

2005 HOME APPLICATION SUMMARY OF COMMENTS AND QUESTIONS RECEIVED

Includes comments received regarding the Application Draft, questions from Application Training February 3, 2005, and other subsequent comments and questions.

Please read carefully the Final Version of the 2005 HOME Application Instructions for changes incorporated since the last Draft.

PROGRAM DESCRIPTION

Why are all “rural” references omitted?

OHFA Response

The questioner is referring to page 5 of the Application Packet. The last sentence of the second paragraph was deleted as being unnecessary. However, this meant that the first sentence of the next paragraph had to be deleted as well, since it referred directly to the last sentence of the second paragraph.

OHFA is in no way changing its service area. The “rural” references were one way to define OHFA’s service area. The HOME Application now defines other Participating Jurisdictions, and specifies that it does not accept applications from within those service areas.

Page 8, item #7 CHDO Operating. The wording implies a CHDO is not eligible for operating funds unless they already have a project or a commitment for funding from OHFA. Modify the wording to clearly indicate that a CHDO may apply for operating funds even though it does not currently have project funding and that receipt of operating funds carries with it an obligation to produce a CHDO eligible project within some specified period of time.

OHFA Response

The wording was taken directly from the HOME Final Rule. With guidance from HUD, OHFA has interpreted this wording to mean that if an applicant is not receiving set-aside funds at the time of application, said applicant must set forth in the application specific, detailed plans for a CHDO set-aside activity to be undertaken within 18 months. The applicant must successfully obtain a contract for funding for a set-aside activity within said 18-month period, or the operating assistance funds must be repaid.

The wording in regard to CHDO Operating has been changed. It now says that CHDO Operating will be capped at 50% of the CHDO's "activity budget." What is meant by "activity budget?" Does this mean that only expenses related to a CHDO set-aside activity will be eligible?

OHFA Response

This wording was OHFA's attempt to limit CHDO Operating to housing-related activities. Many CHDOs that apply for funds have very large budgets, but the entire budget does not relate to housing. The wording has been revised to read "Assistance for operating expenses in a CHDO's fiscal year may not exceed \$50,000, or 50 percent (50%) of the CHDO total annual operating budget, whichever is greater." However, OHFA reserves the right to limit any award of CHDO Operating Assistance based upon its review of the application.

Page 8, under list of prohibited activities, 5th question mark "Match for other programs." The HOME Program cannot declare itself as ineligible match under other programs. Only that "other program" can create such a prohibition.

Under prohibited activities, number 5, page 8 – Only other programs can list HOME dollars as ineligible match. That is not the responsibility of HOME to declare itself as ineligible match to other programs. This is an example of being more restrictive than the HOME regs and could cause an unnecessary impediment to affordable housing.

OHFA Response

This language has been in OHFA's HOME Application Packet for several years. We believe it was taken from the CFR Part 92.214, which states that HOME funds may not be used to "provide non-federal matching contributions required under any other federal program." From Building HOME (the HOME Primer) General Program Rules, Page 3-8, Prohibited Activities, "HOME Program funds may not be used as the 'nonfederal' match for other federal programs *except* to match McKinney Act funds."

OHFA Staff has modified the application language in order to align it with the language in Building HOME.

Page 8, 11th question mark "Project-based rental assistance" should not be prohibited.

OHFA Response

From Building HOME General Program Rules, Page 3-8, Prohibited Activities, "HOME funds may not be used for rental assistance if receipt of the funds is tied to occupancy in a particular project."

Section 92.214 does not specifically mention this prohibition. OHFA Staff believes that since the Act authorizes very specifically only tenant-based rental assistance, the intent of the authors was not to permit project-based rental assistance.

Page 7 last paragraph, “For Rental activities, grantees that propose to pass-through or transfer funds to another entity must pass-through or transfer the funds in the form of a loan...” What does “transfer” mean?

OHFA Response

If an entity other than the CHDO applicant uses HOME funds, the transfer of funds must be in the form of a loan and the applicant must collect a minimum interest payment of one percent (1%). The minimum 1% is required when the funds are loaned to another entity, even if the grantee is a part of the ownership of that entity.

Page 9, last paragraph. Wording “with compelling reasons” is not defined. What are the “compelling reasons” for which OHFA may elect to make future funding commitments? The list of “compelling reasons” needs to be published and made known publicly.

Bottom of page 9, last paragraph regarding HOME Program Funds Allocation, statement “may elect to make future funding commitments with compelling reasons.” Please give examples of some compelling reasons – you could make a statement, “this is not an all-inclusive list or not limited to.” When you are doing apps for a client, it is very time-consuming for the consultant and, thus, expensive for the client. If we had some examples of compelling reasons, we could tell our clients lets give it a go or let’s wait until the new app is out.

OHFA Response

OHFA Staff believes there could be numerous compelling reasons for making future funding commitments, many of which could not possibly be foreseen. We do not see any reason for limiting our ability to make future funding commitments. This language is also found in the Consolidated Plan and the 2005 Action Plan, except that it does not contain the limitation of “compelling reasons.”

Why, in many places in the application, has the word “project” been replaced with “development?”

OHFA Response

This was done in an effort to remove the term “project” from the application guidance due to the negative connotation associated with the term. However, the word “project” was actually more appropriate in some places, and therefore we have retained the original wording in those instances. We have attempted to check the context of each sentence and use the word “development” or “project” where appropriate.

Page 10, 1st paragraph, admin. is still too low. OHFA should consider that inadequate admin. forces Subrecipients and State Recipients to subsidize the delivery of OHFA's resources at the local level with their own funding. A quick scan of the statutes and regulations governing block grant assistance will reveal that Congress intends for federal programs to "carry their own weight". Although applicants may not indicate they are subsidizing admin. in their applications, they are doing so nonetheless.

Page 10, Administration Fees – 4% is too low for an applicant to adequately fund HOME projects. Many of the grantees have to subsidize the delivery of their HOME projects from other resources, which is not right. Those other resources should be going to other projects such as emergency funds for roofs, handicap ramps, etc. The HOME project delivery should be totally funded by HOME.

OHFA Response

OHFA continues to carefully monitor HOME Program administrative funds. We appreciate the comments received, and have considered the subject of administrative funds at length. We do not believe we are able to increase the share of administrative funds being provided to grantees at this time. In spite of comments that 4% is insufficient for administration, activities that are eligible for administrative funds continue to be oversubscribed.

OHFA Staff is very diligent in keeping track of time worked in the various programs we administer. HOME administration funds are used only for HOME Program administration. We are closely monitored by HUD in this regard. We have submitted our Cost Allocation Plan to HUD, and it has been pre-approved by the Department of Labor, the Department of Health and Human Services, and our independent auditor. It is currently under review by HUD.

OHFA is responsible for the long-term goals and objectives of the HOME program. In deciding the allocation of administration fees, OHFA must consider the need to adequately monitor and provide technical assistance to interested and potential partners. These requirements mean OHFA must ensure adequate administration dollars are available to deliver these services now and in the future. An increase in shared administration at this time might mean that we would be required to reduce shared administration funds below the current 4% level at some point in the future. OHFA continues to look for ways to decrease administration costs, and encourages its partners to suggest ideas that will result in cost savings.

Page 10, last paragraph. Funding a CHDO project irrespective of its application score in order to meet the 15% CHDO set-aside requirement, may result in funding unfeasible projects or projects that lack the essential ingredients for success. I suggest OHFA routinely review funding commitments against the 15% requirement and when it is apparent that there may be some

danger of not meeting the requirement, OHFA should conduct special CHDO project solicitation and outreach to generate applications.

OHFA Response

OHFA carefully reviews each application, and would not fund an unfeasible project regardless of the need to meet the 15% set-aside requirement. Nonetheless, the draft was revised by deleting the phrase, “regardless of submission date or score.” Applications must satisfy all threshold requirements and meet the minimum 80% scoring requirement in order to be funded. OHFA consistently maintains a CHDO funding level well above the minimum 15%.

202 funding - It sounds like you are still unsure what the demand for these funds will be and when the program will be ready to roll out. Please consider holding off on creating a set-aside until you have the program in place. By next year you will know what is needed and be ready to roll out the program and get it awarded quickly as opposed to simply setting money aside and then putting the program together.

Page 11, item #2. Why are more HUD funds being used to bail out default HUD funded projects discovered under the Contract Admin. Program? Why should HOME carry the burden of projects stripped of their reserves or mismanaged to the extent that they cannot carry their own weight? Rewarding failed projects with additional funding, sets a dangerous precedent.

OHFA Response

These properties are not in default, nor are they problem properties “discovered under the Contract Administration Program.” Recent changes in HUD regulations allow for the mortgage restructuring and/or rehabilitation of elderly developments which were originally financed under HUD’s Section 202 Program.

Oklahoma’s Section 202 housing inventory consists of 57 independent-living senior housing developments (with supportive services) in 37 cities with over 2,600 units built from the late 1970s through the 1980s. The owners are private, non-profit organizations with strong ties to the local community, and the typical tenant is a frail, single woman in her mid-70s with an annual income of less than \$10,000.

The average mortgage rate is relatively high by today’s standards, and although the properties are generally found to be physically attractive, well-managed, and financially viable, owners are challenged by an increasing need for additional capital to rehabilitate, modernize, and upgrade the properties in order to address the issues of deferred maintenance, outdated facilities, and the changing needs of aging residents. Unfortunately, owners have virtually no long-term financing options and are left to simply apply short-term “band-aid” repairs.

These developments play an especially important role in providing for the housing needs of a senior population where in many cases there are virtually no alternatives for affordable

housing. The 202 Program has a proven history of success, and given the tremendous contributions that the Section 202 properties have made to the State's low-income elderly housing inventory, the resources needed to preserve this existing affordable elderly housing portfolio appear to be reasonable and with great public purpose.

OHFA was recently authorized by its Board of Trustees to assess the possibility of concurrently recapitalizing multiple properties via bond financing that would enable a lower-than-normal mortgage interest rate, combined with HOME funds and other resources that would provide for rehabilitation.

Each property must submit a separate application for funding.

What about the 202 projects using their reserves for rehabilitation?

Why can't the 202s gain rehab funds from the equity refinance?

OHFA Response

OHFA will ask HUD to release the reserves of the 202 applicants. The 202 applicants must use all reserves plus the equity from refinancing before HOME will provide gap financing.

The rehab for 202 properties is supposed to be one-time, but those who don't get funded will be back.

OHFA Response

These applicants are eligible under the HOME Program, and can apply for funds at any time. However, while applications for HOME funds will be accepted, there will be no set-aside specifically for 202 rehabilitation in the future.

Page 9, item 5, "OHFA may use its discretion to adjust the amount of the award based on total number of CHDOs, total funds available, type and number of proposed CHDO set-aside developments, and past performance." Give an example of when OHFA would adjust the amount of a CHDO Operating award based on the "type and number of proposed CHDO set-aside developments."

OHFA Response

For example, a CHDO may be requesting a large amount of CHDO Operating funds, but may be proposing only a single CHDO activity involving only a few units of affordable housing. There is no formula currently used to limit CHDO Operating awards in this manner. However, CHDO Operating is oversubscribed each program year. Due to limited funds, in the future OHFA may have to consider placing a dollar limit on CHDO Operating awards. For now, OHFA may occasionally be required to use its discretion to adjust the amount of a CHDO Operating award.

How about a sliding scale for CHDO Operating awards with decreasing limits each time a CHDO returns with a funding request?

OHFA Response

OHFA Staff has discussed that idea in previous planning meetings and we will consider it for future program years. Such limits were not contemplated in the Action Plan for 2005, and we believe it would be too great a change to incorporate at this point in the process for the 2005 Application Packet.

Page 11, item #5, last sentence. There are no stated standards for “past performance.” The standards should be made known and published not sprung on applicants at the point of funding denial.

Page 11, Number 5, CHDO Operating, statement, “OHFA may use its discretion to adjust the amount of the award based on total number of CHDOs, total funds available, type and number of proposed CHDO set-aside developments and past performance.” It would be good if OHFA could give us some standards that staff would base their discretion on – there again you could use a statement, “not all-inclusive or not limited to.”

OHFA Response

A CHDO will not be denied funds if funds are available, and if the CHDO meets the various other threshold criteria, including Monitoring and Contract Status. However, the amount may be adjusted based upon the various factors indicated, including past performance. OHFA believes there are too many possible scenarios regarding performance to list in the Application Packet. Each application is unique, and we do not want to limit our discretion in assessing each one. Any issues of non-performance will be well-documented, and the Contractor will be notified in writing by OHFA at the time the non-performance is discovered. Potential applicants will be aware of these issues, and able to resolve them prior to applying for funds.

Page 13 second paragraph, “The Board of Trustees may...approve or deny an Application irrespective of the point ranking or the recommendation of Staff...” Is this correct? It seems rather arbitrary. Has this ever happened in the past?

OHFA Response

OHFA Staff makes recommendations to the Board of Trustees and the Board normally approves or denies the applications as recommended. However, there have been instances where the Board, in its authority, has overridden the recommendation of Staff. For instance, when tornadoes devastated the Town of Cordell, the Board voted to award Tax Credits to a development that had been recommended for denial. Although such instances are rare, our Board is diligent in its duty to citizens of Oklahoma.

APPLICATION GUIDANCE

If the information was contained in the application, just in a different tab, why would OHFA deduct points or fail the application on threshold?

Does the Board of Trustees support this action?

OHFA Response

OHFA policy for 2004 was to give credit for information located anywhere within the application. This has caused many hours of additional work for the Program Planners, searching for missing items throughout the application. We suggest that applicants review their applications carefully before submission, in order to avoid any problems in regard to this requirement. If some information appears to be requested in two different areas, the best action is to repeat the information in each place that it is required. Disregarding application format for some would be unfair to those applicants who package the application correctly.

Staff presents recommendations only to the Board. The Board has supported Staff in the past on other application items, whether included as guidelines or requirements.

Page 15, second to the last paragraph “each proposed activity must be submitted as a separate application.” The regs and Primer both clearly indicate CHDOs, when in a CHDO role, can use CHDO set-aside funds to develop and provide buyer subsidies simultaneously in the same project. Why is OHFA placing an undue burden on applicants that makes them prepare two applications for two activities going on the same project? Such a requirement does not make it easier to put housing down, just harder, more costly and time consuming.

On page 15, first paragraph under Application Format, stating each activity must have a separate application. I was always taught a CHDO project with DPA was considered one activity. The reason being, DPA, as a stand-alone activity, is a sub-recipient activity and the DPA in this scenario cannot be targeted to a specific project. Congress decided a CHDO should not be penalized by this “cannot be targeted requirement” of a stand-alone DPA project. Congress decided if a CHDO was doing a project that needed DPA, that the CHDO could build the DPA portion into their project and this would be considered one activity. If it is two activities, then the DPA would be a sub-recipient activity. It is also my opinion, when the DPA activity is separated out from the CHDO project application, you cannot count that as part of your CHDO 15% set-aside because it would not be included in the agreement that authorizes the development funds. I know OHFA has gotten a reading from HUD that you can be more restrictive with this requirement of two apps. Thus I ask the question – why is OHFA being more restrictive than HOME regs? Why add an additional cost to the CHDO – they must do two apps instead of one and that cost has to be passed on to the end user, the low-income family. I would ask that OHFA Staff would consider this as one activity.

OHFA Response

Separate activities have different requirements and review elements, thus we require that applicants submit different applications. Having two activities in the same application creates problems in the review process, and makes it difficult to rate the score of an application against the scores of other applications, if necessary.

DPA that is direct financial assistance to purchasers of HOME-assisted housing owned, developed or sponsored by a CHDO with HOME funds is an eligible CHDO set-aside activity.

Would a project that proposes Acquisition / Rehab / Resale be three separate activities requiring three separate applications?

OHFA Response

Acquisition / Rehabilitation is one activity requiring one application. The units may then be resold. This would be one activity with one application.

An applicant might propose to provide either forgivable or fully amortized loans to homebuyers. Would these Forms of Assistance require different applications?

OHFA Response

This would be one activity. Examples of “Forms of Assistance” under Homebuyer Activities that require separate applications are New Construction and Homebuyer Assistance. However, multiple types of financing could be proposed in a single Homebuyer Assistance application.

Page 16 Application Format. Sequentially numbering within each tab adds time to the application packaging process.

OHFA Response

OHFA recognizes that this could be a problem for some applicants. We have modified this requirement slightly. For 2005, an Applicant may choose to sequentially number the entire application OR sequentially number the pages within each tab.

On HOME due dates, please have someone available in the office to accept hand-delivered applications.

OHFA Response

The due date is the last date of a period of time in which applications may be submitted for consideration at a particular Board meeting. OHFA Staff will designate a primary and

backup party responsible for accepting hand-delivered application submissions on HOME due dates. Applicants are encouraged to check Staff availability if hand-delivering an application on the last day due.

THRESHOLD FACTORS

What does OHFA look for in an audit?

OHFA Response

OHFA uses an audit to check for financial stability and patterns in fiscal management, especially the management of federal funds.

Is the audit pulled out of the application and given to HOME Finance?

OHFA Response

No. However, if you wish to provide a separate copy of the audit to HOME Finance, they will create an acknowledgement of receipt form to return to you.

If an audit is not included with the application but is on file with OHFA, the applicant must provide details of when and to whom it was submitted.

Page 18 Item 5C, “If the audit is dated before June 30, 2004, an explanation and expected completion date for the new audit must be provided.” Could OHFA base the audit due date on a certain number of months after the entity’s fiscal year end rather than a specific date?

OHFA Response

OHFA wants the most current audit. The June 30, 2004 date is not an expected date of audit completion. If the most current audit is dated before June 30, 2004, simply provide a statement that the most recent audit is included or on file, an explanation for the delay AND an expected completion date for the new audit.

To whom should we submit the annual audit?

OHFA Response

Please submit annual audits (if not contained in a HOME application) to Chevelle Galbreath in the HOME Finance Department.

At the input meeting, OHFA staff indicated CHDOs will be required to meet the 25% match requirement when applying for a pre-development loan. I do not believe it is reasonable to ask pre-development applicants to demonstrate match.

How can an applicant determine the amount of required match when they have not fully determined the scope of a project? It would seem pretty easy to “out fox” or manipulate such a requirement by under estimating the scope of a project at the point of requesting pre-development funds. Then, upon completion of the feasibility and project scope analysis, up-size the project and make it appear as though the pre-development work established a greater need than originally anticipated. In the words of one great developer, “We will just paper up the application”.

An alternative would be to direct applicants to sign a statement pledging the required amount of match, if and when the project becomes a HOME-assisted development.

I may have missed it, but I read the Application Packet section regarding Threshold and found no requirements related to pre-development loans and the 25% match requirement. However, on page 26, item S, I did note that pre-development applicants are to complete the match section in Threshold. Page 19 – Match – States that all applicants except CHDO Operating are required to provide match.

Match – page 19 – match regarding CHDO predevelopment loans. How is an applicant supposed to come up with match on a concept? You go into a predevelopment loan to do a feasibility study to see if there is a project. Predevelopment loans are used for market studies, environmental, architect and engineering, etc. This is being more restrictive than the HOME regulations and again why be more restrictive?

OHFA Response

The questioner appears to misunderstand the requirement. OHFA does not require a contractor to provide match on the project they are investigating with the CHDO pre-development loan. OHFA does require that they document match commitment on the amount of the pre-development loan. An example would be \$5,000 match on a \$20,000 loan if the actual development proceeds. If the development does not proceed then we may forgive the loan and therefore the match liability is forgiven as well.

If the match liability is forgiven, can the match be banked?

OHFA Response

Match can only be banked in the amount that the match generated exceeds the match liability.

If a CHDO pre-development loan is paid back because there's no project, there is no match requirement.

OHFA Response

Match Liability is determined at drawdown. CHDO Pre-development Loans do trigger a match liability. The HOME Primer states, "HOME funds used for project pre-development loans, like any other use of HOME funds, trigger the match requirements of the HOME program. However, match liability incurred for funds expended for pre-development loans is forgiven if the project does not proceed."

Page 19, item #6, 1st paragraph, 5th paragraph and 6th paragraph Match. First the guidance indicates applicants must structure based on 25%. Then it says 18.75% and finally it says 25% again. Why must an applicant structure based on 25% when the state has agreed to provide 6.25% to all funded applications? Making an applicant go through the exercise of formally requesting something the state has agreed to provide appears unnecessary and does not acknowledge the rural realities and difficulties of securing matching resources.

OHFA Response

All applicants, except for those applying for CHDO Operating funds and ADDI funds for PY 2004 and beyond, are required to provide match in an amount that is no less than twenty-five percent (25%) of the total HOME funds. Because not all applicants wish to use the match credit OHFA has earned or will earn on its affordable housing bond program, an applicant must request the six and one-quarter percent (6.25%) match portion in the application.

To whom would one propose a potential source of match in between application cycles?

OHFA Response

Please contact Chevelle Galbreath, Grant Accounting Supervisor.

Page 20, item #7 Monitoring. "Performance issues" are undefined and there are no stated standards. Exactly what performance issues are going to be looked at in monitoring? The standards should be published and made known.

Monitoring, page 20 – list the standards staff will be looking at regarding performance – here again you could use wording like not all-inclusive or not limited to...

OHFA Response

The National Council of State Housing Agencies (NCSHA) warns housing authorities against continuing to fund non-performers. Any unresolved monitoring findings or issues will cause an application to be ineligible for funding, unless there is an acceptable plan in place to resolve the issues to the satisfaction of OHFA.

OHFA regularly assesses the performance of its HOME partners. Based on the performance pursuant to the requirements contained in its written agreements and the Program regulations, OHFA may withdraw funding due to non-performance, poor performance, and/or untimely performance. Any issues of non-performance will be well-documented, and the Contractor will be notified in writing by OHFA at the time the non-performance is discovered. Potential applicants will be aware of these issues, and able to resolve them prior to applying for funds.

Market Study - For small developments (less than 20) I do not see the need for a market study of any kind. Simply demonstrating the need should suffice. We know the communities we are working in and what they can handle. Also, things do not change that much in rural Oklahoma. Even in Enid the housing situation has not changed since we added 96 units of rental with our Pheasant Run project. I do not understand the time 12 month time limit on the study and especially the restriction against updates. For small developments, at least, we should be able to use studies that are 24 - 36 months old with updates.

OHFA Response

Need does not necessarily equal demand. OHFA believes good stewardship of HOME funds requires market analyses that clearly document demand for the type and number of housing units proposed. OHFA looks for a market study to demonstrate demand for the proposed affordable housing units. Demand is defined as the total number of households in a market area that would potentially move into the units following the proposed activity. These households must be of the appropriate age, income, tenure and size for a specific proposed development, and there must be some evidence that these households would have an interest in either renting or purchasing the units, depending on the activity proposed.

OHFA has ascertained that 12 months is an industry standard for applicability of market analyses. An analyst selects only certain items when performing an update. An update may not target the information OHFA needs.

For small developments, OHFA allows applicants to perform their own scientifically-based housing market analysis instead of contracting with an independent third party. OHFA reviews each market analysis to determine if it justifies the need for the number, size, and type of housing units proposed and links the need to demand from an appropriate number of households in the market area which are income-eligible and can afford to pay the rent or purchase a home.

Page 18 1st bullet, “A statement of the competence of the market analyst...” is this required only if the analysis is performed by a third party?

OHFA Response

Yes, a statement of the competence of the market analyst is required only when the study is performed by a third party.

Page 22, item D: CHDO Board vacancy. This is an undue burden and unreasonable. OHFA does not cease operations when they have a board vacancy. So, how can the agency reasonably expect others to halt business operations? There is no regulatory requirement that a CHDO board be filled in order to access funding. This requirement should be eliminated.

Page 22, Threshold Requirements Specific to CHDOs – the vacancy on the Board. A Board-run entity is governed by their By-laws and Articles of Incorporation – if an entity has a quorum, they are able to continue with business as usual. This requirement is too restrictive, is not part of the federal regs and is not in keeping with what Congress intended for the CHDOs. Congress intended for the CHDOs to operate as any Board-run entity would (that is why the regs set them up as Board-run entities) – if you have a quorum, you go forward with business.

OHFA Response

OHFA does not require that all seats on a CHDO Board be filled at the time of application. However, pursuant to HUD guidance, all CHDOs must be recertified each time they make a new application for funds. This means that the composition of their Board must meet all program requirements at the time of application. No more than one-third of the Board members may be public, and at least one-third of the Board members must be low-income. If the Board composition meets these requirements at the time of application it is acceptable, even if it is missing a few members.

Although staff indicated that CHDO Board composition requirements with regard to public sector representation would be addressed at a later date, I have reconfirmed, with USHUD in Washington DC, that HUD does not uphold OHFA’s interpretation. Over the last year, several CHDOs have been forced by OHFA to alter their Boards for no reason. OHFA should immediately rescind its position and follow the regulations with regard to public sector representation on CHDO Boards.

Over the past 1-1/2 years, many CHDOs have had to change their Boards unnecessarily based on OHFA’s interpretation. Can OHFA be more restrictive? Of course, you can but, again I ask, why would you want to be more restrictive? Work with the CHDOs and other applicants to assist them in getting more affordable housing on the ground – don’t put more restrictive burdens on them. We live in a very poor state and everyone should be working to streamline the efforts

to provide affordable housing not to place unnecessary impediments to affordable housing. Just go with the regs and don't add additional requirements.

OHFA Response

OHFA has very extensively researched this question, has discussed it with other PJ Staff and has received guidance from HUD. OHFA's position on this issue is outlined thoroughly in the CHDO Certification Application Packet, which is being made available concurrently with this guidance. Interested parties can access the materials on our website, www.ohfa.org.

Notify all HOME contacts (not just current CHDOs) of the CHDO Training.

OHFA Staff will conduct a CHDO Certification Training, which will be held on February 24, 2005 at 1:00 pm at the Holiday Inn, 6200 N. Robinson, Oklahoma City, OK. Notification has been sent to all HOME contacts.

At CHDO certification / re-certification, will OHFA provide an actual certificate which may be included at application?

OHFA Response

OHFA will provide an actual certificate upon CHDO certification, and a letter upon re-certification.

SPECIFIC EVALUATION CRITERIA

3rd paragraph, page 21 Scoring Calculations. If an applicant answers the questions correctly, they gain points?

OHFA Response

Yes, if the answer agrees with the other information contained in the application.

On the tiebreaker for least amount of hard construction costs per unit, is that the HOME hard construction costs only?

OHFA Response

Yes. This tie-breaker will be based on the amount of HOME funds used for hard construction costs per unit.

Page 22 item J, after rehab value. If one is doing homeowner rehab but hasn't done the work write-up, how can one determine the after rehab value?

OHFA Response

If the recipients have not been selected prior to application, the applicant obviously cannot perform this determination. Even if the recipients have been chosen, it may not be possible to make this determination prior to application. In such cases, the applicant must describe the method by which this valuation will be determined.

Page 26, item L Homebuyer Education. There are no certification requirements for homebuyer education. There are a host of certifications, but none are "required". If OHFA wants to adopt a minimum certification, then the agency should work with the Oklahoma Homebuyer Education Association to adopt an Oklahoma Standard.

There is no single agreed-upon requirement or certification process. HUD does not maintain a list of homebuyer education certification bodies.

FHA did outline some requirements for content in a mortgagee letter. Oklahoma's standard meets all national standards we have investigated including those outlined in the FHA mortgagee letter, Fannie, Freddie and Federal Home Loan Bank. According to the group spearheading national standards, Oklahoma is one of six organizations in the nation that has a fully functional certification program. We are partnering with this organization to provide a national standard through the NeighborWorks Center for Homeowner Education and Counseling. They just received a \$7.75 million HUD housing education grant. That's probably as much endorsement as you can get.

Is OHFA only recognizing OHEA as a certifying authority? Neighborhood Housing Services, Federal Home Loan Bank and Neighbor Works all provide a type of certification.

OHFA Response

Based on input from knowledgeable CHDO Staff, we have changed the wording for this section. It now reads "Explain the process for implementing the required Homebuyer Education classes and who will provide. The classes must be organized by someone who is certified, or is eligible for certification, by the Oklahoma Homebuyer Education Association or other such recognized organization that provides training/certification." The certification cannot be older than 2 years. OHFA strongly encourages applicants to provide both pre-purchase and post-purchase counseling.

For Homebuyer Ed, they provide a certificate now, but they used to provide only a letter. Will that suffice?

OHFA Response

Yes.

Page 22 item S, “Describe activities to be performed and tangible evidence that the potential development can be determined to be financially feasible.” What are you asking for here?

OHFA Response

OHFA wants to know what factors the applicant will consider in determining feasibility and what specific activities the applicant will undertake. The applicant is not required to provide evidence with the application that the potential development could be financially feasible.

Acquisition....the way the HOME Application reads....it seems to emphasize a homebuyer assistance activity, only. HOME allows acquisition of vacant land/raw land/undeveloped land....which can be ‘held by the owner’ for up to twelve months, before the initiation of a ‘project’using HOME funds or other resources...

The ‘project’ does not have to be a homeownership project; it can be rental, mixed neighborhood, etc. In my view, Acquisition entails activities that extend beyond just a homebuyer assistance activity.

OHFA Response

The activity as described would not be an eligible activity. We will not permit the use of HOME funds for the purchase of land only.

Why does OHFA ask about the preparer of the application (consultant)?

Page 28, item D iv Consultant Contact Information. I do not believe this is an area subject to OHFA’s purview. Particularly since HOME funds are prohibited from being used to pay for packaging costs. This appears to be a means for OHFA to single out specific packagers in order to create an unwritten black ball list and do business harm. There is no regulatory reason for needing to know who packaged what. Either an application stands on its own merits or it does not.

Page 27, Item D iv, “If a consultant was used or is being used in conjunction with this application, clearly identify the consultant and list the name, address and contact information.” Since HOME funds do not and cannot pay for the packaging of a HOME application, I think, OHFA definitely does not want to go down this road. An application should stand on its merit – a good app – it should be funded or a bad app – it should not be funded. Who packages the app should not be important to OHFA. A consulting contract is between a client and the consultant. If the consultant does not do a good job for the client, then the client should fire the consultant. OHFA is not part of the agreement.

OHFA Response

In response to public comment, we have made the provision of this information optional on the part of the applicant. Please note that the consultant information may now be provided

on the Applicant Information Form, and it is no longer a part of the Organizational Structure and Experience scoring criterion, nor a part of any threshold criterion.

Sometimes during application review, errors become apparent and create questions for clarification. It would be helpful to know if certain applications were prepared by the same individual in order to determine if the errors are simply cut-and-paste errors.

Page 27, item #2, 3rd paragraph, “The number of current applications or open contracts an administrator is involved with may be a determining factor in measuring an Applicant’s capacity.” There is no standard for judging administrator overload. OHFA is in no position to make such a judgment. If any given administrator were administering 5 projects and subsequently got 50 more contracts who’s to say that administrator could not and would not contract with a host of other consultants to perform the work? OHFA should consider that consultant to consultant contracts are how many national technical assistance providers operate. If OHFA is experiencing specific administrator project failures, it should pursue corrective measures against those persons and firms.

Page 27, Organizational Structure and Experience – “The number of current applications or open contracts an administrator is involved with may be a determining factor in measuring an Applicant’s capacity.” I don’t think OHFA wants to go down this road – OHFA has no way of knowing that administrator’s capacity – they may have contracts with other individuals with HOME administrative experience that is assisting them on a contract by contract basis. OHFA cannot know how that administrator is handling their business. However, if OHFA is having trouble with an administrator and since HOME funds are used to pay the administrator, then OHFA would have a right to step in and take action. This goes back to monitoring – list standards staff will be looking at to determine if an administrator has the capacity to handle numerous HOME projects. Don’t penalize everyone for the misdeeds of a few.

In the past, OHFA has only funded one of many applications from the same administrator. Is this a way to limit the quantity of contracts per administrator?

OHFA Response

The application states only that the number of contracts or the number of applications MAY be a factor in determining capacity. These numbers will be assessed relative to numerous other factors, such as experience, program knowledge and past performance. OHFA Staff must evaluate capacity during application review. A perceived overload in any sector could have an effect on determination of capacity. If OHFA perceives an overload, Staff will contact the administrator to investigate further before making any determinations.

Page 30, item #4 A Management Control – names and job titles of all staff persons responsible for contract management, this appears to be basically the same as item 2 c on page 27

Organizational Structure and Experience – description of all activities to be undertaken and personnel/position responsible. Consolidate the two items or eliminate one.

OHFA Response

The Management Control selection criteria have been integrated into the Organizational Structure and Experience category (one item regarding property management company was moved to the Development Commitments section).

Federal Requirements – it's no longer enough to list a name associated with the overarching Federal Requirement; one must say what you'll do to make it happen?

OHFA Response

Yes. This is not a change from prior years.

For Minority / Women Business Employment and Fair Housing, one must now submit a plan to address each?

OHFA Response

That is correct.

For multi-family, one must do Neighborhood Standards at the point of application?

OHFA Response

An applicant must tell us who will be responsible and what they will do (or possibly may have already done) to ensure compliance.

Audit and financial procedures - The audits required of Community action agencies are very in-depth and are a complete review of both procedures and actual number crunching. It would be advantageous if we could get to the point of either submitting the audit or having to explain in detail our procedures in the application.

OHFA Response

Audits do not always provide all the necessary information regarding financial management. The Audit expresses an opinion on the financial statements and uses only tests of internal controls to determine the scope of work. In the Financial Management selection criteria, Staff looks for details about internal controls and procedures, specifically those that ensure compliance with OMB Circulars No. A-87, A-102, and A-133 for state recipients and sub-recipients or OMB Circular No. A-122, A-110 and A-133 for non-profit sub-recipients. Staff requests explanation of processes for the HOME-required tracking logs such as Use of Funds Log, Match Tracking Log, and if applicable the Program Income Tracking Log.

Page 27, item E iv, “Separate out labor costs and materials costs.” Sometimes the contractor does not separate the two. How does OHFA evaluate labor?

OHFA Response

OHFA agrees that many times the contractors hired by the grantee do not provide such detail. We have removed this requirement. However, if the applicant is claiming donated labor as either match or leverage, such donated labor must be clearly delineated.

Page 34, item 8. Not all leverage reduces the amount of HOME funds needed i.e. if a city puts in an off site access road to a development it does not reduce the amount of HOME assistance needed because off-site infrastructure is an ineligible HOME expense. But it's still leverage because without the access road, the property cannot be developed. What constitutes leverage should be carefully reconsidered in the context of what it takes to complete a project and place home-eligible recipients in affordable housing.

OHFA Response

We have changed the wording to reflect that all sources of funds, other than HOME funds, paying for development budget costs are eligible for leverage. If the costs cannot be legitimately included as part of the costs of the development, the costs will not be included in the leverage analysis. We would point out that the off-site infrastructure could be counted as match if it was not paid for with federal resources.

Page 35, 2nd and 3rd paragraphs Leverage. The net effect here is a greater than 25% matching requirement. Although leverage is not a requirement, without leverage points a project's likelihood of funding is very low. At the comment session, OHFA staff indicated that projects with no leverage have been funded in the past. If that is the case, then why leverage at all? OHFA should consider the realities of local Oklahoma markets. This is a very poor state. Is our goal to make numbers look good on paper to achieve the Program goal of affordable housing? Theory is wonderful, but often loses its luster in real world applications.

Leverage - Count everything HUD will allow and be as flexible as possible. I understand your position and the desire to be conservative. However, look at what the rest of the PJ's are doing and set your policies to match that. You may be right in line or you may be too restrictive. Do some checking and let us know what the result is. Remember HUD logic may not be the same as an economist's.

Page 34 – Leverage is not statutory, regulatory, or programmatic to the HOME Program. In Will Williamson's memo of 12-13-04 concerning leverage, he states leverage is not a requirement of the HOME Program – it is one of the program's purposes when practicable. The key word here is practicable. In rural Oklahoma, leverage is not practicable; especially, in a single family project. Will also stated that the only leverage that HUD is interested in following (not requiring but following) is in multi-family projects. Based on that statement, the leveraging requirement for single family projects should be eliminated.

Staff put in a great deal of work on page 35 listing possible forms of Leverage. The only definition you have to give for leverage is other people's money or resources attracted to the project. OHFA always states that HUD has a leveraging snapshot and OHFA is always at the bottom of the states' rankings in leveraging. Don't put so many restrictions on your definition of leverage – count everything. The first item listed is a line of credit and that you cannot count the total amount of the line of credit – of course, you can count it. The total amount of the line of credit was extended to you.

OHFA Response

The Home Investment Partnerships Act has, from the very beginning, stressed the importance of financial partnerships in developing affordable housing. The funding level for this program in the State of Oklahoma is less than \$4.00 per capita. OHFA believes that we are not good stewards of this limited resource if we do not promote leverage. OHFA wants to encourage leverage and reward those applicants who bring leverage to the development. Leverage will remain a scoring item because OHFA wants to stretch the limited HOME funds as far as possible.

Nonetheless, we have adjusted both the number of points possible and the individual tier levels. This should make it easier for applicants to score points in this criterion, or for their application to pass without scoring any points in this area.

OHFA has recommended several applications for funding without any leverage at all. It is possible to pass without scoring points in this criterion. However, the available points have inspired many applicants to come up with creative ways to leverage the development, which is a benefit to the State of Oklahoma.

Page 28 2nd bullet, “If funds are used for construction and permanent financing, the amount can only count once.” Why?

Did OHFA allow construction financing as leverage in 2004?

OHFA Response

OHFA has removed this wording from the application. Leverage is actually provided by the construction financing, and the permanent financing merely “takes out” the construction financing. Therefore, we have removed permanent financing from consideration in the leverage analysis. OHFA did also count construction financing as leverage in 2004.

You are limiting leverage on lines of credit to the amount that can be drawn down at any one time. Couldn't an applicant manipulate the cash flow statement by not selling units until the end of the construction financing period, thus counting the whole LOC as leverage?

OHFA Response

We have changed the wording to allow leverage to be counted on the amount of the LOC up to the total amount of the development budget, less any other sources of funds. We doubt that an applicant could be successful in receiving an award of funds for a project in which there appeared to be no unit sales for 12-18 months. It would create a question regarding whether there was any demand for the units.

Are homebuyer mortgages leverage?

OHFA Response

No. Homebuyer mortgages do not pay for any part of development costs, and therefore do not help the HOME funds go further in providing affordable housing.

Page 30, Item H, states, “Applicants must provide a list of available and willing contractors within the proposed project area and submit signed letters indicating intent to bid. The letters may not be dated more than one year from Application submission. Applicants using employees to perform rehabilitation work must provide current certification(s).” If an applicant hasn’t pre-selected the homeowners, and therefore doesn’t know which homes, how can this item be met?

OHFA Response

A list of available and willing contractors can still be provided. If, due to the fact that homeowners have not been pre-selected, the applicant is unable to provide specific information, the applicant should describe in detail the processes and procedures it will go through, and how it will obtain and verify the necessary information.

Page 38 Item 11 Homeowner Conflict Resolution Plan – If the Homeowner Conflict Resolution Plan is proposed as a soft cost, would OHFA consider it a contingency?

OHFA Response

The Homeowner Conflict Resolution Plan may not be a part of soft costs. Yes, OHFA would consider it a contingency.

Page 31 Program Income Plan. How does one generate Program Income on a DPA contract? Why would an application lose 5 points?

OHFA Response

As proposed, the applicant would not have lost points. The criterion would not have been applicable, and would not have been considered in the evaluation. However, in the final version of the 2005 Application Packet we have removed this scoring criterion. The information need only be provided on the Application Information Form. The applicant

must still submit a plan before any income is earned. Please see the final version for additional guidance.

It is possible to earn program income on a DPA activity, if the DPA is provided in the form of an interest-bearing loan.

Page 39, item #13 CHDO Proceeds Plan. This requirement is beyond the regs. Proceeds are not HOME funds and are not subject to 24 CFR Part 92 and do not have to be used for HOME eligible activities with one exception, proceeds must be used for affordable housing activities, any type of activities including operating costs, Wx, emergency repairs, etc. The wording should be changed to reflect the regulations.

There is not a regulation on the percentage of CHDO Proceeds that can be used on administrative funds – there is on Program Income but not CHDO Proceeds. OHFA could raise the percentage or, better yet, not put any percentage limit on CHDO Proceeds utilized for Administrative expenses. That way CHDO Proceeds could be an emergency valve for the funds available for CHDO Operating. This might keep you from running low or out of CHDO Operating funds.

Page 39, item #13 F, “No more than ten percent (10%) [of CHDO Proceeds] can be used for operational costs. This is not regulatory. Only Program Income is limited to 10% for admin. There is no such limitation for proceeds. If a CHDO wants to use all its Proceeds for operational costs, it should be allowed to do so, so long as it engages in affordable housing activities. I suggest OHFA sit down with the CHDO network and determine the actual costs operate CHDOs across different parts of the state rather than arbitrarily setting limitation.

OHFA could eliminate the 10% ceiling on CHDO Proceeds’ operational use. CHDO Proceeds should help CHDOs become self-sufficient.

OHFA Response

The first commenter is incorrect that this requirement is beyond the regulations. 24 CFR Part 92.300 specifies that the PJ determine how project proceeds may be used. The language used in the Application Packet is quoted from Building HOME, A HOME Program Primer. “Eligible uses include: HOME-eligible activities or other low-income housing activities...” OHFA has determined that CHDOs may use the proceeds for either of these types of activities.

However, although we are within our authority in determining how the proceeds are to be used, we have received convincing comment that the percentage allowed for administration should be increased. Therefore, we have raised the percentage of CHDO Proceeds that may be used for administration to 20%.

For the CHDO Proceeds Reuse Plan, the application should only contain a plan for those proceeds to come from that particular project?

OHFA Response

Yes, although it need not be a plan unique to only that application. An applicant could utilize the same plan for multiple applications.

TOPICAL GUIDANCE

Eliminate the “Topical Guidance” section by incorporating the section’s contents across the appropriate sections of the application packet.

OHFA Response

Staff has worked on doing exactly that, and we have made some progress in that area. Every item that is required to be submitted has been moved to Threshold or Selection. We may eventually phase out this section, but this is beyond the scope of what we can accomplish for 2005.

Page 57 Homebuyer Assistance. Why must homebuyer assistance be used in the following order: down-payment assistance, closing cost, pre-pays, principal reduction?

OHFA Response

This is the order for which homebuyer assistance can be provided by the OHFA single family bonds. The order addresses the needs in order of their relative importance.

Has OHFA considered standardizing the DPA amount (ADDI at \$10,000; other DPA \$7,500)?

OHFA Response

OHFA will not standardize the DPA amount at this time. We may consider the possibility for 2006.

I believe OHFA should be more flexible regarding the interest rate for a sub-prime loan. The OHFA single family mortgage revenue bond rate is too restrictive. That program is not designed for homebuyers needing a sub-prime loan. In addition, a CAA takes the chance of approving a homebuyer for the program and then (for example) if they lock in the interest rate on week before closing and it doesn’t fit the program parameters, the CAA would have to back out of the

closing leaving them trying to find a way to cover closing expenses. That would be unfair to the homebuyer.

Where is the Fannie Mae rate? Is it the best rate to use?

OHFA Response

OHFA has increased the spread to 3.5% to give more leeway to grantees. The interest rate at the time of interest rate lock-in cannot exceed three and one-half percent (3.5%) over OHFA's single family mortgage revenue "1st Gold" bond rate. This rate is available on OHFA's website. Origination, discount and additional add-on fees cannot exceed three percent (3%) of the mortgage amount.

The Fannie Mae rate is no longer being used due to the difficulty in accessing the current rate.

I disagree with the 30% maximum housing to income ratio for the first mortgage. While the typical ratios for a conventional loan are 28/36, not many moderate income homebuyers will be able to qualify for this type of mortgage. Many Fannie Mae products permit single qualifying ratios of 41% and 50%. Two examples of these are the Oklahoma Anti-Predatory Lending Initiative and the HomeChoice loan for people with disabilities. Homebuyers using both of these loan examples would need the Homeowner Assistance money just as much as a homeowner that would qualify for a VA, FHA, or RD loan.

OHFA Response

With input from knowledgeable CHDO staff, we have relaxed this standard somewhat. We now believe we have a standard which will allow some flexibility, but still prevent instances of predatory lending. Please see the final version of the 2005 HOME AP for the new standard.

I would like OHFA to add the survey as an eligible cost going back to the homebuyer, along with the items: earnest money, appraisal, insurance, and credit report costs.

OHFA Response

We have made this change to the 2005 AP as suggested.

Should Adjustable Rate Mortgages (ARMs) be disallowed for homebuyers in the HOME Program?

OHFA Response

No ARMs will be allowed for homebuyers in the HOME Program.

Page 52, "Buyer Subsidy may consist of HOME funds only, or HOME Funds and CHDO Proceeds..." Does this mean that you cannot layer AHP DPA with HOME?

OHFA Response

This language has been eliminated from the final version of the 2005 HOME AP.

Page 58 Underwriting Standards, “Rental income, any subsidies, and reserve funds should be sufficient to cover the property’s debt and operating expenses over the period of low-income use.” Some subsidy programs do not run for the entire period of the proforma, making it difficult to show that the development is financially feasible.

OHFA Response

If the development is relying on a particular subsidy to make it financially feasible, OHFA expects to see a viable replacement source of funds if it is anticipated that the subsidy will not be available for the entire period of affordability.

GENERAL ISSUES AND QUESTIONS

Place the 2005 final application packet and forms on OHFA’s web site in MS Word format.

OHFA Response

Staff will try to have the application and forms on the website in both PDF and MS Word formats.

Does OHFA have a grievance procedure?

OHFA Response

Yes, as outlined in the Oklahoma Administrative Procedures Act.