

# **ORIENTATION FOR HHAC BOARD MEMBERS**

## ***Introduction***

The Office of Temporary and Disability Assistance administers the Homeless Housing and Assistance Program (HHAP). HHAP provides capital grants and loans to not-for-profit corporations, charitable and religious organizations and municipalities to acquire, construct or rehabilitate housing for persons who are homeless or at risk of homelessness, and are unable to secure adequate housing without special assistance.

Created in 1983 to address homeless issues in various parts of the state, the program funds a broad range of housing options for the very diverse homeless populations in the state's urban, suburban and rural areas. Program funds are awarded through an annual competitive Request for Proposals process. Applicants and awardees generally have experience in either housing development or management or in the provision of social services.

HHAP was the first program in the country to target substantial financial resources for the development of homeless housing, and remains one of the few programs nationally to focus not only on the provision of housing itself, but also on the delivery of appropriate support services to tenants. Since the inception of the program, over \$529 million has been awarded to 563 projects throughout New York State.

HHAP is a very flexible program, designed to meet local needs. HHAP funds emergency, transitional and permanent supported housing projects for a variety of homeless and homeless special needs populations. Special needs populations that have benefited from HHAP funding include, but are not limited to: families; singles; the elderly; the physically disabled; persons with HIV/AIDS; youth, including pregnant and parenting teenagers and adolescents aging out of foster care; victims of domestic violence; the mentally disabled; ex-offenders; and those with a history of substance abuse and/or chemical dependency.

HHAP funds may be used to acquire, rehabilitate and/or newly construct housing. Eligible costs under HHAP include, but are not limited to: architectural/engineering fees, environmental assessments, insurances, taxes, title reports, appraisals, acquisition, construction/rehabilitation, equipment, furniture, professional fees, furniture and reserves.

While HHAP provides the funding necessary to establish a project, it does not provide ongoing operational funding. HHAP grantees must demonstrate the financial feasibility of a project for the contractually mandated period of time, generally between 25 and 20 years.

HHAP was established by Chapter 61 of the Laws of 1983. In June of 1990, a public benefit corporation was established to oversee the program. The corporation, known as the Homeless Housing and Assistance Corporation

(HHAC), is a subsidiary of the New York State Housing Finance Agency (HFA), and is administered by staff of the New York State Office of Temporary and Disability Assistance (OTDA). The Board of Members is made up of the Commissioner of OTDA, the Commissioner of HFA, and a third member designated by the Commissioner of OTDA. Currently, the third Board Member is the Commissioner of the Division of Housing and Community Renewal.

Each may designate an individual to represent and act for him/her. The Board has general responsibility for the program, including authorizing the President to execute contracts, notes, mortgages, intercreditor agreements and other instruments. However, it may delegate a portion of its authority to a single member or officer. For example, the Board has authorized the President to execute contract amendments of less than 10% without prior approval.

### ***Board Procedures***

Board meetings are usually scheduled every six to eight weeks. Board packages are distributed to all Officers and Members for review approximately two weeks before a scheduled meeting.

At a Board meeting, the members may take the following actions, with or without voting.

#### I. Without Voting

- A. Receive an officer's report;
- B. Request information; and
- C. Provide guidance and advise regarding issues brought to the Board.

#### II. Voting without a Resolution

- A. Approve minutes;
- B. Forward program funding recommendations to the Governor; and
- C. Adopt policy statements.

#### III. Voting by Resolution

- A. Adopt SEQRA findings;
- B. Authorize the President to execute award agreements, loans, contract amendments, notes, mortgages and other instruments.
- C. Authorize the execution of Technical Assistance contracts and memorandum of understandings with other agencies, and the use of accumulated interest;
- D. Appoint or remove officers;
- E. Authorize the transfer of property; and
- F. Approve audit findings.

## ***The HHAP Contract Process***

The HHAC has a two-step contract process. Under this system, most HHAP sponsors may, within four to six months of the announcement of awards, receive funds for certain preconstruction activities including the following costs:

- ▶ partial architectural, consultant and legal fees;
- ▶ surveys and appraisals
- ▶ binders and options on property acquisition.

The HHAC expects that preconstruction awards will enable most grantees to complete the remaining tasks necessary for approval of a Final Award Agreement. These tasks include firming up site control, finalizing commitments for non-HHAP funds, completing the SHPO and SEQRA reviews, completing working drawings and obtaining construction bids.

The HHAC requires that projects funded under HHAP operate as homeless housing for a minimum of 25 years. The HHAC may require longer contract terms.

## ***Execution of Preconstruction Award Agreements***

Sponsors are required to submit to OTDA's Bureau of Housing Services specific information, much of which was originally provided in the sponsor's HHAP application, to be assembled as exhibits for a preconstruction aware agreement (Appendix B). The information includes revised or updated development and operating budgets, further information relating to site control, the status of commitments for non-HHAP funding, updated agency financial statements, architectural drawings, cost estimates and a scope of work.

Once the Appendix B exhibits are prepared, they are circulated simultaneously to OTDA's Legal, Budget and Contracts offices and the Bureau of Housing Services' Asset Management Unit for "internal review." These offices review the documents and provide comments to HHAP project managers.

When all issues raised in internal review are satisfactorily resolved, the Appendix B is presented to the HHAC Board for authorization to enter into a Preconstruction Agreement. Following Board approval, the contract is signed and the sponsor may begin to submit vouchers to draw down funds for preconstruction related activities. Preconstruction awards enable the sponsor to complete remaining tasks necessary for approval of the final award agreement.

## ***Execution of Final Award Agreements***

Sponsors submit documentation for a revised Appendix B, including completing State Historic Preservation Office (SHPO) and State Environmental Quality

Review Act (SEQRA) reviews and obtaining construction bids. Once these documents are provided, the HHAP project manager resubmits the revised Appendix B for a second internal review. Following completion of the internal review process, the project is presented to the HHAC Board for authorization to enter into a Final Award Agreement. Following Board approval and the execution of the contract, the sponsor is able to draw down funds for project acquisition and construction.

## ***Summary of SEQRA Procedures***

Under the State Environmental Quality Review Act, state agencies must perform an environmental review if they undertake or receive an application for any physical activities that may affect the environment and involve funding by the agency.

HHAC's SEQRA procedures are implemented through the Corporation's SEQRA Officer. The SEQRA Officer works in consultation with a SEQRA Review Committee, which is made up of the SEQRA Officer, representatives of OTDA's Office of Legal Affairs and the Dormitory Authority of the State of New York (DASNY). (DASNY serves as HHAC's architectural and engineering consultants.) Following is an outline of the SEQRA process.

### Step 1: Establish and Maintain a SEQRA File with the Items Listed Below

- A. SEQRA Control form
- B. Environmental Assessment Form (EAF) – Short Form
- C. Project summary from application
- D. Site map
- E. Evidence of compliance with zoning
- F. State Historic Preservation Act (SHPO) blue form and determination letter
- G. Pictures of site
- H. Determination of significance (if applicable)
- I. Any other specific SEQRA information and/or correspondence

### Step 2: Information from Awardees

- A. If a SEQRA coordinated review and/or SHPO clearance has been obtained by the awardee through local authorities, copies are obtained and placed in the file and reviewed by the SEQRA Review Committee to ascertain if it is a suitable basis for Board action. In these situations, the Board generally concurs with local findings; in any case, HHAC must always take action.
- B. If no local action, then an EAF Part 1 (short form) and a SHPO Blue Form are filed out by the awardee and returned to the HHAP project manager.

### Step 3: SEQRA Classification

The information gathered under steps one and two are used by the SEQRA Review Committee to classify the action.

- A. If classified exempt, excluded or Type II, no further action is required other than to place into the project file a copy of the Board resolution and the SEQRA control form showing the Review Committee's classification.
- B. If the project is classified Type I or unlisted (and no local coordinated review is available), the sponsor may be requested to fill out and submit and EAF long form (required if Type 1).
- C. If the project is classified Type I, or an unlisted action receiving a coordinated review, a lead agency must be determined.

The most common classifications are Type II (rehabilitation with no significant change in use or density) and Unlisted (generally new construction under a certain scale).

#### Step 4: SEQRA Findings

For those classified under 3B above, the majority of actions will be "unlisted" with no apparent significance. In this instance, we proceed with an uncoordinated review, most of which will end in a negative declaration. To make a valid negative declaration, the items outlined below must be addressed:

- ▶ Relevant areas of environmental concern are identified.
  - ▶ The relevant concerns are analyzed to determine if there will be any significant impact on the environment.
  - ▶ The determination is documented in writing showing why the environmental concerns that were identified and analyzed will not be significant.
- A. If items arise that indicate that further review is required or that other interested parties should be involved, a coordinated review should take place. HHAC has acted as lead agency once. Normally the locality assumes the role of lead agency.
  - B. From 4A, a negative declaration may be derived or if there are limited items that can be mitigated through conditions placed on the action, a conditioned negative declaration may be made.
  - C. If a positive declaration is made, the Environmental Impact Statement process starts. Because of the type and scale of projects funded under HHAP, the SEQRA process has never had to go beyond this point.

#### Step 5

For each classification or determination of significance upon an action, the HHAC Board must act by resolution.

## ***Contract Amendments***

At times it may be necessary to amend a contract to facilitate the satisfactory completion of a project, or to address unexpected issues that arise once a project is operational. Common issues that arise during the development of a project which create a need to amend a contract include, but are not limited to:

- ▶ Unforeseen field conditions;
- ▶ Licensing requirements;
- ▶ The enactment of new local building codes; and
- ▶ Bidding climate related to labor and materials.

Amendments for greater than 10% of the original award are brought before the HHAC Board for consideration. Board members are provided with an explanation of the reason for the amendment, and as appropriate, costs are verified by DASNY. All contract amendments, regardless of the dollar amount, undergo the usual OTDA internal review process.

## ***The Technical Assistance Program***

The HHAC issues a Request for Qualifications to corporations, partnerships and individuals seeking providers of expertise in various areas including: organizational capacity, legal counsel, architectural services, support services, cost estimating, appraisals, expeditors, certified public accountants, construction management, property management and operations, etc. Technical assistance services can be provided to HHAP sponsors and the HHAC.

Funding for technical assistance is not, by statute, available until the sponsor has an award from HHAC.

Technical assistance assignments are time limited and must adhere to a work plan presented by the provider upon an assessment of the sponsor's needs. The work plan is negotiated with the HHAP project manager and the sponsor. Technical assistance is designed to provide specific outcomes. The intent is to allow the sponsor to continue to develop and operate a project in an effective and efficient manner.