PART 3 Institutional Subsidies

# The National Housing Code

## SOCIAL & RENTAL INTERVENTIONS

Community Residential Units

Institutional Subsidies

Social Housing Policy

Subsidy Quantum - Social & Rental Interventions

human settlements
Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

Volume 6

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## ACRONYMS

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| Integrated Development Plan | IDP |
| Member of Executive Council | MEC |
| National Home Builders Registration Council | NHBRC |
| National Housing Subsidy Database | NHSDB |
| Provincial Housing Department responsible for human settlement | PD |
| South African Revenue Service | SARS |

# Institutional Subsidies



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# PART A: INSTITUTIONAL SUBSIDIES

## 1 OVERVIEW

Government remains committed to the objective of achieving the progressive realisation of the right of everyone to adequate housing and in this process to address the diversity of the housing needs that exist.

The Comprehensive Plan for the Development of Sustainable Human Settlements recognises the need to provide affordable rental housing to optimise the use of available well located land. This can be achieved through densification and to meet the growing need for short term rental housing for persons required to be mobile and who prefer rental to ownership housing options. The Institutional Housing Subsidy Programme was primarily designed with these objectives in mind. The Programme forms part of a broader rental housing development strategy and provides for housing institutions with access to Government grants to provide and hold rental housing stock for a minimum of four years. The Programme applies nationally and also incorporates the option to sell the rental units to the tenants after four years from the initial occupation of the units. The tenants are also actively involved in the administration and management of the rental stock. Tenants of units created through the Programme may also apply for individual ownership subsidies should they wish to do so.

The Programme differs from the Social Housing Programme which targets specific urban restructuring zones and thus has a limited application. It complements the Community Residential Units Programme, which is a Government-owned rental housing scheme including but not limited to the Community Residential Units and the existing state-owned rental housing stock.

Housing institutions should take note of the objectives and provisions of the Social Housing Programme which targets very specific urban localities to determine the most suitable option for the specific needs to be addressed.

The housing institution receiving the benefits through this Programme must perform dual roles. These are:

a) To develop housing stock and provide this to beneficiaries who qualify for housing subsidies and possibly also beneficiaries who do not qualify, on a rental, instalment sale, shareblock, cooperative or alternative tenure basis; and

b) To provide ongoing, long term management services in respect of the housing stock.

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# 2 POLICY PROVISIONS AND PRESCRIPTS

## 2.1 POLICY INTENT

The main objective of the Programme is to provide capital to housing institutions for the provision and maintenance of affordable rental housing. The capital so granted, must gear private sector financial investments, hence a precondition to access government assistance is the requirement for a financial contribution by the institution.

Institutional subsidies are specifically targeted at housing institutions that will provide tenure arrangements alternative to immediate ownership, for example rental, instalment sale, shareblock or cooperative tenure arrangements, to qualifying subsidy beneficiaries.

The capital subsidy is allocated to the housing institution to the extent that it accommodates beneficiaries who qualify for subsidy assistance. The subsidy is provided on condition that beneficiaries will not take transfer of the property for at least four years after the date of occupation. If and when the beneficiary does opt to take transfer, the grant is administratively converted to an individual ownership subsidy.

## 2.2 POLICY PRINCIPLES

The policy principles for institutional subsidies are as follows:

a) The subsidy is allocated to an approved housing institution to develop and manage rental housing stock;

b) The subsidy capital is only awarded in respect of qualifying beneficiaries;

c) Because the Programme aims at creating affordable rental stock for housing subsidies, the housing units developed with the capital provided through the Programme, may not be disposed of and beneficiaries may not be required to pay the purchase price/balance thereof and take transfer of the units within a period of four years from the initial occupation of the unit in the project;

d) Where qualifying beneficiaries vacate their units, they must be replaced by other qualifying beneficiaries;

e) Housing institutions that transfer the units in an approved project and/or require beneficiaries to pay the purchase price/balance thereof, prior to the prescribed four year period, will be subject to a penalty;

f) Housing institutions applying for capital grants under the Programme must have secure long term tenure rights over the property to be developed and managed; and

g) In order to ensure the focus on affordable rental housing, housing institutions may not conduct any business activity other than the provision of rental housing.

## 2.3 APPLICATION OF PROGRAMME

The Programme applies nationally where there is a need for affordable rental or non-individual ownership tenure housing.

The Programme may be utilised to develop a variety of housing typologies, adhering to the Norms and Standards, including but not limited to:

a) New multi level flat units;

b) New row houses and/or semi-detached units of various design;

c) New free standing units in a variety of layout;

d) Refurbishing of existing units; and

e) Conversion of non-residential buildings into residential use.

## 2.4 MINIMUM REQUIREMENTS FOR HOUSING INSTITUTIONS

### 2.4.1 LEGAL STATUS

In order for an institution to be awarded a capital grant under the Programme, the institution needs to be established as a legal entity. This requirement must be satisfied before the conclusion of the subsidy agreement, and the MEC will require proof that the institution is properly constituted and legally established. For application purposes, either the institution or a promoter of the institution, may apply and lodge an application. Municipalities that also wish to apply for the subsidy must establish one of the following legal entities. Only applications from the following legal entities may be considered:

a) A company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973), irrespective of whether such company is established in terms of section 21 of the Companies Act or otherwise;

b) A company incorporated in terms of the Share Block Control Act, 1980 (Act No. 59 of 1980);

c) A co-operative incorporated in terms of the Co-operatives Act, 1981 (Act No. 91 of 1981); and

d) An association formed in terms of any legislation based on the Communal Property Associations Act, 1996 (Act No. 28 of 1996).

Notwithstanding the above, the MEC will have discretion to determine whether the housing institutions applying for a capital grant under the Programme is an appropriate legal entity and may also consider other legal entities, the nature of which may differ from the entities listed above.

### 2.4.2 MAIN OBJECT

The main object of an institution applying for institutional subsidies, must be the acquisition, development and holding of immovable property for occupation and/or acquisition by both qualifying beneficiaries and non qualifying beneficiaries for a minimum period of four years.

Housing institutions are prohibited from carrying on any other business activity other than that mentioned above, provided that where the immovable property held by the institution contains a non residential component, the institution will be permitted to let, sell or otherwise dispose of the non residential component, in a manner in which it deems fit.

### 2.4.3 FINANCIAL AND OPERATIONAL VIABILITY OF HOUSING INSTITUTIONS

**Regulation and accreditation of housing institutions applying for capital under the Programme**

The Social Housing Programme envisages the establishment of a regulatory authority. This regulatory authority will inter alia be responsible for the accreditation of social housing institutions that wish to apply for capital grants under that Programme.

The main objective of the regulation and accreditation of housing institutions is to ensure that when applying for project funding, they are financially and operationally equipped to undertake rental housing projects on a sustainable basis.

The accreditation authority will introduce an accreditation mechanism including criteria that must be satisfied by housing institutions before project applications will be entertained.

The accreditation process entails the following three phased process:

a) Preparation for accreditation application;

b) Provisional accreditation; and

c) Full accreditation

With a view to aligning the Social Housing Programme and the Institutional Housing Subsidy Programme, because both programmes provide rental housing options for low income households in a form that requires institutionalised management, the regulation and accreditation mechanism that will be administered by a suitable accreditation authority to be established will also apply to the Institutional Housing Subsidy Programme.

All housing institutions that wish to apply for capital grants under the Institutional Housing Subsidy Programme will therefore be subject to the accreditation processes as contemplated in the Social Housing Programme.

**Financial viability and ongoing management**

Institutions must have the necessary capacity to successfully undertake the project. An institution will be required to demonstrate that it is financially viable and that it has the necessary managerial expertise and systems in order to implement any proposed project successfully. Once the Institutional Subsidies have been paid to the institution, the institution will be required to fund the ongoing management and maintenance of the properties out of its own resources. Hence, the institution must demonstrate that its management structure and systems are in accordance with said business principles.

### 2.4.4 REQUIREMENT FOR A FINANCIAL CONTRIBUTION BY THE INSTITUTION

The purpose of granting Institutional Subsidies is to enable institutions to combine the subsidy capital with their own funds in order to provide housing opportunities, which would otherwise be beyond the reach of beneficiaries. As a result, projects will only be considered where institutions make capital contributions towards projects over and above the institutional subsidies to be allocated in respect of qualifying beneficiaries. The minimum financial contribution per unit must be equal to the financial contribution required from individual housing subsidy scheme beneficiaries.

### 2.4.5 TENURE REQUIREMENTS FOR THE INSTITUTION

An institution will normally be required to own the immovable property in respect of which a project is undertaken (“the institution’s property”). The MEC may however allow the institution to undertake a project where it is not the owner of the immovable property but it holds enforceable long term rights in respect of such property where such rights are registered in the office of the relevant Registrar of Deeds.

Where the institution at the application stage does not have registered ownership of the property, or does not have enforceable long term rights in respect of the property in question, the MEC may grant approval of an application subject to the institution obtaining ownership and/or acquiring long term rights in respect of the property and restrict the payment of any subsidy amounts until the applicable requirement has been met.

### 2.4.6 REPRESENTATION ON THE GOVERNING BODY OF THE INSTITUTION

The MEC may appoint a director to serve on the Board of Directors of the institution. An institution must ensure that occupants occupying residential properties in the project are adequately represented, to ensure that the wishes and desires of the occupants are taken into account, but not necessarily to afford the occupants a controlling role in the management of the institution. An institution must, accordingly, in its project application propose to the MEC a basis upon which beneficiaries will be represented. The MEC shall consider the institution's proposal and if the MEC is not satisfied with those proposals (but is otherwise prepared to approve of the project), it shall negotiate with the institution in regard to the manner in which occupants are to be represented. It is to be noted that all occupants who have not taken transfer of the residential properties occupied by them need to be represented in any representative structure created by the institution, whether or not such occupants are qualifying beneficiaries.

The MEC has a wide discretion in determining the manner in which the occupants of the residential properties will be represented. Without derogating from the discretion of the MEC, a structure will be considered adequate where:

a) All occupants of residential properties in the project are entitled to vote on an annual basis for a residents' committee;

b) Such committee will negotiate and be consulted with regard to house rules of the institution dealing with, for example, matters such as the use of amenities in the project;

c) The use and maintenance of common areas and the control thereof as well as the conduct and manner of behaviour of occupants and any person being present or residing in the buildings;

d) The committee elects from amongst its members, one or more representative(s) to serve on the Governing Body of the institution; and

e) In cases where an institution has received Institutional Subsidies in respect of more than one project, the residents' committee in respect of each project will elect (where appropriate) representatives from amongst its members to serve on a central overseeing residents committee. This central committee will in turn elect out of its membership one or more person(s) to serve on the Governing Body of the institution.

Ultimately the manner and procedure of representation of the occupants shall be recorded by the MEC in the approval of the project and will be included in the subsidy agreement concluded between the MEC and the institution.

## 2.5 WHO WILL BE ASSISTED?

Housing institutions may apply for Institutional Subsidy capital grants in respect of beneficiaries who satisfy the following criteria:

a) **Resident:** he or she is lawfully resident in South Africa (i.e. citizen of the Republic of South Africa or in possession of a permanent residence permit. Certified copies of the relevant documents must be submitted with the application).

b) **Competent to contract:** he or she is legally competent to contract (i.e. 18 years of age or over or legally married or legally divorced and of sound mind).

c) **Monthly household income:** Persons must comply with the provisions of the programme funding schedule as annually approved by the Director-General.

A prospective beneficiary will be required to submit adequate proof of income, and, in the case of income received through self-employment, must sign an affidavit stating the amount earned.

For the purposes of assessing whether any particular person is entitled to receive a housing subsidy, the income of his or her spouse (if any) shall be added to that person's income, and "income" shall include:

i) Basic salary and/or wages;

ii) Any allowances paid on a regular, monthly or seasonal basis as part of an employment contract;

iii) Any loan interest subsidy, or other remuneration payable regularly on a monthly basis to the individual (and/or to his or her spouse) by his or her employer;

iv) Any financial obligations met on behalf of the individual (or his or her spouse) by his or her employer on a regular monthly basis;

v) Any commission payable to the individual (and/or to his or her spouse) on a monthly basis (an average of the most recent 12 (twelve) months will be determined for eligibility assessment purposes);

vi) Income received through self employment; and

vii) Any retirement or disability benefits received on a regular (monthly) basis.

d) **Persons who are beneficiaries of the Land Restitution Programme:** beneficiaries of the Land Restitution Programme (LRP), should they comply with other qualification criteria, may apply to rent from an institution.

e) **Persons classified as aged:** Aged persons who are single without financial dependants may also apply for subsidisation. Aged persons can be classified as male and female persons who have attained the minimum age set to qualify for Government's old age social grant.

f) **Persons classified as disabled**: Persons who are classified as disabled, whether single, married or co-habiting or single with financial dependants, may apply for housing subsidies. In addition the MEC may in his/her discretion decide to award the beneficiary the variation of the subsidy.

Furthermore, if a person who has already received state funding for housing and/or who already owns or owned a residential property, is or becomes disabled, or if his or her dependent(s) is/are or become disabled and that person satisfies the other qualification criteria, the MEC may at his/her discretion decide to award the beneficiary the variation of the subsidy.

The variation of the subsidy amount for purposes of improvements to the dwellings for disable persons is contained in the Variation Manual, included in the Technical and General Guidelines of the National Housing Code.

## 2.6 FUNDING ARRANGEMENTS

An institution shall, in respect of any particular project, qualify for an Institutional Subsidy only if, and to the extent to which, it allows qualifying beneficiaries to occupy the residential properties contained in that project.

An institution will, in respect of an approved project, be entitled to receive an amount for each and every residential property that will be occupied by an approved beneficiary that complies with the provision of the programme funding schedule as annually approved by the Director-General. The institution will not receive any subsidies in respect of the properties that will be occupied and/or purchased by non-qualifying beneficiaries.

If any application for an Institutional Subsidy is approved, the MEC shall determine the amount of the Institutional Subsidy which will become payable to the institution on the basis of the qualifying/non-qualifying beneficiary mix indicated by the institution in its application, or on the basis of an alternative mix agreed upon between the MEC and the institution.

The MEC and the institution must agree on the basis of the progress payment systems. Payment of approved Institutional Subsidy capital grants must be made in stages upon certification that the agreed milestones have been reached.

### 2.6.1 VARIATIONS TO THE SUBSIDY AMOUNT

Variations to the subsidy allocated to institutions are for geotechnical purposes in the construction of housing and for modifying houses/units for persons with disabilities. The variations take the form of an extra amount to the subsidy quantum to cater for these circumstances. A more detailed explanation of the variations is contained in the Technical and General Guidelines.

### 2.6.2 FINANCIAL ACCOUNTING AND AUDITING

The management structure and management system of the institution must be in accordance with sound business principles. In this regard:

a) The institution shall at all times keep proper books of account in accordance with generally accepted sound accounting principles. If the institution has received Institutional Subsidies in respect of more than one project, it shall keep separate sets of accounts in respect of each project;

b) Every institution which has received an Institutional Subsidy must no later than three months after the end of each and every financial year of the institution, submit to the MEC copies of audited financial statements, together with a certificate from the institution's auditor in which the auditor:

    i) Confirms that the books of account of the institution have been maintained properly and that they accurately reflect the state of the financial affairs of the institution;

    ii) Gives details of the number of residential properties previously occupied by beneficiaries by virtue of lease arrangements or other forms of tenure that have been sold during the year in question;

iii) Gives details of the selling prices of any properties contemplated in the preceding paragraph and details of the share of those selling prices which the MEC is entitled to receive; and

iv) Certifies that rentals and/or other contributions and considerations charged by the institution in respect of lease agreements or other forms of tenure or income are in accordance with the approval granted by the MEC.

c) If at any stage during a project all the residential properties earmarked for beneficiaries have been sold or transferred, the institution in question need no longer be obliged to comply with the provisions of paragraph (b) above.

d) The MEC may at any time, if it deems is appropriate to do so, appoint an independent auditor in order to undertake a detailed audit of the books of account of the institution and so far as these books of account relate to any particular approved project. The MEC will be liable for the costs of such audit and the institution must give full and complete access to all its relevant books of account and documents to the appointed auditor.

## 2.7 INSTITUTIONAL ARRANGEMENTS

### 2.7.1 RESPONSIBILITIES OF THE PROVINCIAL GOVERNMENT

The PD and MEC shall assume responsibility for:

a) Implementation and administration of the Programme;

b) Accepting an institution's application;

c) Approving the institution's application in respect of the criteria specified in the "Guidelines for the Implementation of Projects";

d) Approving deviations from the National Norms and Standards should they arise and should they be acceptable;

e) Concluding a subsidy agreement with the institution;

f) Approving alternative forms of secure tenure for beneficiaries;

g) Granting institutional subsidies to institutions which will sell all or any portion of the properties that comprise the institution's property in the project to beneficiaries;

h) Paying out the Institutional Subsidy in accordance with set milestones determined by the MEC; and

i) Approving individual Institutional Subsidy beneficiary applications.

### 2.7.2 NATIONAL HOUSING DATABASE

National Housing Database registration rules for properties developed with the Institutional Subsidy mechanism are slightly different than for other subsidies. The following rules apply in the case of institutional subsidies:

**Information required in the case of a lease agreement**

If an institution concludes lease agreements in respect of its residential properties with beneficiaries or if it grants other rights of tenure in respect of those properties to beneficiaries:

a) The name of the beneficiary and his or her spouse, if any, must be recorded on the National Housing Subsidy Database but the endorsement “institutional” shall appear next to the entry;

b) The effect of that record will be that neither the beneficiary nor his or her spouse, if any, whilst he or she occupies the property, may receive an individual housing subsidy;

c) If the beneficiary vacates the property occupied by him or her for any reason whatsoever, his or her name and the name of his or her spouse and dependants, if any, must be removed from the National Housing Subsidy Database, so that he or she and his or her spouse, if any, will once again qualify for a housing subsidy;

d) If he or she wishes to take transfer before the expiry of the period of four years after the occupation date, he or she may apply for an individual subsidy in accordance with his/her income to defray a portion of the purchase price. If the individual subsidy is approved, the endorsement “institutional” against the name of the beneficiary and his or her spouse and dependants, on the National Housing Subsidy Database, will be replaced with an indication that an individual subsidy has been granted; and

e) If the property is sold and transferred to the beneficiary at any time after the expiry of a period of four years after the occupation date, the endorsement “institutional” which appears next to the name of the beneficiary and his or her spouse and dependants, if any, on the National Housing Database must be removed. The effect of removing this endorsement will be to record that the beneficiary and his or her spouse and dependants, if any, have received an individual subsidy.

**Information required in the case of an "instalment sale" and/or shareblock agreement**

If the institution concludes an instalment sale agreement or a shareblock agreement with any beneficiary in respect of a property:

a) The name of the beneficiary and his or her spouse and dependants, if any, must be recorded on the National Housing Database as a person or persons who has/have received an individual subsidy; and

b) If the instalment sale agreement or shareblock agreement is thereafter cancelled for any reason whatsoever, the name of the beneficiary and his or her spouse and dependants, if any, must nevertheless remain on the National Housing Database.

If any event occurs which requires the name of a beneficiary and his or her spouse, if any, to be recorded on the National Housing Database or to be deleted from it, or which requires any endorsement reflected on the National Housing Database in respect of any beneficiary and his or her spouse, if any, to be deleted, the institution must forthwith in writing advise the MEC of the occurrence of the event. The MEC must then convey the required adjustments to the National Housing Subsidy Database (NHSDB) administrator in the National Department.

# Institutional Subsidies



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# PART B: GUIDELINES FOR THE IMPLEMENTATION OF PROJECTS

## 1 NATURE OF GUIDELINES

This section contains a detailed suggested way of implementation, and therefore is non-prescriptive in nature. The MEC has discretion in the application of these Guidelines.

It is however, important to note that the contents of the Guidelines are based on the statutory provisions applicable to all spheres of government. The key legislation includes:

a) The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

b) The Public Finance Management Act, 1999 (Act No. 1 of 1999);

c) The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); and

d) The Housing Act, 1997 (Act No. 107 of 1997).

In considering the application of the Guidelines for the Implementation of the Programme, consideration should be given to the implications of any deviations, measured against the provisions of the relevant legislative provisions.

The Constitution, 1996 obliges the three spheres of government to fulfil the obligations imposed by it, and to apply national and provincial legislation enacted in terms of the Constitution, 1996 (sections 85(2), 125(2) and 151 (3)). In the implementation of this programme, all office bearers and officials must ensure compliance with this statutory framework.

### 1.1 IMPORTANT GENERAL ASPECTS OF THE PROGRAMME

This section details the nature of projects undertaken with this Programme, the quantum of institutional subsidies and tenure arrangements.

### 1.2 SECURITY OF TENURE

In terms of the provisions, the institution must ensure that beneficiaries are granted secure rights of tenure, which may include:

a) Lease;

b) Instalment sale;

c) Shareblock; and

d) Individual ownership after four years.

The rules in respect of each of these are set out below:

### 1.2.1 LEASE

Tenure in the form of lease may be with or without an option to the beneficiary to purchase the property. In this regard, the following rules apply:

a) Subject to (c), (d) and (f) below, the lease agreement shall be at the will of the beneficiary, in the sense that the institution may not cancel the agreement if the beneficiary has complied with all his or her obligations in terms of the agreement. However, in the case of an offer made to the tenant regarding the purchase of the rental unit as defined in part (c) below and in the case of an employer/employee as defined in (f) below, the above condition shall not apply.

b) If the beneficiary who leases the property is given an option to purchase the property, the beneficiary may only be entitled to exercise that option after the expiry of a period of 4 years after the occupation date. The purchase price at which the beneficiary may purchase the property must be stipulated in the lease agreement entered into between the beneficiary and the institution upon the occupation date.

c) The institution may, if the beneficiary fails to exercise any option given to him or her, cancel the lease agreement on 6 months written notice to the beneficiary.

d) If no option to purchase is given to the beneficiary, the institution may nevertheless require the beneficiary to purchase the property concerned on 6 months written notice given at any time after the passing of 4 years following the occupation date. The purchase price of the property will be the market value of the property, to be determined by agreement between the institution and the beneficiary and failing such agreement be determined by an independent valuator appointed by the MEC.

e) If the beneficiary fails to purchase the property within the 6 months period set out in (d), above, the institution may cancel the lease agreement on the giving of at least ninety days written notice to the beneficiary.

f) If the beneficiary is employed by any person who controls the institution (“an employer”) the institution may terminate the lease agreement if the beneficiary’s employment with the employer terminates for any reason. An employer will be considered to control an institution if it holds more than 50% of its shares or if it directly or indirectly is entitled to exercise the majority of the voting rights in the institution or to appoint the majority of its board of directors.

### 1.2.2 INSTALMENT SALE

Where the subsided housing unit is sold to a qualifying beneficiary from the outset, the option of a sale agreement shall require the purchasing beneficiary to pay the purchase price together with interest thereon (to be calculated at a market related rate) in monthly instalment payments over a period of not less than 4 years. In addition the purchasing beneficiary may not, subject to the provisions of the Alienation of Land Act, 1981 (Act No. 68 of 1981) take transfer of the property, until the purchase price has been paid and in any event prior to the 4 year period from the occupation date.

### 1.2.3 SHAREBLOCK

If the institution is a shareblock company, the beneficiary may purchase a shareblock in the share capital of the institution. The beneficiary concludes a use agreement, which entitles him or her to the exclusive use of the property to which the shareblock is linked (as more fully allowed for in terms of the Share Blocks Control Act, 1980 (Act No. 59 of 1980)). A shareblock agreement must be concluded on the basis that the total amount payable by a beneficiary together with interest thereon (which shall be calculated at a market related rate), must be paid over a period of not less than 4 years.

If an institution concludes instalment sale agreements or shareblock agreements with qualifying beneficiaries, the prevailing subsidy amount which becomes payable by the MEC to the institution in respect of any particular qualifying beneficiary, shall be regarded as the final instalment made by the beneficiary to the institution in terms of his or her agreement with it. The institution may not sell properties, which have been disposed of in terms of instalment sale or shareblock agreement to third parties, except if the beneficiary defaults in his or her obligation.

### 1.2.4 OTHER TENURE OPTIONS

The institution may offer an alternative form of tenure as the MEC may approve that ensures secure tenure for the beneficiary.

If the institution grants alternative rights of tenure to qualifying beneficiaries to those mentioned above:

a) The institution shall give to any qualifying beneficiary the benefit of the amount of the subsidy quantum; and

b) The institution and the MEC shall agree on what basis the qualifying beneficiaries will be given that benefit.

The institution shall be entitled, at any time after expiry of a period of 4 years after the occupation date, to require the qualifying beneficiary on 6 months written notice to purchase the property from it, and if the qualifying beneficiary fails to purchase the property, to cancel the agreement between it and the qualifying beneficiary on 90 days written notice to the beneficiary.

### 1.2.5 SPECIAL RULES

a) The institution may prescribe special rules in respect of any particular project. If any such special rules are prescribed, it should:

   i) Be detailed in the institution's application for the approval of the project; and

   ii) Be recorded in the agreement concluded between the institution and beneficiaries who have purchased a house and/or have occupied the properties in the project.

b) Special rules prescribed by the institution may deal with any appropriate matter. Without limitation, those special rules may include:

   i) Rules of succession in terms whereof defined family members of any beneficiary of a property will be entitled to occupy that property on the death of its beneficiary;

   ii) If residential properties are at any stage sold, the measure of control, if any, that the institution will retain over those properties. In particular, an institution may provide that any person who purchases such a property may not without the consent of the institution sell the property for a defined number of years;

   iii) The consideration, if any, to which the institution will be entitled in respect of the giving of its consent to the sale of any property previously purchased from it if a restriction of the nature contemplated in the preceding paragraph is imposed;

   iv) Any rights of pre-emption, dictated and guided by the Housing Act, 1997 (Act 107 of 1997) and amendments to this Act, that may be created in favour of the institution in respect of any properties that it has sold; and

   v) Any amounts payable to any beneficiary in the event that the beneficiary ceases his or her occupation of the property.

### 1.2.6 QUALIFYING BENEFICIARIES

In terms of the policy provisions, institutional subsidies will be made available only to institutions who will allow beneficiaries:

a) To occupy residential properties, or a portion of the residential properties (if some of the properties are to be occupied by non qualifying beneficiaries), in a particular project for a minimum period of 4 years after the date on which the property is first occupied (the "occupation date") by the beneficiary; and

b) On the basis that during the four year period, the institution will remain the owner of the properties occupied by the beneficiaries.

Only beneficiaries, who have obtained approval as qualifying beneficiaries by the MEC, on the basis of an agreement between the beneficiaries and the institution (e.g. instalment agreement, a shareblock agreement, a lease agreement, or an agreement which confers other rights to tenure) may occupy properties in respect of which institutional subsidies have been made available.

Institutional subsidies, apart from the exceptions, will not be made available to institutions who will sell residential properties to qualifying beneficiaries on the basis that:

a) The qualifying beneficiaries will be entitled to take transfer of the properties purchased by them prior to the expiry of a period of four years after the occupation date; and

b) The qualifying beneficiary is obliged to pay the full purchase price of the residential property purchased by him or her prior to the expiry of that 4 year period.

The institution must ensure that qualifying beneficiaries are granted secure tenure rights in the form of either a lease, instalment sale, shareblock or individual ownership over four years.

### 1.2.7 HOUSEHOLDS/PERSONS WHO DO NOT QUALIFY FOR SUBSIDY ASSISTANCE

An institution may sell, rent or otherwise dispose of the properties in any project earmarked for non-qualifying beneficiaries and which properties were not financed through the Programme funding in any manner in which it deems fit.

## 1.3 NATURE OF THE INSTITUTIONAL SUBSIDY

The Institutional Subsidy mechanism differs from other subsidy mechanisms as follows:

a) It provides a fixed amount of subsidy in respect of all households complying with the provisions of the Programme funding schedule as annually approved by the Director-General;

b) Pays the subsidy out in the name of the institution and not in the name of the beneficiary; and

c) Does not necessarily provide the beneficiary with individual ownership or immediate ownership.

An institution shall, in respect of any particular project, qualify for an Institutional Subsidy only if, and to the extent to which, it allows qualifying beneficiaries to occupy the residential properties contained in that project.

The institution may not receive any subsidies in respect of the properties that will be occupied and/or purchased by non-qualifying beneficiaries.

If any application for an Institutional Subsidy is approved, the relevant MEC shall determine the amount of the Institutional Subsidy which will become payable to the institution. That determination shall be made on the basis of the qualifying/non-qualifying beneficiary mix suggested by the institution in its application, or on the basis of an alternative mix agreed upon between the MEC and the institution.

As detailed in the Technical and General Guidelines, the Director-General of the National Department will annually announce the various subsidy quanta.

## 1.4 NATURE OF AN INSTITUTIONAL SUBSIDY PROJECT

If an institution wishes to obtain an Institutional Subsidy, it should identify a housing project. Typically an institution will identify an immovable property, and the housing project to be undertaken by an institution could then entail:

a) The development of that institution's immovable property in order to create housing opportunities for qualifying and non-qualifying beneficiaries; or

b) The upgrading and improvement of the residential properties that are already owned by the institution.

The residential properties that may be financed through the application of the Programme may include newly constructed multiple unit complexes including flats, units in refurbished buildings, existing housing of any kind, in situ upgrading of existing unserviced or minimally serviced settlements, and incremental housing where a serviced site is provided as the first stage and a top structure is thereafter constructed.

It is not imperative that a project should contain any construction or upgrading work. So, for example, an institution may purchase an existing residential property and simply grant rights of occupation to qualifying beneficiaries.

Preference will however be given to projects that create new residential stock through the construction of new residential units or the upgrading of existing residential properties or conversion of non-residential buildings.

## 2 APPLICATION OF THE PROGRAMME

Institutional subsidies can only be applied for by institutions which meet the criteria set out in Part A: Policy Section.

In order for an institution to be awarded a capital grant under the Programme, the institution needs to be established as a legal entity. This requirement must be satisfied before the conclusion of the subsidy agreement, and the MEC will require proof that the institution is properly constituted and legally established. For application purposes, either the institution or a promoter of the institution, may apply and lodge an application. Municipalities that also wish to apply for the subsidy, must establish one of the following legal entities. Only applications from the following legal entities may be considered:

a) A company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973), irrespective of whether such company is established in terms of section 21 of the Companies Act or otherwise;

b) A company incorporated in terms of the Share Block Control Act, 1980 (Act No. 59 of 1980);

c) A co-operative incorporated in terms of the Co-operatives Act, 1981 (Act No. 91 of 1981); and

d) An association formed in terms of any legislation based on the Communal Property Associations Act, 1996 (Act No. 28 of 1996).

Notwithstanding the above, the MEC will have discretion to determine whether the housing institutions applying for a capital grant under the Programme is an appropriate legal entity and may also consider other legal entities, the nature of which may differ from the entities listed above.

Funding under the Programme is available for the following development options:

a) New multi level flat units;

b) New row houses and/or semi-detached units of various design;

c) New free standing units in a variety of layouts;

d) Refurbishing of existing units; and

e) Conversion of non-residential buildings into residential use.

## 3 PROJECT FUNDING

A standard subsidy quantum is provided to institutions that have applied and that have satisfied the criteria. The institution may not receive any subsidies in respect of properties that will be occupied and/or purchased by households or persons who do not qualify for housing subsidies.

The institution determines the quantum to be used in project funding. To ensure adequate cash flow, payment of subsidy funding is made upon the achievement of agreed upon milestones. The following procedures are suggested when determining the payment system:

a) The institution should, in its project application, propose milestones for progress payments;

b) The MEC should consider these proposals taking into account the following:

   i) The need to ensure that the institution does not face adverse cash flow consequences; and

   ii) The fundamental principle that public funds are utilised and paid out only as and when value has been created.

c) The MEC should in its approval of the project determine the milestones at which the approved subsidy will be paid and the amounts that will be paid on reaching each particular milestone; and

d) The various milestones, the progress payments and related aspects pertaining to the agreement between the MEC and the institution should be recorded in the project subsidy agreement.

### 3.1 FINANCIAL ACCOUNTING AND AUDITING

The management structure and management system of the institution must be in accordance with sound business principles. In this regard:

a) The institution should at all times keep proper books of account in accordance with generally accepted sound accounting principles. If the institution has received institutional subsidies in respect of more than one project, it should keep separate sets of accounts in respect of each project;

b) Every institution which has received an Institutional Subsidy should no later than three months after the end of each and every financial year of the institution, submit to the MEC copies of audited financial statements, together with a certificate from the institution’s auditor in which the auditor:

i) confirms that the books of account of the institution have been maintained properly and that they accurately reflect the state of the financial affairs of the institution;

ii) gives details of the number of residential properties previously occupied by beneficiaries by virtue of lease arrangements or other forms of tenure that have been sold during the year in question;

iii) gives details of the selling prices of any properties contemplated in the preceding paragraph and details of the share of those selling prices which the MEC is entitled to receive; and

iv) certifies that rentals and/or other contributions and considerations charged by the institution in respect of lease agreements or other forms of tenure or income are in accordance with the approval granted by the MEC.

c) If at any stage during a project all the residential properties earmarked for beneficiaries have been sold or transferred, the institution in question need no longer be obliged to comply with the provisions above; and

d) The MEC may at any time, if it is deemed appropriate to do so, appoint an independent auditor in order to undertake a detailed audit of the books of account of the institution and so far as these books of account relate to any particular approved project. The MEC should be liable for the costs of such audit and the institution must give full and complete access to all its relevant books of account and documents to the appointed auditor.

### 3.2 REFUNDING OF THE SUBSIDY

When the qualifying beneficiary purchases the rental housing unit after four years from the date of occupation, the original subsidy quantum paid by the MEC to the institution is considered to be an individual subsidy and therefore does not need to be refunded. It is recorded as an individual subsidy.

Should the qualifying beneficiary want to purchase the rental housing unit before the four year period, the institution should against transfer of the property pay the MEC the actual amount received for the property or the amount calculated in accordance with the formula in 7.3.8 (b) of this document.

# Institutional Subsidies

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2 Policy provisions and Prescripts

PART B Guidelines for the Implementation of Projects

1 Nature of Guidelines

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**4 Subsidy Agreement Between the Institution and MEC**

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## 4 SUBSIDY AGREEMENT BETWEEN THE INSTITUTION AND MEC

If an Institutional Subsidy is approved, the institution should conclude a subsidy project agreement with the MEC in order to regulate the basis upon which the project will be undertaken and upon which the subsidy will be paid to the institution. Any subsidy agreement should be approved by the State Attorney before it is concluded. A subsidy project agreement should contain:

a) The institution's details, including its name and legal status;

b) The name of the project;

c) Detailed description of the project with reference to the institution's property that will be developed, the work that will be done by the institution, the residential properties that will be created and a project implementation programme. Reference may be made in the subsidy project agreement to an agreed project proposal or project description containing these details;

d) The agreed beneficiary / non-beneficiary mix;

e) The amount of the Institutional Subsidy and the manner in which it has been calculated;

f) The progress payments in which the subsidy will be paid to the institution, with specific reference to the milestones that will entitle the institution to receive any particular progress payments;

g) The product prices of all residential properties to be provided in the project;

h) The rental or other consideration payable by beneficiaries who will hire or receive other rights of tenure in respect of their properties, and the basis upon which annual increases in that rental or consideration are to be calculated;

i) The basis upon which the occupants of residential properties in the project will participate in the management of the institution;

j) The special rules, if any, that will apply to the project;

k) As annexures, the terms and conditions upon which the institution will contract with any particular beneficiary in respect of any particular residential property; and

l) Clauses dealing with breach of contract committed by the institution and the consequences thereof.

## 5 NORMS AND STANDARDS

All Norms and Standards, as stipulated in the Technical and General Guidelines, apply and should be adhered to.

## 6 WHO WILL BE ASSISTED?

**The following criteria apply for beneficiaries to be able to access housing provided by institutions:**

a) **Resident:** he or she is lawfully resident in South Africa (i.e. citizen of the Republic of South Africa or in possession of a permanent residence permit. Certified copies of the relevant documents must be submitted with the application).

b) **Competent to contract:** he or she is legally competent to contract (i.e. over 18 years of age or legally married or legally divorced and of sound mind).

c) **Not yet benefited from government assistance:** In respect if purchase and ownership schemes, neither that person nor his or her spouse has previously derived benefits from the housing subsidy scheme, or any other state funded or assisted housing subsidy scheme which conferred benefits of ownership, leasehold or deed of grant or the right to convert the title obtained to either ownership, leasehold or deed of grant.

In the case of a divorced applicant who previously derived benefits from the housing subsidy scheme, or any other state funded or assisted housing subsidy scheme which conferred benefits of ownership, leasehold or deed of grant or the right to convert the title obtained to either ownership, leasehold or deed of grant, the terms of the divorce order will determine such an applicant's eligibility for any further benefits under this Programme. Divorced applicants who acquired ownership of a residential property or who derived a financial benefit from the sale of a residential property as part of the dissolvement of the joint estate, will be disqualified from accessing any further housing subsidy, except that such an applicant may purchase a serviced stand developed as part of a project financed from any of the National Housing Programmes.

The aforementioned restrictions do not apply to rental schemes. Where a rental scheme is later converted to a purchase and ownership scheme, the beneficiaries who have previously benefited from Government assistance will not be able to use the subsidy allocated to the Institution. Such a person must pay the sale price from his/her own resources.

d) **Not yet owned a fixed residential property:** such a person may qualify to rent or to buy institutional housing. He or she will not be eligible to use the subsidy allocated to the institution to buy the property. Such persons must pay the purchase price form their own resources.

e) **Previously owned a fixed residential property:** such a person may qualify to rent institutional housing unit.

In addition to the above requirements, any applicant must also satisfy the following criteria, as linked to the benefits of the Programme:

f) **Married or Cohabiting:** he or she is married (in terms of the Civil Law or in terms of a Customary Marriage) or habitually cohabits with any other person. The word “spouse” includes any partner with whom a prospective beneficiary habitually cohabits.

Where an application is made for a subsidy on the basis of a legal marriage or cohabitation arrangement, it is required that the property must be registered in the names of both spouses in the Deeds Office. Documentary proof of the marriage and affidavits from both spouses in respect of cohabiting arrangements and customary marriages must be provided.

Applicants who satisfy the above criteria may qualify for the purchase of a service site and/or a housing subsidy for the construction of a top structure.

g) **Single with Financial Dependents:** or he or she has proven financial dependents. A financial dependent refers to any person who is financially dependent on the subsidy applicant and who resides permanently with the housing subsidy applicant. Financial dependents include any or a combination of the following proven financially dependent persons of, and residing permanently with, the subsidy applicant:

i) Biological parents or parents-in-law;

ii) Biological grandparents or grandparents-in-law;

iii) Brothers/sisters under the age of eighteen (18) years or, if older, who are proven financially dependent on the applicant;

iv) Children under the age of eighteen (18) years, i.e.:

a) Grand children;

b) Adopted children;

c) Foster children;

d) Biological children;

e) Any of the above persons over the age of eighteen (18) years who are still studying and who are financially dependent on the applicant; and

v) extended family members who are permanently residing with the applicant due, for example, to health problems and who are therefore proven financially dependent on the housing subsidy applicant;

**Special Provision:** It is a requirement that in cases where housing subsidy applications are submitted by single persons with financial dependents, that the particulars from the identification document of such dependents must be recorded on the application form, and the information must be captured in the Housing Subsidy System. The following documents must accompany an application for a housing subsidy:

**Certified copies of:**

a) Birth certificates, bearing the thirteen digit identity number for children who do not have bar coded identity documents;

b) Bar coded identity documents of all persons who are claimed as part of the household;

c) Divorce settlement documentation (to prove custody of children) where relevant;

d) Affidavits for unions solemnised in terms of SA Civil Law and accompanied by sworn statements to prove the authenticity of the relationship to the applicants, where applicable; and

e) Court orders or, orders issued by the Commissioner of Child Welfare to prove guardianship for foster children, where relevant.

Applicants who satisfy the above criteria may qualify for the purchase of a service site and/or a housing subsidy for the construction of a top structure.

**h) Single persons without financial dependents:** Applicants falling within this category may apply to only rent a property provided by the institution. Single persons may not buy their units in return for an Individual Housing Subsidy.

**i) Monthly household income:** Persons must comply with the provisions of the programme funding scheduled as annually approved by the Director-General.

A prospective beneficiary will be required to submit adequate proof of income, and, in the case of income received through self-employment, must sign an affidavit stating the amount earned.

For the purposes of assessing whether any particular person is entitled to receive a housing subsidy, the income of his or her spouse (if any) shall be added to that person's income, and "income" shall include:

i) Basic salary and/or wages;

ii) Any allowances paid on a regular, monthly or seasonal basis as part of an employment contract;

iii) Any loan interest subsidy or other remuneration payable regularly on a monthly basis to the individual (and/or to his or her spouse) by his or her employer;

iv) Any financial obligations met on behalf of the individual (or his or her spouse) by his or her employer on a regular monthly basis;

v) Any commission payable to the individual (and/or to his or her spouse) on a monthly basis (an average of the most recent 12 (twelve) months will be determined for eligibility assessment purposes);

vi) Income received through self employment; and

vii) Any retirement or disability benefits received on a regular (monthly) basis.

j) **Persons who are beneficiaries of the Land Restitution Programme:** beneficiaries of the Land Restitution Programme (LRP), should they comply with other qualification criteria, may apply to rent from an institution.

k) **Persons classified as military veterans:** Military veterans as certified by the SANDF who are single without financial dependants may also apply for irental units in approved projects. Veterans must submit with their application:

i) Proof of service; and

ii) Details of social services received.

Such single military veterans may not purchase their rental unts in return for an Individual Housing Subsidy.

l) **Persons classified as aged**: Aged persons who are single without financial dependants may also apply for subsidisation. Aged persons can be classified as male and female persons who have attained the minimum age set to qualify for Government's old age social grant.

m) **Persons classified as disabled**: Persons who are classified as disabled, whether single, married or co-habiting or single with financial dependants, may apply for housing subsidies. In addition the MEC may in his/her discretion decide to award the beneficiary the variation of the subsidy.

Furthermore, if a person who has already received state funding for housing and/or who already owns or owned a residential property, is or becomes disabled, or if his or her dependent(s) is/are or become disabled and that person satisfies the other qualification criteria, the MEC may at his/her discretion decide to award the beneficiary the variation of the subsidy.

The variation of the subsidy amount for purposes of improvements to the dwellings for disable persons is contained in the Variation Manual, included in the Technical and General Guidelines of the National Housing Code.

# Institutional Subsidies



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# 7 SUGGESTIONS ON HOW TO IMPLEMENT

## 7.1 HOW INSTITUTIONS APPLY FOR SUBSIDY FUNDING

Institutions apply to the MEC for institutional subsidies. The application should comply with the following criteria:

**a) Details of the Institution including:**

i) The name and the nature of the institution.

ii) Certified copies of the institution's founding documentation, and in particular if :

- The institution is a company, incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973), a copy of its memorandum and articles of association must be enclosed; or
- The institution is a co-operative, a copy of its statutes must be enclosed.

Full details of the proposed project should be given including:

**b) Details of the institution's property which will be developed:**

i) The property should be clearly defined together with reference to a deeds office description thereof.

ii) Full details of the institution's rights in respect of the applicable property together with written evidence that such rights have been given.

iii) If the institution is not the owner of the property nor to become the owner thereof, details of the rights which the institution holds or will in future hold in respect of the property and any indication of when such rights will be registered in its favour.

iv) Full details as to the zoning and land use pertaining to the property.

c) **Full details as to all work that will be undertaken** by the institution in the development or upgrading of the institution's property, as well as the total cost to be incurred in this regard.

d) **Finance:** Full details of the manner in which the institution will finance both the development costs of the project and the ongoing maintenance and management of the institution's property. The institution will be required to demonstrate that it will be financially viable.

e) **Management Ability:** The institution will be required to demonstrate that it will be in a position to manage the project effectively. Full details of the management structures and the management experience of the institution and its officials should accordingly be given.

f) **Programme Milestones:** A full and comprehensive programme pertaining to the project as to how and when the various milestones are to be achieved.

The proposal should contain:

g) **Beneficiaries:** An indication of the institution's proposed qualifying/non-qualifying
beneficiary mix.

h) **Subsidy amount:** The total subsidy amount for which the institution is applying and the detailed calculation thereof. In this regard, the institution must indicate :

i) The total number of properties that will comprise the project.

ii) The number of properties that will be occupied by beneficiaries and the number of properties that will occupied by non beneficiaries.

iii) The total amount of institutional subsidies for which it applies.

i) **Rental Income:** The rental or consideration that will become payable by beneficiaries who conclude lease or other agreements with the institution.

j) **Product Prices:** The product prices of the residential properties that will be contained in the project.

k) **Progress Payments:** The institution's proposals as to progress payments.

l) **Participation:** The institution's recommendations in regard to the participation in the management of the institution that will be given to beneficiaries and non-beneficiaries who will occupy the properties in the project.

m) **Special Rules:** Special rules that will apply to the project.

n) **Services:** If appropriate, an undertaking from the relevant municipality or other service provider to supply, at its cost, all bulk and connector services required for the project. The product price of any of the institution's residential properties may not include a contribution towards the capital costs of those services.

o) **Plans:** A locality sketch, a preliminary layout plan of proposed residential unit's plans (sketch stage) with specifications for substructures.

p) **NHBRC Registration:** Confirmation that the home builders (institution or the developer contracted by it) are registered with and the developers enrolled by the National Home Builders Registration Council and details of quality control measures that will be adopted and details of the warranties that will be given in respect of building defects.

q) **Consultants & Contractors:** A list of the names of all professional consultants and contractors that will be used to plan, design and execute the project.

r) **Construction Approach:** An indication of the method of execution of the construction, project management and other activities on the project. If labour-based methods are to be used, an indication must be given of the number of work opportunities that will be created per trade or discipline. Particular emphasis must be placed on the extent to which training, skills transfer and local employment will take place in the implementation of the scheme. The employment of local labour and emerging building contractors to undertake the construction of a project will be strongly favoured, but the social and economic benefits of this approach must be carefully weighed against the need to apply resources as productively as possible.

s) **Annexures:** As annexures, copies of the proposed agreements between the institution and beneficiaries.

t) **Project Motivation:** A detailed project motivation should be enclosed, motivating the project with reference to the assessment criteria detailed below.

## 7.2 STANDARD AGREEMENTS TO BE INCLUDED IN PROJECT PROPOSALS

The institution should in its project proposal include copies of the standard agreements which the institution intends entering into with beneficiaries. In particular:

a) Where lease agreements are to be concluded, it should stipulate the current selling price of the particular unit, the rental payable from time to time and how such rentals may escalate. The agreements must comply with any rental legislation;

b) Where options to purchase the properties are given in the lease agreements, the purchase prices at which such options can be exercised as well as when such options may be exercised by the beneficiary;

c) If the institution is to conclude instalment sale agreements or shareblock agreements with beneficiaries, then those agreements must comply with the relevant laws and clearly stipulate the relevant prices at which those agreements are to be concluded; and

d) If the institution will grant other rights of tenure to qualifying beneficiaries, stipulate the consideration that will be payable by beneficiaries in respect of those rights.

### 7.2.1 HOW AN MEC EVALUATES AN APPLICATION

In evaluating an application to MEC should take the following into account:

a) **Housing needs:** The extent to which the project satisfies the housing needs of an identified and defined target market and the relative urgency of such needs. Areas of need that can be addressed include the upgrading, rehabilitation, consolidation and augmentation of existing housing (especially in existing townships and elsewhere in urban areas), as well as inner city land infill, the upgrading and consolidation of existing formal settlements, and the promotion of new development areas, including rural areas.

b) **Extent of construction/upgrading work:** The extent to which the project will create new housing stock or the extent to which the project will upgrade existing housing stock. Preference will be given to projects in which new housing stock is created and/or in which existing stock is upgraded (as opposed to project that will merely consist of the sale of acquisition of an existing property and the granting of occupation rights in respect thereof).

c) **Holistic development:** The extent to which the project promotes holistic development and provides for the variety of community needs in a balanced and integrated manner.

d) **Community self management:** The extent to which the project caters for the need for capacity building within the beneficiary community through deliberate measures to facilitate the acquisition of skills and knowledge to enable it to take responsibility for developmental issues, the preservation and maintenance of fixed community assets and the management, in general, of its own interest and destiny on a sustainable basis.

e) **Sustainability:** The degree to which the project promotes the sustained physical and social development and vitality of the community, with particular reference to the nature and scope of amenities, facilities and opportunities provided by the project, both directly and indirectly.

Particular attention will be paid to education, health, social welfare, employment, shopping, sport and recreation.

f) **Employment potential:** The extent to which the project contributes, both directly and indirectly, to the gainful employment of community members through the use of local emerging building contractors and labour intensive building methods.

g) **Norms and standards:** The extent to which the National "Norms and Standards" in respect of permanent residential structures, as well as minimum norms and standards to satisfy the demands of health and safety are met and are acceptable to the beneficiary community. In particular, the standards of the institution's projects should satisfy the minimum health and safety requirements applied from time to time by relevant authorities. Projects that comprise newly constructed units must comply with the National Norms and Standards. In respect of projects that comprise the upgrading and/or improvement of existing dwelling units, these projects must also comply with the said National Norms and Standards but may require a degree of flexibility to accommodate existing conditions. Where deviations from the provisions of the National Norms and Standards are required to accommodate existing conditions, such deviations must be approved by the MEC.

h) **Planning and design:** The extent to which innovative and well considered planning and design contribute to a wholesome living environment that instils pride and a sense of belonging amongst beneficiaries. Specific attention will be given to the nature, extent and level of involvement of beneficiaries that was achieved in this planning process.

i) **Affordability:** The extent to which the project will provide affordable housing to beneficiaries. The MEC shall, in considering any project, either approve or decline to approve the rentals, prices or consideration envisaged in 6.3.2 above. If the MEC declines to approve those rentals, prices or considerations, it shall decline to approve the project. If the MEC approves those rentals, prices and considerations, the institution shall contract with qualifying beneficiaries at the rentals, prices or considerations (as the case may be) approved by the MEC.

j) **Compatibility:** The extent to which the project is integrated and compatible with surrounding developments in a manner that impacts positively on the natural and built up surroundings.

k) **Technical feasibility:** The extent to which construction methods employed in the project are effective, viable and practicable in relation to physical, climatological, geotechnical and topographical characteristics of the project site.

l) **Innovation and replicability:** The extent to which innovative methods or materials employed are replicable, thereby contributing to a comprehensive and sustainable housing delivery process.

m) **Accountability and gearing of public resources:** The extent to which the project employs state financial support in the most economic, effective and efficient manner possible, by providing value for money, and the degree to which the highest possible gearing of state funds is achieved through non-state investment in the project.

n) **Municipality's capacity:** The capacity of the relevant municipality to deliver and perform effectively and productively.

o) **Socio-economic multiplier effect:** The contribution that approaches adopted in the project will make towards optimising the longer term social and economic benefits of the project to the target community.

p) **Choice:** The extent to which a project affords beneficiaries a choice in satisfying their housing needs.

q) **Stakeholders:** The extent to which the municipality and other stakeholders support the project, and the extent to which they have agreed to co-operate in its implementation.

r) **Value for money:** The value for money to be received by beneficiaries in terms of the pricing of products to be offered and includes the MEC's consideration and approval of the rental prices, selling prices or other consideration payable by beneficiaries. If the MEC declines to approve the rentals, prices or other considerations it shall decline to approve the project. If the MEC approves those rentals, prices and considerations as described in the application, the institution shall contract with beneficiaries at those rentals, prices and considerations approved by the MEC.

s) **Property to be developed:** The extent to which the property to be developed:

   i) Affords easy access to employment centres, and to educational and health care facilities;

   ii) Has access to adequate transportation facilities; and

iii) Directs development towards existing economic opportunities and promotes economic efficiency in the spatial integration of towns and cities.

## 7.3 AFTER APPROVAL OF AN INSTITUTIONAL SUBSIDY APPLICATION

### 7.3.1 SUBSIDY AGREEMENT

Once the subsidy has been approved, the institution enters into an agreement with the MEC. The agreement regulates all aspects of the project to be undertaken and must include details of the following:

a) The institution's details, including its name and legal status.

b) The name of the project.

c) Detailed description of the project with reference to the institution's property that will be developed, the work that will be done by the institution, the residential properties that will be created and a programme. Reference may be made in the subsidy project agreement to an agreed project proposal or project description containing these details.

d) The agreed beneficiary / non-beneficiary mix.

e) The amount of the Institutional Subsidy and the manner in which it has been calculated.

f) The progress payments in which the subsidy will be paid to the institution, with specific reference to the milestones that will entitle the institution to receive any particular progress payments.

g) The product prices of all residential properties to be provided in the project.

h) The rental or other consideration payable by beneficiaries who will hire or receive other rights of tenure in respect of their properties, and the basis upon which annual increases in that rental or consideration are to be calculated.

i) The basis upon which the occupants of residential properties in the project will participate in the management of the institution.

j) The special rules, if any that will apply to the project.

k) As annexures, the terms and conditions upon which the institution will contract with any particular beneficiary in respect of any particular residential property.

l) Clauses dealing with breach of contract committed by the institution and the consequences thereof.

### 7.3.2 IMPLEMENTATION

After conclusion of the agreement with the MEC, the institution will implement the project as directed by said agreement.

### 7.3.3 EVALUATION OF APPLICATION FORM

Any agreement concluded by an institution with a beneficiary, be it an instalment sale agreement, a shareblock agreement, a lease agreement or an agreement conferring any other rights of tenure should be concluded subject to the condition that the MEC approves of the participation of the beneficiary in the project.

As soon as the institution has concluded such an agreement it should submit to the MEC a copy of that agreement together with the completed application form pertaining to the beneficiary. Upon receipt of an application form, the MEC should, if it is satisfied that the beneficiary is a person who qualifies for a housing subsidy in terms of the eligibility criteria, formally and in writing approve the application of the beneficiary.

### 7.3.4 OCCUPATION CERTIFICATES

The institution must no later than 6 months after the date upon which a residential property is completed, deliver to the MEC an occupation certificate signed by the beneficiary whose participation in the project has been approved by the MEC. In that certificate the beneficiary must certify that he or she has occupied the property. If, for any reason whatsoever, any beneficiary vacates his or her property at any stage, the institution should be required to, within sixty days after the beneficiary vacates his or her property:

a) Conclude an agreement with another beneficiary approved by the MEC in respect of the property; and

b) Deliver an occupation certificate by that beneficiary and a subsidy application form to the MEC.

If an institution fails to submit to the MEC a copy of the agreement together with the completed application form pertaining to the beneficiary, and complies with (a) and (b) above, the following may occur:

c) The MEC may request the institution to make written submissions to it within a period of fourteen days in regard to the institution’s failure.

d) On receipt of those submissions and after the expiry of a period of fourteen days, if no submissions are made, the MEC may require the institution to repay the subsidy amount to it.

e) If the institution is required to repay the subsidy amount to the MEC and if thereafter the institution delivers to the MEC an occupation certificate in respect of the property signed by a beneficiary approved by the MEC, the institution will again become entitled to retain the subsidy amount paid by the MEC.

### 7.3.5 MILESTONES SHOULD BE DETERMINED FOR PAYMENT STAGES

In order to ensure that any institution which undertakes a project does not face adverse cash flow consequences the amount of the approved institutional subsidies may be paid by the MEC to the institution as and when it progresses with the project. The following procedures could apply in order to determine when institutional subsidies may be paid:

a) The institution should, in its project application, propose milestones for progress payments.

b) The MEC should consider these proposals taking into account the following:

i) The need to ensure that the institution does not face adverse cash flow consequences; and

ii) The fundamental principle that public funds are utilised and paid out only as and when value for money has been created.

c) The MEC should in its approval of the project determine the milestones at which the approved subsidy may be paid and the amounts that could be paid on reaching each particular milestone.

d) The various milestones, the progress payments and related aspects pertaining to the agreement between the MEC and the institution should be recorded in the subsidy agreement.

### 7.3.6 PURCHASE OF THE PROPERTY, AFTER FOUR YEARS HAVE EXPIRED SINCE OCCUPATION

When a sale is concluded, after four years of occupation, in respect of a property between the institution and the qualifying beneficiary, the following should apply:

a) The subsidy amount originally paid by the MEC to the institution in respect of the beneficiary will be considered to be a payment made to the institution on account of the purchase price payable by the beneficiary.

b) The institution may therefore retain this amount.

c) The beneficiary will be considered as having received an individual subsidy from the MEC upon transfer of the property.

### 7.3.7 EFFECT OF TRANSFERRING PROPERTY PRIOR TO THE FOUR YEAR PERIOD

If for any reason whatsoever an institution transfers ownership in respect of any particular property to a beneficiary prior to the expiry of the four year period after the occupation date:

a) The institution should be required to, against transfer of the property to the beneficiary, pay to the MEC the amount calculated in accordance with the formula set out below; and

b) The beneficiary may, despite his or her participation in the project, obtain an individual subsidy before such transfer takes place in accordance with his/her income category.

### 7.3.8 PROTECTION OF A LEASE OR OTHER AGREEMENT

a) If an institution has concluded a lease agreement or has granted other rights of tenure in respect of residential properties, the institution may at any time sell the property to any person other than the beneficiary with whom it has concluded the agreement if the purchaser agrees to be bound by the agreement between the institution and the beneficiary.

b) If the institution avails itself of this right it should be required by the MEC to in respect of each and every property so sold by it, pay to the MEC the actual amount of the subsidy it received for the property or the amount calculated in accordance with the formula below, whichever is the greater

**A = (S/OP) x PP**

in which formula:

**A** is the amount payable;

**S** is the actual amount of the subsidy it received for the property;

**OP** is the original selling price of the residential property, indicated in the institution's project proposal; and

**PP** is the price obtained by the institution for the property.