

## **POLICY GUIDE**

The DCA Office of Affordable Housing Development Policy Guide incorporates the most frequently used policies pertaining to Resource Bank funding, but is not intended to be all-inclusive. The following policies represent those used regularly in the normal and customary conduct of Resource Bank business:

### **A. APPLICATION-RELATED DEADLINES**

It is DCA's policy to strictly enforce deadlines related to Resource Bank application and underwriting activities, e.g., application deadlines and documentation submission deadlines. DCA will not process applications submitted after the established deadlines.

### **B. BUILDER'S COSTS LIMITATION**

Builder's Overhead, General Requirements and Builder's Profit are limited to a percentage of the total construction contract minus Builder's Overhead, General Requirements and Builder's Profit as follows: Builder's Overhead is limited to two percent (2%), General Requirements is limited to six percent (6%), and Builder's Profit is limited to six percent (6%).

### **C. CARRYOVER ALLOCATIONS**

No project is allowed to receive more than one Carryover Allocation of Low-Income Housing Tax Credits. If the owner determines that more credit is necessary to make the project financially feasible, the owner may only apply for additional credits in the year in which the project is placed in service and the owner applies for the IRS Form(s) 8609.

### **D. CARRYOVER APPLICABLE CREDIT PERCENTAGE ELECTION**

Owners choosing to lock in the applicable credit percentage at the time of carryover will receive the applicable credit percentage in effect for the month in which the Carryover is issued.

### **E. COMPLIANCE MONITORING FEES FOR MULTIPLE PROGRAMS**

When DCA is required to monitor projects for compliance with tenant income and/or rent limitations of more than one program, the applicable monitoring fees for each program will be charged.

### **F. CONSTRUCTION CONTINGENCY**

The construction contingency amount shall equal 2% of the total construction amount, net of builder's overhead, profit, and general requirements, for a project involving new construction. The construction contingency amount shall be no less than 5%, and no greater than 7% of the total construction amount, net of builder's overhead, profit, and general requirements, for a project involving rehabilitation of existing buildings. DCA

reserves the right to adjust development budgets in this regard for the purposes of its underwriting in its sole and absolute discretion.

#### **G. COOPERATIVE AND SINGLE FAMILY HOUSING NOT PERMITTED**

DCA will not accept applications for leasing cooperatives, limited-equity cooperatives, or rental housing where the ownership plans to convert the property to cooperative ownership following the fifteen (15) year compliance period. DCA also will not accept applications for projects consisting of detached single family houses.

#### **H. CONSTRUCTION LOANS**

An ample number of lenders exist in Georgia who are willing and able to provide construction financing with competitive interest rates, terms and conditions. DCA will not offer construction loans using Resource Bank financing. Instead, Resource Bank loans will be a permanent take-out of some portion or all of a private construction loan. DCA will continue to monitor construction for acceptable progress, quality of construction loan, and conformance with the terms of the loan commitment. DCA will close the permanent loan and take out all or some portion of the construction loan upon achievement of a combination of certificate of occupancy, lease-up stabilization on terms set forth in the loan commitment, and compliance with federal and state laws and regulations.

#### **I. DEBT COVERAGE RATIO**

Debt service coverage ratio for all debt, after funding of all required reserves, must be between 1.10 and 1.30. Tax Credit and/or HOME loan amount may be reduced if DCA's underwriting shows a debt coverage ratio greater than 1.30; the resulting gap is reasonably assumed to be funded with conventional market-rate debt.

#### **J. DEFERRED DEVELOPER FEE**

To determine the amount of Low-Income Housing Tax Credit necessary to make a project financially feasible, DCA will not use the deferred developer's fee in its credit calculation, unless scoring points were awarded during the Formal Application review for the deferment of the developer's fee. Any owner's equity shown in the Formal Application, excluding the general partner's contribution required by the Limited Partnership Agreement, will be used in the calculation of Credit. This policy will apply at reservation, carryover, and final allocation.

#### **K. DENIAL FROM PARTICIPATION**

DCA will deny an applicant (the ownership entity, its principals, and/or development team members) from participating in any DCA program during an application cycle if the applicant: exhibits a continual pattern of noncompliance or demonstrates an inability or unwillingness to resolve noncompliance matters in a timely manner as further described in the Combined Qualified Allocation Plan's (Plan) threshold requirements, is in default

on an obligation under a DCA-administered program, and or is listed on any federal, state or local government's Debarred List or HUD's Limited Denial of Participation List.

#### **L. DEVELOPER'S FEE LIMITATIONS**

DCA restricts the developer's fee to fifteen percent (15%) of total development cost less the cost of land, the developer's fee, builder's profit (if there is an identity of interest between the owner and the general contractor). The consultant's fee is considered part of the developer's fee for purposes of calculating the maximum developer's fee if the consultant is acting in the capacity of developer or construction manager.

#### **M. ENVIRONMENTAL IMPACT**

On-site and off-site specific environmental concerns identified in an environmental audit are to be considered in the context of the criticality of the housing to be provided. The public benefits of the housing are to be weighed against the costs to mitigate the hazard, the potential liability to the health of the residents, and the financial and public policy implications to DCA. The project will not be funded until all environmental matters are resolved in a manner satisfactory to DCA, in its sole and absolute discretion.

#### **N. EQUITY REQUIREMENT**

If the Borrower is an entity other than a tax-exempt corporation under Section 501(c)(3) or (c)(4) of the Internal Revenue Code (IRC), the Borrower must contribute at least ten percent (10%) of the total project costs in the form of equity. The equity requirement may be satisfied by one or more of the following:

1. Cash equity contributions;
2. Grants or unsecured forgiveness loans;
3. Tax credit syndication proceeds;
4. Reinvested Developer's Fee (only if reinvested as equity); and,
5. Foregone Developer's Fee (excess of maximum allowable over total amount requested).

#### **O. FINAL ALLOCATION PLACED IN SERVICE REQUIREMENT**

All buildings in a project must be placed-in-service before the owner may apply for a final allocation of tax credits. Therefore, IRS Form(s) 8609 for a property will be issued only once and not as different buildings are placed-in-service.

#### **P. GUIDELINES FOR ANNUAL OPERATION EXPENSES**

Annual operating expenses, excluding reserve contributions, must be no less than \$2,000 per unit for rural locations and no less than \$2,500 per unit for urban locations.

## **Q. LOAN MODIFICATIONS**

Before DCA will consider any loan modification request, the loan (and any other loan or tax credit projects Borrower may have with DCA) must be current on all payments and in compliance with all funding terms. Once DCA receives a complete package of information needed to process the request, DCA will have up to sixty (60) days to forward a written response to the Borrower. All loan modifications, including subordination agreements, will be processed with DCA loan documents.

## **R. LOAN UNDERWRITING CONSIDERATIONS**

When underwriting a loan request for Resource Bank financing, certain considerations should be understood and incorporated into the process of sizing the loan and recommending the loan terms.

1. Rents must be affordable at initial lease-up and must remain affordable over the term of the loan. However, rents should not be required to be affordable to less than fifty percent (50%) of the actual Area Median Income for that location, adjusted for the number of bedrooms.
2. Project cash flow must be sufficient to ensure financial viability over the term of the loan and provide for adequate reserves which will be maintained for the life of the loan.
3. Use the lease amount of subsidized financing necessary to meet considerations 1 and 2. Utilize private debt when it can be serviced, maximize the use of other public financing sources, and use the shortest term needed to repay the DCA loan.
4. Provide a fair and reasonable return on investment for the Owner/Developer while ensuring that windfall profits are not received, and the proceeds resulting from conservative underwriting are used for the benefit of the tenants.

## **S. LOCAL GOVERNMENT NOTIFICATION**

DCA will notify the chief elected official of the local jurisdiction where the proposed project is located.

## **T. MARKET FEASIBILITY AND APPRAISAL**

DCA will commission a market study and appraisal by a qualified firm selected through a competitive process. The study and appraisal will be funded by the applicant. The DCA market study and appraisal will govern. DCA recommends that each applicant undertake a sufficiently rigorous market analysis to satisfy their own concerns about market viability prior to submitting a Formal Application. The DCA market study and appraisal will be assignable to other lenders.

## **U. NO ADVERSE IMPACT ON EXISTING ASSISTED HOUSING**

No awards will be made to a proposed project that is judged by DCA, in its sole and absolute discretion, to have a potentially adverse impact on existing assisted rental housing property. Assisted rental housing properties include Tax Credit, FmHA/Rural Development (RD) financed properties, HUD 202 or 808 financed properties as appropriate, DCA or locally financed HOME properties, Georgia Housing Trust Fund for the Homeless financed properties, and HUD 221(d)(3) and 221(d)(4) properties. DCA does not regard public housing as competitive with programs administered through the Plan; therefore, this policy does not apply to public housing properties. The DCA-commissioned market study will assess the possibility of adverse impact as one criterion used in judging the market viability of the proposed project.

## **V. OPEN RECORDS REQUESTS**

All applications are subject to disclosure under the rules governing the Georgia Open Records Act. Applicants must agree in the Application Certification to hold harmless the agency for all loss associated with disclosure.

Requests for copies of documentation made subject to the Georgia Open Records Act (GORA) should be made in writing to ensure accuracy and proper processing. DCA will provide a timely acknowledgement of the request, and will estimate of the cost involved in responding to the request. DCA will either schedule a time when the requester can visit DCA and review the documents, or will retrieve, compile, and copy the documents for the requester, assuming the matter requested is not covered by one of the exemptions of GORA. DCA will treat any written request to receive copies or review agency documents as a request made under the GORA, whether or not this act is cited in the letter. DCA will contact the requester within three (3) business days of receipt of the request, and provide a time for responding to the specific request. GORA allows DCA to charge a processing fee for the services.

## **W. OPERATING RESERVES**

All developments financed in whole or in part with Resource Bank loans must budget for and fund an Operating Reserve in an amount no less than four (4) times the sum of the monthly debt service payments to all lenders. The funding of the Operating Reserve is a conversion requirement for the permanent loan. If drawn upon, no further distribution to owners will be authorized until such time as the reserve is restored to full funding.

The Operating Reserve must be held by an FDIC-insured Lender or by DCA, and is to remain in place for the full term of the DCA loan. All withdrawals from the Operating Reserve must be approved in advance by DCA. Interest earned on the Operating Reserve account shall be added to the account as an additional contribution and will not be credited against the required monthly cash contributions.

## **X. OVER INCOME TENANT RESTRICTION**

IRC Section 42 provides that a tenant's income may increase during tenancy to exceed one hundred and forty percent (140%) of the allowable household income. DCA requires that for 1998 projects, the lease for tenants who exceed this limit for two (2) successive years may not be renewed for the third year. The penalty for failure to adhere to this DCA policy may be forfeiture of the right to participate in all DCA programs in one or more future years depending upon the severity and nature of the particular circumstances.

## **Y. RELOCATION/DISPLACEMENT OF TENANTS**

### **(HOME)**

A Formal Application for financing which requires relocation of existing resident tenants due to rehabilitation work will be accepted only if a relocation plan is in place, and the relocation budget is sufficient, in the opinion of DCA, to cover all costs imposed under the Uniform Relocation Act and any other applicable laws. Funding sources other than HOME must be used to cover relocation costs.

### **(TAX CREDITS AND TAX EXEMPT BOND PROJECTS)**

DCA policy is not to permanently displace tenants, if at all possible. If applicant anticipates displacing tenants, the Applicant must include in the Formal Application a detailed Displacement Plan, which sets forth the specifics of the displacement, including a projected budget, and statement about what efforts are planned by the Applicant to mitigate the impact of any displacement. Any displacement of tenants will be subject to DCA's prior written approval.

## **Z. RENT DISTRIBUTION ACROSS UNIT SIZES**

Projects with multi-tiered rent structure, e.g., HOME-funded projects with high HOME rents and low HOME rents, must distribute the rents equally across unit sizes. These units need not be fixed (e.g., specific 2-bedroom units always renting at low HOME rents), but may float in the same way high HOME rent and low HOME rent units may float within a project. The sole exception to this policy is for projects with rents affordable to households earning thirty percent (30%) or less of area median income.

For example, a HOME-funded project with ten (10) 1-bedroom units and ten (10) 2-bedroom units must have at least two (2) 1-bedroom units and two (2) 2-bedroom units at low HOME rents. These units need not be fixed, e.g., unit numbers 2, 6, 10 and 18, but may float as long the minimum requirement of two (2) 1-bedroom units at low HOME rents is met. The project could not have four (4) 1-bedroom units at low HOME rents, as it would be a violation of this policy.

## **AA. REPLACEMENT RESERVES**

A Replacement Reserve is required for all developments financed with Resource Bank loans. Contributions must be made to the Reserve Account at least monthly, starting no

later than the first month after permanent loan closing and must be funded for the term of the loan. The following minimum contributions must be used:

Rehabilitation	\$25.00 per unit per month (\$300 per year)
New Construction	\$16.70 per unit per month (\$200 per year)

Replacement Reserve funds may be used only for capital improvements and system replacements, and must not be used for general maintenance expenses. DCA must approve all withdrawals from the Replacement Reserve account. The Replacement Reserve account must be maintained in a FDIC-insured financial institution or by DCA. Interest earned on the Replacement Reserve account shall be added to the account as an additional contribution and will not be credited against the required monthly cash contributions.

#### **BB. SECTION 8 RENTAL ASSISTANCE CERTIFICATE AND VOUCHERS**

No owner may deny a unit to applicants possessing a Section 8 Rental Assistance Certificate or Voucher unless that applicant fails to meet the minimum requirements for all lease holders. Federal Statutes prohibit discrimination against Section 8 Certificate and Voucher holders. DCA will closely monitor whether the tenant application process is structured to achieve such discrimination or whether any actions are taken to discourage Section 8 Rental Assistance Certificate or Voucher holders from applying.

#### **CC. SOFT COST CONTINGENCY**

“Soft cost” or “total project” contingency, over and above the allowed construction contingency, will not be permitted as a budgeted line item.

#### **DD. SUBORDINATION**

The decision whether to subordinate DCA's regulatory agreement and/or lien position to a private lender's security deed will be made only after DCA considers the individual circumstances of each loan. Factors that will be considered include but are not limited to: the senior loan amount, DCA's loan amount, debt coverage ratio, private lender's interest rates, loan maturity, type of loan, etc. Subordination to a public entity's loan is not acceptable.

#### **EE. TAX CREDIT PLACED-IN-SERVICE DEADLINE**

All projects receiving tax credits must be placed-in-service by the date shown on the original Carryover Allocation document. Therefore, applicants have approximately a two-year (2) period to place all buildings in service. Incidental costs of no more than \$3,000 per unit will be allowed in the year in which the owner first claims the credit (this may be the year following the year in which the buildings are placed-in-service). However, DCA will not accept an application for the final allocation of credit until all costs have been paid.

## **FF. UNIT DISTRIBUTION WITH MULTIPLE RESOURCE BANK FUNDING**

Projects applying for both HOME and Low-Income Housing Tax Credit funding must set aside the same units to be funded by HOME and Tax Credit resources. Tax Credit funding cannot be used for one set of units, and HOME funds for a different set of units in the same project.

## **GG. UTILITY ALLOWANCE**

If a building receives USDA - Rural Development (USDA-RD) assistance, or any tenant in the building receives USDA-RD assistance, the low income units must use the applicable USDA-RD utility allowance. If HUD reviews rents and utility allowances on a building, the low income units must use the applicable HUD utility allowance. **If a building is financed in whole or in part with HOME funds, the low income units must use the applicable utility allowance published by the state or local agency which administers the Section 8 program in that jurisdiction.** In all other cases, the owner is required to follow the applicable Public Housing Authority utility allowance, DCA utility allowances, or obtain a letter from the utility company stating rates, which must be based upon 1.5 persons per bedroom. Independent utility consultant projections are not acceptable.