

## HOMELESS HOUSING AND ASSISTANCE PROGRAM

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**Section 800.1 General.**

- (a) The Homeless Housing and Assistance Program, under the administration of the New York State Department of Social Services, provides State financial assistance to construct or rehabilitate housing for the homeless which may include other nonhousing services such as, but not limited to dining, recreational, sanitary, social, medical and mental disability services as may be deemed by the commissioner to be essential to such a project. This State financial assistance will be provided through direct contracts with municipalities, not-for-profit corporations or charitable organizations, wholly owned subsidiaries of not-for-profit corporations or charitable organizations, and public corporations for the provisions of such housing.
- (b) In accordance with the purposes of the Homeless Housing and Assistance Program, the commissioner shall make awards to fund a range of projects, which shall include diverse populations, located in a variety of geographical areas, making use of different types and sizes of buildings, supported by innovative support service components, utilizing building plans appropriate to the needs of the population to be served, with emphasis on noninstitutional types of projects, and, where applicable, relying upon a combination of State and other funding sources.
- (c) These regulations are issued by the Department of Social Services by authority of, and in order to implement, the Homeless Housing and Assistance Program of 1983, article 2A of the Social Services Law.

**800.2 Definitions.**

- (a) Applicant means a municipality, not-for-profit corporation or charitable organization seeking funding for a homeless housing project.
- (b) Department means the New York State Department of Social Services.
- (c) Commissioner means the Commissioner of the New York State Department of Social Services.
- (d) Project cost means the cost of any or all undertakings necessary for planning, financing (including downpayment or closing costs), land acquisition, demolition, construction, rehabilitation, equipment and site development.
- (e) Not-for-profit corporation and charitable organization shall mean entities established pursuant to the Not-For-Profit Corporation Law

or otherwise established pursuant to law.

- (f) Subsidiary of a not-for-profit corporation or of a charitable corporation means a corporation established either under the General Business Law or Not-for-Profit Corporation Law, which is wholly owned by a not-for-profit corporation or charitable organization, or a partnership or joint venture with such a corporation as either a sole general partner or owner of a controlling interest.
- (g) Public corporation means a municipal corporation, a district corporation, or a public benefit corporation.
- (h) Municipality means any county, city, town or village within the State of New York.
- (i) Homeless person means an undomiciled person who is unable to secure permanent and stable housing without special assistance, as determined by the commissioner.
- (j) Operating plan means a written submission by an applicant documenting sufficient income to meet operating expenses and, where relevant, the costs of support services and the supervision to be provided. The operating plan shall include procedures for tenant outreach, referrals, selection, intake and building management; the homeless population(s) to be served; the type of facility proposed to be established; how the proposal will meet the special needs of population(s) to be served in the project's geographic area; and where relevant, responsibilities of the local municipality and/or social services district in the ongoing operation of the project. The term project plan as used in the statute means operating plan.
- (k) Homeless project means a specific facility including lands, buildings and improvements acquired, constructed, renovated or rehabilitated and operated by a municipality, not-for-profit corporation or charitable organization to increase the availability of housing for homeless persons; such a facility may include nonhousing services such as, but not limited to dining, recreation, sanitary, social, medical and mental disability services, as may be deemed by the commissioner to be essential to such projects.
- (l) State financial assistance means monies appropriated for use under the Homeless Housing and Assistance Program. The State financial assistance will be in the form of loans, loan guarantees or grants as the commissioner may determine, except that financial assistance provided to a for-profit subsidiary of a not-for-profit corporation or charitable organization must be in the form of a loan or loan guarantee. Any loan to a for-profit subsidiary or other eligible applicant must be repaid under terms that will protect the financial viability of the project.
- (m) Other than project costs means short-term, startup or one-time-only operating cost subsidies related to the project, as further defined and subject to the limitations stated in sections 800.6(e) and 800.8 of this Part.

### **800.3 Applicant eligibility.**

- (a) Applicants eligible for State financial assistance pursuant to this Part will be limited to municipalities, not-for-profit corporations or subsidiary thereof, public corporations or charitable organizations or subsidiaries thereof. A corporation or charitable

organization applying under this Part must, submit, a certified copy of its certificate of incorporation.

- (b) An applicant shall have the demonstrated ability to preserve, construct, repair, maintain, renovate, rehabilitate, manage and/or operate homeless housing accommodations. Demonstration of such ability may be based on:
  - (1) previous activities of the applicant or a predecessor organization;
  - (2) experience of members of the board of directors or officers of the applicant; or
  - (3) experience of any other not-for-profit corporation, charitable organization or municipality which, in conjunction with the applicant is to carry out the homeless housing project.
- (c) Where appropriate, an applicant whose project requires the provision of support services shall demonstrate, in addition to the above, that ability based upon:
  - (1) previous activities of the applicant or a predecessor organization;
  - (2) experience of members of the board of directors or officers of the applicant; or
  - (3) the experience of any other organization, organization which, in conjunction with the applicant, is to carry out the homeless housing project.
- (d) An applicant whose project would require certification by the Department of Social Services, the Division for Youth, the Offices of the Department of Mental Hygiene, or any other State agency, must satisfy the requirements of such State agency for certification as an operator and provide acceptable evidence of such along with the application.
- (e) The department may make awards to projects that are the result of a joint application submitted by two organizations, one of which proposes to develop and manage a homeless project and the other of which proposes to provide support services to residents.

#### **800.4 Community eligibility.**

- (a) Projects requesting funding pursuant to this Part shall be approved in neighborhoods or communities determined by the department to be in need of new or expanded housing accommodations for homeless persons. Such determination shall be based on lack of or imminent loss of such housing and the need for it as shown by the presence of a local population of such persons. Such indices as the loss of low-income or single-room occupancy housing units, the number of low-income single persons or families requiring supportive services, or other factors as determined by the commissioner shall be provided by the applicant and may be taken into account in rendering such a judgment.
- (b) An applicant shall provide documentary evidence satisfactory to the department of opportunity for community review and comment both for the development of a homeless project in the community, and for the sponsorship and execution of such a project by the applicant, within

**800.5 Project eligibility.**

- (a) A homeless project proposal must set forth its plan to preserve, upgrade or operate a building or buildings for use as a homeless project by:
  - (1) acquiring, improving, constructing, renovating or rehabilitating buildings for such use;
  - (2) managing such housing for persons in need of such accommodations; and
  - (3) providing or arranging for such nonhousing services as are appropriate to the proposed population.
- (b) An applicant must document the availability to the occupants of such housing, appropriate onsite or community-based supportive services, including but not limited to, local support services and local mental disability services, where applicable.
- (c) An applicant must submit to the department an operating plan for the proposed project, as defined in section 800.2 of this Part.
- (d) If the homeless project application seeks funding to set up or operate a facility licensed by any State agency, the applicant must supply documentation from such agency that the applicant, project, and site meet all appropriate licensing criteria.
- (e) An applicant shall demonstrate that any proposed building renovation is consistent with applicable local codes, land use provisions, zoning regulations and laws and that, where necessary, a new certificate of occupancy will be obtained at completion.
- (f) Within 30 days of submitting an application for funding under this Part, the municipality, not-for-profit corporation or charitable organization shall notify the local planning board, appropriate for the geographic area in which the proposed homeless project would be located, and shall provide such board with information regarding the proposed homeless project. A copy of such notification, as well as the response or any other action taken by the local planning board, shall be provided to the department.

**800.6 Funding limitations.**

- (a) The applicant shall demonstrate to the satisfaction of the department the projected availability and source of monies to meet other capital expenditures and program development costs not to be funded under this Part. The department may issue a time-limited letter of intent to commit funds under this Part if such commitment is necessary to secure other sources of funding for project costs. Final contracts, however, will not be awarded under this Part if completion of the project remains contingent upon the receipt of additional outside funding that has not been obtained.
- (b) The applicant must show to the satisfaction of the department an ability to administer the project in accordance with the provisions of this Part for a period of seven years or a longer period if required by the department. Such a demonstration must include a

detailed budget for the first year and projections for future years including, where appropriate, a statement of the assumptions upon which the projections are based.

- (c) An applicant whose project would require certification by a State agency must otherwise satisfy the requirements of such agency for the financial viability of the project.
- (d) A single municipality shall not be awarded a contract or contracts which would result in that municipality receiving more than 50 percent of the total amount appropriated to the Homeless Housing and Assistance Fund in any fiscal year.
- (e) No more than 25 percent of the total amount appropriated to the Homeless Housing and Assistance Fund may be allocated to provide financial assistance for allowable "other than project" costs where such financial assistance can be demonstrated to be necessary. In determining whether financial assistance for other than project costs is necessary, the commissioner shall consider the proposed project's plan for meeting operating expenses, the efforts made by the contracting organizations to secure alternative sources of funding for other than project costs, and such other factors as the commissioner shall deem appropriate.
- (f) Projects which are eligible for capital expenditures and program development costs from other sources of funding must have applied for and/or fully obligated awards from those sources before applying funds under this Part, in order to maximize the effect of State financial assistance.

#### **800.7 Funding criteria and award of contracts.**

- (a) The department shall issue one or more request for proposals and shall solicit proposals from potential applicants for funding under this Part. These requests shall provide for the submission of applications in a form prescribed by the department. Applications shall contain information sufficient to show compliance with all applicable criteria for award of contracts set forth in the statute, these regulations and the request for proposals.
- (b) From among applicants found eligible in accordance with applicable law and the provisions of this Part, the commissioner shall, within the limits of available funds, award contracts for homeless housing projects.
- (c) Any proposed project which requires a license from any State agency shall be sent to that agency for a review and recommendation to the commissioner. No award shall be made to a proposed licensed project which is not recommended by a certifying agency, in accordance with the standards of that agency.
- (d) Without limiting the power of the commissioner to select such projects as will best carry out the purposes of the applicable statutes, contract awards shall, in general, be based on the following criteria:
  - (1) the extent to which housing for the homeless is needed in a community;
  - (2) the degree of community support for and participation in the proposed projects;

- (3) the experience of the applicant in developing or managing housing, providing supportive services, and dealing with the specified target population of homeless persons;
  - (4) the feasibility of early implementation of the project, as evidenced by site control of the proposed project location, provision of details of the renovation plan, cost projections, sources of figures and a timetable for completion, including, at the department's discretion, architectural drawings and specifications where appropriate;
  - (5) the reasonableness of the project cost with preference given to projects that minimize acquisition costs and maximize the number of units produced per State dollar expended;
  - (6) the financial feasibility of operating, over the seven-year period specified in the contract, without additional State subsidies;
  - (7) the appropriateness of plans for tenant selection to serve a mixed or specifically identified population, consistent with the intent of the homeless housing program and the interest and need of the community; such population(s) may include, but is (are) not limited to: families, youth, singles, elderly persons, abused persons, substance abusers, alcoholics/alcohol abusers and the mentally disabled who are homeless;
  - (8) clustered sites or multiple sites in close proximity may be considered as one project;
  - (9) proposals which seek funds for opening or expanding emergency or transitional shelters shall be considered provided that there be reasonable expectation of placement in decent, affordable long-term housing at the end of the shelter stay; and that such placement be a service of the shelter; and
  - (10) evidence, when hiring contractors, of employing neighborhood residents who are unemployed or not fully employed; and evidence that the applicant promotes both affirmative action in employment and use of minority contractors.
- (e) In addition to the above criteria, and without limiting the power of the commissioner to select such projects as will best carry out the purposes of the applicable statutes, preference will be given to:
- (1) projects that increase the number of permanent housing units for the homeless through construction or innovative use and rehabilitation of existing structures that will not cause displacement of present tenants;
  - (2) projects that propose innovative and cost-effective support service components which are appropriate to the needs of the population to be served;
  - (3) projects that enhance the use of the Homeless Housing and Assistance Fund by providing for nonhousing services wherever appropriate from other funding sources or through linkages with existing community providers;
  - (4) applicants who are working with local municipalities which will provide additional financial or in-kind services;

- (5) projects that made use of publicly owned property which is currently available for disposition and can be transferred or leased for a minimal amount; and
- (6) projects that involve other sources of funds (municipal, Federal or any other source other than the State), in-kind contributions made by such sources, or involve projects receiving State financial assistance pursuant to chapters 339 and 549 of the Laws of 1982, in order to maximize the effect of State financial assistance.

**800.8 Other than project costs.**

- (a) No more than 25 percent of the total amount appropriated under this Part for the purposes of this Article shall be allocated in any year in any contracts for other than project costs.
- (b) In determining whether State financial assistance for these costs is necessary, the commissioner shall consider the proposed project's plan for meeting operating expenses, the efforts made by the contracting organization to secure alternative sources of funding for other than project costs, and such other factors as the commissioner shall deem appropriate.
- (c) Proposals which seek funds for other than project costs shall be considered only if it can be shown that all sources and alternatives for meeting such costs have been exhausted, that the costs are reasonable, and that the need for such cash funds will not be ongoing.

**800.9 Contract provisions and performance.**

- (a) Every contract under the Homeless Housing and Assistance Program must contain a provision requiring that the property which is the subject of such contract continue to be used and operated for the purposes specified in the contract for a period of seven years commencing with the date of the department's written approval of occupancy of the homeless project, or such longer period of time as may be established in the contract. If the property ceases to be so used, or in the case of any other substantial violation of law, regulation or contract which is not corrected or remedied within 30 days, the commissioner may terminate the contract upon 30 days' written notice to the contracting organization. Upon such termination, the department may require the repayment to the department of any monies previously paid to the contracting organization pursuant to the terms of the contract.
- (b) Every contract entered into pursuant to this Part shall specify the items of work to be performed, a time schedule for such work, a budget showing which items are to be funded under the contract(s), other work items necessary for the completion of the project and the sources of funds necessary to complete said additional work items.
- (c) Contracts entered into pursuant to this Part must provide for ongoing supervision, review and evaluation of contract performance by the department. In order to permit such review and to enable the department to carry out its statutory duty to evaluate and report to the Governor and the Legislature on the Homeless Housing and Assistance Program, the contracting organization must provide such

reports and information as the department may request and must permit access to the project facility by the department at all reasonable times.

- (d) Without limiting the powers of the department under subdivision (c) of this section to require any other reports and information, each contractor shall furnish to the department in such form and detail as the department may prescribe:
  - (1) progress reports, at a frequency to be determined by the department, during the period of expenditure of project funds;
  - (2) quarterly reports during the first year of occupancy on project financial operations, demographic data and other information relating to project operations;
  - (3) reports during each year of the contract on project financial operations, demographic data and other information relating to project operations; and
  - (4) a projected annual operating budget for each upcoming year of the project operation under the contract.
- (e) Every contract entered into pursuant to this Part shall require the contractor to maintain all funds received under the contract in a separate bank account subject to such controls and limitations as the contract shall specify.
- (f) Contracts entered into pursuant to this Part may, as necessary, be modified to the extent consistent with applicable law and regulations.
- (g) For projects licensed by a State agency, continued evidence of meeting licensing criteria will be required. Revocation of a license may result in termination of the contract. Where there is evidence of substantial violation of law, regulation or contract, the commissioner shall consult with the appropriate agency and shall take action with the advice and consent of said agency.
- (h) Projects subject to state agency licensing shall operate in accordance with standards of the licensing agency, and nothing herein relieves a project of the burden of complying with all directives and standards of the certifying agency.
- (i) Contracts may be terminated if the contractor's operation of a project facility has remained for a substantial period of time in substantial violation of the applicable laws and regulations of any appropriate licensing agency.
- (j) Contracts may be terminated upon a finding by the department of substantial nonperformance or other breach of contractual obligations.
- (k) When a municipality applying under this Part for state financial assistance proposes to contract with a not-for-profit corporation or charitable organization to undertake a homeless housing project, the municipality shall submit as part of its proposed operating plan the proposed subcontract agreement with said not-for-profit corporation or charitable organization. All such subcontract agreements shall be subject to the department's prior review and approval.

**800.10 Conflict of interests.**

- (a) No member of the board of directors of any applicant corporation or officers of such corporation, or employees of a municipality entering into a contract under the Homeless Housing and Assistance Program, nor any member of their immediate families, may receive financial remuneration directly or indirectly under the contract.
- (b) No member of the board of directors of any applicant corporation or officers of any such corporation or employees of a municipality or any member of their immediate families shall benefit financially either directly or indirectly from the corporation's or municipality's participation in the program, unless: such action is necessary for the accomplishment of the project and such relationship has been disclosed to the department.
- (c) No member of the following categories of persons may serve as an employee, officer, member of the board of directors or consultant to a corporation or organization, or as an employee of a municipality, that is a contractor under this Part, or may receive financial remuneration either directly or indirectly under any such contract, unless such position or relationship has been disclosed to and approved by the department:
  - (1) persons holding elective public office or members of their personal staffs or immediate families;
  - (2) persons holding the political party offices of Assembly District Leader, or State or County Committee Member, as defined in the Election Law, or members of their immediate families; and
  - (3) employees of the department, other State agencies or local governmental agencies or their immediate families.
- (d) The department reserves the right to review all disclosures of position or relationship under this section, to request additional information it deems necessary or appropriate, and to determine whether an individual's position or relationship constitutes a conflict of interest which would prohibit such individual from entering into a contract under this Part.