

NEW YORK STATE HOUSING FINANCE AGENCY

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GUIDELINES
FOR THE
MANUFACTURED HOME COOPERATIVE FUND PROGRAM

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MANUFACTURED HOME COOPERATIVE FUND PROGRAM

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PART 1000 OVERVIEW AND APPLICABILITY

These guidelines are promulgated by the New York State Housing Finance Agency (the “Agency”) in order to implement Article XX of the Private Housing Finance Law which establishes the Manufactured Home Cooperative Fund Program loans for land acquisition by manufactured home park cooperatives and for improvements to the infrastructure of such manufactured home parks.

The Agency hereby incorporates the provisions of Article XX of the Private Housing Finance Law into these guidelines. A copy of Article XX is annexed hereto.

As used in these guidelines:

- (a) “Act” shall mean Article XX of the Private Housing Finance Law (Sections 1120 et seq.).
- (b) “Agency” shall mean the New York State Housing Finance Agency created by section 43 of the Private Housing Finance Law.
- (c) “Borrower” shall mean an eligible applicant which is the recipient of a loan under the Program.
- (d) “Cooperative project” or “project” shall mean any manufactured home park property which, subsequent to receiving assistance under the Act, will be owned as a cooperative by the owners of the manufactured homes situated therein.
- (e) “Eligible applicant” shall mean a manufactured home residents’ association representing a majority of the manufactured home residents, a manufactured home park cooperative, a municipality, a housing development fund company incorporated pursuant to article eleven of the Private Housing Finance Law, or any not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing.

- (f) “Infrastructure Improvement” shall mean the construction, reconstruction, improvement, reconditioning, and preservation, including the acquisition of real property and interests therein required or expected to be required in connection therewith, of roads, bridges, sewage and water collection and disposal systems, lighting districts, sidewalks, and other capital projects which will benefit the cooperative as a whole.
- (g) “Loan servicing institution” shall mean any bank or trust company or savings bank, or any corporation, association or other entity which is owned or controlled by any one or more such bank or trust company or savings bank, or any savings and loan association, credit union, federal national mortgage association approved mortgage banker, national banking association, federal savings and loan association, federal savings bank, public pension fund, pension fund with assets over fifty million dollars, insurance company, federal credit union or other financial institution or governmental agency of the United States which customarily makes, purchases, holds, insures or services residential mortgages.
- (h) “Loan agreement” shall mean an agreement between the Agency and a borrower which provides a loan for a project for the establishment of a manufactured home park cooperative, for improvements to the infrastructure of such manufactured home park, and, in certain cases for technical services and assistance in connection with such projects.
- (i) “Manufactured home” shall mean a structure, which is eight feet or more in width and 32 feet or more in length, transportable in one or more sections, built on a permanent chassis, and designed to be used as a dwelling with or without a

permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

- (j) “Manufactured home cooperative fund program” (the “Program”) shall mean the making of loans by the Agency to eligible applicants for the purposes pursuant to the Act.
- (k) “Manufactured home park” shall mean a contiguous parcel of privately owned land which is used for the accommodation of three or more manufactured homes occupied for year-round living.
- (l) “Manufactured home park cooperative” shall mean a corporation formed for the purpose of owning a manufactured home park wherein the ownership of such shares will entitle the owners thereof to occupancy in such park pursuant to section three hundred fifty-two-e of the general business law.
- (m) “Project cost” shall mean the costs related to the establishment of a manufactured home park cooperative, the development cost of a manufactured home park, costs of infrastructure improvements thereto, and, in certain cases, the costs of technical services and assistance in connection with the foregoing.

PART 1002 SUBMISSION OF APPLICATIONS

- (a) From time to time, and as funds become available, the Agency will issue a notice of fund availability. Application forms and instructions will be available upon request at the offices of the Agency.
- (b) Applications will be accepted thereafter for review and evaluation on an ongoing basis.
- (c) Applications shall be submitted in the form requested by the Agency and shall

contain such information as the Agency shall require to determine the eligibility of the applicant and the project and to evaluate the application in accordance with the evaluation factors set forth herein.

PART 1003 LOAN CRITERIA AND ELIGIBILITY OF APPLICANTS

- (a) Eligible applicants shall use Agency loan funds to establish manufactured home park cooperatives, acquire land and/or make infrastructure improvements thereto and, in certain cases, to obtain technical services and assistance to comply with the provisions and intent of the Act.
- (b) Prior to making a program loan, the Agency shall first determine that the eligible applicant cannot afford or obtain the financing necessary to accomplish the purposes of such loan through the ordinary unaided operation of private enterprise.
- (c) Prior to making a program loan, the Agency shall first receive from an eligible applicant plan which provides that subsequent to conversion to cooperative ownership, a majority of the manufactured home owners or one or more members of their immediate family intend to occupy the manufactured homes as their primary residence.
- (d) Accompanying its application for a program loan, the eligible applicant shall submit to the Agency the names, addresses and business backgrounds of the principals involved in the proposed project, the nature of their fiduciary relationship and their financial relationship, past, present and future, to the project and to each other.
- (e) The project shall not result in the temporary or permanent displacement of residents of the manufactured home park which is the subject of the applicant except pursuant to a plan approved by the Agency.

PART 1004 LOAN AGREEMENTS

- (a) Within the funds appropriated and available, the Agency will, on an ongoing basis, award loans to eligible applicants selected pursuant to the evaluation process described herein. After such selection, the Agency will notify the applicant that a loan has been authorized for the approved project.
- (b) Upon compliance with SEQRA and SHPA, and other conditions set by the Agency, the Agency will enter into a loan agreement with the selected eligible applicant to provide for the disbursement of funds, the payment of interest and the amortization of principal under the Program.
- (c) The loan agreement will by reference incorporate these guidelines and such other restrictions as the Agency may deem appropriate.
- (d) Payment of the interest on a loan shall commence on the date of the loan closing unless the Agency determines that such condition would adversely affect the project's financial feasibility. Amortization of principal on a loan shall commence at such time as the Agency determines is appropriate for each project.
- (e) Loans shall be at the prevailing interest rate in the area for long term residential mortgages or at such lower rate as the Agency determines to be necessary for the project to be financially feasible.
- (f) Loans shall not exceed ninety-five percent of the project costs including the costs of land acquisition and infrastructure improvements thereto, and excluding the value of any technical services and assistance contracted for or provided by the Agency.
- (g) The term of a loan for a cooperative project or infrastructure improvement shall not exceed ten years.

- (h) Loans shall be for the purposes set forth in the loan agreement between the borrower and the Agency including but not limited to participation in loans originated or financed by lending institutions, private or public employee pension funds or the State of New York Mortgage Agency.

PART 1005 FUNDING CRITERIA

In evaluating applications for loans pursuant to the Act the Agency will give preference based upon the following criteria:

- (a) the extent to which park residents are threatened with displacement by the projected sale or closing of the existing park;
- (b) the scarcity of affordable alternate sites in the immediate area for relocation of park residents;
- (c) the extent to which manufactured home parks, subsequent to receiving assistance under the Act will be owned as a cooperative by shareholders whose average incomes do not exceed:
 - (i) the greater of one hundred percent of the median income for the metropolitan statistical area in which a project is located or one hundred percent of the median income for the State, or
 - (ii) if the project is located outside such an area, the greater of one hundred percent of the median income for the county in which the project is located or one hundred percent of the median income for the State;

- (d) the extent to which the proposed resident ownership structure provides long-term security and tenure;
- (e) the extent to which the proposed project will be undertaken and completed in a timely fashion; and
- (f) the extent to which the homes in a park are occupied by the owners or members of their families.

PART 1006 SUPERVISION OR EVALUATION OF CONTRACTING APPLICANTS

a) Preliminary Funding Approval

As funds become available the Agency will periodically issue requests for proposals which set forth the requirements for submission of proposals. After responses to a request for proposals are received, the Agency will select the proposals which, within the available funds, best meet the selection criteria set forth in these guidelines and will announce the names and the amounts of the loans to be awarded to the selected eligible applicants.

(b) Loan Agreement

Thereafter, the Agency and the applicant will sign a loan agreement incorporating the guidelines contained herein and specifying the terms and conditions under which the loan will be provided. Among other matters, the loan agreement will provide for a reduction of the loan if project costs or expenses are reduced and conditions of financing are altered and will contain such other restrictions as the Agency may deem appropriate.

(c) Execution of Loan Agreement

Prior to execution of the loan agreement, the borrower must submit for approval

copies of any mortgages or other security instruments securing repayment of other public and/or private financing of the project and such other contracts as are necessary to implement the program. All such commitments and contracts shall be conditional only upon the award of a loan, except that conditions normally included in such commitments and contracts and which, in the sole opinion of the Agency, are acceptable, will be deemed to satisfy the requirements of this section.

(d) **Disbursement of Funds**

The method of disbursement of funds by the Agency, whether on an advance basis or a periodic schedule, will be determined as appropriate in accordance with the borrower's approved plan for making funds available for a project and will be incorporated in the loan agreement.

(e) **Fidelity Bonds**

If the Agency so requires, fidelity bonds covering the employees of the borrower who will handle the funds to be received pursuant to the loan agreement will be required.

PART 1007 CONFLICT OF INTEREST

(a) The officers, directors and employees of each borrower shall pursue a course of conduct which will not raise the appearance of any impropriety or conflict of interest with respect to any funds loaned by the Agency.

(b) No person who is a member of the governing body of a borrower or an eligible applicant, an officer, or an employee or the immediate family member of such a person, or any person or business entity having a direct or indirect financial relationship with such a person, will be eligible to participate or benefit financially from the eligible applicant's project(s) or program, except that, in the case of a

municipality, this provision applies only to employees or the immediate family members of employees of the departments or agencies directly involved in the municipality's project(s) or program.

- (c) No individual who is an elected official at the State or local level, a paid staff person to such an official, a leader or chairman of a political party at any jurisdictional level, or an immediate family member of any such person will be eligible to participate or benefit financially from the borrower(s) or program.
- (d) Upon a written showing of good cause by an eligible applicant or a borrower, the Agency may, in its discretion, grant a waiver of the prohibitions contained in subdivisions (b) and (c) of this section, provided that the prohibited participation or benefit is not otherwise illegal. In the event the Agency grants such a waiver the facts and circumstances surrounding such participation or benefit shall be fully disclosed in the eligible applicant's proposal or loan agreement and to such other persons or entities as the Agency may require.

PART 1008 REPORTING, BUDGETING AND RECORD KEEPING REQUIREMENTS

(a) **General**

Borrowers will submit annual financial reports within 90 days from the conclusion of their fiscal year and such other reports related to the Program as the Agency may reasonably require.

(b) **Progress Reports**

Commencing from the date of execution of the loan agreement up to and including the date of project close-out, the borrower must submit quarterly progress reports in such form as the Agency may require. Reports must include, but are not limited to,

information concerning each project's construction schedule, construction costs, and problems, if any, encountered in carrying out the project.

(c) **Litigation**

The borrower will promptly notify the Agency as to the existence of any litigation which may effect the project.

(d) **Project Close-Out**

Project close-out will occur when all project costs have been expended, when the last progress report has been submitted, and no later than six months after the date for completion of the project set forth in the loan agreement with the respective borrower, or at such other time as the Agency may establish. At such time, the borrower must submit, in accordance with the Agency's requirements, documentation of its loan disbursements and records, a certification of completion and final cost. Any cash advanced in excess of the final cost must be refunded to the Agency.

(e) **Loan Assistance**

The loan may be canceled in whole or in part for mutual convenience if both parties agree that the project's continuation is not feasible or would not produce beneficial results commensurate with the further expenditure of funds.

PART 1009 AUDIT AND MONITORING

(a) **Access to Reports**

The Agency will have access to all books, accounts, records, reports, files, and other papers or property of borrowers pertaining to funds provided through the program, for the purposes of making surveys, audits, examinations, excerpts and transcripts.

(b) **Independent Audits**

Within 120 days of the final payment under the program, the borrower shall, at its own expense, obtain, an independent audit of the expenditure of program funds and compliance with the loan agreement. The audit is to be conducted in accordance with the Agency guidelines which shall be provided to the borrower.

(c) **Additional Audits**

The Agency may undertake such further or additional audits as it finds necessary or appropriate.

PART 1010 MODIFICATION AND TERMINATION OF AGREEMENTS

(a) Sale of a manufactured home park cooperative by a borrower will be contingent upon repayment to the Agency of the outstanding balance of the loan unless a waiver has been issued due to the existence of hardship conditions. Loan agreements may be terminated or reduced, funds may be withheld and unspent funds may be recaptured by the Agency upon a finding of substantial nonperformance or breach by the borrower of its obligations under its agreement.

(b) The Agency and borrowers shall deposit any recaptured funds or funds from the repayment of loans and interest received on loans into the manufactured home cooperative fund provided for in section 59-h of the Private Housing Finance Law.

(c) **Corrective or Remedial Actions**

In formulating appropriate corrective or remedial actions for performance deficiencies, the Agency will take such actions as it deems appropriate to prevent a continuation of the deficiency or to mitigate, to the extent possible, its adverse effects or consequences, and to prevent its recurrence.

(d) **Curing Performance Deficiencies**

The Agency, if it deems it appropriate to cure performance deficiencies, may take, among others, the following actions:

- (1) Direct the borrower to submit progress schedules for completing approved activities;
- (2) Issue a letter of warning advising the borrower of the deficiency, establishing a date for corrective actions, and putting the borrower on notice that more serious actions will be taken if the deficiency is repeated or is not corrected within a prescribed time;
- (3) Inform the borrower that certifications of any information the Agency requires is no longer acceptable, and that additional information or assurances are required;
- (4) Direct the borrower to establish and follow a management plan that assigns responsibilities for carrying out remedial actions;
- (5) Direct the borrower to suspend, discontinue, or not incur costs for the affected activity;
- (6) Direct the borrower to reimburse the Agency's program account in any amounts improperly expended;
- (7) Change the method of payment from advance payment basis to a reimbursement basis; or
- (8) Direct the borrower to cancel the program before expending further funds.

(d) **Reduction or Termination of Loan**

When the Agency determines that a borrower has failed to meet one or more of the requirements of the loan agreement, the Agency may terminate or reduce the loan, including amounts already obligated, or take other appropriate action. For purposes of this section, "other appropriate action" means any remedial action legally

available, including without limitation, demanding in writing that the borrower reimburse (and the borrower will reimburse) the Agency in the amount of any ineligible costs, and bringing affirmative litigation, such as suits for declaratory judgement, specific performance, temporary or permanent injunctions and any other available remedies. In the event that the Agency makes such a determination, then the borrower will deliver to the Agency all original documents relevant to the program, including but not limited to, any construction agreements, loan documents and any other related documents that the Agency may require.