



Kentucky Housing Corporation Affordable Housing Trust Fund

(Not Blended with HOME Funds)

Single Family Policy Manual

Version: December 2017

The policies outlined in this manual apply to Affordable Housing Trust Fund (AHTF) units that are not blending HOME Investment Partnerships Program (HOME) funds in the unit. KHC refers to these units as Affordable Housing Trust Fund ONLY units. If your project is blending AHTF with HOME you are required to comply with the HOME Investment Partnerships Program Policy Manual located on the Housing Contract Administration (HCA) Help Desk at <https://kyhmis.zendesk.com/home>

KHC program policy manuals are subject to change without notice and are not inclusive of all resources needed to successfully administer an AHTF program. Separate policy manuals are available for other Housing Contract Administration programs.

The policies outlined in the manual are effective for projects funded after January 1, 2018. All previous awards of AHTF must follow policies in place at the time of award.

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Please submit a request to the Housing Contract Administration (HCA) Help Desk if you have questions or need additional assistance with materials within this manual.

<https://kyhmis.zendesk.com/home>

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The policies outlined in this manual apply to Affordable Housing Trust Fund (AHTF) projects that are not blending HOME Investment Partnerships Program (HOME) funds in the units. KHC refers to these units as Affordable Housing Trust Fund ONLY units. If your project is blending AHTF with HOME you are required to comply with the requirements outlined in the HOME Investment Partnerships Program Manual located on the Housing Contract Administration (HCA) Help Desk at <https://kyhmis.zendesk.com/home>

NOTE: This manual outlines the policies pertaining to AHTF ONLY funded units. It is the responsibility of the AHTF project applicants and grant recipients to read, understand, and comply with these requirements as well as the documents and notices listed below.

- KRS 198A 700 through 198A 730
- KHC's Design and Construction Requirements at <http://www.kyhousing.org/Development/Pages/Design-and-Construction.aspx>
- Building and residential codes adopted by the Commonwealth of Kentucky. Information for purchasing adopted codes and standards is available through the Kentucky Department of Housing, Buildings, and Construction web site at <http://dhbc.ky.gov/bce/bc/Pages/default.aspx>
- KHC's Consolidated and Annual Action Plans
- KHC's AHTF Application Guidelines
- KHC's AHTF Grant Agreement
- KHC's eGram Notices
- Any other relevant state and federal laws, policies, and regulations not otherwise listed above.

Public Information and Open Records Act Requests

Applicants are advised that materials contained in applications are subject to the requirements of the Kentucky open records laws at KRS 61.870-61.884 and the application materials may be viewed and copied by any member of the public. Applicants seeking to claim a statutory exemption to disclosure from open records requests, which may be made, must place all documents viewed as confidential in a sealed envelope marked "confidential". Applicants must be aware that if an open records request is made for any of the application materials, KHC will make an independent determination of confidentiality and may or may not agree with the applicant's determination regarding the confidentiality of the materials.

Program Purpose

The Affordable Housing Trust Fund was established by the Kentucky State Legislature (KRS 198A.700-730) to provide housing for very low-income Kentuckians. The fund was created in response to economic conditions, federal housing polices, and declining resources; which adversely affected the ability of very low-income persons to obtain safe, quality, and affordable housing. State leaders decided it was in the public's interest to establish the AHTF to assist very low-income persons (at or below 60 percent area median income) in meeting their basic housing needs.

There are four priorities for use of AHTF financing:

- New construction projects for families (as defined in 24 CFR 5.403) submitted by nonprofits or local governments.
- Projects using existing, privately-owned housing stock.
- Projects using existing, publicly-owned housing stock.
- Application from local governments for projects that demonstrate effective zoning, conversion, or demolition controls for single-room occupancy units.

As noted in KRS 198A.720 (6), a minimum of 40 percent of all funds received is to be used for rural areas of the Commonwealth. To be considered rural, properties must be in areas defined as rural by USDA Rural Development (RD). KHC reserves the right to make funding decisions to meet this requirement. Applicants can determine if the property is in a rural area by accessing the RD Property Eligibility Site <https://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do>, “Single Family” and then enter the property address. **A copy of the eligibility determination must be provided with the Project Set-Up.**

Items Not Required for AHTF ONLY Projects

The following items, while may be required for other KHC funded projects, are not applicable for AHTF ONLY projects:

- Submission to State Clearinghouse
- Homebuyer Counseling
- Match and/or Leverage Contribution

Eligible Applicants

Entities that can apply for AHTF are:

- Nonprofit organizations, including faith-based organizations;
- Local governments;
- Regional or statewide housing-assistance organizations;
- Public housing authorities.

Maximum Funding Requests

KHC limits the amount of funds an applicant may request.

KHC reserves the right to award lessor or greater amounts than requested. This determination may be based on such factors as the capacity of the applicant or administrator, a project’s readiness to proceed, the number of applications received, geographic distribution of funds, and any other factors that KHC deems appropriate and necessary.

Eligible Activities

Activities eligible for funding shall include:

- (a) Provision of matching funds for federal housing dollars requiring a local or state match including, but not limited to, the National Affordable Housing Act of 1990;
- (b) Acquisition of housing units for preservation or conversion as very low-income housing;
- (c) New construction or rehabilitation of very low-income housing units (including down payment, closing costs, and principle reduction);
- (d) Matching funds for technical assistance directly related to providing housing for persons pursuant to KRS 198A.700 to 198A.730; and
- (e) Administrative costs (up to 7.5% of total AHTF funded project costs) for housing assistance programs or organizations eligible for funding which include: a) Local governments; (b) Local government housing authorities; (c) Nonprofit organizations; (d) Regional or statewide housing assistance organizations, if the grants or loans will substantially increase the recipient's access to housing funds other than those available under KRS 189A.700 to 198A.730.

Ineligible Activities

KHC considers the following activities ineligible for AHTF units:

- Finished basements. Partial unfinished basements may be permitted on a case-by-case basis if the existing topography of the site would yield a sub-surface area large enough to be usable by the assisted household. This activity would require prior approval from KHC.
- Luxury items including but not limited to:
 - Swimming pools.
 - Garages, unless required by a neighborhood or subdivision covenant, or are an existing attached structure.
 - Fences (other than those required for security).
 - Television satellite dishes.
 - Upgrades to surfaces, furnishings, fixtures, appliances, etc. except as may be deemed appropriate and necessary to improve accessibility.
- Non-essential landscaping (unless installed as part of a green building design) and other yard or nonstructural improvements.
- Rehabilitation of accessory structures, unless specifically authorized by KHC for health and safety reasons.
- Additional rooms, except to comply with Kentucky Residential Code.
- Rehabilitation damaging to the historical character or value of a structure as determined by the State Historic Preservation Office of the Kentucky Historical Commission.
- Refinancing of existing debt.
- AHTF assistance of less than \$1,000.
- Down payment, closing costs and/or principal reduction **without** construction financing.
- Provide assistance (other than assistance to a homebuyer to acquire housing previously assisted with AHTF funds) to a project previously assisted with AHTF funds during the period of affordability established by the written agreement.
- Pay delinquent taxes, fees, or charges on properties.

Eligible Beneficiaries

Individuals and households that can be served with AHTF assistance include:

- Kentucky residents;
- Households whose income does not exceed 60 percent of area median income.

Homeowner & Homebuyer Protections

Each applicant must develop and utilize a standard program application form. Each household must complete the standard application form. If necessary, the agency will provide assistance in preparing the form, especially to the elderly, handicapped, non-English speaking persons, and persons who are unable to read or write. A *Uniform Residential Loan Application* is not considered a program application and cannot be used as such under this program.

All households deemed ineligible for assistance must be notified in writing of such determination and the reasons for such determination. The household should also be notified of other potential resources in rehabilitating or acquiring the property for which the household may be eligible and where to apply for such assistance.

Applicants should document their efforts to ensure clients are complying with the requirements of the mortgage, loan agreement, and promissory note. The AHTF program requires the assisted household occupy the assisted property as its principal residence during the applicable affordability period.. Applicants should also outline the steps their agency will take to ensure compliance with the requirements set forth in their application and funding agreement.

Closing documents must be prepared in compliance with all applicable federal and state lending protection requirements and given to each household assisted with amortized or forgivable loan funds.

A Right of Rescission statement must be given to all households assisted in home buyer or homeowner rehabilitation projects in which the household owns the lot. The Right of Rescission timeframe cannot extend past the start of construction activities.

Home Buyer Value Limits

For newly constructed housing, KHC has further restricted the value limits to \$150,000 for AHTF.

For existing housing, the value limit is the greater of one of the following:

- 95 percent of the median purchase price for the area based on Federal FHA single-family mortgage program data and other appropriate data that are available nationwide for sale of existing housing in standard condition,
- Or the minimum limit (or floor) based on 95 percent of the statewide, nonmetropolitan area median purchase price using this data. This limit encompasses the total purchase/rehabilitation price, regardless of source of financing.

The current limits are subject to change annually. Please check HUD's website at www.hudexchange.info/home for the most up-to-date information.

Note: the purchase/rehabilitation price is the contract purchase price and does not include settlement charges.

Cost effectiveness must be considered. KHC, at its discretion, may review work write-ups and cost estimates to ensure cost reasonableness and reserves the right to reduce funding on projects KHC deems not to be cost reasonable. KHC may also require additional supporting documentation for any activity that appears to have unusual or elevated costs.

Direct Subsidy

The total amount of AHTF funds that enables the home buyer to buy the dwelling unit is considered **direct subsidy**. This includes any AHTF assistance that reduces the purchase price from the fair market value to an affordable price but **excludes** development subsidy. All funds that are a direct subsidy to the home buyer must be secured as noted in the “Collateral” section below.

AHTF funds cannot be used solely for development subsidy without some level of direct subsidy to the home buyer. There must be a minimum of \$1,000 of AHTF funds used as **direct subsidy** to the end home buyer.

AHTF should be considered “gap financing”, and the actual amount of AHTF permanent investment must be based on the household’s need, after all other available sources of financing and subsidy have been maximized.

- Home Buyer Projects: the maximum amount of **direct subsidy** to be provided to the household is \$40,000 per unit.
- Homeowner Rehabilitation Projects: the maximum amount of **direct subsidy** to be provided to the household is \$60,000 per unit.

Development Subsidy

Development subsidy is only permitted for those entities that undertake development activities. In the event the total development costs exceed the appraised value, the house may not sell for more than the appraised value. The difference between the total development costs and the appraised value is **development subsidy**.

While AHTF funds may be used for development subsidy, development subsidy paid by the AHTF funds may not exceed a total of \$15,000 on any one unit.

However, if a unit has a HERS rating of 65 or below, the allowable AHTF development subsidy can be increased to \$20,000; for any unit with a HERS rating of 55 or below, the allowable AHTF development subsidy can be increased to \$25,000.

In the event the development subsidy exceeds \$15,000 for a unit that does not meet the HERS rating targets, the applicant may use funds from other sources along with AHTF funds to cover the development subsidy above the \$15,000 cap on AHTF funds.

AHTF funds **cannot be used solely for development subsidy** without some level of direct subsidy to the home buyer. There must be a minimum of \$1,000 of AHTF funds used as direct subsidy to the end beneficiary.

Note: For construction projects, KHC-administered funds, except for mortgage revenue bond financing, may not be used to take out another KHC-administered construction source.

Collateral

All AHTF funds invested, excluding administration funds, must be provided in the form of a forgivable loan. In some instances, AHTF must be secured by a mortgage in favor of the recipient with due-on-sale and refinance clauses to ensure repayment to KHC in the event of a transfer of ownership, or a no cash-out refinance any time during the affordability period, a promissory note, and deed restriction (based on the affordability period).

KRS requires the incorporation of deed restrictions to ensure the affordability period when AHTF funds are in a project. The deed restriction must be recorded in the office of the County Clerk of the county in which the property is located. The deed restriction must remain in place for the entire affordability period as outlined below.

AHTF ONLY units are also required to have promissory notes and mortgages executed for the investment costs and the duration of the affordability period as outlined below.

Affordability Period

Direct Subsidy Invested	Deed of Restriction Affordability Period	Note & Mortgage
\$1,000 - \$14,999 (HB or HR)	5 years	N/A
\$15,000 - \$40,000 (HB or HR)	10 years	10 years
\$40,001 - \$60,000 (HR)	15 years	15 years

Insurance

All AHTF units must be properly insured during the construction/rehab process. The mortgage must contain provisions that require AHTF-assisted property to remain insured throughout the affordability period. The homeowner must maintain all risk, fire, and extended coverage; in a form and with companies acceptable to applicant for each homeowner or home buyer activity in an amount not less than the AHTF investment in the property. The homeowner must maintain all risk, fire, and extended coverage; in a form and with companies acceptable to applicant, as beneficiary, and without right of cancellation or change except upon thirty (30) days' written notice to recipient. Homeowner will deliver proof of all insurance to recipient prior to the investment of AHTF in the property.

Exception: If less than \$15,000 of AHTF funds is provided in the unit, and the recipient determines that providing homeowner's insurance would cause an undue hardship to the homeowner, the insurance will not be required. In such situations, the recipient must maintain documentation of hardship in the project file. In addition, the indemnification clause of the funding agreement between KHC and recipient will ensure that the recipient would repay funds to KHC for the prorated outstanding balance of AHTF in the event of loss.

Cost Containment

KHC restricts the purchase price limits for new construction (i.e. home buyer units) to \$150,000 for all newly-constructed houses.

For existing housing (i.e. homeowner rehab units) AHTF follows the HOME Investment Partnerships Program (HOME) homeownership value limits as outlined below.

HOME program homeownership value limits for existing units is 95 percent of the median purchase price for the area based on Federal FHA single family mortgage program data for existing housing and other appropriate data that are available nationwide for sale of existing housing in standard condition. Nationwide, HUD has established a minimum limit, or floor, based on 95 percent of the state-wide nonmetropolitan area median purchase price using this data. HUD has used the greater of these two figures as their HOME homeownership value limits for existing housing in each area. These limits can be found at HUDexchange.info at this link - <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>

NOTE: The purchase/rehabilitation price is the contract purchase price and does not include settlement charges.

Cost effectiveness must be considered. KHC, at its discretion, may review work write-ups and cost estimated to ensure cost reasonableness and reserves the right to reduce funding on projects KHC deems not to be cost reasonable.

Construction Requirements

All construction must comply with all applicable KHC design and construction standards at <http://www.kyhousing.org/Development/Pages/Design-and-Construction.aspx> and building and residential codes adopted by the Commonwealth of Kentucky. Information for purchasing adopted codes and standards is available through the Kentucky Department of Housing, Buildings, and Construction web site at <http://dhbc.ky.gov/bce/bc/Pages/default.aspx>.

Activity Set-up Requirements

The applicant must submit a complete activity set-up packet for each unit to the KHC Housing Contract Administration (HCA) contract management team at contractmgt@kyhousing.org **at least three weeks prior to the start of construction.**

Note: Recipients may not begin construction on any unit until the project has been approved by HCA contract management staff as demonstrated by the receipt of an activity number. Any unit started (defined as any on-site construction activity) before approval by KHC may make the unit ineligible for KHC assistance and could affect future funding.

Construction Management

- Recipients must develop construction management procedures that outline contract provisions for the contractor and subcontractors, payment requests, forms to be completed, inspection procedures, and project completion procedures.
- Recipients must establish and maintain a current listing of qualified contractors based on experience (unless the applicant utilizes only in-house crews) who are interested in doing new construction and/or rehabilitation work. At a minimum, agencies should annually advertise a request for qualifications. Every effort must be made to ensure that the bidding is fair and open.
- Recipients must maintain documentation of the bid opening, bid award (unless the applicant utilizes only in-house crews), and pre-construction conference. Documentation must be maintained in the files, according to the requirements of 24 CFR Part 92.508.
- A full work write-up with line item cost estimates must be submitted to KHC prior to project set up. KHC will determine the feasibility and cost reasonableness of the project.
- All variances from KHC's design and construction standards must be submitted to KHC prior to project set-up. KHC will determine the feasibility of the variance and issue a written response to any variance request.
- For owner-occupied rehabilitation, there must be a written contract between the contractor and the owner/applicant. The contract should reference and include the work write-up, specifications, drawings, and appropriate code references.
- Contractors must submit a request for payment that is signed by the homeowner/buyer, along with lien waivers and affidavits to the applicant with each pay request. The applicant must inspect the property to determine that the work completed is valued at an amount equal to the progress payment requested. If the work completed is not in compliance, it is the responsibility of applicant agency staff to obtain appropriate corrective action from the contractor before requesting payment from KHC. The contractor must be notified at the time of the inspection of any necessary corrective action to enable the agency to make a progress payment. This notification must be included in the case file.
- Housing that is newly constructed with AHTF funds must be constructed as to mitigate the impact of potential disasters (e.g., earthquakes, floods, wildfires) in accordance with state and local laws.

Change Orders

Any changes in the approved plans and scope of work must be approved by a KHC construction specialist before the change of work scope occurs. Proposed changes should be submitted to KHC in the form of a detailed Change Order submitted on proper forms and executed by all parties. Change Orders must be approved by KHC prior to beginning the work and include the Change Order amount in the Draw Request.

Construction Contingency

KHC will allow recipients to incorporate up to 10 percent of the total development cost to be used as a construction contingency. However, if a construction contingency is added to the cost estimate, it should not be considered an automatic project cost. Construction contingency is designed to help applicants pay for unforeseen cost overages.

If KHC funds are budgeted for construction contingency, the applicant must seek approval from the HCA financial management team at hcafinance@kyhousing.org prior to accessing these funds. If the amount budgeted for construction contingency on a unit is insufficient to meet the cost overage, **the applicant must then use their developer fee to meet these costs before requesting additional funds from KHC.** For rehabilitation projects that are ineligible to receive a developer fee, if the amount budgeted for construction contingency on a unit is insufficient to meet the cost overage, the applicant must then use funds from other sources to meet these costs.

Inspections

Recipients of AHTF funds are required to have 100 percent of their units inspected by qualified staff or a third-party inspector. All units are to be inspected for code compliance as well as reviewed to meet all KHC design requirements. Inspection reports for all project units must be kept on file by the recipient. Recipients shall provide to KHC representatives the final inspection report with the close-out documentation.

Additionally, KHC intends to inspect at least 20 percent of the total units in the project. However, KHC reserves the right to inspect more or fewer units.

The HCA contract management staff will determine whether the unit is subject to inspection by KHC. KHC will contact the applicant to give notification of upcoming projects requiring inspections. KHC may require more units to be inspected as a quality control measure with or without prior notification.

New construction units selected by KHC for inspection will be inspected a minimum of three times each. For new construction, these inspections will be at the following stages:

- Footing (after excavation of footings and before footing concrete is poured)
- Interim (any time between completion of wall insulation and hanging of drywall)
- Completion (100% complete including landscaping and site work and before move-in)

Rehabilitation units selected for inspection will be inspected a minimum of one time each. Rehabilitation project units will, based on the work scope of the project, be inspected at the following stages as applicable: (Contact your KHC construction specialist for guidance)

- Under-roof/weatherization
- Interim (any time between completion of wall insulation and hanging of drywall)
- Completion (100% complete, including removal of waste materials)

Note: The inspection stages and percentage of work completed may not directly correspond to the percentage of KHC funds that may be requested.

Units selected for inspection must have a representative from the applicant agency attend each inspection.

KHC will charge a "re-inspection fee" of \$200 under the following circumstances:

- Units that a KHC inspector must perform more than one final inspection due to the project not being 100% complete.
- Failure by the agency to provide an agency representative on the project site during the inspection to provide access.

- Unsuccessful attempts due to the agency not coordinating the inspection with homeowners or other involved parties which renders the unit inaccessible for inspection.
- A hazard exists on the project site at the time of inspection which endangers the welfare of the inspector. Examples: insect infestation, poisonous snake infestation, uncontrolled animals, etc.

The fee must be paid to KHC prior to any additional funds being drawn from KHC. This fee cannot be paid using HOME and/or AHTF funds. A re-inspection fee will not be charged for follow-up inspections to verify correction of deficiencies observed during any inspection.

Draw Requests

KHC will allow a maximum of three draw requests per unit for home buyer and homeowner rehabilitation projects. In extenuating circumstances, KHC may allow additional draws. For units inspected by KHC, each draw request must be approved by KHC's construction specialist. Draw amounts should be proportionate to the percentage of completion of the unit and represent only incurred costs that can be documented. KHC reserves the right to reduce any draw that is requesting excessive funds compared to the percentage of construction completed at the unit.

At completion of each unit, the agency may submit a final draw to KHC. No funds will be paid by KHC on a unit deemed non-compliant of any applicable code or KHC standard by KHC's construction specialist. The final draw request must also include required close-out documentation.

Other Requirements

Fair Housing

Recipients must comply with all Fair Housing requirements. To be eligible, agencies must be able to satisfactorily address the impediments to fair housing. Those are defined in Kentucky Housing Corporation's document entitled "Our Right to Choose Where We Live", which is available on KHC's website at www.kyhousing.org. Recipients shall not discriminate or deny assistance to any person because of race, religion, age, sex, sexual orientation, gender identity, national origin, familial status, marital status, disability, or actual or perceived sexual orientation or gender identity.

Conflicts of Interest

No employee, agent, consultant, officer, elected official, appointed official, or immediate family member of Recipient or of Homeowner who exercises or has exercised any function or responsibilities with respect to activities assisted with AHTF Funds, or who is in a position to participate in a decision-making process or to gain inside information with regard to these activities, may obtain a financial interest or benefit from an AHTF-assisted activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. Upon written request, KHC may grant an exception to these provisions when it determines that the exception will serve to further the purposes of AHTF and the effective and efficient administration of the Recipient's AHTF-funded activities.

Data Breach

In the event of a data breach, recipient will notify KHC in the most expedient manner possible, and without unreasonable delay, but in no event later than seventy-two (72) hours from the determination of a security breach relating to the data in recipient's possession. Recipient agrees to comply with all provisions of KRS 61.932, including that recipient shall implement, maintain, and update security and breach investigation procedures which are appropriate to the nature of the information disclosed, at least as stringent as the security and breach investigations procedures and practices in KRS 61.932(1), and reasonably designed to protect the data from unauthorized access, use, modification, disclosure, manipulation, or destruction. On the event of recipient committing an unauthorized disclosure of data listed in KRS 61.932(1)(a) through (f), recipient shall provide to KHC a copy of all reports and investigations relating to such investigations or notifications that are required by federal law or regulation.