

**TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 75. NATIONAL HOUSING TRUST FUND PROGRAM**

SUBCHAPTER 1. GENERAL PROVISIONS

330:75-1-1. Purpose

The intent of the National Housing Trust Fund Program is to complement existing federal, State and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable Housing for Very Low-Income Families and Extremely Low-Income Families, including homeless families. As set forth in the Interim Rule, Very Low-Income Families may only be assisted if the total funding for the entire federal Program exceeds \$1 Billion. In all instances, at least seventy-five percent (75%) of the funding must assist Extremely Low-Income Families or families with incomes at or below the Poverty Line, whichever is greater. If less than \$1 Billion is available to fund the entire Program, one hundred percent (100%) of the funds must assist Extremely Low-Income Families or families with incomes at or below the Poverty Line, whichever is greater.

330:75-1-2. Authority

The National Housing Trust Fund Program was established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289). The Oklahoma Housing Finance Agency (OHFA) has been designated as the State's administrative agency for purposes of administering the State's National Housing Trust Fund Program.

330:75-1-3. Scope

During each Program Year, financial assistance will be made available to eligible Applicants for the purpose of implementing specific activities that further the stated purpose of the National Housing Trust Fund Program. Financial assistance will be made available in the form of grants or loans as set forth in the Allocation Plan and the Application Packet.

330:75-1-4. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional capitalized terms used in these Chapter 75 Rules may be defined in the Act. When a conflict exists between the following definitions and the Act, the Act shall control.

"**Act**" means Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289).

"**Allocation Plan**" means the State's annual Program

description for the Administration of National Housing Trust Fund Program Funds received by the State. The Allocation Plan is included in the Consolidated Plan and must be reviewed and approved by HUD.

"Applicant" means an eligible entity that has applied for or will apply for National Housing Trust Fund Program funding.

"Application" means an Application from an eligible entity for funding from the State's allocation of funds for the National Housing Trust Fund.

"Application Packet" means the required Program documents stating the National Housing Trust Fund Program objectives, the State-specific objectives for the National Housing Trust Fund, and method of distribution of National Housing Trust Fund Program Funds (including program income and recaptured funds), as well as the required forms for filing an Application for National Housing Trust Fund Program Funds.

"Consolidated Plan" means a plan prepared in accordance with the requirements of 24 CFR Part 91 which describes community needs, resources, priorities and proposed activities to be undertaken under certain HUD programs, including the National Housing Trust Fund Program.

"Extremely Low-Income Families" means low-income families whose annual incomes do not exceed thirty percent of the median family income for the area, as determined by HUD, with adjustments for family size.

"Housing" means manufactured housing and manufactured housing lots, permanent housing for disabled and homeless persons, single-room occupancy housing, and group homes. "Housing" does not include emergency shelters (including shelters for disaster victims) or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, halfway houses, housing for students, or dormitories (including farmworker dormitories).

"HUD" means the United States Department of Housing and Urban Development.

"Interim Rule" means the National Housing Trust Fund Program requirements as set forth in 24 CFR Part 93, Sections 93.1 et seq.

"National Housing Trust Fund Program" means the National Housing Trust Fund Program as established under Title 1 of the Housing and Economic Recovery Act of 2008, as set forth therein.

"National Housing Trust Fund Program Regulations" means the regulations pursuant to the Interim Rule at 24 CFR Part 93.

"OHFA" means the Oklahoma Housing Finance Agency. OHFA has been designated by the Governor to administer the State's National Housing Trust Fund Program on behalf of the State.

"Poverty Line" means the Poverty Line as defined in Section

673 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902).

"Program Funds" means all appropriations for the National Housing Trust Fund Program, plus all Program Income and other returned and recaptured funds.

"Program Income" means gross income received by OHFA or the Recipient that is directly generated by the use of Program Funds, as further defined in the Interim Rule.

"Program Year" means the period selected by OHFA in which it shall administer its formula allocation for the National Housing Trust Fund Program.

"Project" means a site or sites, together with any building or buildings that are to be assisted with National Housing Trust Fund Program Funds as a single undertaking.

"Recipient" means any eligible Applicant or entity receiving National Housing Trust Fund Program Funds through OHFA. The use of the term "Recipient" instead of "Awardee" as used in most of OHFA's funding programs, is to maintain consistency with the Program terminology as used by HUD in the Interim Rule.

"State" means the State of Oklahoma.

"Very low-income families" means families whose annual incomes are in excess of 30 percent but not greater than 50 percent of the median family income for the area, as determined by HUD, with adjustments for family size.

"Written Agreement" means the contract between OHFA and an Recipient of Program Funds, setting forth the terms and conditions that must be met by the Recipient to satisfactorily complete a NHTF Program Project and comply with the Interim Rule and these Chapter 75 Rules.

330:75-1-5. National standards incorporated by reference

(a) The national standards for development of the Program description are hereby incorporated by reference. The standards are set forth in the regulations promulgated thereunder by HUD to implement the Program, as amended, published at 24 CFR Part 93 Sections 93.1 et seq.

(b) Copies of these federal laws and regulations may be obtained from OHFA, during regular business hours Monday through Friday 8:00 a.m. to 4:45 p.m., excluding legal holidays.

330:75-1-6. Recipients' implementation manual

(a) Recipients must enter into a Written Agreement with OHFA containing all requirements of the Interim Rule. OHFA shall provide each Recipient a Program implementation manual.

(b) Requirements, procedures, and processes provided in the Program implementation manual and amendments to same shall apply

to all Program funded Projects.

330:75-1-7. Technical assistance

OHFA shall designate staff members who shall be available to provide general Program technical assistance regarding proposed Project concepts and Program implementation.

330:75-1-8. Process to establish funding priorities

The National Housing Trust Fund Program falls under the Community Planning and Development division of HUD, and must be included in the State's Consolidated Plan. Each Program year, OHFA will hold informal and formal public input sessions for the Program as part of the Consolidated Planning process. OHFA will take comments and suggestions from interested parties and consider possible changes to funding priorities for the Program. In addition, OHFA will consider data provided by HUD and obtained by other local and federal sources. Once the Consolidated Plan update has been submitted to HUD and has been approved, OHFA will draft an Application Packet for use by potential Applicants. OHFA will hold a public input session on the Application Packet and consider any public comments and suggestions. After a final version of the Application Packet has been drafted, it will be formally approved by OHFA's Board of Trustees before any Applications are accepted.

330:75-1-9. Compliance requirements

(a) The Applicant, the Development, the Owner(s), Development Team and the Affiliates of each, must comply with all applicable federal, State and local laws, rules, regulations and ordinances, including but not limited to, the Oklahoma Landlord Tenant Act, Titles VI and VII of the Civil Rights Act of 1964, as amended and Title VIII of the Civil Rights Act of 1968, as amended. Neither the Applicant, the Owners(s), the Development Team nor the Affiliates of each shall discriminate on the basis of race, creed, religion, national origin, ethnic background, age, sex, familial status, or disability in the lease, use or occupancy of the Development or in connection with the employment or application for employment of Persons for the operation and/or management of any Development. Owners(s) of a Development will be required to covenant and agree in the regulatory agreement to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended, for the time period promised in the Application.

(b) Any awards by OHFA are subject to compliance with all applicable federal and State laws and all rules and regulations promulgated thereunder and all local ordinances, rules and

regulations applicable to the Development, its financing, or any portion or aspect thereof.

(c) The Applicant and all members of the Development team and the Affiliates of each must be in compliance with, and good standing under, any OHFA program in which any may participate.

SUBCHAPTER 3. FUNDS

330:75-3-1. Funds distribution

(a) Program Funds allocated annually to the State by HUD shall be awarded to eligible Applicants through a formal Application process. Submission requirements for Project Applications will be developed periodically by OHFA in the Application Packet and described in Program Application materials.

(b) Program Funds will be awarded according to the Act, federal regulations and guidelines, the Consolidated Plan, the annual Allocation Plan, and the Application Packet.

(c) The Application Packet shall be made available to eligible Applicants and interested parties upon request. Requests for the Application Packet should be directed to OHFA. The Application Packet will be made available on OHFA's website, www.ohfa.org.

330:75-3-2. Funding activities

(a) The annual allocation of Program Funds made available to the State by HUD shall be divided into various eligible Program activities. The amount of the annual State allocation devoted to each eligible activity will be determined by OHFA and will be set out in the annual Allocation Plan and the Application Packet.

(b) OHFA will use Administrative funds as permitted by HUD, the Act, and the Interim Rule to support overall Program delivery and operation activities.

330:75-3-3. Geographic allocation of funds

OHFA will make awards of Program Funds throughout the State. Awards of Program Funds will be consistent with OHFA's mandate to affirmatively further fair housing choice, and any applicable Analysis of Impediments to Fair Housing Choice or Affirmatively Furthering Fair Housing Plan. An award of Program Funds for an Application proposing to newly construct rental housing will require a review of Site and Neighborhood Standards as required by HUD.

330:75-3-4. Award amounts

(a) Maximum award amounts for each eligible activity may be

established periodically in the Application Packet, to insure maximum utilization of the State's allocation of Program Funds.

(b) Award maximums applicable to Program activities shall apply to all Applications and awards made in that Program Year.

330:75-3-5. Partial funding

OHFA reserves the right within its discretionary authority to adjust Program Application award maximums based on the most efficient, equitable and practicable utilization of the State's allocated funds.

330:75-3-6. Reallocation of additional Program funds

(a) Annually, additional funds for Program Projects may become available as the result of:

- (1) Project cancellations;
- (2) Projects completed under original cost estimates;
- (3) Funds awarded but not utilized; or,
- (4) Other circumstances.

(b) As set forth in the Application Packet, OHFA shall reallocate these funds based on the amount of funds available and the reallocation plan described in the Application Packet.

(c) Any reallocation of Program Funds will follow all the provisions of the Interim Rule, these Chapter 75 Rules, and the Application Packet.

SUBCHAPTER 5. PROJECT APPLICATION AND SELECTION

330:75-5-1. Project applications

(a) Eligible Applicants seeking Program funding must submit a written Application in the form prescribed in Application Packet. All Applications will be required to contain sufficient information to permit OHFA to conduct a review and assessment, and selection as described in the Application Packet.

(b) The documentation as set forth in the Application Packet will be required of all Applicants, and will contain all necessary information to assist potential Applicants in the preparation of Applications.

330:75-5-2. Applicant selection

(a) For the purpose of selecting Program Applicants for funding award, OHFA shall periodically develop selection criteria, which conform to the Program objectives and method of distribution described in the annual Allocation Plan and the Application Packet. The selection criteria will be set forth in the Application Packet.

(b) Some of the selection criteria are mandated by HUD in the

Interim Rule.

SUBCHAPTER 7. PROGRAM ADMINISTRATION

330:75-7-1. Program income

OHFA and all recipients of Program Funds shall comply with all federal regulations regarding Program Income.

330:75-7-2. Program violations

Violations of Program policies include, but are not limited to, the following:

- (1) The filing of false information in an Application and/or Project report;
- (2) Failure of a Recipient to meet requirements of a federal statute, federal regulation, the Interim Rule, or these Title 330 Chapter 75 rules;
- (3) Deviation from the Written Agreement terms or failure to meet the Written Agreement terms;
- (4) Notice by HUD and/or OHFA that significant corrective actions are necessary to protect the integrity of the Project funds, and that these corrective actions are not or cannot be completed within a reasonable time, in the judgment of HUD and/or OHFA staff;
- (5) An administrative or judicial determination that the Recipient has committed fraud, waste, or mismanagement in any current or prior State or federally funded project.

330:75-7-3. Corrective and remedial actions

(a) Under any of the circumstances previously described as violations during the Application stage or Written Agreement execution, OHFA may take the following actions, or other actions it deems necessary:

- (1) Condition Written Agreements;
- (2) Withhold funds;
- (3) Reduce the total amount of the Program award;
- (4) Require the return of unexpended funds;
- (5) Cancel a Written Agreement and recover all funds expended in an ineligible manner prior to the date of notice of cancellation;
- (6) Deny future Program Applications and participation for a specified period of time as determined by OHFA.
- (7) Indefinitely suspend from Program participation.

(b) Additionally, OHFA reserves the right under circumstances of possible Program violations to request information regarding the following, or other information it deems necessary:

- (1) The administrative, planning, budgeting, management

and evaluation functions, actions being taken to correct or remove the cause of the Program violation(s);

(2) Any activities undertaken that were not in conformance with the approved Program or Application process or that are in non-compliance with applicable laws or regulations;

(3) The Recipient's capacity to carry out the approved or proposed Project in a timely manner; and,

(4) Progress schedules for completing approved or proposed activities.

330:75-7-4. Recipient responsibilities

A Recipient under the National Housing Trust Fund Program shall be responsible for:

(1) Taking all action necessary to enforce the terms of the Written Agreement against any private or public participant that fails to comply with applicable provisions of the Written Agreement or any subcontract or documents resulting from it, and to recover on behalf of OHFA, any liabilities that may arise as a result of a breach of the Written Agreement by any participant. Nothing in this subsection shall restrict OHFA's right to independently enforce the terms of any Written Agreement or any subcontracts or documents resulting from it, or to recover any sums that may become due as the result of a breach of such Written Agreement.

(2) Complying with all state and federal regulations, guidelines, circulars and notices as set forth in the Interim Rule, these National Housing Trust Fund Program Rules, the Written Agreement between the Recipient and OHFA and/or the Implementation Manual, or other guidance, circulars and notices that may be released by HUD and/or OHFA from time to time.

(3) Maintaining records and accounts, including, but not limited to, property, personnel, and financial records that properly document and account for all Project funds. OHFA may require specific types and forms of records. All such records and accounts shall be made available upon request by OHFA for the purpose of inspection and use in carrying out its responsibilities for administration of the funds.

(4) OHFA may require the Recipient to provide special narrative and financial reports related to the elements of a Written Agreement in the forms and at such times as may be necessary or required by OHFA.

(5) Retaining all books, documents, papers, records, and other materials involving all activities and transactions related to its Written Agreement for at least five years from the date of submission of the final expenditure report

or until any audit findings have been resolved, whichever is later. Recipient shall, as often as deemed necessary by OHFA, permit authorized representatives of OHFA, HUD, and the Comptroller General to have full access to and the right to fully examine all such materials.

(6) Promptly returning to OHFA, any funds received under its Written Agreement that have not been obligated as of the final date of the Written Agreement period. Funds shall be obligated only if goods and services have been received as of the final date of the Written Agreement period.

(7) Complying with OHFA's audit policy as applicable to the Recipient.

(8) Providing OHFA timely copies of reports on any audits that include funds received from OHFA.

(A) Audits shall be performed by a by a public accountant or public accounting firm, or a certified public accountant or certified public accounting firm.

(B) The audit shall be performed in accordance with Government Auditing Standards; Compliance Supplement for Single Audits or State and Local Governments; generally accepted auditing standards established by the American Institute of Certified Public Accountants; and OHFA.

(9) Complying with all applicable federal requirements.

330:75-7-5. OHFA's responsibilities

OHFA's responsibilities include, but are not necessarily limited to, the following duties:

(1) OHFA will verify that the Recipient is maintaining records for each qualified affordable housing unit in the Project.

(2) Verification of whether Recipient is in possession of valid Certificate(s) of Occupancy.

(3) Physical inspection of the Project pursuant to HUD's Uniform Physical Condition Standards as set forth in the Interim Rule. Owner must allow OHFA to perform inspections throughout the affordability period as stated in the Written Agreement.

(4) Verification of Recipient's use of the correct and most current income limits and rent limits as established by HUD.

(5) Verify that the Recipient has filed the necessary deed restriction, covenants running with the land, or other approved forms of protection of the affordability period.

- (6) OHFA will notify in writing the Recipient if staff discovers that the Activity does not comply with the NHTF Rules. In such event, a correction period to supply missing documentation or to correct noncompliance may be allowed.

330:75-7-6. Review and appeals process

(a) Applicants for Program Funds may review their Applications and OHFA's application review documents any time after OHFA Staff has publicly released its funding recommendations. Written notice must be given to OHFA, and OHFA will have at least three (3) working days to grant any such requests for review. Written notice may be in electronic form.

(b) OHFA's Board of Trustees makes the final decisions regarding awards of Program Funds. Therefore, appeals of the funding recommendations of OHFA Staff must be made at the Board of Trustees meeting at which the Applications are considered. Appeals cannot introduce new documentation that was not included with the original Application for Program Funds.

(c) The OHFA Board of Trustees will consider the Application, OHFA Staff's recommendations, the presentation of the Applicant, these NHTF Program Rules (OAC 330:75), the Consolidated Plan, the Allocation Plan, and the Application Packet. The procedures set forth in OAC 330:1 and Article II of the Oklahoma Administrative Procedures Act, 75 O.S., Sections 309, *et seq.* (the "OAPA") will be followed. The meeting will be considered an individual proceeding under the OAPA and the decision of the OHFA Board of Trustees will constitute a Final Order. No further appeals will be considered.

(d) The public may appear at any OHFA Board of Trustees meeting to speak on behalf of or in opposition to an award of Program Funds. Presentations by members of the public are subject to the limitations of time and scope imposed by the OHFA Board of Trustees pursuant to the procedures set forth in paragraph (c) above.