

**DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH**

**STATE HOUSING DEVELOPMENT AUTHORITY**

**GENERAL RULES**

(By authority conferred on the state housing development authority by sections 22 and 58b of 1966 PA 346, MCL 125.1422 and MCL 125.1458b of the Michigan Compiled Laws)

**PART I. GENERAL PROVISIONS**

**R 125.101 Definitions; A, C.**

Rule 101. (1) As used in these rules:

(a) "Act" means Act No. 346 of the Public Acts of 1966, as amended, being S125.1401 et seq. of the Michigan Compiled Laws.

(b) "Adjusted annual income" means gross income less \$750.00 for each member of the household living in the same dwelling unit.

(c) "Adjusted household income" means the gross annual income from all sources and before taxes or withholding of all members of a household living in a dwelling unit or housing unit after deducting all of the following:

(i) Unusual or temporary income of any member of the household.

(ii) Six hundred and fifty dollars for each member of the household.

(iii) Earnings of a member of a household who is under 18 years of age or who is physically or mentally handicapped.

(iv) Fifty percent of the income of a second adult wage earner jointly occupying the dwelling or housing unit whose individual income is less than that of the wage earner with the highest income.

(v) The lesser of \$1,000.00 or 10% of the gross annual income.

(d) "Applicant" means a corporation, partnership, joint venture, trust, individual, public body or agency, or other entity applying to receive authority monies or services under the act.

(e) "Application" means a request for authority assistance under the act made on forms furnished by the authority.

(f) "Authority" means the Michigan state housing development authority created by the act.

(g) "Central city" means any 1 of the following:

(i) A city that is eligible for listing in the title of a standard metropolitan statistical area according to the criteria set forth in the publication entitled "Standard Metropolitan Statistical Areas," revised

edition 1975, a publication of the United States office of management and budget, copies of which are available from the Lansing office of the authority at a cost of \$6.00 per copy.

(ii) A city that is eligible for listing in the title of a metropolitan statistical area or a primary metropolitan statistical area according to the criteria set forth in the publication entitled "Metropolitan Statistical Areas," 1983, a publication of the United States office of management and budget, copies of which are available from the Lansing office of the authority at a cost of \$6.00 per copy.

(iii) An incorporated area that is totally surrounded by a city or cities which are eligible pursuant to the provisions of paragraph (i) or

(ii) of this subdivision.

(iv) Two or more incorporated areas, the total combined area of which is surrounded by a city or cities eligible pursuant to the provisions of paragraph (i) or (ii) of this subdivision.

(2) Terms defined in the act have the same meanings when used in these rules.

History: 1979 AC; 1982 AACS; 1985 AACS; 1986 AACS; 1991 AACS.

### **R 125.102 Definitions; D to G.**

Rule 102. As used in these rules:

(a) "Development fund grant" means a grant which is authorized by the authority and which is to be made to an applicant authorized by the act to receive a grant from the housing development fund created by the act.

(b) "Development fund loan" means a loan which is authorized by the authority, and which is to be made from the housing development fund created by the act.

(c) "Dwelling unit" means living accommodations within a housing project which are intended for occupancy by a single household.

(d) "Eligible deferred payment loan administering agency" means either a governing body or a subdivision, agency, or instrumentality of a governing body which shall, as of December 31, 1978, have applied for participation in the authority's neighborhood improvement loan program or the Michigan commission on Indian affairs.

(e) "Executive director" means the executive director employed by the authority who is the chief administrative officer of the authority.

(f) "Existing housing unit" means a housing unit that has been occupied before the issuance of a commitment by the authority.

(g) "Family" means 2 or more persons living together not contrary to law.

(h) "Feasible housing project" means a proposed housing project as to which the authority has made a determination that such project can reasonably be expected to be successfully constructed on the proposed site within cost limitations acceptable to the authority and can reasonably be expected to be operated in a fiscally sound manner.

(i) "Gross income," for determining eligibility, means all income derived from whatever source, as follows:

(i) In computing gross income, all the income of the members of the household, other than minors, living in the same dwelling unit and contributing to the expenses of the household is to be considered. Gross income shall be computed without deduction for the following:

(A) Funds paid into a tax shelter retirement account.

(B) Losses attributable to a farming syndicate as described in section 464 of the internal revenue code, 26 U.S.C. §464.

(C) Losses attributable to any type of corporation or partnership engaged in exploring for or exploiting oil and gas resources.

(D) Losses attributable to any type of corporation or partnership engaged in equipment leasing.

(E) Losses attributable to any type of corporation or partnership engaged in holding, producing, or distributing motion picture films or video tapes.

(F) Child support payments made by an applicant for the benefit of the applicant's child or children.

(G) Alimony, separate maintenance, or similar periodic payments that an applicant is required to make to a spouse or former spouse.

(ii) Gross income shall include all of the following:

(A) The gross amount, before any payroll deductions, of wages; salaries; all overtime earnings in excess of \$4,000.00 per annum; commissions; fees; tips; bonuses; gambling winnings; and prizes won, except for Michigan lottery winnings and prizes.

(B) The net income from the operation of a business or profession or from the rental of real or personal property. For this purpose, if the operation results in a loss, the loss may not be used to offset income generated from other sources. For this purpose, any shareholder that owns 10% or more of any outstanding class of stock in a corporation shall also be deemed to have received income in its proportionate share of net earnings not otherwise distributed in salaries or dividends.

(C) All dividends and interest, including otherwise tax-exempt interest.

(D) The full amount of periodic payments received from social security, housing assistance payments, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.

(E) Payments in place of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.

(F) The full amount of public assistance payments.

(G) Periodic and determinable allowances, such as alimony and separate maintenance payments received, housing allowances received, and regular contributions or gifts received from persons who do not reside in the dwelling, if such sums are received on a recurrent basis and if such sums may be reasonably expected to continue.

(H) The distributive share of partnership income.

(I) All capital gains.

(J) Child support payments received by an applicant for the benefit of the applicant's child or children.

(iii) Gross income does not include any of the following:

(A) Casual, sporadic, or irregular gifts.

(B) Amounts that are specifically for, or in reimbursement of, the cost of medical expenses.

(C) Lump sum additions to household assets, such as inheritances; insurance payments, including payments under health and accident insurance; worker's compensation; and settlements for personal or property losses.

(D) Amounts of educational scholarships paid directly to the student or to the educational institution, and veterans administration schooling benefits.

(E) Foster child care payments.

(F) The value of coupon allotments for the purchase of food pursuant to the food stamp act of 1977, 7 U.S.C. §§2011 to 2027, which is in excess of the amount actually charged the eligible household.

(G) Overtime earnings of \$4,000.00 or less per annum.

History: 1979 AC; 1982 AACs; 1985 AACs; 1986 AACs; 1991 AACs; 1998-2000 AACs.

### **R 125.103 Definitions; H to S.**

Rule 103. As used in these rules:

(a) "Household" means a person or family residing or intend-ing to reside in a single-dwelling unit.

(b) "Housing unit" means living accommodations that are intended for occupancy by a single family and with respect to which either of the following applies:

(i) An occupant owns the housing unit.

(ii) An occupant is a cooperative shareholder or member who has a proprietary lease of the housing unit. A housing unit may be site-constructed or may be a mobile home or other form of manufactured housing. Unless otherwise specified, housing units include new housing units, existing housing units, and substantially rehabilitated housing units.

(c) "Local community" means any of the following entities which presents evidence that it is acting in a manner consistent with the objectives of the act with respect to the provision of housing or community development:

(i) A public body or agency.

(ii) A quasi-governmental body approved by the authority and established by state or federal law, the governing board of which is elected by the residents of a definite geographical area.

(iii) A park or playground association established pursuant to the provisions of Act No. 161 of the Public Acts of 1911, as amended, being §455.301 et seq. of the Michigan Compiled Laws.

(iv) A nonprofit corporation, limited dividend housing corporation, or limited dividend housing association .

(d) "Minor" means a member of a household, other than the household head or spouse, who is under 18 years of age or who is a full-time student.

(e) "Mortgage loan" means a loan which is authorized by resolution of the authority or by a mortgage loan commitment issued on behalf of the authority and which is made to an applicant for a housing project or a housing unit from the proceeds of sale of the authority's bonds or notes and any other available funds for the purpose of providing construction financing or long-term financing, or both, the repayment of which is secured, or is to be secured, as provided in the act.

(f) "Neighborhood improvement program" means that portion of the home improvement loan program that involves a specific agreement between the authority and a local governing body to provide a concentration of home improvement loans in a specific geographical area within the jurisdiction of the government body.

(g) "Person" means any 1 of the following:

(i) A person who is physically or mentally handicapped.

(ii) A person who is 62 or more years of age.

(iii) A single person who is neither handicapped nor 62 or more years of age. However, the authority may limit, by resolution, the percentage of dwelling units within a housing project financed with a mortgage loan that may be made available for occupancy by such single persons.

(h) "Permanent general improvements" means alterations, repairs, and improvements on or in connection with an existing residential structure which substantially protect or improve the basic livability or energy efficiency of the residential structure to be improved. Permanent general improvements do

not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for residential structures of the same general type as the structure to be improved.

(i) "Qualified sponsor" means a local community or an eligible applicant pursuant to the provisions of R 125.122.

(j) "Residential structure" means real property that is improved by a structure, which structure is used primarily for residential purposes on a year-round basis. This term does not include a mobile home or a trailer.

(k) "Sponsor" means an individual, group, or organization which stimulates or promotes an applicant and which continues to be interested in the activities of such applicant with respect to a housing project.

History: 1979 AC; 1980 AACS; 1981 AACS; 1982 AACS; 1983 AACS; 1991 AACS; 1998-2000 AACS.

### **R 125.105 Income limitations.**

Rule 105. (1) For a household to be considered eligible for initial occupancy in a housing project or housing unit financed by the authority, that household's income shall not exceed the following household income limitations:

(a) Unless otherwise permitted by the act, for housing, other than single family housing units, that has been financed by the proceeds of authority bonds which have been delivered before June 9, 1977, the effective date of certain emergency rules that temporarily effectuated the provisions of subdivisions (b) and (c) of this subrule, a household shall not have an adjusted household income of more than \$12,000.00 plus \$500.00 for each member of the household in addition to the head of the household and his or her spouse; provided, however, that the authority, by resolution, may determine, with respect to a particular housing project, that 20% of the dwelling units in that project shall be available for occupancy by households having adjusted household incomes of not more than 125% of that established in this subdivision. Such resolution shall include determinations by the authority that the project could not be marketed successfully without the higher income limit and that the project is in compliance with either of the following:

(i) It is located in a city, other than a central city, with a per capita personal income less than the per capita personal income for the state.

(ii) It is located elsewhere and the number of units for households with incomes eligible for public housing or a program equivalent is at least equal to the number of units for households with incomes between the 100% and 125% limits. The \$12,000.00

amount established in this subdivision shall be auto-matically increased in accordance with the following formula:

$(\$12,000.00) + (\$12,000.00 \times .07 \times n)$  where n is the number of complete years elapsed since January 1, 1973.

(b) Unless otherwise permitted by the act, for housing, other than single-family housing units, that has been financed before May 1, 1984, and that has not been financed by proceeds of authority bonds which have been delivered before June 9, 1977, a household shall not have a gross income of more than \$28,000.00, which is the estimated median family income in Michigan. provided, however, in the case of shared housing, a gross income limit of \$15,000.00 shall be applied separately to each household assigned separate sleeping and bathroom facilities, notwithstanding the sharing of other living space.

(c) For all single-family housing units, a household shall not have a gross income in excess of that permitted in the act.

(d) Notwithstanding the provisions of subdivisions (a), (b), and (c) of this subrule, but subject to the act, a household may have a gross income up to that established pursuant to the following formula:  $1.5 \times a \times 1.07n$ , where a is the median family income for the county in which the proposed

housing is to be located, as identified in the publication entitled "1969 and Estimated 1977 Decile Distributions of Family Income by SMSA's and Non-Metropolitan Counties," prepared by the United States department of housing and urban development, office of economic affairs, economic and market analysis division, June 1, 1977, and where n is the number of complete years elapsed since June 1, 1977, if the authority, by resolution, makes all of the following determinations:

(i) The economic integration encouraged by the higher income limits shall promote the financial and social stability of housing financed or to be financed by the authority.

(ii) Private enterprise has failed to provide a substantial supply of adequate, safe, and sanitary dwellings in the area of the housing proposed for occupancy by households which qualify for assistance pursuant to this subdivision within the financial means of, and suitable for, such households.

(iii) The housing shall be located in an area in a central city which meets the criterion set forth in paragraph (ii) of this subdivision. The publication entitled "1969 and Estimated 1977 Decile Distributions of Family Income by SMSA's and Non-Metropolitan Counties" is herein adopted by reference. Copies are available from the United States Department of Housing and Urban Development, Market Analysis Division, 477 Michigan Avenue, Detroit, Michigan 48226 at a cost of 35 cents and from the Michigan State Housing Development Authority, 401 South Washington Square, Lansing, Michigan 48909, at no cost.

(e) Notwithstanding the provisions of subdivisions (a), (b), and (d) of this subrule, a household may have a gross income up to the income limits set forth in sections 44(1)(a)(iv), 44(1)(a)(v), and 44(1)(b) of the act, if the authority, by resolution, determines that the higher income limits shall

promote the authority's ability to preserve the low income occupancy of the housing project.

(f) For housing, other than single-family housing units, that has been financed on or after May 1, 1984, a household shall not have a gross income in excess of that permitted in the act.

(2) If a household income limitation is a requirement for an assumption of a mortgage on a single family housing unit, then the household income limitation for a household to be considered eligible to assume a mortgage on a single family housing unit shall be the highest household income limitation ever established in subdivision (c) of subrule (1) of this rule.

(3) If federal subsidy payments are made on behalf of occupants of authority-financed dwelling units or housing units, then the income limitations established in this rule shall be superseded by federal laws and regulations applicable with respect to those applicants.

(4) If the program providing the funds for a loan or grant is subject to laws, regulations, rules, or other requirements which have particular income or other programmatic restrictions, or if the entity providing the funds for a loan or grant has particular income or other programmatic restrictions, then the authority may elect to apply some or all of these restrictions, instead of those which would otherwise be applicable pursuant to this rule.

(5) Subrule (1) of this rule does not apply to households applying for a home improvement loan pursuant to part 8 of these rules.

(6) The income limitation contained in subrules (1) and (2) of this rule is subject to state and federal laws which may establish income limitations as a prerequisite to obtaining tax-exempt status of authority notes and bonds.

History: 1979 AC; 1980 AACS; 1981 AACS; 1982 AACS; 1983 AACS 1985 AACS; 1986 AACS; 1998-2000 AACS.

### **R 125.107 Asset Criteria.**

Rule 107. The authority by resolution may establish asset criteria when it determines that action to be necessary to preserve the integrity of established income limitations and to effectuate the purposes of the act.

History: 1979 AC.

### **R 125.109 Acceptance of aid and guarantees.**

Rule 109. (1) Pursuant to sections 22(c) and 22(k) of the act, the authority, by resolution, may accept gifts, grants, loans or other aid, including guarantees, from the federal government or any persons or corporations, agree and comply with any condition attached thereto, and authorize and direct the execution on behalf of the authority or any agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, guarantees or other aid.

(2) Without limitation on the provisions of subrule (1), the authority by resolution may accept any guarantee or commitment to guarantee its bonds or notes issued for the purpose of financing real property acquisition and land development pursuant to community development programs, accept any grant with respect to

bonds or notes guaranteed and accept any public service grants for providing essential public services, including educational, health and safety services, and authorize and direct the execution on behalf of the authority of any agreement which it considers necessary or appropriate with respect thereto.

History: 1979 AC.

**R 125.111 Hearings.**

Rule 111. (1) To inform itself and the public the authority may hold public hearings anywhere in the state and may limit the scope of such hearings.

(2) A person, firm, corporation, or public body or agency, aggrieved by a decision of the authority or the executive director, may request in writing that the authority hold a hearing in accordance with Act No. 306 of the Public Acts of 1969, as amended, being SS24.201 to 24.315 of the Michigan Compiled Laws.

History: 1979 AC.

**R 125.113 Waiver.**

Rule 113. The executive director may waive a requirement in these rules which is not specifically required by statute upon notification by an applicant that the enforcement of the rule will negate the applicant's opportunity to obtain a loan or other assistance from the authority and when the failure to meet the requirement was caused by the provision of inaccurate information by a financial institution participating in one of the authority programs.

History: 1985 AACS.

**R 125.115 Bylaws.**

Rule 115. The bylaws of the authority shall be adopted and amended by resolution and shall be public records. The bylaws shall include the time and place of regular meetings, the manner of calling special meetings and such internal procedures as the authority requires.

History: 1979 AC.

**R 125.119 Rescission.**

Rule 119. The General Rules of the authority, as amended, being R 125.1 to R 125.73 of the Michigan Administrative Code and appearing on pages 4963 to 4969 of the 1969 Annual Supplement to the Code, page 5 of Supplement No. 63 to the Code and page 5 of Supplement No. 64 to the Code, are rescinded. This rescission shall not defeat or impair any right accrued, or affect any penalty incurred, under such rules, and applications pending with the authority may be amended to conform with these rules.



History: 1979 AC.

## **PART 2. APPLICATIONS AND APPLICANT ELIGIBILITY**

### **R 125.121 Applications.**

Rule 121. (1) The authority staff may provide staff services to assist an applicant in complying with the requirements of the act and these rules. The executive director may establish a preapplication procedure.

(2) Forms to be employed for applications may be prepared by the authority staff and shall be approved by the executive director and shall specify the information to be included therein and the supporting materials to be submitted therewith.

History: 1979 AC.

### **R 125.122 Eligible applicants.**

Rule 122. (1) A development fund loan, mortgage loan or part of a development fund loan or mortgage loan, shall not be made or disbursed to an applicant until such time as the applicant is an eligible applicant.

(2) An eligible applicant is an applicant authorized by the act to receive a development fund loan or a mortgage loan. To become an eligible applicant, an applicant shall obtain the authority's approval of its organizational documents, where applicable, as provided in the act.

History: 1979 AC; 1998-2000 AACS.

### **R 125.123 Approval of organizational documents.**

Rule 123. (1) Proposed articles of incorporation and proposed amendments to existing articles of incorporation of a nonprofit housing corporation, consumer housing cooperative, or limited dividend housing corporation, and the proposed partnership agreement, joint venture agreement, trust agreement, or other document then existing of a limited dividend housing association shall be submitted in duplicate originals to the executive director, together with a request for the authority's approval of the documents.

(2) The authority staff shall review such organizational documents to determine the compliance with the requirements of the act and these rules, and, if it is determined that the documents so comply, the executive director or other employee of the authority authorized by resolution of the authority shall issue, on behalf of the authority, a certificate of approval with respect to the organizational documents, on a form approved by the executive director.

History: 1979 AC.

### **PART 3. DEVELOPMENT FUND LOANS AND FEASIBLE PROJECTS**

#### **R 125.131 Applications.**

Rule 131. (1) An application for a determination that a proposed housing project is a feasible housing project shall include information, and where required by the authority staff, supporting materials and evidence with respect to all of the following:

(a) The status of the applicant as an eligible applicant, or that reasonable steps have been taken to become an eligible applicant.

(b) The site of the proposed housing project, including location, dimensions, ownership, present zoning, present use and occupancy and relocation requirements as to present occupants, present on-site improvements such as streets, utilities, and structures, status of off-site utilities and streets, present property taxes and assessments, utility charges, and liens or other charges on the land, and all physical characteristics of the site that may affect construction.

(c) The status and characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental, or cooperative), rehabilitation or new construction, range of proposed rents, occupancy charges or sale prices, building type, federally-aided mortgage or otherwise, and social, recreational, commercial, and communal facilities proposed to serve and improve the residential area in which the proposed housing is located or to be located.

(d) A schedule of the proposed uses of any requested development fund loan and the amounts proposed to be allocated to each such use.

(e) Other matters as to the proposed housing project, the applicant, and other parties involved in the housing project as the authority staff and the executive director may require.

(2) An application for a development fund loan shall include information, and where required by the authority staff, supporting materials and evidence with respect to all of the following:

(A) The status of the applicant as an eligible applicant, or that reasonable steps have been taken to become an eligible applicant.

(B) The site of the proposed housing project.

(C) The status and characteristics of the proposed housing project and social, recreational, commercial, and communal facilities proposed to serve and improve the residential area in which the proposed housing is located or to be located.

(D) A schedule of the proposed uses of the requested development fund loan and the amounts proposed to be allocated to each such use.

(E) Other matters as to the proposed housing project, the applicant, and other parties involved in the housing project as the authority staff and the executive director may require.

History: 1979 AC; 1998-2000 AACCS.

**R 125.132 Processing and evaluation of applications.**

Rule 132. (1) An application for a development fund loan or a determination that a proposed housing project is a feasible housing project, or both, shall be processed by the authority staff on the basis of processing and underwriting procedures and guidelines developed by the authority staff under direction of the executive director on behalf of the authority.

(2) An applicant may be required to furnish to the authority staff supplementary information and to amend the application to cause the proposed housing project to be consistent with the authority's processing and underwriting procedures and guidelines.

(3) Upon completion of the processing, all applications for a determination that a proposed housing project is feasible and all applications for development fund loans in the principal amount of \$250,000 or more shall be presented to the authority for approval, along with the authority staff analysis of the application and the executive director's recommendation with respect to the application.

(4) If the principal amount of the development fund loan is less than \$250,000.00, the executive director shall review the authority staff analysis and, if the executive director determines that all of the following requirements are met:

(a) The applicant is an applicant authorized by the act to receive a development fund loan.

(b) The applicant shall use the loan funds in planning for or implementing any activities permitted in the act.

(c) The applicant is reasonably expected to be able to successfully implement the proposal.

(d) The authority reasonably anticipates that the applicant will receive an authority-aided or a federally-aided mortgage loan, to be obtained to provide financing for the proposed housing project.

(e) The development fund loan can reasonably be anticipated to be repaid from the proceeds of the authority-aided or a federally-aided mortgage loan. Then the executive director may issue, on behalf of the authority, a commitment for a development fund loan to the applicant. The development fund loan commitment shall contain terms, conditions, and requirements as deemed necessary by the executive director.

History: 1979 AC; 1998-2000 AACCS.

**R 125.133 Determinations of feasibility and authorization of loans.**

Rule 133. (1) The authority shall review the analysis and recommendation for applications for a determination that a proposed housing project is feasible and applications for development fund loans in the principal amount of \$250,000 or more, and, if it determines that the application meets the

requirements of the act and these rules and is consistent with the authority's processing and underwriting procedures and guidelines, by resolution, the authority may determine that the proposed housing project is a feasible housing project or authorize a development fund loan to the applicant, or both.

(2) For applications for a determination that a proposed housing project is feasible, the resolution shall include all of the following determinations by the authority :

(a) The proposed housing project will provide housing for persons of low and moderate income or will serve and improve the residential area in which authority-financed housing is located or is planned to be located thereby enhancing the viability of such housing.

(b) The applicant is reasonably expected to be able to achieve successful completion of the proposed housing project.

(c) The proposed housing project will meet a social need in the area in which it is to be located.

(d) A mortgage loan, or a mortgage loan not made by the authority that is a federally-aided mortgage, can reasonably be anticipated to be obtained to provide financing for the proposed housing project.

(e) The proposed housing project is a feasible housing project.

(3) For applications for development fund loans in the principal amount of \$250,000 or more, the resolution shall include the following determinations by the authority:

(a) The applicant is an applicant authorized by the act to receive a development fund loan.

(b) The applicant shall use the loan funds in planning for or implementing any activities permitted in the act.

(c) The applicant is reasonably expected to be able to successfully implement the proposal.

(d) The authority reasonably anticipates that the applicant will receive an authority-aided or a federally-aided mortgage loan, to be obtained to provide financing for the proposed housing project.

(e) The development fund loan can reasonably be anticipated to be repaid from the proceeds of the authority-aided or a federally-aided mortgage loan.

(4) The resolution may include such conditions as the authority considers appropriate with respect to an application for a mortgage loan as to such feasible housing project or the use, disbursement, and repayment of the development fund loan.

History: 1979 AC; 1998-2000 AACCS.

#### **R 125.134 Priorities for allocation of development fund monies.**

Rule 134. Priorities for allocation of monies in the housing development fund available for development fund loans may be established and revised by the authority. Priorities shall be based on criteria established by the authority as best effectuating the purposes of the act including, without limitation, a determination by the authority of an area's need for housing for persons of low and moderate income as compared to the authority's determination of the overall housing needs of the state.

History: 1979 AC.

### **PART 4. MORTGAGE LOANS**

#### **R 125.141 Applications.**

Rule 141. An application for a mortgage loan shall include information, and where required by the authority staff, supporting materials, and evidence, with respect to all of the following:

(a) The status of the applicant as an eligible applicant.

(b) The site of the proposed housing project, including location, dimensions, ownership, present zoning, present use and occupancy and relocation requirements as to present occupants, present on-site improvements, such as streets, utilities, and structures, status of off-site utilities and streets, present property taxes and assessments, utility charges, and liens or other charges on the land, and all physical characteristics of the site that may affect construction.

(c) The status and characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental, or cooperative), rehabilitation or new construction, building type, federally-aided mortgage or otherwise, and social, recreational, commercial, and communal facilities proposed to serve and improve the residential area in which the proposed housing is or is to be located.

(d) Identity and qualifications of the design architect, supervisory architect, applicant's attorney, housing consultant, general contractor, marketing or sales agent, and management agent.

(e) Architectural drawings and specifications, site plan, schedule of construction costs, reports of soil tests or engineering studies performed, and evidence of approval of the architectural drawings, specifications, and site plan by governmental bodies having jurisdiction.

(f) Proposed marketing plan, reports of market surveys or analyses, schedule of proposed rents, occupancy charges or sale prices, proposed operating budget, proposed management plan, proposed relocation plan and cost analysis, schedule of the proposed uses of the requested mortgage loan and the amounts to be allocated to each such use including the applicant's equity investment, where applicable, and a proposed construction schedule.

(g) The applicant's compliance with, and the fulfillment of, the terms and conditions of any prior determination by the authority that the proposed housing project is a feasible housing project.

(h) The applicant's proposed plans for compliance with the nondiscrimination provisions of section 46 of the act and the proposed affirmative action plans for minority group employment in construction of the proposed housing project.

(i) Other matters as to the proposed housing project, the applicant, and other parties involved in the housing project as the authority staff and the executive director may require.

History: 1979 AC.

### **R 125.142 Processing and evaluation of applications.**

Rule 142. (1) An application for a mortgage loan shall be processed by the authority staff on the basis of the authority's processing and underwriting procedures and guidelines. The authority staff shall undertake such land

appraisals, market surveys and analyses, reviews of the architectural design, site plan, and construction costs, materials and methods, and other matters as may be determined to be appropriate to insure that the proposed housing project is consistent with the

authority's processing and underwriting procedures and guidelines.

(2) An applicant may be required to furnish the authority staff with supplementary information and to amend the application to cause the proposed housing project to be consistent with the authority's processing and underwriting procedures and guidelines.

(3) Except as provided for in R 125.143(3), upon completion of the processing and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the authority.

History: 1979 AC; 1981 AACS.

### **R 125.143 Authorization of mortgage loans.**

Rule 143. (1) The authority shall review each analysis and recommendation and, if it determines that the application meets the requirements of the act and these rules and is consistent with the authority's processing and underwriting procedures and guidelines, by resolution, it may authorize a mortgage loan to the applicant. The resolution may authorize the executive director to issue a separate authority mortgage loan commitment to the applicant with respect to the proposed housing project.

(2) The resolution shall include all of the following authority determinations:

(a) The applicant is an eligible applicant.

(b) The proposed housing project will provide housing for persons of low and moderate income or will serve and improve the residential area in which authority-financed housing is located or is planned to be located, thereby enhancing the viability of such housing. In the case of a loan being made pursuant to section 44a (2) of the act, such loan may be made without regard to the income of the owner or occupants if the housing project is located in an area of chronic economic distress or if the housing project constitutes moderate cost residential rental property located elsewhere in the state.

(c) The applicant is reasonably expected to be able to achieve successful completion of the proposed housing project.

(d) The proposed housing project will meet a social need in the area in which it is to be located.

(e) The proposed housing project may reasonably be expected to be marketed successfully.

(f) All elements of the proposed housing project, including, without limitation, the ownership, design, construction, occupancy, management, and operation thereof, have been established in a manner consistent with the authority's processing and underwriting procedures and guidelines, except as to any such elements as are the subject of conditions as to the authorization of the mortgage loan as provided in R 125.144.

(g) In light of the estimated project cost of the proposed housing project, the amount of the mortgage loan authorized by such resolution is consistent with the requirements of the act as to the maximum limitation on the ratio of mortgage loan amount to estimated project cost.

(3) If the principal amount of the mortgage loan is less than \$250,000.00, the executive director shall review the authority staff's analysis and, if the executive director determines that the applicant is an eligible applicant, that the application meets the requirements of the act and these rules, and that the application is consistent with the authority's processing and underwriting procedures and guidelines as to the proposed housing project, the executive director may issue, on behalf of the authority and pursuant to resolution of the authority, the authority's mortgage loan commitment to the applicant with respect to the proposed housing project. The mortgage loan commitment shall contain terms, conditions, and requirements as deemed necessary by the executive director.

History: 1979 AC; 1981 AAC; 1983 AAC.

#### **R 125.144 Conditions and special determinations in authorizations.**

Rule 144. A resolution of the authority authorizing a mortgage loan or a mortgage loan commitment of the authority, the issuance of which is authorized by such a resolution, shall include such conditions as the authority considers appropriate with respect to the commencement of construction of the proposed housing project, the marketing and occupancy of such housing project and the use, disbursement, and repayment of the mortgage loan authorized. A resolution or mortgage loan commitment may include a financial analysis of the subject housing project, which shall establish the initial schedule of rents or occupancy charges, the approved budget for operation of the housing project, and the schedule of use of the proceeds of the mortgage loan. A resolution authorizing a mortgage loan to an applicant which is a limited dividend housing corporation or limited dividend housing association shall include a determination of the maximum reasonable and proper rate of return on the investment of the applicant in the proposed housing project, which determination shall be made upon a consideration of the then existing conditions in the housing industry and financial markets and rates of return then prescribed by other governmental agencies.

History: 1979 AC.

#### **R 125.145 Priorities for allocation of monies for mortgage loans.**

Rule 145. Priorities for allocation of authority monies available for mortgage loans may be established and revised by the authority. Priorities shall be based on criteria established by the authority as best effectuating the purposes of the act, including, without limitation, a determination by the authority of an area's need for housing for persons of low and moderate income as compared to the authority's determination of the overall housing needs of the state.

History: 1979 AC.

**R 125.146 Mortgage loans to individuals.**

Rule 146. (1) An application by an individual for a mortgage loan for long-term financing of a housing unit to be purchased by the individual shall include information, and where required by the authority staff, supporting materials and evidence with respect to all of the following:

(a) The eligibility of the applicant.

(b) The eligibility of the housing unit proposed to be purchased.

(2) An application for a mortgage loan, submitted pursuant to subrule (1) of this rule, shall be processed by the authority staff, and the authority staff's analysis of such application shall be presented to the executive director.

(3) The executive director shall review each analysis and, if he or she

determines that the applicant is an eligible applicant, that the application meets the requirements of the act and these rules, and that the application is consistent with the authority's processing and underwriting procedures and guide-lines as to the housing unit to be purchased, then the executive director may issue, on behalf of the authority and pursuant to resolution of the authority, the authority's mortgage loan commitment to the applicant with respect to the housing unit proposed to be purchased. The mortgage loan commitment shall contain terms, conditions, and requirements as deemed necessary by the executive director, including, without limitation, conditions establishing that the purchase price of the subject housing unit, the method of making payments after the purchase of the housing unit, the security afforded, the interest rate, and fees and charges, if any, to be paid by the eligible applicant shall at all times be sufficient to permit the authority to make the payments on its bonds and notes plus any administrative or other costs to the authority in connection with the transaction.

(4) The authority, by resolution, may authorize the execution, on behalf of the authority, of agreements with corporations, partnerships, individuals, financial institutions, or other entities qualified to do business within this state. The agreements may provide that the authority shall make mortgage loans to individual eligible applicants for the long-term financing of housing units to be purchased by such applicants, and that the housing units shall be constructed by or with the assistance of an entity that shall be a party to such an agreement.

(5) An individual shall not receive a mortgage loan for long-term financing a housing unit to be purchased that is not intended for owner occupancy.

(6) An individual shall not receive a mortgage loan for the long-term financing of a housing unit to be purchased unless the husband, wife, and all other adult individuals whose income is required to be computed in determining the household gross income agree to sign a mortgage, mortgage note, and such other loan documents determined by the executive director to be necessary, provided however, that children of the applicant who are claimed as dependants on the applicant's federal income tax return and who are full-time students need not sign the loan documents.

(7) An individual shall not receive a mortgage loan for the long-term financing of a housing unit unless the individual meets credit requirements as established by the authority.



History: 1979 AC; 1980 AACCS; 1982 AACCS; 1983 AACCS; 1986 AACCS; 1998-2000 AACCS.

## **PART 5. DEVELOPMENT FUND GRANTS**

### **R 125.151 Applications.**

Rule 151. An application for a development fund grant shall include information and, where required by the authority staff, supporting materials and evidence with respect to all of the following:

(a) That the applicant is an applicant authorized by the act to receive a development fund grant.

(b) The proposed housing or community development activities for which assistance in planning or implementation is being requested.

(c) The total cost of the planned activities, the net costs to the applicant, and a schedule of the proposed uses of the requested development fund grant and the amounts proposed to be allocated to each use.

(d) Other matters with respect to the proposal, the applicant, and other parties involved as the authority staff and the executive director require.

History: 1979 AC; 1986 AACCS; 1998-2000 AACCS.

### **R 125.152 Processing and evaluation of applications.**

Rule 152. (1) An application for a development fund grant shall be processed by the authority staff on the basis of the authority's evaluation factors.

(2) An applicant may be required to furnish to the authority staff supplementary information and to amend the application to cause the planned activities to be fully consistent with the authority's evaluation factors.

(3) Upon completion of the processing all applications for development fund grants in the amount of \$250,000 or more shall be presented to the authority for approval, along with the authority staff analysis of the application and the executive director's recommendation with respect to the application.

(4) If the amount of the development fund grant is less than \$250,000.00, the executive director shall review the authority staff analysis and, if the executive director determines that all of the following requirements are met:

(a) The applicant is an applicant authorized by the act to receive a development fund grant.

(b) The applicant shall use the grant funds in planning for or implementing any activities permitted in the act.

(c) The applicant is reasonably expected to be able to successfully implement the proposal.

(d) The application satisfies the evaluation factors and criteria adopted by the authority. Then the executive director may issue, on behalf of the authority, a commitment for a development fund grant to the applicant. The development fund

grant commitment shall contain terms, conditions, and requirements as deemed necessary by the executive director. The authority may require repayment of these grants.

History: 1979 AC; 1998-2000 AACCS.

**R 125.153 Authorization of development fund grants in the amount of \$250,000 or more.**

Rule 153. (1) For applications for development fund grants in the amount of \$250,000 or more, the authority shall review each analysis and recommendation presented and, if it determines that the application meets the requirements of the act and these rules and is consistent with the authority's evaluation factors, by resolution, it may authorize a development fund grant to the applicant in an amount not to exceed the net costs to the applicant of the planned activities.

(2) The resolution of the authority shall include all of the following determinations by the authority:

(a) The applicant is an applicant authorized by the act to receive a development fund grant.

(b) The applicant shall use grant funds in planning for or implementing any activities permitted in the act.

(c) The applicant is reasonably expected to be able to successfully implement the proposal.

(d) The application satisfies the evaluation factors and criteria adopted by the authority.

(3) The resolution may include conditions which the authority considers appropriate with respect to the use and disbursement of the development fund grant. The authority may require repayment of these grants.

History: 1979 AC; 1986 AACCS; 1998-2000 AACCS.

**R 125.154 Priorities for allocation of development fund monies.**

Rule 154. Priorities for allocation of monies in the housing development fund available for development fund grants may be established and revised by the authority. Priorities shall be based on criteria established by the authority as best effectuating the purposes of the act.

History: 1979 AC.

## **PART 6. AUTHORITY LOAN DOCUMENTS**

**R 125.161 Authority loan documents.**

Rule 161. (1) Forms of documents to be used with respect to development fund loans, mortgage loans, and the issuance and sale of authority notes and bonds shall be

prepared, and may be revised and amended, by the authority staff under direction of the executive director on behalf of the authority, subject to legal requirements.

(2) The appropriate forms of such documents shall be employed with respect to all matters relating to development fund loans and mortgage loans.

History: 1979 AC.

### **R 125.162 Remedies.**

Rule 162. The authority reserves the right to pursue all remedies prescribed by law or in the act for breach or violation of any provision of any authority loan document described in R 125.161.

History: 1979 AC.

## **PART 7. LAND ACQUISITION AND DEVELOPMENT**

### **R 125.171 Land acquisition and development proposals.**

Rule 171. (1) The authority staff may develop proposals for the use of monies in the land acquisition and development fund created by the act. Such a proposal may be for:

(a) The acquisition by grant, purchase, or otherwise of real property, which for purposes of this part 7 shall be defined as any interest, including a fee and leasehold interest, in land or improvements to land, or a portion thereof, by the authority under any of the following circumstances:

(i) The real property may be suitable for a future housing development or housing project.

(ii) The real property is located in a residential area where the authority has financed or has planned to finance housing, and the proposed use of the real property shall improve the quality of the residential area by eliminating blight or provide needed public or commercial facilities.

(iii) The real property is so situated that the present or future use of the real property, if not acquired by the authority, shall adversely affect the value or marketability of the authority-financed housing project.

(b) Any of the following types of improvements to real property purchased or otherwise acquired for the purposes of the fund:

(i) Improvements that are necessary to place the real property in a safe, sanitary, and decent condition, including demolition, excavation, and landscaping.

(ii) Improvements to real property which is to be dedicated for the public use and enjoyment, including the installation of recreational facilities, benches, shelters, lighting, and walkways.

(iii) Improvements that are necessary to insure the planned development of the real property, including the installation of roads, sidewalks, sewers, and utilities.

(c) The payment of any of the following costs on real property purchased or being purchased with monies from this fund or acquired by gift, grant, or exchange for the purposes of this fund:

(i) The costs of property taxes, insurance premiums, interest, maintenance expenses, and other carrying charges on real property. Notwithstanding the provisions of section 42 of the act, during the period when real property is owned or is being purchased by the authority or its agent, the authority shall pay all property taxes levied against the real

property unless a taxing jurisdiction exempts the real property from property taxes. The assessed valuation of the real property while it is owned or being purchased by the authority or its agent shall not be increased by any taxing jurisdiction, except to reflect the state equalization valuation process.

(ii) The costs of planning the development of the real property, including, but not limited to, the costs of economic feasibility studies, land use studies, site development planning, architectural and engineering design, market analysis and all related analyses, studies, and planning services.

(iii) The costs incurred in the transfer of real property, including brokerage and appraisal fees, recording expenses, and the costs of surveys and title insurance.

(d) The costs of improvements to real property permitted by section 24b(2) of the act.

(2) A proposal shall contain information as to the description and fair market value of any real property or interest therein proposed to be acquired and the proposed method of acquisition thereof, the nature and cost of any improvements proposed to be undertaken or carrying charges or transfer expenses proposed to be paid, the nature and cost of any planning of the development of real property proposed to be undertaken. A proposal, upon completion, and the executive director's recommendation with respect thereto shall be presented to the authority.

History: 1979 AC.

### **R 125.172 Approval and implementation of proposals.**

Rule 172. (1) The authority shall review a proposal and recommendation and, if it determines that the proposal meets the requirements of the act and these rules, by resolution, it may approve the proposal and authorize and direct the implementation thereof and the use of appropriate monies of the authority in connection with the implementation.

(2) The resolution may provide that any real property or interest therein to be acquired by the authority may be acquired by the authority's name or through and in the name of a duly authorized agent of the authority. If any such real property or interest therein is to be purchased on land contract, option, or other form of deferred payment agreement, or subject to mortgages or other encumbrances, the authority, by the resolution, shall reserve monies in the land acquisition and development fund or authorization to issue notes and bonds, the aggregate amount of which equals the unpaid principal balance of such land contract, option, mortgage, or other encumbrance or deferred payment agreement plus any anticipated carrying charges, including without limitation, insurance premiums, interest, maintenance

expenses, and property taxes. In the event that such acquisition is to be accomplished through a duly authorized agent of the authority, the authority shall require such agent to protect the authority's interest in the property and to convey the property interest therein to the authority upon the authority's request, and the records of the authority shall reflect the existence of, and the authority's rights in, the real property or interest therein.

History: 1979 AC.

**R 125.173 Sale or exchange of property of authority.**

Rule 173. (1) The authority, by resolution, may authorize and direct the sale, assignment, transfer, conveyance, lease, mortgage, or other disposal or encumbrance of real or personal property or any interest therein, or part thereof, with respect to which monies from the land acquisition and development fund have been expended to any individual, firm, partnership or corporation, county, municipality, authority, or federal or state agency at such price and on such terms and conditions as meet the requirements of the act and are considered appropriate by the authority.

(2) The authority, by resolution, may authorize and direct the exchange of real property with respect to which monies from the land acquisition and development fund have been expended, if the authority determines that the real property proposed for acquisition meets the requirements of R 125.171(1)(a).

History: 1979 AC.

**PART 8. HOME IMPROVEMENT LOANS**

**R 125.181 Eligible applicants.**

Rule 181. An applicant for a home improvement loan shall satisfy all of the following requirements:

(a) An applicant shall be either an individual fee owner or purchaser under a land contract of the residential structure to be improved or an individual member-shareholder in a nonprofit cooperative housing corporation who has a proprietary interest in a residential structure. The residential structure may be subject to a mortgage or other lien securing a debt.

(b) An applicant shall meet credit requirements as established by the authority.

(c) The residential structure to be improved shall not be in violation of applicable zoning ordinances or other applicable land use guidelines.

(d) The residential structure shall not contain more than 11 dwelling units.

(e) The applicant shall use Home improvement loan proceeds to finance only new improvements upon, or in connection with, existing structures and shall not be used for the refinancing of an existing mortgage or debt or for the completion of an unfinished residential structure.

(f) All improvements shall be reasonably capable of being completed, except for causes beyond the applicant's reasonable control, within 6 months of the date of the first

disbursement of funds pursuant to the home improvement loan. The authority may extend this period for good cause shown.

History: 1979 AC; 1980 AACS; 1982 AACS; 1983 AACS; 1991 AACS; 1998-2000 AACS.

**R 125.182 Eligible improvements.**

Rule 182. Improvements made with home improvement loan proceeds shall satisfy the following requirements:

(a) Improvements may be made in order to comply with applicable state, county, and municipal health, housing, building, fire prevention and housing maintenance codes, or other public standards applicable to housing.

(b) Improvements may also be made which protect or improve the basic livability or utility of a residential structure, thereby making the residential structure safe, sanitary, or adequate. However, to be an eligible improvement, it shall be a permanent general improvement.

(c) An improvement shall be made in compliance with all applicable health, fire prevention, building, housing, and housing maintenance codes, and other public standards applicable to housing. However, no application for a home improvement loan for a dwelling unit occupied by the owner shall be denied solely because the improvements will not bring the dwelling unit into full compliance with all applicable codes and standards.

(d) Home improvement loans proceeds shall not be used for the payment, wholly or in part, of an assessment for public improvements. However, proceeds may be used for improvements which will bring an individual sewage disposal system, including septic systems, located on the residential real property improved by a residential structure into compliance with local, state, and federal environmental and sanitary standards.

(e) The authority may require that all contracts covering all or any portion of an improvement contain an authority-approved warranty on workmanship and materials.

History: 1979 AC.

**R 125.183 Rescinded.**

History: 1979 AC; 1981 AACS; 1982 AACS; 1998-2000 AACS.

**R 125.184 Rescinded.**

History: 1979 AC; 1998-2000 AACS.

**PART 9 - MICHIGAN HOUSING AND COMMUNITY DEVELOPMENT  
FUND;  
MICHIGAN HOUSING AND COMMUNITY DEVELOPMENT PROGRAM**

**R 125.190 Program purpose and applicability.**

Rule 190. The Michigan state housing development authority shall use the housing and community development fund to provide loans, grants, or other comparable forms of assistance to eligible applicants to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing and projects located in a downtown area or adjacent neighborhood in this state. The use of the fund, created pursuant to MCL 125.1458b, is limited to activities outlined in MCL 125.1458b and 125.1458c as follows:

(a) Developing and coordinating public and private resources to meet the housing needs of low income, very low income, and extremely low income households in this state, particularly innovative strategies leveraging public and private resources to meet these needs.

(b) Developing housing for the homeless, including both transitional housing and permanent housing.

(c) Developing rental housing.

(d) Providing funding to eligible applicants with respect to housing or homeownership for individuals and families of low income, very low income, and extremely low income households and projects located in a downtown area or adjacent neighborhood in this state, including funding for all of the following:

(i) Acquisition of land and buildings.

(ii) Rehabilitation.

(iii) New construction.

(iv) Development costs and predevelopment costs.

(v) Preservation of existing housing.

(vi) Community development projects, including, but not limited to, infrastructure improvements, economic development projects, blight elimination, or community facilities.

(vii) Insurance.

(viii) Operating and replacement reserves.

(ix) Down payment assistance.

(x) Security deposit assistance.

(xi) Foreclosure prevention and assistance.

(xii) Individual development accounts established under the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(xiii) Activities related to ending homelessness.

(XIV) Assistance to nonprofit organizations, municipalities, and land bank fast track authorities organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(XV) Predatory lending prevention or relief.

History: 2008 AACCS; 2009 AACCS.

**R 125.191 Definitions.**

Rule 191. Definitions provided for in part I of the authority's rules, R 125.101 to R 125.103, shall apply to the provisions of this part, unless superseded in this rule as follows:

(a) "Adjacent neighborhood" means a residential area as determined by the authority immediately adjoining or near a downtown area within the same municipality.

(b) "Allocation plan" means the plan referred to in and required by MCL 125.1458b (3).

(c) "Annual report" means the annual report required under MCL 125.1458b (6).

(d) "Applicant" means a person who has submitted an application, proposal, or other documentation related to a request for an award of housing and community development fund monies meeting the requirements contained in the applicable NOFA or RFP related to the applicable application year.

(e) "Biennial plan" means the allocation plan as defined in subdivision (b) of this subrule.

(f) "Chief Executive Officer" or "CEO" means the senior manager responsible for overseeing the activities of the entire company or organization. The CEO usually holds a position on the board of directors of the company or organization and may also hold the title of president.

(g) "Chief Financial Officer" or "CFO" means the company's or organization's top managerial and financial accountant and the individual in charge of the company's or organization's financial matters.

(h) "Community development" means a process involving the conception, planning, and implementation of projects or activities which create improvements in, or reduce the extent of declines in, the living standards of people in a particular community.

(i) "Controlling interest" means the holding by 1 person or group of persons of a majority of the stock or other indicia of ownership of a business entity, giving the holder or holders a means of exercising control over the actions of the entity.

(j) "Development costs" means the sum total of all costs incurred in a housing development or a partnership project located in a downtown area or special purpose entity that is approved by the authority and that is organized for the purpose of developing and supporting affordable housing for low income, very low income, or extremely low income households, any of which are determined by the authority to qualify for funding under the program.

(k) "Extremely low income household" means a person, a family, or unrelated persons living together whose adjusted household income is not more than 25% of the median income, as determined by the authority.

(l) "Formula" means the standard procedure for distributing the program funds across the state as specified in MCL 125.1458b (4) (a).

(m) "For-profit corporation" means an entity that exists primarily to generate more income than it spends.

(n) "Housing development costs" means the sum total of all costs incurred in a housing development adjacent neighborhood determined by the authority to be reasonable and necessary, including but not limited to, all of the following:



(i) Cost of land acquisition and any buildings on the land, including payments for options, deposits, or contracts to purchase properties on the proposed housing development site or project located in a downtown area or adjacent neighborhood site or payments for the purchase of properties.

(ii) Cost of site preparation, demolition, and clearing.

(iii) Architectural, engineering, legal, accounting, corporation, and other fees paid or payable in connection with the planning, execution, and financing of the housing development or project located in a downtown area or adjacent neighborhood and the finding of an eligible mortgagee or mortgagees for the housing development or project located in a downtown area or adjacent neighborhood.

(iv) Cost of necessary studies, surveys, plans, and permits.

(v) Insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction.

(vi) Cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery, apparatus, and similar facilities related to the real property.

(vii) Cost of land improvements, including landscaping and offsite improvements.

(viii) Necessary expenses in connection with initial occupancy of the housing development or the project located in a downtown area or adjacent neighborhood.

(ix) A reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, a limited-dividend housing sponsor.

(x) An allowance established by the authority for working capital and contingency reserves and reserves for any anticipated operating deficits during construction and initial occupancy.

(xi) Cost of other items that are determined to be reasonable and necessary for the housing development or project located in a downtown area or adjacent neighborhood, less any net rents and other net revenue received from the operation of the real and personal property on the development site or project site during the construction.

(k) "Downtown area" means an area where 20 or more contiguous properties have been planned, zoned, or used for commercial purposes for 50 or more years and where a majority of the buildings are built adjacent to each other as determined by the authority and up to the public right-of-way. To be a downtown area, the area shall contain a significant number of multilevel, mixed use buildings and property in the downtown area must be owned by more than 3 private owners.

(l) "Eligible applicant" means a not-for-profit corporation, a for-profit corporation, a municipality, a land bank fast track authority organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to MCL 124.774, or a partnership or special purpose entity that is approved by the authority and that is organized for the purpose of developing and supporting affordable housing for low income, very low income, or extremely low income households, or projects located in a downtown area or adjacent neighborhood, any of which are determined by the authority to qualify for funding under the program.

(m) "Extremely low income household" means a person, a family, or unrelated persons living together whose adjusted household income is not more than 25-30% of the area median income, as determined by the authority.

(n) "Formula" means the standard procedure for distributing the program funds throughout the state based on the number of persons experiencing poverty, economic and housing distress as specified in MCL 125.1458b (3) (A).

(o) "For-profit corporation" means an entity that exists primarily to generate more income than it spends.

(p) "Homelessness" means lacking a fixed, regular, and adequate nighttime residence with priority given to those living in any of the following:

(i) A publicly or privately operated shelter and/or transitional facility designed to provide temporary living accommodations.

(ii) A public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings.

(iii) An institution that provides temporary residence for individuals intended to be institutionalized.

(q) "Housing development" means single-family homes, rental developments, elderly developments, affordable assisted living developments, supportive housing developments, and any work or undertaking financed in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating housing for low, very low, or extremely low income households in need of housing. An undertaking may include any buildings, land, equipment, facilities, or other real or personal property that is necessary, convenient, or desirable in connection with a development, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and other non-housing facilities determined to be necessary, convenient, or desirable.

(r) "HUD" means the United States department of housing and urban development, the federal department responsible for the major housing programs in the United States.

(s) "Lookback" means the process of reviewing an intended proposed distribution of program funds in a program year to ensure compliance with the earmark requirements provided in the statute and these rules.

(t) "Low income household" means a person, a family, or unrelated persons living together whose adjusted household income is more than 50% but not more than 60% of the median income, as determined by the authority.

(u) "Michigan housing and community development fund" means the fund created in MCL 125.1458a.

(v) "Michigan housing and community development program fund advisory committee" means the program committee created in pursuant to MCL 125.1458b.1458e.

(w) "Michigan housing and community development program" means the program created in MCL 125.1458b.

(x) "Mixed use buildings" means buildings that can be used for more than 1 purpose, and in any combination, including, but not limited to, residential housing combined with either commercial or retail space.

(y) "NOFA" means a notice of funding availability issued pursuant to this rule and the applicable statutory law governing the program.

(z) "Not-for-profit corporation" means a public or private corporation that meets all of the following:

(i) Is organized under state or local laws.

(ii) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.

(iii) Has a current tax exemption ruling from the internal revenue service

(IRS) under section 501(c)(3), a charitable, nonprofit corporation, or section 501(c)(4), a community or civic organization, of the internal revenue code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization non-profit under the internal revenue code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the applicant. The group exemption letter must specifically list the applicant.

(iv) A private nonprofit organization's pending application for section 501(c)(3) or (c)(4) status does not comply with the tax status requirement.

(aa) "Persons with disabilities" means a household composed of 1 or more persons, at least 1 of whom is a person who has a disability that is a physical or mental impairment that substantially limits 1 or more major life activities; has a record of such impairment; or is regarded as having such an impairment as defined in the developmental disabilities assistance and bill of rights act (42 U.S.C. §15002).

(bb) "Persons with special needs" means adult individuals or categories of adult individuals determined by the authority to have unmet housing and supportive service needs and may include any household composed of 1 or more persons with physical, mental, or emotional impairment of long-term duration, including, but not limited to, alcohol and/or drug addictions, persons with disabilities including profound deafness and the legally blind, victims of domestic violence, persons with HIV/AIDS, homeless populations, migrant farm workers, and individuals that are recipients of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits. In addition to a physical, mental, or emotional impairment, the person must have a substantial and sustained need for supportive services assistance in at least two of the following life-skills areas in order to successfully live

independently:

(i) The ability to independently meet personal care needs, economic self-sufficiency (capacity for sustained and successful functioning in vocational, learning and employment contexts).

(ii) Use of language (ability to effectively understand, be understood, and handle communication as needed on a daily and ongoing basis).

(iii) Instrumental living skills (managing money, getting around in the community, grocery shopping, complying with prescription requirements, meal planning and preparation, mobility).

(iv) Self direction skills (making decisions/choices about one's day-to-day activities and regarding one's future.) "Persons with special needs" shall also include persons legally responsible for caring for persons with special needs.

(cc) "Predevelopment costs" means reimbursable costs, related to a specific eligible housing, downtown, or adjacent neighborhood project, that meet all of the following:

(i) Predevelopment project costs that are determined to be customary and reasonable by the authority, including but not limited to, consulting fees, architectural

fees, engineering fees, and costs related to the engagement of a development team, costs related to establishing site control, and costs related to title clearance.

(ii) Pre-construction project costs that are determined to be customary and reasonable by the authority, including but not limited to, the costs of obtaining architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

(iii) Predevelopment costs do not include general operational or administrative costs.

(zd) "Project" means those activities defined under MCL 125.1458C.

(ee) "Recipient" means an eligible applicant receiving funds or other assistance under the program. The term recipient shall also include a subrecipient and any requirement applying to a recipient shall likewise apply to a subrecipient.

(ff) "Rental housing project" means a housing development consisting of 1 or more dwelling units that will be rented to individuals or families meeting applicable occupancy and income requirements related to the nature of the housing unit or development.

(gg) "RFP" means "request for proposals." An RFP is an announcement of a willingness to consider proposals requesting the awarding of program funds for a particular use or uses related to the fund or program.

(hh) "Special purpose entity" means a legal entity created for the primary purpose of sponsoring, originating, creating, sustaining, or assisting the provisioning of housing to low, very low, or extremely low income households the costs of which, if not funded from other sources, are reasonably fully payable out of the persons monthly income, including earned income, grants, or other public or non-public assistance.

(ii) "State" means the state of Michigan and any state level component units thereof.

(jj) "Statute" means the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 et seq.

(kkgg) "Supportive housing" means a rental housing project in which some or all of the units are targeted to persons with household incomes at or below 30% of area median income and that provide services, either directly or contracted for, to those persons with special needs that include, but are not limited to, mental health services, substance abuse services, counseling services, and daily living services.

(ll) "Very low income household" means a person, a family, or unrelated persons living together whose adjusted household income is not more than 50% of the median income, as determined by the authority.

History: 2008 AACCS; 2009 AACCS.

**R 125.192 (1) Housing and community development program funds may be used for the following activities:**

(a) Acquisition activities. Acquisition in whole or in part by the recipient, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any purpose authorized by the program.

(b) Rehabilitation, clearance, and remediation activities. Rehabilitation activities include clearance, demolition, and removal of buildings and improvements,

movement of structures to other sites, and remediation of known or suspected environmental contamination for a current or proposed housing development or project located in a downtown area or adjacent neighborhood. Demolition of HUD assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD.

(c) New construction of housing activities or projects located in a downtown area or adjacent neighborhood. Construction of a housing development or projects located in a downtown area or adjacent neighborhood, including housing assisted under federal or state law, through the incurrence of development costs and predevelopment costs.

(d) Activities incurring development costs and predevelopment costs.

(e) Preservation of existing housing or activities related to the preservation of existing housing.

(f) Activities related to community development projects, infrastructure improvements, economic development projects, blight elimination, and community facilities. Activities under this category shall include acquisition, construction, reconstruction, rehabilitation or installation of community facilities and infrastructure improvements or other incurrence of development costs or predevelopment costs carried out by the recipient. In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving assistance. Such community facilities include, but are not limited to, shelters for the homeless; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims.

(g) Activities incurring insurance costs related to any purpose authorized by the program.

(h) Activities involving operating, replacement and other reserves related to any purpose authorized by the program.

(i) Activities providing down payment and other direct homeownership assistance to low, very low, or extremely low income households.

(j) Activities providing security deposit assistance to low, very low, or extremely low income households.

(k) Supportive services activities (including labor, supplies, and materials) for Activities providing foreclosure prevention or foreclosure assistance to low, very low, or extremely low income households, INCLUDING BUT NOT LIMITED TO THOSE CONCERNED WITH EMPLOYMENT, CRIME PREVENTION, CHILD CARE, HEALTH, DRUG ABUSE, EDUCATION, FAIR HOUSING COUNSELING, ENERGY CONSERVATION, WELFARE, HOMEBUYER DOWNPAYMENT ASSISTANCE, OR RECREATIONAL NEEDS TO A PERSON, PERSON WITH DISABILITIES OR PERSON WITH SPECIAL NEEDS. TO BE ELIGIBLE FOR ASSISTANCE, A SUPPORTIVE SERVICE MUST BE EITHER A NEW SERVICE OR A QUANTIFIABLE INCREASE IN THE LEVEL OF AN EXISTING SERVICE ABOVE THAT WHICH HAS BEEN PROVIDED IN THE 12 CALENDAR MONTHS BEFORE THE SUBMISSION OF THE FUNDING APPLICATION. .

(l) Activities related to individual development accounts established under the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(m) Activities related to ending homelessness.

(n) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development projects or activities that support housing development that does the following:

(i) Provides financial support for the establishment, stabilization, and expansion of business enterprises.

(ii) Provides technical assistance, advice, and business support services to owners of business enterprises and persons developing business enterprises.

(iii) Provides general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, to owners of business enterprises and persons developing business enterprises.

(iv) Assistance under this subdivision may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this subdivision.

(o) Assistance activities provided to public or nonprofit entities, including municipalities and land bank fast track authorities organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774, to increase the capacity of such entities to carry out program eligible housing development, neighborhood revitalization or economic development activities.

(p) Predatory lending prevention or relief.

(q) Any other housing and community development fund or program activities authorized under the authority's act.

(2) Ineligible applicants include the following:

(a) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, either failed to submit or is now delinquent in providing an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a program funding monitoring review.

(b) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, is currently delinquent on any loan payments or any fees due and payable to the authority.

(c) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the list of parties excluded from federal procurement or non-procurement programs or has otherwise been debarred by HUD or the authority.

(d) Any individual acting as an owner, member, principal, officer, manager or key employee of the applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the application deadline.

(e) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest, at the time of application submission is subject to any of the following:

(i) Enforcement or disciplinary action under state or federal securities law or by the NASD.

(ii) A federal tax lien.

(iii) An enforcement proceeding with any governmental entity.

(f) An applicant, recipient, or an entity in which the applicant or recipient has or had a controlling interest has open and/or unresolved audit issues with HUD or the authority related to this program or other programs administered by HUD or the authority.

(g) A submitted application is incomplete; lacks required supporting documentation; or is so unclear or disjointed that, in the discretion of the authority, it cannot reasonably be reviewed to determine whether it meets program criteria. If an application is determined to be ineligible pursuant to this rule, the application will be terminated. To the extent that the authority staff was able to complete a limited application review, specific reasons for the authority's determination of ineligibility shall be included in the termination letter to the applicant.

(h) An applicant or recipient or a person who has or had a controlling interest in the applicant or recipient has an ownership interest or exercises control of 1 or more rental housing properties in the state of Michigan subject to a regulatory agreement or tax credit regulatory agreement with the authority and is in material noncompliance with such regulatory agreement or tax credit regulatory agreement.

(i) Any application that includes financial participation by a person who, during the 5-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of any disaster occurring after January 1, 2000, or was assessed a federal civil or administrative penalty in relation to such a contract.

(j) Applications for proposals which cause or result in the permanent displacement of low, very low, or extremely low income households. Low, very low, or extremely low income households who may be temporarily displaced by the rehabilitation of affordable housing may be eligible for compensation of moving and relocation expenses. If a recipient violates the dislocation provisions of this subsection, that recipient shall repay program monies and the landlord/developer must pay the affected parties' costs and all moving expenses.

History: 2008 AACS; 2009 AACS.

## **PART 9A. APPLICATION, EVALUATION, AND PROGRAM REQUIREMENTS**

### **R 125.193 Application procedures and requirements.**

Rule 193. (1) Applications received by the authority in response to a NOFA or RFP shall be handled in the following manner:

(a) The authority will accept applications on an ongoing basis during the application acceptance period as specified in the NOFA or RFP.

(b) Applications submitted and accepted by the authority shall be reviewed in the following manner:

(i) Authority staff shall review all applications for eligibility, threshold, and selection criteria and ensure that all application requirements have been met.

(ii) Authority staff shall review applications to ensure that they are in accordance with the NOFA or RFP and applicable law.

(iii) Authority staff may issue a notice of any administrative deficiencies related to applications reviewed.

(iv) Authority staff shall conduct a comprehensive review of financial feasibility for development activities proposed in any application deemed acceptable under subdivision (b)(i) to (b)(v) of this subrule.

(v) Authority staff shall create a report setting forth the recommended terms, amount, and any conditions related to the proposed loan, grant, or project.

(2) Upon completion of staff review and any associated resolution of any applicable administrative deficiencies, applications which the review committee reviews, scores, and selects for award will be recommended to the authority for approval.

(3) If an application contains deficiencies which, in the determination of the authority staff, require clarification or correction, the authority staff may request clarification or correction of the administrative deficiencies, including threshold and/or selection criteria documentation and/or financial feasibility analysis.

(a) Requests for clarification or correction may be sent to the applicant in the form of a facsimile, e-mail, and/or be relayed to the applicant via a telephone call and documented in the application file.

(b) An applicant may not change or supplement any part of an application in any manner after submission to the authority, increase the award amount, or revise the unit mix (both income levels and bedroom mixes), except to remedy an administrative deficiency.

(4) The authority may decline to fund any application if the proposed activities do not, in the authority's sole determination, represent a prudent use of the housing and community development fund funds.

(5) The authority is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the authority's best interest to refrain from pursuing any selection process.

(6) The authority may negotiate individual elements of any application.

(7) The authority may conduct a site review. Applicants must receive recommendation for approval from the authority staff and the review committee to be considered for funding by the authority.

History: 2008 AACS; 2009 AACS.

## **R 125.194 Evaluation criteria for funding; other program requirements.**



Rule 194. (1) Requests for funding scoring the highest on the criteria explained in subrule (2) of this rule are most likely to be awarded funds.

(2) The following criteria will be used in evaluating the responses to any NOFA or RFP:

(a) To be eligible for funding, an applicant must first demonstrate that it meets each of the following threshold criteria:

(i) The application is consistent with the requirements established in the statute, this rule, the NOFA, or the RFP.

(ii) If the application involves either a rental housing project or a home ownership project, the application requests funding for a project which sets aside at least 20% of the rental units or housing units in the project for households earning not more than 60% of the median income.

(iii) The application includes a letter of support from the highest ranking elected official for each of the jurisdictions served by the proposed project.

(iv) The application meets the readiness to proceed requirements established in the NOFA or the RFP.

(v) Any outstanding housing and community development fund predevelopment loans for the same proposed development site must be paid in full at the time of loan closing for the current requested funds.

(b) Evaluation factors used to evaluate and score applications, as more fully described in a NOFA or RFP, will include at a minimum the following factors:

(i) The extent to which the proposal or project represents the leveraging of program funds.

(ii) The ability of the applicant, recipient, or both to administer the funding award effectively and deliver results within program timelines.

(iii) The extent to which the proposal or project helps meet the 25% earmark provided in the statute for rental housing projects that do not qualify under preferences for special population groups, or other preferences contained in the allocation plan.

(iv) The extent to which the proposal or project helps meet the 30% earmark provided in the statute for projects that target extremely low income households, including developing housing for the homeless, supportive housing, transitional housing, and permanent housing.

(v) The extent to which the proposal helps meet the statutory requirement that a portion of the fund be expended for persons with physical or mental handicaps and persons living in eligible distressed areas.

(3) Other program requirements include the following:

(a) All uses of program funds shall comply with the applicable income limitations contained in the act, these rules, the annual plan, the applicable NOFA or RFP, and any statements or representations made in any application or other documentation submitted as a part of any application, reporting or other monitoring related to any award of program funds.

(b) A rental housing project assisted by the fund must set aside at least 20% of the housing units in the project for households earning not more than 60% of the area median income.

(c) A home ownership project assisted by the fund must set aside at least 20% of the housing units in the project for households earning not more than 60% of the area median income.

(d) If the housing funded by the program is rental housing, the owner or manager of the housing must agree in writing not to evict a tenant without just cause, as defined in section 44a of 1933 (Ex Sess) PA 18, MCL 125.694a.

(e) All assistance for housing and real property acquired or supported by program funds shall include an agreement, restriction, or real covenant related to the recapture of program funds upon sale, conversion, or disposition of the property if the recapture provisions of these rules are triggered.

History: 2008 AACCS; 2009 AACCS.

**R 125.195 Biennial plan; allocations; earmarks; carryover.**

Rule 195. Pursuant to the statute, the authority shall biennially develop, propose, and establish a biennial plan related to the program. The biennial plan shall be issued pursuant to the requirements of the statute and all of the following:

(a) The authority shall, as a part of the biennial plan, issue an allocation plan related to the disbursement of program funds.

(b) The authority's biennial plan and allocation plan shall contain an allocation formula related to the disbursement of program funds.

(c) The following statutory earmark and lookback procedures shall apply to any biennial plan, allocation plan, and allocation formula:

(i) The following statutory earmarks shall be included in the biennial plan, allocation plan, and allocation formula:

(A) Not less than 25% of the dollars used for loans or grants made in any program year shall be earmarked for rental housing projects that do not qualify under preferences for special population groups, or other preferences contained in the allocation plan.

(B) Not less than 30% of the dollars used for loans or grants made in any program year shall be earmarked for projects that target extremely low income households and include housing for the homeless, supportive housing, transitional housing, or permanent housing.

(C) A portion of the fund shall be expended for housing for persons with physical or mental handicaps and persons living in eligible distressed areas.

(ii) After the completion of any application receipt, review, selection, and approval process related to any biennial plan, allocation plan or allocation formula in any program year, the authority shall look back and review the intended distribution of the program funds for that year and determine whether the earmark requirements in this rule and in statute will be met under the proposed distribution. If the earmark requirements are not met, and eligible applications meeting the earmark requirements have been received, accepted, and have not otherwise been approved for funding, the authority shall revise the proposed distribution to comply with the applicable earmark requirements. The revised plan shall be presented to and approved by the authority.

(iii) Uncommitted funds at the end of any program year shall be carried over and used under the applicable biennial plan, allocation plan, and allocation formula related to any subsequent program year.

History: 2008 AACCS; 2009 AACCS.

**R 125.196 Reporting requirements; program periods; compliance monitoring; review; recapture.**

Rule 196. (1) The following provisions regarding reporting apply:

(a) All recipients of program funds shall report back to the authority on a semiannual basis about their use of program funds. The authority shall collect information from recipients to establish that the funds are being spent correctly and to measure the results or performance of its spending against the objectives of the program.

(b) The authority will establish as a part of each biennial plan reporting forms that shall be submitted by the recipients on a semiannual basis. These reports shall include both a performance monitoring form and a financial monitoring form.

(c) The performance monitoring form shall be signed by the chief executive officer of the recipient and shall analyze the management performance of the recipient, specifically including a description of the following items:

(i) What was done with the program funds and whether what was done was consistent with the goals and strategies outlined in the application.

(ii) How well it was done, including a discussion of how success or failure will be measured.

(iii) Who has benefited from the distribution of program funds, including details on results.

(d) The financial monitoring form shall be signed by the chief financial officer of the recipient and shall analyze the financial performance of the recipient. Program funds shall be used in an efficient, effective, and appropriate manner, consistent with program objectives and priorities, including community needs. Program funds shall also be appropriately and properly accounted for with documentation that adequate safeguards have been instituted by the recipient to ensure that there is not misuse of program funds.

(2) The following provisions apply to program periods and extensions:

(a) The initial program period for any loan or grant awarded under the program 2 years from date of the award of program funds. All activities related to the use of program funds shall be completed within this 2-year time frame. Any program monies outstanding on the date which is 2 years from the date of the award are subject to the recapture provisions of this rule and shall be immediately repaid to the authority.

(b) Recipients must maintain compliance with each of its contracts with the authority.

(c) Recipients must comply with any restrictions that are stated and enforced through a regulatory agreement or any other legal document associated with any award of program funds. These restrictions may include, but are not limited to, the following:

(i) Rent restrictions.

(ii) Record keeping and reporting.

(iii) Income targeting of tenants.

(d) The authority monitors compliance with project restrictions and any other covenants by recipient in any housing and community development fund agreement. An annual compliance fee of up to \$75.00 per unit may be charged for this review.

(3) The authority executive director shall name a review committee who shall meet to consider, review, score, and recommend for approval program funding awards and award amounts based on applications received in any program funding round. The review committee shall meet to formally review the applications and shall make recommendation to the authority regarding the total awards to be made in any application year and the amount and recipient of the proposed awards. Each member of the committee shall complete a scoring sheet detailing the member's evaluation and score of the application on the various evaluation factors or criteria. The committee shall make any funding award recommendation decisions based on the scoring of these factors or criteria, subject to revision under the applicable earmark requirements. All decisions of the committee shall be made based on the scoring outcomes and/or by majority vote as applicable. The authority shall have final authority to approve or disapprove of any funding award recommendation made by the review committee.

(4) Recapture of program funds shall be accomplished as follows:

(a) The authority shall have the power to recapture or de-obligate program funds and program awards in certain circumstances. The power to recapture or deobligate funds can apply to entire awards or portions of awards. Recaptured or deobligated funds shall be re-deposited in the fund and shall be used to make future awards in the current and next applicable program year or program funding round.

(b) The following reasons shall justify the deobligation or recapture of program funds:

(i) Inability of applicant or recipient to execute the program activity and obligate the program funds within the initial program period 2-year timeline.

(ii) Inability of the applicant or recipient to make draw downs of program funds on a regular and timely basis, such that the authority has grounds to question the overall viability of the project.

(iii) Substantial, significant, and lengthy noncompliance with the statute, rules, NOFA, RFP, application, biennial plan, allocation plan, allocation formula, program funding agreement or any other documentation or requirement related to any award. In making the decision on deobligation or recapture in this instance, the authority shall consider whether or not the non-compliance is due to factors beyond the applicant's and/or recipient's control.

(iv) If the total cost of the anticipated program activity is less than the total costs anticipated in the application or other documentation provided by the applicant and/or recipient, the authority can deobligate the portion of the award exceeding the actual costs of the program activity.

(v) At the end of the initial program period and any approved extension of that period, the unspent funds remaining in the program account, project account, or any other account related to the program activity shall be recaptured and returned to the fund.

(vi) If the applicant and/or recipient voluntarily returns the funds to the authority/fund and ceases all program activity and reporting upon the return of program funds.

(vii) Any other reason justifying recapture or deobligation approved by the authority, upon notice to the applicant and/or recipient of both the authority's consideration of a recapture or obligation decision and notice that the authority has approved a resolution or motion evidencing its decision to recapture or deobligate the funds.

History: 2008 AACCS; 2009 AACCS.

### **R 125.197 Hearings procedures.**

Rule 197. Hearing procedures shall include citizen participation as follows:

(a) The authority shall hold at least 3 public hearings in separate locations throughout the state biennially on the program priorities for the upcoming 2-year period. At the hearings, the authority shall solicit comments from the public, eligible applicants, and administrators and development owners on the housing and community development fund and program rules, guidelines, and procedures related to the housing and community development fund and program.

(b) The authority shall consider the comments received at public hearings. Biennially, the authority shall review the performance, administration, and implementation of the housing and community development fund in light of public comment it receives. The authority shall also review the biennial plan, allocation plan and allocation formula, funding goals, and earmarks relating to allocation and award of housing and community development fund monies.

(c) The authority shall submit an annual report to the governor and the legislature under MCL 125.1458b (6). The authority shall include the statutorily required information in the annual report, as well as any other information that the authority staff, review committee or authority board believe would enhance the understanding that the elected officials and citizens of the state have regarding the operation of the program.

(d) After the applicable application deadline related to the NOFA or RFP, applications for housing and community development funds are public information subject to release under the freedom of information act (FOIA) MCL 15.231 to 15.246, and the authority shall afford the public an opportunity to comment on proposed housing applications prior to the making of awards.

(e) Prior to any proposed change to these rules, the authority shall conduct a public hearing in accordance with the provisions of the administrative procedures act, MCL 24.201 to 24.328.

History: 2008 AACCS; 2009 AACCS.

### **R 125.198 Michigan housing and community development fund advisory committee**

Rule 198. Pursuant to MCL 125.1458e, the authority shall seek the advice of the Michigan housing and community development fund advisory committee on all of the following:

(a) Recommendations for the biennial allocation plan required under MCL 125.1458b.

(b) Fund expenditure review, including whether the expenditures are distributed fairly and equitably, whether the expenditures satisfy the housing needs and priorities in this state, and whether the expenditures satisfy the economic needs and priorities in this state.

History: 2009 AACCS.

### **R 125.199 Records.**

Rule 199. Records maintenance requirements for applicants and recipients include the following:

(a) In addition to any regular reporting obligations provided under R 125.193, applicants, recipients, or both are required to maintain records on each of the following issues and shall, upon the written request of authority, submit information to the authority on any program activity or administration issues, which may include, but are not limited to the following:

(i) Such information as may be necessary to determine whether a project is benefiting low, very low, and extremely low-income households.

(ii) The monthly rent or mortgage payment for each dwelling unit in each structure assisted.

(iii) Such information as may be necessary to determine whether the applicant and/or recipient has carried out their housing or community development activities in accordance with the requirements and primary objectives of the housing and community development fund and implementing regulations.

(iv) The size and income of the household for each unit occupied by a low, very low, and extremely low-income households.

(v) Data on the extent to which any racial and ethnic group and households have applied for and benefited from any project or activity funded in whole or in part with funds made available under this program. This data shall be updated annually.

(vi) A final statement of accounting upon completion of the project.

(vii) Any other information reasonably within the applicant's or recipient's ability to determine and to report to the authority related to the award.

(b) Applicants or recipients, or both, shall maintain records pertinent to the tenant's files for at least 3 years.

(c) Applicants or recipients, or both, shall maintain records pertinent to funding awards including, but not limited to, project costs and certification work papers for at least 5 years.

(d) Applicants or recipients, or both, shall maintain records in an accessible location.

History: 2008 AACCS.

**PART 10. IDENTITY OF INTEREST WITH VENDORS  
TO AUTHORITY-FINANCED DEVELOPMENTS**

**R 125.201 Applicability.**

Rule 201. The rules contained in this part shall apply to all transactions that involve the supply of goods and services to authority-financed housing developments between the owners or the management agents of the developments and vendors who supply goods or services to those developments.

History: 1991 AACCS.

**R 125.202 Identity of interest; "member of the family" defined.**

Rule 202. (1) Any contractual relationship between either an owner or management agent and a vendor described in subrule (2) of this rule shall constitute an identity of interest.

(2) An identity of interest shall exist if any of the following conditions occurs:

(a) Either the owner or management agent, or any officer, director, stockholder, partner, or joint venturer of either the owner or management agent, has a financial interest in the vendor.

(b) Either the owner or management agent, or any officer, director, stockholder, partner, or joint venturer of either the owner or management agent, is also an officer, director, stockholder, partner, or joint venturer of the vendor.

(c) Either the owner or management agent, or any officer, director, stockholder, partner, or joint venturer of either the owner or management agent, is also the vendor.

(d) A member of the family of either the owner or management agent, or of any officer, director, stockholder, partner, or joint venturer of either the owner or management agent, is the vendor or an officer, director, stockholder, partner, or joint venturer of the vendor or has a financial interest in the vendor. For purposes of this part, "member of the family" means any person who is related to the party in question by blood, marriage, or operation of law.

History: 1991 AACCS.

**R 125.203 Requirements for conducting business with identity of interest vendors.**

Rule 203. Owners and management agents shall conform to all of the following requirements when conducting business with vendors with whom there is an identity of interest:

(a) Both the owner and management agent shall inform the authority division of management and reinvestment of any proposed vendor with whom there is an identity of interest. Such notification shall be submitted concurrent with submission of the development operating budget, but at least once per year.

(b) The owner and management agent shall submit a certified disclosure for each proposed vendor with whom there is an identity of interest which lists the names of all of the following persons:

(i) All owners and managers of vendors that are sole proprietorships.

(ii) All copartners or general partners of vendors that are copartnerships or limited partnerships.

(iii) All joint venturers of vendors that are joint ventures.

(iv) All directors, officers, and shareholders of vendors that are corporations.

(c) The certified disclosure shall list, for each person described in subdivision (b) of this rule the names of the individuals involved with the owner or management agent with whom there is an identity of interest and the extent or degree of such identity of interest. The certified disclosure shall also contain other information as the authority shall require, such as the following:

(i) Federal tax identification number of all vendors with whom there is identity of interest.

(ii) The location of all offices that contain business records of the vendors with whom there is an identity of interest.

(iii) The names and addresses of the bookkeepers and accountants of the vendors with whom there is an identity of interest.

(d) The certified disclosure shall be submitted on such form as shall be designated by the authority and shall be submitted together with the submission described in subdivision (a) of this rule or, if the proposed vendor is not listed on such submission, at the time the owner or

management agent requests approval to contract with a proposed vendor with whom there is an identity of interest.

(e) The owner and management agent shall submit, together with its certified disclosure, a copy of the organizational documents for each proposed vendor with whom an identity of interest is shared.

(f) The authority shall have the right to audit the books of the vendor with whom there is an identity of interest to determine whether amounts paid to identity of interest vendors were reasonable and whether there has been compliance with applicable restrictions on return. The owner, management agent, and proposed vendor shall acknowledge the authority's right to conduct such an audit in the certified disclosure.

(g) Both the owner and management agent shall submit, to the authority, a request for approval to use a proposed vendor with whom there is an identity of interest. Neither the owner nor management agent shall contract for goods or services from any vendor with whom there is an identity of interest until the proposed vendor and contract amount is approved by the authority. If an owner or management agent enters a contract for goods or services beyond the goods or services previously approved by the authority, or if the contract price increases beyond the prices previously approved by the authority, then an additional approval shall be obtained.

(h) The authority may, upon a request from the owner or management agent and after review of the disclosure required pursuant to the provisions of subdivisions (b) to (f) of this rule, determine that the identity of interest between the owner and agent



is insignificant. If such a determination is made, the owner and management agent need not comply with the provisions of subdivision (i) of this rule.

(i) Unless compliance with this subdivision is excused pursuant to the provisions of subdivision (h) of this rule, all requests for approval of proposed vendors shall be accompanied by a detailed explanation of the goods or services to be provided by the proposed vendor and not less than 3 bids for such goods and services. The 3 bids shall include a bid from the vendor with whom there is an identity of interest.

(j) Requests for approval of a proposed vendor shall be submitted concurrent with the submission of the development operating budget and any other time that the owner or management agent wishes to contract with a vendor with whom there is an identity of interest. However, a proposed vendor and contract amount need be approved only 1 time per operating year per development, unless the vendor supplies goods or services beyond the goods or services previously approved by the authority or the contract price increases beyond the prices previously approved by the authority.

History: 1991 AACCS.

#### **R 125.204 Sanctions; "excessive costs" defined.**

Rule 204. (1) If an owner or management agent is found to be in violation of these rules concerning identity of interest, the authority, or the officers or employees to whom it shall delegate authority, may impose the following sanctions in addition to any other remedies available through contractual documents or at law or equity:

(a) On the first occurrence of a violation, either or both of the following sanctions may be imposed:

(i) The owner or management agent may be required to reimburse the development operating account for all excessive costs, as determined by the authority, incurred as a result of the contract with the vendor with whom there is an identity of interest.

(ii) The owner and management agent found to be in violation may be prohibited from using any vendor with whom there is an identity of interest for a period of 1 year.

(b) For each violation after the first, the following sanctions may be imposed, as applicable:

(i) The owner or management agent may be required to reimburse the development operating account for all excessive costs, as determined by the authority, incurred as a result of the contract with the vendor with whom there is an identity of interest.

(ii) If the violation involves a vendor who has an identity of interest with the management agent, then either or both of the following sanctions may be imposed:

(A) The management agent's management agreement may be terminated and a new management agent shall be hired.

(B) The vendor who shares the identity of interest with the management agent may be barred from doing business with other authority-financed developments managed by the same management agent.

(iii) If the violation involves a vendor who has an identity of interest with the owner, then the owner and its management agent may be prohibited from doing

business with the particular vendor at the development in question for a period of 5 years.

(2) As used in this rule, the term "excessive costs" means all costs which would not have been incurred by the development if the owner or management agent, or both, had exercised reasonable business judgment and obtained only those goods and services reasonably necessary for operation of the development at competitive prices.

History: 1991 AACCS.

## **PART 11. DEBARMENT AND SUSPENSION FROM PARTICIPATION IN AUTHORITY PROGRAMS AND TRANSACTIONS**

### **R 125.211 Applicability; sanctions.**

Rule 211. (1) The provisions of this part shall apply to any program or transaction funded or administered by the authority, including any of the following:

(a) Grants, assistance contracts, loans, subsidies, awards, loan service contracts, allocations, or contracts related to federal tax credits administered by the authority.

(b) Participation or agency contracts for authority programs.

(c) Professional or technical service contracts or subcontracts.

(2) Sanctions imposed pursuant to this part shall not preclude a party from the purchase from the authority of housing developments or single-family homes which the authority has acquired through foreclosure or deed in lieu of foreclosure if the acquisition is on a cash basis or made

with financing from sources other than the authority.

(3) Sanctions imposed pursuant to this part shall not bar any person from receipt of any funds, credit, or benefit to which the person is otherwise entitled under federal or state law and for which the authority is solely the program administrator; however, this exception does not enable or authorize participation in the program involving the applicable funds, credit, or benefit beyond the mere receipt of such funds, credit, or benefit. This provision does not prevent sanctions under this part where the authority acts as program administrator and also has the ability to impose additional requirements beyond those requirements of state or federal law as a prerequisite to receipt of the respective funds, credit, or benefit.

(4) Persons are subject to the provisions of this part whether their involvement is as a contractor, participant, or one receiving funds directly or indirectly from a contractor or a participant. Persons are subject to the provisions of this part whether or not the conduct for which a sanction is imposed occurred while they were engaged in an authority program or transaction. Persons are subject to the provisions of this part whether their actions upon which a sanction is based were taken in their own behalf or on behalf of another person.

History: 1991 AACCS.

**R 125.212 Definitions.**

Rule 212. As used in this part:

(a) "Adequate evidence" means information that is sufficient to support a reasonable belief that a particular act, omission, or event has occurred.

(b) "Affiliate" means individuals or entities with whom a person shares an identity of interest as defined in part 10 of these rules.

(c) "Contractor" means an individual or entity that does either of the following:

(i) Performs or provides labor or professional or technical services or supplies goods to the authority pursuant to a contract or participation agreement.

(ii) Conducts business with the authority as the agent, representative, or subcontractor of another contractor.

(d) "Conviction" means a judgment of guilt in a criminal case by any court of competent jurisdiction, whether by verdict, guilty plea, or plea of nolo contendere, and whether or not the judgment has been or is on appeal.

(e) "Debarment" means action taken to exclude a person from direct or indirect participation in any authority program or transaction whether as a contractor or participant.

(f) "Notice" means written communication delivered by personal service or sent either by certified mail, return receipt requested, or by commercial courier with verification of delivery.

(g) "Participant" means any person who directly or indirectly takes part in or is involved in an authority program or transaction other than as a contractor. Participant includes a person who receives benefits or income from or through another participant or contractor. A participant includes any of the following:

(i) Bonding companies.

(ii) Borrowers.

(iii) Builders.

(iv) Mortgagors.

(v) Management agents.

(vi) Marketing agents.

(vii) Owners of housing developments.

(viii) Recipients of authority subsidies.

(ix) Grantees.

(x) Persons employed by, or offering services to, participants, such as any of the following:

(A) Architects.

(B) Accountants.

(C) Attorneys.

(D) Consultants.

(E) Engineers.

(F) Contractors with participants.

(G) Subcontractors of contractors with participants.

(h) "Person" means an individual, partnership, corporation, association, unit of government, or other form of legal entity.

(i) "Respondent" means the persons against whom debarment or suspension is to be imposed.

(j) "Suspension" means an action which immediately excludes a person from direct or indirect participation in authority programs or transactions, whether as a participant or contractor, for a temporary period pending completion of an investigation or administrative or other legal proceeding.

History: 1991 AACCS.

**R 125.213 Debarment; causes.**

Rule 213. Debarment may be imposed for any of the following causes:

(a) Conviction of a criminal offense, including a conviction for an attempted criminal activity, or civil judgment for an offense or actions involving or indicating dishonesty, false pretense, or misrepresentation. The following list contains examples of the type of offense which may result in debarment:

- (i) Fraud.
- (ii) Bribery.
- (iii) Embezzlement.
- (iv) Forgery.
- (v) Falsification of documents or records.
- (vi) Theft.
- (vii) Robbery.
- (viii) Larceny.
- (ix) Receiving and concealing stolen property.
- (x) Obtaining goods, money, or services under false pretenses.
- (xi) Negligent misrepresentation.
- (xii) Price-fixing.

(xiii) Bid-rigging or other violation of federal or state laws involving the submission of bids or proposals.

(xiv) Violation of other federal or state law involving illegally obtaining or attempting to obtain public or private goods, services, or contracts.

(b) Violation of any federal, state, or authority law, rule, or regulation, whether or not in connection with an authority program or transaction, which indicates dishonesty, lack of business integrity, or willful or repeated failure to perform obligations in a responsible manner.

(c) Violation of any federal, state, or authority law, rule, or regulation, whether as a participant or contractor, in connection with either of the following which indicates a willful or repeated failure to perform obligations in accordance with relevant laws, rules, and regulations:

- (i) Application for participation in an authority program or transaction.
- (ii) Participation in an authority program or transaction.

(d) Violation of 1 or more contracts or agreements, either public or private, which involves willful or repeated noncompliance with the terms and conditions of the contracts or agreements and which indicates a failure or refusal to perform in a responsible manner.

(e) Debarment or equivalent exclusionary action by a public agency or instrumentality involving substantially the same causes as set forth in this rule.

(f) Loss or suspension of a license or the right to do business or practice a profession, the loss or suspension of which indicates dishonesty, a lack of integrity, or a failure or refusal to perform in accordance with the ethical standards of the business or profession in question.

(g) Violation of federal, state, or local civil rights, equal rights, or nondiscrimination laws, ordinances, rules, or regulations.

(h) Violation of provisions in contracts or agreements concerning nondiscrimination or equal opportunity in employment, housing, or lending.

(i) Violation of law, rule, regulation, or provision of contract or agreement involving conflict of interest or an improper shared identity of interest.

(j) Other events, conduct, or causes serious enough to lead to a determination of dishonesty, a lack of business integrity, or willful or repeated failure to perform obligations in a responsible manner.

History: 1991 AACCS.

#### **R 125.214 Debarment procedures.**

Rule 214. (1) Debarment procedures shall be initiated by an authorized officer of the authority. Procedures shall commence with the sending of a notice of debarment to the respondent.

(2) A notice of debarment shall be sent to each respondent and shall contain all of the following information:

(a) That debarment is being proposed.

(b) The acts or omissions that are the grounds upon which debarment shall be based.

(c) The particular provisions of laws, regulations, rules, and program requirements involved.

(d) The time, location, and nature of the hearing.

(e) The potential effects of debarment.

(3) A respondent who receives a notice of debarment shall be entitled to a hearing on the issue. The hearing will be conducted in accordance with the provisions of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, which shall govern all of the following:

(a) Choice and authority of hearing officers.

(b) Rules of conduct and evidence for hearing.

(c) Decisions of hearing officers.

(d) Burdens or levels of proof required.

(e) Rights of administrative and judicial appeal.

(4) If the authority official who is to make the final decision has not heard the contested case or read the record, the decision, if adverse to the respondent, shall not be made until a written proposal for decision has been sent to all parties. Any party who is adversely affected shall have 10 days to file written exceptions and arguments. If written exceptions or arguments are not submitted within 10 days, there shall be no further proceedings before the issuance of a final decision.

(5) The final decision of the authority shall be issued within 60 days after the date of the hearing or, if a proposal for decision is required pursuant to the provisions of

subrule (4) of this rule, within 60 days of the closing date for submission of written exceptions to the proposal for decision, whichever is later.

History: 1991 AACCS.

**R 125.215 Debarment; duration.**

Rule 215. Debarment shall be for a period of time commensurate with the acts or omissions of the person to be debarred. In general, a person shall not be debarred for more than 3 years. However, where the offense is egregious, a longer period of debarment may be imposed. If a person is suspended pursuant to these rules before debarment, the period of debarment shall be reduced by the period of time that the person has been suspended.

History: 1991 AACCS.

**R 125.216 Debarment; scope and effect.**

Rule 216. (1) The decision to debar a person shall specify the scope of debarment. A person can be debarred from 1 or more particular authority programs or transactions or from all authority programs and transactions.

(2) The decision to debar a person, unless prohibited by law, may terminate existing contracts or agreements between the debarred persons and other nondebarred participants or contractors. However, the decision to debar may allow such contracts or agreements to remain in effect. A participant or contractor shall not renew or extend a contract or agreement with a debarred person.

(3) A decision to debar a person may also serve to debar any affiliate of such person, if the affiliate is named in the notice to debar and given an opportunity to participate in the debarment hearing. There need not be shown any participation or knowledge of the improper conduct that led to the decision to debar.

History: 1991 AACCS.

**R 125.217 Debarment; time limitations.**

Rule 217. A notice of proposed debarment shall be issued within 3 years after the latter of any of the following:

- (a) Criminal conviction or civil judgment.
- (b) Completion of administrative proceedings, investigation, or other action.
- (c) Discovery by the authority of the facts, actions, omissions, or events which provide the cause upon which the debarment is based.

History: 1991 AACCS.

**R 125.218 Reinstatement.**

Rule 218. (1) Debarred participants or contractors shall not be allowed to resume participation in authority programs or transactions until expiration of the period of debarment or until a petition for early reinstatement has been submitted and approved by an authorized officer of the authority, whichever occurs first.

(2) Petitions for early reinstatement shall only be submitted as follows:

(a) Upon discovery of new evidence which was not previously discoverable or upon the dismissal of criminal charges or a civil or administrative action, the reversal of a criminal conviction or a civil judgment, or the reversal of the debarment or other exclusion imposed by another governmental agency, upon which the authority debarment was based.

(b) Upon a bona fide change in ownership or management of the person debarred.

(c) Upon proof that the causes for debarment have been eliminated.

(3) A petition for early reinstatement may be submitted as follows:

(a) Immediately after the occurrence of events set forth in subrule

(2)(a) of this rule.

(b) Not less than 6 months after the issuance of a final decision of debarment if the petition is based upon reasons set forth in subrule (2)(b) and (c) of this rule.

(4) The petition for early reinstatement shall be submitted to the authority officer who issued the decision to debar or to his or her successor. The petition shall be accompanied by written evidence that supports the request. The authority officer may request a written response to the petition from the authority officials or staff that initiated the debarment proceedings. There shall not be a hearing upon a petition for early reinstatement unless ordered by the authority officer ruling upon the petition. The authority officer may refer a petition for early reinstatement, together with evidence submitted in connection with or in response to the petition, to a hearing officer for review and written recommendation.

History: 1991 AACCS.

### **R 125.219 Suspension; causes.**

Rule 219. Suspension may be imposed, pursuant to the provisions of this rule, if adequate evidence of any of the following exists:

(a) That the person has committed an offense set forth in R 125.213(a). Either of the following events shall, by itself, constitute adequate evidence for purposes of imposing suspension:

(i) Indictment for an offense listed in R 125.213(a).

(ii) Arraignment on the information in circuit court, or an equivalent state court in a state other than Michigan, for an offense listed in R 125.213(a). However, adequate evidence may exist although neither of the events listed in paragraphs (i) and (ii) of this subdivision has occurred.

(b) That cause for debarment under R 125.213 exists.

(c) Suspension by a federal agency or another state agency for any cause specified in R 125.213.

History: 1991 AACCS.

**R 125.220 Suspension; procedures.**

Rule 220. (1) Suspension procedures shall be initiated by an authorized officer of the authority. Procedures shall commence with the sending of a notice of suspension to the respondent.

(2) A notice of suspension shall be sent to each respondent and shall contain all of the following information:

- (a) That suspension has been proposed.
- (b) The acts, events, or omissions upon which suspension shall be based.
- (c) The particular provisions of law, regulation, rules, or program requirements involved.
- (d) When the suspension shall become effective.
- (e) The time, location, and nature of the hearing.
- (f) The potential effects of suspension.

(3) A respondent who receives a notice of suspension shall be entitled to a hearing on the issue. The hearing will be conducted in accordance with the provisions of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, which shall govern all of the following:

- (a) Choice and authority of hearing officers.
- (b) Rules of conduct and evidence for hearing.
- (c) Decisions of hearing officers.
- (d) Burdens or levels of proof required.
- (e) Rights of administrative and judicial appeal.

(4) If the authority official who is to make the final decision has not heard the contested case or read the record, the decision, if adverse to the respondent, shall not be made until a written proposal for decision has been sent to all parties. Any party who is adversely affected shall have 10 days to file written exceptions and arguments. If written exceptions or arguments are not submitted within 10 days, there shall be no further proceedings before the issuance of a final decision.

(5) The final decision of the authority shall be issued within 60 days after the date of the hearing or, if a proposal for decision is required pursuant to the provisions of subrule (4) of this rule, the closing date for submission of written exceptions to the proposal for decision, whichever is later.

History: 1991 AACCS.

**R 125.221 Suspension; scope and effect.**

Rule 221. (1) A suspension shall specify the scope of suspension. A person can be suspended from 1 or more particular authority programs or transactions or from all authority programs and transactions.

(2) The suspension may, unless prohibited by law, suspend the operation of existing contracts or agreements between the suspended persons and other nonsuspended participants or contractors. However, the decision may allow such contracts or agreements to remain in effect. A participant or contractor shall not renew or extend a contract or agreement with a suspended person.



(3) A suspension may also serve to suspend any affiliate of such person, if any such affiliate is named in the notice of suspension and given an opportunity to participate in the hearing. There need not be shown any participation or knowledge of the improper conduct that led to the decision to suspend.

History: 1991 AACCS.

**R 125.222 Suspension; duration.**

Rule 222. (1) Suspensions shall be for a temporary period pending the completion of the specified legal proceeding, administrative action, investigation, or other such event.

(2) The suspension shall become effective upon the issuance of the authority's final decision following a hearing on the notice of suspension or immediately upon the issuance of a notice of suspension if there exists cause for suspension pursuant to the provisions of R 125.219 and an authorized officer of the authority determines that an immediate suspension is necessary to protect the public health, safety, or welfare.

(3) The suspension shall remain effective, unless overruled by the final decision following a hearing on a notice of suspension, until the expiration of the stated period of suspension or a petition for early reinstatement is granted, whichever occurs first.

(4) In cases involving an alleged or suspected violation of federal or state law, a suspension shall terminate within 12 months, unless 1 of the following actions has been initiated:

- (a) Criminal prosecution.
- (b) Civil action.
- (c) An administrative hearing or action for the alleged or suspected violation of law.

History: 1991 AACCS.

**R 125.223 Suspension decision; time limitation.**

Rule 223. A notice of suspension shall be issued within 3 years after any of the following:

- (a) Criminal conviction or finding of liability as a result of civil action or administrative action.
- (b) Completion of the investigation or similar process which is the basis for the suspension.
- (c) The authority's discovery of the acts, omissions, or events upon which the suspension is based.

History: 1991 AACCS.

**R 125.224 Reinstatement.**

Rule 224. (1) Suspended participants or contractors shall not be allowed to resume participation in authority programs or transactions until the expiration of the stated period of suspension or a petition for early reinstatement has been submitted and approved by an authorized officer of the authority, whichever occurs first.

(2) Petitions for early reinstatement shall only be submitted as follows:

(a) Upon discovery of new evidence which was not previously discoverable or upon the dismissal of criminal charges or civil or administrative action, the reversal of a criminal conviction or civil judgment, or the

reversal of the suspension, debarment, or other exclusion imposed by another government agency, upon which the authority suspension was based.

(b) Upon a bona fide change in ownership or management of the person suspended.

(c) Upon proof that the causes for suspension have been eliminated.

(3) A petition for early reinstatement may be submitted immediately after the occurrence of the events set forth in subrule (2) of this rule.

(4) The petition for early reinstatement shall be submitted to the authority officer who issued the suspension or to his or her successor. The petition shall be accompanied by written evidence in support thereof. The authority officer may request a written response to the petition from the authority officials or staff that requested initiation of the suspension proceedings. There shall not be a hearing upon a petition for early reinstatement unless ordered by the authority officer ruling upon the petition. The authority officer may refer a petition for early reinstatement, together with evidence submitted in connection or in response to the petition, to a hearing officer for review and written recommendation.

History: 1991 AACCS.