

REGIONAL AFFORDABLE HOUSING DEVELOPMENT PLANNING PROGRAM GUIDELINES

Reforms to the Fair Housing Act signed into law by Governor Corzine on July 17, 2008 provide regional planning entities with new opportunities to identify and coordinate affordable housing based on regional planning considerations (N.J.S.A. 52:27D-329.9). As part of these reforms, the statute provides regional planning entities with the ability to permit municipalities within their jurisdiction (New Jersey Meadowlands Commission, Pinelands Commission, Fort Monmouth Economic Revitalization Planning Authority, Highlands Water Protection and Planning Council and the Casino Reinvestment Development Authority in conjunction with the Atlantic County Planning Board (Atlantic County)) to transfer up to 50 percent of their affordable housing obligations to other municipalities within their jurisdiction to further sound planning. Under the statute, affordable housing units created under this program may not be located in Urban Aid municipalities and Abbott municipalities.

The Council on Affordable Housing (Council) and the regional planning entities have developed guidelines to assist municipalities located in these areas that wish to participate in such a regional program. The provisions of this program are as follows:

General Provisions

- A municipality within the jurisdiction of a regional planning entity pursuant to N.J.S.A. 52:27D-329.9 (18a) that intends to enter into a Regional Affordable Housing Development Planning Program (RAHDPP) as a sending or receiving municipality notifies the applicable regional planning entity and the Council of its interest and of any proposed conditions or requirements for its participation.
- If the applicable regional planning entity establishes a priority system among sending or receiving municipalities that wish to participate in the program, it will maintain current lists of municipalities within its jurisdiction that have notified it of their interest to enter into RAHDPPs as sending or receiving municipalities. The Council will maintain current lists of municipalities in regional planning entities that have not established such priority and will post such lists on its website for all regional planning entities.
- The minimum per unit transfer amount for each housing region will be the following based upon the housing region to which the housing unit is being transferred:
Housing Region Amount Per Unit
1 \$80,000 (Highlands Region and Meadowlands Region)
2 \$67,000 (Highlands Region)
3 \$67,000 (Highlands Region)
4 \$70,000 (Fort Monmouth Region)
5 \$71,000 (Pinelands Region)
6 \$80,000 (Pinelands Region and Atlantic County/CRDA)

Submission Guidelines

- The sending municipality notifies the applicable regional planning entity of its interest to enter into a RAHDPP prior to submission of its plan to the Council. Where the

applicable regional planning entity has established a priority system, that priority system will be binding regarding limitations on the number of transferred units.

- Any petition proposing a RAHDPP by the sending municipality shall include a statement of intent from the receiving municipality in the form of a duly adopted resolution. Where the applicable regional planning entity has established a priority system, a sending municipality that has received priority may submit a statement of intent from the receiving municipality no later than 90 days from the date the sending municipality's petition is submitted to the Council.
- A draft contractual agreement should be submitted to the Council and the applicable regional planning entity by the sending municipality at the time of petition and should include the receiving municipality, the number of units to be transferred, the type of housing activity anticipated by the receiving municipality and the amount of compensation to be paid to the receiving municipality in return for such a transfer. Where the applicable regional planning entity has established a priority system, a sending municipality that has received priority may submit a draft contractual agreement no later than 90 days from the date the sending municipality's petition is submitted to the Council.
- The receiving municipality's completed RAHDPP Project Plan should be submitted to the Council and the applicable regional planning entity by the receiving municipality no later than 90 days from the date the sending municipality's petition is submitted to the Council. Where the applicable regional planning entity has established a priority system, a receiving municipality may receive a 90 day extension to submit the Project Plan.

Terms

- All draft RAHDPP contracts should specify payment schedules that conform to a construction or rehabilitation schedule, relate to the receiving municipality's ability to deliver housing units in a timely fashion, and take place within the period of substantive certification of the sending municipality.
- At least 50 percent of all units accepted by a receiving municipality should be affordable to low income households. In the case of RAHDPPs that include a scattered site rehabilitation program, the receiving municipality should ensure, as best as practicable, that 50 percent of the rehabilitated units are occupied by low income households.
- All units created or rehabilitated with RAHDPP funds shall comply with N.J.A.C. 5:97-6, N.J.A.C. 5:97-9 and UHAC, as applicable.
- The sending municipality will receive credit toward its fair share obligation for units provided pursuant to a RAHDPP. No receiving municipality will receive credit toward its fair share obligation for units provided pursuant to a RAHDPP.
- No municipality will receive credit for any units provided for in the receiving municipality in excess of the units transferred pursuant to the RAHDPP.
- The receiving municipality will receive the benefit of any bonuses permitted under the Council's rules for units created with RAHDPP funds.
- Any requests for waivers to the provisions of the RAHDPP shall be submitted jointly to the Council and the applicable regional planning entity for review.

Sending municipality

- Where the applicable regional planning entity has established a priority system, that priority system will be binding regarding limitations on the number of units transferred from a sending municipality.
- Units may be transferred through RAHDPPs as follows:
 1. The RAHDPP maximum for the prior round obligation will be based on the following formula:
RAHDPP Maximum = 50 percent (Prior Round Obligation + Rehabilitation Share – Prior Cycle Credits – Rehabilitation Credits – Impact of 20 percent cap – Impact of the 1,000-unit limitation)
 2. The RAHDPP maximum for the growth share obligation will be based on the following formula:
RAHDPP Maximum = 50 percent (Growth Share Obligation)
- The formulas above will not apply to affordable housing units directly attributable to development by the New Jersey Sports and Exposition Authority within the New Jersey Meadowlands District.
- The number of age-restricted units that may be transferred will be limited according to the sending municipality’s age-restricted maximum as follows:
 1. Age-restricted units may be transferred through the RAHDPP as follows:
 1. The number of age-restricted units that may be transferred through one or more RAHDPPs addressing a prior round obligation shall be based on the following formula:
Age-Restricted Maximum = 25 percent (Prior Round Obligation + Rehabilitation Share - Prior Cycle Credits – Rehabilitation Credits - Impact of 20 percent cap – Impact of the 1,000-unit limitation) – (Any Age-restricted Units Addressing the Prior Round Obligation within the Sending Municipality)
 2. The number of age-restricted units that may be transferred through one or more RAHDPPs addressing a growth share obligation shall be based on the following formula:
Age-Restricted Maximum = 25 percent (Growth Share Obligation) - (Any Age-restricted Units)
- Any RCAs previously approved by the Council shall be included in the RAHDPP maximum formulas above.
- No funds should be transferred by the sending municipality until the Council has reviewed and signed the escrow agreement required by N.J.A.C. 5:97-7.5(g).

Receiving municipality

- A potential receiving municipality may not receive any RAHDPPs if they are eligible to receive aid under the “Special Municipal Aid Act,” P.L.1987, c.75 (C.52:27D-118.24 et seq.), or are coextensive with a school district which qualified for designation as a “special needs district” pursuant to the “Quality Education Act of 1990,” P.L.1990, c.52 (C.18A:7D-1 et seq.), or at any time in the last 10 years has been qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and fall within the jurisdiction of any regional planning entities specified in N.J.S.A. 52:27D-329.9 (18a).

- A receiving municipality may use funds transferred through a RAHDPP for any affordable housing activity including, but not limited to, the mechanisms set forth in N.J.A.C. 5:97-6. Rental obligations required by N.J.A.C. 5:97-3.4 or portions thereof that are transferred to a receiving municipality via a RAHDPP must either create new rental housing units or meet the criteria for reconstruction.
- If a receiving municipality intends to accept RAHDPP units in excess of its rehabilitation share for a scattered site rehabilitation program, it should demonstrate a need for rehabilitation by documenting an existing waiting list of eligible applicants or conducting an exterior housing survey in a form provided by the Council.
- The use of all funds should be specified in a RAHDPP Project Plan and will be subject to Council approval. If there are funds in excess of the amount necessary to implement the RAHDPP, the balance will be used within the receiving municipality to produce additional low- and moderate-income housing units or for capital or other expenditures benefiting low- and moderate-income households.
- A maximum of \$6,000 per unit transferred may be expended on administration in the receiving municipality. These funds shall only be spent on expenses that are directly related to the administration of the RAHDPP program and units. If additional units above the number transferred are created or rehabilitated, the receiving municipality may submit a request to the Council to expend additional funds on administration.
- For RAHDPP scattered site rehabilitation programs, the cumulative cost of major systems should be no less than 50 percent of the hard costs for the unit.
- RAHDPP funds should be deposited into a separate interest bearing escrow account for each RAHDPP.
- A receiving municipality must enter into an escrow agreement with the Council and the bank that holds the escrow account, whereby the Council has access to the escrow account.
- A receiving municipality will create the position of RAHDPP Administrator pursuant to N.J.A.C. 5:96-19 and, subject to the Council's approval, appoint a municipal employee to serve in that position.

Review and approval by regional planning entity

- A receiving site under a RAHDPP must be consistent with the underlying regional plan adopted by the applicable regional planning entity. The regional planning entity in which the sending and receiving municipality is located will review and provide the Council with a recommendation regarding whether or not the RAHDPP is proposed in an area with convenient access to infrastructure, employment opportunities, and public transportation and is consistent with the regional plan, or in a site that is otherwise reasonable for such purposes based on the applicable regional master plan as determined by the regional planning entity, prior to the RAHDPP receiving the Council's approval.
- A completed RAHDPP Project Plan application, and the master plans and zoning ordinances of the sending and receiving municipalities, should be forwarded to the regional planning entity in which the sending and receiving municipality is located for review and recommendation. The regional planning entity will make a determination as to whether or not the RAHDPP is proposed in an area with convenient access to infrastructure, employment opportunities, and public transportation, or in a site that is

otherwise reasonable for such purposes based on the applicable regional master plan as determined by the regional planning entity, and will review the project for consistency with the applicable regional master plan.

- All determinations of a regional planning entity will be accompanied by a report detailing the reasons for the determination and may be approved by resolution.
- The regional planning entity or agency will file its review and recommendation with the Council within 60 days of receipt of a complete application for review. For good cause shown, a 15-day extension may be granted.

Review by HMFA (the Agency)

- The Agency will, upon request of the Council, review and provide the Council with a recommendation regarding the financial feasibility of the RAHDPP Project Plan prior to the RAHDPP receiving the Council's approval.
- The receiving municipality will submit a completed RAHDPP Project Plan application to the Agency delineating the manner in which the receiving municipality shall create or rehabilitate low- and moderate-income housing in response to the RAHDPP. The RAHDPP Project Plan will be in such a form and contain such information as the Council or the Agency may require, and will include, but not be limited to the names of the project(s) and/or program(s) and the number of affordable units funded by the RAHDPP, development costs, additional sources of funding for the projects or programs, applicability to the Council and UHAC rules and the agent responsible for administering the affordable units.

Final review and approval by the Council

- A RAHDPP will be approved upon a finding by the Council that:
 1. The project is consistent with the applicable regional plan as determined by the regional planning entity, and provides a realistic opportunity for low- and moderate-income housing in an area with convenient access to infrastructure, employment opportunities, and public transportation, or in a site that is otherwise reasonable for such purposes based on the applicable regional master plan as determined by the regional planning entity;
 2. The receiving municipality's project is a financially feasible means of achieving the purposes of the RAHDPP, as determined by the Agency.
- The Council will only approve a RAHDPP if the applicable regional planning entity recommends the RAHDPP for approval, including consistency with any priority system established by the applicable regional planning entity.
- The Council will approve all RAHDPPs by resolution. The Council will set forth in its resolution a schedule for the contributions to be appropriated annually by the sending municipality.
- A RAHDPP that has been approved by the Council may be executed once the Council grants substantive certification to the sending municipality.