HOMEOWNER ASSISTANCE FUND GUIDANCE

U.S. DEPARTMENT OF THE TREASURY

August 2, 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.[1]

Under the HAF, Treasury will provide financial assistance in an aggregate amount of approximately $9.9 billion. Treasury has separately published 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. When determining area median income with respect to tribal members, tribal governments and TDHEs may rely on the methodology authorized by HUD for the Indian Housing Block Grant Program as it pertains to households residing in an Indian area comprising multiple counties (*see* HUD Office of Native American Programs, Program Guidance No. 2021-01, June 22, 2021).

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.

[1] Guidance for HAF was initially released on April 14, 2021. This update provides additional guidance on the HAF plan process, updated definitions, additional guidance on qualified expenses, administrative revisions arising from tribal consultations, and other updates to program requirements.

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. When determining area median income with respect to tribal members, tribal governments and TDHEs may rely on the methodology authorized by HUD for the Indian Housing Block Grant Program as it pertains to households residing in an Indian area comprising multiple counties (*see* HUD Office of Native American Programs, Program Guidance No. 2021-01, June 22, 2021).

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)). A reverse mortgage, a loan secured by a manufactured home, or a contract for deed (also known as a land contract) may fall within this definition if it satisfies the criteria in this paragraph, in accordance with applicable state law.

Socially disadvantaged individuals are those whose ability to purchase or own a home has been impaired due to diminished access to credit on reasonable terms as compared to others in comparable economic circumstances, based on disparities in homeownership rates in the HAF participant's jurisdiction as documented by the U.S. Census. The impairment must stem from circumstances beyond their control. Indicators of impairment under this definition may include being a (1) member of a group that has been subjected to racial or ethnic prejudice or cultural bias within American society, (2) resident of a majority-minority Census tract; (3) individual with limited English proficiency; (4) resident of a U.S. territory, Indian reservation, or Hawaiian Home Land, or (5) individual who lives in a persistent-poverty county, meaning any county that has had 20% or more of its population living in poverty over the past 30 years as measured by the three most recent decennial censuses. In addition, an individual may be determined to be a socially disadvantaged individual in accordance with a process developed by a HAF participant for determining whether a homeowner is a socially disadvantaged individual in accordance with applicable law, which may reasonably rely on self-attestations.

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 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) did not submit a notice of funds request by April 25, 2021, the State would not have been eligible for a payment from the HAF, and Treasury would have been required to reallocate the funding that was previously allocated to that State among those States that did request funding by the statutory deadline. All States submitted a notice of funds request to Treasury by the deadline and, as such, no reallocations occurred.

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 (including firewood and home heating oil), water, and wastewater;
    b. homeowner's internet service, including broadband internet access service, as defined in 47 CFR 8.1(b) (or any successor regulation);[2]
    c. homeowner's insurance, flood insurance, and mortgage insurance;
    d. homeowner's association fees or liens, condominium association fees, or common charges, and similar costs payable under a unit occupancy agreement by a resident member/shareholder in a cooperative housing development; and
    e. down payment assistance loans provided by nonprofit or government entities;
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, including the reasonable addition of habitable space to alleviate overcrowding, 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 a tribal government, 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.

Arrearages of qualified expenses are eligible for purposes of HAF regardless of the date they were incurred, including if they arose before January 2020. Funding from the HAF may not be used for any use other than those provided for in this section. To the extent that HAF participants use HAF funds to supplement other loss-mitigation efforts, Treasury encourages participants to avoid using HAF funds in a manner that replaces other loss-mitigation resources

[2] 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."

that would otherwise be available. The HAF Plan (described below) will enable HAF participants to indicate whether they are requesting reimbursements under clause (9) above.

ELIGIBILE 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 (including a hardship that began before January 21, 2020, but continued after that date) and have incomes equal to or less than 150% of the area median income or 100% of the median income for the United States, whichever is greater. 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).

The HAF does not preclude tribes or TDHEs from providing assistance to members, or individuals otherwise eligible for HAF, who reside outside the tribal government's geographic jurisdiction. Tribal authorities should confirm that any such assistance can be provided consistently with the tribe's constitution and governing law.

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.

Treasury discourages HAF participants from imposing additional eligibility criteria such as foreclosure status, credit score, bankruptcy status, the existence of liens on the property, or previous cash-out refinances. HAF participants that wish to include additional eligibility criteria beyond those described in this guidance and other program documentation issued by Treasury must explain with specificity how those criteria would further the objectives of the HAF, including how they would help the program reach eligible homeowners.

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 made 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 was required to (1) enter into the financial assistance agreement with Treasury described above and (2) commit to use the funds only for qualified expenses (other than those under clause (9) of the "Qualified Expenses" section above). Treasury made these 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 was permitted to be used for planning, community engagement, needs assessment, and administrative expenses described in clause (10) of the "Qualified Expenses" section above. Any eligible entity that elected not to receive this initial payment would receive its allocated funds after Treasury approves its HAF plan, as described below.

Treasury encouraged 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 the remainder of its allocation, 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 their remaining funds under the HAF only after Treasury approves a HAF plan. Treasury has provided eligible entities with a template for the HAF plan, which includes the following elements.

HAF Plan Submission

Treasury will open a portal online for HAF participants to enter and submit their HAF plan. Treasury is extending the deadline for each State to submit a completed HAF plan or provide Treasury with an estimated date by which a HAF plan will be submitted to 14 days after the portal becomes accessible.

A HAF participant may elect to submit a single, comprehensive HAF plan that describes the intended uses for the participant's entire HAF allocation, or multiple, partial HAF plans that each describe only a portion of the intended uses for the participant's allocation. Submission of partial HAF plans may allow grantees to proceed more quickly to implement portions of their plan while conducting planning and community engagement for other aspects. Treasury will promptly begin reviewing HAF plans that are submitted before the deadline.

HAF Plan Components

The HAF plan template provided by Treasury includes sample language and term sheet templates that HAF participants may use to develop their plans. Treasury encourages HAF participants to use these examples and templates to promote consistency across programs, minimize operational complexity, and promote a common understanding of eligibility criteria. If deviating from these examples and templates, HAF participants should specifically explain how their approach would further the objectives of the HAF, including the targeting and prioritization requirements.

HAF plans will address the following issues.

- **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 participants should seek input from organizations and individuals representing eligible homeowners regarding the data-driven assessment of homeowner needs. 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 will allow 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. HAF participants must have one or more programs intended to reduce mortgage delinquency among targeted populations. Treasury encourages HAF participants to consider homeownership preservation programs for low-income households in areas where property taxes and utility costs are increasing, including for households that do not have mortgages. Treasury also 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.

  - *Equity and Accessibility*: HAF participants should design programs to be as accessible as possible to homeowners in different circumstances, including by offering multiple intake formats, engaging with nonprofit organizations to provide additional pathways into the program, and providing culturally and linguistically relevant outreach.

  - *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% of the area median income or equal to or less than 100% 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. In addition, homeowners with private mortgages may be at greater risk of foreclosure due to limited options for loss mitigation, so the HAF plan must describe how the HAF participant will determine and address these needs.

  - *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 describe its efforts to coordinate with other HAF participants, or plan for 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. Treasury encourages HAF participants to develop and participate in information-sharing with servicers through a Common Data File format. 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 qualified expense category, using a template that Treasury will provide.

In lieu of the detailed HAF plans described above, Treasury has provided a streamlined template to be submitted by any HAF participant that is allocated less than $5 million of HAF funds. Other HAF participants must submit a more detailed HAF plan as described above.

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.

A HAF participant must seek prior approval from Treasury to reallocate funding from a program as described in the approved HAF plan to be used for a different purpose if any of the following is true:

- the aggregate reallocations from any qualified expense category equals or exceeds 10% of the amount allocated to that qualified expense category in the HAF plan approved by Treasury;

- the HAF participant is proposing to allocate funding to a new qualified expense category or is creating a new program or terminating a previously approved program; or

- the reallocation redirects 1% or more of the participant's total HAF allocation from program costs to administrative costs.

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.