

5122:3-1-13

Real property.

The department may participate in the cost or value of real property to be used for mental health [or addiction service](#) facilities. Such property may include land only or land with existing buildings thereon which is to be purchased by an applicant or the approved tax credit owner for which it is the approved tax credit manager.

(A) Site evaluation. Applicant shall provide to the chief an evaluation of the proposed project site in accordance with the factors set forth in the guidelines including, but not limited to, cost adaptability for renovation, programmatic suitability, economic suitability, environmental suitability, and ability or potential to meet applicable zoning, building and fire codes, licensure, and departmental or other governmental requirements. The chief shall evaluate and approve or disapprove all project sites proposed.

(B) Property value determination [shall be](#) in accordance with the guidelines

(1) The value of real property proposed for a project shall be based on a recent appraisal or appraisals made by a qualified appraiser according to ~~DAS/GSA~~ guidelines. The appraised value shall be based on the fair market value of the property as determined by the appraisal and approved by the chief ~~and submitted to DAS/GSA~~. The appraisal fee shall be considered as an element of project cost eligible for state participation.

(2) Demolition costs may be included in determining the cost of property for a project.

(3) Department participation in real property shall be based on the purchase price or approved appraised value, ~~as indicated in paragraph (B) of rule 5122:3-1-11 of the Administrative Code~~.

(C) Existing buildings

In addition to all other provisions of this rule, the chief shall evaluate participation in the cost of projects involving the renovation of existing buildings as follows:

(1) Estimate the cost of renovation and additions necessary to meet approved program requirements;

(2) Estimate the life expectancy of the existing building(s) after proposed renovation;

(3) Compare the cost of renovation of and additions to the existing building(s) with the cost of new construction to fulfill the same program requirements; and

- (4) Evaluate program suitability of the existing building(s) in comparison with that of construction designed specifically for the programs stated in the application.

(D) Mortgaged property

- (1) The department may participate in a project involving property owned by an applicant or the approved tax credit owner for which it is the approved tax credit manager, but which is subject to prior mortgage(s) held by a private financial institution or other lender approved by the chief, provided that the amount of state participation in the project will be adequately secured by a subordinate mortgage on the property and by mortgages, leases, liens, assignments, or pledges in or of such other property or contracts as the department shall require to provide adequate assurance of preferred creditor status for the state in order that its investment be protected. Such prior mortgage(s) may provide part or all of the local funds required for applicant's share of approved project costs.
- (2) The department may participate in such a project according to the following terms:
 - (a) The applicant or the approved tax credit owner for which it is the approved tax credit manager shall give the department a security interest, lien, or mortgage in the project property junior only to the approved prior mortgage(s).
 - ~~(b) All proposals for future loans on the project property by the applicant or the approved tax credit owner for which it is the approved tax credit manager shall be submitted to and approved by the department.~~
 - ~~(c) The state shall be assigned an interest in after-acquired fixtures and equipment for the project property.~~
 - ~~(d)~~(b) Approval by the department is required prior to the sale of the project property and/or equipment thereon.
 - ~~(e)~~(c) Terms of the mortgage(s) or contract(s) between the applicant or the approved tax credit owner for which it is the approved tax credit manager and lender shall provide that in the event of default on the part of the mortgagor (applicant or approved tax credit owner) and prior to foreclosure by the mortgagee:

- (i) The department shall have an opportunity to absolutely cure any default on behalf of the applicant or the approved tax credit owner for which it is the approved tax credit manager; and
 - (ii) If the applicant has not repaid, or caused to be repaid, the sum set forth in paragraph (D) of rule 5122:3-1-05 of the Administrative Code, the department may assume the applicant's obligation or the obligation of the approved tax credit owner for which it is the approved tax credit manager under the mortgage and may assume operation of the facility or may transfer or assign the mortgage interest and the operation of the program in the facility upon approval by the mortgagee, which approval shall not be unreasonably withheld, to an eligible applicant to provide a similar service program in the facility in accordance with all applicable federal and state restrictions for the remainder of the mortgage term.
- (3) Paragraphs (D)(2)(a) ~~to~~and (D)(2)(~~db~~) of this rule shall be in effect for the period of the contract between the applicant and the department. Paragraph (D)(2)(~~ec~~) of this rule shall be in effect until the prior mortgage(s) has/have been cancelled.