Homeowner Assistance Fund

April 20, 2021

The American Rescue Plan (Public Law 117-2), which was signed into law on March 11, 2021, included $9.961 billion for a Homeowner Assistance Fund (HAF) to provide assistance to homeowners experiencing financial hardship related to the COVID-19 pandemic so they can avoid foreclosure and displacement. Modeled on the Hardest Hit Fund that was created during the foreclosure crisis, HAF will be administered by the Treasury Department. Using metrics included in the statute, Treasury will allocate funding to states, territories and tribes that submit timely requests for the funds. At the state level, the program will likely be administered by the state housing finance agency (HFA) or another agency designated by the state.

I. APRIL 25 DEADLINE FOR STATES TO REQUEST FUNDS

This is a drop-dead date that was mandated by statute. Governors must make the request, using this form provided by the Treasury Department. If a state does not notify Treasury by April 25 that it wishes to receive its HAF funds, those funds will be redistributed among the other states. **Advocates should contact their governors' offices to make sure they are aware of this deadline and get their request in on time.** You can also contact your state housing finance agency, since it is likely that they will be the state agency to administer the program. Ask the HFA to make sure the governor is aware of the deadline and planning to make a timely request to Treasury. You can find out here how much money has been allocated for your state.

II. PROGRAM DETAILS

Treasury has published **information about the HAF program here.** The statute included a very short lead time for Treasury to get funds flowing, so some program details have not yet been published. Below are highlights of what we know so far. [Note: references to "states" should be read to include territories and tribes.]

Allowable uses: HAF funds may be used in a variety of ways to prevent "homeowner mortgage delinquencies, homeowner mortgage defaults, homeowner mortgage foreclosures, homeowner loss of utilities or home energy services, and displacement of homeowners experiencing financial hardship." These can include assistance with mortgage payments, principal reduction, and interest rate buy-downs, among other uses. HAF funds are intended to supplement — not substitute for — loss mitigation available from mortgage servicers. They may be also used for a number of other non-mortgage related expenses that could threaten a homeowner's ability to remain in their home, including property taxes, utility bills, homeowner association dues, and homeowners insurance, among others.

Five percent of the funds each state receives can be used to pay for housing counseling (by HUD-approved agencies) or legal services to assist eligible homeowners avoid foreclosure or displacement, and **up to 15% may be used for planning, community engagement, needs assessment** and administrative expenses. *Many of these are activities in which fair housing organizations can play a very valuable role, and you may want to talk with your state HFA about how you can assist them in their efforts.*

Initial payment: States that submit their request by April 25 and enter into a financial assistance agreement with Treasury may receive 10% of their funds up front, before Treasury approves their plans. Up to half of the initial payment may be used for planning, community engagement, needs assessment and administrative expenses. Treasury encourages states to use these initial payments to establish pilot programs to serve targeted populations, with an emphasis on programs that can deliver assistance quickly to those groups, such as mortgage reinstatement programs.

Applicable civil rights statutes: The program documents state explicitly that this funding is subject to five civil rights statutes, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Sec. 504 of Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act.

State plans: Each state will be required to submit a plan to Treasury detailing the needs of homeowners within the state, the design of each program the state proposes to implement using HAF funds, performance goals, and information regarding the state's readiness to implement the programs. Treasury is encouraging states to post their plans for public comment and hold public hearings on them. It will also provide states with templates they may use to develop their plans. By June 30, 2021, each state must submit its plan, or a date by which its plan will be submitted, to Treasury. Treasury must approve each state's plan before the state can receive its HAF funds.

Community engagement: Treasury's guidance states that "HAF plans must describe the extent to which their information on homeowner needs reflects their engagement with organizations and individuals representing eligible homeowners, and how the HAF participant allowed for public participation in the development of the HAF plan, including any public hearings." States are encouraged to post their draft plans on a public website and hold one or more public hearings on the draft plan. *Fair housing groups may be especially well situated to help states reach and understand the needs of socially disadvantaged individuals (see definition below), who may not be a constituency typically targeted for other state programs.*

Targeting: At least 60% of the funds must be targeted to people at or below 100% of the area median income. or 100% of the national median income, whichever is greater. This is to ensure that distressed borrowers in rural or other low-income areas will be able to qualify for assistance. Up to 40% of the funds may be targeted to socially disadvantaged individuals, which Treasury has defined as follows:

> **Socially disadvantaged individuals** are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control. There is a rebuttable presumption that the following individuals are socially disadvantaged: Black Americans, Hispanic Americans, Native Americans, and Asian Americans and Pacific Islanders. In addition, an individual may be determined to be a socially disadvantaged individual in accordance with the procedures set forth at 13 CFR 124.103(c) or (d).

This definition is similar to that used in programs at the Small Business Administration, U.S. Department of Transportation and U.S. Department of Agriculture. However, this is the first (but hopefully not the last) time that this concept has been applied to a housing program. Socially disadvantaged individuals with incomes up to 150% of area median income may qualify for assistance under HAF.

Treasury encourages states to prioritize assistance to borrowers with loans backed by the Federal Housing Administration (FHA), the Veterans Administration (VA), the U.S. Department of Agriculture (USDA), mortgage revenue bonds, or other programs that target low- and moderate-income borrowers. The presumption is that a significant share of these borrowers are likely to be low- and moderate-income borrowers and borrowers of color. However, this set of priorities overlooks borrowers with loans held in bank portfolios and those with legacy subprime loans, which may also include significant numbers of borrowers of color. Similarly, homeowners who do not have a mortgage but nonetheless experienced financial hardship and may be at risk of displacement are not included in these priorities. Advocates may want to encourage their states to include these additional homeowners among their priorities for their HAF funds.

In its HAF plan, each state must "describe its targeting strategies according to disaggregated characteristics of the targeted population such as income ranges, racial and ethnic demographics, and/or geographic areas (including rural communities), as appropriate for the relevant jurisdiction. **Targeting methods may include marketing, community engagement strategies, partnerships with housing counseling agencies or legal aid organizations, or other educational services that are aligned with the HAF participant's program design, in a manner that is culturally and linguistically relevant to the targeted communities."** Again, fair housing groups may be well-situated to partner with states in implementing strategies to reach these target populations.

Reporting: States will be required to submit quarterly reports to Treasury detailing financial, targeting, and other data, as well as annual reports on program impacts. NFHA and other advocates are encouraging for detailed information available to the public about how funds are being used and who the program is reaching in each state.

This Summary will be updated as new information is released.
Updates will be posted on NFHA's COVID-19 webpage.