NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

Rural Workforce Housing Fund Best Practices

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Part 1: Recipient Program Information

- Most monitoring findings result from not adequately reviewing and adhering to the following items:
  - Review and follow the RWHF Program Application Guidelines
  - Review and follow policy memos and/or statutory changes
    - Find at ***opportunity.Nebraska.gov>Programs>Housing>Rural Workforce Housing Fund***
    - Guidelines and memos are at the bottom of the page
    - Pay attention to effective dates
    - Feel free to ask us for clarification
  - Review and follow your approved Investment Plan
  - Amended Investment Plans must be approved by your agency and DED
  - Review your contract with DED
  - Be aware of deadlines

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Part 1: Recipient Program Information

- **Three 24-Month Deadlines:**
  - ***24-Months*** to engage in an Eligible Activity upon receipt of Act Funds.
  - ***24-Months*** to use the remainder of your Act Funds following your initial Eligible Activity.
  - ***24-Months*** for any project utilizing Act Funds to be reasonably ready for occupancy.
    - Be strategic regarding when your subrecipient contract is signed.
    - If you are entering into one contract to build 10 homes, can they ALL be reasonably ready in 24 months, or should you consider multiple contracts?
    - If you use RWHF funds for infrastructure, can you also have all homes in the subdivision reasonably ready in 24 months?
    - Remember, this is a housing unit program, not a subdivision or land program.

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Part 2: Loan Administration

- Files for each subrecipient Loan/Contract should include:
  - Loan/Contract Documents:
    - Documents Securing the Loan/Contract: Promissory Note, Deed of Trust, etc.
    - How are you ensuring OO homes are sold to homeOWNERS?
  - Loan/Contract Servicing Documents:
    - Copies of Permits or Authorization to Commence Construction
    - Ongoing Inspections and Photos – *Probably the most overlooked part of the project*
    - Board Approved Changes and Extensions
  - Loan/Contract Closing Documents:
    - Final Inspections, Certificate of Occupancy, and/or Final City Inspection
    - Loan Payoff, Fee Payments, and Interest Payment Information
    - Reconveyance of the Deed of Trust
    - Completed Photos
    - Listing or Sale Date, Cost to Construct, and/or Listing or Sale Price
    - Know by which standard your project will be monitored, but all information is beneficial and will keep you covered at monitoring.

Part 3: Project Specific Information

- You must follow your approved Investment Plan
- Qualified activities, such as DPA, must be used in conjunction with eligible activities
- Developer/Contractor applications and scoring must match your Investment Plan
- Board/Committee approval for all approved projects and contracts
- Obtain Developer/Contractor proof of State and Federal Registrations
- Agreements or Contracts for any Developer/Contractor receiving RWHF funds should include:
    - Project Information; what is the contract funding and where?
    - Amount of loan or fee to be paid
    - Terms of the loan or payment
    - How will it be paid? One lump sum or installments?
    - Timelines and benchmarks for payment
    - Did you communicate guidelines that must be followed per your IP and RWHF?
    - What are the consequences of going outside of the Investment Plan or guidelines and what are your enforcement procedures?
    - Conflict of Interest, Contractor Registration, and Work Eligibility
    - Any extensions including Board/Committee Approval

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Part 3: Project Specific Information

- Down Payment Assistance (DPA)
  - Affordability Gap
  - Appraisal Gap
  - Forgiveness Vs. Recapturing Funds
- Cost Limit Compliance

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Part 4: Compliance Documentation

- **§4.11 (2022) states:**
  "All provisions of this contract and the requirements of the Program will be made binding on any subrecipient or contractor of the Recipient, and the Recipient will, nonetheless, remain fully obligated under the provisions of this contract."
- Please read and review your contract if you have not done so.
- Monitoring standards are all devised from the RWHF Guidelines, Your Investment Plan, Your Contract with DED, and any new Policy Memos or Statutes.
- 2024 contract verbiage is different and more defined.

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Part 4: Compliance Documentation

- **§ 2.04 CONTRACTORS AND SUBRECIPIENTS (2024)**
  (§4.11 Applicability to Subrecipients and Contractors; Registration Requirements from 2022 Contract)
- *The Recipient may use other organizations, agencies, or other entities to carry out eligible activities for the Project. The Recipient must require the other entity to:*

  ***(a)** make reasonable assurances that it (subrecipient) will comply with the requirements of the RWHF program throughout the duration of its contractual obligations;*

  ***(b)** demonstrate it (subrecipient) has sufficient experience and the ability and financial capacity to undertake, comply, and manage the eligible activities it will perform; and*

  ***(c)** demonstrate its (subrecipient) familiarity with the requirements of other federal, state, or local housing programs that are being used to complete the Project and ensure that it will comply with all applicable requirements and regulations of such programs*

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Part 4: Compliance Documentation

- **§ 2.04 CONTRACTORS AND SUBRECIPIENTS** ***(§4.11 Applicability to Subrecipients and Contractors; Registration Requirements from 2022 Contract)***
- *The Recipient must review each contractor's registration with the following State entities, including those pertaining to types of business entities (e.g., person, partnership, foreign/domestic limited liability company, association, or foreign/domestic corporation):*

  (a) Nebraska Secretary of State. *The Recipient must verify that any contractor, except those who operate as an individual or a sole proprietor, of the Recipient must be authorized to transact business in the State of Nebraska. All contractors are expected to comply with all Nebraska Secretary of State and Department of Revenue registration requirements.*

  (b) Nebraska Department of Labor. *Construction contractors are expected to meet all applicable requirements of the Nebraska Contractor Registration Act and provide a current, valid certificate of registration to the Recipient for its records.*
- ***The Recipient must verify to the Department that all second-tier contracts and subrecipient agreements are initiated with an entity in good standing with the Nebraska Secretary of State and properly registered with the Nebraska Department of Labor, if applicable.***
- ***§4.11 "Construction contractors are expected to meet all applicable requirements of the Nebraska Contractor Registration Act and provide a current, valid certificate of registration to the Recipient for the Recipient's records***

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Part 4: Compliance Documentation

- **§4.10 (2022) & §2.03 (2024) CONFLICTS OF INTEREST**
  - *No officer, employee, or agent of the Recipient will participate in the selection or the award or administration of a contract supported by Act Funds if a conflict of interest, real or perceived, would be involved.*
  - ***"This stipulation must be included in all other contracts and subcontracts related to projects financed with Act Funds."***
    - An "Agent" of the recipient is anyone utilizing RWHF funds and/or is integrally involved in the planning, administration, or completion of a RWHF contract.
    - Board/Staff members with conflicts are unable to take part in RWHF discussions.
    - Units must be sold or rented on the open market or by the terms of the approved Investment Plan for income-based programs.
    - Contractors / Developers / Recipient Agents & Employees cannot buy OO homes.
    - Units cannot be specified for employee or short-term housing.
    - Please reach out with questions before it becomes an issue.
    - You can copy and paste contract verbiage but may want to clarify conflict of interest guidelines.

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Part 4: Compliance Documentation

- **§4.15 (2022) & §4.03 (2024) VERIFICATION OF WORK ELIGIBILITY STATUS FOR NEW EMPLOYEES**
  - The Recipient is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.
  - This contractual obligation to verify work eligibility status for new employees physically performing services within the State of Nebraska also ***applies to any and all subcontractors utilized by the Recipient*** in performing this contract. The Recipient will be responsible to the Department for ***enforcing this requirement with its subcontractors.***
  - ***A failure*** by the Recipient to adhere to these requirements violates the statutory requirements in Neb. Rev. Stat. § 4-114 and, as such, ***will be deemed a substantial breach of this contract*** which could result in the Department declaring the Recipient to be in default on the contract.

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Part 5: Financial Management

- **§4.03 (2022) & §2.02 (2024) ACCOUNTING FOR FUNDS BY THE RECIPIENT**
  "A separate bank account for the Act Funds, specific to this award only, is required, and the Act Funds must be accounted for separately in the books and records of the Recipient in such a manner as to allow funds tracing and a status review of the Act Funds at all times."
  - RWHF funds kept in a dedicated account?
  - Were Act and Match Funds accounted for separately using GAAP?
  - Did the project include any other State or Federal Funding?
  - Were funds protected, loaned, and repaid according to your IP and contract agreements?
  - Is interest accounted for by Act and Match?
  - Act funds cannot be used for administrative expenses.

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Part 6: Reporting requirements

- **§1.04 (2022) & § 1.05 (2024) Annual Review**

  The Recipient must have an annual review of all of its financial records conducted by an independent certified public accountant at the Recipient's cost.

- **§1.05 (2022) & § 1.06 (2024) Annual Reports.**

  To assist the Department in obtaining information on the outcome/impact of grant funded projects, the Recipient must prepare and submit to the Department (in a form and manner acceptable to the Department) annual status reports on projects financed through the Recipient's local/regional Investment fund and, if the Recipient ceases administration of an investment fund, a final status report.

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