

Arkansas Development Finance Authority



Assisted Living Incentive Fund POLICIES AND PROCEDURES MANUAL



American Recovery and Reinvestment Act of 2009



ASSISTED LIVING INCENTIVE FUND

(For use in development or redevelopment of affordable assisted living housing)

POLICIES AND PROCEDURES

As set forth in a Memorandum of Understanding between the Arkansas Department of Human Services (“DHS”) and Arkansas Development Finance Authority (“ADFA”) executed on March 30, 2010, DHS will make available to ADFA the sum of five million dollars (\$5,000,000) in DHS funds for use in developing, implementing and administering an **Assisted Living Incentive Fund (“ALIF”)**. The ALIF will be used to incentivize development of affordable Assisted Living housing in Arkansas and to strengthen the financial feasibility of such developments. It is the goal of DHS and ADFA to increase the number of affordable Assisted Living units in Arkansas for the benefit of low-income, elderly Arkansans.

1. All ALIF resources must be used on **affordable Assisted Living level II** developments located in the State of Arkansas. Affordable Assisted Living Level II housing shall be defined as a standard housing unit(s) designed for occupancy and use by elderly or disabled persons or families who are not relatives of the owner or administrator, accompanied by supportive services, including but not limited to, meals, laundry, social activities, assistance with transportation, direct care services, 24-hour supervision and care, and limited nursing services at rents no greater than thirty percent (30%) of a person’s or family’s income at sixty percent (60%) of area median income for the area where the Assisted Living housing is located or is to be located. The tenants or occupants of affordable assisted living units must require an intermediate level of care as determined by DHS Utilization Review personnel. The required supportive services described herein must be personalized and provide assistance to tenants / occupants who need help with activities of daily living in a manner that promotes maximum independence for each resident. Supportive services must be available twenty-four (24) hours per day to meet both the scheduled and unscheduled needs of each resident.
2. To be eligible to receive ALIF resources:
 - the applicant will be required to submit an approved **Certificate of Need or Permit of Approval (“POA”) for Level II residents issued by the State of Arkansas**. In addition, all affordable Assisted Living developments receiving assistance from the ALIF shall comply at all times with state and federal regulations for assisted living developments.
 - the applicant will be required to successfully apply to ADFA for Low-Income Housing Tax Credits (“**LIHTC**”), HOME Investment Partnerships Program (“**HOME**”), or **other ADFA housing programs** and initiatives in conjunction with the requested ALIF funds.
 - the applicant must provide a **complete and accurate application** to ADFA evidencing the financial feasibility of developing or redeveloping and operating

such housing units at affordable rents and providing appropriate supportive services to tenants. The applicant must provide satisfactory information evidencing the applicant (or the applicant's consultant) has the necessary knowledge, skill, ability, and capacity to develop affordable housing, as evidenced by examples of other affordable housing successfully developed by the applicant (or applicant's consultant), examples of successfully developed market-rate housing, examples of projects benefitting low-income persons or families, etc.

- ALIF funds will be available for application by **eligible applicants**, including but not limited to, cities, counties, for-profit and non-profit developers, ADFA-designated Community Housing Development Organizations ("CHDOs"), Planning and Development Districts ("PDDs"), Public Housing Authorities ("PHAs"), cap agencies, and others demonstrating the necessary capacity to successfully develop and operate affordable Assisted Living housing in Arkansas.
3. All affordable Assisted Living units utilizing ALIF funds must be made available to **tenants whose income does not exceed sixty percent (60%) of area median income for the area in which the Assisted Living development is located**, adjusted for family size, at affordable rents.
 4. All ALIF-assisted housing units will have **affordable rents**, defined as total monthly housing expenses which do not exceed thirty percent (30%) of the income of a person or family at sixty percent (60%) of area median income for the area in which the Assisted Living development is located, adjusted for family size. ALIF recipients will be required to use the most stringent rent requirements required of any program or funding used in the financing of the Assisted Living development.
 5. All ALIF-assisted housing units must have an approved **minimum affordability period** and remain affordable to and occupied by eligible tenants for the minimum affordability period. The minimum applicable affordability period will be the longest period required of any program used in the Assisted Living development budget. The affordability period can be extended at the option of the recipient of ALIF funds, with ADFA approval. Rent, occupancy, and affordability requirements will be enforced through ADFA-approved covenants, mortgages, or deed restrictions running with the property. Assisted Living property owners/managers will be required to document that the required number and percentage of units are occupied by eligible households for the entire, applicable affordability period. The required number of ALIF-assisted units will be calculated on a pro rata basis by calculating the percentage of ALIF funds in relation to the total development budget. Income to establish tenant eligibility must be determined and documented when an ALIF-assisted unit is initially occupied and at unit turnover by a new tenant household.
 6. ALIF funds may be used for the **eligible activities** of all usual, customary, and reasonable development and redevelopment activities, including but not limited to, acquisition,

rehabilitation, new construction, financing, relocation, demolition, developer's fees, project activity costs, and ancillary costs of appraisal, market study, construction interest, and closing costs, etc.

7. Applications for ALIF funds shall be submitted on **ADFA's standard Multi-Family application form** (available online at ADFA's web site [www.arkansas.gov/adfa] and fillable) and will be accepted at any time, contingent upon any application submission deadlines for other ADFA housing programs for which the applicant may be applying in conjunction with the ALIF funds.
 - Each applicant applying for ALIF funds must apply to develop or redevelop a **minimum of five (5) Assisted Living housing units**.
 - Each applicant must submit with the ALIF application an approved **Certificate of Need or POA for Level II residents** issued by the State of Arkansas.
 - Each applicant applying for ALIF funds must submit at the time of application submission, a **letter of support** from the chief elected official (CEO) of the applicable local jurisdiction where the assisted living housing is to be developed or redeveloped.
 - Each applicant must submit with the ALIF application a **current Market Study**, completed by a market study provider on ADFA's Approved Market Study Provider list (the list may be found at www.arkansas.gov/adfa), which evidences the need for Assisted Living housing units at the location planned for the development.
8. ADFA will use the following **selection criteria** when reviewing and evaluating any ALIF applications submitted including but not limited to:
 - The **threshold requirements**, including but not limited to, an approved POA, local support letter, market study evidencing the need for Assisted Living units in the area targeted for development, criminal background check, and any other documentation or information designated by ADFA as a threshold requirement.
 - The **selection criteria adopted for the ADFA Housing program** for which the applicant is applying in conjunction with the ALIF funds.
 - The **amount of ALIF funding requested**, the total development budget, firm financial commitments, per unit costs, and the reasonableness of all development costs associated with the Assisted Living housing to be developed or redeveloped.
 - The **capacity of the applying entity** to satisfactorily complete all development activities within established time frames and within budgetary limitations.

- The scope and quality of supportive services to be provided and the level of commitment and capacity of the entity that will provide any supportive services associated with the Assisted Living housing units.
 - **Other criteria** specific to the site, housing need, applying entity, or other facets of the ALIF application.
9. ALIF resources will be provided to approved recipients in a **manner consistent with fund distribution of other ADFA housing resources** approved for the affordable Assisted Living housing development. This requirement includes meeting the following conditions, at a minimum, prior to fund disbursement:
- Satisfactory completion of the **environmental review process**.
 - Satisfactory **execution of agreements, closing documents and filing** of the applicable documents as required, including the filing of a mortgage and note in favor of ADFA for the full amount of ALIF funds allocated.
 - A **pre-construction conference** is conducted with the development team and ADFA representatives present.
 - ADFA will issue one (1) **Notice to Proceed** applicable to ALL ADFA housing programs approved for the Assisted Living development. It is imperative the developer does not begin construction until the Notice to Proceed is issued by ADFA and received by the developer.
10. Compliance with all **cross-cutting federal requirements** applicable to the ADFA housing program selected for use in conjunction with the ALIF funds in financing the affordable Assisted Living housing will be required, including but not limited to, Procurement, Fair Housing/Equal Opportunity, Section 3, Davis-Bacon, Environmental Review, Lead-Based Paint, Debarment and Suspension, Relocation, and Audit, etc.
11. The ALIF will provide two (2) forms of financing assistance:
- **a forgivable loan**, forgiven over the development's affordability period (based on the longest affordability period required by any financing component of the development budget but no less than ten (10) years) for developments evidencing a debt coverage ratio of 1.1 or less but which may be increased to 1.2 or higher by means of the forgivable loan described herein.
 - **a repayable loan**, repayable over a term which coincides with the longest applicable affordability or compliance period of any financing component of the development budget at an **annual interest rate of one percent (1%)**. All income generated from ALIF loan repayments will be utilized to incentivize additional Assisted Living housing. Applications utilizing the repayable loan option will be reviewed more favorably than applications selecting the forgivable loan option.

The maximum amount of ALIF funds available to any one (1) affordable Assisted Living development shall be no more than **\$500,000**, and no allocation of ALIF funds may exceed **\$12,500 per assisted living unit**. **Under no circumstances will the ALIF allocation be more than the minimum amount needed to make the affordable Assisted Living development financially feasible at affordable rents using standard underwriting criteria.**

12. All ALIF recipients will be required to execute an **ALIF Agreement** drafted by ADFA staff. The agreement, when executed by all parties, will serve as the commitment of ALIF funds by ADFA and will outline all applicable requirements to be accomplished by the recipient.
13. Any ALIF-funded development which generates **program income** as a direct result of ALIF-funded activities must immediately remit any and all program income received from ALIF activities directly to ADFA. ADFA will reallocate any program income received to eligible ALIF applicant (s) for eligible ALIF activities. In addition, any program income generated from ALIF-funded activities will be allocated and disbursed first, prior to committing and disbursing original ALIF funds.
14. ALIF recipients will be required to and are responsible for **reporting information** related to the uses of ALIF to ADFA in a timely manner to facilitate ADFA's reporting requirements. Specific reporting requirements will be delineated in the agreement executed between ADFA and the recipient.
15. All **contractors and sub-contractors** engaged to perform work on affordable Assisted Living housing receiving ALIF funds **will be required to have an active license issued by the Arkansas Contractor's Licensing Board**, as applicable, and must meet all requirements of contractors in the State of Arkansas, including securing Builder's Risk insurance, according to ADFA policies on contractor requirements.
16. All construction performed using ALIF Funds must conform to **Minimum Construction and Design Standards, as adopted by ADFA**, upon completion, **including applicable Universal Design Standards, UPCS (Uniform Physical Condition Standards), and Energy Star requirements, certified by a HERS (Home Energy Rating System) rater**. The requirements are those set forth in the Section 8 Housing Quality Standards and the ADFA Construction Performance Manual Sections I and II, those set by the International Code Council (ICC) (when applicable), and all applicable local, state, and federal requirements. DHS and ADFA strongly encourage the recipient to incorporate modern, green building, and energy-efficient materials and methods to facilitate long-term affordability, increased sustainability, and marketability of the Assisted Living housing developed using ALIF funds.
17. DHS and ADFA reserve the right, in their sole and absolute discretion, to allocate ALIF funds and to refrain from making ALIF allocations based upon available funding, quality of applications received and other criteria. DHS and ADFA may, at their discretion,

implement changes to the ALIF Program at any time to ensure compliance with federal law, grant waivers or exceptions to ALIF Program requirements, and exhibit flexibility in their interpretation of ADFA policies and procedures associated with ALIF funds to fully and more efficiently utilize the ALIF funds for their intended purpose.

18. All activities funded with ALIF funds will be periodically **monitored for compliance requirements**. During construction, ADFA inspectors will inspect any work completed using ALIF funds. The timing of such inspections will be addressed in the pre-construction conference, but ADFA reserves the right to inspect any work completed with ALIF funds at any time. This right extends to DHS and any other authorized entity with oversight responsibilities of the ALIF Program. After the development is placed-in-service, ADFA Compliance Monitoring staff will periodically perform on-site property inspections, review of documentation, and monitor adherence to all applicable DHS, ADFA, and ALIF Program requirements.

ADFA will perform **on-site compliance and monitoring inspections** of all ALIF-financed developments during the applicable period of affordability. The purpose of the monitoring inspections is to determine and ultimately ensure compliance with all applicable regulations and requirements contained in these policies and the regulations of any applicable ADFA or DHS program used in the ALIF development. In the event non-compliance occurs, ADFA staff will work with the property owner to re-establish compliance. Should the non-compliance continue or be incapable of being brought into compliance, ADFA will use any and all means at its disposal to recapture the ALIF funds and re-allocate them to Assisted Living projects in need of such assistance.

19. Failure to adhere to ALL applicable requirements as contained in ALIF Program policies and procedures and the ALIF Program agreement will be considered a **default** of the agreement and will be addressed by ADFA using any and all available remedies, as provided by law. The intent of any remedies implemented is to establish or re-establish program and agreement compliance. If full compliance by the successful applicant is not possible, ADFA will take any and all lawful actions necessary to ensure compliance with all applicable requirements up to and including recapture of all ALIF funds.