

PROCESSING  
MEMORANDUM OF UNDERSTANDING  
Between the  
Rural Housing Service in Alabama  
and  
Alabama Housing Finance Authority

INTRODUCTION

The Rural Housing Service of the Rural Development mission area in Alabama, an Agency of the U.S. Department of Agriculture and herein referred to as "RHS," and Alabama Housing Finance Authority, a public corporation and independent instrumentality of the State, acting in its capacity as Administrator and allocating agency of the Low-Income Housing Tax Credit program for the State of Alabama, herein referred to as "AHFA," wish to enter into the following Memorandum of Understanding (MOU) regarding the sources and uses of funds in projects receiving Low-Income Housing Tax Credits.

RHS administers a loan program authorized by Section 515 of the Housing Act of 1949, which provides financing for housing for very low- and low-income tenants in rural areas. The Section 515 program, and all programs administered by RHS, comply with all applicable Civil Rights laws. The Internal Revenue Service (IRS), through Section 42 of the Internal Revenue Code, provides housing credits to encourage the development of housing for very low- and low-income tenants which are administered through state or local housing credit agencies.

SCOPE OF THE AGREEMENT

Under this agreement, RHS, through its State Director for Rural Development (herein referred to as "State Director"), and AHFA agree to engage in cooperative efforts to enable RHS to assure that only the necessary assistance is provided through the Section 515 program and to enable AHFA to effectively evaluate housing credit requests of RHS applicants, as provided in Section 42 of the Internal Revenue Code.

PURPOSE

The purpose of this document is to establish the general conditions under which the State Director and AHFA agree to cooperate.

BOTH PARTIES AGREE:

- (a) To share information on project costs.
- (b) To use the following fee norms:
  - (1) Builder's Profit and General Overhead: up to a combined total of 8% of construction costs.
  - (2) General Requirements: up to 6% of hard costs of construction.

- (3) Developer's Fee: up to 15% of the total development costs for housing credit purposes for new construction and rehabilitation costs; and up to 8% of the acquisition costs.
- (c) Variation of fee norms for builder's profit, general overhead and general requirements may be permitted when the total combined fees for these three items does not exceed 14%. No other deviation for fees exceeding the maximum fee norms is permitted.
- (d) As appropriate, both parties agree to the definitions and formulas for the determination of costs and amounts of assistance, which will be attached to this MOU as Exhibit A.
- (e) The above fee norms will be used in RHS's analysis of the amount of assistance that is necessary for a proposal. RHS will prepare an analysis spreadsheet on all loan requests:
  - (1) When accepted as a loan request,
  - (2) Just prior to approval, and
  - (3) When the cost certification is completed and prior to issuance of an IRS Form 8609, indicating the amount of housing credits.
- (f) In all cases where the results of an analysis indicate that there will be excess assistance (defined as more than the lesser of \$25,000 or 1 percent of the total development cost as authorized by AHFA), RHS will consult with the applicant as well as AHFA to strive to reach an agreement for reducing the excess assistance. The following alternatives are examples of action that can be taken:
  - (1) Reducing the amount of housing credits requested, or
  - (2) Reducing the level of assistance provided by one or more of the sources of funds, or
  - (3) Revising the uses to include eligible costs for any funding participants, provided the project enhancement is consistent with the intent of the Rural Rental Housing program and will assist the resident population being served by the housing.
- (g) Parties to this agreement understand that, in the event that excess assistance is not reduced through other means, RHS will adjust the amount of equity contribution (through the reduction of the loan) to ensure that RHS assistance provided is not more than is necessary to provide affordable housing after taking account of assistance from all Federal, State and local sources. Approval of any reduction will require formal notification to the applicant, AHFA and the RHS National Office.
- (h) Parties to this agreement understand that RHS does not certify accuracy of the housing credit applicant's eligibility, nor does it certify to the applicant's compliance with requirements of Section 42 of the Internal Revenue Code. AHFA understands that the owner certifies the information to RHS as being a true and correct representation, and

RHS carries out periodic reviews and analysis of the data to verify compliance with its requirements.

- (i) It is further understood that the general information shared under this MOU is for internal analysis and will not be disclosed to individuals other than the appropriate RHS and AHFA employees, and that specific information on a proposal may be shared with the applicant and other providers of funds on the respective proposals as appropriate.
- (j) The State Director and AHFA will review, at least annually, the fee norms on builder or general contractor charges (builder's profit, builder's overhead and general requirements) established by this MOU relative to AHFA's allocation plan or other regulations. The developer's fee or any other fees allowed will also be reviewed. Any revised fee norms will be added as an amendment to this agreement and be used in subsequent analyses of loan requests.

RHS IN ALABAMA AGREES:

- (a) To provide to AHFA information on Section 515 projects being considered and receiving Section 515 funding decisions as follows:
  - (1) A list of 515 loan requests and their status.
  - (2) For each loan request on the list, the most recent Form RD 1924-13, "Estimate and Certificate of Actual Cost," or other cost estimation documents.
  - (3) A copy of Form HUD 2530/RD 1944-37, Previous Participation Certification, and any Identity of Interest disclosure information that has been provided to RHS.
  - (4) A copy of any notification of selection for further processing issued to applicants.
  - (5) When the construction is completed, the ACTUAL Form RD 1924-13 including any cost analysis prepared by RHS.
  - (6) On an annual basis, a copy of the AMAS generated report on the Rural Rental Housing Section 515 Program, called "Construction Cost Analysis" for the prior year.
  - (7) RHS will provide the results of any analysis on necessary assistance to the applicant and AHFA.

AHFA AGREES:

- (a) To inform any applicants seeking both housing credits and RHS loan assistance that the MOU will be applied to the processing of their request for housing credits. (RHS will



provide a copy of the MOU to applicants for their guidance when combining the assistance provided by both agencies.)

- (b) To provide to RHS in Alabama the following data:
- (1) The list of housing credit requests received from applicants that indicate they are seeking financing from RHS.
  - (2) For each loan request a copy of the housing credit application with the detailed cost breakdown used to estimate the amount of housing credits for which the developer would be eligible.
  - (3) When the development is complete and the final sources and uses of funds in projects receiving both RHS funds and housing credits is made, the IRS Form 8609 will be provided with a copy of the cost data used to determine the development cost of the project.
- (c) AHFA will provide the information in items (1) and (2) above at the end of its funding cycle. Information in item (3) will be provided when the IRS Form 8609 is issued for a particular project.

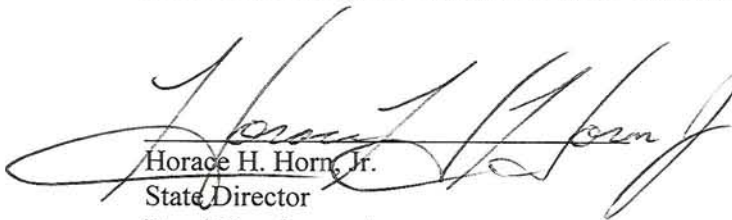
PERIOD OF AGREEMENT

This agreement will remain in effect until terminated by written notification of either party.

MODIFICATION OR AMENDMENT PROVISION

This agreement will be modified or amended by written agreement of RHS and AHFA. Requests for amendments to the agreement will be initiated by either of the two parties through written notification.

ACCEPTANCE AND SIGNATURE OF EACH APPROVING PARTY



Horace H. Horn, Jr.  
State Director  
Rural Development

8/13/97  
Date



Robert Strickland  
Executive Director  
Alabama Housing Finance Authority

8/14/97  
Date

## EXHIBIT A

Percentages for Builder's Profit, General Overhead and General Requirements will be calculated as follows:

- I. Builder's Profit: Profit divided by Total Hard Costs of Construction plus General Requirements.  
From USDA Rural Development Form 1924-13:  
Line 43 - (Line 38 + Line 39)
- II. General Overhead: Overhead divided by Total Hard Costs of Construction plus General Requirements.  
From USDA Rural Development Form 1924-13:  
Line 40 - (Line 38 + Line 39)
- III. General Requirements: General Requirements divided by Total Hard Costs of Construction.  
From USDA Rural Development Form 1924-13.  
Line 39 - Line 38.