

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
COMMUNITY DEVELOPMENT DIVISION

Subject: DEVELOPER FEE

Effective Date: September 1, 2015

This policy covers the following topics:

- Definitions
- Project Soft Costs
- Developer Fee Rates
- Developer Fee Limits
- Developer Fee Distributions
- Third Party Costs

DEFINITIONS

Developer Fee. The fee for services paid to a housing developer, based on the Total Development Cost and the scope of the developer's responsibilities. Developer fees are used by grantees to pay administrative and overhead costs, are paid as fees for services rendered and *do not have to be fully offset by incurred costs*. See definition of Total Development Cost for the ways this term is used in the context of various CDD housing program models.

Development. In order to be eligible to be paid a developer fee, the grantee must be *developing* property. This means the grantee must either be (a) creating new affordable housing units and marketing them within the local economy, or (b) enabling the improvement of housing within the context of a real estate transaction by arranging financing, etc. Rehabilitating or repairing property under continuous ownership (such as homeowner or rental rehab) is not housing development. MSHDA makes the final determination whether a developer fee is appropriate.

Development Soft Costs. The costs incurred in affordable housing projects described below. Where a developer fee is charged, all soft costs are paid from the developer fee.

Closing costs connected with the *sale* of property to eligible low-income homebuyers (real estate commissions and other seller's closing costs) are *not* considered development soft costs for the purpose of this policy. As a result, they are not included in the total project cost and they may be paid from the proceeds of sale rather than being taken from the developer fee.

Total Development Cost. The actual cost of developing the housing unit not including the developer fee. For projects involving *acquisition and resale*, this includes the cost of acquiring the property to be developed, and construction/rehab costs (It does not include any construction contingency costs, or closing costs connected with the sale to the eligible homebuyer.)

Holding expenses incurred throughout the rehabilitation/construction phase can be included on the Construction line under Hard Costs in the pro forma. Eligible expenses are those paid to third-parties for utilities, security, insurance, maintenance, payments on construction loans and taxes. Other expenses must be pre-approved by MSHDA.

For projects involving *down payment with rehab*, this includes the initial purchase price (with associated costs) and rehab costs. For *rental development* this includes (as applicable) acquisition costs, construction/rehab, and relocation costs. Computation of the developer fee is based on the total development cost (*excluding* the developer fee).

Total Project Cost. The Total Development Cost plus the developer fee; i.e., total cost of producing the housing unit, including the developer fee.

PROJECT SOFT COSTS

All soft costs are paid by the grantee from its developer fee. These costs include construction management, program outreach, overhead and administrative costs, including the costs below, whether these services are provided by the grantee’s staff or contracted to third parties (these costs are similar to those outlined in the HUD HOME rule at 24 CFR part 92.206(d));

- Costs of required environmental review directly related to the project
- Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or cost estimates
- Costs to process and settle the financing for a project

- Costs to provide information such as affirmative marketing and fair housing to prospective homeowners and tenants
- For rental projects, the costs of funding an initial operating deficit reserve (a reserve to meet any shortfall in income during the project rent-up to pay for operating expenses, scheduled payments to a replacement reserve, and debt service)
- Staff and overhead costs directly related to carrying out the project, such as work specifications preparation, inspections, and other services related to assisting owners, tenants, and homebuyers during the project period
- Costs for the payment of impact fees charged for all projects within a jurisdiction
- Costs of a project audit that MSHDA may require with respect to the development of the project

DEVELOPER FEE RATES

Developer fee rates are based on a number of considerations, including, but not limited to:

- Reasonable costs for the services provided (MSHDA may adjust developer fees payable on projects at its discretion to assure reasonableness);
- The “value” of the development services provided —i.e., the extent to which the project proposed accomplishes MSHDA’s priorities for investment (e.g., revitalization of a distressed target area of importance to the community, the promotion of income diversity in communities, creation of a healthy balance of owner occupancy and affordable rentals in a target area, etc.);
- The extent to which payment of a developer fee promotes the use of leveraged financing, or helps to offset the staff costs of grantees seeking to produce more units while using fewer MSHDA dollars.

DEVELOPER FEE LIMITS

Developer fee limits are based on CDD’s programs and the developer’s scope of responsibility:

Acquisition/Development/Resale	with new construction or substantial rehabilitation (rehab exceeding \$25,000)	15% of Total Development Cost
Acquisition/Development/Resale	with moderate rehabilitation (rehab of \$25,000 or less)	10% of Total Development Cost
Homebuyer Rehabilitation	Purchase	10% of Total Development Cost

Rental Development	with new construction or substantial rehab	15% of Total Development Cost
Rental Development with moderate rehab	<i>(Rental Development not currently available through CDD)</i>	10% of Total Development Cost

MSHDA reserves the right to adjust (i.e., reduce) the developer fee to be paid whenever the scope of the responsibilities of the grantee as a developer is substantially reduced. MSHDA may do this either for a whole grant or on a project-by-project basis within a grant. MSHDA will inform the grantee of this adjustment prior to project set-up.

DEVELOPER FEE DISTRIBUTIONS

Up to 50% of the developer fee may be requested prior to project completion, the remaining 50% will not be released until after the house sells to an income eligible buyer.

For projects conducted in a local Participating Jurisdiction, MSHDA may elect to implement the project using either developer fees or administrative fees. The grantee will be responsible for documenting that MSHDA and the PJ are not both paying for the same services. Generally, where a developer fee is being charged, MSHDA funds and local PJ funds should not be used on the same project. MSHDA shall determine what developer fee or administrative fee is approved and the tracking methodology that is required to be retained in the local file and/or submitted to MSHDA when approving associated FSRs and/or monitoring a grant award.

THIRD PARTY COSTS

The grantee will need to show developer services have been procured in a fair and open manner. The developer fee limits are maximums allowed by MSHDA. The cost of development services should be considered when securing a developer.

Monitoring will examine:

- a. Whether development services are being awarded to the lowest responsible party; and
- b. Whether the services specified in the contract are being satisfactorily delivered for the contracted price; and
- c. Whether change orders have been approved prior to contractor action taking place.

If you have questions, contact your CD Specialist at 517-373-1974.