PROGRAM GUIDELINES

Ownership Housing Development Assistance Program (OHDA)

City of Austin

Austin Housing Finance Corporation

I. PURPOSE

The purpose of the Ownership Housing Development Assistance (OHDA) Program (the "Program") is to implement the Austin Strategic Housing Blueprint, a multifaceted, integrated approach to creating and preserving affordable housing. Subject to the requirements and limitations of the sources of program funding, OHDA provides financing for the acquisition, rehabilitation, or new construction of affordable rental housing projects. Financing is provided to both for-profit and non-profit developers, including CHDOs.

The OHDA Program Guidelines includes a scoring criteria based upon multiple documents which serve to implement the Austin Strategic Housing Blueprint. These documents include:

Imagine Austin Comprehensive Plan

2016 Mobility Bond Corridor Construction Program

2018 Affordable Housing Bond Implementation Plan

Capital Metro Project Connect Long Range Vision Plan

Austin Strategic Housing Blueprint Implementation Plan

This document outlines the framework of guidelines within which the OHDA program operations are carried out. OHDA Program Guidelines undergo an annual review with any necessary revisions made prior to the next application deadline; however, additional revisions can be initiated by the AHFC Treasurer/NHCD Director at any time. OHDA Program Guidelines are not intended to address every circumstance that may be encountered in the development process, nor are they intended to be a verbatim restatement of all regulatory requirements. Omission of any federal or local regulatory requirements in these OHDA Program Guidelines does not relieve AHFC/NHCD, or the recipient of OHDA Program funds from their respective obligations as may be required by the funding source involved. OHDA Program guideline changes required as the result of federal, state or local regulatory or legal requirements may be implemented immediately by the AHFC Treasurer/ NHCD Director. .

The Austin Housing Finance Corporation (AHFC) reserves the right to fund projects at a lower amount than requested, and the right to deny applications that do not coincide with the City's Action Plan goals and the Strategic Housing Blueprint.

II. DEFINITIONS

Accessible	Individual dwelling unit, facility or a portion of a facility, when designed and constructed, can be approached, entered and/or used by individuals with physical disabilities.
Adaptable	Certain elements of a dwelling unit or facility can be added to, raised, lowered or altered to accommodate the needs of individuals with disabilities, or to accommodate the needs of persons with different types or degrees of disability.

Affordable Rent/ Eligible Rent	Rent plus utilities paid by the tenant does not exceed rent limits according to household and unit size for properties developed with the following fund sources: • For projects utilizing HOME and CDBG grant funds, or local non-federal sources, such as Housing Trust Fund or General Obligation Bond Funding, the HOME Program Rent Limits, published by HUD for the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area (MSA) will be used. • For projects financed with Low Income Housing Tax Credits (LIHTC) and/or Multi-family Private Activity Bonds (PAB), the Rent Limits published by the Texas Department of Housing and Community Affairs (TDHCA) for the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area (MSA) will be used. • If a combination of federal grant and/or local fund sources is used with LIHTC and/or PAB financing, AND if there is a difference between HOME and TDHCA rent limits, the more restrictive rent limits (i.e., lower dollar amounts for rents according to bedroom counts) will be used in order to ensure that the rent limits do not exceed those of the more restrictive funding source. If there is no difference between HOME and TDHCA rent limits, the HOME rent limits will be used.
AHFC	Austin Housing Finance Corporation, a Texas, public non-profit corporation organized and operated under Chapter 394, Texas Local Government Code.
CHDOs	"Community Housing Development Organizations" means a type of non-profit, community-based service organization that has, as part of its mission, the development of affordable housing for low- to moderate-income households. The U. S. Department of Housing and Urban Development (HUD) requires that the organization meet certain requirements pertaining to its legal status, organizational structure, and relationship to other entities, capacity and experience. Further definition can be found at 24 CFR 92.300
Debt Coverage Ratio	Ratio of net operating income (NOI) to total debt service (DS) during a given time period (DCR = NOI ÷ DS). Developments where financing is structured so as not to have debt on the property will not have a debt coverage ratio that can be calculated.
Economic Feasibility	"Economic Feasibility" for a for-profit developer is defined as a project's ability to generate a minimum 10% return on equity to the investor(s) after all expenses and debt service have been paid; and "Economic Feasibility" for a non-profit organization is defined as a project in which projected returns are sufficient to reimburse actual expenses.
Eligible Costs	Project costs that can be paid with OHDA Program funds. Eligible costs include, but are not limited to, the costs or partial costs of acquisition and/or verifiable hard construction costs, reasonable soft costs, architectural and engineering fees, surveys, market studies and legal fees.
Eligible Household	A household with a yearly income at or below 50% of the median family income (MFI) as published by HUD for the HOME Program or by TDHCA, as applicable to the source(s) of funding, for the Austin-Round Rock-San Marcos, TX MSA.

Geographic Dispersion	Locations or areas that provide greater opportunity for families in terms of education, economic, mobility, transportation, healthy food access and neighborhood quality
Low to Moderate Income Household	A household whose gross income does not exceed 80% of the median family income (MFI) according to household size as defined by 24 CFR 570.
Median Family Income	"Median Family Income (MFI)" means, for a given locality, the dollar amount separating ½ of the households with higher incomes from ½ of the households with lower incomes. In other words, at the median income level, there is an equal amount of households earning more than the median income and an equal number earning less the median income. The median income is adjusted based on the number of persons in a household.
Net Operating Income	Rent revenues or other income generated by the property(ies) with the exception of any project proceeds resulting from the long-term lease or sale of the property(ies).
NOFA	Notice Of Funding Availability. A NOFA refers to a process that informs the public that funding is available for a specific purpose and can be requested through an application process.
Non-profit organization	A not-for-profit non-sectarian organization that is certified by the Internal Revenue Service (IRS) as either a 501(c)(3) or a 501(c)(4) entity established for the purpose of benefiting low- and moderate-income individuals.
Organization in good standing	An organization that has no open Land Use Code violations, Regulatory Agreement violations, restrictive covenant violations, or other regulatory violations; and is not the subject of pending legal action brought by any jurisdiction or non-profit group. Entities will also be assessed adherence to cost estimates and construction schedules.
Program Income	Gross income received by the grantee (City of Austin) or sub grantee (Austin Housing Finance Corporation) directly generated by a grant-supported activity, or earned only as a result of the grant agreement during the grant period. To be considered program income, the grantee or a sub grantee must receive the income.
Project Proceeds	Proceeds resulting from sale of the property
Special Needs	People with disabilities, survivors of domestic abuse, homeless, and other vulnerable population categories as may be identified from time to time.
Very Low Income Household	A household whose gross income is at or below 50% of the MFI according to family size as published by HUD for the HOME Program or by TDHCA, as applicable to the source(s) of funding.

III. TERMS OF FINANCING

A. Funding Sources

The program is funded by federal funding sources such as HOME (Home Investment Partnership Program) and CDBG (Community Development Block Grant) and local funding sources such as General Obligation Bonds, the Housing Trust Fund, and other targeted local funds.

The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, must meet one of three national objectives. The three national objectives are:

1. Benefit to low-and moderate-income (LMI) persons;
2. Aid in the prevention or elimination of slums or blight; and
3. Meet a need having a particular urgency (referred to as urgent need)

The resources found at this link CDBG Regulations provide information on allowable housing activities, property improvements environmental review, fair housing, accessibility, labor standards and other areas.

HOME funds are allocated to participating jurisdictions using a formula designed to reflect relative housing need. All housing developed using HOME funds must serve low and very low income families. Each year, HUD publishes the applicable HOME income limits by area adjusted for family size. The resources found at this link HOME Regulations provide information on eligible project costs, property standards, income targeting for homeownership and rental units.

The HOME-CDBG Guidebook provides information on applicable regulations for projects funded with both CDBG and HOME funds.

B. Loans

Assistance through the OHDA Program is provided primarily through loans made to the Applicant/Borrower. All loans are secured by a Deed of Trust or other acceptable collateral. Assistance generally will be non-recourse with recovery rights limited to the encumbered collateral and any income therefrom. Applications will be reviewed and underwritten and recommendations will be made as to eligibility, fund source, loan amount and associated terms and conditions on a case-by-case basis. Under no circumstances shall financing be used for any reason or cost other than for direct costs associated with and approved by the program.

At its sole discretion, AHFC may consider renegotiation of loan terms and conditions if by doing so increases the creation of the number of affordable home ownership opportunities, and/or achieves a more favorable interest rate on any superior loan. Under no circumstances will the Program consider a request to renegotiate loan terms and conditions if equity is anticipated to be taken from the project that will not be used directly in the project itself or places AHFC in a lesser lien position without resulting in a reasonable and direct affordable housing benefit.

1. **Amortized Loans:** The loan is fully-amortizing and requires repayment over terms up to forty (40) years or more at interest rates ranging from 0% per annum to rates that will typically be lower than market lending rates in effect at the time the loan is made, plus allowable fees.

Interest rates and terms on OHDA loans are determined by cash flow projections for projects and can be negotiated within the parameters of OHDA underwriting criteria.

2. **Deferred Payment Loans:** Subject to OHDA restrictions, Deferred Payment Loans (DPLs) are provided at interest rates ranging from 0% per annum to rates that will typically be lower than market lending rates in effect at the time the loan is made, plus allowable fees. The loan term may vary based on the funding source(s) used for the project, but will be for a period of forty (40) years and maybe up to ninety-nine (99) years or more. DPLs are contingent upon compliance with the terms and conditions of the loan agreement and deed restrictions for the required period. Should the property cease to be used as affordable housing during the loan term (or Affordability Period) as required under the Loan Agreement, the Note will remain in place until the sale, refinance, or other disposition of the property, at which time the principal, fees and any accrued interest will be due and payable.

3. **Deferred Forgivable Loans:** Subject to OHDA restrictions, Deferred Forgivable Loans (DFLs) are provided at 0% per annum interest rates and, as the name suggests, are forgiven at the termination of the loan term (Affordability Period). The loan term may vary based on the funding source(s) used for the project, but will be for a period of forty (40) years and maybe up to ninety-nine (99) years or more. DFLs are contingent upon compliance with the terms and conditions of the loan agreement and deed restrictions for the required period. Should the property cease to be used as affordable housing during the loan term (or Affordability Period) as required under the Loan Agreement, the Note will remain in place until the sale, refinance, or other disposition of the property, at which time the principal and any fees will be due and payable.

4. **Interest Only Deferred Payment Loans:** Subject to OHDA restrictions, Interest Only Deferred Payment Loans (IDPLs) are provided at interest rates ranging from 0% per annum to rates that will typically be lower than market lending rates in effect at the time the loan is made, plus allowable fees. These loans are structured such only interest payments are made periodically and the principal amount is repaid at the end as a balloon payment. The loan term may vary based on the funding source(s) used for the project, but will be for a period of forty (40) years and maybe up to ninety-nine (99) years or more. IDPLs are contingent upon compliance with the terms and conditions of the loan agreement and deed restrictions for the required period. Should the property cease to be used as affordable housing during the loan term (or Affordability Period) as required under the Loan Agreement, the Note will remain in place until the sale, refinance, or other disposition of the property, at which time the principal, fees and any accrued interest will be due and payable.

5. **Interest Only Deferred Forgivable Loans:** Subject to OHDA restrictions, Interest Only Deferred Forgivable Loans (IDFLs) are provided at 0% per annum interest rates and, as the name suggests, the principal amount is forgiven at the termination of the loan term (Affordability Period). The loan term may vary based on the funding source(s) used for the project, but will be for a period of forty (40) years and maybe up to ninety-nine (99) years or more. DFLs are contingent upon co but interest is paid periodically, in compliance with the terms and conditions of the loan agreement and deed restrictions for the required period. Should the property cease to be used as affordable housing during the loan term (or Affordability Period) as required under the Loan Agreement, the Note will remain in place

until the sale, refinance, or other disposition of the property, at which time the principal and any fees will be due and payable.

C. Liens

AHFC shall place a lien on the property for which a loan has been made. With very few exceptions, AHFC will agree to subordinate its lien position through the use of a Subordination Agreement executed by the Borrower, the Senior Lender/Lienholder, and AHFC. The lien shall remain in effect until all loan terms and conditions have been fulfilled. A release of lien will be issued upon full repayment of the loan and/or fulfillment of all contractual terms. A release of Lien shall not be provided in the event the borrower/developer fails to comply with the terms and conditions of the Loan Agreement.

In the case of a multi-property project or subdivision, the lien will be partially released as each home is sold to an Eligible Household and, if required, after repayment to AHFC is made for the release amount of the property as described in the Loan Documents.

D. Land Use Restrictions

AHFC shall require all residential developments assisted through the OHDA program to execute a Restrictive Covenant or other form of land use restriction to secure the affordability period with AHFC. At the time of the sale of an affordable ownership unit, the AHFC approved qualified buyer must enter into a Resale Restriction Agreement and a Covenant Limitation on Resale Price and Buyer Income or other form of land use restriction. These resale agreements ensure that if the buyer chooses to sell the unit in the future, the unit will be sold at an affordable price to another qualified buyer (who is income certified by AHFC). AHFC may also exercise a Right of First Refusal to purchase the property.

E. Collateral

Any assistance provided will be secured by a Deed of Trust or other acceptable collateral. The AHFC Deed of Trust may be subordinated to private or other financing only if determined necessary for project implementation. Assistance generally will be non-recourse with recovery rights limited to the encumbered collateral and any income there from.

F. Renegotiation of Loan Terms

At its sole discretion, the AHFC may consider renegotiation of loan terms and conditions if by doing so increases the creation of the number of affordable ownership housing units, and/or achieves a more favorable interest rate on any superior loan. Under no circumstances will the Program consider a request to renegotiate loan terms and conditions, if to do so takes equity from the project that will not be used directly in the project itself or places the Program in a lesser lien position without resulting in a reasonable and direct affordable housing benefit. The Program is under no obligation to consider any request to renegotiate any existing loan terms and conditions. It is the intent of the Program that all approved terms and conditions will be honored and met by the project and its owners. It is the policy of the Program that only under certain limited circumstances or situations will any such request be considered. At its sole discretion, the Program may consider renegotiation of loan terms and conditions if by doing so increases the creation of the number of affordable housing units.

IV. PROJECT ELIGIBILITY REQUIREMENTS

A. Eligible Projects

Eligible projects may include acquisition, rehabilitation, or construction projects for the development of affordable home ownership opportunities. For rehabilitation projects, funds may be used to make essential repairs or improvements to meet local code or federal Uniform Physical Condition Standards (UPCS); come into compliance with federal requirements of Section 504 or the Americans with Disabilities Act; abatement of lead-based paint or abatement of asbestos; essential energy-related repairs or improvements; and repair or replacement of major housing systems in danger of failure. Projects assisted must be operated and maintained on a long-term basis in accordance with these program guidelines and contractual requirements based on applicable federal and local regulations.

AHFC also issues Private Activity Bonds and these are typically used in conjunction with non-competitive Low Income Housing Tax Credits awarded by the Texas Department of Housing and Community Affairs. OHDA funding requests that propose to use a bond issuer other than AHFC are not allowed unless expressly approved by AHFC.

B. Minimum Requirements for Projects

1. Located within the corporate City-limits of Austin.

2. Projects must consist of one (1) or more residential units.

3. Units must be used for residential purposes only.

4. New construction projects must be certified for and meet the City of Austin's S.M.A.R.T. Housing requirements.

5. Rehabilitation projects must have a minimum of one (1) condition that violates either the City's Housing Code or federal Uniform Physical Condition Standards (UPCS).

6. All organizations, both for-profit and non-profit, that are parties to the development, whether owner, developer, or sponsor, must be in good standing, as defined herein, with AHFC/NHCD and other local governments as applicable. Good standing refers to an organization having no open Land Use Code violations, Regulatory Agreement violations, restrictive covenant violations, or other regulatory violations; and is not the subject of pending legal action brought by any jurisdiction or non-profit group. Entities will also be assessed with regard to any tenant complaints and adherence to cost estimates and construction schedules.

7. If applicable, projects must meet HUD Environmental Review requirements.

C. Acquisition, Rehabilitation, and New Construction

At least 10% of all units in the project must be designated as OHDA assisted and OHDA assistance for the designated units is limited to no more than 50% of per unit cost.

1. **Acquisition of land** Acquisitions must include existing units or vacant land that will facilitate the new construction of units. Assistance can be provided for the acquisition of land or existing residential properties, only if the acquisition price is equal to or less than the fair market value of the property.

2. **Acquisition of property** Funds may be used to make repairs or improvements to the property such that the property will:

   a. meet local code or federal Uniform Physical Condition Standards (UPCS);

   b. come into compliance with federal requirements of Section 504 of the Rehabilitation Act of 1974, as amended,

   c. comply with the Americans with Disabilities Act,

   d. have been treated for identified lead-based paint hazards in properties constructed prior to 1978;

   e. have proof that asbestos has been handled appropriately;

   f. have energy-saving repairs or improvements made and major housing systems repaired or replaced.

3. **New construction** Cost per unit must be reasonable and compatible with prevailing rate for affordable housing.

D. Eligible Costs

Through the Program, applicants may receive financing for acquisition, rehabilitation or new construction of owner-occupied housing projects. The successful applicant will be required to provide an accounting of expenditures made with funds on such periodic basis, as shall be determined by AHFC/NHCD to ensure that the expenditures are made in satisfaction of public purposes. OHDA funding may be used for the following as long as it is specifically related to the project:

1. **Hard Costs** such as acquisition of undeveloped land for a specific project; acquisition of existing structures; site preparations or improvement including demolition; securing buildings; construction; and materials and labor.

2. **Soft Costs** include predevelopment costs such as architectural and engineering fees (including specification and job progress inspections), financing costs, credit reports, title insurance, recording costs, transaction taxes, appraisals, environmental reviews, builders' or developers' fees, marketing costs, and management fees.

3. **Developer Fee** is compensation to the developer for the time and risk involved to develop the project. It is typically based on the size of the project, the total development cost and the risk associated with the project. The maximum developer fee allowed by AHFC/NHCD is 15% of total project costs. AHFC/NHCD may require a lower percentage for the developer fee if the developer also holds an ownership stake in the project or stands to profit from managing the property. Project Management fees (i.e., those paid out on a monthly basis while the project is underway) are considered a part of the Developer Fee.

E. Ineligible Costs

1. Facilities considered to be homeless shelters are not eligible.

2. Luxury items, including but not limited to wet bars; barbecue pits; bathhouses; hot tubs or Jacuzzis; swimming pools or swimming pool decks; will be found ineligible, and AHFC/NHCD reserves the right to disallow other project costs deemed non-essential to furthering the purpose of the project.

3. The OHDA program will not reimburse for any sales taxes paid on materials or labor.

V. APPLICATION REVIEW PROCESS

Program assistance is made available through the review and evaluation of information outlined in the OHDA Application. Projects are evaluated according to the application evaluation criteria and established AHFC/NHCD procurement policies and procedures in place at the time of application. Subject to available funds, projects determined to be the most responsive to Austin City Council policy directives, the current fiscal year's City of Austin Action Plan submitted to U.S. Department of Housing and Development, and which achieve the goals and initiatives detailed in the Austin Strategic Housing Blueprint may be selected and approved to receive assistance.

AHFC/NHCD reserves the right to determine project eligibility and the fund source to be used for any proposed project. Funding decisions will be based on a variety of factors, not just application scores.

A. <u>Application Submittal</u>

Applications for funding will be received on a continuous basis. Upon receipt of an application, staff will send a letter to the applicant acknowledging receipt and informing the applicant of the projected process dates. On a quarterly basis, all applications received prior to the quarterly deadline will be processed and reviewed for completion and to ensure that the proposal achieves the threshold score. In the event that an application is incomplete or does not meet the threshold score, staff will coordinate with the applicant to resolve any deficiencies. Within two weeks of the quarterly deadline, all complete applications that achieve the threshold score will be posted to the City website. Staff will send all applicants a letter informing them of the status of their application, either that it has been posted and will proceed through the review process or that it will not proceed through the process and may be resubmitted for a future review once deficiencies are resolved.

B. <u>Application Components</u> The complete application is comprised of five components plus all required attachments.

1. Applicant Information Form
2. Project Summary Form
3. Development Schedule
4. Development Cost Schedule
5. Operating Pro Forma

C. <u>Required Attachments:</u> The applicant is required to submit the following attachments to the application for the purpose of evaluating each development proposal. The attachments are grouped under four major categories – Applicant Entity, Development Team, Project Proposal and Property.

1. APPLICANT ENTITY

a. **Introduction :** Brief description of the applicant entity and any relevant experience

b. **Certificate of Status** : Issued by the Texas Secretary of State certifying that the applicant has filed for registration and is in existence as an entity in good standing within the State of Texas

c. **Applicant Capacity** Curriculum Vitae (CV) for all principals of the applicant entity highlighting relevant experience in the development of affordable housing noting the following elements:

   i. project management,

   ii. market analysis,

   iii. site selection and control,

   iv. planning and construction,

   v. design, architecture and engineering,

   vi. legal and accounting,

   vii. federal funding rules and

   viii. Other funding source rules (e.g. Low Income Housing Tax Credits).

d. **Statement of Confidence**: If the CV of any principal of the applicant team includes any development outside the territorial boundaries of the City of Austin, an endorsement of the applicant entity or principal member issued by the appropriate department of the jurisdictional government, must include:

   i. The total number of units provided by the identified development and the number of units at each level of affordability

   ii. References to the timeliness of the project and if the schedule adhered to the proposed timeline

   iii. References to the cost estimate of the project, the public investment in the project, and the number of times the applicant requested funds for the project

e. **Financial Capacity:** Provide narrative information on recent, similar, and successful experience in affordable housing development. Include experience using multiple fund sources and previous working history with the Austin Housing Finance Corporation, if any.

   i. **<u>If developer is a non-profit</u>**

      1. Federal IRS certification granting non-profit tax-exempt status

2. Certified financial audit for most recent year - Include the auditor's opinion and management letters

3. Board resolution approving the proposed project and authorizing the request for funding

ii. <u>If developer is a for-profit</u>

1. Current financial statement

2. Proof of sufficient reserves or a line of credit available, if necessary, to complete the proposed project

2. DEVELOPMENT TEAM

a. List of persons or entities anticipated to be involved in the project (i.e. lenders, attorneys, accountants, architects, engineers, general contractor, sub-contractors, consultants);

b. Include contact information and indicate if any person or entity involved is certified by the City of Austin as a minority or women-owned business enterprise **(MBE/WBE),** or if any of the entities are also **non-profit** organizations.

c. Curriculum Vitae for all members of the Development Team highlighting relevant experience in the development of affordable housing

3. PROJECT PROPOSAL

a. Project Description: Applicants shall provide a brief project description to include the following details:

i. Describe the proposed tenant population, income levels, and services, if any, to be provided to or made available to residents.

ii. Indicate the number of units reserved for Housing Choice Voucher holders (Section 8).

iii. Indicate the number of units that are or will be made accessible and adaptable for persons with mobility, sight or hearing disabilities.

iv. If applicable, demonstrate the Project's compatibility with current Neighborhood Plan.

v. Summarize the key financials of the project, clearly indicating the total project cost, the amount and intended use of AHFC/NHCD funds being requested, and the amount(s) and provider(s) of other funding and the status of those funding commitments.

vi. If the property is occupied by residents at the time of application submission, specify that along with the following additional information: Include details on the type of structure (multi-family or single-family), number and size of units in square feet.

vii. Indicate whether the project meets the requirements of the City's Vertical Mixed-Use (VMU) Ordinance, or is in a Planned-Unit Development (PUD) or Transit Oriented Development (TOD) or any other City of Austin density bonus program.

viii. Indicate how the project will meet S.M.A.R.T. Housing requirements.

b. **Market Assessment** Applicants should address ***pricing*** and ***absorption*** relating to the whole project, and not just the units being funded. Market analysis should also include the following:

   i. **Evaluate general demographic, economic, and housing conditions** in the community. Including;

      1. Identifying the target population(s) of the development, and area demographic makeup

      2. Evaluating overall economic conditions and trends

      3. General housing conditions and trends in the community

   ii. **Identify the geographic area** from which the majority of a project's tenants or buyers are likely to come. Identify the primary market/geographic area, based on US census tract or neighborhood boundaries

   iii. **Quantify the pool of eligible tenants** or buyers in terms of household size, age, income, tenure, and other relevant factors.

   iv. **Analyze the competition** by evaluating other housing opportunities with an emphasis on other affordable rental developments or sales opportunities in the market area. Identify comparable units based on location, year of construction, target population, property condition, unit mix, unit amenities, and occupancy and turnover.

   v. **Assess the market demand** for the planned units and determine if there is sufficient demand to rent/sell the units.

   vi. **Evaluate the effective demand and the capture rate**, usually expressed as a percentage (the project's units divided by the applicant pool). The capture rate is the percentage of likely eligible and interested households living nearby who will need to rent units in the proposed project in order to fully occupy it. The lower this rate, the more likely a project is to succeed.

   vii. **Estimate the absorption period**. Plan how many units can be successfully leased or sold each month and how long it will take to achieve initial occupancy/sale of the units and stabilized occupancy for the project as a whole. Absorption should be calculated using comparable units only.

c. **City of Austin Good Neighbor Policy** In response to Austin City Council Resolution 20110113-040, a Good Neighbor Policy was developed to foster a broad community dialogue that includes stakeholders from neighborhoods to establish successful approaches for integrating low-income housing throughout the City. For more information, please see the **City of Austin Good Neighbor Guidelines.**

i. **Prior to submission of an OHDA Application, the developer must:** Research the applicable City of Austin Neighborhood Plan for the area in which the project is to be located. If no adopted neighborhood plan exists, then this step is omitted. Using written notice by letter or by flyer, notify: property owners with properties no less than 500 feet from the proposed development site; and registered neighborhood organizations whose boundaries include the proposed development site. Engage with neighborhood organizations whose boundaries include the proposed development site in order to provide current information about the project. Appoint a Single Point of Contact (SPOC) to serve as the liaison for exchanging information.

ii. **Submit with the completed OHDA Application:**

1. The developer's communication plan for engaging stakeholders and neighborhood organizations.

2. Documentation of written notice provided to property owners and neighborhood organizations.

3. A signed City of Austin Good Neighbor Checklist

d. **S.M.A.R.T. Housing** All new construction projects will be required to obtain S.M.A.R.T. Housing certification prior to loan application. S.M.A.R.T. Housing is not applicable to rehabilitation projects. The S.M.A.R.T. housing program certification letter must be submitted along with the application. Program details and contact information are available on NHCD's website. The S.M.A.R.T. Housing letter must be dated no more than six months prior to the application deadline.

4. PROPERTY

a. **Map of the property** Attach a map generated by the City of Austin ArcGIS showing the location of the development in reference to the geographic priorities established in the Strategic Housing Blueprint, such as:

i. High Opportunity Census Tracts

ii. Tracts at risk of Displacement or Gentrification

iii. Imagine Austin Centers and Corridors with 0.5 mile buffer

iv. High-Frequency Transit Stops with 0.25 mile walk

v. Transit Stops with 0.75 mile walk

vi. Mobility Corridor with 0.5 mile buffer

vii. Healthy Food Access with 1 mile buffer

viii. 100 year Flood Plain

b. **Real Estate Appraisal** Acquisition of land or existing residential properties are eligible only if the acquisition price is equal to or less than the fair market value of the property.

Applicants should provide one of the following to demonstrate fair market value of property.

- **i.** a pre-construction appraisal on the property to be acquired, conducted less than six months prior to receipt of a funding application by AHFC/NHCD;
- **ii.** an appraisal for comparable properties within the same neighborhood, conducted less than six months prior to receipt of a funding application by AHFC/NHCD or
- **iii.** a tax assessment (less than one year old) for the property or for comparable properties within the same neighborhood

c. **Zoning Verification Letter** Include a letter from the City of Austin's Planning and Zoning Department (PZD) verifying that the current zoning of the site for the proposed project is compatible with the anticipated use, or include documentation verifying that a request to change current zoning has been submitted to PZD. Should the project be approved for funding, the appropriate zoning must be in place prior to execution of loan documents

d. **Proof of Site Control**

- **i.** Include evidence of site control such as a warranty deed or a current earnest money contract, and provide a real estate appraisal or current tax documentation that substantiates the value of the property.
- **ii.** If there are existing structures, provide documentation from the taxing authority or another third-party source indicating the year the structure was built.

e. **Phase I Environmental Assessment**

- **i.** Applicants must provide a Phase I Environmental Site Assessment (ESA) report prepared by qualified environmental professionals.
- **ii.** Applicants must provide mitigation strategies for concerns raised in the Phase I ESA report
- **iii.** City of Austin's Austin Resource Recovery Department provides free environmental assessments for eligible entities. For more information contact the Brownfields Office: brownfields@austintexas.gov, 512-974-6085.

f. **State Historical Preservation Officer Consultation** Section 106 of the National Historic Preservation Act of 1966, requires federal agencies to consider the effects of their undertakings on historic properties and consult with the State Historic Preservation Officer (SHPO). If there are any buildings, structures, designed landscape features (such as parks or cemeteries), or historic districts, 45 years old or older and potential or known archeological resources within the project area, consultation with the SHPO is required. Information required for SHPO consultation is available at: *http://www.thc.texas.gov/public/upload/forms/SHPO_Consultation_Form_Instructions-Ver0811.pdf*

The applicant needs to provide the required information (including maps, photographs etc.) along with the application and AHFC/NHCD will conduct the SHPO consultation as required.

D. Application Scoring

All applications are assessed against the quantitative goals and initiatives detailed in the Austin Strategic Housing Blueprint, Implementation Plan, and Atlas of Existing and Historical Conditions. Any application for funding must achieve a minimum threshold score to be considered under additional stages of review. **Submission of an application that meets or exceeds the minimum score is not a guarantee that the proposed project will be funded.**

1. **Unit Score** Unit scores are based upon the percentage of the goal achieved through the proposed development. Units with deeper affordability are given an additional weight.

   a. **District Goal** The Austin Strategic Housing Blueprint Implementation Plan has identified specific numerical goals for each Council district to achieve the overall goal of creating or preserving 60,000 housing units affordable to households at or below 80% median family income (MFI) by 2027.

   b. **High Opportunity Areas** 15,000 units of affordable housing will be placed in areas of Higher Opportunity, defined as those areas with high measures of upward mobility and positive socioeconomic outcomes for existing residents. High Opportunity areas are Census Tracts that rank above average for at least six of the nine Opportunity 360 Indices. District goals are established by the proportion of Opportunity Areas in each district as of the adoption of the Austin Strategic Housing Blueprint Implementation Plan.

   c. **High-Frequency Transit** 15,000 units of affordable housing will be placed in areas which are within a quarter-mile of High-Frequency Transit routes. High-frequency refers to a transit route that provides service every 15 minutes or better throughout most of the day, on weekdays and weekends. As Capital Metro continues to implement Project Connect, more areas will be served by High-Frequency Transit. District goals are established by the proportion of high-frequency transit in each district as of the adoption of the Austin Strategic Housing Blueprint Implementation Plan.

   d. **Imagine Austin Centers and Corridors** In 2012, the City of Austin adopted the Imagine Austin Comprehensive Plan which established a vision of the City in 2039. This vision includes a network of activity centers and corridors which have been identified as future transit-oriented, mixed-use centers of activity connected by walking, bicycling, transit, or automobile. 15,000 units of affordable housing will be placed in areas which are no more than one half mile of Imagine Austin Centers and Corridors. District goals are established by the proportion of Imagine Austin Centers and Corridors in each district.

   e. **High Displacement Risk Areas** 15,000 units of affordable units will be placed in High Displacement Risk Areas, as defined by "Uprooted: Residential Displacement in Austin's Gentrifying Neighborhoods and What Can Be Done About It," a report on gentrification and displacement produced by researchers at the University of Texas at Austin. High Displacement Risk Areas are measured at the Census Tract level. District goals are established by the proportion of High Displacement Risk Areas in each district.

f. **Geographic Dispersion** 15,000 units of affordable housing will be placed according to the geographic dispersion of affordable housing units within the ten Council districts as of the adoption of the Austin Strategic Housing Blueprint Implementation Plan. A primary goal of the Strategic Housing Blueprint has been to maximize geographic dispersion of subsidized affordable units across the city. Districts which have fewer units received a higher proportion of the 15,000 units.

g. **Mobility Bond Corridors** Austin voters approved $720 million in bonds in 2016 for transportation and mobility improvements throughout the city. The 2016 Mobility Bond Corridors were analyzed using the University of Texas' Corridor Housing Preservation Tool to establish affordable housing production and preservation goals within one half mile of each corridor scheduled for improvements through the 2016 Mobility Bonds.

2. **Initiatives and Priorities Score** The Austin Strategic Housing Blueprint establishes a set of initiatives and priorities for the production of affordable housing units and the targeted populations that these units are intended to serve. These initiatives also receive an additional weighted score based upon the Opportunity 360 indices that would best serve the targeted populations

a. **Multi-generational Housing** The Blueprint calls for no less than 25% of all affordable housing units to have two or more bedrooms and a system to provide opportunities for families with children. Family Friendly units are scored as a percentage of the total affordable units provided. Family Friendly units are weighted with the following factors:

i. Cumulative TEA letter grade of the Elementary, Middle, and High School attendance zones

ii. Educational Attainment

iii. Environment

iv. Community Institutions

v. Social Cohesion

vi. Economic Security

b. **Accessible Housing** In all new developments funded through the OHDA program, 100% of all ground floor units will be adaptable for individuals with mobility or sensory impairments. No less than 25% of all affordable units will be accessible. Applications must state the number of units that will be accessible to individuals with mobility impairments and the number of units accessible to individuals with sensory impairments. These units will be scored as a percentage of the total number of affordable units. Accessible Housing will be weighted with the following factors:

i. Housing Stability

ii. Health

iii. Mobility

iv. Community Institutions

3. **Financial Score** The financial score for a proposal is based on four metrics to determine the most reasonable use of OHDA funds.

   a. **Debt Coverage Ratio** Debt coverage ratio must be provided as part of the Operating Pro Forma. Debt coverage ratio should be between 1.00 and 1.50.

   b. **Leverage** A maximum leverage ratio for OHDA assisted project is established as no more than 50% of the total project cost. A lower ratio represents a greater leveraging of OHDA funds.

   c. **Cost per Unit** The total OHDA assistance requested is divided by the proposed total number of units affordable to households below 50% of the median family income. A lower amount of assistance per unit represents a stronger investment for OHDA funds.

   d. **Cost per Bedroom** Multiple-bedroom units cost more to develop than single-bedroom units. To compensate for this increased cost the cost per bedroom is scored along a similar scale to the cost per unit. The total amount of OHDA assistance requested is divided by the total number of bedrooms proposed within the units affordable to households below 50% of the median family income. A lower amount of assistance per bedroom represents a stronger investment for OHDA funds.

E. Underwriting Panel Review

Applications that meet the minimum threshold requirements are reviewed and scored by a panel of AHFC/NHCD staff members with expertise in evaluating different aspects of the application. The panel reviews the application and all required documentation to produce a draft underwriting report. The underwriting report will address applicant capacity including financial capacity; development team and project management history; project feasibility; and property assessment. If applicable, operating projections must generally meet HOME Subsidy Layering parameters outlined in HUD-CPD Notice 98-01.

F. Housing Investment Review Committee

The Housing Investment Review Committee (HIRC) is a group of persons appointed by the NHCD Director and charged with reviewing all Rental Housing Development Assistance and Ownership Housing Development Assistance funding applications. The purpose of their review is to ensure that applications have been scored and are in compliance with the OHDA Program Guidelines. The role of the HIRC is advisory only. The HIRC does not have the authority to recommend or disapprove of applications, but can concur or not with staff's scoring of an application. Meetings of the HIRC are public meetings, but is not subject to the requirements of Chapter 2-1 of the City of Austin Code of Ordinances.

G. NHCD Executive Team

Applications that are likely to be recommended for funding will receive further consideration by the AHFC/NHCD executive team. Applications that are approved by the executive team for a funding recommendation will be notified by a Recommended for Funding letter. The Recommended for Funding letter outlines the next steps in the application review process and an expected date for a final decision by City Council.

H. Final Decision

Based on the funding amount requested, the final decision to fund an application is determined by the Austin City Council or the Austin Housing Finance Corporation. The developer will be informed of the final decision by a Funding Award Letter.

VI. LOAN DISBURSEMENTS

Once a Loan Agreement has been executed between AHFC and a Borrower for the purpose of developing housing according to these OHDA Program Guidelines, if there is a conflict between these OHDA Program Guidelines and the project's Loan Agreement, the terms of the Loan Agreement shall prevail.

A. Payments will be made to Developers/Owners for eligible project costs according to the conditions described in the AHFC Loan Agreement. Eligible project costs must be documented with each request for payment for the purpose of supporting the amount requested. AHFC will verify the work completed and determine the eligible amount to be paid. The method of invoicing AHFC for a disbursement of loan proceeds shall be described in each loan agreement. The AHFC retains the right to withhold or temporarily suspend payments if the Borrower:

1. has failed to perform on any existing loan (whether one or more) from AHFC in accordance with the terms and conditions of the Loan Agreement(s);
2. is behind in submitting required, timely or incomplete reports, documents or information required or reasonably requested by AHFC,
3. fails to comply with any OHDA loan agreement covenants; or
4. has not resolved any outstanding monitoring findings or concerns identified by the AHFC within a specified time period.

B. At such time that the Borrower has adequately addressed the identified deficiencies, and in AHFC's sole discretion, AHFC may resume project payments. The list above is not intended to be all-inclusive, and the terms and conditions of the Loan Agreement shall further describe penalties for non-performance or non-compliance by the Borrower.

VII. REGULATORY REQUIREMENTS

The borrower has to comply with the following requirements at each stage of the process including application, construction, post construction, leasing, affordability etc.

A. City of Austin Visitability Ordinance

All single-family, duplex and triplex dwellings newly constructed with financial assistance provided through AHFC/NHCD must be visitable in accordance with the City of Austin Visitability Ordinance No. 981007-A.

B. "Section 3" Compliance. "Section 3" refers to Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701u). It requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

1. The Section 3 requirements apply to recipients of Housing and/or Community Development Assistance exceeding $200,000 combined from all sources in any one year. Section 3 covers the expenditure of any portion of those funds for any activity that involves housing construction, rehabilitation, or other public construction.

2. All contractors or subcontractors that receive covered contracts in excess of $100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

3. Because NHCD receives HUD funding, Section 3 requires NHCD to ensure that employment and other economic and business opportunities generated by the HUD funding will, to the greatest extent feasible, be directed to:

   a. Qualified low- and very low-income persons residing in the metropolitan area - "Qualified" means the prospective employee has the proper qualifications for the work to be performed. "Low-income persons" means families (including single persons) whose total household incomes are at or below 80 percent of the Median Family Income for the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area (MSA). "Very-low income persons" means families (including single persons) whose total household incomes do not exceed 50 percent of the Median Family Income for the Austin-Round Rock-San Marcos, TX MSA. "Metropolitan Area" means the 5-county Austin-Round Rock, San Marcos, and TX MSA which includes Bastrop, Caldwell, Hays, Travis, and Williamson counties.

   b. <u>Businesses that employ low- to very-low income persons</u> means a business that has at least 30% of its employees who are Section 3 Residents or those that within three years of the date of first employment with the business were Section 3 Residents.

   c. <u>Businesses that are owned by low- to very low-income persons-</u> means a business that is 51% or more owned by a Section 3 Resident.

   d. <u>Businesses that provide evidence of a commitment to subcontract in excess of 25% of the dollar amount of all subcontracts to be awarded to businesses that meet the following qualifications</u>: "means businesses that provide a certification or actual proof that they have subcontracted or currently have subcontracts with businesses owned by Section 3 Residents

Guidance on how to comply with the requirements of Section 3 can be found in the Neighborhood Housing and Community Development Office's Section 3 plan.

C. <u>Davis Bacon requirements</u>

The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of $2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

D. Environmental Review

AHFC/NHCD requires that the owner of a project provide a Phase I Environmental Review prior to executing loan documents to ensure that no environmental hazards exist on or near the project site. For acquisition and/or rehabilitation of properties built prior to 1979, the project must include an inspection for asbestos prepared by a firm certified by the State of Texas. The developer must submit mitigation plans for environmental concerns such as presence of toxic substances, underground storage tank, elevated noise levels etc. noted in the Phase I Environmental Review. Environmental reviews are required to be submitted by NHCD to HUD for all federally funded projects.

E. Lead-Based Paint

All owners/developers using OHDA funds on a project are required to provide tenants of pre-1978 housing with the *Protect Your Family from Lead in Your Home* brochure and document receipt of the document. The Borrower is responsible for obtaining the brochure and the appropriate disclosure forms from AHFC/NHCD. If a Project has the potential for lead-based paint hazards, the owner/developer must ensure that the required procedures for testing of surfaces, completion of the rehab work, further testing and clearance examinations on the property are followed throughout the project, and that all personnel conducting those activities have obtained the appropriate state certifications to authorize their work. For any project involving non-exempt activities, the owner/developer must work closely with AHFC to design a detailed plan to abate the hazard.

F. Contractor Selection

Owners/developers shall provide to AHFC/NHCD, construction specifications and costs estimates for work proposed. To ensure completeness, cost efficiency and market competitiveness, AHFC/NHCD will review the project specifications and associated costs that will be mutually agreed to by both parties. Owners/developers will select construction contractors most capable to complete the project in accordance with the approved specifications and costs. AHFC/NHCD will conduct on-site inspections at various intervals throughout the construction of the project to assure the project is completed as required.

G. Debarment and Suspension

Owners and contractors are prohibited from employing, awarding contracts, or funding any contractors or subcontractors that have been debarred, suspended, proposed for debarment, or placed on an ineligibility status by the federal government, or by the City of Austin. In addition, any owners who are debarred, suspended, proposed for debarment, or placed on an ineligibility status by the federal government will be prohibited from receiving OHDA funding. Developers are required to screen the status of all contractors and subcontractors by consulting the “System for Award Management” or “SAM” website at www.sam.gov.

H. Fair Housing Opportunity

The Borrower must comply with:

1. The requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR part 100: Executive Order 11063, as amended, (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and Title VI of the Civil Rights Act of 1964

(42 U.S.C. 2000d) (non-discrimination in Federally Assisted programs) and implementing regulations issued at 24 CFR Part 1;

2. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146;

3. The prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8; and

4. The requirements of Executive Order 11246 (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60.

5. The prohibitions against discrimination based on actual or perceived sexual orientation, gender identity or marital status under the requirements of the Equal Access to Housing Rule, also known as the Lesbian, Gay, Bisexual, or Transgender (LGBT) Rule, published as additions and revisions to the non-discrimination provisions in 24 C.F.R. Part 5.

I. Fair Housing in Marketing

1. In projects of five (5) or more units, project developers/owners/sponsors will be required to use affirmative fair housing marketing practices in soliciting tenants in determining eligibility and concluding all transactions. Each participating entity must affirmatively further fair housing in the same manner as a project that is required to comply with 24 CFR 92.351. These requirements include:

   a. AHFC/NHCD will require the project owner to solicit applications for vacant units from persons in the housing market who are least likely to apply for the rehabilitated housing without benefit of special outreach effort.

   b. Advertising for vacant units must include the equal housing opportunity logo or statement. Advertising median may include newspapers, radio, television, brochures, leaflets, etc.

   c. The project owner must maintain a file containing all marketing efforts (i.e. copies of newspaper ads, memos of phone calls, copies of letter, etc.) to be available for inspection at least annually by AHFC/NHCD.

   d. The project owner shall maintain a listing of all tenants residing in each unit at the time of requesting assistance throughout the entire compliance period.

2. Where an owner fails to follow the affirmative marketing requirements, corrective actions shall include extensive outreach efforts to appropriate contacts to achieve the occupancy goals or other sanctions AHFC/NHCD deems necessary.

J. Insurance Requirements

Project developers/owners shall obtain, maintain and keep in full force and effect insurance coverages for general liability, auto, and property hazard insurance in such amounts and in such manner as required by the AHFC's Loan Agreement. The insurance provisions need to be verified and approved by the City of Austin Risk Management Department prior to final submission to AHFC/NHCD. OHDA program funds may not be used in connection with the rehabilitation of a property located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless flood insurance is obtained and maintained throughout the term of the loan.

K. Audit Requirements for Non-Profit Developers

Non-profit developers/owners must submit to the AHFC/NHCD a complete set of audited financial statements and the auditor's opinion and management letters in accordance with 24 CFR 84.21, and the Single Audit Act of 1984, as amended, covering each fiscal year until the termination of this Loan Agreement. Developer must use the procedures outlined in the Loan Agreement for securing the audit.

L. Non-Discrimination

AHFC/NHCD is committed to compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended. Reasonable modifications and equal access to communications will be provided upon request. Please call 974-3100 (voice) or 974-3102 (TDD) for assistance. For a sign language interpreter, please call 974-3100 at least four to five days in advance. The AHFC/NHCD does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs and activities.

VIII. OCCUPANCY REQUIREMENTS

A. Affordability Period

When OHDA funds are used to assist projects, income and sales restrictions apply to the OHDA-assisted units for a defined period of time called the "affordability period." A project's affordability period is enforced using a legally binding document, a "Restrictive Covenant Running with the Land" that will be filed for record in the Official Public Records of the County. All OHDA funded projects are required to be affordable for a 40-year minimum period regardless of the funding amount. The preferred affordability period will be for a period of not less than 99 years, using either of two ownership models, a Community Land Trust (CLT) model of homeownership, or the "Right of First Refusal/Shared Equity" model. AHFC/NHCD, at its discretion, may require a project to utilize a longer affordability period than those stated above. The affordability period shall not be shortened for any reason, including if the loan is repaid before the end of the affordability period. Affordability requirements and restrictions will remain in force throughout the Affordability Period regardless of transfer of ownership unless ownership of the property is transferred through foreclosure proceedings.

The AHFC Treasurer/NHCD Director may waive the 40-year affordability requirement for mission-based, non-profit affordable housing providers (via "Memorandum to File") provided that long-term affordability is otherwise secured through a Right of First Refusal/Shared Equity model. An example is a waiver for a project undertaken by a non-profit organization whose parent organization's policies allow for affordability periods to run with the length of the mortgage (e.g. 30 years), but do not permit 40-year mortgages on the homes. While the 40-year affordability period may be waived in rare cases, it is understood that the actual affordability period under this ownership model could end up being perpetual.

The "Right of First Refusal/Shared Equity" model also uses a resale formula whereby the organization (usually a non- profit) that originally sold the affordable home has the opportunity to purchase the home from the original buyer and receive a predetermined percentage of any increase in equity realized, plus any amount of subsidy provided to the buyer to make the home affordable. Upon re-sale, the organization's share of the equity will be used to provide a subsidy to the next low- to moderate-income buyer to make the home affordable. The new buyer will sign a Right of First Refusal, a note for the amount of subsidy provided and a deed of trust. The note signed by the buyer will contain the resale formula that will be used when the house is next sold. This is another method of keeping housing affordable in perpetuity.

B. Income and Occupancy Requirements

OHDA-assisted units are allowed to be sold to households earning at or below 80% MFI. Throughout the established Affordability Period, AHFC/NHCD will control the resale of the property either by using resale provisions or by using recapture provisions, depending on the type of assistance provided, and as further described in the AHFC/NHCD Resale and Recapture Policies and Procedures document.

1. **Income Determination Method:** Whether the project is funded with CDBG, HOME, or locally sourced funds, the Applicant shall determine income eligibility of each household using the method established in 24 CFR § 5, commonly referred to as the "Section 8" method of income determination prior to executing the sales contract. Guidance on determining whose income to count, what type of income must be included or is excluded, and the calculation of imputed income from assets is found in HUD's ***Technical Guide to Determining Income and Allowances for the HOME Program***. This guidance for income calculation should be followed regardless of funding source. AHFC must review applicable source documentation to verify annual income prior to executing the sales contract. Income qualifications must be completed in accordance with the timeframes outlined above, and need not be reexamined at the time the assistance is actually provided.

2. The low-income household shall be income eligible according to the following timing:

   a. In the case of a contract to purchase existing housing, at the time the purchase contract is signed

   b. In the case of a contract to purchase housing to be constructed, at the time the purchase contract is signed.

   c. If a low-income household was qualified longer than six months before a purchase contract is signed, they must be re-qualified prior to the purchase.

3. **Principal Residence:** Purchasers of OHDA-assisted affordable housing must occupy the properties as their principal residence for the applicable term of the affordability period. The subject property cannot be used for rental, commercial or any other purpose other than their principal residence. This requirement will be reflected in a restrictive covenant running with the land and/or in loan documents between the purchaser and the AHFC/NHCD. AHFC/NHCD may take such additional measures deemed necessary to ensure and/or enforce compliance with this requirement.

4. **Ownership:** The program requires ownership of the property using one of the approved forms of ownership described below. Families and individuals own the property if they:

   a. Have fee simple title to the property, or

   b. Maintain a 99-year leasehold interest in the property through a Community Land Trust or other similar vehicle, or

   c. Own a condominium, or

d. Own or have a membership in a cooperative or mutual housing project that constitutes homeownership under Texas law, or

e. Maintain an equivalent form of ownership approved by the AHFC

5. **Homebuyer Education**: Home buyer education is required for potential homebuyers and is provided by AHFC/NHCD or a partner agency, or an approved home buyer education provider. Applicants who have taken a homebuyer education class in the past 5 years (from the date of closing) may provide documentation. If applicants have never taken a homebuyer course before, they must complete a Pre-purchase Home buyer Education Program equivalent to the City's Program prior to the purchase of the home.

6. **Restrictive Covenant/Ground Lease Meeting**: Homebuyers are required to attend a meeting with AHFC/NHCD staff prior to closing, to receive information on restrictive covenants, ground lease terms and other applicable affordability terms and conditions and associated documentation.

7. **Accessible and Adaptable Units:** Assistance may not be used for the purpose of building or acquiring units that will not allow an AHFC/NHCD determined portion of the units to be made accessible to persons with disabilities (townhouses, walk-ups, structures on impractical sites, etc.). Projects must contribute to increasing the number of accessible and/or adaptable units available to persons with disabilities through the following minimum requirements:

8. **Rehabilitation Projects:** The higher of one (1) unit or 10% of all units rehabilitated must be made accessible for persons with mobility disabilities. In addition, the higher of one (1) unit or 2% of all units rehabilitated must also be made adaptable for persons with hearing and/or visual disabilities.

9. **New Construction Projects:** The greater of one (1) unit or 10% of all new units constructed must be accessible to persons with mobility disabilities, and all other ground floor units constructed must be adaptable to accommodate the needs of persons with mobility disabilities. In addition, the greater of one (1) unit or 2% of all new units constructed must also be accessible to accommodate the needs of persons with hearing and/or visual disabilities. All projects receiving assistance must comply with accessibility design standards established by the City's S.M.A.R.T. Housing™ Ordinance.

10. **Distribution of Accessible Dwelling Units:** All ground-floor units for multi-family housing developments must be adaptable. To the greatest extent possible, accessible dwelling units should be distributed on ground-floor units throughout the project and should be available in a sufficient range of sizes and amenities so that: an individual with disabilities' choice of dwelling units is comparable to that of other prospective tenants; and accessible dwelling units are not concentrated in one area of the property. This should not be construed as a requirement to install an elevator for the sole purpose of allowing accessible units to be located above the ground floor.

11. **Occupancy of Accessible Dwelling Units:** To Owners/managers of multifamily projects that have accessible units should ensure that information regarding the availability of accessible units reaches individuals with disabilities. In addition, owners/managers of multifamily projects that have accessible units should take non-discriminatory steps to maximize the utilization of accessible units by qualified individuals with disabilities whose disability requires the accessibility features of a particular unit. This can be done by maintaining a waiting list for accessible units and offering vacant accessible units to applicants in the following order:

a. First, to a current occupant of another unit in the same property, or other comparable property within the owner's/manager's control, who has a disability requiring the accessibility features of the vacant unit and who currently occupies a unit that does not have those features.

b. Second, to a qualified applicant on the waiting list who has a disability requiring the accessibility features of the vacant unit

c. Third, to a qualified applicant who does not have a disability requiring the accessibility features of the unit; however, the owner/manager may incorporate language in the lease that the applicant will agree to move to a non-accessible unit when one becomes available.

IX. COMPLIANCE AND MONITORING

A. Borrowers must maintain complete and accurate books of account and other records reflecting the results of the development of the property and shall furnish, or cause to be furnished, to AHFC/NHCD:

1. immediate notice of any material adverse change in the property's financial condition or business prospects or any lapse of coverage with respect to the Insurance Requirement;

2. all reports required by the AHFC Loan Agreement and Statement of Work; and

3. Upon request of monitors, and at developer's expense, such other operating, financial, insurance coverage and credit information as may be reasonably requested with respect to the property.

B. During Construction and until completion of initial leasing of the property, developers must submit monthly project updates to AHFC/NHCD.

C. Developer must submit an affirmative marketing report to AHFC/NHCD prior to completion of construction.

D. Prior to sale of resale of any OHDA assisted unit, the seller must submit to AHFC/NHCD all documents required for income certification. After closing on any OHDA assisted unit, all necessary documents as detailed in the loan agreement, including the Restrictive Covenants signed by the purchaser, must be submitted to AHFC/NHCD.

X. DEFAULT ACTIONS AND SANCTIONS

A. AHFC/NHCD retains the right to determine, in its/their sole discretion, whether a default has taken place in an OHDA funded project. AHFC/NHCD may exercise default actions if it is determined that the default or violation(s) of the terms and conditions of the executed agreement has or may take place by the developer of the developer project. A default or violation may be facilitated as a result of action or inaction taken by the project developer, organization, and agency, contractor, individual or duly appointed representative of the developer or developer project. **A default or violation may include, but not be limited to the following:**

1. Developer or developer's project fails to address adequately or violates the applicable local, state or federal rules and/or regulations governing the acquisition, construction and/or initial occupancy requirements of the project, or

2. Any breach of any provision contained in the loan document , or

3. If OHDA Program funds are used for any purpose other than authorized in the OHDA Program contract, or any breach of any provision of OHDA guidelines as attached to the executed loan document except where the loan documents contradicts the guidelines, then the loan document will control or

4. The appropriate proportion of assisted-units are not maintained for the term of the loan, or

5. There is a change in use of property prior to repayment of AHFC/NHCD without prior review and written approval, or

6. Property is not maintained in compliance with City of Austin Code of Ordinances and/or to federal Uniform Property Code standards

7. Developer fails to comply with information submitted by the developer to AHFC/NHCD through the project selection process, or

8. Developer or developer's project fails to maintain adequate documentation in support of project requirements.

B. Default sanctions available to AHFC/NHCD may include, but not be limited any one or any combination of the following:

1. Call the project note due and payable in accordance with the terms and conditions of the note;

2. Call the note due and payable for the full amount of AHFC/NHCD funds provided to the project;

3. Temporarily suspend the project until corrective action is taken;

4. Terminate the agreement and associated documents with the project;

5. Request a review or investigation by local or federal authorities if applicable;

6. Debar the project organization or individual from consideration of any future funding opportunities from AHFC/NHCD.

C. According to the terms of the Loan Documents, should AHFC/NHCD exercise any of the above referenced sanctions, AHFC/NHCD will provide written notice at the Borrower's address as stated in the Loan Agreement. AHFC/NHCD shall make the final determination as to whether any proposed corrective action undertaken as the result of an event of default is sufficient to cure the default.

XI. APPEALS/GRIEVANCE PROCESS

Persons aggrieved by any action or inactions of the program which occurs in the implementation of these guidelines, and who wish to appeal said action or inaction, must do so by submitting an appeal in writing to the Community Development Manager within 30 days of the action or inaction deemed aggrieving by said person(s).

Complaints received over the phone or email must be documented by staff. The Community Development Manager is charged with reviewing an appeal or grievance. He/she shall submit to the Department Director/ Treasurer of AHFC a written summary of each grievance received along with explanations of the administrative action taken or recommended, within 30 calendar days of his/her receipt of a written grievance. The Director has 15 days from receipt of the written appeal to respond to the aggrieved person with a final decision.

When a program beneficiary complains to the HUD Field Office, it is referred to NHCD. NHCD has to respond to the complainant within fifteen (15) calendar days of receipt of the referral and to send a copy of its response to the Field Office. The Field Office, at its discretion, may extend the NHCD's response period to thirty (30) days where appropriate.

Approved by:

1/15/19

Rosie Truelove

Treasurer, AHFC

Date