

POLICY

Subject: **FINANCIAL PARTICIPATION IN HOUSING DEVELOPMENT, ACQUISITION
WITH REHABILITATION AND LARGE REHABILITATION PROJECTS**

Number: **PO600.301**

Effective Date: **11/14/94**

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1. PURPOSE

The San Diego Housing Commission's Mission Statement states that the mission of the agency is "to provide quality housing opportunities which improve the lives of those in need" and specifies that the Commission shall, among other goals: "assist those earning fifty percent, or less, of the Median Area Income as the highest priority", and "forge partnerships among public, nonprofit and private entities to provide housing opportunities and an integrated range of social services for segments of the community not adequately served".

- 1.1 In keeping with the stated mission, the purpose of this policy is to provide standards for Housing Commission financial involvement in residential projects.
- 1.2 It is the further purpose of this policy to provide guidelines that will maximize the public benefit resulting from Commission financial participation in housing development, acquisition with rehabilitation, and large rehabilitation projects. Large rehabilitation projects are those in which the Housing Commission's investment exceeds \$500,000.
- 1.3 While it is the purpose of this policy to provide overall guidelines for Housing Commission financial participation, the Board may authorize other terms when it determines that circumstances warrant.

2. DEFINITIONS

- 2.1 Very Low Income - Income up to 50 percent of the median area income, as adjusted for household size.
- 2.2 Low Income - Income between 51 percent and 80 percent of the median area income, as adjusted for household size.
- 2.3 Lower Income - Low and very low income.
- 2.4 Standardized Income - A percentage of area median income, as adjusted for a specified household size, rather than the actual income of a given household. For lower income households, "standardized income" may not exceed 80 percent of median area income.
- 2.5 Affordable Housing - Housing for which a lower income household expends no more than 30 percent of standardized income. The 30 percent portion must include a reasonable allowance for household utilities unless utility usage is included in housing payment. The above notwithstanding, affordable housing must rent for no more than 90 percent of nonrestricted rent for comparable units within the same project.

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- 2.6 San Diego Housing Commission (also, "Housing Commission" or "Commission") - Agency formed by the City of San Diego.
- 2.7 Board - The Board of Commissioners; the decision-making body overseeing the San Diego Housing Commission.
- 2.8 Housing Authority of the City of San Diego ("Housing Authority") - The Public Housing Agency, or "PHA", which body has final authority over matters decided upon or recommended by the Housing Commission.
- 2.9 CEO - The Chief Executive Officer of the Housing Commission.
- 2.10 Staff - The employees of the Housing Commission, who also serve as staff to the Housing Authority.

3. **POLICY**

- 3.1 Project Sponsors - The Housing Commission may participate in projects with for-profit, nonprofit, or public agency sponsors or may be the sole sponsor of projects.
- 3.2 Extent of Assistance - The amount and terms of the Commission's assistance shall be determined by and limited to that which is necessary to produce the public benefit described in 3.4.
- 3.3 Community Objectives - Consistent with the City of San Diego's "balanced community" objectives, as expressed in City Council Policy 600-19, projects that will provide affordable housing for lower income households in areas of the city under-represented by such households are to be encouraged. Likewise, projects that would substantially increase the proportion of lower income households in areas which have a disproportionate share of such households are to be avoided, unless it can be demonstrated that the proposed projects will contribute in a positive manner to community revitalization efforts.
- 3.4 Public Benefit
 - A. Affordability - All projects in which the Commission participates shall have at least 20 percent of the housing units affordable to low income households, and, since assisting those earning fifty percent, or less, of the median area income is the highest priority goal of the Commission, preference shall be given to projects with at least 20 percent of the units affordable to very low income households.

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B. Duration of Restrictions - The affordability conditions imposed on a project in which the Commission participates shall prevail for no less than the longer of:

- (1) the term of the Commission's loan or investment, or
- (2) fifteen years.

Prepayment of a loan shall not reduce the term of affordability.

C. Exceeding 20 Percent of Units Affordable - Preference shall be given to projects in which more than the minimum number/percentage of units will be guaranteed affordable for lower income households.

D. Prolonging Restrictions - Preference shall be given to projects in which the units will remain income-restricted and cost-restricted for longer than the minimum time required.

E. Serving Special Needs - Projects involving housing designed to serve special needs which the private market typically does not address shall receive more favorable consideration.

F. Preserving Housing Stock - Projects which do not involve demolition of existing residential units in good or repairable condition will receive preference.

G. Minimizing Displacement - Projects which minimize displacement of current residents, businesses, or organizations are preferred.

H. Leveraging - Projects which leverage the Commission's financial investment to derive extra public benefit from the funds expended will receive preference.

3.5 Form of Participation

The Housing Commission may participate as a sponsor, an owner, a profit participant, a lender or guarantor (to the extent legally permissible), a grantor, a lessor or seller of land, or in a combination of capacities. Leases of Commission-owned land are preferred to sales and loans are preferred to grants, in order to preserve Commission assets and recycle Commission funds.

3.6 Terms of Financial Participation

All financial participation agreements shall be structured to ensure that:

- A. the project will be able to meet all financial obligations (reasonable operating expenses, debt service, and appropriate reserves);

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- B. the housing shall remain affordable to the designated lower income population for the duration of the affordability restrictions;
- C. the Commission's financial interests and legal position are protected; and
- D. the terms, including the amount of the Commission's investment, are commensurate with the public benefit.

4. PROCEDURES

4.1 Program Marketing

Requests for Proposals - As a general rule, when appropriate new funding becomes available, the Commission will issue Requests for Proposals (RFP's) or Notice of Funding Availability (NOFAs) related to the Commission's Mission and Goals and to specific program objectives. Each RFP/NOFA shall ask for the information needed to adequately evaluate the public benefit, soundness of the proposal, financial feasibility, compatibility with neighboring land uses and properties, expectation of timely delivery, experience and financial capacity of the proposer, and potential conflicts of interest of the proposer. Other requirements may be specified in the RFP/NOFA as circumstances warrant.

Where an RFP or NOFA is not practical or in the best interests of the Commission, proposals may be accepted for consideration outside the standard process. When this occurs, staff's recommendation shall include justification for foregoing the standard process and the Board shall grant or withhold specific authorization to proceed.

4.2 Proposal Evaluation and Selection

- A. All proposals received in response to an RFP/NOFA shall be assessed by staff for completeness and responsiveness to the RFP/NOFA and shall then be evaluated by an ad hoc review committee, made up of parties with expertise applicable to such evaluation.

The review committee shall then rate the proposals based on specific criteria in the RFP/NOFA.

- B. Environmental Review - State and federal laws require a determination to be made for each project either that the project is exempt from environmental review or that environmental review is needed. The type of project contemplated and the circumstances of a particular project determine the appropriate level of review. A

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statement of environmental exemption or the findings of an environmental review must be available to a public body when deciding whether to approve or reject the project. Staff will, at the earliest time practical, advise project proponents about environmental review requirements and will provide guidance as to how to satisfy these requirements before presentation to the Board.

- C. Community Review - Proposals which involve new construction, increased density, a change of use, acquisition of more than fifteen units on one site, or public ownership of property and which are deemed acceptable by the Chief Executive Officer, upon advice from the review committee, shall be submitted to appropriate groups representing the communities in which they are proposed to be located, such as planning groups, project area committees, or town councils. For projects requiring Board approval, input from the community groups regarding use and design aspects of the proposals shall be incorporated into staff reports and recommendations to the Board.
- D. Legal Review - The Commission's General Counsel shall review and comment on the Developer's Disclosure Statements and any other aspects, as deemed appropriate by the Chief Executive Officer, of proposals to be submitted for Board consideration.
- E. Board Approval - When considering proposals for financial participation, the Board will take into account prior review by other duly constituted bodies, including the Loan Committee. The Board may accept, reject, or authorize staff to negotiate the terms of any proposal.

4.3 Requirements and Ratification of Financial Participation Contracts

- A. Contract Safeguards - All financial participation contracts shall include appropriate safeguards to protect the public interest and investment, to assure timely performance by the other party(ies), and to ensure that pertinent laws and regulations are observed.
- B. Underwriting Criteria - Ratification of all financial participation contracts shall be consistent with the Commission's underwriting criteria, which are set forth in Policy No. 600.101, "Housing Program Lending Authority".
- C. Legal Review - Prior to execution, all financial participation contracts or agreements shall be reviewed and approved by the Commission's General Counsel.
- D. Housing Authority Ratification - Long-term leases or sales of Commission-owned property also require Housing Authority ratification, regardless of amount of investment or number of units involved.

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- E. Contract Amendments - The Chief Executive Officer may authorize amendments to loan agreements which, in total, exceed the contract amount by no more than the lesser of five percent or \$50,000, if unforeseeable circumstances raise costs during development. Whenever the Chief Executive Officer authorizes such amendments to loan agreements, the circumstances and amounts shall be promptly reported to the Board.

4.4 Project Implementation

- A. Primacy of Regulatory Agreement - To assure that affordability restrictions remain in effect at least as long as the term of the Commission's loan, Conditions, Covenants, and Restrictions (CC&R) encompassing those restrictions shall be recorded prior to the Commission's deed of trust. (Note: Upon foreclosure of superior deed of trust, the CC&R's will be extinguished).
- B. Disbursement of Commission Funds - Commission funds shall be disbursed in such manner as to afford greatest protection for those funds. In most cases, a fund control should be used. Whenever feasible without jeopardizing the project, the developer's other loan or grant funds shall be disbursed before the Commission's funds.

History

Adopted: 05/02/88

Revised: 10/16/89

Revised: 11/14/94

Revised: 05/25/99

[Supersedes Policy 300.101, Issued 5/2/88, Effective 10/16/89]

Approved by:



Elizabeth C. Morris, Chief Executive Officer

6-1-99

Date



Steven Mikelman, Chief Operations Officer

5/28/99

Date