

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE 14

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

CHAPTER 304

ADMINISTRATION OF FEDERAL PROGRAMS

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-304-1 Purpose. These rules implement federal formula grant or other non-competitive grant programs that are administered by the corporation as the grantee. It is the purpose and intent of these rules for the corporation to take all steps necessary to maximize the availability and use of federal funds for the provision of housing statewide.
[Eff] (Auth: HRS §§201H-4, 201H-16)(Imp: HRS §201H-16; 24 C.F.R. Parts 91 through 93)

§15-304-2 Definitions. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise:

"AMI" means the area median income, as determined by HUD.

"CAPER" means the consolidated annual performance and evaluation report required by HUD and as set forth in 24 C.F.R. part 91.

"C.F.R." means the Code of Federal Regulations.

"Citizen participation plan" means the document prepared by the corporation pursuant to 24 C.F.R. part 91, setting forth the State's policies and procedures for citizen participation in the development of the consolidated plan.

"Community housing development organization" means a private nonprofit, community-based, service organization that has, or intends to obtain, staff with the capacity to develop affordable housing for the community it serves, as further defined in 24 C.F.R. §92.2.

"Consolidated plan" means the planning document, submission for federal funds, strategy, and management tool for assessing performance and tracking results, prepared by the corporation pursuant to 24 C.F.R. part 91. The consolidated plan is the mechanism by which

the corporation sets forth the method for allocating federal funds, objectives, and priorities for use of federal funds.

"Corporation" means the Hawaii housing finance and development corporation established pursuant to chapter 201H, Hawaii Revised Statutes.

"County" or "counties" means the city and county of Honolulu and the counties of Hawaii, Kauai, and Maui.

"Executive director" means the executive director of the corporation or the executive director's designated representative.

"HOME" means the HOME investment partnerships program created by Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended.

"HRS" means the Hawaii Revised Statutes, as amended, and the rules promulgated thereunder.

"HTF" or "housing trust fund" means the national housing trust fund program created by Title I of the Housing and Economic Recovery Act of 2008.

"HTF allocation plan" means the annual submission to HUD that describes how the grantee will distribute its HTF funds, including how it will use the funds to address its priority housing needs, what activities may be undertaken with those funds, and how recipients and projects will be selected to receive those funds.

"HUD" means the United States Department of Housing and Urban Development.

"State" means the State of Hawaii.

"State recipient" means a unit of local government designated by the corporation to receive a conditional commitment of HOME program funds from the corporation.

"Subgrantee" means a unit of local government or a state agency selected by the grantee to administer all or a portion of its HTF program. A local government subgrantee must have an approved consolidated plan submitted in accordance with 24 C.F.R. part 91. [Eff] (Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16; 24 C.F.R. Parts 91 through 93)

§15-304-3 Consolidated plan. (a) The consolidated plan is a tool established by HUD to help states and localities to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process is the framework for a community-wide dialog to identify housing and community development priorities that align with and focus funding from HUD's community planning and development formula block grant programs.

(b) The corporation shall solicit public input into the consolidated plan in the manner required in 24 C.F.R. part 91, subpart B. Solicitation of public input shall be consistent with the citizen participation plan.

(c) The consolidated plan shall be implemented through annual action plans, which provide a concise summary of the actions, activities, and specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the consolidated plan.

(d) Accomplishments and progress toward consolidated plan goals shall be reported to HUD in the consolidated annual performance and evaluation report.

(e) The corporation, with the assistance and cooperation of the applicable State and county entities, shall prepare the consolidated plan as required by HUD. The corporation's consolidated plan shall include:

- (1) The HOME program for the State;
- (2) The housing trust fund program for the State; and
- (3) The emergency solutions grants program and housing opportunities for persons with AIDS program plans for the State.

(f) The corporation shall post the consolidated plan on the corporation's internet website. The corporation shall deposit the consolidated plan as required by §93-3, HRS. [Eff _____](Auth: HRS

§§201H-4, 201H-16) (Imp: HRS §201H-16; 24 C.F.R. Parts 91 through 93)

§15-304-4 Citizen participation plan. (a) The citizen participation plan sets forth policies and procedures for citizen participation in the consolidated planning process. The plan provides for and encourages citizens to participate in the development of the consolidated plan, any substantial amendments to the consolidated plan, and the consolidated annual performance and evaluation report to HUD.

(b) The citizen participation plan shall require the corporation to provide the following information to the public and stakeholders:

- (1) The amount of assistance the corporation expects to receive;
- (2) The range of activities that may be undertaken, including the estimated amount that will benefit low- and moderate-income persons;
- (3) Plans to minimize displacement of persons and to assist any persons displaced; and
- (4) How and when this information is to be made available.

(c) The citizen participation plan shall provide for a minimum of one public hearing in each county on the housing and community development needs in the respective county. The hearings shall take place at a convenient place and time to potential and actual beneficiaries, and shall make appropriate accommodation for persons with disabilities. The public hearing shall not be subject to Chapter 91, but shall instead conform to the notice and publication requirements set forth in 24 C.F.R. Part 91.

(d) Unless superseded by an emergency proclamation, the citizen participation plan shall provide for a period of time of not less than thirty calendar days to receive written comments on the consolidated plan.

(e) The corporation shall consider all comments or views received on the consolidated plan in the preparation of the final consolidated plan. [Eff _____](Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16; 24 C.F.R. Parts 91 through 93)

§15-304-5 Administrative fees and costs. (a) The corporation shall be entitled to all eligible fees and costs allowed by HUD for administration of federal formula grants referenced in this chapter.

(b) For rental projects receiving funds under this chapter, the corporation may charge the project an annual compliance monitoring fee of up to \$35 per unit per year for all assisted units excluding managers units. [Eff _____](Auth: HRS §§201H-4, 201H-16) (Imp: §201H-16, 24 C.F.R. Parts 91 through 93)

§15-304-6 Compliance with federal requirements. (a) The corporation shall require all entities that administer or receive allocations or awards of federal funds under this chapter to comply with all laws, regulations or notices applicable to the federal formula grant programs referenced in this chapter as a condition of using the allocations or awards of federal funds.

(b) The corporation shall monitor the performance of all entities that administer or receive allocations or awards of federal funds under this chapter to ensure compliance with applicable federal requirements. The corporation may enter into agreements with third party contractors to perform compliance monitoring services on its behalf.

(c) The corporation may take any and all actions authorized by HUD for grantees to enforce compliance with federal requirements by all entities that administer or receive allocations or awards pursuant to this chapter. [Eff _____] (Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16, 24 C.F.R. Parts 91 through 93)

SUBCHAPTER 2

HOME INVESTMENT PARTNERSHIPS PROGRAM

§15-304-10 Designation of corporation as HOME program administrator. The corporation has been designated by the governor as the HOME program administrator for the State. In this capacity, the corporation shall administer the HOME program as the participating jurisdiction for each federal program year in accordance with the requirements of the HOME program pursuant to 24 C.F.R. part 92 and as established by HUD. [Eff _____] (Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16, 24 C.F.R. Part 92)

§15-304-11 Generally. (a) HOME is a locally designed and administered program which:

- (1) Expands the supply of decent, safe, affordable, and sanitary housing;
- (2) Strengthens the abilities of state and local governments to design and implement affordable housing strategies; and
- (3) Provides both federal financing and technical assistance.

HOME funds are used to assist low-income families at or below 80 per cent AMI and very-low-income families at or below 50 per cent AMI, provided that the annual allocation may provide for a minimum set aside for affordable housing activities undertaken by community housing development organizations.

(b) The corporation may enter into agreements with state recipients, sub-recipients, or contractors, for administration of allocated funds.

(c) The corporation shall allocate, or cause to be allocated as set forth in subsection (b), the aggregate amounts of HOME funds awarded to the State by HUD in accordance with the consolidated plan and all procedures pertaining thereto. The corporation may amend the consolidated plan to re-allocate funds to other eligible uses to ensure the federal funds are fully expended.

(d) The corporation may allocate HOME funds or cause HOME funds to be allocated for the uses allowed under the HOME program including but not limited to:

- (1) Home purchase or rehabilitation financing assistance to eligible homeowners and new homebuyers;
- (2) Construction or rehabilitation of housing for rent or ownership;
- (3) Site acquisition or improvement;
- (4) Demolition of dilapidated housing;
- (5) Tenant-based rental assistance; and
- (6) Payment of relocation expenses.

(e) The corporation shall delegate to the executive director responsibility for day-to-day administration of this program. [Eff]
(Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16, 24 C.F.R. Parts 91 and 92)

SUBCHAPTER 3

HOUSING TRUST FUND PROGRAM

§15-304-20 Designation of corporation as HTF grantee. The corporation has been designated by the governor as the HTF grantee for the State. In this capacity, the corporation shall administer the HTF program for each federal program year in accordance with the HTF program requirements pursuant to 24 C.F.R. part 93 and as established by HUD.
[Eff] (Auth: HRS §§201H-4, 201H-16)
(Imp: HRS §201H-16, 24 C.F.R. Part 93)

§15-304-21 Generally. (a) The housing trust fund program is a formula grant program designed to increase and preserve the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing for extremely low-income households at or below 30 per cent AMI, including homeless families. HUD determines annually by formula the amount of HTF that states are eligible to receive.

(b) The corporation may use HTF funds for uses allowed under the HTF program including the new construction, acquisition, or rehabilitation of rental housing units affordable to extremely low-income families at or below 30 per cent AMI as determined by HUD, and some operating costs for rental projects.

(c) The corporation shall prepare an annual HTF allocation plan as part of the consolidated planning process. The annual HTF allocation plan shall describe the distribution of funds and establishes the application requirements and the criteria for the selection of applications submitted by eligible recipients that meet the State's priority housing needs.

(d) The annual HTF allocation plan shall reflect how HTF funds will be distributed such as through grants to subgrantees or directly to eligible recipients, as required by HUD in 24 C.F.R. §91.320(k)(5).

(e) The corporation may amend the HTF allocation plan following the procedures provided by HUD in 24 C.F.R. part 91.

(f) The corporation shall delegate to the executive director responsibility for day-to-day administration of this program. [Eff _____]
(Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16, 24 C.F.R. Parts 91 and 93)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Adoption of chapter 15-304, Hawaii Administrative Rules, on the Summary Page dated _____, were adopted on _____, 2020, following a public hearing held on _____, 2020 after public notice was given in the Honolulu Star-Advertiser, The Garden Island, The Maui Times, West Hawaii Today, and the Hawaii Tribune-Herald, newspapers on _____, 2020.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

DONN MENDE
Chairperson
Hawaii Housing Finance and
Development Corporation

APPROVED AS TO FORM:

Deputy Attorney General

APPROVED:

DAVID Y. IGE
Governor
State of Hawaii

Dated: _____

Filed

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Adoption of Chapter 15-304
Hawaii Administrative Rules

_____, 2020

SUMMARY

1. Chapter 15-304, Hawaii Administrative Rules, entitled "Administration of Federal Programs", is adopted to read as follows: