

# HOMEOWNER ASSISTANCE FUND GUIDANCE

## U.S. DEPARTMENT OF THE TREASURY

April 14, 2021

### INTRODUCTION

The Treasury Department is issuing this guidance regarding the Homeowner Assistance Fund (HAF), which was established under section 3206 of the American Rescue Plan Act of 2021 (the ARP). This guidance may be updated, revised, or modified at any time, and the Secretary of the Treasury may waive the terms of this guidance in her sole discretion to the extent permitted by law.

Under the HAF, Treasury will provide financial assistance in an aggregate amount of approximately \$9.9 billion. Treasury will separately publish information regarding the allocation of HAF funding for eligible entities.

### PURPOSE OF THE HAF

According to the ARP, the HAF was established to mitigate financial hardships associated with the coronavirus pandemic by providing funds to eligible entities for the purpose of preventing homeowner mortgage delinquencies, defaults, foreclosures, loss of utilities or home energy services, and displacements of homeowners experiencing financial hardship after January 21, 2020, through qualified expenses related to mortgages and housing.

### DEFINITIONS

Treasury will apply the following definitions for purposes of this guidance.

**100% of the area median income** for a household means two times the income limit for very-low income families, for the relevant household size, as published by the Department of Housing and Urban Development (HUD) in accordance with 42 U.S.C. 1437a(b)(2) for purposes of the HAF.

**100% of the median income for the United States** means the median income of the United States, as published by HUD for purposes of the HAF.

**150% of the area median income** for a household means three times the income limit for very-low income families, for the relevant household size, as published by HUD in accordance with 42 U.S.C. 1437a(b)(2) for purposes of the HAF.

**Dwelling** means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more individuals.

**Eligible entity** means (1) a State, (2) the Department of Hawaiian Home Lands, (3) each Indian tribe (or, if applicable, the tribally designated housing entity of an Indian tribe) that was eligible for a grant under Title I of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111 *et seq.*) for fiscal year 2020, and (4) any Indian tribe that opted out of receiving a grant allocation under the Native American Housing Block Grants program formula in fiscal year 2020.

**Financial hardship** means a material reduction in income or material increase in living expenses associated with the coronavirus pandemic that has created or increased a risk of mortgage delinquency, mortgage default, foreclosure, loss of utilities or home energy services, or displacement for a homeowner.

**HAF participant** means an eligible entity that receives funds from the HAF.

**Mortgage** means any credit transaction (1) that is secured by a mortgage, deed of trust, or other consensual security interest on a principal residence of a borrower that is (a) a one- to four-unit dwelling, or (b) a residential real property that includes a one- to four-unit dwelling; and (2) the unpaid principal balance of which was, at the time of origination, not more than the conforming loan limit. For purposes of this definition, the conforming loan limit means the applicable limitation governing the maximum original principal obligation of a mortgage secured by a single-family residence, a mortgage secured by a two-family residence, a mortgage secured by a three-family residence, or a mortgage secured by a four-family residence, as determined and adjusted annually under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

**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).

**State** means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

## **NOTICE OF REQUEST TO RECEIVE HAF PAYMENTS**

The ARP requires eligible entities to notify Treasury of their request to receive payment from the HAF. Treasury has published a notice of funds request form, available at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/homeowner-assistance-fund>, which must be completed, signed by an authorized official of the eligible entity, and returned to Treasury.

**If any State (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands) does not submit a notice of funds request by April 25, 2021, the State will not be eligible for a payment from the HAF, and Treasury will reallocate the funding that was previously allocated to that State among those States that did request funding by the statutory deadline.** This reallocation will occur no later than September 7, 2021 (180 days after the enactment of the ARP). The reallocation method will be published after it is determined whether any State has not requested funding from the HAF.

The deadline for an Indian tribe, tribal entity, or the Department of Hawaiian Home Lands to submit a notice of funds request is September 30, 2021.

## **FINANCIAL ASSISTANCE AGREEMENT**

Each eligible entity approved to receive payment from the HAF must enter into a financial assistance agreement with Treasury. A form of the financial assistance agreement is available at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/homeowner-assistance-fund>.

## **QUALIFIED EXPENSES**

HAF participants may use funding from the HAF only for the following types of qualified expenses that are for the purpose of preventing homeowner mortgage delinquencies, homeowner mortgage defaults, homeowner mortgage foreclosures, homeowner loss of utilities or home energy services, and displacements of homeowners experiencing financial hardship:

1. mortgage payment assistance;
2. financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default;
3. mortgage principal reduction, including with respect to a second mortgage provided by a nonprofit or government entity;
4. facilitating mortgage interest rate reductions;
5. payment assistance for:
  - a. homeowner's utilities, including electric, gas, home energy, and water;
  - b. homeowner's internet service, including broadband internet access service, as defined in 47 CFR 8.1(b) (or any successor regulation);<sup>1</sup>
  - c. homeowner's insurance, flood insurance, and mortgage insurance;
  - d. homeowner's association fees or liens, condominium association fees, or common charges; and
  - e. down payment assistance loans provided by nonprofit or government entities;

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<sup>1</sup> As of the date of this guidance, the definition of "broadband internet access service" in 47 CFR 8.1(b) is "a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the [Federal Communications] Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part."

6. payment assistance for delinquent property taxes to prevent homeowner tax foreclosures;
7. measures to prevent homeowner displacement, such as home repairs to maintain the habitability of a home or assistance to enable households to receive clear title to their properties;
8. counseling or educational efforts by housing counseling agencies approved by HUD, or legal services, targeted to households eligible to be served with funding from the HAF related to foreclosure prevention or displacement, in an aggregate amount up to 5% of the funding from the HAF received by the HAF participant;
9. reimbursement of funds expended by a state, local government, or entity described in clause (3) or (4) of the definition above of “eligible entity” during the period beginning on January 21, 2020, and ending on the date that the first funds are disbursed by the HAF participant under the HAF, for a qualified expense (other than any qualified expense paid directly or indirectly by another federal funding source, or any qualified expenses described in clauses (6), (7), (8), or (10) of this definition); and
10. planning, community engagement, needs assessment, and administrative expenses related to the HAF participant’s disbursement of HAF funds for qualified expenses, in an aggregate amount not to exceed 15% of the funding from the HAF received by the HAF participant.

Funding from the HAF may not be used for any use other than those provided for in this section. Treasury will make available a form for requesting reimbursements under clause (9) above.

## **ELIGIBLE HOMEOWNERS**

Homeowners are eligible to receive amounts allocated to a HAF participant under the HAF if they experienced a financial hardship after January 21, 2020 and have incomes equal to or less than 150% of the area median income. A HAF participant may provide HAF funds only to a homeowner with respect to qualified expenses related to the dwelling that is such homeowner’s primary residence.

HAF participants must require homeowners to attest that they experienced financial hardship after January 21, 2020. The attestation must describe the nature of the financial hardship (for example, job loss, reduction in income, or increased costs due to healthcare or the need to care for a family member).

*Income Determinations.* With respect to each household applying for assistance, HAF participants may use HUD’s definition of “annual income” in 24 CFR 5.609 or use adjusted gross income as defined for purposes of reporting on Internal Revenue Service (IRS) Form 1040 series for individual federal annual income tax purposes.

HAF participants must have a reasonable basis under the circumstances for determining income for purposes of the requirements described above under “Eligible Homeowners.” Two approaches for income verification are permissible: (1) the household may provide a written attestation as to household income together with supporting documentation such as paystubs, W-2s or other wage statements, IRS Form 1099s, tax filings, depository institution statements demonstrating regular income, or an attestation from an employer; or (2) the household may

provide a written attestation as to household income and the HAF participant may use a reasonable fact-specific proxy for household income, such as reliance on data regarding average incomes in the household's geographic area.

HAF participants may provide waivers or exceptions to this documentation requirement as reasonably necessary to accommodate extenuating circumstances, such as disabilities, practical challenges related to the pandemic, or a lack of technological access by homeowners; in these cases, the HAF participant is still responsible for making the required determination regarding household income and documenting that determination.

If a HAF participant chooses to require households to provide supporting documentation for purposes of income determination, Treasury encourages HAF participants to avoid establishing documentation requirements that are likely to be barriers to participation for eligible households, including those with irregular incomes such as from a small business.

## **TARGETING**

Not less than 60% of amounts made available to each HAF participant must be used for qualified expenses that assist homeowners having incomes equal to or less than 100% of the area median income or equal to or less than 100% of the median income for the United States, whichever is greater. Any amount not made available to homeowners that meet this income-targeting requirement must be prioritized for assistance to socially disadvantaged individuals, with funds remaining after such prioritization being made available for other eligible homeowners.

## **INITIAL PAYMENTS**

Treasury will make initial payments from the HAF available to eligible entities that are approved to participate in the HAF, in an amount equal to 10% of the total amount allocated to the eligible entity. In order to receive this initial payment, the eligible entity must (1) enter into the financial assistance agreement with Treasury described above, and (2) commit to use the funds only for qualified expenses other than clause (9) of the "Qualified Expenses" section above. Treasury will make payments to the eligible entity or agency of the eligible entity identified on the eligible entity's notice of funds request. No more than 50% of the initial payment may be used for planning, community engagement, needs assessment, and administrative expenses described in clause (10) of the "Qualified Expenses" section above. An eligible entity that elects not to receive this initial payment may receive its allocated funds after Treasury approves its HAF plan, as described below.

Treasury encourages HAF participants to use these initial payments to create or fund pilot programs to serve targeted populations, and to focus on programs that are most likely to deliver resources most quickly to targeted populations, such as mortgage reinstatement programs.

## **HAF PLAN**

To receive HAF funds beyond the initial 10% payment described above, an eligible entity must develop and submit a plan for its use of HAF funding. These HAF plans will describe in detail

the needs of homeowners within the relevant jurisdiction, the design of each program the eligible entity proposes to implement using HAF funds, performance goals, and information regarding the eligible entity's readiness to implement the programs. In developing HAF plans, Treasury expects that eligible entities will follow their state open meeting or "sunshine" laws (with associated public hearings conducted in a manner appropriate for local public health conditions), and Treasury encourages eligible entities to post draft HAF plans for public comment and hold public hearings. HAF participants will receive funds under the HAF only after Treasury approves a HAF plan. Treasury will provide eligible entities with a template for the HAF plan, which is expected to include the following elements.

By June 30, 2021, eligible entities must submit to Treasury a completed HAF plan or a date by which a HAF plan will be submitted. Treasury will promptly begin reviewing HAF plans that are submitted before June 30, 2021.

- **Homeowner Needs and Engagement:**

- *Data-Driven Assessment of Homeowner Needs:* HAF participants must provide information and data that they use to design their programs in a way that effectively targets eligible homeowners. HAF participants must include data about financial hardships of target homeowners and socially disadvantaged individuals, including data on mortgage delinquencies, defaults, foreclosures, post-foreclosure evictions, and the loss of utilities or home energy services, including trends over time disaggregated by demographic categories and geographic areas.
- *Evidence of Public Participation and Community Engagement:* 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.

- **Program Design:**

- *Program Descriptions:* HAF participants must describe each program for which they will use HAF funding. The description must describe the targeted population of homeowners and the financial challenges the program would address based on the data-driven assessment of homeowner needs (e.g., the immediate challenge of mortgage delinquency, or displacement prevention). Each program description must include a description of eligibility requirements; the intended impact on eligible homeowners; the application process; conditions or limitations, including the maximum dollar amount that the program will provide to each homeowner for each type of qualified expense; a description of the payment process; and other available sources of assistance for targeted homeowners. Treasury strongly encourages HAF participants to have one or more programs intended to reduce mortgage delinquency among targeted populations. Treasury encourages HAF participants to consider program designs that leverage utility assistance from other federal programs that have been created expressly for that purpose before using HAF funds for utility assistance.

- *Methods for Targeting HAF Funding:* The HAF plan must describe how the HAF participant will effectively target HAF resources to (1) homeowners having incomes equal to or less than 100 percent of the area median income or equal to or less than 100 percent of the median income for the United States, whichever is greater; and (2) socially disadvantaged individuals. The HAF participant 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.

Treasury encourages HAF participants to prioritize assistance to homeowners who have Federal Housing Administration (FHA), Department of Veterans Affairs (VA), or U.S. Department of Agriculture (USDA) mortgages and homeowners who have mortgages made with the proceeds of mortgage revenue bonds or other mortgage programs that target low- and moderate-income borrowers.

- *Best Practices and Coordination with Other HAF participants:* The HAF participant must describe the extent to which its program descriptions or models are based on best practices and/or the participant's effective implementation of a previous program, including those funded with the initial payment under HAF. The HAF participant should present any evidence that it coordinated with other HAF participants, or plans for such coordination, including with respect to engagement with mortgage servicers that operate in multiple states or with recipients of other large federal grants or financial assistance funds. Further, HAF participants should describe any relevant coordination with federal agencies including FHA, VA, and USDA, as well as with state or local agencies that hold mortgage portfolios that have covenants or targeting requirements that match the HAF participants' HAF targeting strategies and goals.

- **Performance Goals:**

- Each HAF participant must establish goals and benchmarks, by program and by targeted population, for assistance using HAF funds. The performance goals must identify how they address homeowner needs identified by the HAF participant in its plan. Performance goals must be disaggregated by key characteristics such as mortgage type, racial and ethnic demographics, and/or geographic areas (including rural communities), as appropriate for the jurisdiction. Each HAF participant must include a goal focused on reducing mortgage delinquency among targeted populations.

- **Readiness:**

- *Staffing and Systems:* The HAF participant must describe the staffing and systems in place or planned to ensure effective program delivery, compliance, and reporting, in a manner consistent with applicable program requirements and guidance using the programs described in the plan.
- *Contracts and Partnerships:* The HAF participant must describe the contractors, partners, and other organizations that are critical to the HAF participant’s program delivery, compliance, and reporting.
- *Existing and Pilot Programs:* The HAF participant must describe in detail how it used its initial 10% payment, if applicable (as described above under “Initial Payments”).

- **Budget:**

- The HAF participant must provide a budget, by program, using a template that Treasury will provide.

In lieu of the detailed HAF plans described above, Treasury will provide a streamlined template to be submitted by any HAF participant that is allocated less than \$5 million of HAF funds.

## **HAF PLAN ASSESSMENTS AND APPROVALS**

Treasury will assess HAF plans based on the following factors:

- **Alignment of Community Needs and Program Design:** The extent to which programs are responsive to community needs and based on a best practice model or evidence of the HAF participant’s effective implementation of a previous program or pilot program.
- **Alignment of Performance Goals with Data on Targeted Populations:** The extent to which the performance goals would address the needs of specific eligible populations within targeted communities, in a manner that is appropriate to the jurisdiction.
- **Methods of Targeting:** The extent to which the HAF participant describes targeting methods reasonably likely to result in HAF assistance being made available to eligible homeowners consistent with the targeting requirements described in the ARP and in applicable guidance issued by Treasury. Recognizing that homeowners earning up to 100% of the area median income are overrepresented in portfolios of government-backed and guaranteed mortgages compared to the market as a whole, Treasury will favorably consider the prioritization of assistance to homeowners who have FHA, VA, or USDA mortgages, and to homeowners who have mortgages made with the proceeds of mortgage revenue bonds or other mortgage programs that target low- and moderate-income borrowers, when assessing a HAF participant’s proposed methods of targeting HAF funds.



- **Readiness:** The extent to which the HAF participant demonstrates readiness to implement a program at scale, including having in place policies and procedures for the program and an appropriate mix of staffing, contractors, and partners. Implementation of a pilot program or pre-existing program that successfully targeted resources to the targeted populations will be a strong indication of readiness.
- **Alignment of Budget with Performance Goals:** The extent to which the funding budgeted by program reasonably supports the achievement of the performance goals.

Treasury may approve a HAF plan in whole or in part. If Treasury approves a HAF plan only in part, the HAF participant will be provided an opportunity to address the weaknesses identified by Treasury. Treasury may also return a HAF plan to the HAF participant with recommendations for improvement and resubmission to Treasury for reconsideration. In addition, to enable HAF participants to rapidly receive approval for certain HAF-funded programs that can be developed quickly, a HAF participant may elect to submit multiple HAF plans over time regarding different programs it proposes to implement. After Treasury approves a HAF plan in whole or in part, Treasury will inform the HAF participant of the schedule for disbursements to the participant for purposes of the approved portions of the plan.

In the event that the information required in the HAF plan is not available to a tribe, Treasury will accept alternative information regarding the relevant community. In addition, a HAF plan submitted by a tribe whose population consists largely or entirely of socially disadvantaged individuals may be tailored to reflect the limited effort necessary to target its programs for those individuals.

Treasury will establish a threshold amount below which a HAF participant will not require prior approval from Treasury to reallocate funding from an approved program to be used for a different purpose.

## **REPORTING AND MONITORING**

HAF participants will be required to submit quarterly reports to Treasury that include financial data, targeting data, and other information. Treasury will release additional guidance regarding HAF reporting. HAF participants will be subject to the reporting requirements under 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to the HAF.

HAF participants will also be required to submit an annual program report to Treasury regarding the impact of the HAF program.

## **SANCTIONS**

In the event of a HAF participant's noncompliance with applicable law or HAF program requirements or guidance, Treasury may impose additional conditions on the receipt of additional HAF funds by the HAF participant, terminate further payments from the HAF, seek the repayment of previous HAF payments, or take other available remedies.