

HTF eligible development costs of the assisted units may be charged to the HTF program. If the assisted and non-assisted units are not comparable, the actual costs may be determined based on a method of cost allocation. If the assisted and non-assisted units are comparable in terms of size, features, and number of bedrooms, the actual cost of the HTF-assisted units can be determined by prorating the total HTF-eligible development costs of the project so that the proportion of the total development costs charged to the HTF program does not exceed the proportion of the HTF-assisted units in the project.

(2) After project completion, the number of units designated as HTF-assisted may be reduced only in accordance with § 93.203, except that in a project consisting of all HTF-assisted units, one unit may be converted to an onsite manager's unit if the grantee determines the conversion is reasonable and that, based on one fewer HTF-assisted unit, the costs charged to the HTF program do not exceed the actual costs of the HTF-assisted units and do not exceed the subsidy limit established pursuant to § 93.300(a).

(d) *Terminated projects.* An HTF-assisted project that is terminated before completion, either voluntarily or otherwise, constitutes an ineligible activity and the grantee must repay any HTF funds invested in the project to its HTF account from which the funds were drawn (*i.e.*, local or Treasury account), in accordance with § 93.403(b). A project that does not meet the requirements for affordable housing must be terminated and the grantee must repay the HTF funds to the grantee's HTF account.

§ 93.201 Eligible project costs.

HTF funds may be used to pay the following 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 of the grantee in § 93.301;

(2) For rehabilitation, costs to meet the property standards for rehabilitation projects in § 93.301(b);

(3) For both new construction and rehabilitation projects, costs:

(i) To demolish existing structures;

(ii) To make utility connections including off-site connections from the property line to the adjacent street; and

(iii) 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.

(4) 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.

(5) 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) *Refinancing costs.* (1) The cost to refinance existing debt secured by rental housing units that are being rehabilitated with HTF funds, but only if the refinancing is necessary to reduce the overall housing costs and to make the housing more affordable and proportional to the number of HTF-assisted units in the rental project. The proportional rehabilitation cost must be greater than the proportional amount of debt that is refinanced.

(2) The grantee must establish refinancing guidelines and state them in its consolidated plan described in 24 CFR part 91. The guidelines shall describe the conditions under which the grantee will refinance existing debt. At minimum, the guidelines must demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing.

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(c) *Acquisition costs.* Costs of acquiring improved or unimproved real property, including acquisition by homebuyers.

(d) *Related soft costs.* Other reasonable and necessary costs incurred by the owner or grantee and associated with the financing, or development (or both) of new construction, rehabilitation or acquisition of housing assisted with HTF funds. These costs include, but are not limited to:

(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 HTF funds are committed to the project and the grantee expressly permits HTF 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 private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys' fees, private appraisal fees and fees for an independent cost estimate, and 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, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project 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 HTF funds placed in an operating deficit reserve that remain unexpended after the period of project rent-up may be retained for project reserves if permitted by the grantee.

(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 HTF-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 both new construction and rehabilitation, costs for the payment of impact fees that are charged for all projects within a jurisdiction.

(e) *Operating cost assistance and operating cost assistance reserves.* For HTF-assisted units for which project-based assistance is not available, when necessary and subject to the limitations in § 93.200(a), HTF funds may be used to pay for operating cost assistance and operating cost assistance reserves, as follows:

(1) 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 HTF-assisted unit. The eligible amount of HTF funds per unit for operating cost assistance is determined based on the deficit remaining after the monthly rent payment for the HTF-assisted unit is applied to the HTF-assisted unit's share of monthly operating costs. The maximum amount of the operating cost assistance to be provided to an HTF-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 HTF 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 HTF 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.

(2) An operating cost assistance reserve may be funded by the grantee for HTF-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 HTF 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 HTF-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 HTF-assisted unit are applied to the HTF-assisted unit's expected share of operating costs. The grantee may renew operating cost assistance reserves with future fiscal year HTF 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 HTF funds, the reserve may be funded for the period of affordability.

(f) *Relocation costs.* The cost of relocation payments and other relocation assistance to persons displaced by the project are eligible costs.

(1) 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.

(g) *Costs relating to payment of loans.* If the HTF 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 HTF assistance is part of the original financing for the project and

the project meets the requirements of this part.

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

§ 93.202 Eligible administrative and planning costs.

(a) *General.* A HTF grantee may expend, for payment of reasonable administrative and planning costs of the HTF, an amount of HTF funds that is not more than 10 percent of the sum of each fiscal year HTF grant and of program income deposited into its local account or received and reported by its subgrantees during the program year. A HTF grantee may expend the funds directly or may authorize its subgrantees, if any, to expend all or a portion of such funds, provided total expenditures for planning and administrative costs do not exceed the maximum allowable amount. Reasonable administrative and planning costs are those costs described in paragraphs (b) through (h) of this section:

(b) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not limited to, necessary expenditures for the following:

(1) Salaries, wages, and related costs of the grantee's staff. In charging costs to this category the grantee may either include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The grantee may use only one of these