Ohio Development Services Agency
Community Services Division
Office of Community Development
77 South High Street, Columbus Ohio 43215 U.S.A.
Phone: (614) 466-2285
Fax: (614) 752-4575

Policy Notice: OCD 13-01

Replaces Policy Notice OHCP 09-03

SUBJECT:	Finance Mechanisms for Office of Community Development (OCD) Program-Funded Projects except for projects funded with program income or projects funded through the Ohio Housing Finance Agency (OHFA)
ISSUED:	January 22, 2013
DISTRIBUTED TO:	Office of Community Development Award Recipients and Their Affiliates

POLICY

This finance mechanism policy replaces Policy Notice OHCP 09-03, dated November 20, 2009, once finalized. This policy applies to all housing activities, listed below, completed with OCD program funds through the Residential Revitalization Section, Economic and Appalachian Development Section, and the Supportive Housing Section, beginning with the FY 2013 funded grants. This policy does not apply to projects funded with program income or projects funded through the Ohio Housing Finance Agency (OHFA). Finance mechanisms for activities funded with program income must be defined in the grantee's local Policies and Procedures Manual (PPM). OCD is replacing original Policy Notice OHCP 09-03 in an effort to provide clarity and update the requirements of finance mechanisms for OCD-funded housing projects. **This document is being distributed in draft form.**

Comments regarding this policy will be accepted until 5:00 p.m., **April 1, 2013**, by Ian Thomas, Planner, Office of Community Development, 77 S. High Street, P.O. Box 1001, Columbus, Ohio, 43216-1001, or by e-mail at **Ian.Thomas@development.ohio.gov**. If providing comments by e-mail, please reference the OCD Finance Mechanism Policy Notice OCD 13-01 in the subject line.

Questions regarding the Finance Mechanism policy should be directed to the OCD staff at (614) 466-2285.

General Requirements

For all applicable activity types mentioned below, with the exception of Habitat for Humanity (HFH) projects, grantees shall abide by the recapture affordability provisions as outlined in 24 CFR 92.252 and 92.254. All loans must be secured through the use of a mortgage lien recorded on the property for the length of the affordability period. The Owner Rehabilitation activity is subject to this requirement if not provided as a grant, despite the fact that an affordability period is not required.

The following is a summary of OCD's finance mechanism requirements for individual housing program activities:

Owner Rehabilitation

HUD does not require an affordability period when providing Owner Rehabilitation assistance. All program funds provided for Owner Rehabilitation assistance are subject to the following requirements.

- Assistance can be provided in the form of a grant.
- If not provided as a grant, assistance shall be provided as a 0 percent interest, deferred/declining loan, with a term not exceeding 5 years.
- The loan must decline in equal increments, on an annual basis, over the term of the loan.
- The loan can be 100 percent forgiven at the end of the loan term. Alternatively, a maximum of 25 percent of the original amount of assistance can be held as a lien that becomes due when the homeowner transfers ownership of the property and/or no longer occupies the home as the primary residence.
- No loans made with program funds can result in a monthly payment from the borrower during the loan term.

Homeownership, Acquisition/Rehabilitation/Resale (A/R/R) (non-HFH), and New Construction - Owner Occupied (non-HFH)

All loans from financial institutions (i.e. banks, credit unions, etc.) and grantees, if implementing a self-financing mechanism, to low- and moderate-income (LMI) households that are purchasing homes under the Homeownership, A/R/R, and New Construction activities shall meet the following requirements:

- The interest rate should be fixed. An Adjustable Rate Mortgage (ARM) is acceptable only if the maximum interest rate does not cause the principal, interest, taxes, and insurance (PITI) to exceed 30 percent of the household's gross monthly income, and certification of the maximum interest rate has been provided by the lender.
- There shall be no balloon payments.
- Principal, interest, taxes, and insurance (PITI), after program assistance, shall not exceed 30 percent of the household's total monthly gross income, as calculated for determining income eligibility.

The requirements below apply to the portion of the assistance provided as a direct subsidy to the buyer (the amount of assistance that enabled the buyer to purchase the unit, e.g., down payment assistance, closing costs, mortgage buy-down, etc.). For Homeownership projects, the direct subsidy and the rehabilitation assistance requirements are separated in this document. The portion of Homeownership assistance provided for rehabilitation of the purchased unit is subject to the finance mechanism requirements of the Owner Rehabilitation activity described earlier in this document. The appropriate requirements for each portion of the Homeownership activity must be reflected in the recorded mortgage lien.

- The affordability requirements of 24 CFR 92.254 must be met.
- Affordability subsidies shall be provided at a reasonable level, in accordance with OCD limits of assistance, the community's PPM, and OMB Circular A-87.
- Assistance shall be provided as a 0 percent interest, deferred/declining loan for the duration of the affordability period.
- The loan must decline in equal increments, on an annual basis over the term of the loan.

- The loan can be 100 percent forgiven at the end of the loan term. Alternatively, a maximum of 50 percent of the original amount of assistance can be held as a lien that becomes due when the homeowner transfers ownership of the property and/or no longer occupies the home as the primary residence.
- No loans made with program funds can result in a monthly payment from the borrower during the term of the loan.

Rental Rehabilitation and Rental New Construction

Program participants (landlord/owners) can be LMI or non-LMI. When a program rental rehabilitation subsidy is provided to an LMI landlord/owner or nonprofit agency, the following will apply:

- Grantees may choose to require match funds, not to exceed 50 percent of the project hard costs, from the landlord based on a percentage designated in the grantee’s local PPM.
- The affordability requirements of 24 CFR 92.252 must be met.
- Assistance will be provided as a 0 percent interest, deferred loan for the duration of the affordability period. For rental rehabilitation projects completed with HOME funds, the loan shall not decline during the affordability period. For projects completed with CDBG funds, the loan may decline during the affordability period.
- Regardless of whether funded with HOME or CDBG funds, the loan can be 100 percent forgiven at the end of the affordability period. Alternatively, a maximum of 25 percent of the original amount of assistance can be held as a lien that becomes due upon sale or transfer of the property.
- No loans made with program funds can result in a monthly payment from the borrower during the term of the loan.

When a program rental rehabilitation subsidy is provided to a non-LMI landlord/owner, the following will apply:

- Grantees should require match funds, not to exceed 50 percent of the project hard costs, from the landlord based on a percentage designated in the grantee’s local PPM.
- The affordability requirements of 24 CFR 92.252 must be met.
- Assistance will be provided as a 0 percent interest, deferred or direct loan for the duration of the affordability period. For rental rehabilitation projects completed with HOME funds, the loan shall not decline during the affordability period. For projects completed with CDBG funds, the loan may decline during the affordability period.
- Regardless of whether funded with HOME or CDBG funds, the loan can be 100 percent forgiven at the end of the affordability period. Alternatively, up to 50 percent of the original amount of assistance can be held as a lien that becomes due upon sale or transfer of the property.
- No loans made with program funds can result in a monthly payment from the borrower during the term of the loan.

Habitat for Humanity Assistance (Either as New Construction or Acquisition/Rehabilitation/ Resale)

- A program subsidy provided to Habitat for Humanity (HFH) affiliates for construction or rehabilitation of a home to be sold to a LMI household can be provided as a development subsidy or as an affordability subsidy to the HFH partner family. When providing program assistance to HFH projects, all grantees shall abide by the resale affordability provisions as outlined in 24 CFR 92.254. Principal, interest, taxes, and insurance (PITI), after program assistance, shall not exceed 30 percent of the household's total monthly gross income, as calculated for determining income eligibility.

Home Repair

Home Repair assistance shall either be provided to the homeowner in the form of a grant or as a 0 percent interest, 100 percent deferred/declining, forgivable loan with a term not to exceed two years. The loan must decline in equal increments, on an annual basis, over the term of the loan.

Tenant-Based Rental Assistance (TBRA)

TBRA assistance shall be provided to the tenant in the form of a grant.

Emergency Monthly Housing Payments (EMHP)

EMHP assistance shall be provided to the homeowner/tenant in the form of a grant.

Development Subsidy

The development subsidy is the difference between the appraised fair market value of the property and the costs of the project (where the costs of the project exceed the appraised fair market value). The project costs shall be estimated and detailed by the developer prior to the start of the project, scrutinized for reasonableness by the program administrator, and included in the agreement between the community and the developer. The total development subsidy cannot exceed 30 percent of the appraised fair market value (after construction/rehabilitation value). Keep in mind, there are total limits of assistance that shall be followed for each type of activity. This type of subsidy would typically apply to new housing construction and acquisition/rehabilitation/resale activities. Development subsidies shall not be charged to the homebuyer's mortgage lien.

Affordability Subsidy

The affordability subsidy is the difference between a loan value (consistent with what the homebuyer can afford in a mortgage payment) and the sales price (based upon the household's monthly housing costs). The total monthly housing costs (PITI) shall not exceed 30 percent of the household's total monthly gross income, as calculated for determining income eligibility. Affordability subsidies shall be provided at a reasonable level, in accordance with OCD limits of assistance, the community's PPM and OMB Circular A-87. Affordability subsidy differs from development subsidy in that the affordability subsidy is a direct assistance to the buyer. This type of subsidy would typically apply to homeownership, new housing construction, and acquisition/rehabilitation/resale activities. The method of determining the amount of direct assistance for the buyer must be documented in the file.

Down-Payment Assistance

An affordability subsidy may be provided in the form of down-payment assistance. The amount of down-payment assistance shall be based upon the amount of funds necessary to close the loan with the financial institution for the first mortgage, including closing costs. The prospective homebuyer shall be required to contribute at least $500 cash toward the loan closing or related costs (i.e., insurance, homebuyer counseling, etc.). The required cash contribution of the homebuyer may be waived if the homebuyer is providing sweat equity to the project. The method of determining the amount of down-payment assistance for the buyer must be documented in the file

Net Proceeds

In the event that a property transfers during an affordability period and the recapture requirements are imposed, net proceeds of the sale must be evaluated. The net proceeds are the sales price minus superior loan repayment and any closing costs. When the recapture requirement is triggered by a sale (voluntary or involuntary) of the housing unit, and there are no net proceeds or the net proceeds are insufficient to repay the program investment due, the community can only recapture the amount of the net proceeds, if any. The recorded mortgage lien to secure the program assistance must contain language that reflects the net proceeds requirements.

HOME Written Agreements

In addition to the mortgage and promissory note, HUD requires a separate written agreement for each HOME-funded loan for which a direct subsidy was utilized and an affordability period is required. This would apply to homeownership, new housing construction and acquisition/ rehabilitation/resale activities. The HOME written agreement must outline the terms for the HOME funds, including the details of the affordability requirements. For all other HOME-funded activities, a separate written agreement is not required. However, detailed terms of the loan must be included in the mortgage lien and/or promissory note. For each applicable activity type, all grantees shall abide by the HOME Written Agreement requirements outlined in 24 CFR 92.504.