

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Amendment and Compilation of Chapter 15-304,
Hawaii Administrative Rules

_____, 2022

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

"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

Subchapter 1 General Provisions

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-304-1 Purpose. This chapter implements 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 this chapter 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 CFR Parts 91 through 93)

§15-304-2 Definitions. The following words and terms, when used in this chapter, 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 CFR part 91.

"CFR" means the Code of Federal Regulations.

"Citizen participation plan" means the document prepared by the corporation pursuant to 24 CFR part 91, as further described in section 15-304-4.

"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 CFR 92.2.

"Consolidated plan" means the document prepared by the corporation pursuant to 24 CFR part 91, as further described in section 15-304-3.

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

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

"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.

"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 housing trust fund, 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. [Eff _____] (Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16; 24 CFR 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 CFR part 91, subpart B, and consistent with the citizen participation plan described in section 15-304-4.

(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 Investment Partnerships 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 official government website. The corporation shall deposit the consolidated plan as required by section 93-3, HRS. To ensure that the consolidated plan is informed by meaningful community participation, the corporation shall employ communications means designed to reach the broadest audience. Such communications may be met by publishing a summary of each document in one or more newspapers of general circulation, and by making copies of each document available on the internet, on the grantee's official government website, and as well at libraries, government offices, and public places.

[Eff] (Auth: HRS §§201H-4, 201H-16)
[Imp: HRS §201H-16; 24 CFR 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 on the housing and community development needs of each county in the respective county before the proposed consolidated plan is published for comment. The hearing shall take place at a convenient place and time to potential and actual beneficiaries and shall make appropriate accommodation for persons with disabilities. The citizen participation plan shall specify how it will meet these requirements.

(d) 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 CFR 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 CFR 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 CFR 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 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 CFR part 92 and as established by HUD. [Eff] (Auth: HRS §§201H-4, 201H-16) (Imp: HRS §201H-16, 24 CFR Part 92)

§15-304-11 Generally. (a) The corporation may enter into agreements with state recipients, sub-recipients, or contractors, for administration of allocated funds, as provided under 24 CFR part 92.

(b) The corporation shall allocate, or cause to be allocated as set forth in section 15-304-11(a), 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 reallocate funds to other eligible uses to ensure the federal funds are fully expended.

(c) 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.

(d) 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 CFR Parts 91 and 92)

SUBCHAPTER 3

HOUSING TRUST FUND PROGRAM

§15-304-20 Designation of corporation as housing trust fund grantee; selection of subgrantee. (a) The corporation has been designated by the governor as the Housing Trust Fund grantee for the State. In this capacity, the corporation shall administer the Housing Trust Fund program for each federal program year in accordance with the Housing Trust Fund program requirements pursuant to 24 CFR part 93 and as established by HUD.

(b) The corporation may select a unit of local government or a state agency as a subgrantee to administer all or a portion of its Housing Trust Fund program. A local government subgrantee must have an approved consolidated plan submitted in accordance with 24 CFR part 91 in order to be selected.

[Eff] (Auth: HRS §§201H-4, 201H-16)
(Imp: HRS §201H-16, 24 CFR Part 93)

§15-304-21 Generally. (a) The corporation may use the Housing Trust Fund for uses allowed under the Housing Trust Fund program, including the new construction, acquisition, or rehabilitation of rental housing units affordable to extremely low-income families at or below thirty per cent of the area median income, and when necessary and subject to the limitations in 24 CFR 93.200(a), operating costs defined at 24 CFR 93.201(e)(1) for Housing Trust Fund assisted rental units for which project-based assistance is not available.

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

(c) The annual housing trust fund allocation plan shall reflect how the housing trust fund will be distributed, such as through grants to subgrantees or directly to eligible recipients, as required under 24 CFR 91.320(k)(5).

(d) The corporation may amend the housing trust fund allocation plan following the procedures provided in 24 CFR part 91.

(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 CFR Parts 91 and 93)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. The amendments to and compilation of chapter 15-308, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

DONN MENDE, Chairperson
Hawaii Housing Finance and
Development Corporation

APPROVED AS TO FORM:

Deputy Attorney General