

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Development Services Agency

Regulation/Package Title: Ohio Low- and Moderate Income Housing Trust Fund

Rule Number(s): Ohio Administrative Code 122:6-1-01 – 122:12-1-06

Date: 10-30-2015

**Rule Type:**

New

Amended

5-Year Review

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

The regulation provides definition, eligibility criteria, procedures, limitations, recipient reporting and monitoring requirements, and repayment requirements for the administration of the Ohio Low- and Moderate Income Housing Trust Fund (OHTF). The proposed regulations are a minor update to the existing rules to reflect the change of the name of the Ohio Department of Development to the Ohio Development Services Agency. Additional non-substantive revisions are proposed to clarify and update

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homelessness and supportive housing programmatic terms that have changed since the last rule review.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

ORC 174.03 (D)

3. Does the regulation implement a federal requirement? **No.** Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?  
*If yes, please briefly explain the source and substance of the federal requirement.* **No.**
4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement. **N/A**
5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)? **The regulation provides for the adoption of rules to administer the program called for in ORC 174.03(D).**
6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes? **N/A. The regulations are intended to regulate the administration of the OHTF, not provide regulations governing program implementation.**

### **Development of the Regulation**

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The rules were posted to the ODSA website from 8/12/14 to now for public comment. Additionally, grantees currently receiving Low- and Moderate Income Housing Trust Funds were notified 8/18/2014 of the posting, along with members of the Ohio Low- and Moderate Income Housing Trust Fund Advisory Council. ODSA is sending out a second notification to the same groups of stakeholders and posting the rules until 11/6/2015 for public comment. The rules will then be sent to CSI for review.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Feedback will be gathered following the public posting and ODSA will take into consideration any comments received.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

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n/a

- 10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternative regulation was considered as the proposed regulations are within the narrow scope of what is required by ORC 174.03(D).

- 11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

Performance based regulations were not considered as the purpose of the regulations are administrative in nature as opposed to program implementation.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

These are the sole regulations that meet the requirement set forth in ORC 174.03(D).

- 13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

As this is a regular rules review with only non-substantive changes, no additional implementation will be necessary.

### Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The impact will be minimal on agencies receiving OHTF funds and relate to periodic performance reporting to the administering agency and participation in a close-out monitoring with ODSA. Over the last two years ODSA funded approximately 245 different organizations.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Staff time in providing regular status reports and participating in close-out monitoring should be minimal.

c. Quantify the expected adverse impact from the regulation.

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

An organization participating in a OHTF funded program would be required to dedicate time measured in the tens of person hours to comply with the regulations.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? ODSA implements compliance processes and procedures that are consistent with the regulations to ensure that public dollars are spent appropriately and meet the statutory, regulatory and programmatic requirements of the OHTF and associated programs.

### Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. The regulations are consistent for all participating organizations.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

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**n/a – No administrative fines or civil penalties are utilized in ensuring compliance with this specific regulation.**

**18. What resources are available to assist small businesses with compliance of the regulation?**

**ODSA program representatives are actively engaged with recipients of OHTF funds to ensure necessary and appropriate technical assistance is provided.**