non-Assisted Units**

When HTF-assisted and non-assisted units are comparable in terms of:

- Size;
- Features;
- Number of bedrooms; and
- Other relevant characteristics,

the actual cost attributable to the HTF-assisted units may be determined by prorating the total HTF-eligible development costs of the project.

The amount charged to HTF may not exceed the proportion of total eligible development costs represented by the HTF-assisted units.

For example, if 20 percent of the comparable housing units in a project are HTF-assisted, no more than 20 percent of the applicable HTF-eligible development costs may be charged

to HTF, unless a different methodology is approved and supported by applicable requirements.

### **Non-Comparable Units**

When HTF-assisted and non-assisted units are not comparable in size, features, number of bedrooms, location, or other relevant characteristics, the project must use an appropriate cost allocation methodology to determine the portion of eligible development costs attributable to the HTF-assisted units.

The methodology must be reasonable, consistently applied, supported by documentation, and approved by DEHCR when required.

Examples of factors that may be considered include:

- Unit size;
- Number of bedrooms;
- Direct construction costs;
- Unit-specific improvements;
- Common-area costs;
- Building or site improvements; and
- Other factors that reasonably reflect the actual cost attributable to the assisted units.

### **Documentation of Allocation**

The Grantee or project owner shall maintain sufficient documentation to demonstrate how HTF costs were allocated.

The documentation may include:

- Approved development budgets;
- Unit mix schedules;
- Unit square footage;
- Construction cost breakdowns;
- Contractor documentation;
- Architect or engineer documentation;
- Cost allocation calculations;
- Sources and uses statements; and
- Other documentation requested by DEHCR.

DEHCR may require revision of an allocation methodology when the methodology does not reasonably demonstrate that HTF funds are being used only for eligible costs attributable to HTF-assisted units.

## **Prohibited Activities and Costs**

HTF funds may not be used for activities or costs that are not permitted under applicable HTF requirements.

Prohibited activities and costs include, but are not limited to:

- Acquisition or development of emergency shelters;
- Transitional housing;
- Group homes;
- Supportive services;
- General operational funding;
- Housing for students;
- Dormitories;
- Nursing homes;
- Public housing modernization or operations;
- Construction of commercial or other non-residential structures;
- Refinancing of existing debt that is not associated with eligible HTF-assisted development;
- Developer fees or other costs exceeding applicable federal or program limits;
- Furniture and equipment that are not eligible HTF development costs;
- Administrative overhead that is not directly attributable to eligible HTF costs;
- Construction costs incurred before HTF funds are committed to the project, except for costs specifically permitted under applicable HTF requirements and the HTF Agreement;
- Homebuyer activities, including homebuyer construction activities;
- Activities or costs prohibited under 24 CFR 93.204;
- Activities or costs not permitted under 24 CFR Part 93;
- Costs that cannot be adequately documented as eligible HTF costs; and
- Costs that exceed the approved HTF budget without prior DEHCR approval.

Architectural and engineering costs incurred before HTF commitment may be permitted when specifically authorized through the HTF written agreement and otherwise consistent with applicable federal requirements.

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## **HTF Award and Disbursement Structure**

HTF awards administered by DEHCR are generally provided as **0 percent interest, non-amortizing loans**. Forgivable loans may be provided for non-profit entities or housing authorities.

HTF funds are disbursed on a reimbursement basis for eligible development costs incurred during the approved performance period.

No HTF funds will be released until all applicable contractual, environmental, underwriting, documentation, and other conditions required for disbursement have been satisfied.

DEHCR may withhold, reduce, or deny a requested disbursement when costs are determined to be ineligible, inadequately documented, outside the approved budget, or otherwise inconsistent with HTF requirements.

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## **Policy Authority**

This policy shall be administered in accordance with:

- 24 CFR Part 93;
- Applicable HUD HTF guidance and notices;
- Applicable federal requirements;
- Applicable Wisconsin requirements;
- The HTF Notice of Funding Opportunity;
- The executed HTF Agreement;
- The HTF Promissory Note and Mortgage;
- The Land Use Restriction Agreement; and
- Other applicable DEHCR policies and procedures.

Where federal requirements or the executed HTF Agreement are more restrictive than this policy, the more restrictive requirement shall apply.

DEHCR reserves the right to revise this policy as necessary to remain consistent with changes to federal law, HUD regulations, HUD guidance, state requirements, or program administration.