



MEMORANDUM NO. 23-04-03

TO: SDHDA Board of Commissioners
FROM: Chas Olson, Interim Executive Director
SUBJECT: Transmittal of May 3, 2023, SDHDA Board Meeting Materials
DATE: April 28, 2023

The Board Meeting will be a telephonic meeting via Skype and will take place on Tuesday, May 2, 2023, at 2:00 p.m. CDT.

Executive Director's Report

Mountain Plains Housing Summit is scheduled for May 8-10th in Sioux Falls. There are 70 attendees registered.

The Annual Housing Conference is scheduled for June 26-28th in Pierre. Registration and an agenda will be sent out soon.

The following is a summary of the Board Resolutions. If you have any questions with regards to the agenda items, please give me a call at (605) 773-4132.

HIFP Administrative Rules Update

Upon approval and release of the HIFP Allocation Plan and Administrative Rules approved at the March 14, 2023 board meeting, SDHDA received feedback from several stakeholders including the Governor's Office of Economic Development, Legislative Research Council (LRC), private and public entities, and legislators. The feedback received included both comments regarding the form and content of the allocation plan and Administrative Rules. Regarding form, it's been determined that we are not allowed to have a separate plan, but that all of the provisions required must be set forth in the Administrative Rules. As such, all of the program requirements are outlined in the revised Administrative Rules.

Below I've summarized the substantive changes we're proposing in hopes that the summary will save you all time from comparing and contrasting with the first set of draft rules and draft allocation plan.

Several of the concerns noted have been addressed by omission rather than within the rules. The requirements omitted from the rules are summarized below.

- The rules don't state a maximum funding amount which was previously \$2 million per project.
- The rules don't state a limit on developer profit or consultant fees, which were previously 10% and 2% respectively.
- The environmental review requirements have been removed.



The following is a list of the rules which have been added to or changed:

Rule 2 – Eligibility: For-profit entities have been removed as eligible applicants. We have included a paragraph under Rule 2 which states that an applicant may collaborate or contract with a for-profit entity to develop a housing infrastructure project and serve as a guarantor for any housing infrastructure program funding.

Review by an LRC staffer indicated a concern that SDHDA may not have the authority to prohibit for-profit entities from applying. However, our position is that SDCL 11-15-6 gives SDHDA the authority to promulgate rules specifying the criteria for the application, approval and disbursement of loans and grants. As part of its authority to set the criteria, SDHDA is restricting for-profit entities from submitting applications for housing infrastructure financing.

Rule 3 – Ineligible projects: Projects which have already started construction are not eligible unless they began construction after February 1, 2023, which is when Senate Bill 41 was signed into law. Projects applying for ARPA funding which have incurred costs as of March 3, 2021 and forward are also eligible.

Rule 5 – Consideration of applications: Previously the rules stated SDHDA would hold two application cycles per year. Rule 5 states complete applications will be considered in the order in which they are submitted to the authority, making it an open application cycle.

Rule 6 – Criteria: In order to receive grant funding, the impact of the grant on reduced purchase prices to homebuyers and reduced rental costs to tenants will be required.

Rule 16 – Modification of authority financing terms: Flexibility has been added to allow the Executive Director to increase the amount of HIFP funding by up to 5% without Board action if the increase is warranted due to increased costs for the public infrastructure project. Any increase exceeding 5% would require Board action.

Rule 17 – Maturity and interest rate: The terms have been changed from a 15-year amortization with a 5-year balloon to no more than a 25-year amortization with no more than a 10-year balloon. The maximum interest rate has been changed from 5% to the applicable federal rate published by the Internal Revenue Service.

Rule 19 – Payment and performance bonding – Letter of credit: Flexibility has been added to allow applicants to provide an irrevocable letter of credit in the amount of the HIFP funding with SDHDA as the beneficiary in lieu of a payment and performance bond.

Rule 20 – Disbursements: Originally SDHDA was going to retain 1/3 of the HIFP loan/grant until after the project is complete and lien waivers have been received for all work performed. The retainage amount has been decreased to 10% of the HIFP loan/grant amount.

Rule 22 – Waiver: The original draft plan had several sections mentioning the ability of the applicant to submit waiver requests for certain requirements. The new draft administrative rule #22 issues a blanket statement regarding waiver requests for one of more of the requirements in the administrative rules.

Old Business

Tab E. This resolution will approve a revised draft of the Housing Infrastructure Financing Program Administrative Rules, authorize release for public comment, and establish a public hearing; and to withdraw the draft Housing Infrastructure Financing Program Allocation Plan.

New Business

None.

Date of Next Meeting

The date for the next meeting is tentatively scheduled for June 13, 2023, at 11:00 a.m. CDT. We will likely need to hold another meeting in May and Sheila will be in contact with you.

CO/so