

Title 15. Natural Resources and Economic Development

Chapter VII. Arkansas Development Finance Authority, Department of Commerce

Subchapter C. Housing

Part 94. Finance Adjustment Factor and Below Market Interest Rate Program Policies

Subpart 1. Generally

15 CAR § 94-101. Generally.

(a)(1) The Arkansas Development Finance Authority (the authority) is responsible for administering the Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) funds.

(2) FAF funds arose from the refunding of bonds and recapture of Section 8 funds by the United States Department of Housing and Urban Development.

(3) BMIR funds arose from the authority's purchase of approximately three hundred one (301) multi-family housing mortgage loans of the United States Department of Housing and Urban Development through its issuance in June 1988 of Government National Mortgage Association-guaranteed bonds.

(b)(1) The funds currently available are comprised of program income from previous FAF and BMIR loans.

(2) The purpose of these program policies is to clarify:

(A) The use of FAF and BMIR funds;

(B) Eligibility for the funds; and

(C) The authority's requirements for use of FAF and BMIR funds, collectively the FAF/BMIR Loan Fund.

(3) The authority reserves the right to waive the policies contained herein as necessary to prudently administer the limited resource of FAF/BMIR funding.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-102. Eligibility.

(a) The Finance Adjustment Factor and Below Market Interest Rate (FAF/BMIR) Loan Fund is available to any entity that conforms to the requirements for providing affordable housing under any of the Arkansas Development Finance Authority's affordable rental housing programs for the construction or acquisition/rehabilitation of affordable rental housing for very low-income persons and families, defined as having total household income less than fifty percent (50%) of area median income.

(b) The FAF/BMIR loan funds are intended to be true gap financing, thus the FAF/BMIR loan funds must be leveraged.

(c) FAF/BMIR loan proceeds may only be used to pay development costs chargeable for federal income tax purposes to the development's capital account.

(d) The proposed number of units must be a minimum of five (5) units.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-103. Underwriting requirements.

(a) All underwriting requirements and provisions in the Qualified Allocation Plan in effect at time of application submission are applicable to applicants for Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) loan funds.

(b)(1) The same percentage of total units in the development must be restricted to households earning fifty percent (50%) or less of area median income (AMI) as the percentage is of FAF/BMIR funds to the total development costs.

(2) These units will remain FAF/BMIR restricted units for the duration of the affordability period.

(c) The rent of units restricted pursuant to subsection (b) of this section may not exceed thirty percent (30%) of the applicable AMI.

(d) The maximum amount of loan funds that may be awarded is two hundred fifty thousand dollars (\$250,000) per development.

(e) Copies of all other financing documents must be submitted.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-104. Minimum design requirements.

All developments for which owners are awarded Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) funds ("recipients") must comply with the Multi-Family Housing Minimum Design Standards, 15 CAR pt. 96, and all other design requirements set forth in the QAP in effect at time of application, including, but not limited to, the universal design requirements.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "QAP" means Qualified Allocation Plan.

15 CAR § 94-105. Market need.

(a) All applicants for Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) funds must submit a market study, dated within six (6) months of the application, that evidences the primary market area's need for the development as it is represented in the application.

(b) The market study must be performed by a market study provider that is included on the Arkansas Development Finance Authority's list of approved market study analysts.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-106. Capital needs assessment.

(a) All rehabilitation developments applying for Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) funds must submit a capital needs assessment that includes a:

(1) Thorough description of the work that is needed to fully rehabilitate the development; and

(2) Reasonable estimation of the costs for each type of work necessary to be performed.

(b) Applicant must submit a statement agreeing to implement all recommendations and the scope of work described in the capital needs assessment.

(c) All rehabilitation developments applying for FAF/BMIR funds must evidence that a minimum of fifteen thousand dollars (\$15,000) (cumulative from all sources of funding) will be expended on rehabilitation of each unit, i.e., hard costs.

(d) The architect and applicant each must submit an executed Minimum Design Standards Checklist and Certification, which is available on the Arkansas Development Finance Authority's website.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-107. Application fee and deadline.

(a)(1) The applicant must submit payment by check made payable to the Arkansas Development Finance Authority in the amount of five hundred dollars (\$500) with each Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) application unless the application includes a request for low-income housing tax credits.

(2) If the application includes a request for low-income housing tax credits, the application fee schedule stated in the QAP in effect at time of application shall be applicable.

(b) FAF/BMIR applications shall be accepted by the authority for review on a continuous basis.

(c) Applications that do not include all threshold documentation and information required by the QAP in effect at time of application will be rejected by the authority and will not be further reviewed.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "QAP" means Qualified Allocation Plan.

15 CAR § 94-108. Loan terms.

Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) loans shall bear a fixed interest rate of one percent (1%) per annum and shall be amortized and repayable over twenty (20) years unless otherwise approved by the Board of Directors of the Arkansas Development Finance Authority.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-109. Land use restriction agreement.

(a) All recipients must execute and record in the real property records of the county in which the development is located a Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) land use restriction agreement (LURA) that shall restrict the property to the use, income restrictions, and rent restrictions approved by the Board of Directors of the Arkansas Development Finance Authority.

(b) A LURA must be executed and recorded prior to the disbursement of any FAF/BMIR funds to a recipient.

(c) The LURA shall be a covenant that runs with the land and shall be an encumbrance on the property for a period of twenty (20) years from date of recording, unless otherwise approved by the board (the "affordability period").

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-110. Compliance.

(a)(1) Recipients shall be monitored by the Compliance Department of the Arkansas Development Finance Authority at a minimum of once every three (3) years.

(2) Continuing requirements on recipients will include, but not be limited to, maintaining file documentation to confirm tenant income and rent as well as maintenance of property and units to the standards applicable at the time of approval by the Board of Directors of the Arkansas Development Finance Authority.

(b) Recipients must provide annually a written report certifying, under penalty of perjury, that persons and families assisted with Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) funds meet the criteria to receive FAF/BMIR assistance, i.e., income certifications of tenants.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-111. FAF/BMIR Agreement.

(a) All recipients must execute a Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) Agreement, which shall be prepared by the Arkansas Development Finance Authority.

(b) The agreement shall set forth all requirements with which the recipient must comply.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-112. Preconstruction meeting.

(a) All recipients must participate in a preconstruction meeting with the Arkansas Development Finance Authority staff prior to beginning any work on the development.

(b) A final set of plans must be submitted to the authority's staff for review at least two (2) weeks prior to the scheduled preconstruction meeting.

(c) No recipient may begin construction or rehabilitation prior to the authority issuing a Notice to Proceed, which cannot be issued any earlier than the date of the preconstruction meeting.

(d) The recipient's developer, architect, general contractor, job superintendent, and the person that will be preparing draw requests must be present at the preconstruction meeting.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-113. Arkansas Fair Housing Commission certification.

Effective January 1, 2012, all principals of all applicants, developers, management companies, consultants, and architects on an applicant's development team must submit a copy of certification evidencing completion of Arkansas Fair Housing Commission training.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-114. Reimbursements.

(a) No development may be reimbursed for predevelopment interest.

(b) Predevelopment interest is all interest paid and accrued prior to the closing of Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) funds by applicant or any related or interested party.

Authority. Arkansas Code § 15-5-207.

15 CAR § 94-115. Other applicable requirements.

The QAP in effect at time of the Finance Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) application shall control as to all matters arising that are not specifically addressed herein.

Authority. Arkansas Code § 15-5-207.

Codification Notes. "QAP" means Qualified Allocation Plan.