

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

Amendment and Compilation of Chapter 15-311,
Hawaii Administrative Rules

December 6, 2021

SUMMARY

1. Title amended.
2. §§15-311-1 to 15-311-3 are amended.
3. Subchapter 2 title amended.
4. §§15-311-21 to 15-311-32 are amended.
5. §15-311-42 is amended.
6. §15-311-44 is amended.
6. §§15-311-46 to 15-311-47 are amended.
7. Chapter 15-311 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE 14

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

CHAPTER 311

RENTAL HOUSING REVOLVING FUND PROGRAM

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Historical note: Chapter 15-311, Hawaii
Administrative Rules, is based substantially upon
chapters 15-380, 6-411, and 6-401, Hawaii
Administrative Rules.

SUBCHAPTER 1

GENERAL PROVISIONS

§15-311-1 Purpose. These rules are adopted
pursuant to chapters 91 and 92, Hawaii Revised
Statutes, and implement chapter 201H, Hawaii Revised
Statutes, which establishes a "rental housing
revolving fund" as a resource to assist lower income
families and individuals, including the homeless and
special need groups, in obtaining rental housing.
[Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS
§201H-202) (Imp: HRS §201H-202)

§15-311-2 Definitions. Whenever used in this chapter, unless otherwise specifically defined:

"Capacity building" means the process of increasing an organization's ability to achieve specific goals. Capacity building is often necessary when a non-profit community-based organization undertakes development activities for the first time. Costs associated with capacity building may include, but are not limited to, administrative and salary costs, rent, technical assistance, technical training, travel, literature, consultant fees, attorney's fees and other costs associated with drafting articles of incorporation, bylaws, and other legal documents; and reimbursement of other costs incurred by a non-profit organization in obtaining tax exempt status under Sections 501(c)(2), (3), or (4) of the Internal Revenue Code of 1986, as amended.

"Corporation" shall have the same meaning as in section 201H-1, Hawaii Revised Statutes.

"Develop" or "development" means the planning, financing, acquisition of real and personal property, demolition of existing structure, clearance of real property, construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services, or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of buildings or other structures, or any combination of the foregoing, of any housing project. It also includes any and all undertakings necessary therefor, and the acquisition of any housing, in whole or in part.

"Equity gap financing" means additional funds required to make a development project financially feasible, usually cash or subordinated debt used to fill the "gap" between available financing, available subsidies, and total development cost.

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

"Government" includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, of the United States.

"Government record" means information maintained by an agency in written, auditory, visual, electronic, or other physical form as defined in section 92F-3, HRS.

"Governor" means the duly elected governor of the State of Hawaii whose office was created by Article V of the Constitution of the State of Hawaii.

"Grant" means funds given to a non-profit or governmental entity for the purpose of financing a qualified housing project located within the State of Hawaii, with no obligation to repay the monies.

"Homeless person" means an individual who lacks a fixed, regular, and adequate nighttime residence; and an individual who has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations, an institution that provides a temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular accommodation for human beings. Homeless persons may include, but are not limited to, elders, substance abusers, the mentally ill, abused persons, youth runaways, single- and two-parent families, and others with special needs.

"Housing", "housing project", or "project" means a plan, design, or undertaking for the development of dwelling units, and includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project.

"HRS" means the Hawaii Revised Statutes.

"Legislature" means the legislature of the State of Hawaii, which was created pursuant to Article III of the Constitution of the State of Hawaii.

"Loan" means funds lent to a non-profit, governmental or for-profit entity for the purpose of financing a qualified housing project located in the State of Hawaii with the obligation to repay the funds according to specific terms and conditions as set by the corporation.

"Lower cost housing" in the context of identifying the persons or families intended to be served by such housing, includes housing for lower income persons or families.

"Lower income persons or families" includes those whose incomes are identified as one hundred per cent or less of the area median income. For the purposes of these rules, such persons or families include persons or families within the following income groups:

- (1) Those earning sixty per cent of the area median income and below; and
- (2) Those earning between sixty per cent and one hundred per cent of the area median income.

"Median income" or "area median income" means the median income for each of the counties of Honolulu, Hawaii, Maui, and Kauai as determined by the United States Department of Housing and Urban Development from time to time, and as adjusted by family size.

"Non-profit organization" means a corporation, association, or other duly chartered entity which is registered with the State, and which has received a written determination from the Internal Revenue Service that it is exempt under either section 501(c)(3), section 501(c)(4), or so much of section 501(c)(2) as applies to title holding corporations that turn over their income to organizations that are exempt under either section 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as amended.

"Obligations" mean mortgages or other debt securities.

"Predevelopment activities" means those housing-related activities which are attributable to a specific housing project. Costs associated with predevelopment activities must be allocable to a specific housing project and may include, but are not limited to, staff and administrative costs; rent; legal fees; preliminary site acquisition costs; consultant fees for preliminary studies, feasibility studies, planning, design, engineering, soils studies, and environmental studies.

"Program" means the rental housing revolving fund program.

"Program funds" means funds which are from the rental housing revolving fund.

"Qualified housing project" means a rental housing project which complies with the requirements for funding set forth under this chapter.

"Rental housing revolving fund" or "fund" means the fund which was established pursuant to section 201H-202, HRS.

"Rules" means these rules.

"Special needs" means social problems, age, or physical or mental disabilities which may impair a person's ability to live independently and for whom such ability can be improved by more suitable housing conditions.

"Subordinate mortgage" means a mortgage which is stipulated to be junior or inferior to one or more other mortgages. The subordinate mortgage may allow that, with the consent of the corporation, the mortgagor can refinance the mortgagor's property with a new first mortgage and still remain in a subordinate position. [Eff 4/23/10; am and comp **JAN 15 2022**]
(Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-3 Fees. The corporation may charge the following fees:

- (1) Application fee: \$2,000;
- (2) Loan extensions and modifications: \$1,000;
- (3) Loan origination fee: one-half per cent (0.5%) of loan amount; and

- (4) Annual compliance monitoring fee: \$35 per unit per year for all project units excluding managers units. [Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS \$\$ 201H-4, 201H-202) (Imp: HRS \$201H-4)

\$15-311-4 Authority to hire outside consultants.

The corporation may hire outside consultants when in the determination of the corporation the services to be performed by the consultant are essential in carrying out the purposes of the fund.

[Eff 4/23/10; comp **JAN 15 2022**] (Auth: HRS \$201H-202) (Imp: HRS \$201H-202)

SUBCHAPTER 2

RENTAL HOUSING REVOLVING FUND

\$15-311-21 Project criteria for funding; minimum requirements. Qualified housing projects funded in whole or in part through loans or grants from the rental housing revolving fund must meet the one of the following criteria:

- (a)
- (1) At least fifty per cent of the available units are for persons and families with incomes at or below eighty per cent of the median family income; and
 - (2) At least five per cent of the available units are for persons and families with incomes at or below thirty per cent of the median family income; and
 - (3) The remaining units are for persons and families with incomes at or below one hundred per cent of the median family income at the time of admission into the housing project; or

- (4) Is a mixed-income rental project or units in a mixed-income rental project wherein all of the available units are for persons and families with incomes at or below one hundred forty per cent of the median family income.

Provided, however, that if there are an insufficient number of persons or families who meet the income qualifying criteria for admission into the housing project, the corporation may permit the developer to rent units to higher income tenants in order to ensure full occupancy of funded projects.

(b) At the close of each biennium, at least one-third of the funds allocated to construction projects for the period shall have been committed to projects that guarantee affordable units to persons or families with incomes at or below thirty per cent of the median family income pursuant to subsection (a)(2) above.

[Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-22 Rental housing revolving fund; allowable uses. (a) The rental housing revolving fund may be utilized to provide loans or grants for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of rental housing units that meet the criteria for eligibility set forth in sections 15-311-21 and 15-311-32. Additionally, an amount from the fund may be used to pay for administrative expenses incurred by the corporation in administering the fund.

(b) Activities eligible for assistance from the fund shall include, but not be limited to:

- (1) Planning;
- (2) Design;
- (3) Land acquisition;
- (4) Costs of options;
- (5) Agreements of sale;
- (6) Downpayments;
- (7) Equity financing, including the leveraging of moneys with the use of fund assets;

- (8) New construction or rehabilitation activities;
- (9) Acquisition of housing units for the purpose of preservation as lower cost housing;
- (10) Pre-development activity grants or loans to nonprofit organizations or governmental agencies, provided that an organization or agency may be eligible to receive one grant or loan per rental housing project;
- (11) Capacity building grants to nonprofit organizations, provided that an organization may be eligible to receive no more than \$150,000 per nonprofit organization;
- (12) For participation in interim construction loans provided by private lenders or in loan programs administered by government agencies, such as the dwelling unit revolving fund administered by the corporation; and
- (13) Other housing development services or activities as approved by the corporation on a case-by-case basis. [Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §§201H-202, 201H-204)

§15-311-23 Rental housing revolving fund; project administrative expenses. Program funds cannot be used to finance the day-to-day administrative expenses of projects which are allotted revolving fund moneys. For the purposes of this chapter, "day-to-day administrative expenses of the project" shall refer to the administrative expenses of the project after occupancy of the units has taken place. [Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-24 Loans and grants to nonprofit and governmental entities. (a) Loans and grants may be provided to nonprofit or governmental entities for the purposes set forth in section 15-311-21 and shall be subject to the additional conditions set forth in this section.

(b) The corporation shall objectively review each project on a case-by-case basis to determine whether a loan or a grant is to be provided, and shall not be predisposed to providing loans over grants. The corporation shall also set forth the terms and conditions of the loan or grant, including the interest rate, repayment requirements, if applicable, appropriate security, and the like. The corporation may waive the repayment of funds used for predevelopment activities if the project fails to materialize through no fault of the recipient.

(c) The corporation shall take all reasonable steps necessary to ensure that projects funded shall remain affordable for the economic life of the project or for as long as rental housing revolving fund moneys are invested in the project; provided, however, that upon the request of the project owners, the corporation shall have the authority to waive the conditions of the loan or grant due to extreme hardship or if such modifications are in conformity with the corporation's then existing rules for loans and grants for new projects. For example, the corporation, in conformity with its then existing rules, shall have the authority to subordinate an existing loan or grant to a subsequent rehabilitation mortgage loan.

(d) The corporation shall ensure that loans and grants provided for equity gap financing or interim construction purposes are secured to safeguard against a change in the use or ownership of the project, or the project no longer fulfilling the intended purpose for which the grant was provided. Loans and grants may be secured through any of the following means:

- (1) Use of a forgivable or subordinated mortgage;
- (2) Development of a project on government-owned land with conditions attached to the land;
- (3) Use of a regulatory agreement; or
- (4) Any of a combination of the above.
- (e) The corporation shall establish provisions for monitoring the following:
 - (1) The progress of nonprofit entities in developing and expanding their development capabilities or proceeding with pre-development activities if grants or loans are used for capacity building or pre-development purposes;
 - (2) The progress of projects receiving loans and grants under these rules; and
 - (3) Compliance with the terms and conditions of the loan or grant.

The corporation shall have the right to rescind or recapture moneys loaned or granted if the terms of the contract are not fulfilled. [Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202, 201H-204)

§15-311-25 Loans to for-profit entities. (a)

Loans may be provided to for-profit entities for the purposes set forth in section 15-311-21 and shall be subject to any additional conditions set forth in this section.

(b) The corporation shall set forth the terms and conditions of the loan on a case-by-case basis, including the interest rate, repayment requirements, appropriate security, and the like.

(c) The corporation shall take all reasonable steps necessary to ensure that projects funded shall remain affordable for the economic life of the project or for as long as rental housing revolving fund moneys are invested in the project.

(d) The corporation shall ensure that loans provided under this section are secured to safeguard against a change in the use or ownership of the project, or the project no longer fulfilling the intended purpose for which the loan was provided. Loans may be secured through any of the following means:

- (1) Use of a forgivable or subordinated mortgage;
- (2) Development of a project on government-owned land with conditions attached to the land;
- (3) Use of a regulatory agreement; or
- (4) Any of a combination of the above.

(e) The corporation shall establish provisions for monitoring the following:

- (1) The progress of projects receiving loans and grants under this section; and
- (2) Compliance with the terms and conditions of the loan.

The corporation shall have the right to rescind or recapture moneys loaned if the terms of the contract are not fulfilled. [Eff 4/23/10; am and comp JAN 15 2022] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

SUBCHAPTER 3

APPLICATION PROCEDURES

§15-311-31 Applications for program funds. (a)

At the start of each fiscal year, the corporation shall commence with an outreach program, advertising the availability of moneys from the revolving fund. Such outreach shall include, but shall not necessarily be limited to:

- (1) A direct mailing to all known interested parties notifying the parties of funding availability;

- (2) Publishing a notice of funding availability in a newspaper of general circulation, as well as in each of the major local newspapers;
- (3) Issuing press releases to major media; and
- (4) Any other means deemed appropriate by the corporation.

(b) Applicants desiring to utilize revolving fund moneys shall submit to the corporation an application containing such information, accompanied by the application fee, and filed in such manner as required in the procedural manual.

(c) Staff shall verify that all applications are complete. Additionally, all required exhibits to the application must be attached. If either one of these conditions, or both, are not met, staff will inform the applicant in writing that the application is not complete. Applicant will be given ten working days to remedy any problems or deficiencies in the application. If after the ten day period, the problem or the deficiency remains unresolved, staff shall send the applicant a letter informing the applicant that the application for program funds will not be processed for action in that funding round. The letter shall state the reasons why the application will not be processed. Staff shall evaluate, score, and rank projects only if applicants submit complete applications.

(d) Staff shall verify that the project described in the application meets the affordability requirements and the eligible uses requirements as stipulated in section 201H-202, HRS. If staff determines that the affordability requirements or the eligible uses are not met, staff shall send a letter to the applicant informing the applicant that the application for program funds will not be processed in that funding round. The letter shall state staff's reasons why the application will not be processed. Staff will evaluate, score, and rank projects only if the proposed project meets the affordability and the eligible use requirements.

(e) During the project evaluation process, the corporation may make additional requests or inquiries of the applicant. Even if the application is technically complete, the corporation reserves the right to contact and to request additional information of the applicant. The applicant has the option to respond or not to respond to these requests.

[Eff 4/23/10; am and comp **JAN 13 2022**](Auth: HRS §§201H-4, 201H-202)(Imp: HRS §201H-202)

§15-311-32 Evaluation of requests for program funds; criteria point system. (a) The corporation will review and evaluate each complete application for program funds, and shall take into consideration factors such as compliance with the purposes and intent of chapter 201H, HRS, and other relevant factors.

(b) In evaluating the requests for program funding, the corporation shall provide a preference to projects meeting the following criteria which are listed in descending order of priority:

- (1) Projects which serve the original target group;
- (2) Projects which provide at least five per cent of the total number of units for persons and families at or below thirty per cent of the median family income;
- (3) Projects which provide the maximum number of units for families with incomes at or below eighty per cent of the median family income;
- (4) Projects which are committed to serving the target group over a longer period of time;
- (5) Projects which increase the integration of income levels of the immediate community area;
- (6) Projects which meet the geographic needs of the target group of the proposed rental housing project, such as proximity to employment centers and services; and

- (7) Projects being developed by applicants with a favorable past performance in developing, owning, managing, or maintaining affordable rental housing;

provided that the corporation may include other criteria as it deems necessary to carry out the purposes of the revolving fund. If the corporation, after applying the process described in this section, finds a nonprofit project equally ranked with a for-profit or government project, the corporation shall give preference to the nonprofit project in allotting revolving fund moneys.

(c) In evaluating the requests for program funds, the corporation shall also provide a preference to projects producing units in at least one of the following categories:

- (1) Multifamily units;
- (2) Attached single-family homes;
- (3) Apartments;
- (4) Townhouses;
- (5) Housing units above commercial or industrial space;
- (6) Single room occupancy units;
- (7) Accessory apartment units;
- (8) Employee housing;
- (9) United State Department of Housing and Urban Development mixed finance development of public housing units; and
- (10) Other types of units meeting the criteria for eligibility set forth in subsection (b).

(d) In addition to the program preferences referenced in this section, the corporation shall evaluate projects in the following primary areas:

- (1) Qualifications of applicant and development team;
- (2) Site evaluation and land use characteristics;
- (3) Environmental assessment; environmental impact statement;

- (4) Zoning, subdivision, and permitting requirements;
- (5) Financial, operational, and regulatory compliance evaluation;
- (6) Project design;
- (7) Tenant displacement and relocation considerations;
- (8) Energy conservation and efficiency considerations;
- (9) Target population and market conditions; and
- (10) Overall competitive position, merit, and feasibility of the project.

(e) The corporation shall utilize the criteria point system attached hereto as Exhibit "A" to rate each application that has met the minimum criteria set forth in section 15-311-31. A minimum of 125 points out of 250 total points must be scored in order to be considered for further review by the corporation.

[Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-204)

§15-311-33 Corporation action. (a) The corporation may accept a request that program funds be allocated or may deny a request for program funds for a project. The corporation may also defer action on any request for project funds and may request that additional information be submitted. If the corporation accepts a request that program funds be allocated for a project, the corporation must make specific findings that the use and application of program funds for the project are consistent with the purposes of the program and must submit a recommendation to the governor that program funds be allocated for the project.

(b) For any project that the corporation recommends to be assisted by program funds, the corporation shall provide the governor with a summary of the project to be developed. The summary shall include:

- (1) The various aspects of the project, including any projects or loan programs to be a part of the program;

- (2) The methods of financing the project or loans;
- (3) If applicable, how the program funds will be returned to the program;
- (4) Specific findings that the application of program funds will meet the requirements of the program and that the application of program funds will comply with the primary objectives of the program;
- (5) Other information which the corporation deems relevant; and
- (6) Other information as the governor may request. [Eff 4/23/10; comp **JAN 15 2022**]
(Auth: HRS §201H-202) (Imp: HRS §201H-204)

§15-311-34 Commitment of program funds. Program funds may be committed in participation with other lenders. The corporation shall not issue nor make any commitment of program funds for any project unless the corporation has first made a determination that the purposes and amounts for which program funds are to be applied are consistent with the purposes of the program and the governor has approved the commitment of program funds for the project. All commitments for program funds shall be made subject to availability of program funds. [Eff 4/23/10; comp **JAN 15 2022**]
(Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-35 Conditions for program funds. For a commitment of project funds, the corporation may require the applicant to enter into an agreement with the corporation, such as a development agreement or regulatory agreement, evidencing the applicant's obligation to develop the project in a manner which will carry out the intent and purpose of the program. The corporation may require the applicant to prepare and maintain such records, including cost certifications, which evidence that project funds are being applied in a manner which meets the requirements of the program.

Additionally, the corporation may impose such requirements including restrictions covering the sale of dwelling units set forth in sections 201H-45 through 201H-51, HRS, or such other restrictions which the corporation shall require as a condition for project funds. [Eff 4/23/10; comp **JAN 15 2022**]
(Auth: HRS §201H-202) (Imp: HRS §201H-202)

SUBCHAPTER 4

REPORTING AND OTHER REQUIREMENTS

§15-311-41 Procedural manual. The corporation shall produce, maintain, and update a procedural manual. The procedural manual shall include detailed information about such items as:

- (1) The applications process;
- (2) Information required of applicants;
- (3) The allocation plan; and
- (4) The rights of the corporation.

[Eff 4/23/10; comp **JAN 15 2022**] (Auth:
HRS §201H-202) (Imp: HRS §201H-202)

§15-311-42 Compliance monitoring plan. The corporation shall monitor compliance with the terms set forth in the regulatory agreement for the period a project is committed to providing affordable rental units. The corporation will certify the rents being paid by the tenants on no less than an annual basis and recertify the rents being paid by tenants every year thereafter.

Projects shall maintain copies of the rental contracts, rent invoices, or other documents relating to the amount being paid by tenants as rent. Projects will be required to maintain records regarding the number of units (including number of bathrooms and square footage of each bedroom); percentage of rental units that are affordable; rent charged per unit including utility allowances; number of occupants in each unit; and documentation regarding vacancies.

The corporation may perform an audit at least once a year, but shall have access to all books and records upon notice to the project owner. Annually, projects receiving rental housing revolving fund awards shall be required to certify to staff that for the previous year, the minimum set-aside requirement was met; the rent charged to tenants was in accordance with the allowable rental schedule; and each building was suitable for occupancy, taking into account local health, safety and building codes. [Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-43 Non-compliance penalties. The penalty for non-compliance with program rules and requirements is at the discretion of the corporation. For projects receiving program funds in the form of loans, foreclosure proceedings is one alternative. For projects receiving grants, the corporation may undertake legal proceedings to secure specific performance. In all cases, the corporation reserves the right to pursue any and all legal remedies to recapture the funds awarded, to seek specific performance, or other actions that it deems necessary.

Upon determination by the corporation of non-compliance with program rules and requirements, the owner shall be notified and given sixty calendar days to correct the violations. The corporation may extend the correction period, up to a total of six months if it is determined that good cause exists for granting such an extension. [Eff 4/23/10; comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-44 Books and records. The corporation shall insure that proper books and records are appropriately maintained. The books shall show, among other things, the amount and purpose of the application of moneys on deposit in the rental housing revolving fund and the source of the moneys and separate accounting for earnings on moneys on deposit in the rental housing revolving fund and proceeds on borrowing in accordance with generally accepted accounting principles and procedures. [Eff 4/23/10; am and comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-45 Audit and cost certification. All books and records of a project shall be subject to audit and all expenditures of a project shall be subject to cost certification. [Eff 4/23/10; comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-46 Annual report to the governor and legislature. The corporation shall at least once a year file with the governor and the legislature a report of the revolving fund activities for the preceding year. As used in this section, the term year shall mean the fiscal year beginning on July 1, and ending on June 30. The annual report shall provide the following information on the status of its programs and finances:

- (1) A description of projects being developed in the current fiscal biennium including:
 - (A) A summary listing of such projects;
 - (B) The status of each project;
 - (C) The methods of project financing of grants and loans;
 - (D) Other information deemed significant;
- (2) A status report of:
 - (A) Actual expenditures made for the purposes of the revolving fund in the prior completed fiscal year; and

- (B) Estimated expenditures anticipated for the current fiscal year; and
- (3) An annual financial audit and report, conducted by a certified public accounting firm and based on the fiscal year beginning on July 1 and ending on June 30. [Eff 4/23/10; am and comp **JAN 15 2022**]
(Auth: HRS §201H-202) (Imp: HRS §201H-202)

§15-311-47 Annual evaluation of program. The corporation shall evaluate the revolving fund program each year and shall report its evaluation with suggested changes to the legislature not fewer than twenty days before the convening of each regular session. [Eff 4/23/10; am and comp **JAN 15 2022**]
(Auth: HRS §201H-202) (Imp: HRS §201H-202)

SUBCHAPTER 5

OTHER PROVISIONS

§15-311-51 Forms. The corporation may prescribe and use such forms as it may reasonably require to carry out its functions. The corporation at any time may create, modify, amend, or delete any forms in order to effectuate the purposes herein. [Eff 4/23/10; comp **JAN 15 2022**] (Auth: HRS §201H-202) (Imp: HRS §201H-202)

The rating criteria utilize a point system to rank projects based upon the evaluation criteria established. The ranking of projects determines the priorities to be followed by the RHTF Commission in allocating program funds to projects under consideration. Projects selected under this rating criteria shall then be evaluated as to the minimum amount of program funds required to make the project feasible.

These rating criteria only apply to project awards (i.e., loans and grants); applications for capacity building awards will be evaluated on a case-by-case basis.

4.5 **CRITERIA POINT SYSTEM**

Each application meeting the minimum criteria will be evaluated and be awarded points in accordance with the following criteria. **A minimum of 125 points (out of 250 total points) must be scored in order to be considered for further review by the Commission.**

4.5.1 Criteria

I. LOCAL HOUSING NEED (55 points)

A) Increases the integration of income levels in the immediate community area. Proposed projects serving the lowest income groups in an area of need will receive higher points. (10 points)

Income levels in the area are _____ higher than the highest proposed income level in the proposed project.

10 points	100% or more
9	90% - 99%
8	80% - 89%
7	70% - 79%
6	60% - 69%
5	50% - 59%
4	40% - 49%
3	30% - 39%
2	20% - 29%
1	10% - 19%
0	0% - 9%

"Immediate Community Area" is hereby defined as the county in which the proposed project is to be located. A smaller area within a county may be

used if detailed income information is provided and is deemed satisfactory by staff.

B) The proposed project is supported by the local county government in which the project is to be located, as evidenced by a letter of support. (10 points)

10 points Application contains a letter of support from County mayor, City or County council, County Housing office or agency, or neighborhood board. Letter must not be older than 6 months at time of application.

0 No letter of support from acceptable list was submitted.

C) The proposed project will be located in an area where there is a shortage of low-income units relative to projected demand. The County in which the proposed project is to be located may provide comments with regard to the areas of greatest need with the County. The shortage of units and projected demand need to be substantiated in detail by a third party (preferably an independent market study). (10 points)

10 points The applicant provided an independent third party market study which described the shortage and demand of the low-income units in the proposed area, and described potential rental rates and absorption of the units.

8 The applicant provided various information (but not an independent market study) which describes the shortage and demand for the units.

5 The applicant described the shortage and demand of units in the application, and submitted comments from the local county government which verifies the information.

2 The applicant described the shortage and demand of units in the

application, but did not submit a market study or comments from the county.

0 The applicant did not provide any substantiating information or description regarding the shortage or the demand of the proposed units.

D) The proposed project will add new low-income units to the State's inventory, whether through new construction or the substantial rehabilitation. (25 points)

25 points The proposed project will add units to the State's inventory.

0 The proposed project will not add units to the State's inventory.

II. PROJECT DESCRIPTION AND DESIGN

A) The proposed project characteristics address the health and safety of tenants and provides amenities to enhance the project. (10 points)

10 points Staff architect has determined that the project design meets the necessary local code requirements and that the project aesthetically fits into the immediate area. The features are listed and explained in the application, and are shown in the project plans.

5 Staff architect has been able to determine that the project design, as submitted, should meet the necessary local code requirements, and that the project aesthetically fits into the immediate area. The individual project features may be listed and shown on the plans, but are not explained as to why they enhance the project.

0 No plans were submitted with the application, or the plans were not in sufficient detail for the staff

architect to make a determination of the health and safety characteristics.

(Staff should evaluate the site's appropriate land use ordinance requirements, and local building requirements for the proposed improvements).

III. BENEFITS AND IMPACT

A) The proposed project services the original target group (i.e., at least 50% of the units serve individuals earning 60% of area median gross income with the remainder of units serving individuals earning 100% of area median gross income). (10 points)

The project will set aside _____ of units at 60% or less of area median gross income.

10 points	90% - 100%
8	80% - 89%
6	70% - 79%
4	60% - 69%
2	50% - 59%
0*	Less than 50%

*If this is the case, the project may not qualify for funds based on the statutory requirements of the Project. The remaining 50% of units must be set aside at 100% or less of area median gross income.

B) The project is committed to serving the original target population, as stipulated in the project application, for longer than a 30 year period. (35 points)

35 points The proposed project is permanently committed to serving the target group, or will be committed for a minimum of 51 years.

The proposed project is committed for _____ years.

34 points	50 years
33	49 years
32	48 years
31	47 years

30	46 years
29	45 years
28	44 years
27	43 years
26	42 years
25	41 years
24	40 years
23	39 years
22	38 years
21	37 years
20	36 years
19	35 years
18	34 years
17	33 years
16	32 years
15	31 years
14	29 or 30 years
13	27 or 28 years
12	25 or 26 years
11	23 or 24 years
10	21 or 22 years
9	19 or 20 years
8	17 or 18 years
7	15 or 16 years
0	Less than 15 years

C) The proposed project will give preference in rent up to elderly or physically or mentally challenged individuals. (10 points)

_____ % of units for special needs.

10 points	100%
9	90% - 99%
8	80% - 89%
7	70% - 79%
6	60% - 69%
5	50% - 59%
4	40% - 49%
3	30% - 39%
2	20% - 29%
1	10% - 19%
0	Less than 10%

D) The proposed project will provide low-income units of two or more bedroom units. (10 points)

_____ % of the units are two bedroom or larger.

10 points	100%
-----------	------

9	90% - 99%
8	80% - 89%
7	70% - 79%
6	60% - 69%
5	50% - 59%
4	40% - 49%
3	30% - 39%
2	20% - 29%
1	10% - 19%
0	Less than 10%

E) The proposed project will charge rent for low-income units that is less than the maximum rental allowed under the Rental Housing Trust Fund program guidelines. (20 points)

The proposed rents are _____ below the maximum rental allowed under the Program.

20 points	60% or more
19	57% - 59%
18	54% - 56%
17	51% - 53%
16	48% - 50%
15	45% - 47%
14	42% - 44%
13	39% - 41%
12	36% - 38%
11	33% - 35%
10	30% - 32%
9	27% - 29%
8	24% - 26%
7	21% - 23%
6	18% - 20%
5	15% - 17%
4	12% - 14%
3	9% - 11%
2	6% - 8%
1	3% - 5%
0	0% - 2%

IV. PROJECT MANAGEMENT

A) The applicant and/or project development team has demonstrated experience in real estate development, and appears to possess the ability to successfully implement the proposed project in a timely and on-going manner. Applicants that have previously completed projects using Rental Housing

13443

Trust Fund monies should possess the experience and ability. (10 points)

- | | |
|-----------|--|
| 10 points | The applicant and/or project development team has completed a previous project with RHTF funds and/or has successfully built similar projects previously. |
| 5 | The applicant and/or project development team has not demonstrated experience in the development of multi-family housing, but appears to possess the ability to complete the proposed project. |
| 0 | The applicant or the project development team have no demonstrated experience, and their ability to complete this project is questionable. |

B) Applicant is a non-profit organization or is affiliated with a qualified non-profit organization. (10 points)

- | | |
|-----------|--|
| 10 points | Applicant is a non-profit organization or is affiliated with a non-profit organization. |
| 0 | Applicant is not a non-profit organization, or is not affiliated with a non-profit organization. |

C) Project has low developer fees and overhead. (10 points)

Intermediary costs are _____ of the total project development cost.

- | | |
|-----------|------------------|
| 10 points | 0% - 5% |
| 8 | 6% - 10% |
| 6 | 11% - 15% |
| 4 | 16% - 20% |
| 2 | 21% - 25% |
| 0 | Greater than 25% |

D) Applicant presents a reasonable project cost estimate, sources and uses statement, and pro forma operating budget. (10 points)

10 points The project cost analysis of the proposed development and pro forma operating budget are considered reasonable.

5 Either the project cost analysis or pro forma operating budget is not considered reasonable.

0 Both the project cost analysis and pro forma operating budget are not considered reasonable.

V. LEVERAGE

A) The proposed project provides the maximum number of units for the least amount of Rental Housing Trust Fund monies. (20 points)

20 points For all projects under consideration, each project is ranked and awarded points based on the ratio of the number of units/amount of Rental Housing Trust Fund monies requested. The projects are ranked competitively against other projects, and points are awarded over 20 points.

B) The Applicant has secured commitments of other funding resources, including cash, public funds and grants, and private sector loans to reduce the amount of Rental Housing Trust Fund monies requested. Staff may evaluate conditional commitments on a case-by-case basis to determine if points may be awarded. (10 points)

_____ % of sources other than Rental Housing Trust Fund monies are secured.

10 points	100%
9	90% - 99%
8	80% - 89%
7	70% - 79%
6	60% - 69%
5	50% - 59%

4	40% - 49%
3	30% - 39%
2	20% - 29%
1	10% - 19%
0	less than 10%

C) The proposed project provides the maximum amount of leverage by maximizing other funding sources other than the Rental Housing Trust Fund. (20 points)

The proposed project has a leverage ratio of _____ when comparing Rental Housing Trust Fund monies to other funding sources.

20 points	Less than 20%
17	21% - 33%
15	34% - 40%
10	41% - 60%
5	61% - 80%
0	Greater than 80%

D) The Applicant's development schedule demonstrates that the proposed project will be able to begin construction, contingent upon the receipt of Rental Housing Trust Fund monies, with a certain time frame. (10 points)

10 points	The Applicant has stated that the proposed project will begin construction immediately upon the receipt of monies. (i.e., the project has site control, proper zoning, Negative Declaration, and all funding commitments).
7	The Applicant has stated that the proposed project will begin construction within 6 months upon the Commission approval. (i.e., the project still lacks one of the items listed above).
4	The Applicant has stated that the proposed project will begin construction within one year upon the Commission approval. (i.e., the project still lacks two or three of the items listed above).

0.

The Applicant is unable to determine the timeframe for construction. (i.e., the project still lacks zoning, site control, funding commitments, and Negative Declaration, or the majority of these items).

TOTAL POINTS

250

7/17/96

4 - 29

Project Evaluation

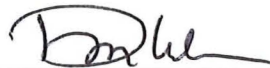
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM

Amendments to and compilation of chapter 15-311, Hawaii Administrative Rules, on the Summary Pages dated December 6, 2021, took place on December 7, 2021, following a public hearing held on December 3, 2021, after public notice was given in the Honolulu Star-Advertiser, The Garden Island, The Maui News, West Hawaii Today, and Hawaii Tribune-Herald newspapers on November 1, 2021.

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

LIEUTENANT GOVERNOR'S
OFFICE

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DONN MENDE
Chairperson
Hawaii Housing Finance and
Development Corporation

APPROVED:



DAVID Y. IGE
Governor
State of Hawaii

Date: 1/05/2022

APPROVED AS TO FORM:



Deputy Attorney General

Filed

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