GUIDELINES FOR THE UNBLOCKING OF PROJECTS AFFECTED BY INFLATION AND OTHER RELATED FACTORS

2. POLICY APPROACH

2.1 BACKGROUND

At the special meeting of the Committee of the Heads of Housing Departments (HOD) held on 02 December 2002, a meeting that was called particularly to look at and deal with issues causing underspending on the Conditional Grants allocated to provinces with particular emphasis on the Housing Subsidy Grant and develop strategies to deal with those issues, it was resolved that the national Department of Housing should develop guidelines and options relating to the implementation of the inflation amounts on the basis of the provincial requests. In this regard, provinces were requested to submit information to indicate and highlight the scale and nature of the problems encountered indicating amongst other things, the projects affected and amounts required to unblock those projects and make specific requests in that regard.

2.2 Recent developments related to inflation adjustments

It is important to note that there have been significant policy shifts that have taken place in the last year that affected the subsidy amount. For the first time since 1998 the subsidy
allocation per beneficiary was adjusted in April 2002 upwards in a manner that recognized the effects of inflation from the “average” amount of R16 000.00 to R20 300.00 per beneficiary.

Secondly, an indication has been made and accepted by Cabinet and subsequently by National Treasury that there will be a need for regular periodical adjustments of the subsidy in order that quality delivery can be sustained on the housing programmes.

As a result of the above and in recognition of the higher than expected inflation rate during the 2002/03 financial year (which is expected to stabilise and reduce only during the middle of the 2003/04 financial year) there were mid year adjustments to all conditional grants by the National Treasury so as to ensure delivery is not negatively affected by inflation.

This additional inflation adjusted amounts were accordingly distributed to the provinces. It has now emerged that at provincial level there were already various problems that have been carried over from year to year which resulted in projects being delayed, and when these problems were eventually resolved price escalations in building material and labour costs had affected these projects.
2.3 Principles, policies and approach considered in these guidelines

The guidelines provided hereunder have been developed after considering the following principles, policy instruments and prescripts:

2.3.1 The Public Finance Management Act, and the Treasury Regulations

The principles contained in the PFMA in so far as it deals with:

- Discretion for the Accounting Officers to decide on matters falling under their departments and utilization of the resources;
- Accountability arrangements and the duties of accounting officers;
- The need to ensure efficiency, effectiveness and economy in spending and carrying out of the mandates of the departments;
- Appropriate reporting and proper authorization of expenditure; and
- The necessary steps required to ensure that the Departments do not incur unauthorized, wasteful and irregular expenditure.
2.3.2 The provision of the annual Division of Revenue Legislation

The principles contained in the annual Division of Revenue Acts (DORA's) in so far as it confirm the accountability for funds once these are transferred to the provinces, the duties and responsibilities for spending these funds and delivery in accordance with the purpose for which these funds were transferred, lies with the receiving accounting officer. The receiving accounting officer should further ensure that related reporting requirements are adhered to in terms of the Division of Revenue Act.

2.3.3 Implementation of Housing Legislation and Housing Policy

The identification of 'blocked projects' and the request by provinces for guidelines to assist them to deliver houses initiated on those projects that were approved as far back as 1994, represents both the provinces' will to give effect to Section 3(2)(b) of the Housing Act 1997 (Act 107 of 1997) [Act] which states that the Minister must set broad national housing delivery goals and that he/she must ensure that provincial governments and municipalities also set housing goals and it also recognizes the provinces' desire to meet the goals that they have for housing delivery in an effort to reduce their housing backlog.
In addition, Section 3 (2) of the Act also provides that national government must determine norms and standards for housing development. Provinces have made it clear that it is impossible to meet the national norms and standards given the small residual amounts that remain from the old approved projects amount, because of the eroding effect that inflation has had on housing delivery.

2.3.4 Prevention of double subsidisation and prevention of loss of value created.

These guidelines should not in any way be interpreted as a means of encouraging or authorizing double subsidisation of beneficiaries. The intention of this dispensation is to ensure that government resources that have been put in place for beneficiaries are not wasted. In some cases the adjustment of the allocation originally agreed upon with the developers should be made so as to ensure that the value created is not lost as a result of in action by the parties to the contract. From some of the cases it is apparent that, in fact, the completion of the work is unlikely to be done by the original contractors/developers and in that regard new contracts are necessary. Thus there is a need for performance based agreements (service level agreements as the case may be) that have to spell out in clear terms the deliverables and penalties for breach or non performance by either parties.
2.3.5 General Principles which should apply

The need to unblock old or non-performing projects, the utilisation of additional housing funds and the subsequent delivery of houses require a special dispensation which will be applicable only for these projects since the funds which may be allocated to these projects represent an amount which is over and above the housing subsidy and which has already been allocated to a beneficiary.

The unblocking of projects has the potential to assist provinces to realise their long term housing targets. In addition, since inflation is a recurrent problem; it must be accepted that the subsidy amount approved at a point in time will be affected by the eroding effects of inflation and this will result in that projects will continue to experience problems in delivering the approved products. The problems that projects experience should be addressed properly to ensure that inflation does not compromise the quality objectives of government.

If the projects are unblocked, it would mean that this Department would have upheld the prescripts of the Act and Section 26 of the Constitution which states that all South Africans have the right to have 'access to adequate housing' and that it is the government’s duty to take reasonable legislative and other measures within its available resources, to achieve the progressive realization of this right.
The following are proposed considerations for the special dispensation to unblock projects for finalisation:

2.3.5.1 Projects under investigation for corruption, maladministration should not be considered under this dispensation.

2.3.5.2 As these projects were approved before April 2002, contribution by beneficiaries should not be mandatory. This means NHBRC norms and standards should not apply on them.

2.3.5.3 The following are some of the factors to be considered as reasons for projects to block at the provinces:

Escalation in building cost due to:
- delays in the transfer of the land for township establishment
- contractor/developer being placed under liquidation
- protracted court cases
- the SMMEs inability to deliver on scale
- delays as a result of protracted disputes (community dynamics)
- natural disasters.
2.3.5.4 The escalated subsidy should consist of the present value of the subsidy less the residual amount from the old subsidy amount.

2.3.5.5 The responsibility for adjudicating each project on the basis of the differing circumstances for the stoppage of the project, determining the culpability, if appropriate, of the person/s or organization/s responsible and reporting them to the relevant structures will be the responsibility of the HOD in the province.

2.3.5.6 The Act requires the establishment of a National Housing Subsidy Data Bank which is the comprehensive source of information regarding beneficiaries of the Housing Subsidy Scheme. The purpose of this system is, inter alia, to prevent double subsidisation by providing records of subsidies granted to beneficiaries. The adjustment of the subsidy amount to provide for inflation will require system adjustments of the HSS.

3. CONDITIONS FOR ALLOCATION OF FUNDS TO ADDRESS INFLATION

The provincial HOD may, subject to the conditions given hereunder, consider allocating funds transferred to the province to projects that have been stalled and which are contained in the list provided to the National Department for the purposes of
completing these projects to cater for the effects of inflation in such a manner that the total allocation does not exceed R20 300.00 per beneficiary. Such an allocation is however subject to the following:

a) The HOD must consider each project's circumstances on its merit, thus no blanket approval should be entertained;

b) Decision on qualifying projects should be the responsibility of the HOD subject to interrogation of the following:
   - The date on which the initial subsidy was approved
   - The amount of the original subsidy
   - The duration of the delay
   - The reason for the delay
   - The number of beneficiaries who qualify for the new top-up amount
   - The stage at which the project was halted
   - What payments have already been made
   - The final amount that is sought.

c) The HOD, must be satisfied that the allocation of such additional funds is not going to unjustly enrich a third party whose fault it was that the project was delayed in the first instance;
d) The HOD, in the case or cases where third parties are held responsible, is satisfied that all appropriate action is taken to recover the monies due to the department as a result of actions/inactions of that party that resulted in the project being stalled.

e) All the factors that contributed to the stalling of the project should be considered and such details are documented for audit purposes;

f) Where projects were approved prior to 01 April 2002 and for reasons acceptable to the HOD these did not commence, negotiations with the relevant developers should be entered into with an intention of entering into a new contract in accordance with the current policy prescripts and the contracts should spell out clearly measurable targets and penalties.

g) Projects being investigated for corruption related matters should not be considered in this dispensation, unless and until such investigations have been concluded first and all attempts have been made, in line with debt recovery procedures of government, to recover all monies due to the government. Such steps include court action, attachment of property of indebted persons and criminal prosecutions where appropriate. In such cases, should there be requirements for writing-off of any portions of monies expended, such write-offs must be recorded and be included in the Annual Financial Statements of
the Provincial Housing Department with full details for audit purposes.

h) Where provinces have recovered funds and these funds are accordingly appropriated at provincial level, such funds should form part of the allocation and such funds should be utilised accordingly to deal with the above issues.

i) The HOD must assess the proposals for completion based on the tenders received. As the projects are old and were approved prior to the application of the provisions of the Housing Consumers Protection Measures Act, 1998 (Act No 95 of 1998) to the housing subsidy market, the project will not be affected by the Act.

j) A report on status of blocked projects should be attached as an addendum to monthly conditional grants in terms of Section 16 of annual Division of Revenue Act.

k) All identified blocked projects that could be funded in this dispensation should be completed by 31 March 2004.

l) Provinces should prioritise projects that are going to be completed within the current year to ensure that the impact on delivery is maximised.
m) The cut off date for the implementation of the escalated subsidies shall be applicable for all projects that have not been completed due to inflationary or other bona fide factors and that were approved before or on 31 March 1999, being three years prior to the implementation of the current subsidy amount.

n) The National Department of Housing adjust the National Database to accommodate "blocked projects" in the same way that institutional projects are accommodated.

4. INFLATIONERY ALLOCATION FOR 2002/03 FINANCIAL YEAR

Amounts allocated to each province for inflation purposes in the 2002/2003 financial year was distributed to provinces as follows:

- Eastern Cape 9 321 000
- Free State 4 618 000
- Gauteng 13 078 000
- Kwazulu Natal 11 559 000
- Mpumalanga 3 904 000
- Northern Cape 1 281 000
- Limpopo 6 228 000
- North West 4 929 000
- Western Cape 6 082 000

**TOTAL** 61 000 000
These funds have been divided in accordance to the approved allocation formula to the provinces. It is expected that provinces will prioritize and utilize these allocations to unblock identified projects in the provinces.

MS MZ NXUMALO
DIRECTOR-GENERAL

DATE: 19/8/03