

2021 SC Housing Trust Fund - Proposed Program Updates

Public Comments and Responses

9/17/2021

Comments and responses have been consolidated and grouped by topic.

Interior repairs

1. *Comment: 60% of requests for assistance involve floor repairs, handicapped bathrooms, and ceiling repairs.*

Response: SC Housing understands the need for interior repair, which encompasses flooring, bathrooms, ceilings, etc. In an effort to support interior repairs, SC Housing will include language allowing interior repairs to be completed with the requirement that the nonprofit secure a qualified firm to conduct lead and asbestos testing. Test results will help shape the approved scope of work and dictate any required lead and asbestos remediation protocols and certifications needed on the part of the contractor(s). The costs for testing and remediation of asbestos and lead-based paint will be included as eligible expenses.

2. *Comment: It can be difficult to install an A/C unit without upgrading the electric box.*

Response: The program does allow a 200 AMP electrical upgrade if necessary for the new HVAC system installation. (Home Repair Manual pg.17)

3. *Comment: We disagree with the decision to not allow interior repairs (flooring, plumbing, structural, electrical). What is the justification for this change?*

Response: SC Housing is currently working through several environmental concerns relating to lead-based paint and asbestos. It is important that when the Home Repair program opens to accommodate interior repairs, they are undertaken in a safe manner, in compliance with all federal, state, and local laws and regulations. SC Housing will include language allowing interior repairs with the requirement that the nonprofit engage a qualified firm to conduct lead and asbestos testing. Test results will help shape the approved scope of work and dictate any required lead and asbestos remediation protocols and certifications needed on the part of the contractor(s).

Project Eligibility

1. *Comment: Limiting the age of manufactured homes at 20 years often excludes many older mobile homes.*

Response: Historically, manufactured homes older than 20 years of age have required more repairs than the program can financially support. Many manufactured homes older than 20 years old are not structurally sound and require repairs over and above program eligible repairs.

- 2. Comment: We disagree with the decision to remove accessibility improvements to bathrooms as an eligible project. These are common requests and not allowing them would be a disservice to those in need.*

Response: Bathroom upgrades for accessibility is an interior repair project. SC Housing will include language allowing interior repairs with the requirement that the nonprofit secure a qualified firm to conduct lead and asbestos testing. Test results will help shape the approved scope of work and dictate any required lead and asbestos remediation protocols and certifications needed on the part of the contractor(s)

- 3. Comment: Replacing windows for the purpose of weatherization should be included in the list of allowable costs. Many windows that need to be replaced are not cracked, but are warped, have air gaps, or will not open.*

Response: Windows will not be allowed to be replaced for weatherization alone unless all other priority repairs have been completed and funding is available. Weatherization measures including caulking, weather-stripping, glass repair, and trim repair can all be used on existing windows to accommodate windows that are leaking air and/or moisture. (pg.17 Home Repair Manual)

- 4. Comment: Provide a definition of an “occupied business” to clarify whether this includes independent contractors operating on their property.*

Response: An “Occupied business” encompasses any enterprise where customers enter and exit the residence for the purposes of securing goods or services. Examples include but are not limited to: auto mechanic, hairstylist, barbershop, nail technician, tax preparation services, etc.

- 5. Comment: Ruling properties with multiple residential buildings on the same parcel as ineligible might unfairly disqualify rural homeowners.*

Response: Properties that have multiple residential buildings on the site that are used to accommodate additional housing are not considered ineligible. The income of all household members residing in each residential property on the parcel will be included in the calculation of total household unless, the additional buildings are occupied by actual tenants, in which case, the rental income must be disclosed by the applicant and included in the total annual income calculation.

- 6. Comment: Do projects for beneficiaries who receive funding through the ER program have to cost a minimum of \$15,000 to be eligible?*

Response: The minimum subsidy per project is \$5,000. The maximum amount a beneficiary may receive is \$30,000. The \$30,000 maximum includes previous HTF assistance awarded to the property/beneficiary. (pg. 9 Home Repair Manual)

Other Project-Related Comments

1. ***Comment: The manual should recognize that approved and eligible repairs may require additional work (documented via change order) once the approved work has started. While those ancillary repairs would be ineligible as a solo project, the work may be needed to complete an eligible and approved repair.***

Response: Based upon the approved eligible repairs, all work must be completed as “finished” work. This may include additional required ancillary work such as an electrical upgrade/repair for an HVAC install, plumbing for septic tank replacement, ceiling repair for roof replacement, etc. As an example, if window or door replacement is part of the scope of work and water/termite damage is discovered the damage must be repaired and would be approved. (pg.15 Home Repair Manual)

2. ***Comment: SC Housing should determine the final priority of repairs based upon the condition of the home and availability of funds before giving the approval for work to begin and before sending out the restrictive covenants or funding agreements.***

Response: The approved scope of work is determined at the initial inspection, which occurs before restrictive covenants and/or funding agreements have been executed.

3. ***Comment: Provide clarification as to whether the 5-project limit applies to both ER and OOR projects. There is concern that the ER program could become extinct because of people wanting to focus solely on OORs due to larger development fees.***

Response: The ER and the OOR programs will no longer be offered separately. The new program will be called the Home Repair Program. Level II eligible Sponsors will be able to manage up to 5 open projects at a time. (pg.8 Home Repair Manual)

4. ***Comment: Provide clarification as to whether pest control treatment would have appeared on the work write-up before approval was received and thus is approved along with the rest of the project or if the Sponsor would need additional approval to move forward with the treatment.***

Response: In some instances, expenses incurred for pest control treatment prior to SC Housing’s initial inspection and approval of the work write up are allowable. Expenses for pest control services must be paid for by the sponsor upfront. The sponsor will have to obtain approval via email to incur the expense from their inspector and program coordinator in order to be reimbursed. This is necessary when projects have infestations such as bed bugs or German Cockroaches that are extremely transportable by visitors to a home. SC housing does not want Sponsor, contractor or SC Housing staff to transport an infestation back to their offices or homes. Treatments should be completed before our partners enter the home when an infestation is known. If an infestation is discovered during the contractor’s inspection the pest control treatment should appear on the work write up. If an infestation is discovered during the construction work it would be handled via a change order. In all situations requiring pest control the Sponsor will have to submit a copy

of the paid invoice and receipt with the disbursement request to be reimbursed for the expense. **(pg.13 Home Repair Manual)**

5. ***Comment: Will the allowable cost be increased to cover costs to ensure that all work is “finished” and matches the existing unit? What is the protocol for instances in which a color or stain in an existing unit is discontinued?***

Response: Allowable cost will not be increased to ensure finished work matches the existing unit. The manual states; “All work performed shall be “finished” work. For example, if an exterior door unit is specified then that unit shall be finished to match an existing unit whether it is stained/finished or painted, and a lockset installed”. If the exterior door being replaced in the home is painted, then the replaced door will be painted. In another example, if replacing a wood stained exterior door, the replacement door should be stained. There is also the option to replace the door with a steel or fiberglass door, which would be painted and must be noted on the work write up. There is no requirement that the paint or stain 100% match the existing paint or stain in the home. Sponsors and contractors should ensure that work writes-ups include notes that explain that paints and stains may not match 100%. **-(pg.13 Home Repair Manual)**

6. ***Comment: Is the requirement that three trades can be completed within the 20 year period?***

Response: A beneficiary may have three trades associated with one repair project or may receive assistance through the submission of up to three applications, not to exceed \$30,000. For example, one project may include a roof replacement, HVAC install and a new ramp and rail. Eligible beneficiaries may also request subsequent additional assistance up to \$30,000. Once a restrictive covenant is filed, the applicant will not be eligible for additional funding unless they agree to have any existing restrictive covenants amended to include the additional assistance being provided. If funds are available, the beneficiary may submit up to two additional applications for assistance, not to exceed the \$30,000 maximum amount allowed.

7. ***Comment: How much assistance triggers the requirement to place a restrictive covenant on the property?***

Response: If the amount of HTF assistance exceeds \$15,000 a restrictive covenant will be filed on the property.

8. ***Comment: When does the 20 year affordability period start?***

Response: This depends on the amount of assistance provided. If a project is awarded between \$15,000 - \$30,000 the 20-year affordability period begins when the restrictive covenants are effectively executed. If a project is awarded \$14,999 or less the affordability period begins when the funding agreement is executed.

9. **Comment:** *If the 20-year affordability period begins after the initial trade has been completed and the beneficiary contacts the sponsor 19 years from the initial trade requesting another trade, will they only have one more year of affordability or does the time start over?*

Response: The affordability period does not start over if additional assistance is provided.

10. **Comment:** *Are more than 5 projects are allowed at a time?*

Response: Sponsors that meet the Level 2 qualifications will be allowed to administer up to 5 projects at one time. (pg. 6 Nonprofit Designation Manual)

11. **Comment:** *The amount that triggers the need for a restrictive covenant should be increased from 15,000 to \$20,000 to respond to current market prices on materials.*

Response: The minimum limit of \$15,000 is an increase from the existing \$10,000 limit. This increase is being implemented in acknowledgement of increased construction costs we are currently seeing in the program.

Home Repair Application Process

1. **Comment:** *Can the initial application be approved without a work write-up or with a draft work write-up without signatures? All parties can agree on what will be done at the initial inspection and the project can proceed once that initial work write-up is sent in. Work write-ups are often denied when the inspector sees the house for the first time, causing a week-long time delay in which the work write-up must be revised, additional signatures be acquired, and another inspection is performed.*

Response: SC Housing encourages Sponsors and contractors to know and understand the priority of repairs and encourages Sponsors and contractors to reach out to SC Housing inspection staff for clarification and training as needed. For projects involving compliance with lead and/or asbestos regulations the inspection process is expected to follow the steps below:

1. The application is submitted and the beneficiary and property eligibility requirements are approved;
2. An onsite preliminary scope of work inspection with sponsor and contractor(s) is scheduled to develop the preliminary scope of work to be itemized on the work write-up.
3. The sponsor would then have the lead and asbestos testing completed in accordance with the preliminary scope of work/WWU.
4. Sponsor submits copies of lead-based paint and asbestos test results to SC Housing with an initial work write-up that was completed by the contractor in accordance of

the preliminary scope of work and the results/findings of the lead and asbestos testing and any required abatement.

5. If applicable lead and asbestos remediation is required it would be completed and the Sponsor will submit clearance reports to SC Housing.
6. The remaining repair work begins and final inspections are requested as contractors complete work.

2. ***Comment: There is concern about having to upload all of the documentation as a PDF because of the time and software required to do so.***

Response: SC Housing is transitioning its programs to accept applications and documents electronically in effort to accommodate business continuity in the event of remote work environments, to save costs, and to expedite the time it takes to receive and return documents. This electronic process is intended to assist our partners as well. SC Housing staff will be available to assist and train Sponsors on how to upload documents and transmit them electronically.

3. ***Comment: It is doubtful that sponsors will be able to secure a letter from grantors/donors for each instance in which the grantee must dip into the grantor funding.***

Response: If the amount of funding necessary to complete a project exceeds the maximum amount of HTF available, final financial commitments from the non-HTF source(s) are required to be provided to document that other funds are available to cover the costs exceeding what can be provided from the HTF. If the Sponsor is unable to secure the additional funding the project cannot move forward.

4. ***Comment: Is there is a limit to the number of applications one organization can enter into each funding cycle?***

Response: Sponsors that meet Level 1 qualifications are allowed to have one project open at a time. Once the project passes its final inspection, the Level 1 Sponsor may submit a new application. Sponsors that are qualified under Level 2 requirements are allowed to have five open projects at a time regardless of funding cycles. Once a project passes a final inspection, a new application may be submitted for processing regardless of the funding cycle.

5. ***Comment: I disagree with the requirement that the work write-up be completed by the contractor rather than prepared by the Sponsor and signed by the contractor.***

Response: The work write-up is the part of the construction contract that documents the approved scope of work and cost. Since it is a part of the construction contract the contractor is the appropriate party to complete it.

6. ***Comment: Do applications submitted for approval count against the total number of projects that a Sponsor can have open at one time?***

Response: Once an application is approved, it would count towards the total number of open projects. Unapproved applications would not. Approved applications are considered open projects until they are 100% complete or have been withdrawn from further processing.

- 7. Comment: Is the Sponsor is expected to apply for funds for all five projects within Level 2 requirements at one time or each time a project is finished?*

Response: The number of applications submitted at one time is up to the Sponsor Approved Level. Level 2 Sponsors are allowed to submit a completed application at any time as long as they have sufficiently prequalified an applicant for assistance. Sponsors do not have to hold off on applying unless they have five open projects in process.

Program Timelines

- 1. Comment: How often will the Board consider work over \$15,000? 4x a year?*

Response: Staff is exploring potential policies and procedures to present funding approval for projects to the Board of Commissioners in a manner that will enable projects to move forward as expeditiously as possible.

- 2. Comment: The 90-day window for project completion may be problematic with the supply chain issues that are especially prevalent with windows. Can some leeway be allowed if the grantee can demonstrate that the material was ordered within 2 weeks of project approval?*

Response: If a project is not going to be completed by the date provided in the funding agreement the sponsor must submit via email a request for an extension to the Housing Trust Fund Manager and the HTF Program Coordinator. The reasons for the delays must be explained in the email. The request will be approved or denied based on the circumstances of the delay. This allows leeway for situations that are out of the Sponsor's control, such as the availability of materials. (page 10 Home Repair Manual)

- 3. Comment: Can the deadline to receive verification of all information collected and supporting documents be shortened from 30 days to 15 days?*

Response: The 30-day time frame is to allow sufficient time for the Sponsor to collect the necessary documentation. If the Sponsor is able to collect the required documents in less than 30 days, they can be submitted as soon as they are ready.

- 4. Comment: It is concerning that a Sponsor could be suspended from the program for repeated instances of projects not being completed within the required timeframe in instances in which the delay is the contractor's fault.*

Response: SC Housing expects the Sponsor to manage the project, which includes managing the contractor's timeline for working on the project and meeting completion deadlines. If a Sponsor is experiencing repetitive performance issues with a contractor, they should not continue to utilize that contractor to work on HTF projects. Sponsors are able to earn developer fees in exchange for taking on the responsibility for managing the project and ensuring the finished product meets all HTF standards in regards to quality and performance.

5. ***Comment: The 2-day deadline to complete a final inspection after work is complete is not long enough. Clarification is needed as to whether a project is considered complete when the contractor declares it complete, when the building inspector states it is complete, or when the Sponsor does their inspection.***

Response: The Sponsor has three (3) business days after the work is complete to submit a final inspection request to SC Housing. Work is considered complete the day the project either passes a final inspection from the locality or if no permitting was required, the day the contractor states the job is finished. SC Housing will adjust the deadline to submit a final inspection request within 3 business days.

6. ***Comment: Requiring the contractor to be paid within 3 days is not enough time. Clarification is needed as to whether this would be based on when funds are received or when the check was dated. This deadline would be too hard to comply with considering contractors may be out of town and the chairman and vice-chairman who sign the checks may not be able to do so within three days.***

Response: SC Housing will adjust the timeline to require payment of the contractor within seven (7) business days from receipt of electronic disbursement of HTF funds to the nonprofit.

7. ***Comment: Do we have to wait for board approval to begin the project considering this would delay help to homeowners?***

Response: Staff is exploring potential policies and procedures to present funding approval for projects to the Board of Commissioners in a manner that will enable projects to move forward as expeditiously as possible.

Compliance

1. ***Comment: Can the \$25 fee incurred when a final inspection must be re-done be deducted from the contractor's check rather than from the Sponsor's?***

Response: The reason for the re-inspection fee could be the fault of the Sponsor, the contractor, or both parties. The Sponsor is the responsible party that has entered into the contract with the contractor; and therefore, the decision to deduct the fee from the contract is between the Sponsor and the contractor and is subject to language contained in the

contract. SC Housing cannot deduct fees from a contract the agency is not legally a party to.

- 2. Comment: Would the Sponsor fail the inspection and the \$25 fee for a second inspection be applied when not all contractors required for the project are present for the initial inspection?***

Response: Yes, the inspection will not be approved and the \$25 re-inspection fee will be applied if a contractor is not present at an initial or final inspection. SC Housing may grant some flexibility to the scheduling of an initial inspection request. When the Sponsor requests an initial inspection and is contacted to schedule the inspection the Sponsor will have 24 hours to let the inspector know if one of the contractors is unable to meet at the scheduled time. At that time, the inspection will either be cancelled with no fee, or the inspection will take place with only the contractor ('s) that are able to make the appointment. A secondary initial inspection will be scheduled for the contractor ('s) that was unable to be present at the first inspection to review their work-write-up. SC Housing is willing to accommodate multiple initial inspections; however, the Sponsor must understand that scheduling multiple inspections will delay the start of the project. Projects will not receive approval to proceed until all of the initial inspections are completed.

- 3. Comment: Suspension is too harsh of a punishment for not supplying a beneficiary with all project warranty documentation and a copy of all documentation that the beneficiary signed throughout the application process.***

Response: The homeowner has a right to receive their warranty and application documentation as soon as the project is completed. This information serves as a record of the project and provides protection to the homeowner for the work completed.

Contractor Requirements

- 1. Comment: The staffing capacity component would make all-volunteer affiliates ineligible. Language should be changed to allow those entities to 1) have an identified individual whose license will be used to pull permits, and 2) identify if there is a second individual who will be the one overseeing the affiliate's participation in HTF.***

Response: SC Housing will allow volunteer affiliates to work in the program provided the volunteer affiliates transmit all correspondence through the non-volunteer staffed partner who will be responsible for the project.

- 2. Comment: Provide clarification about the subcontractor standards. Does the new standard mean that the Sponsor would have to do unlicensed contracting?***

Response: Subcontracting is not permitted in the Home Repair Program. (page 14 Home Repair Manual) This is not a new standard, it was also prohibited in the previous ER and OOR programs. Sub-contracting is not permitted because it is not cost effective for jobs of the size and scope undertaken in the program. Allowing it significantly reduces the

amount of funding available for repairs that can be completed to a beneficiary's home. SC Housing provides an extensive list of construction costs for the program. These costs are set to provide premium quality, sustainable work and include markup/profit for that item for that contractor. They do not include costs to cover the industry standard 20% markup minimum for a contractor to sub out the work. To provide an example, if a beneficiary is awarded \$30,000.00, 20% of the awarded amount of \$6,000.00 would be needed to cover the general contractor's profit margin, leaving only \$24,000.00 available for repairs. That \$6,000.00 equates to 21 squares of shingles, 3 Tons +/- of HVAC equipment replacement, 13 replacement windows, a well replacement or septic tank replacement. Prohibiting subcontractors ensures the HTF dollars are utilized to provide as much assistance to the homeowner as possible.

- 3. Comment: The specialty contractor requirement may be challenging for rural Sponsors who have limited licensed and bonded specialty contractors located in their area.***

Response: There is no requirement that specialty contractors have to be used. Please see Section IV, D of the manual. (page 14 Home Repair Manual)

- 4. Comment: Requiring contractors to return to jobs to address change orders requested by SC Housing might discourage contractors from participating in the program.***

Response: If a change order is submitted to SC Housing to request approval to modify the approved scope of work, it is the responsibility of SC Housing inspectors to return to the project with the contractor present to review the change in the scope of work to ensure it is necessary and cost reasonable. Having the contractor present at the inspection is necessary to ensure the approved revisions are communicated and understood by all parties.

- 5. Comment: One respondent asked why Sponsors are unable to use a general contractor/residential builder who can subcontract the work. They also asked whether the general contractor/residential builder can provide their list of subcontractors.***

Response: The Sponsor can contract with an appropriately licensed general contractor or residential builder for the work being completed. Sub-contracting is not permitted; see #2 above for further explanation.

Organizational Capacity

- 1. Comment: The requirement that organizations carry an effective \$1 million general liability insurance policy is concerning.***

Response: General liability insurance protects the nonprofit from various claims that can arise during the administration of HTF projects. A general liability insurance policy covers such things as judgments and settlements resulting from a lawsuit, legal costs to defend the nonprofit in a lawsuit, bodily injuries, and protection from reputational harm, etc.

- 2. Comment: Having a full-time staff member who is specifically assigned to the HTF program might be infeasible for smaller organizations.*

Response: SC Housing requires one (1) full-time staff person to be employed by the organization. The designated staff person must serve as the point of contact for the program and may work full or part-time. (pg.5 Nonprofit Participant Manual)

- 3. Comment: Agencies should be permitted to share contractors so that smaller organizations may receive the benefit of knowledgeable, well-trained contractors.*

Response: There is no rule or policy in the manual on who a contractor can work for, or the number of sponsors he or she can work for.

- 4. Comment: The requirement that applicants commit to responding to calls and messages within 24 hours is concerning.*

Response: SC Housing will include language requiring sponsors to return calls and messages with three (3) business days.

- 5. Comment: Would a nonprofit be penalized if they had an account set up to hold the minimum balance required for participation?*

Response: SC Housing will review bank account statements to ensure the minimum account balance for each month has been maintained to verify the nonprofit meets the required amount of liquid assets to demonstrate financial capacity. Nonprofits should monitor their account balances to ensure bank fees do not jeopardize their qualification for participation in the program. (pg. 6 & 7 Nonprofit Designation Manual)

Miscellaneous

- 1. Comment: The requirement to protect confidential information would limit all-volunteer affiliates. Affiliates should be permitted to identify authorized representatives in lieu of requiring the individuals to be paid employees.*

Response: It is a federal requirement to protect personal information and to adhere to the protection of personal identifiable information (“PII”, The Privacy Act of 1974 (5 U.S.C. § 552a and The Gramm-Leach Bliley Act). SC Housing is requiring nonprofit staff to adhere to the PII training requirements and protocols to protect the homeowner’s personal information.

- 2. Comment: Provide clarification as to whether there will be restrictive covenants/forgivable periods on repairs that cost less than \$15,000.*

Response: SC Housing will not require an executed restrictive covenant on repairs less than \$15,000. However, all projects that are funded by HTF resources are subject to a 20-year affordability period.

3. ***Comment: Qualified beneficiaries should be required to provide proof of vaccination as a condition of receiving assistance.***

Response: Due to HIPAA of 1996, SC Housing is unable to require a homeowner to disclose private health information in order to benefit from HTF funding.

4. ***Comment: Can the Sponsor be the notary for the Affidavit of Zero Income form?***

Response: Yes, the Sponsor may serve as a notary for the Affidavit of Zero Income form.

5. ***Comment: The documentation requirements for zero-income families are overbearing.***

Response: SC Housing does not require additional documentation to support the Affidavit of Zero-Income Form. Household members with zero income are required to sign the Zero Income Affidavit form. If the entire household claims zero-income it is important to determine how expenses such as utilities and food are being paid for documentation purposes.

6. ***Comment: Can SC Housing rescind its approval of an application?***

Response: SC Housing reserves the right to rescind an approval of an application at any time, due to failure to abide by program requirements, which may disqualify an applicant and/or all parties involved in the application.

7. ***Comment: Have the trainings and workshops for approved nonprofits have been scheduled yet?***

Response: Technical assistance trainings have not been scheduled yet. Once all program changes have been implemented application workshop sessions to train nonprofits will be scheduled.

8. ***Comment: Why do social security statements and pension statements have to be dated within 6 months of the application considering those items are good for a year?***

Response: Social Security and pension statements must provide the benefit amount for the same calendar year of the application.

9. ***Comment: Are Sponsors required to collect tax returns for every household assisted or just for those who are self-employed?***

Response: Yes, tax returns are required from every household member that files taxes.

10. Comment: *The requirement that beneficiaries submit 3 months of bank account statements from the date of the application is concerning considering many beneficiaries have limited transportation and computer skills.*

Response: It is necessary to review at least 3 months of bank statements to verify that each household member's income is calculated accurately.

11. Comment: *We have had issues getting homeowners to participate in the Owner-Occupied Program because of the 20-year restrictive covenant.*

Response: The 20-year restrictive covenant is statutory and therefore non-negotiable. Please reference the South Carolina Housing Trust Fund Act Section – explained in our most current annual report.

South Carolina Housing Trust Fund FY18-19 Annual Report -
<https://www.schousing.com/library/Marketing/Reports/FY18-19%20HTFAnnRptFINAL.pdf>

12. Comment: *If the prices of a project fall within the guideline limits, they should not be required to adjust the requested funds amount.*

Response: Executing a change order to amend an existing and legally binding contract is an industry standard business practice that will be upheld by SC Housing.