NCSHA

National Council *of*
State Housing Agencies

April 14, 2022

Mr. Noel Poyo
Deputy Assistant Secretary for Community Economic Development
U.S. Department of the Treasury

Via email

Re: HAF Quarterly and Annual Guidance Comments

Dear Mr. Poyo:

On behalf of our state housing finance agency (HFA) members, the National Council of State Housing Agencies (NCSHA)[1] thanks you for the opportunity to comment on the Treasury Department's March 30 proposed Guidance outlining the compliance and reporting responsibilities for agencies administering the Homeowner Assistance Fund (HAF).

We commend Treasury for soliciting input from agencies administering HAF and other interested parties before finalizing such importance Guidance. We ask that you continue seek direct feedback from the HAF administrators when developing other HAF policies and guidance. Developing a strong and collaborative partnership between Treasury and the HAF administrators is critical to the program's success.

In general, the Guidance and reporting framework proposed by Treasury is straightforward and strikes a good balance between collecting valuable program information and not imposing an unreasonable burden on HAF administrators that would detract from their efforts to deliver assistance to homeowners. While there are some aspects we would like to see amended and clarified, which we discuss below, we urge Treasury to continue this general approach in the final Guidance and refrain from imposing any further requirements that could make the reporting more complex and cumbersome.

In addition, we ask Treasury to finalize the reporting Guidance, and subsequently open the reporting portal, as quickly as possible, so HAF administrators can understand their reporting obligations and make whatever adjustments are required to their systems and processes. It is also critical that Treasury keep the HAF program requirements as consistent as possible throughout

[1] NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

the life of the program so HAF administrators can be confident they are collecting the information they need and will not have to dedicate program funds and other resources to make additional system changes.

Finally, given that Treasury has yet to finalize the Guidance or open the reporting portal, and will not be able to do so until well into the first quarterly reporting period, we suggest Treasury extend the deadline by which HAF administrators must submit their first quarterly report, currently set at May 16, so that agencies will have 45 days after the reporting portal is open to submit their plans.

NCSHA's Work on HAF

NCSHA represents the HFAs of all 50 states, the District of Columbia, Puerto Rico, U.S. Virgin Islands, and New York City. HFAs have been selected to administer HAF in three-quarters of the states and territories administering the program (42 out of 56). In addition, several of the non-HFA agencies administering HAF are also NCSHA members because of their role in administering the Housing Credit and other federal housing programs.

Since HAF was authorized in March 2021, NCSHA has taken a number of steps designed to help all HAF administrators effectively and efficiently carry out their HAF programs. These include promoting collaboration and common procedures among HAF programs, sharing best practices and lessons learned from the Hardest Hit Fund Program (HHF), creating a library with program resources, developing program infrastructure such as the Common Data File and Servicer Collaboration Agreement, and facilitating discussion with key program partners, including servicers, housing counselors, and other federal agencies. NCSHA has included all state and territory-level HAF administrators in these activities, regardless of whether they are HFAs or NCSHA members.

It is these efforts, and conversations with HFAs and other HAF administrators, that inform our comments below. These comments focus on three topics: 1) Our general views on the compliance and reporting framework Guidance; 2) recommended changes; and 3) questions on the Guidance or areas where further clarification is needed.

Maintain Current Guidance and Reporting Framework

As mentioned above, NCSHA supports the general approach to compliance and reporting outlined in the Guidance. With a few minor exceptions, we believe the data Treasury proposes states submit on HAF program activities is reasonable and will help inform policymakers and the public about the important work the program is doing, while also not requiring costly and complex data collection and tabulation that would take time away from program operations.

NCSHA particularly appreciates that Treasury is proposing states tabulate demographic data on HAF applicants and beneficiaries (including race, income, and geography) at the cumulative level for all of an agency's HAF activities (what Treasury terms "the participant-level") but is not proposing similar requirements for each distinct HAF program an agency runs ("program-level") or the various types of assistance provided ("program design element-level"). This common sense proposal will ensure the most important data regarding households assisted through HAF will be collected without overly burdening HAF administrators.

We urge Treasury to stick with this approach when drafting its final Guidance and not require individual participant demographic data at the program or program design element-levels.

Suggested Adjustments to Strengthen Guidance

<u>Allow for Changes to HAF Performance Goals to Reflect Market Developments</u>

In their HAF program plans agreed to with Treasury, HAF program administrators set performance goals for their programs. The proposed Guidance requires HAF program administrators, in their annual reports, to provide an update on their progress toward meeting these goals. It also notes that HAF agencies will not be able to modify their performance goals or add any additional performance goals.

NCSHA recommends Treasury amend the Guidance to allow HAF administrators to change their performance goals, subject to Treasury review. One of the strengths of HAF is that it enables HAF administrators to design programs to meet the specific needs of homeowners in their states and to amend their programs to reflect market changes and lessons learned. Given this, it seems only sensible that states also be able to adjust their program goals to reflect these developments. Not allowing program goal changes could hurt the performance of the program by requiring HAF administrators to meet goals that are no longer well-suited to their states' markets.

<u>Clarify Use of HAF Funds for Manufactured Housing Lot Rents</u>

In November, Treasury updated its HAF program guidelines to add lot rent for manufactured homes to the list of expenses eligible for HAF assistance. However, the new proposed Guidance omits lot rent as an eligible expense.

NCSHA believes that this omission occurred in error. However, since lot rents are not listed in the new proposal, some HAF Administrators may feel they are unable to offer such assistance. Please clarify in the final Guidance that lot rents remain an eligible expense.

<u>Streamline Collection of Demographic Data</u>

Appendix 1 of the proposed Guidance lists the various racial, ethnic, and gender categories that HAF administrators should use when collecting and reporting information on

HAF applicants and beneficiaries. With regard to race, the Guidance requires states to report on applicants and beneficiaries of Asian descent in seven different subcategories (Chinese, Japanese, Korean, etc.) not commonly collected in government programs. The guidance also proposes several subcategories for those who identify as Native Hawaiian or Other Pacific Islander.

Many HAF administrators have already set up their application systems and have not included these specific subcategories. Some have noted that they have used in their HAF systems the same racial categories used for the Emergency Rental Assistance program (ERA), which many HAF administrators also run. Updating their systems to account for the new and different proposed subcategories could prove costly and possibly disruptive to the program, while offering little actionable information. Further, while states that do not collect information on these subcategories can report applicants of Asian descent as "Asian (Other)" or "Data Not Collected" in their quarterly reports, this presents a misleading picture of the HAF program and its beneficiaries, as well as not including the data the HFA administrators may capture and be ready to report.

NCSHA suggests Treasury remove these subcategories from the final Guidance and instead align the racial categories used for HAF reporting with those used for ERA.

Property Types

Appendix 2 requires states to collect for each HAF applicant the type of property that they are requesting assistance for. The categories include: Single Family Home Detached; Single Family Home Attached; Condominium; and Manufactured Housing.

For HAF purposes, there does not seem to be a meaningful distinction between traditional detached single-family homes and attached single-family homes, particularly considering that condominiums are accounted for in their own category. Further, many homeowners may not be aware of whether their home would be considered attached or detached. Consequently, we suggest Treasury replace these two categories with a single category for one-to-four unit single-family homes.

Amend Income Disclosure to Account for Use of Proxies

Item N of the quarterly reporting requirements requires HAF administrators to answer affirmatively or negatively whether, when determining applicants' eligibility for HAF, they have relied on the definitions of annual income allowed under the program.[2] If a HAF administrator answers in the negative they will be effectively answering that they are not in compliance and have to explain why.

[2] The allowable definitions are HUD's definition of "annual income" in 24 CFR 5.609 or adjusted gross income as defined for purposes of reporting on IRS Form 1040 series as mentioned in the HAF guidance.

This certification, as currently worded, does not take into account HAF administrators that, as part of their HAF plan agreed to with Treasury, also use proxies to determine whether an applicants' income qualifies for them for the program. For example, NCSHA knows that some states will approve applications because the applicant receives benefits through a federal means-tested program or based on other fact-specific proxies (such as homeowners that live in census tracts with certain federal distress and/or low-income designations) that Treasury has approved. Under the Guidance as currently written, these HAF administrators may feel compelled to answer in the negative.

NCSHA asks that Treasury amend this requirement to clarify that those HAF administrators who used proxies that were approved as part of their HAF plan may also certify that they met this requirement.

Add Fraud Option to Reasons for Denial of Application

The Guidance also requires HAF administrators to list in their quarterly reports the reasons for HAF assistance application denials. Possible reasons include income eligibility, lack of COVID-related financial hardship, property not the primary residence, principal balance exceeded conforming loan limit, application not completed within program timeframe, and other.

NCSHA recommends Treasury add an option for "Fraud or Potential Fraud." While we do not believe fraud is widespread, we have heard from several HAF administrators who have reviewed applications they have believed to cases of fraud or potential fraud. Including this as a separate category will allow Treasury to get a better sense of how large this issue is and allow HAF administrators to better explain why they denied certain applications.

Questions/Other Areas of Clarification

Monetary vs. Non-Monetary Assistance

The proposed Guidance would require HAF administrators in their quarterly reports to break down how many delinquencies were resolved through the HAF program through the provision of "monetary HAF assistance" (direct aid through a HAF program) or non-monetary HAF assistance, such as housing counseling and legal services that were funded by HAF.

Several states have expressed concerns that they do not have enough information about what is meant by "non-monetary HAF assistance" and how it can be tracked. We ask that Treasury include in its final Guidance further details about what types of assistance qualify as "non-monetary assistance" and what steps HAF administrators can take to track those outcomes.

We also ask Treasury to clarify how HAF administrators should categorize beneficiaries who received both monetary and non-monetary HAF assistance, such as a homeowner who first received housing counseling paid for with HAF dollars, and the counselor helped them successfully apply for monetary HAF assistance.

Funds Allocated to Those Below 60% of AMI

The proposed Guidance requires HAF administrators to certify in their quarterly reports that they have "allocated" at 60 percent of HAF assistance to homeowners with incomes less than the greater of 100 percent of Area Median Income or US Median Income, as required by statute.

For the purposes of this requirement, we urge Treasury to clarify whether "allocated" refers to HAF funds that have been "expended," as defined on page 2 of the Guidance, or "obligated," as defined on page 3.

Applicants/Beneficiaries of More than One Race

Please clarify how HAF administrators should collect and report data on applicants and beneficiaries who identify as more than one race.

Difference Between Submitted and Completed HAF Applications

Under the proposed Guidance, HAF administrators would be expected to differentiate between the total number of unique homeowners who submitted an application for HAF assistance and the total number who submitted a *completed* application for HAF assistance.

NCSHA has heard from several HAF administrators who will not allow homeowners to submit an application through their system until the application has been completed. Consequently, there will be no difference between these two data points. Please clarify that is acceptable for states to submit the same number for both categories.

Clarify Data Points on Multiple Time HAF Applicants and Beneficiaries

The proposed Guidance requires HAF administrators to submit in their quarterly reports both the "Number of unique Homeowners who applied for assistance that had previously received HAF assistance" and the "Number of unique Homeowners that received assistance on more than one application."

These two metrics seem very similar and further clarification is needed to determine what exactly is being captured within each metric and how they differ.

Definition of "HAF Funded Program"

On Page 14 of the proposed Guidance, Treasury states that HAF administrators must provide in their quarterly reports information on all "HAF funded programs" but does not provide a definition of this term. Please include a definition for this term in the final Guidance.

Thank you for taking the time to read and consider our recommendations. Feel free to reach out to me to discuss this further at any time.

Sincerely,

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives