Allegheny County Economic Development

Allegheny Housing Development Fund Program

Program Description & Reference Guides - 2020

INTRODUCTION

I. Introduction

The Allegheny County Department of Economic Development (ACED) is the County of Allegheny's department charged with encouraging development. ACED is responsible for carrying out the development agenda of the Allegheny County Executive.

ACED administers several Federal programs that have as their goal the creation of affordable housing for persons and families with moderate or low incomes. ACED makes available funding in support of the construction or renovation of affordable housing. This funding is provided in the form of deferred repayment loans or direct subsidy in support of housing for persons that meet the income eligibility standards as set by the U.S. Department of Housing and Urban Development (HUD). Funding is provided to for-profit and not-for-profit housing Developers and is awarded on a competitive basis. ACED encourages the production of efficient high-quality housing that minimizes the maintenance and energy demands of tenants, managers and homeowners. ACED also recognizes the importance of renovating existing housing stock to preserve the fabric of existing neighborhoods and contain urban sprawl.

It is important for applicants to note that the amount of this funding made available to ACED is limited. ACED strongly encourages housing producers to combine ACED funds with other funds to effectively leverage this source of funding. Some examples of other funding sources include:

- Low Income Housing Tax Credit (LIHTC) generated equity (PHFA)
- PHARE Program (PHFA)
- PennHOMEs loans (PHFA)
- Historic Tax Credit Equity (Dept. of Interior)
- Private equity
- Federal Home Loan Bank's AHP Program
- Other sources

Funding awards are made on a competitive basis. ACED will review applications based, in part, upon:

- Need for housing;
- Experience of the applicant and applicant's development team;
- Funding leverage demonstrated;
- Integration of the project with other development initiatives, and;
- Demonstrated community support.

INTRODUCTION

Applications for funds will be reviewed on a rolling basis; there is no fixed application deadline. However, applicants that require ACED funding to be provided as a source that will be combined with one or more other sources of funding need to submit applications early enough to allow for a thorough review and comment period by ACED. This review should be accommodated in the development schedule by applicants to coincide with fixed deadlines of other potential funding sources, such as those noted above.

If funds are allocated to an applicant, a commitment letter will be prepared that will contain a number of contingencies that may be linked to the Federal funds source and/or linked to specifics of the project description and/or of the priorities of ACED. Commitments of funds are also contingent upon the commitment of other funds from one or more sources that the applicant identified to produce the housing units. ACED is seeking to leverage its funds to the greatest extent possible with other sources of funds in order to maximize the number of housing units produced.

Should funding be awarded to the applicant by ACED, the applicant further needs to be aware of the processing requirements of ACED. These requirements will require applicant to schedule accordingly so that ACED funds are available when required, and may require the applicant to secure construction or bridge financing.

INTRODUCTION

The general processing steps are:

ACTION	PARTY
1. ACED Commitment Letter provided to Applicant	ACED
2. Other Source(s) Commitment Letters provided to ACED	Applicant
3. Contract Approval Process	ACED
3.1. Advertising and public Comment Period (Federal requirement)	ACED
3.2. Environmental Review Process (Federal funds requirement)	ACED
3.3. Contract Completion Process	ACED

PROGRAM DESCRIPTION

II. General Program Description

1. ACED Goals and Objectives

The ALLEGHENY HOUSING DEVELOPMENT FUND Program, administered by the Allegheny County Department of Economic Development (ACED), is making available several funding sources, including the Community Development Block Grant Program (CDBG) as provided by the Housing and Community Development Act of 1974; the HOME Investment Partnerships Program (HOME), authorized under the National Affordable Housing Act of 1990; and other sources which may be available, including the locally generated Affordable Housing Trust Funds, generated by fees collected when mortgages and deeds are recorded in Allegheny County, under Act 137 state enabling legislation.

The Allegheny Housing Development Fund program can be effectively combined in conjunction with other public and private funding sources, such as those listed below. Allegheny Housing Development Fund resources are often most effectively used to supply financing that supplements the following sources of funding to make a project feasible:

- Low Income Housing Tax Credit (LIHTC) generated equity (PHFA)
- PHARE Program (PHFA)
- PennHOMEs loans (PHFA)
- Historic Tax Credit Equity (Dept. of Interior)
- Mark-to-market restructuring (HUD)
- Private equity
- Federal Home Loan Bank AHP Program
- Other sources

Through the Allegheny Housing Development Fund, ACED will support affordable housing developments which incorporate a variety of housing choices to promote diversity within a community, including but not limited to diversity of race, ethnicity, income level, and disability status and also developments which are an integral part of an overall community development strategy that addresses and directs resources toward documented community needs.

Funding assistance will be available in the form of either construction subsidy, amortizing debt, or as deferred second mortgages. If receiving rental subsidy, the Developer agrees to rent the project to low- and moderate-income tenants for a period of 10 to 30 years. If receiving homeownership subsidy, the Developer agrees to sell the units to low- and moderate-income families.

PROGRAM DESCRIPTION

Further, ACED has the following goals to provide safe, decent, and sanitary housing and promote all aspects of quality housing:

1) Quality construction, incorporating design features that will minimize ongoing maintenance and energy costs;

2) The provision for shared partnership in the financing effort and active participation of Minority/Women/Disadvantaged Business Enterprises and Veteran Owned Small Businesses throughout the development process;

3) Projects should be in areas where there is a demonstrated need for the type of development proposed;

4) Projects should complement other developments in the specific proposed area as part of the larger socio-economic plan, and;

5) Quality property management, so that units are maintained throughout affordability periods to provide a safe, healthy and attractive environment for the tenants, and;

6) Projects should assist Allegheny County with affirmatively furthering housing choice.

Applicants should be aware that ACED will award projects to Developers with significant demonstrated experience in project selection, development and management and with the professional and financial capacity to ensure that public funds dedicated to housing developments are of high value and lasting quality. ACED will complete a subsidy layering review of projects to ensure that costs are reasonable and that the project does not receive more subsidy than funding regulations allow. This analysis will, in part, determine the number of units that are subject to certain rent limits for HOME-funded developments.

Prospective Developers are forewarned that in using funds provided by ACED for construction, progress payment disbursements made by ACED can only be made for work-in-place or suitable materials stored at the site. Such payments should not be expected any earlier than six to eight weeks after submission of the requisition form. If the time delay indicated would create a problem to the Developers, it is suggested that a working capital account be established.

In the event that delays occur, it will be the responsibility of the Developer to maintain payments to their contractors and suppliers.

PROGRAM DESCRIPTION

Should the project involve property acquisition and/or the relocation of occupants, then the Developer needs to be aware that projects that receive federal funds may trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended; and Section 104(d) of the Housing and Community Development Act of 1974. The URA Final Rule (49 CFR Part 24) was updated substantially, effective February 2005, and includes subsequent revisions through March 2014. The net effect of the above noted is that there are a number of regulations and steps to be followed if Developer is acquiring property and/or relocating tenants.

Applicants need to also be aware that Allegheny County Ordinance 26-09-OR of 2009 extends equal opportunity protection in housing beyond the federally protected classes of race, color, national origin, religion, sex, familial status or handicap, as follows:

> **Section 215-30. Purpose. [Ordinance 26-09-OR of Allegheny County]**
>
> In order to assure that all persons regardless of race, color, religion, national origin, ancestry or place of birth, sex, gender identity or expression, sexual orientation, disability, marital status, familial status, age or use of a guide or support animal because of blindness, deafness or physical disability enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and use of public accommodation facilities, it is necessary that appropriate legislation be enacted.

Major changes to the HOME Program were mandated as part of the federal 2012 Appropriations bill enacted by Congress as well as subsequent statute and related regulations that were finalized in July 2013. For projects funded from HOME 2013 and later HOME funding (this will apply to all existing HOME Funds provided), the following additional restrictions will apply:

Special Conditions

1) HOME funds used for projects not completed within 4 years of the commitment date, as determined by a signature of each party to the agreement, shall be repaid, except that the HUD Secretary may extend the deadline for 1 year if the HUD Secretary determines that the failure to complete the project is beyond the control of the participating jurisdiction.

PROGRAM DESCRIPTION

2) No HOME funds may be committed to any project unless each participating jurisdiction (Allegheny County) certifies that it has conducted an underwriting review, assessed developer capacity and fiscal soundness, and examined neighborhood market conditions to ensure adequate need for each project.

3) Any homeownership units funded with HOME funds which have not been sold to an eligible homeowner within nine months of project completion, as evidenced by a ratified sales contract, shall be rented to an eligible tenant. That rental period will last 15 – 20 years.

4) No HOME funds may be awarded for development activities to a community housing development organization (CHDO) that cannot demonstrate that it has staff with demonstrated development experience.

Projects submitted under the Allegheny Housing Development Fund may include the following:

1) Construction of new low/moderate income multi-family or elderly rental housing (permissible anywhere in Allegheny County except City of Pittsburgh, McKeesport, Penn Hills, McDonald and Trafford; Penn Hills and McKeesport are eligible for HOME or AHTF funded projects only, and projects in Penn Hills and McKeesport are reviewed in coordination with the respective municipality);

2) Conversion of existing properties into low/moderate income multi-family or elderly rental housing, such as old schools, warehouses, and municipal buildings. (same locations as above);

3) Rehabilitation of existing multi-family rental housing developments for rent to low/ moderate income tenants. (same locations as above);

4) New construction of single-family units (detached) or townhomes (attached) for purchase by low/moderate income buyers (same locations as above), and;

5) Rehabilitation of single-family or townhome units for purchase by low/moderate income buyers (same locations as above).

PROGRAM DESCRIPTION

2. General Policies

Selection: Project selection will be made in accordance with the Ranking Criteria listed in Section V of this document.

Timeliness: Failure to respond in a timely and accurate fashion to requests by ACED for additional information following the initial submission may result in termination of the affected proposal.

General Federal Conditions: Compliance is required as necessary with the Davis-Bacon Act and other Federal Labor Standard Provisions; Title VI and other applicable provisions of the Civil Rights Act of 1964; The Department of Labor Equal opportunity Clause (41 CFR 60-1.4); Section 109 of the Housing and Community Development Act of 1974; Executive Order 11625 (Utilization of Minority Business Enterprise); Executive Order 12138 (Utilization of Female Business Enterprise); Section 3 employment provisions of the Housing and Urban Development Act of 1968 (24 CFR 135.3); with Section 504 of the Rehabilitation Act of 1973; and with the Fair Housing Amendments Act of 1988; and the Americans with Disabilities Act of 1990. More information can be found from **www.hud.gov**. Compliance is also required with the following: the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended; and Section 104(d) of the Housing and Community Development Act of 1974. (The URA Final Rule (49 CFR Part 24) was updated substantially, effective February 2005, and includes subsequent revisions through the current year.

Affirmatively Furthering Fair Housing: For any project of five or more units, developers are required to submit an Affirmative Fair Housing Marketing Plan (HUD-935-2a or HUD-935-2b, as appropriate) if provided funding from ACED.

Architect/Construction Supervisor Required: All projects must budget for an architect (new construction/substantial rehab) to oversee the work until the project is complete. A disclosure statement is required when the architect has an identity of ownership interest with any contractor or subcontractor employed to perform services for the proposed projects. The architect is employed by the owner to ensure that contractor's estimates for work are reasonable and work items are necessary. Identity relationships are hereby discouraged and may be considered adversely in the evaluation and ranking of the projects. ACED reserves the right to require both substitution of contractor and/or architect and financing adjustments for those projects selected for funding which contain such an identity relationship.

PROGRAM DESCRIPTION

Property Inspection: All projects funded with HOME or AHTF funds or a combination of them will be inspected by a construction period inspector under contract or agreement with ACED to ensure compliance with revised HOME program rules.

Geotechnical Issues: For new construction, all development budgets must contain an allowance to cover the costs associated with any soil investigations. Any special foundation construction should be anticipated in advance. Preliminary prices should include these costs and the construction of any specialized foundation designs should be included in the work specifications. Any soil investigation issues must be resolved before closing on any accepted proposal. Any costs in excess of budgeted amounts associated with specialized foundation designs or other additional items required by soil conditions will be wholly borne by the Developer.

Environmental Site Assessment: For any type of new construction, it will be necessary for the Developer to include in the development budget an amount sufficient to cover the expenses of an Environmental Site Assessment I (Phase I ESA). This Phase I may need to be augmented with additional analysis as indicated by that assessment. It is the responsibility of the Developer to ensure that any and all necessary environmental remediations are undertaken in any project that will include renovation of existing structures, partial or total demolition, and/or new construction. For renovation of single-family homes, testing is required for lead-based paint. (*This environmental analysis, typically required by all private and public lenders is in addition to and separate from the Federal Environmental Review noted below*.)

Allegheny County MBE/WBE/DBE/VOSB: Compliance is required with the Allegheny County MBE/WBE/DBE Program enacted July 1981. The goals are 13% Minority Business Enterprise and 2% Women Business Enterprise participation. In addition, a goal of 5% for Veteran Owned Small Businesses (VOSB) has been set, per County Ordinance 6867-12 of 2012. The participation may be provided in any one or combination of the following elements:

A. By direct contract between the Developer and an MBE/WBE/DBE/VOSB General Contractor. The amount of minority participation of this element shall be the total amount of the contract.

B. By contract(s) between the General Contractor and an MBE/WBE/DBE/VOSB sub-contractor(s) or supplier(s). The amount of participation for this element shall be the dollar amount of the MBE/WBE/DBE/VOSB sub-contract(s).

PROGRAM DESCRIPTION

If selected for funding in the preliminary ranking, the Developer must submit a MBE/WBE/DBE/VOSB Participation Plan showing how the Developer intends to further the County's MBE/WBE/DBE/VOSB goals. Please note that the Ranking Criteria (Section V of this document) includes an evaluation of the Developer's MBE/WBE/DBE/VOSB Participation Plan as a key factor in a proposal's overall scoring.

During the contract period for any accepted proposal, ACED will monitor the Developer's compliance with the MBE/WBE/DBE/VOSB Participation Plan. Every invoice for payment must be accompanied by a self-evaluation of conformance. Substantial deviation from the Plan is unacceptable and may cause payments to be withheld.

Section 3: Projects whose budgets exceed $200,000 must comply with Section 3 under the Housing and Urban Development Act of 1968, (as amended) and must to the greatest extent feasible, utilize lower income residents for employment and training opportunities and Section 3 Business Concerns and all contracts and subcontracts for these projects may require a "Section 3 Clause" as set forth in 24 CFR, Part 135.38.

Davis-Bacon/EEO/Section 3 Compliance Requirements: The Federal Davis-Bacon Act mandates the payment of the Prevailing Wages as established by the U.S. Department of Labor on many federally funded projects.

Developer should be aware that construction stage payments will not be released to the Developer unless all Davis-Bacon, EEO, and Section 3 requirements are completed, approved, and on file at ACED. An official determination of the applicable Davis-Bacon and Related Acts wages to be applied to the project will be requested by ACED. Davis-Bacon wages are applicable in some but not all housing development projects. Additional information can be located via the Internet at:

http://www.hud.gov/offices/olr/wagereq.pdf

Current wage rates at time of application can be located at:

http://www.access.gpo.gov/davisbacon/PA.html

Community Participation and Support: Community support of any proposed project is a factor. Developers should work closely with local community groups and local officials in the formulation of the proposal. Evidence can be provided by a resolution of the local officials, letters of support from key community members and minutes from a municipal

PROGRAM DESCRIPTION

or community meeting where the project was discussed. This documentation should be supplied with the application.

Federal Environmental Review: All projects utilizing funds from federal sources are subject to an environmental review by ACED staff and the U. S. Department of Housing and Urban Development (HUD), including flood plain and noise levels and historic review. This review is a necessary precursor to the release of federal funds (see 24 CFR Part 58). A project that does not pass this clearance review cannot be funded. Applicant must submit photographs providing an all-around view of the site or building along with a site map and basic address and identification information so that the review process can begin. Additionally, if the project is selected for funding, this step must be completed before any funds will be released. Any work completed prior to this approval cannot be funded with ACED funds.

Zoning, Subdivision and other Municipal Approvals, & Site Utilities: All local zoning approvals are the responsibility of the Developer and will be considered in the selection process. Any required subdivision approvals and all other applicable governmental approvals are also the Developer's responsibility. Developer will further need to demonstrate the availability at the project site of public utilities to serve the project. The extent to which these items are in progress or complete will enhance ACED's review of the project feasibility and readiness to proceed.

Historical Significance of a Structure: All proposed rehabilitation projects will be reviewed by Historic Preservation specialists. Those projects determined to have historical significance must receive approval of work specifications and drawings in order to receive funding. Demolitions of structures will also need to be cleared prior to the contracting process.

This component is an integral piece of the above-noted Federal Environmental Review process. If Developer has requested a review by the State Historic Preservation Officer (SHPO) in Harrisburg for PHFA or other funds, please submit that information as well, as that may facilitate the required clearances.

Elimination of Lead-Based Paint: For all projects, the Developer shall comply with all pertinent HUD Guidelines and Regulations including:

- "Lead Safe Housing Rule": Title 24 Housing and Urban Development—Part 35 (24 CFR part 35): Lead-Based Paint Poisoning Prevention in Certain Residential Structures (Current Rule and Technical Amendments), and;

PROGRAM DESCRIPTION

- Pennsylvania Lead-Specific Regulations: Title 34 – Pennsylvania Department of Labor and Industry; Lead Occupation Accreditation and Certification, Pennsylvania Bulletin, Volume 27, No. 45.

Further information on limited grants available for lead elimination and the above-mentioned regulations are available from ACED upon request. Lead-based paint was commonly used as a component of paints and stains until 1978 and can cause significant developmental problems in children exposed to this hazard.

Removal or Encapsulation of Asbestos: All proposed rehabilitation projects and any projects that involve the demolition of existing structures shall be in compliance with the Rules and Regulations of the Allegheny County Health Department, Air Pollution Control. Asbestos was commonly used in residential and commercial structures from the 1920s through the 1970s in such items as roofing, linoleum, pipe and duct insulation, caulking, and plaster patching compounds.

http://www.achd.net/air/asbestos.html

Property Acquisition: Projects that have used or will use Federal source funds to acquire property need to comply with the Uniform Relocation and Real Property Acquisition Act of 1974 (as amended). This act requires notification to property owner, and tenants if applicable, at the commencement of purchase negotiations and payment of relocation in some cases. Details concerning implementation of this act can be found in 49 CFR 24 with detailed guidance provided in HUD Handbook 1378. Generally, properties valued at $10,000 or more require appraisals prior to acquisition. In addition, relocation of tenants, homeowners, and businesses may be required and should be provided for in the development budget. For more information:

http://www.hud.gov/offices/cpd/library/relocation/lawsandregs/index.cfm

Accessible Housing: All proposed projects must conform to Section 504 of the Rehabilitation Act of 1973 as amended, the Americans with Disabilities Act (ADA) of 1990, and the Fair Housing Amendments Act of 1988. Section 504 states, in part, that "No individual shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity..." When compliance presents itself as impractical due to unusual site conditions or terrain, the burden must be demonstrated to ACED to consider waiving this requirement. Provisions for additional accessible units will be taken into consideration in the review process. Federal regulations require that 5% of all newly constructed units be accessible and an additional 2% be accessible for those with a sight or hearing impairment. The required number of accessible units for rehabilitation differs from project to project, depending on the total development costs. In addition, PHFA funded projects also require that project contain VisitAbility provisions. PHFA can provide more information on this requirement:

www.phfa.org

Contingencies: Projects should be submitted with construction contingency line items of 3-5% for new construction and 5-10% for rehabilitation projects. It should be noted that these percentages may not match precisely the contingency requirements of other funders and may be adjusted as necessary. Use of the contingency will be limited to unforeseeable expenses necessary to complete the project. Change orders must be presented during construction prior to the start of work on the contingency item and the change order must be approved by the owner, contractor, supervising architect, and ACED's inspecting architect, if any, prior to the change order being included in the contract.

Insurance: No funding will be released without appropriate insurance in place. It is the responsibility of the Developer to provide proof of this insurance, in the form of a Certificate of Insurance, naming Allegheny County, its elected officials, officers, appointees and employees as additional insured. Each project must be covered by Hazard & General Liability Insurance. Performance and Payment Bonding and Fidelity (Dishonesty) Bonding will also be required.

ACED is to be insured as the loss payee on the fire and any extended coverage policy and as additional insured on the liability policy and must be provided with copies of the renewed policies annually. Adequate liability, fire, & hazard insurance policies are to be in full effect as long as ACED holds a mortgage on the project. Specific requirements of this provision will be provided and must be met in order for ACED to enter into a contract with the Developer or to release any funds.

Mortgages: In order to secure its interest in the development, ACED may place on the property a mortgage lien. Typically payment on this loan is made subject to available cash flow. This mortgage interest may be subordinated to other financing. Repayment requirements will vary with the project. For homeownership projects, a portion of ACED financing provided may in the form of subordinate debt or resale restrictions placed on the home at the time of sale to the homebuyer to ensure that the affordability provisions are met. Resale within a fixed time period may require a homebuyer to repay all or a portion of the ACED funds. Additional information is provided in the subsequent section. More detailed information on homeownership mortgages may be found at the end of this section.

PROGRAM DESCRIPTION

3. Financing Mechanisms

Rental Construction Subsidy

A. Deferred Payment Loan

For many projects, ACED will provide the selected Developer with a deferred payment loan intended to fund the gap between the total development cost and non-ACED funding, less the following:

- The Developer's equity investment;
- The amount of the private mortgage which could be supported by the rents;
- LIHTC equity, and/or;
- Other deferred payment loans or grants.

Up to 100% of the total development cost can be financed with a Deferred Payment Loan, depending on the need shown. Deferred Payment Loans are typically for a 5 to 31-year term. Loan terms may be changed as required to match other funders' affordability provisions. Loan repayment is required upon maturity of the loan, including all accrued interest, if any. In addition, if the project generates sufficient annual cash flow, a portion of that is to be repaid to pay down the loan principal.

B. Low or No Interest Loan

ACED may instead provide the selected Developer with a low or no interest loan, which can be used to finance up to 100% of the total development cost. A proposed rate and term of loan should be included in the proposal based on the gap as mentioned above: minimum interest rate is 0% and maximum term is 31 years. Low Interest Loans are most often for a 31-year term/affordability period. These loans are appropriate in cases where the project can generate sufficient cash flow to make annual payments to ACED.

In either scenario, the Developer must contribute a minimum equity investment in the project. This contribution may be in the form of a deferred developer fee, wherein the developer invests a portion of its fee in the project to fill the funding gap. That deferred fee is to be repaid in a manner mutually agreed to by all the funders in the project. The equity plus the loan requested

PROGRAM DESCRIPTION

would enable the rental projects to be mortgaged at a level which can be sustained by the lower-than-market rents.

The number of units proposed for assistance must be rented to income eligible tenants for a term of 5 - 31 years.

Tenants will be determined "eligible" through completion of initial application forms and income re-certification forms to be completed annually, or upon the move-in of a new tenant, dependent on the funding source(s) for the development.

The amount of the loan requested will be a consideration in the selection process and will be compared on an amount per unit and percentage of total development cost basis. Higher rankings will be given to those projects whose loan request is a smaller portion of the overall development cost. Key factors in the calculation of the loan request are:

- Total development cost, including acquisition, construction and soft costs
- Developer's proposed equity investment
- Net operating income
- Supportable mortgage amount given current private lenders' rates and terms and as demonstrated by a commitment letter from the lender.

Requirements associated with receiving Rental Construction Subsidy are as follows:

- Provide upon completion of the construction an acceptable cost certification
- Provide ACED with as-built drawings upon construction completion
- Rent the units for monthly rents as controlled by the Regulatory Agreement
- Not increase rents without prior approval of ACED
- Furnish ACED with annual profit and loss statements and balance sheet
- Provide ACED with tenant income certification.

PROGRAM DESCRIPTION

Homeownership Subsidy

A. Deferred Payment Second Mortgages

Homeownership programs can utilize this financing mechanism at the end of the construction period when a unit is going to be sold to an income eligible buyer. The deferred second mortgage is a tool used to fill the affordability gap (the disparity between the fair market value and the mortgage a low-moderate income buyer can afford). In a typical subsidized homeownership program, the market in which the units are constructed will determine that the second mortgage amount need only be that required to fill the affordability gap. The second mortgage is a deferred payment vehicle: no monthly repayments are required, no interest accrues, and the total amount is forgiven after the buyer lives in the home for a certain number of years as his/her principal residence during the Period of Affordability (time varies with amount of funds invested).

Requirements associated with receiving Deferred Payment Second Mortgages:

- Developer must provide income verification information to ACED before a unit is sold in order to receive funds at closing;
- Developer must include a deed restriction and record a second mortgage document (available from ACED) when unit is sold;
- Buyer must occupy the unit as his/her primary residence and may not rent the unit to a third party and must comply with the Allegheny County Fair Return on Investment Policy guidelines until the Period of Affordability has passed.
- Homebuyers must take a HUD-approved homebuyer education course.

B. Development Subsidy

Homeownership programs can utilize this financing mechanism during the construction period when a unit is going to be sold to an income eligible buyer in those instances where the combination of the First Mortgage and the Deferred Payment Second Mortgage (noted above) would be less than the development cost of the unit. Only in those cases will this Subsidy be made available. It is the responsibility of the Developer to make the presentation that this type of subsidy is needed in combination with the above noted Deferred Payment Second Mortgage and/or other proposed mortgages.

PROGRAM DESCRIPTION

Subsidy Layering Review

Prior to project approval, a subsidy layering analysis will be undertaken for projects which will receive any form of additional government financial assistance.

When ACED funds are provided to projects that have been awarded Low Income Housing Tax Credits (LIHTC) from the Pennsylvania Housing Finance Agency (PHFA), the following documentation may be reviewed as part of the analysis:

1) Copy of tax credit application, including budgets, sources and uses of funds, and project pro forma
2) Copy of HUD CPD Notice 98-01

Projects that have sources of government assistance other than LIHTC may be reviewed to ensure that only the necessary amounts of ACED funds are invested, by review of the following:

1) Soft costs are within customary cost ranges for projects of similar size;
2) Costs are within the per units subsidy limits issued by the HUD Pittsburgh Field Office for the Pittsburgh Metropolitan Area (included at the end of this section of the application);
3) Developer is not unduly enriched and fees and overhead are consistent with similar projects in the area.

Loan Fees

There are no loan fees charged by ACED for projects that utilize its HOME or CDBG federal funds. Beginning with the 2015 program year, be advised that the ACED may institute a monitoring fee to be built into the operating budget of all rental projects to offset the cost of required inspections of the units during the applicable period of affordability.

IV. Application Process

A. All funding applications shall be made using ACED Forms.

B. A Developer must submit a completed application form to ACED. No application fee is required with the submission of the application.

If the Allegheny Housing Development Fund Program is intended to supplement another source of funds, such as an allocation of Low Income Housing Tax Credits

PROGRAM DESCRIPTION

from PHFA, Developer must submit, with the Allegheny Housing Development Fund application, a complete copy of that application as well. If the Allegheny Housing Development Fund application precedes the other source's application, then ACED requires that a copy of that application be submitted to ACED if the project is awarded tax credits and/or other non-ACED subsidy.

C. ACED staff reviews applications taking into account selection criteria noted in Section V. of the application and compliance with program goals and objectives.

D. The Developer shall submit any information that ACED requires including any documentation needed to establish the eligibility and credit worthiness of the Developer and the feasibility of the project. Each project will be subject to review and approval by ACED.

E. Upon approval of the project, a Commitment Letter is sent to the Developer.

F. A Developer may withdraw the application at any time before closing by written notice to ACED. The Developer shall bear any costs incurred for items including, but not limited to, title examinations, credit reports and appraisals.

G. In those projects wherein ACED funding provides only 'gap' financing, then ACED funding is contingent upon an award from the other funder(s). Most often, the majority funder is the Pennsylvania Housing Finance Agency (PHFA) which is providing Low Income Housing Tax Credit funding (rental housing).

V. Proposal Selection and Ranking Criteria

The selection of any one proposal for funding will be based on numerous factors, including, but not limited to, the following substantive rating criteria.

Factor 1: <u>Project Financing and Leverage</u>

Extent of ACED funds requested to finance the development, private financing terms, and amount of equity contributed. Please see also the narrative in Section 2 (Item IV, Application Process, Page 18 of this document) for projects that include a majority level financing from the LIHTC program or PHFA Homeownership program. For all projects, the ACED analysis will include an examination of the sources and uses of funds for the project and a determination that

PROGRAM DESCRIPTION

the costs are reasonable. The review of the financing will include the financial capacity of the developer and review of the commitments from the other funders, if any.

Factor 2: Location

Compatibility with surrounding neighborhood, provision of local services, access to transportation, recreation and educational and employment opportunities. Areas of demonstrated need will also be considered.

The ACED analysis will include an assessment, at minimum, of the current market demand in the neighborhood in which the project will be located. A market study is required for projects using HOME or HOME/AHTF funds.

Factor 3: Management

Experience of Developer and/or Developer's partners in management of housing development, including their professional and fiscal capacity to complete the project.

Factor 4: Site Features

Availability of utilities, zoning and municipal approvals, topography, amenities, unusual site conditions, and form of site control.

Factor 5: Unit Layout / Amenities

Number of bedrooms, baths, appliances, interior design, and compliance with ADA requirements. Appropriateness of amenities provided to attract the target market.

Factor 6: Building Construction

Quality of materials for future maintenance, economy, and energy efficiency. Compatibility with the neighborhood architectural characteristics.

Factor 7: MBE/WBE/DBE/VOSB & Section 3 Utilization

Participation in project contract awards to minority-owned, women-owned, disadvantaged and veteran-owned businesses. Use of local businesses owned by low-income residents and usage of low income local residents in project-generated employment & training opportunities.

PROGRAM DESCRIPTION

Factor 8: Community Participation & Support

The Developer has provided clear evidence that the community is informed and supportive of the proposed project.

Factor 9: Project Readiness

This includes how soon the project can move forward, including factors such as site control, zoning and other municipal approvals, commitments of other funding sources, and design progress.

VI. Allegheny County Department of Economic Development Rights and Liabilities

If the costs proposed by Developers require funds beyond the limit that ACED feels are appropriate to provide, ACED reserves the right to withdraw the program in part or in whole. If this happens, all applicants submitting proposals will be notified.

Only those projects (if any) that meet ACED goals and objectives regarding affordable housing will be considered for funding.

ACED will not be responsible or liable in any manner for costs incurred by Developers in the preparation and submission of responses to the Application.

All information including project plans and specifications submitted to ACED by Developers in response to the Application becomes the property of ACED without regard to the evaluated final disposition of a contract award.

The context and requirements of this program are subject to change or modification without prior written notice or consent; such revisions shall be implemented without allowance for changes to project proposal requests.

Reference Materials

VII. Quick Reference for HOME Funds Income/ Rent Limits Associated with RENTAL Projects

Maximum Rents (The 2020 HOME Rent Limits are effective from July 1, 2020 until the 2021 Limits are published.)

Rental projects using HOME funds have rent limits associated with them. The High HOME Rents are: the lesser of the Fair Market Rents, or 30% of adjusted family income of a family whose annual income equals 65% of the median income for the area (see below). The Low HOME rents, for projects containing 5 or more HOME-assisted units for at least 20% of the units, must have rents which are no greater than: Thirty percent (30%) of the tenant's monthly adjusted income, or 30% of the annual income of a family whose income equals 50% of median income. The HOME rents are as follows:

	Efficy.	1 Bedrm	2 Bedrm	3 Bedrm	4 Bedrm	5 Bedrm	6 Bedrm
Low HOME Rents:	$661	$727	$890	$1079	$1203	$1328	$1452
High HOME Rents:	$661	$727	$890	$1137	$1248	$1435	$1622

NOTE: Maximums listed are applicable when Developer pays all utilities; rents must be adjusted to a lower amount if tenant is responsible for any utility payments. Utility allowances must be developed on a per-project basis – those developed by the local PHA cannot be used for HOME-Funded projects.

Subsidy Limits

Please note that HUD has issued the Section 234 Condominium Housing limits to be used as subsidy limits. These limits are found below, and are adjusted by unit size.

Section 234 Condominium Housing, elevator type mortgage limits (These Subsidy Limits are effective from July 7, 2020 until further notice.)

These are the maximum allowable amounts of HOME funds that can be spent per rental unit on a rental project.

	Efficiency	1 Bedrm	2 Bedrm	3 Bedrm	4+ Bedrm
Elevator - Pgh Base City:	$153,314	$175,752	$213,717	$276,482	$303,489

Reference Materials

INTERIM POLICY

To ensure that HOME maximum per-unit subsidy limits continue to be updated annually until a new regulation for effect can be issued, HUD is establishing an interim policy requiring PJs to use the Section 234-Condominium Housing, elevator-type, basic mortgage limits in lieu of the Section 221(d)(3) limits. Similar to the Section 221(d)(3) program, the Section 234 - Condominium Housing Insurance Program uses statutory per-unit mortgage limits that vary according to the size of the unit, the type of structure, and the location of the project. The Section 234 program insures blanket mortgages for the construction or substantial rehabilitation of multifamily projects to be sold upon completion as individual condominium units. Over time, the limits issued by HUD for the Section 234 program have been identical to the 221(d)(3) limits. Consequently, substituting the Section 234 basic mortgage limit for the Section 221(d)(3) limit until a new final rule can be published is consistent with the intent of NAHA and the implementing provisions of the HOME Final Rule. To ensure consistency with the provisions of section 212(e)(1) of NAHA, the HOME maximum per-unit subsidy limit that HUD can approve for a PJ cannot exceed 240 percent of the Section 234 basic mortgage limit.

Maximum Income Limits for Renters (The 2020 HOME Renter Income Limits are effective from July 1, 2020 until 2021 Limits are published.)

Ninety percent of the renters receiving HOME tenant-based rental assistance or occupying units assisted with HOME funds must be at or below **60%** of the median area income:

Max. Annual Income	Family Size
$34,860	1 person
$39,840	2 people
$44,820	3 people
$49,800	4 people
$53,820	5 people
$57,780	6 people
$61,800	7 people
$65,760	8 people

Reference Materials

For projects with 5 or more HOME-assisted units, a minimum of 20% of the HOME-Assisted units must be occupied by tenants whose household income does not exceed **50%** of area median income:

Max. Annual Income	Family Size
$29,050	1 person
$33,200	2 people
$37,350	3 people
$41,500	4 people
$44,850	5 people
$48,150	6 people
$51,500	7 people
$54,800	8 people

Quick Reference for CDBG Income/ Rent Limits
Associated with RENTAL Projects

Maximum Rents 2020 Fair Market Rent Data—

1. For use in any CDBG funded developments with no funding from the Low Income Housing Tax Credit Program.

The limits are as follows (Fair Market Rents):

Efficiency	1 Bedrm	2 Bedrm	3 Bedrm	4 Bedrm
$661	$727	$890	$1137	$1248

2. For use in any CDBG funded developments that also have funding from the Low Income Housing Tax Credit Program. ACED reserves the right to adjust these limits for LIHTC Projects with Income Averaging.

The limits are set at the current LIHTC rents as set by PHFA. (LIHTC Rents for Allegheny County – 5/10/2019 – Subject to Change):

Efficiency	1 Bedrm	2 Bedrm	3 Bedrm	4 Bedrm
$840	$900	$1080	$1246	$1390

Reference Materials

NOTE: Maximums listed are applicable when Developer/Owner pays all utilities; rents must be adjusted to a lower amount if tenant is responsible for utility payments. (For other unit sizes or for additional information, contact Allegheny County Economic Development.)

Maximum Income Limits for Renters

One hundred percent of the renters occupying units assisted with CDBG funds must be at or below 80% of the median area income. Exceptions may apply if a project is located in a designated Neighborhood Revitalization Strategy Area.

Max. Annual Income (CDBG)	Family Size
$46,500	1 person
$53,150	2 people
$59,800	3 people
$66,400	4 people
$71,750	5 people
$77,050	6 people
$82,350	7 people
$87,650	8 people

VIII. Quick Reference for HOME & CDBG Income/ Purchase Price Limits Associated with HOMEOWNERSHIP Projects

HOME Purchase Price Limits: (2020 Limits remain in effect until the 2021 data is published). These are the maximum allowable purchase prices on homeownership projects assisted with HOME funds. HUD sets these values for the HOME program based on a 95% of median sales price for similar (new or existing, as applicable) units in a given housing market. There is no official limit for CDBG funded units, however, ACED will use the same limits unless critical need can be demonstrated for an alternate.

Existing Homes	New Homes	Unit Size
$162,000	$287,000	1 family unit
$207,000	$367,000	2 family unit
$251,000	$444,000	3 family unit
$310,000	$551,000	4 family unit

Reference Materials

Subsidy Limits
Please note that HUD has issued the Section 234 Condominium Housing limits to be used as subsidy limits following the expiration of the 221 (d) 3 program. These limits are found below, and are adjusted by unit size.

Section 234 Condominium Housing, elevator type mortgage limits (These Subsidy Limits are effective until further notice.)

These are the maximum allowable amounts of HOME funds that can be spent per rental unit on a rental project.

	Efficiency	1 Bedrm	2 Bedrm	3 Bedrm	4+ Bedrm
Elevator - Pgh Base City:	$153,314	$175,752	$213,717	$276,482	$303,489

INTERIM POLICY

To ensure that HOME maximum per-unit subsidy limits continue to be updated annually until a new regulation for effect can be issued, HUD has established an interim policy requiring PJs to use the Section 234-Condominium Housing, elevator-type, basic mortgage limits in lieu of the Section 221(d)(3) limits. Similar to the Section 221(d)(3) program, the Section 234 - Condominium Housing Insurance Program uses statutory per-unit mortgage limits that vary according to the size of the unit, the type of structure, and the location of the project. The Section 234 program insures blanket mortgages for the construction or substantial rehabilitation of multifamily projects to be sold upon completion as individual condominium units. Over time, the limits issued by HUD for the Section 234 program have been identical to the 221(d)(3) limits. Consequently, substituting the Section 234 basic mortgage limit for the Section 221(d)(3) limit until a new final rule can be published is consistent with the intent of NAHA and the implementing provisions of the HOME Final Rule. To ensure consistency with the provisions of section 212(e)(1) of NAHA, the HOME maximum per-unit subsidy limit that HUD can approve for a PJ cannot exceed 240 percent of the Section 234 basic mortgage limit.

Maximum Income Limits for Buyers
One hundred percent of the buyers purchasing units assisted with CDBG or HOME funds must be at or below 80% of the median area income. Exceptions may apply if a project is located within a designated Neighborhood Revitalization Strategy Area.

Reference Materials

Max. Annual Income (CDBG or HOME)	Family Size
$46,500	1 person
$53,150	2 people
$59,800	3 people
$66,400	4 people
$71,750	5 people
$77,050	6 people
$82,350	7 people
$87,650	8 people

RECAPTURE POLICY

Homeownership units that are developed with subsidy provided by the AHDF program require a means to ensure that the units are occupied as the principal residence during the HOME-mandated period of affordability. To ensure compliance, the homebuyers will sign a deferred payment mortgage document with Allegheny County. The guidelines for the mortgage document, which is often subordinated to a mortgage loan that the homebuyer secures from a private bank, follow below.

Allegheny County Recapture Guidelines

Allegheny County, through the Allegheny Housing Development Fund (AHDF), utilizes HOME funds for the development of affordable homeownership housing, including new construction and the acquisition and rehabilitation of single family homes. The HOME regulations at 24 CFR 92.254(a)(4) require that HOME-assisted housing remain affordable throughout the period of affordability. The HOME period of affordability for homeownership housing under a recapture provision is based upon the per-unit amount the direct HOME subsidy provided. The "direct HOME subsidy" is the amount of HOME assistance that enabled the homebuyer to buy the house. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy). The County's policy, in accordance with the HOME regulations, requires that all HOME-assisted housing must meet the affordability periods as applicable: a minimum of five years for assistance under $15,000; a minimum of ten years for assistance between $15,000 and $40,000; and a minimum of fifteen years for assistance over $40,000.

To ensure long term affordability, the County will utilize the recapture provision at 24 CFR 92.254(a)(5)(ii)(4), "Owner investment returned first" and apply it to all HOME-assisted for-sale

Reference Materials

housing as well as other homeownership housing assisted with funds from the Allegheny Housing Development Fund. The affordability restriction will be secured using a deed restriction and will expire at the end of the affordability period. If the HOME-assisted homebuyer fails to occupy the unit as his or her principal residence (i.e., unit is rented or vacant), or the home was sold or otherwise transferred during the period of affordability and the applicable recapture provision was not enforced, then the project will be considered in noncompliance. Accordingly, the County will monitor for compliance with the principal residency requirement and the terms of the recapture provision.

Because recapture provisions cannot be used when there is no direct HOME subsidy, as defined above, the County will only provide HOME funds for affordable homeownership housing to projects that include a direct HOME subsidy. The County will not invest HOME funds in homeownership projects that contain only a development subsidy.
To preserve affordability, the County may use purchase options, right of first refusal or other preemptive rights to purchase the house before foreclosure. However, should HOME-assisted housing be sold or transferred (voluntarily or involuntarily) during the period of affordability, recapture will be triggered and the County will recoup all or a portion of the direct subsidy, limited to net proceeds, to the extent that sufficient funds remain. Net Proceeds is defined as the sales price minus the superior non-HOME loan repayment minus closing costs related to the sale (but not the original purchase of the unit). From the available net proceeds, the County will distribute the funds as follows:

1. The homeowner will recover the amount of the down-payment that the homeowner contributed in cash;

2. The homeowner will recover the cost of documented permanent capital improvements, as defined in the guidelines for the Allegheny Housing Development Fund program, made to the property by the owner since the purchase;

3. From the proceeds remaining after items one and two are paid, the County will recapture up to the full amount of the HOME assistance, and the remaining amount, if any, will be remitted to the homeowner; and

4. In the event that net proceeds are not sufficient to pay the above, the County will permit the homeowner to recover up to their entire investment (down-payment and documented capital improvements) and the recapture requirement will be considered satisfied.

Allegheny County Permanent Improvements Policy

As noted in the Recapture guidelines above, a homebuyer may retain the cost of permanent capital improvements made to a home during is/her residence. If the home is resold during the

Reference Materials

period of affordability, the amount of those improvements may be deducted from the amount that the County can recapture from the homebuyer.

For purposes of the Recapture Guidelines, a permanent capital improvement must:

1. Be documented by a receipt showing payment for materials, if installed by homeowner; or payment for an improvement, if installed by a contractor. Receipt should be dated and contain a description of work undertaken.

2. A product or improvement that becomes a permanent part of the property.

3. Improvements will be reviewed for eligibility by the County upon presentation by the homeowner if the homeowner is selling the unit during the period of affordability.

Examples may include, but are not limited to: appliances that are hard-wired and permanently affixed, such as a built-in dishwasher, but not a portable model. The construction or installation of fencing, a deck, a porch or a garage or an addition is an example of a permanent installation. Electrical improvements must be hard-wired. Replacement of maintenance items due to wear or obsolescence (i.e., carpet, window treatments, paint) is not eligible.