Homeless Headlines

A publication of the Illinois Association of Community Action Agencies, 3435 Liberty Drive, Springfield, Illinois 62704 - (217) 789-0125

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National Housing Trust Fund Proposed Regulations Published

Proposed regulations implementing the National Housing Trust Fund (NHTF) were published on October 29 in the Federal Register. The core of the proposed regulations would be inserted into existing HOME program regulations as a new subpart N to 24 CFR part 92. Find the October 29 proposed rule at: http://edocket.access.gpo.gov/2010/pdf/2010-27069.pdf. Comments are due December 28.

Focus on Extremely Low Income Renters

In general, the proposed regulations closely track the statute, declaring in the overview that the NHTF program will provide grants to states to increase and preserve the supply of housing, with primary attention to rental housing for extremely low (ELI) and very low (VLI) income households, including homeless families. Extremely low income households are those with incomes below 30 percent of area median; very low income households have incomes below 50 percent of area median. Not more than 10 percent of an annual grant can be used for homeownership activities.

The NHTF statute requires that not less than 75 percent of each grant to a state used for rental housing must benefit ELI households or households with income below the poverty line, whichever is greater. The proposed rule

adds this targeting requirement to homeownership activities. In addition, the proposed rule requires that for the first year, 100 percent of rental and homeowner funding must benefit these ELI or poverty income groups, and indicates that in subsequent years HUD will advise states whether the target amount must be greater than 75 percent.

Distribution of NHTF Resources

On December 4, 2009 HUD issued a proposed rule, which NLIHC endorsed, describing the factors to be used in the formula for distributing NHTF dollars. The current proposed rule intends to fold the proposed formula rule into subpart N. As provided in the statute, the October 29 proposed rule allows states to choose a state-designated entity, such as a housing finance agency or housing and community development entity, to receive and administer the program. Although not expressly indicated in the statute, the proposed regulation

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Inside Headlines

***Headlines/Hotline on the Internet** - The **Illinois Community Action Association** publishes both Homeless Headlines and Homeless Hotline on the Publications page of its web site at www.iacaanet.org. To receive both by email, send a blank email to: headlines-hotline-subscribe@yahoogroups.com. (Self service only.)*

Illinois Department of Human Services

NLIHC Updates Congressional District Housing Profiles

The National Low Income Housing Coalition (NLIHC) has updated its Congressional District Profiles to include the latest available housing data. These profiles contain useful information on the need for affordable housing resources in every congressional district and are designed to help housing advocates make this need clear to their elected officials. The Profiles data from NLIHC's Out of Reach 2010 report for areas that are located within or adjacent to each congressional district. They also include state level statistics from the 2008 American Community Survey (ACS) on the number and distribution of renter households who are spending more than half of their incomes on rent and utility costs, and the deficit of units affordable and available to extremely and very low income households.

NLIHC will update the Congressional District Profiles again after the forthcoming release of five-year ACS data, which will have more current congressional district data. NLIHC will also update the Profiles with the names of new members of Congress after the November elections.

The Illinois profile shows that 96 percent of very and extremely low income households are severely rent burdened.

Access the updated Congressional District Profiles at www. nlihc.org/ detail/ article.cfm?article_id=3810&id=61 For more information: Elina Bravve, NLIHC, (202) 662-1530 x244, elina@nlihc.org

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would give states the option of passing funds to local governments as subrecipients to in turn provide funds to recipients to carry out projects. The National Housing Trust Fund Campaign (the Campaign) had urged HUD to specifically list public housing agencies as potential state-designated agencies, but the proposed rule does not do so.

Allocation Plan

The NHTF statute requires states to prepare an Allocation Plan each year, showing how it will distribute the funds based on priority housing needs. The proposed regulations in subpart N indirectly reflect this obligation by requiring states to submit a Consolidated Plan (ConPlan) without specifically mentioning the Allocation Plan. However, the proposed rule also proposes amending the ConPlan regulations by adding NHTF-specific Allocation Plan requirements to the ConPlan's Annual Plan rule. If a subgrantee is to administer NHTF, then it too must have a HUD-approved ConPlan containing the NHTF Allocation Plan.

Allocation Plans must provide priority for funding applications based on six features listed in the statue such as geographic diversity. The Campaign had requested that HUD require states to allocate NHTF dollars based on the relative need in rural and urban areas, but this attention to rural needs is not directly included in the proposed rule. While the statute includes as a priority factor the extent to which rents are affordable, especially to ELI households, the proposed rule adds as a priority factor the extent to which a project has federal, state, or local project-based rental assistance. The duration of a unit's affordability is another priority factor in the proposed rule, as is the "merit" of the project, which the proposed rule elaborates by providing as an example of a

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The current issue of Homeless Headlines and back issues are available at www.iacaanet.org/ homelessheadlines/,

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Majority of Renters Live in Unaffordable Housing

Results of the 2009 American Community Survey (ACS) were released by the U. S. Census Bureau on September 28, providing information on the nation's population and its housing stock. Data show that more than half of U. S. renters lived in unaffordable housing in 2009, as rents continued to increase and median household incomes decreased from 2008. These trends have hit the lowest income renters the hardest. The data also indicate a rising demand for renting and away from homeownership, with the homeownership rate decreasing for the fourth year in a row. (See www.census.gov/prod/2010pubs/acsbr09-7.pdf)

The total number of renters experiencing a housing cost burden, defined as spending more than 30 percent of their income on rent and utilities, increased to 18.5 million from 17.4 million in 2008. This translates to more than half, 51.6 percent, of all renter households facing a housing cost burden, up from 50.0 percent in 2008. The rise in cost-burdened renter households is a result of a rise in rents coupled with a drop in incomes: Median rents rose from $818 in 2008 to $842 in 2009, while median renter incomes decreased from $31,891 to $30,576.

All income groups except those earning $100,000 or more saw an increase in housing cost burden since 2008. Housing cost burdens continued to disproportionately impact low income renters, however, with 88 percent of those earning $20,000 or less and 53 percent of those earning $20,000 to $49,999 facing such a burden. A continued loss of affordable housing units contributes to this increase in

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Making the Connection

Work Incentive, Planning, and Assistance (WIPA)

By ***Kathryn Nelson***

The authors of this column welcome your comments and questions. See contact information at the end of the article.

We all have heard the phrase "the best anti-poverty program is a job". Often for persons with disabilities, however, a job can seem out of reach, especially once they have successfully navigated the Social Security Disability application process. There is no way they want to jeopardize these benefits, especially after years of waiting for them to start. Social Security however, is committed to assisting persons with disabilities to return to the work force. To achieve this goal Social Security has established Work Incentive Planning and Assistance Projects (WIPA). WIPA projects are initiatives that are meant to educate and assist individuals with disabilities receiving SSI/SSDI, to anticipate and plan for changes in benefits as a result of employment. There are WIPA program staff persons known as Community Work Incentive Coordinators (CWICs) who can provide details about how earnings will affect SSA benefits or health care and housing assistance. They will be able to provide information about some of the types of incentives available, based on the type of benefit received. For example, if you receive SSDI you may be eligible for:

- ⌘ A trial work period of up to 9 months before your earnings affect your benefits,
- ⌘ Retaining Medicare coverage for 93 months after the nine month trial work period,
- ⌘ An Extended Period of Eligibility where you are able to receive a Social Security cash benefit if wages are reduced below the SGA (currently $1000 a month), and
- ⌘ A quick reinstatement of cash benefits if your employment ends within 5 years

In addition to helping develop a plan for employment, the Community Work Incentive Coordinator provides periodic follow-up services and will monitor work incentive supports including long-term supports; advocate for supports with other agencies and programs and will also assist to develop and update work incentives management plans

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Comments Sought on HUD Section 202, and 811 Reform Proposals

HUD recently released draft legislative language that would reform the Section 202 Supported Housing for the Elderly and Section 811 Supported Housing for Persons with Disabilities programs. HUD is accepting comments on these drafts until November 15.

The two proposals are the culmination of a reform process that started with HUD's decision to request significantly lower funding for the programs in the FY11 budget. HUD did not request FY11 funds for Section 202 or Section 811 new construction, arguing that program reforms should be implemented before new funds were requested.

HUD has proposed significant changes to the Section 202 and Section 811 programs, including:

- Shifting to provide only gap financing;
- Converting the programs' Project Rental Assistance Contracts (PRAC) to Section 8 project-based rental assistance;
- Changing development cost limits to that of the HOME program;
- Creating planning grants; and
- Allocating funds on a regional basis and according to actual need for housing for people who are elderly or have disabilities and have worst-case housing needs living in non-metropolitan areas.

HUD also proposes to provide additional points to applicants who will serve frail or near frail elderly. The National Low Income Housing Coalition is concerned that HUD's proposed language would not maintain a diversity of elders in Section 202 projects and would instead focus overly on elders that are nursing home eligible. HUD describes its proposal as one that will ensure Section 202 applicants have the organizational capacity to serve residents with needed services as they age in place, not as one that will concentrate frail seniors in ways that mirror nursing home settings. Attracting applicants that will serve frail or near frail elderly would ensure that medical services are available to all elders, should they need them in the future, HUD says. Without these medical services, elders may not be able to remain in Section 202 housing and could be prematurely institutionalized for lack of basic services that could be provided in a home- or community-based setting.

Comments on HUD's Section 202 and Section 811 proposals should be submitted to Benjamin Metcalf (benjamin.t.metcalf@hud.gov) by November 15.

For a summary and analysis of program changes and the draft legislative language of the Section 202 and Section 811 programs, visit: http://www.nlihc.org/doc/S.118-Section-202-bill.pdf and http://www.nlihc.org/doc/S.1481-Section811-bill.pdf

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meritorious feature: housing accessible to transit or employment centers or housing that includes green building and sustainable development elements.

Public Participation

The statute requires public participation in the development of the NHTF Allocation Plan. The proposed regulation provides no clear and direct reference to public participation. Perhaps HUD is counting on a very indirect approach in simply requiring, as a submission requirement, that states submit a ConPlan following the ConPlan rule, which does have public participation requirements. However, to demonstrate the importance of public participation in the creation of a NHTF Allocation Plan, the National Low Income Housing Coalition (NLIHC) will comment that the NHTF regulations should at least have one line making it clear that, in order to receive NHTF money, states and any subgrantees must develop their Allocation Plans using the ConPlan public participation rules.

The statute also requires states to follow the public participation requirements for the Public Housing Agency Plan as well as the Qualified Allocation Plan required to receive Low Income Housing Tax Credits. The proposed regulation does not address these statutory requirements.

Tenant Protections

According to the NHTF statute, activities must comply with laws relating to tenant protections and tenants' rights to participate in the decision making regarding their homes. The proposed rule fails to address tenants' rights to participate. The proposed rule does, however, provide for considerable other tenant protections such as prohibiting owners of NHTF-assisted projects from rejecting applicants who have a voucher or are using HOME tenant-based assistance.

Period of Affordability

While the statute does not prescribe how long NHTF-

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assisted units must remain affordable, the proposed regulation would require both rental and homeowner units to be affordable for at least 30 years, allowing states and any subgrantees to establish longer affordability periods. The Campaign strongly urged HUD to set a 50-year affordability period and to provide for preferences for projects with affordability periods greater than 50 years.

Rent Limits

The Campaign recommended to HUD that the regulations establish the Brooke rule so that households would not pay more than 30 percent of their income for rent and utilities. The proposed rule does not adopt the Brooke rule. Instead rent limits (including utilities) are to be fixed at 30 percent of 30 percent of the area median income, or 30 percent of the poverty level, whichever is greater. HUD acknowledges in the preamble to the proposed rule that some tenants will be rent-burdened, but that a fixed rent is necessary for underwriting purposes.

General Eligible Activities

The proposed regulation echoes the statute by providing a basic list of eligible activities such as the production, preservation, and rehabilitation of affordable rental homes and homes for first-time homebuyers through new construction, reconstruction, rehabilitation, or acquisition. NHTF-assisted homes must be permanent or transitional housing. NHTF assistance can be in the form of equity investments, loans, grants, and other forms.

NHTF money can be used to buy and/or rehabilitate manufactured homes, or to purchase the land on which a manufactured home sits.

NHTF-assisted units can be in a project that also contains non-NHTF-assisted units.

NHTF dollars may be used to purchase land to be used for NHTF-assisted units as part of a transit oriented development (TOD) if title to the property will be transferred to local government within six months and will then held by the local government; and if, within 36 months from the date of transfer of obtaining title to the land, the local government commits additional NHTF money to a specific housing new construction or rehabilitation project. If there is no commitment to a specific NHTF project within 36 months, the local government must repay the NHTF amount or the current value of the property, whichever is greater.

Use of NHTF money for acquiring vacant land or demolition is limited to specific housing projects for which construction can reasonably be expected to start within one year (or 42 months for transit oriented development).

Eligible Project Costs

Eligible project costs include; acquisition; relocation; development hard costs such as construction; soft costs associated with financing and/or development; and, refinancing existing debt on rental property if NHTF is also used to for rehabilitation. Operating costs are also eligible project costs.

Operating Costs

While the statute makes use of NHTF dollars for operating costs an eligible activity, HUD agrees with the Campaign by remarking in the preamble that the NHTF is primarily a production program meant to add units to the supply of affordable housing. To that end, HUD limits operating cost assistance to 20 percent of a state's annual grant. An operating cost assistance reserve can be created to cover up to a five-year period of inadequate rent income in order to ensure a project's financial feasibility. However, the proposed rule does not address three other the Campaign-recommended provisions: it does not limit operating cost assistance to ELI units; it does not require states to give priority to projects that obtain operating subsidies from sources other than the NHTF; and, it does not limit the use to providing project-based rental assistance for more than 12 months or to establish a capitalized project operating reserve.

As an eligible project cost, operating cost assistance may only be provided if project-based assistance is not available. States and subgrantees can provide operating cost assistance to a project for up to two years from the same fiscal year NHTF grant; but the operating cost assistance can be renewed during the entire affordability period. An operating cost assistance reserve can be created to cover up to a five-year period of inadequate rent income in order to ensure a project's financial feasibility.

Administration and Planning Costs

The statute limits the amount of NHTF that can be used for general administration and planning to 10 percent of a state's annual grant plus any program income. The proposed regulation adds that subgrantees may also use NHTF for administration and planning, but subgrantee use counts toward the state's 10 percent cap.

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Renters

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unaffordable housing cost burden among lower income renters. The proportion of rental units renting for less than $750 declined significantly (from 42.8 percent to 40.4 percent) over the past year, while the number of units offered for more than $1,000 increased significantly (from 33.2 percent to 35.4 percent).

The proportion of homeowner households with a mortgage who are housing cost burdened fell slightly from 2008 to 2009, from 37.8 percent to 37.7 percent. While this is likely due in part to falling interest rates and lower home prices for buyers, also contributing is the fact that three years into the housing bust the most financially distressed homeowners are more likely to have suffered a foreclosure or for other reasons no longer own their homes.

Further indication that the housing downturn has led to a decline in homeownership is reflected in ACS data that shows the homeownership rate declining to 65.9 percent in 2009, from 67.3 percent in 2006, while the percentage of families renting increased to 34.1 percent, from 32.7 percent in 2006. The proportion of households in America that are renting has increased every year since 2006.

Families also appear to be coping with declining incomes and rising rents by doubling up with extended family members or other roommates. While the average household size of owner-occupied units in the United States has not increased appreciably, among renters the average household size has increased significantly from 2.4 to 2.5 people per household. In general, the number of households with more than one person per room has increased to 3.2 percent, from 3.1 percent in 2008. In addition, the number and proportion of multigenerational households appears to have increased by more than 200,000, rising from 3.4 percent to 3.6 percent of all households in the last year.

The American Community Survey (ACS) is an annual survey of approximately 3 million households that provides recent information on the characteristics of Americans and their households, including on the cost of homes and the ability of Americans to afford them. Data are published in the fall and winter the year after they have been collected. The Census Bureau has introduced a series of briefs based on the 2009 ACS data that highlight certain economic characteristics of the country. These economic briefs cover topics such as poverty, income, and health insurance coverage, and can be found at: www.census.gov/acs/www/data_documentation/2009_release/

More information on the ACS is available at http://www.census.gov/acs/www/

Link to NLIHC's press release on the data at: www.nlihc.org/detail/article.cfm?article_id=7370&id=48

WIPA

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throughout employment.
To find a WIPA program near you can contact

- The City of Chicago, Mayors Office for People with Disabilities at (312) 746-5743,
- Equip for Equality (312) 341-0022,
- The Illinois Department of Human Services, Division of Rehabilitation Services (217) 557-7764,
- The Illinois Department of Human Services, Division of Mental Health (866) 390-6771 for the counties of—Adams, Alexander, Brown, Calhoun, Cass, Fulton, Greene, Grundy, Hancock, Henderson, Henry, Jersey, Johnson, Kankakee, Kendall, Knox, Macoupin, Madison, McDonough, Mason, Massac, Menard, Mercer, Monroe, Morgan, Moultrie, Pike, Pulaski, Randolph, Schuyler, Scott, St. Clair, Union, Warren, Will, and parts of southern and western Cook County, or
- Illinois Assistive Technology Program (618) 241-6882 for the counties of—Bond, Boone, Bureau, Carroll, Champaign, Christian, Clark, Clay, Clinton, Coles Crawford, Cumberland, DeWitt, De Kalb, Douglas, DuPage, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Gallatin, Hamilton, Harding, Iroquois, Jackson, Jasper, Jefferson, Jo Davies, Kane, La Salle, Lake, Lawrence, Lee, Livingston, Logan, Macon, Marion, Marshall, McHenry, McLean, Montgomery, Ogle, Peoria, Perry, Piatt, Pope, Putnam, Richland, Rock Island, Saline, Sangamon, Shelby, Stark, Stephenson, Tazewell, Vermillion, Wabash, Washington, Wayne, White, Whiteside, Williamson, Winnebago, Woodford, and parts of northern Cook County

So before any of your clients take a job, it's a good idea to talk to SSA or a WIPA agency before, so you'll know exactly what and when to report.
The DuPage Federation on Human Services Reform, a non-profit 501(c)(3) organization focused on advocacy and planning in DuPage County, Illinois and designer and trainer of Making the Connection: A Guide to Accessing Public Benefits. The DuPage Federation is affiliated with Northern Illinois University, Center for Governmental Studies. Questions can be directed to knelson@dupagefederation.org

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In addition to the costs of ensuring program compliance and preparing reports to HUD, other potential administration and planning costs include: activities to affirmatively further fair housing; information to residents and community organizations participating in the planning and implementation of NHTF-assisted projects; ConPlan preparation; and, compliance with other federal requirements such as those regarding lead-based paint and displacement.

Ineligible Activities

NHTF resources cannot be used for public housing; however, a project may contain both NHTF-assisted units and public housing units. Although not in the statute, the proposed rule prohibits the use of NHTF money for a project previously assisted with NHTF during the period of affordability - except for the first year after completion. Fees are not eligible uses, except states and subgrantees may charge owners of NHTF-assisted rental projects with annual fees to cover the cost of monitoring compliance with income and rent restrictions during the affordability period.

NHTF Must Be Committed Within Two Years

As required by the statute, the proposed regulation requires NHTF dollars to be committed within 24 months. Committed is defined as the state or subgrantee having a legally binding agreement with a recipient owner/developer for a project that can be reasonably begin rehabilitation or construction within 12 months; or if NHTF is used to acquire standard housing for rent or for homeownership, the property title will be transferred to a recipient or family within six months. Although not required by law, the proposed rule adds that NHTF money must be spent within five years.

Recordkeeping and Performance Reports

The proposed regulation presents a number of recordkeeping obligations. In general records must be kept for five years after project completion. Records pertaining to individual tenant income verifications, project rents, and project inspections must be kept for the most recent five-year period until five years after the affordability period ends. The public must have access to the records, subject to state and local privacy laws.

National Housing Trust Fund

HUD will provide states and subgrantees with formats for also submitting annual performance reports. While the proposed regulation notes that HUD will make performance reports publicly available, it does not require states and subgrantees to make performance reports directly available, for example by requiring them to be prominently posted on a state's or subgrantee's website.

NHTF in HOME Regulations

As reported above, HUD proposes to insert the core (non-ConPlan) provisions of the NHTF implementation regulations in the existing HOME program rule at subpart N. HUD's purpose, as stated in the preamble, is to "simplify and streamline program requirements" and to "provide a coordinated menu of production programs." This stated streamlining seems to be belied because there appears to be considerable repetition of several subsections, such as qualifications of affordable homeownership features pertaining to resale provisions.

More importantly the existing HOME regulation must be amended to more clearly and directly integrate the NHTF program as an equal component of this "menu". For example, the proposed rule does not intend to modify the title of 24 CFR part 92, which currently reads "Part 92 - HOME Investment Partnership Program."

The beginning of the existing HOME regulation, which the proposed rule would not modify, simply states "This part implements the HOME Investment Partnership Act (the HOME Investment Partnerships Program).,", and continues with a long paragraph describing only the HOME program; thereby obscuring the NHTF program at the start.

Another example of the potential for the NHTF program to be obscured is in the proposed rule itself which reads:

"Other subparts of part 92 are not applicable to the HTF program, except as expressly provided in subpart N. To the extent that the sections of other subparts of this part are made applicable, references to HOME shall mean HTF and references to participating jurisdictions shall mean grantees."

By eclipsing the NHTF program through subsuming it in references to HOME in other portions of part 92, those implementing the NHTF and advocates might lose or never gain awareness that the NHTF program is a separate and distinct program, rendering it vulnerable to diminished consideration in future years.

Find the October 29 proposed rule at: http://edocket.access.gpo.gov/2010/pdf/2010-27069.pdf

Comments are due December 28. NLIHC will provide more information and suggested comments to the proposed rule in the coming weeks.

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