

SUBJECT: Dispute Resolution and Conflict Management Policy for Office of Community Development (OCD) for housing rehabilitation and repair activities except for projects funded through the Ohio Housing Finance Agency (OHFA).

ISSUED: January 22, 2013

DISTRIBUTED TO: Office of Community Development Award Recipients and Their Affiliates

POLICY

This policy replaces Notice: OHCP 09-04, dated November 20, 2009, once finalized. OCD is replacing the original Policy Notice in an effort to provide clarity and update the requirements of dispute resolution and conflict management for OCD funded programs. This policy applies to all programs funded through OCD's Residential Revitalization Section, Economic and Appalachian Development Section, and the Supportive Housing Section. It does not apply to projects funded through the Ohio Housing Finance Agency (OHFA). The OCD Dispute Resolution and Conflict Management Policy applies to all direct beneficiary-related housing rehabilitation, repair, and construction projects completed with OCD program funds and program income, beginning with grants funded in FY 2013. **This document is being distributed in draft form.**

Comments regarding this policy will be accepted until 5:00 p.m., **April 1, 2013**, by Ian Thomas, Planner, Office of Community Development, 77 S. High Street, P.O. Box 1001, Columbus, Ohio, 43216-1001, or by e-mail at ian.Thomas@development.ohio.gov. If providing comments by e-mail, please reference the OCD Dispute Resolution and Conflict Management Policy Notice OCD 13-02 in the subject line.

Questions regarding the Dispute Resolution and Conflict Management Policy and Dispute Resolution Form should be directed to the OCD staff at (614) 466-2285.

General Requirements

To protect the interest of the parties involved in OCD-funded housing activities, the Ohio Development Services Agency's Office of Community Development established the Dispute Resolution and Conflict Management Policy.

The policy outlines the responsibilities of the grantee, administrator, homeowners, and contractors responsible for completing OCD-funded projects. This policy applies only to those projects which include housing rehabilitation, repairs and construction. The grantee shall have appropriate procedures in place to address disputes arising from walkaway projects and/or non-construction activities. During OCD's monitoring of a grant, compliance with this policy and local procedures will be confirmed.

OCD will not entertain requests to intervene during a dispute. If it becomes necessary to proceed to arbitration, the arbitrator's decision is final and binding. No dispute or argument will be considered after this process is complete.

Recommendation: Most disputes can be prevented by all parties if there is a clear understanding of material quality standards and material selection limitations. Signed approval of material selection, color choices, and change orders can assist in the prevention of a conflict.

To ensure that the appropriate parties are informed about the Dispute Resolution and Conflict Management Policy, grantees must provide a copy of the Dispute Resolution and Conflict Management Policy and Dispute Resolution Form to every administrator, rehabilitation/repair/construction client, contractor, and when/if necessary any mediator and/or arbitrator. The grant administrator shall provide copies of the policy to both the client and contractor at the pre-construction conference and obtain their signatures acknowledging receipt, along with their complete understanding of the Dispute Resolution and Conflict Management Policy. By acknowledging receipt of the policy all parties agree to abide by the terms therein. A clause shall be incorporated in any rehabilitation/repair/construction contract referring to the Dispute Resolution and Conflict Management Policy. The original document must be maintained in the program's administrative file and copies provided to the homeowner and contractor.

The grantee is responsible for developing an alternative written method for communicating with an applicant if the applicant has a disability (e.g., physical, visual, hearing, speech and/or cognitive disability), is functionally illiterate, or has limited English proficiency and requests an accommodation. The grantee must also provide a copy of the written alternative method for communicating with a homeowner/applicant who is disabled to the administrator. For guidance regarding communicating with people with disabilities, visit <http://www.adata.org/ada-document-portal>. The cost of providing an accommodation to persons with a disability is the responsibility of the grantee.

The homeowner must understand their signature and date on the certification of completion verifies satisfaction of the contractor's workmanship and validates final payment. No complaints regarding workmanship will be accepted after that date. Failed items covered under the warranties should be handled by contacting the contractor directly, in writing if necessary, detailing all warranty items that need addressed, within 12 months of work completion. The grantee and program administrator have no obligation to assist with warranty work issues.

The cost of mediation and arbitration shall be borne by the grantee.

Resolution of disputes shall follow the format described below.

Dispute Resolution and Conflict Management Process

1. If there is any dispute regarding the scope of work, workmanship, or material quality/selection or any other discrepancy, the homeowner must notify the contractor immediately. If the contractor is not on site, the disputed work must stop and the contractor will be notified. Disputed work will not proceed until the issue is resolved.
2. Both the homeowner *and* contractor shall contact the administrator immediately when/if the dispute is not resolved between the contractor and the homeowner at step #1.
3. The administrator and/or grantee, rehabilitation specialist, contractor, and the homeowner shall make a good faith effort to resolve the dispute at this time. If resolved, details of the dispute and resolution must be documented and signed at this time. The documentation will be placed in the client file.

4. If the dispute is not resolved at step #3, the homeowner must submit a written complaint to the grantee within 5 working days, on the Dispute Resolution Form provided.

Note: Disputed work that is necessary for the health and safety of the occupants, sanitary reasons, or the protection of the structure and/or property, should proceed to the extent necessary to safeguard until the dispute is resolved.

5. Upon receipt of a written complaint, the administrator shall notify the grantee of the dispute. The grantee may attempt local resolution at this point, but in any case, shall require the administrator to respond in writing within 15 working days of receiving the complaint. Local resolution may be, but is not limited to, a review committee comprised of impartial members. Procedures for local resolution methods must be attached to this policy, and described in the grantee's local Policies and Procedures Manual.
6. The homeowner shall provide a statement, in writing, within 15 working days of the grantee's response date either accepting the proposed resolution or requesting mediation.
7. Within 15 working days of the date of the homeowner's response requesting mediation, the grantee and administrator shall provide the homeowner with the option of two dates for mediation. *
*The grantee may opt to proceed directly to arbitration.

Mediator Responsibilities

If the dispute cannot be resolved through negotiations with all parties, it may be submitted to mediation if the grantee chooses. The mediator is responsible for assisting the parties, impartially, in reaching an agreement on the disputed matter within 30 days of receiving the dispute.

The grantee may use the assistance of, but are not limited to, the Ohio Mediation Association to identify a mediator. The Ohio Mediation Association can be reached at P.O. Box 473, Columbus, Ohio, 43216, and can be contacted by telephone at (614) 321-7922, and by e-mail at <http://mediateohio.org>.

Arbitrator Responsibilities

If the dispute cannot be resolved through negotiations with all parties **or** through the optional mediation process, the dispute **must** be submitted to arbitration. The arbitrator is responsible for providing a resolution to the dispute submitted by the applicant within 60 days of receiving the dispute.

The administrator may use the assistance of, but are not limited to, the American Arbitration Association (AAA). AAA is located at 250 East Fifth Street, Suite 330, Cincinnati, Ohio 45202-4173 and can be contacted by telephone at (513) 241-8434 or by fax at (513) 241-8437. For more information regarding AAA, visit <http://www.adr.org/>.

The arbitrator's decision is final and binding. No dispute or argument will be considered after this process is complete.

We hereby acknowledge receipt of this copy of the *Dispute Resolution and Conflict Management Policy*. We understand and accept the outlined process for any and all disputes that may result from our involvement with the program.

Homeowner Signature _____ Date _____

Homeowner Signature _____ Date _____

Contractor Signature (required at contract execution only) _____ Date _____

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