

20:09:26:01. Definitions. Terms used in this chapter mean:

(1) "Authority," the South Dakota Housing Development Authority;

(2) "Board," the board of commissioners of the authority;

(3) "Housing infrastructure fund," a fund authorized pursuant to SDCL chapter 11-15 and administered by the authority for the purpose of making loans and grants for housing infrastructure projects;

(4) "Housing infrastructure program funding," a grant, a loan, or both a grant and a loan, from the housing infrastructure fund;

(5) "Housing infrastructure project," the installation, replacement, upgrade, or improvement of public infrastructure for the support of a single-family or multi-family housing project;

(6) "Indian tribe," as defined in SDCL 2-14-2;

(7) "Political subdivision," any association, authority, board, commission, committee, council, task force, school district, county, city, town, township, local government entity, or agency of the state of South Dakota that is created or appointed by statute, ordinance, or resolution and is authorized to exercise any sovereign power derived from state law;

~~(7)~~(8) "Public infrastructure," as defined in SDCL 11-15-1;

~~(8)~~(9) "Total project cost," the total cost of a housing infrastructure project; and

(9)(10) “Written agreement,” the ~~agreement~~ contract between the applicant and the authority setting forth the terms and conditions of the housing infrastructure project and the housing infrastructure program funding.

Source: 49 SDR 125, effective July 3, 2023.

General Authority: SDCL 11-15-6.

Law Implemented: SDCL 11-15-1 to 11-15-5, inclusive.

20:09:26:02. Eligibility. To be eligible for housing infrastructure program funding, the applicant must:

(1) Be a ~~for-profit~~ for-profit entity, nonprofit entity, ~~tribal government~~ Indian tribe, housing authority, local economic development corporation, ~~or~~ political subdivision of the state of South Dakota, or agency of that political subdivision or Indian tribe;

(2) Submit an application for housing infrastructure program funding to the authority; and

(3) Comply with the requirements, conditions, restrictions, and limitations imposed by this chapter and SDCL chapter 11-15.

Source: 49 SDR 125, effective July 3, 2023.

General Authority: SDCL 11-15-6.

Law Implemented: SDCL 11-15-1 to 11-15-5, inclusive.

20:09:26:07. Consultation. Subject to any limitations under federal or state law, the authority may share information regarding the applicant, the application, or the housing infrastructure project, and may consult with the applicable political subdivision or Indian tribe, with state agencies, or with any outside party contracted by the authority for program administration, in order to evaluate the application and monitor the housing infrastructure project.

Source: 49 SDR 125, effective July 3, 2023.

General Authority: SDCL 11-15-6.

Law Implemented: SDCL 11-15-1 to 11-15-5, inclusive.

20:09:26:08. Approval by local governing body. An applicant shall submit with the application a resolution of the applicable political subdivision or Indian tribe stating:

(1) The political subdivision or Indian tribe has approved the proposed housing infrastructure project;

(2) The project satisfies the requirements of the political subdivision or Indian tribe;

(3) The political subdivision or Indian tribe shall own, maintain, or provide the public infrastructure to be developed in the project; and

(4) The political subdivision or Indian tribe has the capacity to support the public infrastructure to be developed in the project.

Source: 49 SDR 125, effective July 3, 2023.

General Authority: SDCL 11-15-6.

Law Implemented: SDCL 11-15-1 to 11-15-5, inclusive.

20:09:26:18. Payment and performance bonding -- Letter of credit. An applicant shall ensure compliance with the requirements of the applicable political subdivision's or Indian tribe requirements for contractor bonding. If the political subdivision or Indian tribe does not have contractor bonding requirements, the contractor, before commencing any work, must furnish surety in an amount not less than the contract price to the applicant, for the faithful performance of the contract, with the additional obligation that the contractor promptly pay all persons supplying the contractor with labor or material in the prosecution of the work provided for in the contract.

In lieu of a payment and performance bond, the applicant may obtain a letter of credit in the amount of the housing infrastructure program funding. The letter of credit must:

- (1) List the authority as the named beneficiary;
- (2) Be irrevocable and unconditional: and
- (3) Be issued by a federally insured financial institution.

Source: 49 SDR 125, effective July 3, 2023.

General Authority: SDCL 11-15-6.

Law Implemented: SDCL 11-15-1 to 11-15-5, inclusive.