



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Sustainable Housing and Communities
WASHINGTON, DC 20410-0050

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| Program Policy Guidance OSHC-2013-03 |
| Date: March 5, 2013 |
| Subject: Real Property Acquisition; Housing Affordability and Other Information |
| Status: Current |
| Applicability: All OSHC Regional Planning and Community Challenge Grantees |
| Related Guidance: PPG 2011-08 Real Property Acquisition Requirements PPG-2012-09 Requirements for Housing Trust Funds and Other Funds Related to Real Property Acquisition |
| Comments: |

Dear Sustainable Communities Regional or Community Challenge Grantee:

This guidance supplements PPG 2011-08, Real Property Acquisition Requirements, and PPG-2012-09, Requirements for Housing Trust Funds and Other Funds Related to Real Property Acquisition, by providing additional information regarding housing affordability requirements and other matters related to property acquisition. The policies set forth below will apply to both grant funds and matched or leveraged funds (i.e., "program funds").

Deed Restriction Requirements

A deed placed on property acquired with program funds on which the development of residential rental units is contemplated shall include the following elements:

- **Income Restrictions:** At least 20 percent of the units shall be reserved for households with incomes of 50 percent or less than the area median income (AMI) OR at least 40 percent of the units shall be reserved for households with incomes of 60 percent or less than the AMI.
- **Period of Affordability:** Shall be no shorter than 30 years.

Grantees contemplating the use of program funds to acquire properties for the use of for-sale residential units should contact their GTR to discuss applicable requirements.

Grantees that intend to acquire property using program funds to be developed as a use other than housing, will need to place a deed restriction on the property committing to a minimum use period of at least five (5) years. Subsequent use of the property should also be consistent with program objectives.

A grantee may request a waiver for the above requirements from its Grantee Technical Representative (GTR). The GTR may grant a waiver if the GTR finds there is a reasonable basis to grant such a waiver that is consistent with program objectives.

Pre-Development Costs

The use of program funds for pre-development expenses is an eligible activity. Program funds may be used for pre-development costs for future developments on a property that will ultimately be acquired with either program or non-program funds. If the property will be acquired with non-program funds and program funds will only be used for pre-development costs, a grantee is not required to place a deed restriction on the target property. However, the use of program funds for pre-development costs does require a limited 24 CFR Part 50 environmental review for the target property. The environmental reviews for acquisition activities will consider all related components of a project and not just the acquisition (see Program Policy Guidance 2013-03 on Environmental Clearance.) Grantees should contact their GTRs for further information on the environmental review process in connection with pre-development activities.

Examples of allowable pre-development or pre-construction expenses include, but are not limited to the following:

- Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups.
- Legal fees
- Property Surveys
- Relocation expenses
- Environmental reviews

Relocation

The relocation requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) covers any person who moves permanently from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving HUD assistance.

Information and resources pertaining to real property acquisition and relocation for HUD-funded programs and projects are available on HUD's Real Estate Acquisition and Relocation website at <http://www.hud.gov/relocation>. The website contains applicable laws and regulations, policy and guidance, publications, training resources, and a listing of HUD contacts to answer questions or otherwise provide assistance.

Clarification on Eligible Use of Funds

Program funds will not be allowed for any uses outside of predevelopment costs, a purchase option or acquisition. Grantees will not be allowed to escrow program funds.

Grant funds are considered expended at the point at which the Housing Fund strategy has been approved by the GTR and the fund established. Every effort should be made to complete acquisition(s) of property prior to the end of the period of performance under the OSHC grant.