

**ADOPTED REGULATION OF THE HOUSING DIVISION OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R001-02

Effective June 28, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-13, NRS 319.520.

Section 1. Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Participating jurisdiction” means any county, city or town in this state that receives federal money appropriated pursuant to 42 U.S.C. §§ 12701 et seq.

Sec. 2. NAC 319.885 is hereby amended to read as follows:

319.885 As used in NAC 319.885 to 319.950, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 319.8855 to 319.899, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 319.897 is hereby amended to read as follows:

319.897 “Local share” means the percentage of money in the account that is available to any ~~one of the three geographic regions~~ *participating jurisdiction* in this state. The percentage of money is calculated annually by dividing the most recent state estimate of the population of a ~~geographic region~~ *participating jurisdiction* by the most recent state estimate of the population of the entire state. As used in this section, “state estimate of the population” means the estimate of the population of this state and its political subdivisions determined by the ~~department of~~

~~taxation and certified by the governor]~~ *demographer employed* pursuant to NRS ~~[360.285.]~~
360.283.

Sec. 4. NAC 319.899 is hereby amended to read as follows:

319.899 “Project” means ~~[a proposed]~~ *an* activity for which an applicant seeks money from the account.

Sec. 5. NAC 319.910 is hereby amended to read as follows:

319.910 1. Except as otherwise provided in this section, in each round of funding, the total amount of money available for distribution will be allocated according to the local share available to each ~~[of the three geographic regions in the state.~~

~~—2.— If the total dollar amount of the proposals received by the division for a geographic region is less than the amount of the local share available to the region in that round of funding, the division may allocate the remaining money to proposals from the other geographic regions in the same round.~~

~~—3.— If, after the evaluation of proposals in a round of funding, the division has not allocated the full amount of a geographic region’s local share for that round, it may allocate the remaining money to proposals from other geographic regions or carry the money over to the next round of funding for inclusion in the total amount of money available for distribution.]~~ *participating jurisdiction.*

2. A participating jurisdiction shall determine whether to accept or reject the local share available to the participating jurisdiction. If the participating jurisdiction rejects the local share, the division will administer the local share for that participating jurisdiction and consider any proposal for a project in that participating jurisdiction.

3. The division will set aside 10 percent of the money allocated to the account each year to accept any proposal for a project located in any participating jurisdiction that it deems appropriate. A proposal for a project may be submitted to the division throughout the year.

4. In addition to the money from the account that will be set aside pursuant to subsection 3, the administrator may set aside money from the account to:

(a) If the proposal for a project is an eligible project pursuant to NRS 319.510 and all local participating jurisdictions agree, ensure that money in the account will be available to match federal money offered for such a proposal for a project that requires the state to match such federal money as a condition of receiving the federal money; and

(b) Provide for certain proposals for projects, not to exceed \$750,000 per year without the approval from all participating jurisdictions to set aside an amount exceeding \$750,000 per year, that the administrator deems appropriate to carry out the provisions of this chapter.

Sec. 6. NAC 319.912 is hereby amended to read as follows:

319.912 1. Money will not be allocated from the account until there is \$1,500,000 available for distribution in the account.

2. Upon the initial accumulation of ~~[\$1,500,000]~~ *\$1,000,000* in the account, the division will give public notice of a solicitation of ~~[proposals for funding.]~~ *each proposal for a project.* The notice will specify:

(a) The amount of money available for distribution in that round of funding, including the amount of each local share;

(b) Where and in what form a proposal must be submitted;

(c) The deadline for the submission of a proposal to the division;

(d) The amount of the application fee, if any, that must be submitted with the proposal;

- (e) The criteria used by the division to evaluate a proposal; and
 - (f) The expected schedule for the division's review and approval or denial of a proposal.
3. The deadline for the submission of a proposal to the division will be at least 90 days after the date of the public notice.

Sec. 7. NAC 319.914 is hereby amended to read as follows:

319.914 After the initial round of funding, the division will give public notice of a solicitation of ~~[proposals for funding]~~ *each proposal for a project and notify each participating jurisdiction of the money available to the participating jurisdiction* if:

- 1. The amount of money in the account is \$1,000,000 or more; and
- 2. The division determines that the amount of money in the account is sufficient to fund projects in each ~~[of the three geographic regions in the state.]~~ *participating jurisdiction.*

Sec. 8. NAC 319.916 is hereby amended to read as follows:

319.916 Upon good cause as determined by the division, an applicant may submit a proposal for ~~[funding]~~ *a project* to the division between rounds of funding. The division will evaluate such a proposal in accordance with its standard criteria for review. If the proposal is awarded money from the account, the ~~[local share of the geographic region in which the project will be located will, for the next round of funding, be reduced by the amount of the award.]~~ *money will be allocated from the 10 percent of the money in the account set aside each year by the division pursuant to subsection 3 of NAC 319.910.*

Sec. 9. NAC 319.918 is hereby amended to read as follows:

319.918 A proposal for ~~[funding]~~ *a project that is not sought through a local participating jurisdiction* must:

1. Be sponsored by the local government within whose jurisdiction the project will be located, as demonstrated by a letter of support or resolution or such other evidence acceptable to the division;

2. If it is a proposal for construction or rehabilitation of a multi-unit residential project, demonstrate the project's ability to provide housing at a low cost to eligible families for not less than 30 years; and

3. Where applicable, meet the division's standards for fiscal underwriting.

Sec. 10. NAC 319.922 is hereby amended to read as follows:

319.922 ~~[Each proposal for funding will be evaluated and scored pursuant to NAC 319.924 to 319.936, inclusive, and must score at least 200 points to be eligible for money from the account.]~~

1. A participating jurisdiction that accepts its local share shall evaluate each proposal for a project and determine which proposal for a project will be awarded money from its local share.

2. To be eligible for money from the account, each proposal for a project must be evaluated and approved by the division using the criteria established pursuant to NRS 319.510 and the annual plan developed by the division.

Sec. 11. NAC 319.946 is hereby amended to read as follows:

319.946 Each recipient of money from the account shall, at least ~~[four]~~ *two* times annually, report upon the use of the money as required by subsection 2 of NRS 319.520.

Sec. 12. NAC 319.948 is hereby amended to read as follows:

319.948 Except as otherwise provided in this section, if money awarded from the account has not been expended ~~[or encumbered]~~ in relation to the project within ~~[1-year]~~ *3 years* after its

award to an applicant, it must be returned to the division. Upon written request by the applicant and for good cause, the division may extend the period of the grant for not more than 1 year.

Sec. 13. NAC 319.891, 319.904, 319.924, 319.926, 319.928, 319.930, 319.932, 319.934, 319.936 and 319.938 are hereby repealed.

TEXT OF REPEALED SECTIONS

319.891 “Geographic region” defined. “Geographic region” means Clark County, Washoe County or, considered collectively, the remaining counties in this state.

319.904 Advisory committee for account for low-income housing: Creation; membership; duties.

1. The advisory committee for the account for low-income housing is hereby created.
2. The committee consists of not less than three nor more than seven members. The administrator shall select the members after consulting with representatives of housing authorities, organizations of persons with low income, providers of housing and financial institutions. Each geographic region in this state must be represented on the committee. At least one member of the committee must be a representative of persons who live in low-income housing.

3. The committee shall advise the administrator in matters relating to the administration of the account.

4. Money from the account must not be used to support the activities of the advisory committee.

319.924 Awarding of points: Projects with governmental assistance.

1. Points will be awarded as provided in this section to a proposal for a project that meets the following criteria:

(a) One hundred points will be awarded in the case of a project that qualifies for the federal tax credit for low-income housing.

(b) One hundred points will be awarded in the case of a project that has an application pending for the receipt of money directly from the Federal Government, the success of which is conditioned on the project receiving matching state money.

(c) One hundred points will be awarded in the case of a project that can demonstrate a commitment of support from the local government in whose jurisdiction the project will be located. This commitment may take a variety of forms, including, but not limited to, an application for money from a community development block grant, a provision of real property as the site of a project, a change in the local government's zoning law, including a waiver of any requirements regarding the level of density of a housing project, direct financial assistance or significant technical assistance.

2. As used in this section, "federal tax credit for low-income housing" means the tax credit described in 26 U.S.C. § 42.

319.926 Awarding of points: Projects with nongovernmental assistance. Fifty points are available to a proposal for a project which can demonstrate the commitment of a nongovernmental entity. This commitment:

1. Must have a value of at least \$1,000 per unit if the proposal is for a multi-unit residential project.
2. May be demonstrated in a variety of forms, including, but not limited to, the provision of real property for the site of a project, direct financial assistance, guarantees of loans, significant technical assistance or other assistance which will benefit the project financially.

319.928 Awarding of points: Proposals which address certain issues. Points will be awarded as provided in this section to a proposal for a project that meets the following criteria:

1. Twenty-five points will be awarded to a proposal that addresses the scarcity of affordable housing for eligible families in the area where the project will be located.
2. Twenty-five points will be awarded to a proposal that addresses the viability of the project without an allocation of money from the account.
3. Twenty-five points will be awarded to a proposal that addresses whether an award of money from the account will assist in making the project more affordable.

319.930 Awarding of points: Extent to which project available to families of low income.

1. Points are available, in a variable range, to a proposal for a project which will serve a high percentage of families whose incomes are at or below the federally designated level signifying poverty. If the proposal is for a multi-unit residential project, the units must be available to such families at a cost, including both utility and mortgage or rental costs, of not more than 30 percent of their gross income. As used in this subsection, “federally designated

level signifying poverty” means the federal guidelines of poverty as established by the United States Department of Health and Human Services.

2. Fifty points will be awarded to a proposed project which will accommodate eligible families in 50 percent or more of its units. Twenty-five points will be awarded to a proposed project which will accommodate eligible families in 25 to 49 percent of its units. Fifteen points will be awarded to a proposed project which will accommodate eligible families in 15 to 24 percent of its units.

319.932 Awarding of points: Projects designed to be cost effective.

1. Points are available, in a variable range, to a proposal for a project demonstrating a design that is cost effective. A proposal will be compared with other proposals and ranked using a cost-per-unit basis.

2. Points will be awarded according to the proposal’s ranking. Fifty points will be awarded to any proposal ranked in the top 20 percent. Twenty-five points will be awarded to any proposal ranked in the next 20 percent. Fifteen points will be awarded to any proposal ranked in the next 20 percent.

319.934 Awarding of points: Commitment by private lender; identification of specific housing or site. Points will be awarded as provided in this section to a proposal for a project that meets the following criteria:

1. Twenty points will be awarded to a proposal that requires private funding as part of its development costs and includes a letter from a lender indicating a firm commitment to provide a loan.

2. Twenty points will be awarded to a proposal that identifies specifically the housing to be rehabilitated or acquired or the site where the new construction is to occur.

319.936 Awarding of points: Qualifications of applicant's staff. Ten points will be awarded to a proposal for a project submitted by an applicant who has a staff that is qualified to begin the implementation of a project and manage it when the commitment to funding is received.

319.938 Selection of eligible proposals for funding; notification of successful applicants.

1. After the completion of the initial scoring process, the division will eliminate all proposals that do not receive at least 200 points.
2. The division will evaluate the remaining proposals with respect to:
 - (a) The applicant's demonstrated capability in the creation and management of low-income housing projects;
 - (b) The ratio of the cost of administration to the overall cost of the project;
 - (c) The financial viability of the project under varying fiscal circumstances;
 - (d) The benefits of the project to certain population groups, including large families, single parent families, the homeless and other groups as are identified by the division through an assessment of housing needs for the state; and
 - (e) The location of the project and its proximity to services such as public transportation, schools, stores and facilities for health care.
3. The division may award a proposal not more than 50 additional points based upon its review pursuant to subsection 2.
4. After the award of any additional points, the division will select the highest-scoring projects to receive the awards of money in the current round of funding. The division will notify each successful applicant, in writing, that his proposal has been selected for funding.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R001-02**

The Housing Division of the Department of Business and Industry adopted regulations assigned LCB File No. R001-02 which pertain to chapter 319 of the Nevada Administrative Code on June 25, 2002.

Notice date: 5/10/2002
Hearing date: 6/18/2002

Date of adoption by agency: 6/25/2002
Filing date: 6/28/2002

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response and an explanation how other interested persons may obtain a copy of the summary.

The Nevada Division of Housing noticed the hearing with the following: Posted notices at the Divisions offices in Carson City, Nevada and Las Vegas, Nevada, the Attorney Generals Office, Carson City, Nevada, the State Library, Carson City, Nevada and a mailing to a list of interested parties and a mailing to all Nevada Libraries.

2. The number of persons who:

- (a) **Attended the hearing:** 10
- (b) **Testified at the hearing:** 3
- (c) **Submitted to the agency written comments:** Comments were submitted by Clark County-Community Resources-Management

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments have been solicited by the above mentioned notices. The main response was from Clark County who is a participating jurisdiction of the Trust Fund program. The comments and recommendations of Clark County consisted of setting a cap of no more than \$750,000.00 per year for projects that the administrator deems appropriate, unless approved by all participating jurisdictions. The comments, have been taped and are with the Program Manager, Debra Parra.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

There will be limited recommended changes, made by interested parties.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and**
- (b) Both immediate and long-term effects.**

- a. The proposed regulations are expected to allow the local governments to use the funds based on their scoring system. The Division will be able to set aside funds, when necessary, to construct projects that the Division feels are needed in the state.
- b. There will be no adverse effects, either short term or long term, on the program.

6. The estimated cost to the agency for enforcement of the adopted regulation.

None.

7. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This proposed regulation will not overlap or duplicate regulations of other state or government agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There is no applicable federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulations do not establish a new fee.