

The National Housing Code

INCREMENTAL INTERVENTIONS

Consolidation Subsidies

Emergency Housing Programme

Integrated Residential Development Programme

Enhanced People's Housing Process

Upgrading Informal Settlement

Subsidy Quantum - Incremental Interventions



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Human Settlements
REPUBLIC OF SOUTH AFRICA

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ACRONYMS

Community Development Worker	CDW
Expanded Public Works Programme	EPWP
Integrated Development Plan	IDP
Member of Executive Council	MEC
Medium Term Expenditure Framework	MTEF
Municipal Infrastructure Grant	MIG
National Home Builders Registration Council	NHBRC
Provincial Department responsible for human settlement	PD
Value Added Tax	VAT





The Housing Code

Upgrading of Informal Settlements Programme

PART A Upgrading of Informal Settlements Programme

1 Overview

2 Policy Prescripts and Provisions

3 Important Considerations

4 Project Phases

PART B Guidelines for the Implementation of Projects

1 Suggestions on How to Implement Upgrading Projects

2 Initiating a Project

3 Phase 3 Project Implementation

4 Consolidating a Project



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PART A: UPGRADING OF INFORMAL SETTLEMENTS PROGRAMME

1 OVERVIEW

The Government of the Republic of South Africa is party to the United Nations Millennium Development Goals, which provide for the significant improvement in the lives of at least 100 million slum dwellers by 2020. In addition to these conventions, South Africa adheres to the following declarations under the UN Habitat programme: the Vancouver Declaration on Human Settlements (1976), the Istanbul Declaration on Cities and Other Human Settlements (1996) and the Habitat Agenda (1996), the focus of which is to address the plight of persons without adequate housing. The Upgrading of Informal Settlements Programme is consistent with the above conventions with its primary objective being to cater for the special development requirements of informal settlements.

This chapter deals with the process and procedure for the in situ upgrading of informal settlements as it relates to the provision of grants to a municipality to carry out the upgrading of informal settlements within its jurisdiction in a structured manner. The grant funding so provided will assist the municipality in fast tracking the provision of security of tenure, basic municipal services, social and economic amenities and the empowerment of residents in informal settlements to take control of housing development directly applicable to them. The Programme includes, as a last resort, in exceptional circumstances, the possible relocation and resettlement of people on a voluntary and co-operative basis as a result of the implementation of upgrading projects.

The Programme is instituted in terms of section 3(4) (g) of the Housing Act, 1997 (Act No.107 of 1997), ("The Housing Act") and is referred to as the National Housing Programme: Upgrading of Informal Settlements.



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Upgrading of Informal Settlements Programme

PART A Upgrading of Informal Settlements Programme

- 1 Overview
- 2 Policy Prescripts and Provisions**
- 3 Important Considerations

PART B Guidelines for the Implementation of Projects

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2 POLICY PRESCRIPTS AND PROVISIONS

2.1 POLICY INTENT

The key objective of this programme is to facilitate the structured *in situ* upgrading of informal settlements as opposed to relocation to achieve the following complex and interrelated policy objectives:

- **Tenure Security:** to enhance the concept of citizenship, incorporating both rights and obligations, by recognising and formalising the tenure rights of residents within informal settlements;
- **Health and Security:** to promote the development of healthy and secure living environments by facilitating the provision of affordable and sustainable basic municipal engineering infrastructure to the residents of informal settlements. This must allow for scaling up in the future; and
- **Empowerment:** to address social and economic exclusion by focusing on community empowerment and the promotion of social and economic integration, building social capital through participative processes and addressing the broader social needs of communities.

2.2 POLICY PRINCIPLES

The following principles are applicable to the Programme:

- **Grants to municipalities:** Funding under the programme will be made available to municipalities as grants for the undertaking of projects based on approved business plans for the upgrading of whole settlements;
- **Application of the programme:** The programme is first and foremost applicable to the *in situ* upgrading of informal settlements. It will also apply in cases where communities are to be relocated for a variety of reasons including de-densification of settlements. The provisions of this programme are equally applicable to both the upgraded settlement and the relocation site;
- **A holistic approach:** Entails an area and/or community wide focus, fostering holistic development of the settlement with minimum disruption of existing fragile community networks and support structures. To the greatest extent possible, settlements should be upgraded in a holistic, integrated and locally-appropriate manner. Engagement between community members and their local authorities is of the utmost importance to ensure locally appropriate solutions;

- **Relocation requirements:** In cases of relocation the approval of the community to relocate must be secured and the new location must be in an area designated in terms of an approved Integrated Development Plan (IDP);
- **Qualification for benefits:** the programme provides benefits for all the inhabitants of an informal settlement, in a variety of ways, including persons currently excluded from the benefits of the Housing Subsidy Scheme;
- **Programme Scope:** The programme will finance the development of serviced stands while housing consolidation, is facilitated through the housing development options of the National Housing Programme as separate projects;
- **Public to public partnership:** This Programme is premised on the provisions of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005) that provides for the establishment of co-operative governance structures and systems, as well as alignment mechanisms. Local government is the main implementing agency. To counter the lack of capacity at local government level, a focused capacity building programme to support municipalities must be established by provincial housing authorities;
- **Suitable land:** The programme will only provide funding in respect of informal settlements situated on land suitable for permanent residential development and within an approved IDP of the municipality concerned. The Programme also provides for marginal land to be rehabilitated in certain cases;
- **Norms and standards:** The National Norms and Standards in respect of the creation of serviced stands shall not apply to this Programme but could serve as a guideline;
- **Stand sizes:** The layout of informal settlements generally precludes the determination of uniform stand sizes. Accessible stand sizes should emerge through a process of dialogue between local authorities and residents;
- **Service standards:** The Programme provides funding for the installation of interim and permanent municipal engineering services. Where interim services are to be provided it must always be undertaken on the basis that such interim services constitute the first phase of the provision of permanent services, the nature and level of permanent engineering infrastructure must be the subject of engagement between the local authority and residents. Community needs must be balanced with community preferences, affordability indicators and sound engineering practice;
- **Social and economic amenities:** The National Housing Programme: Social and Economic Amenities may be utilised to access funding for the construction of basic

social and economic infrastructure. Note: Where funding is available from line functions departments this should be the first option.

- **Tenure:** The Programme promotes security of tenure as the foundation for future individual and public investment. The broad goal of secure tenure may be achieved through a variety of tenure arrangements and these are to be defined through a process of engagement between local authorities and residents;
- **Housing Consolidation:** Beneficiaries of this programme will only receive access to land, basic municipal engineering services and social amenities and services. To qualify for housing assistance benefits, such as registered ownership and a consolidation subsidy, beneficiaries need to comply to the requirements of the relevant programmes;
- **Community Partnership:** The Programme is premised upon extensive and active community participation. Funding is accordingly made available to support the social processes. Community participation should be undertaken through Ward Committees with ongoing effort in promoting and ensuring the inclusion of key stakeholders and vulnerable groups in the process. The municipality must demonstrate effective interactive community participation;
- **NHBRC project enrolment:** Municipalities must ensure that the project areas are enrolled with the National Home Builders Registration Council (NHBRC) at the earliest stage of planning. This ensures that enrolment of houses with the NHBRC is effectively facilitated and not compromised in any way;
- **Discounting of grants:** A grant approved under this Programme in respect of the cost of planning, township establishment and installation of municipal engineering services and project management will be discounted against subsequent Housing Consolidation subsidies only to the extent to which it might have contributed materially to the permanent housing solution. As a minimum, subsidies allocated to individuals for house construction must be equal to the value of the prevailing consolidation subsidy;
- **Project Management:** Municipalities should prepare a capacity building strategy to support the implementation of the upgrading project in order to establish capacity constraints and address these constraints efficiently;
- **Procurement:** Procurement procedures must be fair, equitable and transparent for the acquisition of housing goods and services and the guidelines of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), must be followed; and

- **Demolition of shacks:** The municipality must table a comprehensive action plan for the management of projects specifically addressing measures to prevent re-invasion of land and the process of shack demolition in the event of persons accessing housing consolidation benefits.

2.3 APPLICATION OF PROGRAMME

This programme is designed to facilitate the *in situ* upgrading of informal settlements in a structured way. It includes the possible relocation and resettlement of people on a voluntary and co-operative basis as may be appropriate.

This programme will not apply to projects embarked upon in terms of any other National Housing Programme or any Provincial Housing Programme that is inconsistent with National Housing Policy, nor will it apply to persons currently occupying informal houses/dwellings in the backyards of formal settlements.

Informal settlements typically can be identified on the basis of the following characteristics

- Illegality and informality;
- Inappropriate locations;
- Restricted public and private sector investment;
- Poverty and vulnerability; and
- Social stress.

The programme is therefore applicable to all settlements that demonstrate one or more of the above characteristics.

2.4 WHO WILL BE ASSISTED?

The Programme will benefit households and individuals residing in informal settlements and the following individuals will qualify for assistance under this Programme:

- Households that comply with the Housing Subsidy Scheme qualification criteria
- Households/persons with a monthly income exceeding the maximum income limit as approved by the Minister from time to time;
- Households headed by minors, who are not competent to contract in collaboration with the Department of Social Development;
- Persons without dependants;
- Persons who are not first-time home owners;

- Persons who have previously received housing assistance and who previously owned and/or currently own a residential property. Assistance may be considered on condition that access to the benefits of the programme will be considered on a case by case basis to determine the facts and the approval of access in accordance with the provisions of the Implementation Guidelines of the programme; and
- Illegal immigrants on the conditions prescribed by the Department of Home Affairs on a case by case basis.
- Persons classified as aged: Aged persons who are single without financial dependants may also apply for subsidisation. Aged persons can be classified as male and female persons who have attained the minimum age set to qualify for Government's old age social grant.

Searches against property registers, the Population Register of the Department of Home Affairs and the National Housing Subsidy Data Base will be required for beneficiaries to gain access to the programme.

2.5 FUNDING ARRANGEMENTS

2.5.1 FUNDING ALLOCATION BY THE MINISTER

Funding for the implementation of National Housing Programmes is allocated to Provincial Governments by the Minister on an annual basis. Such funds are transferred to provinces in terms of the provisions of the Division of Revenue Act.

Project and/or specific programme funding will be prioritised and reserved by Provincial Governments from their annual funding allocation.

2.5.2 PROJECT FUNDING

- **Planning Coordination:** Within the context and process of its multi-year strategic plan compilation, the Provincial Department will agree with municipalities in its area of jurisdiction *inter alia* on the financing of specific informal settlement upgrading projects, per Medium Term Expenditure Framework (MTEF). Municipalities will therefore know which projects will receive funding per financial year and will undertake project planning accordingly;
- **Progress Payments to Municipalities:** Approved project funding will be released to the relevant municipality in a manner subject to such terms, conditions and controls imposed by the MEC and as required by the provisions of the Public Finance Management Act, 1999 (Act 1 of 1999). Progress payments to municipalities shall be

made against certification of the achievement of value for money as per agreed milestones. Such progress payments may include advanced payments to municipalities for each phase of an approved project; and

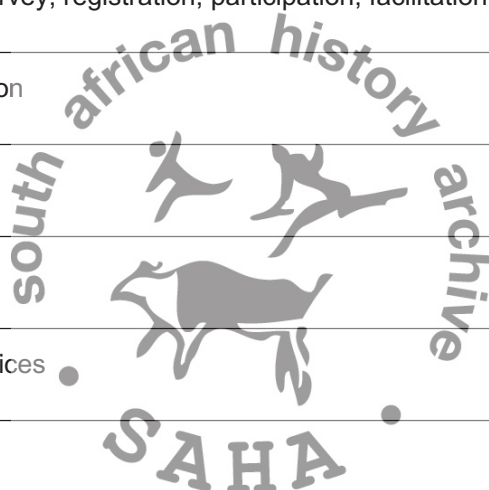
- **Progress Payments by Municipalities:** Municipalities must only initiate progress payments in terms of contractual agreements with the providers of housing goods and services against the actual achievement of value for money and the certification thereof.

2.5.3 GRANT FUNDING GUIDELINE AMOUNT

The Director-General of the National Department will annually announce the funding guideline amounts for the programme.

- **What will be funded by the programme?**

Community residents survey, registration, participation, facilitation, dispute resolution etc
Geotechnical investigation
Land acquisition
Pre-Planning
Interim engineering services
Detailed town planning
Land surveying and pegging
Contour survey
Land survey examination fee
Civil engineer's fee
Site supervision fees
Permanent engineering services
Project management



Transportation and loading costs for people and household effects
Social service support <i>inter alia</i> support for the registration of social benefits, school registration and other welfare support
Sustenance (food support) to relocation households

- **Over payments**

If it is found that the approved grant amount, based on the estimates provided in the project application for a project, exceeds the actual amount disbursed or to be disbursed in implementation of a project. The balance/residual amount must be transferred to the account of the PD by the municipality.

- **Income from the sale of properties**

Income generated through the sale of serviced stands by the municipality must be deposited in a central operating account of the municipality and be utilised as contemplated by the provisions of section 14(4), of the Housing Act, 1997 (Act No. 107 of 1997). This rule will apply with the changes required by the context where a Provincial Government acts as a developer.

2.5.4 MUNICIPAL COUNTER-FUNDING

A. Capital Counter-funding

The principle of public/public partnerships will apply to the Programme and participating municipalities will accordingly have to make a 10% minimum capital contribution towards the total cost of an upgrading project. Municipalities are encouraged to increase these contributions where possible and such contributions will be taken into consideration during project selection. Counter-funding requirements will be dealt with in a flexible manner to ensure that it does not result in the exclusion of municipalities that do not have the means to make such contributions.

A purported lack of funding will be assessed against the municipality's IDP and in consultation with the relevant Departments. Municipalities will be entitled to use MIG to finance their counter-funding requirements under this Programme.

B. Maintenance and Operational Funding

Municipalities will assume responsibility for the operation and maintenance of all engineering infrastructure established under the

Programme and will also be responsible for the operation and maintenance of social, community and economic facilities.

Funding for these activities will be provided for through the normal municipal budgeting process and, these operational contributions will not be regarded as part of the capital contribution referred to above.

2.6 INSTITUTIONAL ARRANGEMENTS

The roles and functions of national, provincial and local government are based on the principles of co-operative governance and subsidiary and the creation of partnerships between the different spheres of government. This thus implies that normally a role or function should be performed at the level most suitable for the circumstances.

The roles and functions attributed to the three spheres of government and others under this programme are as follows:

2.6.1 RESPONSIBILITIES OF MUNICIPALITIES

It will be the responsibility of a municipality to consider whether living conditions in a settlement in the area of jurisdiction merits the submission of an application for assistance under this Programme, and if so the relevant municipality should:

- Initiate, plan and formulate applications for projects relating to the *in situ* upgrading of informal settlements, which in the case of municipalities that are not accredited, must be in collaboration with and, under the supervision of the PD;
- Request assistance from the PD on any of the matters concerned if the municipality lacks the capacity, resources or expertise;
- Submit the application to the relevant PD;
- Implement approved projects in accordance with agreements entered into with PDs;
- Assume ownership of the engineering services installed;
- Manage, operate and maintain settlement areas developed under this Programme;
- Ensure as far as possible the availability of bulk and connector engineering services;
- Provide basic municipal engineering services such as water, sanitation, refuse removal services and other municipal services;

- Provide materials, assistance, and support where necessary to enable the *in situ* upgrading project to proceed;
- Assist with the transport of affected persons and their belongings to negotiated and agreed resettlement sites; and
- A district municipality must provide inputs and assistance to a local municipality, and vice versa in appropriate circumstances.

2.6.2 RESPONSIBILITIES OF PROVINCIAL GOVERNMENT

The PDs will be responsible for the funding and implementation of this Programme in partnership with municipalities. PDs must do everything in their power to assist municipalities to achieve their obligations under this programme. The following are some of the responsibilities Provincial Government should have to perform:

- Collaborate with and assist municipalities in the initiation, planning and formulation of applications for projects under this programme;
- Assume the development responsibility of the municipality in cases where the municipality is clearly not able to fulfil its obligations under the programme;
- Forward applications to the MEC together with its comments and recommendations including its views on the eligibility for assistance and the capacity of the municipality concerned to undertake and complete the project successfully;
- MECs will have decision-making authority;
- Take appropriate steps in accordance with section 139 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), to ensure the performance of the duties and obligations provided for in section 7 of the Housing Act, 1997 if the municipality is unable to do so;
- Reserve, reprioritise and allocate funds from its annual budget allocation and manage, disburse and control funds allocated for an approved project, in accordance with an agreement with a municipality;
- Assist municipalities with the use and implementation of accelerated planning procedures; and
- Monitor the implementation of a project by a municipality.

2.6.3 RESPONSIBILITIES OF THE NATIONAL DEPARTMENT

The National Department must:

- Actively participate in project conceptualisation, assist with project applications and evaluations and participate in project management with the PDs and municipalities;
- Maintain the policy and programme, and assist with interpretation;
- Monitor programme implementation;
- Negotiate the apportionment of funding for the programme and allocate such to provinces for project execution and release allocated funds on a cash flow basis; and
- Provide implementation assistance.



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3 IMPORTANT CONSIDERATIONS

3.1 PROGRAMME STATUS

Against the background of the Government's objective to upgrade all informal settlements in the country by 2014/15, it is clear that the programme is one of the Government's prime development initiatives and that upgrading projects should be dealt with on a priority basis.

In line with international best practice the programme has been designed to address the specific development requirements posed by informal settlements hence it is flexible to ensure that it can address locally peculiar development requirements and becomes a specially designed funding mechanism.

3.2 PROGRAMME PLANNING REQUIREMENTS

Each PD annually develops and maintains a multi year housing development plan as part of the Strategic Planning Framework required by Treasury. Plans are compiled on the basis of the approved Housing Chapters of Municipal Integrated Development Plans and priorities agreed to between the MEC and the municipalities in the relevant province over the MTEF period.

3.3 OBJECTIVES AND PRINCIPLES OF INFORMAL SETTLEMENT UPGRADING PROJECTS

The identification of projects should be undertaken against the following broad objectives and principles:

- To maximise the impact of the programme by reaching as many households as possible and to achieve the national goal of upgrading of all informal settlements by 2014;
- The primary focus should be on settlements located in areas posing a threat to health and safety;
- Projects should promote the objective of spatial restructuring and integration;
- Settlements that are threatened with eviction or have been the subject of a Court Judgement must be prioritised; and
- Responsible authorities should adhere to the principle that community participation is the key to success and that relocation of communities should be a last resort.

3.4 DETERMINING WHICH SETTLEMENTS WILL QUALIFY

Informal settlements typically manifest the following characteristics:

- **Illegality and informality** – The residents of informal settlements live in a permanent state of legal-social insecurity as informal settlements lack legal recognition due to the unlawful occupation and/or unauthorized use of land and/or the illegal construction of houses upon land. Informal settlements are typified by the absence of formal planning and incremental, unplanned growth;
- **Location and environmental factors** – Informal settlements are found in a variety of locations mostly on land not suitable for development. In some instances, the upgrading of settlements may be a relatively simple matter whilst other settlements may not be upgradeable at all due to unsuitable soil conditions, topographical constraints and environmental impacts. In other instances, upgrading may be possible if extensive land rehabilitation is undertaken. In some situations, settlements may be well located but others are located at a distance from employment opportunities and sometimes on the urban periphery. These factors have a profound impact upon the nature, feasibility and desirability of upgrading activities;
- **Restricted public sector investment** – Public sector investment within informal settlements is restricted as a result of the illegal status of settlements. Informal settlements accordingly lack access to basic municipal engineering services such as water, sanitation, electricity, roads and walkways and lighting. Most informal settlements also typically lack government-funded social amenities and economic infrastructure. It is for this reason that inhabitants of these settlements have had to date, no incentive to invest their own resources in the areas;
- **Poverty and vulnerability** – The residents of informal settlements tend to be poor and vulnerable as most have only basic educational qualifications and are typically dislocated from the formal labour market. Residents are at a high risk of disease due to the combined effect of household poverty and this poor living environment. The insecure nature of informal settlements also reinforces social fragmentation; and
- **Social stress** - Poverty and poor living conditions provide fertile ground for exploitation, and gives rise to social stress, manifesting in high levels of inter-personal crime including domestic violence, child abuse and various social pathologies.

3.5 UPGRADING IN PHASES

It is suggested that settlement upgrading be undertaken in phases. Phases 1 to 3 focusses on community participation, supply of basic services and security for all residents.

Phase 4 constitutes the Housing Consolidation Phase and access to the Government's housing assistance programme undertaken in terms of the provisions of the specific programme opted for. Qualification for the benefits under phase 4 is determined by the beneficiary profile and residential property ownership status and/or record of the household.

3.6 THE DEVELOPER

- Municipalities act as developers;
- The projects are undertaken on the basis of a partnership of cooperative governance between the relevant municipality, the PD, and the National Department;
- In cases where a municipality lacks the capacity and expertise to undertake projects, the PD will assist and augment the abilities of the municipality;
- In cases where a municipality is not able to act as the developer role, the PD may decide to take over and execute the project on behalf of the municipality. In such cases there must be a structured agreement, which, amongst others, must address the matter of the municipality taking the developed township over, delivering the required services and assuming full responsibility for the administration of the town and application of by-laws upon completion of the project.

3.7 FUNDING THE PROJECT

A. General Rules

- Funding will be secured by provincial governments from the annual allocation from the Integrated Housing and Human Settlement Redevelopment Grant by the Minister;
- Project funding will be based on the number of persons that qualify for assistance under the programme; and
- Once a project has been approved a grant will be made available to a municipality by a province to undertake Phases 1 to 3;

- The programme that is funded provides for project management fees up to an amount not exceeding 8% of the project cost. The amount must be calculated on the total actual cost of Phases 1 to 3;
- Persons qualifying for assistance under the programme may include persons who do not comply with the qualification criteria applicable to the Housing Subsidy Scheme;
- In respect of Phase 4 where funds will be allocated for housing construction, funding approval will be linked to the either the individual housing subsidy beneficiary or the relevant national Housing Programme opted for as the case may be. For example:
 - when a household qualifies for an individual subsidy, the household will receive a subsidy based on the provisions of the IRDP Subsidy Scheme or the Individual Housing Subsidy Scheme as the case may be. Where the household opts for rental accommodation, the provisions of the rental housing programme will apply in accessing funding for that purpose.

3.7.1 FUNDING AMOUNTS

The guidelines for amounts to be considered for each aspect of a project will be published by the National Department and provided to municipalities by annual circular. The actual cost of the project will be determined by a variety of considerations such as the location of the project, service standards, the township design and layout, the development options selected and local tender prices.

The programme may fund the following

Phase 1
Survey, registration, participation, facilitation, dispute resolution etc at 3% of the project cost before project management fees are added
Geotechnical investigation
Land acquisition
Pre-Planning
Interim engineering services

Phases 2 and 3
Detailed town planning
Land surveying and pegging
Contour survey
Civil engineer's fee
Site supervision fees
Permanent engineering services
Project management
Relocation grants
Transportation and loading costs for people and household effects
Social service support including support for the registration of social benefits, school registration and other welfare support
Relocation food support to households
Maximum cost per household

3.7.2 VALUE ADDED TAX

In terms of a ruling by the former Commissioner of Inland Revenue, housing subsidies fall within the definition of “transfer payments” as contemplated in the Value Added Tax Act, 1991 (Act No. 22 of 1991) and is subject to VAT at a rate of zero percent (0%).

3.8 SOCIAL AND ECONOMIC FACILITIES

The provision of funding for the development of certain basic community and economic facilities will be facilitated through the National Housing Programme: Provision of Social and Economic Amenities. The provision of such facilities is to be determined through a consultative process between the local authority and settlement inhabitants. The following factors are to be taken into consideration during this process:

- An assessment of community needs must be undertaken prior to the determination of community preferences;
- Special care must be taken to ensure that the needs of vulnerable groups are taken into consideration during the process;

- Amenities to be financed typically include sport fields, community centres etc; and
- Funding for maintenance and operation of facilities must be provided from non-housing sources by the municipality.

3.9 COMMUNITY PARTICIPATION

In order to ensure that community members assume ownership of their own development and project, the involvement of the community from the onset is key. Hence, community participation should be undertaken within the context of a structured agreement between the municipality and the community.

A. Facilitating Community Participation

International best practice has proved that one of the factors contributing towards the successful upgrading of informal settlements is the role of the community, targeted by the development intervention, will play in the process.

It is of the utmost importance that the community is involved in all aspects of the settlement upgrading process.

First and foremost, fragile community survival networks which are the hallmark of poor communities must be preserved to ensure the future sustainability of the community and the settlement. This can be achieved by enhancing the capacity of the community to actively participate in all aspects of the planning and development of the settlement.

Secondly, the community has deep rooted knowledge of its development needs and preferences. This knowledge must be harnessed to ensure that a township design and services standards as well as the housing solutions and the economic and social facilities opted for, are targeted at satisfying the actual needs and preferences.

The community must be assisted and encouraged to achieve the required level of competency for meaningful and realistic participation in all aspects of their development.

It is also important that the role of the Ward Committees in this process is acknowledged. Community capacitation and participation should be initiated with the support and active involvement of the ward committee members.

Many of the tasks such as the surveying of the community within an identified project area, the facilitation of community participation and project conceptualisation could under certain circumstances be undertaken through the assistance of Community Development Workers (CDWs) to be employed by government institutions in terms of

the provisions stipulated by the Department of Public Service and Administration. Developers should thus establish whether such capacity is available and where possible utilise CDWs in collaboration with Ward structures for the intended purposes.

To ensure that the objectives of the community participation are achieved, the programme has accordingly been designed to facilitate extensive community capacitation to achieve the intended participation. Therefore in terms of the programme provisions:

- A municipality may apply for funding for the appointment of capacity to assist in the processes leading up to the conclusion of the participation agreement with communities;
- Facilitation should as a minimum include the following tasks:
 - Socio-economic surveying of households;
 - Facilitating community participation;
 - Project information sharing and progress reporting;
 - Conflict resolution, where applicable;
 - Housing support services comprising:
 - i Training and education on housing rights and obligations;
 - ii Capacity building of housing beneficiaries;
 - iii Assistance with the selection of housing options;
 - iv Management of building materials;
 - v Relocation assistance.
- The funding available under the project for the appointment of external capacity to undertake the above-mentioned tasks amounts to 3% of the project cost for Phases 1 to 3.

B. Survey and Registration of Households

- All beneficiaries of the programme must be registered on the National Housing Subsidy Database and projects will be administered through the Housing Subsidy System.
- The revised business plan for Phase 2 must include the recorded details of the persons in the settlement for testing and uploading purposes.

C. Relocations

- A municipality must identify an upgrading project having due regard for the principle that relocation should be limited as far as possible and only be considered as a last resort.
- Where relocation is unavoidable, it should be based on the principle of minimal disruption to the affected persons and to relocate the persons to a site as close as possible to the existing settlement.
- A relocation strategy should be developed in collaboration with the community.
- The rules of this programme will also apply to the development of the relocation areas with the changes relevant to the particular context.

D. Temporary shelter and services

- Where the urgent relocation of households is required the MEC may approve the application of the National Housing Programme: Housing Assistance in Emergency Circumstances.
- The aforementioned Programme's prescripts and funding available under the Programme will therefore apply in Informal Settlement Upgrading projects where this is required.
- The funding available under the two programmes must be aligned and may not be used in a manner that will enhance the funding limits available under the programmes.

E. Housing Support Services

- Housing support facilitation is essential and should be introduced at an early stage of the project to ensure that community members are assisted to participate fully in all aspects of the project.
- Housing support centres could be established through the construction of a community hall financed through the Programme for the Provision of Social and Economic Amenities.
- These centres will be managed by the municipality and could provide facilities *inter alia* for community meetings, training and assistance with regard to housing related matters, housing consumer education, construction training as well as building material distribution where required.
- The appointment of external capacity to provide consumer education and construction advice and material management over and above the functions that

will be fulfilled by surveyors and community participation facilitators, may be considered.

- The acquisition of training material and equipment could also be required. Funding has been included in the 3% of the total project cost set aside for community participation facilitation.
- The actual services required will determine the amount required.

3.10 TOWN PLANNING

A. Township design and layout

- The township layout and design should be undertaken on the basis of the specific needs of the community and on the principle that relocations should be avoided as far as possible.
- The township design and layout should as far as practical in a particular context, comply with the guidance provided by the non-technical guide to settlement planning and design, the "Red Book". Local conditions might necessitate deviation from the guidelines to accommodate higher than normal densities to minimise relocation and to accommodate the nature of the housing options elected.
- All stands should be accessible to emergency services. For instance, in the case of a fire, the fire-fighting service must be able to get to the source of the fire. Similarly, the South African Police Services may want to approve township layouts to ensure that they promote easy access for police services.
- A very important component of the town planning and design process will be a thorough land use survey to determine the land uses that will have to be accommodated in the redevelopment of the settlement.
- In designing a township layout, at least the following may be considered:
 - Community needs, current land use and densities;
 - Designing to minimize relocation;
 - The need for innovative township design where required;
 - Not all residential properties will necessarily require vehicle access;
 - Fire prevention measures;
 - In areas where land is scarce the need for higher density rental developments (such as multi level buildings) and also small stands where vertical extension of units is encouraged;

- The provision of social amenities and sites for economic activities; and
- The design requirements of the Department of Police to ensure adequate access for their services.

B. Township establishment

- Normal township establishment processes should be followed even though township layout could differ substantially from the norm. At least the following should be achieved:
 - approval of the general plan of the settlement;
 - the surveying and pegging of stands;
 - the approval of the design and standards of engineering services by the municipality; and
 - the proclamation of the township.
- The above is essential for the application of funding under Phase 4, the Housing Consolidation Phase where houses are built.
- Although this programme comprises a phased development approach, catering for the provision of serviced stands only, the upgrading of informal settlements are judged to be a complete development programme - including all four phases. All projects should be designed, planned and executed on this principle.

3.11 MEMORANDUM OF UNDERSTANDING

Once a project has been approved and the PD has allocated the necessary funds, the municipality should enter into a written agreement with the PD.

Each agreement between a provincial department and a municipality should incorporate the approved business plan as an annexure, and should be signed on behalf of the PD by the head of the department and the municipal manager or other duly authorised representative, on behalf of the municipality. Details to be included in the Memorandum of Understanding are the following:

- Conditions imposed by the MEC when approving the project;
- Requirements of the procurement regime applicable;
- Total number of persons/households to be assisted under the project;
- Detailed description of the land and basis for securing the land where projects will be undertaken; and

- The envisaged planning of the area and the type of assistance that will be provided in terms of:
 - Tenure arrangements,
 - Basic municipal engineering services to be provided;
 - The social facilities to be provided;
 - Details of any other assistance to be provided; and
 - A detailed itemised breakdown of all amounts of the grant and the total grant amount.
- A detailed project implementation plan also indicating the cash flow, agreed project milestones and progress payments;
- Arrangements in respect of payment of service charges and where applicable municipal rates;
- The agreed professional services to be procured, detail on the work to be done, and fees to be paid;
- Detail on any other agreed housing goods or services to be provided and or procured; and
- Any other matters deemed reasonable and necessary to ensure meeting project objectives.

3.12 MEASURING PROJECT PERFORMANCE

The following indicators should form part of an approved business plan and should be used to evaluate and regularly report on the impact of projects for the upgrading of informal settlements:

- Performance against the work plan and expenditure targets contained in the approved final business plan;
- Improvements in living conditions measured through:
 - Health indicators (particularly decline in waterborne diseases and infant mortality rates, where these indicators have been recorded and are available);
 - Access to water and sanitation (households having access to “improved” drinking water and sanitation);
 - Tenure (number of households with secure tenure);

- Economic activity (increased number of business opportunities and number of temporary and permanent jobs created);
 - Social amenities (increased number and affordability of social and recreational facilities);
 - Social capital (particularly family stability and community cohesion); and
 - Decline in Crime (crime statistics).
- The sustainability of upgrading projects should to be measured through:
 - The willingness and ability of residents to pay for services as demonstrated by increased local government revenues;
 - The willingness and ability of government agencies to maintain and operate public infrastructure developed through upgrading projects;
 - The environmental impact of upgrading projects;
 - Progress with the Housing Consolidation Phase and the various options elected in this regard;
 - Whether the densification of the settlement after upgrading is taking place and at what rate;
 - A beneficiary satisfaction survey to determine the impact of the development impact on their lives.

3.13 NORMS AND STANDARDS

A. Municipal engineering services

The programme caters for the provision of the following municipal engineering services:

- The programme provides for the provision of interim municipal engineering services as a first phase to alleviate immediate/emergency need to access potable water, sanitation services and certain preventative measures to curtail the occurrence of disasters.
- The upgrading of such interim services into permanent municipal engineering services and/or the provision of permanent municipal engineering services from the outset of the project as may be required by local project circumstances; and
- The programme will finance permanent municipal engineering services in as far as they pertain to the internal township reticulation and will not finance any bulk and/or

connector services as funds for these services should be made available through the Municipal Infrastructure Grant (MIG) .

B. Stand sizes

Due to the informal layout of informal settlements it is not desirable to determine uniform or minimum stand sizes. Locally appropriate stand sizes should emerge through a process of dialogue between local authorities and residents during which the following factors should be taken into consideration:

- The density of the settlement must cater adequately for the operation and maintenance of municipal infrastructure including waste management and especially the prevention and control of fires; and permit adequate access by both pedestrians and emergency and service vehicles but need not necessarily provide vehicular access to each individual property.

C. Service standards

The Programme provides funding for the installation of interim and permanent municipal engineering services. Where interim municipal engineering services are to be provided, they should as far as possible be undertaken on the basis that such interim services constitute the first phase of the provision of permanent services.

The nature and level of permanent engineering infrastructure should be the subject of engagement between the local authority and residents. Community needs must be balanced with community preferences, affordability indicators and sound engineering practice. The National Norms and Standards in respect of Permanent Residential Structures contained in the National Housing Code should be adhered to in as far as municipal engineering services are concerned. In the event of a dispute, a Council resolution should be obtained to resolve this issue. The following factors should be taken into consideration during this process:

- An appropriate and sustainable trade-off should be reached between up-front capital costs, long-term maintenance and operating costs, settlement affordability levels, the need for environmental sustainability, social acceptability, human dignity and safety;
- Community involvement in the provision and maintenance of interim and permanent engineering infrastructure and related services (e.g. refuse removal etc.) should be clarified; and
- The installation and maintenance of engineering services should be undertaken in accordance with the principles of the Expanded Public Works Programme to maximise job creation.

D. Extraordinary development conditions

With regard to extraordinary development conditions, the principle of a variation on the product price of the normal Housing Subsidy Scheme programme will apply. The variation amount must be determined in accordance with the Manual for the Variation of the Product Price as approved for the specific project. The NHBRC enrolment process should guide requirements in this regard.

E. Rehabilitation of land

Many informal settlements were established through the invasion of well located land left vacant because it was not considered suitable for development owing to constraints such as flooding and being on to steep a slope. The rehabilitation of such land to make it suitable for development is sometimes possible but a relatively high cost. Hence the programme allows for this to be funded if the locational advantages off set the cost.

3.14 TENURE OPTIONS PROVIDED

The nature of tenure rights that are to be awarded for the duration of project Phases 1 to 3, before township establishment and the Housing Consolidation Phase commence, will be left to the discretion of the MEC, in consultation with the community and municipality concerned.

Tenure rights that may be considered in respect of Phases 1 to 3 could include rental agreements entered into with each household and/or the gratuitous loan of a site for occupation by the relevant household legally known as "Commodatum". Both tenure options are currently acknowledged as legitimate rights. The Rental Housing Act regulates the rental option and the loan of the site is regulated by common law principles.

Any agreement that will provide tenure rights short of ownership in informal settlements should at least provide for the following:

- The identification of the site in question;
- The term of the tenure right;
- The cancellation of the right and processes to be followed;
- The rights that the tenure entail, vest in the receiver of the right and the obligations of both parties to the agreement;
- The fact that the development of the area comprises a phased development approach with clear qualification criteria for access to the Housing Consolidation Phase;

- The fact that the tenure right does not guarantee access to any higher order tenure rights nor to the housing consolidation options;
- The rules relating to the consumption of income generating municipal services and compensation obligations thereof; and
- The rules relating to substitution or ceding/transferring of the tenure rights.

Project management fees

The programme provides for project management fees up to an amount not exceeding 8% of the project cost. The amount must be calculated on the total actual cost of Phases 1 to 3.

3.15 WHO WILL BE ASSISTED?

The policy section provides for the following categories of persons and households to qualify for assistance under the programme:

- Persons that satisfy the Housing Subsidy Scheme qualification criteria;
- Households/persons with a monthly income exceeding the maximum income limit as approved by the Minister from time to time;
- Households headed by minors, who are not competent to contract in collaboration with the Department of Social Development;
- Persons without dependants;
- Persons who are not first-time home owners;
- Persons who have previously received housing assistance and who previously owned and/or currently own a residential property. Assistance may be considered on condition that access to the benefits of the programme will be considered on a case by case basis to determine the facts and the approval of access in accordance with the provisions of the detailed Implementation Guidelines of the programme; and
- Illegal immigrants on the conditions prescribed by the Department of Home Affairs.

3.15.1 HOW TO DEAL WITH ILLEGAL IMMIGRANTS

In cases where the community survey detects the presence of illegal immigrants, the developer should immediately report the matter to the Department of Home Affairs. The Department of Home Affairs will then investigate the matter and make recommendations to the

developer on how to proceed and whether informal occupation rights could be awarded to such persons as an interim measure.

3.15.2 HOW TO DEAL WITH PERSONS WHO DO NOT MEET THE NORMAL CRITERIA OF THE HOUSING SUBSIDY SCHEME

Previous owners of residential property, current owners of residential property and previous beneficiaries of state housing assistance schemes who are found to reside in upgrading project areas, may apply for benefits under the programme. Each applicant should be considered on a case by case basis to determine the facts and circumstances that led to the presence of these persons in the settlements. Persons falling in this category will not automatically qualify for assistance under the programme but the MEC will have discretion to award conditional access to the programme benefits to such persons.



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4 PROJECT PHASES

It is recommended that projects be undertaken based on the following development phases.

4.1 PHASE 1: APPLICATION

Municipalities should be invited to apply to the Provincial Government for funding for the upgrading of informal settlements through the submission of Interim Business Plans, which should include relevant details of the municipality's Integrated Development Plan (IDP) and the Housing Development Plan, as well as pre-feasibility details of the particular upgrading project.

The MEC will consider these applications based on the criteria detailed in the Guidelines and rules for Implementation. Upon approval of the project, the Project will proceed to Phase 2.

4.2 PHASE 2: PROJECT INITIATION

During this phase of the upgrading process, municipalities should receive funding to undertake the following activities:

- The acquisition of land where required through negotiation or expropriation;
- The undertaking of a clear socio-economic and demographic profile of the settlement;
- The installation of interim services to provide basic water and sanitation services to households within the settlement on an interim basis pending the formalisation of the settlement; and
- The conducting of pre-planning studies to determine detailed geotechnical conditions and the undertaking of an environmental impact assessment to support planning processes.

The activities under this phase are generally to be undertaken over a period of 8-12 months, in accordance with the following maximum funding parameters.

4.3 PHASE 3: PROJECT IMPLEMENTATION

The Municipality should now submit a final business plan. The MEC must consider the Final Business Plan and, upon approval, the municipality will receive funding to undertake the following activities:

- The establishment of project management capacity;
- The establishment of Housing Support Services;

- The initiation of planning processes;
- The formalisation of land occupational rights and the resolution of disputes;
- Relocation assistance;
- Land rehabilitation;
- The installation of permanent municipal engineering infrastructure; and
- The construction of social amenities, economic and community facilities;

The Business Plan in respect of Phase 3 must address the planning, commencement and the time frame for Phase 4 (the Consolidation for House Construction Phase).

This phase of the project should be undertaken in accordance with the detailed work plan of the municipality.

4.4 PHASE 4: HOUSING CONSOLIDATION

Upon completion of the first three phases, the final phase of township establishment finalisation, ownership registration (where appropriate), and house construction will commence. Any outstanding social amenities will also be constructed during the final phase.

The final phase assistance will be administered in terms of the provisions of the relevant National Housing Programme opted for. For example, beneficiaries of IRDP projects will receive a subsidy amount equal to the residual of the subsidy amount (but not less than the applicable Consolidation Subsidy amount) after the deduction of any costs incurred during Phases 1 to 3 that contributed towards the permanent development of the property, excluding funds expended for land acquisition, community participation facilitation, social amenities, relocation assistance cost, etc.

A variety of options will be available for the implementation of Phase 4. These will include People's Housing Projects, individual ownership options, contractor built houses, rental accommodation and medium density options that may include rental and individual ownership options.

During these phases, qualifying residents will be encouraged to develop housing proposals in accordance with their individual and communal needs, affordability and aspirations.

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PART B: GUIDELINES FOR THE IMPLEMENTATION OF PROJECTS

1 SUGGESTIONS ON HOW TO IMPLEMENT UPGRADING PROJECTS

IMPLEMENTATION OF INFORMAL SETTLEMENT UPGRADING PROGRAMME FOR PROJECTS

PHASE 1: HOW TO APPLY FOR PROJECT REGISTRATION AND FUNDING RESERVATION

The interim business plan shall as a minimum provide the following information:

1.1 DETAILS OF THE MUNICIPAL IDPS AND THE MUNICIPAL HOUSING DEVELOPMENT PLAN

Details reflecting both the scale and number of informal settlements within the area and the basis for the prioritisation of these settlements for upgrading purposes are to be included, as well as a plan to address future land release and securing requirements so as to avoid the establishment of new informal settlements.

1.2 PRE-FEASIBILITY DETAILS

This step must include:

- The age and history of the settlement;
- The ownership status of the land including any restitution claims or title deed restrictions affecting the use of the land;
- The initial scoping of the geotechnical suitability (desk top surveys) of the land insofar as this impacts upon the upgradeability of the settlement. This must be done in collaboration with the NHBRC preliminary and project location enrolment process;
- A desktop environmental scoping should address the environmental suitability of the area for the upgrading of the settlement;
- The geographic location of the settlement in relation to transportation nodes, employment and social amenities;
- The estimated number of households within the settlement;
- The estimated number of households to be relocated (if any), based on an analysis of the suitability of the settlement for upgrading;
- The identification of illegal immigrants;

- A preliminary work plan for the implementation of the project; and
- A preliminary budget for the project, including the funds required for social and economic amenities and furthermore including an indication of municipal counter-funding commitment.

Upon approval of the project, the Project will proceed to Phase 2: Project Initiation, subject to the condition that a resolution by the Ward Committee, or similar structure where Ward Committees do not exist. Such a resolution should support the application for the upgrading of the informal settlement and should be submitted to the MEC prior to the initiation of Phase 2.



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2 PHASE 2: INITIATING A PROJECT

IMPLEMENTATION OF THE INFORMAL SETTLEMENT UPGRADING PROGRAMME

Once the project has been registered and the funding reservation confirmed by the MEC, the municipality will proceed with the implementation of Phase 2 of the project. During this phase of the upgrading process, municipalities will receive funding to undertake the following activities:

- The acquisition of land, where the land to be developed is in private ownership, through negotiation or expropriation;
- Land held by municipalities, provincial governments, parastatal organisations and other state departments and/or public entities should, where possible be made available free of charge. The acquisition of land is not a pre-condition for the implementation of the remaining activities under this phase, but is to be completed prior to the initiation of Phase 3 of the project;
- The surveying and registration of households within the settlement, in order to develop a clear socio-economic and demographic profile of the settlement. Where government capacity is not available, the municipality may apply for funding to appoint capacity to undertake this task at the same rate per household indicated in these guidelines on condition that the tasks of facilitating community participation, project communication, community training and assistance are also included;
- The conclusion of an agreement between the municipality and the community on the participation process;
- The enrolment of the project/land with the NHBRC, confirming the NHBRC's approval of the suitability of the land for housing development and/or precautionary measures that will have to be considered for houses to meet the enrolment requirements in Phase 4;
- Provide access to interim basic water and sanitation services to households in the settlement pending the formalisation of the settlement; and
- Pre-planning studies to determine detailed geotechnical conditions and the undertaking of an environmental impact assessment to support planning processes, the scoping of the land to determine the usable areas and the possible township layout.



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3 PHASE 3: PROJECT IMPLEMENTATION

IMPLEMENTATION OF THE INFORMAL SETTLEMENT UPGRADING PROGRAMME

3.1 MINIMUM INFORMATION TO BE INCLUDED IN THE FINAL BUSINESS PLAN

Upon completion of the work required under Phase 2 described above, the municipality will submit a Final Business Plan, containing the following minimum information, to the MEC:

- The total number of households within the settlement as per the beneficiary survey and registration process, indicating the beneficiary profiles;
- The location of the settlement, including description and plans;
- Land ownership;
- Details of negotiations with the land owner to date as regards the purchase and the purchase price;
- The value of the land to be acquired if applicable – supported by three independent valuations;
- Details of the agreed community participation process;
- Details of tenure arrangements;
- The township layout and design, with an indication of the sizes of the stands, road access arrangements and the provision of stands for social amenities, institutional needs and economic opportunities;
- Details of standards for permanent municipal engineering infrastructure reflecting an appropriate balance between up-front capital costs, long-term maintenance and operating arrangements, affordability, environmental sustainability, social acceptability, safety and human dignity;
- Details and full motivation regarding the rehabilitation of marginal land if feasible and practicable, measured against the economic cost, the social cost of relocation and the future tenure arrangements and use of the land so rehabilitated;
- The contracting strategy to be used;
- Details on physical participation by the community;
- Details on the alignment of other public sector funding streams;

- Recommendations of the Department of Home Affairs regarding illegal immigrants within the settlement;
- Social and economic infrastructure facilities/interventions;
- A revised work plan linked to the release of funds (cash flow) for the implementation of the project;
- Plans and strategies for management of the settlement to prevent re-invasions and informal settlement growth, the movement of people and the strategy for the demolition of shacks and in the process addressing roles and responsibilities (including those of the community) in this regard;
- The strategy for relocations if necessary;
- Revised budget, including funding requirements for social and economic amenities and confirmation of local government counter-funding;
- Monitoring and evaluation framework, which will provide the basis for a quarterly report to the MEC;
- Planning, commencement and the time frame for Phase 4; and
- Such further information that in the opinion of the Municipality may assist the MEC to come to a decision on the application.

3.2 CONSIDERATION OF BUSINESS PLANS BY THE MEC

The MEC shall, in considering the business plans submitted, take the following criteria into consideration for selection of projects to be approved under this programme:

- Policy intent and prescripts;
- Availability of funding;
- Technical feasibility;
- National priorities;
- Targets set nationally and provincially for the upgrading of informal settlements;
- Capacity of the municipality to undertake the project;
- Alignment with the IDP;
- Suitability and cost of the land;
- Number of households who will benefit from the upgrading of the settlement;

- Whether the settlement is situated in an area suitable for upgrading;
- Value for money;
- Whether the project includes the relocation of the community;
- Municipal counter-funding;
- Contracting strategy;
- Public sector resource requirements;
- Illegal immigrants;
- Management of relocations;
- Relationship between the municipality and the residents; and
- Proposed Housing Consolidation (Phase 4)

3.3 APPROVAL OF APPLICATION

Upon receipt of the decision by the MEC, the PD should immediately notify the municipality whether an application has been approved, approved with conditions, partially approved or declined. The PD will then register the approval of the project.

3.4 AFTER APPROVAL BY MEC, MUNICIPALITY RECEIVES FUNDING AND UNDERTAKES ACTIVITIES

Once the MEC has considered the Final Business Plan and, upon approval, the municipality will receive funding to undertake the following activities:

- Establishment of project management capacity;
- Establishment of Housing Support Centres to support individual households and groups at an early stage regarding the construction of various housing typologies in accordance with their needs, means and aspirations;
- Acquisition of land;
- Initiation of the planning process;
- Resolution of any disputes;
- Land rehabilitation;
- The installation of permanent municipal engineering infrastructure, such as water, sanitation and toilet structures, roads, storm water and street lighting. Bulk infrastructure costs are to be financed separately through municipal allocations under the Municipal Infrastructure Grant;

- Acquire full project enrolment status from the NHBRC; and
- Construction of social amenities, economic and community facilities.

Upon approval of the final business plan, the PD will register the beneficiaries on the Housing Subsidy Database for testing against the population register, deeds register and subsidy records and uploading on the National Housing Subsidy Data base.

Upon completion of Phase 3 of the project, the municipality shall finalise the planning and project applications for the implementation of the Housing Consolidation Phase. These project applications are be prescribed by the directives of the relevant programmes opted for (Eg Individual subsidies, rental, social housing, etc).

3.5 AGREEMENT BETWEEN PROVINCIAL DEPARTMENT AND THE MUNICIPALITY

Each agreement between a PD and a municipality should incorporate the approved final business plan as an Annexure. The agreement must be signed on behalf of the PD by the Head of the Department and the municipal manager or other duly authorised representatives.

The agreement should at least contain the following:

- A clear description of the approved project and approval registration number;
- Conditions imposed by the MEC when approving the project;
- A clear indication on how the membership of the parties to the agreement is structured, who is represented by each party, and in terms of what mandate. Provision may also be made for the co-option of members, for "non-voting" members, for observers and for the attendance by invitation of consultants;
- Procurement requirements;
- Total number of persons/households to be assisted under the project;
- Detailed description of the land on which the project will be implemented;
- The approved project specifics in respect of the following:
 - Envisaged planning of the area;
 - The agreed professional services to be procured, details on the work to be done, and fees to be paid;
 - The tenure rights to be awarded under Phases 1 to 3 of the project;

- The planning details of the township indicating layout, land use, sizes of stands, and intended zoning of stands;
 - The details on the interim municipal engineering services to be provided, if applicable;
 - The details of the permanent municipal engineering services to be provided;
 - The type of permanent housing solutions selected for Phase 4 of the development.
- Details of any other assistance to be provided;
 - A detailed itemised breakdown of all amounts of the grant and the total grant amount;
 - Details of the contracting strategy selected;
 - Details of community participation plan and confirmation of the commitment to implement the agreement reached with the community;
 - The amount of the grant approved under the Programme which will be discounted against subsequent housing subsidies to the extent to which it contributes materially to the future permanent housing solution for the beneficiaries of the programme;
 - A detailed project implementation plan also indicating the cash flow, agreed project milestones and progress payments;
 - Rental and/or occupational compensation to be charged for Phases 1 to 3;
 - Provision of assistance to indigent persons;
 - Details on any other agreed housing goods or services to be provided and/or procured;
 - Any other matters deemed reasonable and necessary to ensure that the project objectives are met;
 - The processes to manage the implementation of the agreement. This must include details of:
 - When, where and how often the parties will meet;
 - The description of the quorum for a constituted meeting;
 - The process of appointment of a chairperson and secretary and their terms of office;

- The responsibility regarding secretarial functions;
- The manner in which decisions will be made; and
- How conflicts will be resolved and procedures to be followed should the agreement be terminated.
- Signatures of members to indicate acceptance of the terms of contract. The date and place of signature should be included.

3.6 PROGRESS PAYMENTS

Payment for providers of housing goods and services

The PD will manage the approved project budget. Expenditure of funds must be for the purposes approved and subject to the conditions imposed by the MEC.

The principle of the achievement of value for money must be upheld when payments are considered for housing goods and services.

Where the municipality implements the project, the municipality must validate, approve and submit claims received or prepared by itself to the PD for final approval and the transfer and/or payment of the amount so claimed.

Where the PD implements the project, the department must validate and approve claims received and effect payment thereof.

The circumstances and nature of the project as described in the application and project agreement will determine and identify the cash flow requirements of the specific project.

A. Advance Payments to Municipalities

To prevent adverse cash flow constraints at municipal level, the MEC may consider administering advance payments as per agreed project phases. The submission and payment of subsequent claims for further advance payments or for actual work done should be subject to the receipt and approval of proof of work done in terms of any prior advance payment made, and/or the achievement of the full compliment of work required per relevant phase.

PHASE 2: LAND ACQUISITION, PLANNING AND DESIGN OF ENGINEERING SERVICES			
Milestones		Description of Milestone Activities	Nature of Payment
1.1	Land Acquisition	<ul style="list-style-type: none"> • Land acquisition agreement signed by both parties to the contract. • The lodgement of the transfer documents for registration in Deeds Office. 	Full purchase price of land and fees payable to conveyancer.
1.2	Social surveys & beneficiary registration, participation facilitation and project information flow	<ul style="list-style-type: none"> • Compiling beneficiary list & gathering of textual data and record data on register. Facilitate community participation and ensure project information flow 	Agreed fees where CDWs are not deployed
1.3	Pre-planning	<ul style="list-style-type: none"> • Geotechnical surveys, EIA scoping, township layout scoping on completion and acceptance of reports and interim project enrolment by NHBRC 	% of fees for professionals on achievement of mandates
1.4	Dispute resolution	<ul style="list-style-type: none"> • Professional expertise appointment to resolve disputes, and the resolution of the dispute 	% of fees for professionals on achievement of mandate
1.5	Interim engineering services	<ul style="list-style-type: none"> • Provision of emergency/interim services: Communal water, communal sanitations emergency road access etc. 	Actual cost of interim services upon completion of each element
1.6	Housing support services	<ul style="list-style-type: none"> • Professionals and equipment for housing support, training store management etc. 	Fees for professionals and actual cost of equipment in terms of agreed mandate

PHASE 3: DETAILED PLANNING, LAND REHABILITATION AND PROVISION OF PERMANENT SERVICES			
Milestones	Description of Milestone Activities	Nature of Payment	
1.7	Planning and Land Surveying	<ul style="list-style-type: none"> Finalisation and approval by Municipality of base plan, site investigations, contour survey, land survey (final EIA, and geotechnical details), layout planning, and approval. On submission of General plan for approval. On approval of general plan, pegging of stands and opening of township register as applicable. Project enrolment by NHBRC 	% of fees for town planning, land surveying, geotechnical and EIA services as interim payment. Final payments on completion approval of General plan and NHBRC enrolment
1.8	Design of Engineering services	<ul style="list-style-type: none"> On submission and municipal approval of final engineering services designs, specification and procurement documentation. 	% of fees for engineering services design as interim payment. Final payment on completion of mandate.
1.9	Fees for Engineering site supervision	Linked to milestones on progress with construction of engineering services construction progression	% of fees for site supervision
1.10	Construction of Engineering services	<ul style="list-style-type: none"> Completion and hand over certification of installed services by municipality as per services category 	% of payments based on progression with services installation and final on hand over certification.
1.11	Project Management	<ul style="list-style-type: none"> Approved project implementation plan. Project management in accordance with approved project plan. 	% of fees as Interim payment based on value for money. Final payment on project completion.

B. Refunding

A situation may occur where expenditure is less than the budgeted amount. In such an event on completion of the project, the municipality will transfer such excess funds back to the PD. A revised final project cost should be submitted to the MEC for approval.

If for whatever reason a situation occurs where an amount in excess of the amount to which a supplier of goods, works or services is entitled, has been paid, the supplier will on demand refund the overpayment to the PD. The PD may set off

such overpayment against any outstanding amount due to the municipality or service provider.

If for whatever reason the project is cancelled, funds not expended will be transferred back to the PD. This will exclude funds legitimately still due for payment, as determined by the PD and the municipality.





The Housing Code

Upgrading of Informal Settlements Programme

PART A Upgrading of Informal Settlements Programme

- 1 Overview
- 2 Policy Prescripts and Provisions
- 3 Important Considerations
- 4 Project Phases

PART B Guidelines for the Implementation of Projects

- 1 Suggestions on How to Implement Upgrading Projects
- 2 Initiating a Project
- 3 Phase 3 Project Implementation
- 4 Consolidating a Project



human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA



4 CONSOLIDATING A PROJECT

PHASE 4: CONSTRUCTION PHASE

IMPLEMENTATION OF THE INFORMAL SETTLEMENT UPGRADING PROGRAMME

The vesting of formal ownership rights and formal rental tenure rights will be realised during this phase of the project, the Housing Consolidation Phase. The benefits available under the final phase will be determined by the status of the relevant person regarding competency to contract, previous ownership of residential property, the fact that the person may have accessed a state financed housing subsidy and the citizenship status of the person.

The following guidelines may be considered in determining the benefits to be awarded:

- **Illegal immigrants:** These cases should be addressed in collaboration with, and in terms of, the directives of the Department of Home Affairs. Benefits to be awarded under Phase 4 could comprise rental accommodation but these persons will not be allowed individual ownership status while they are regarded as illegal immigrants. The presence of such persons will be detected at community survey stages and their presence should immediately be reported to the Department of Home Affairs.
- **Previous owners of residential property, existing owners of residential property and previous beneficiaries of state housing assistance schemes:** These beneficiaries may apply for benefits under the programme but each application should be considered on a case by case basis to determine the facts and current circumstances. Persons falling in this category will therefore not necessarily qualify for assistance under the programme including Phases 1 to 3. Depending on the facts of each case, such persons may be allowed to occupy the serviced stands, acquire registered ownership of the stands they occupy or may elect to opt for rental accommodation in the area, if available. Where the ownership option of the stand is elected, it could include communal ownership arrangement schemes (e.g. sectional title schemes, cooperative arrangements, etc.). The upgrading to ownership of the properties created during Phases 1 to 3 will be at the discretion of the municipality in consultation with the community and on condition that no evictions will be allowed outside the prescripts of the relevant legislation. The beneficiaries in this category who will be allowed to acquire the individual stands in ownership could be required to pay a purchase price equal to the cost of the development of the stand. This cost will comprise a land acquisition component, a component equal to the cost of the provision of the municipal engineering services and transfer costs.

- **Child headed households and minors:** Persons falling in this category will not qualify for registered ownership of the properties created during Phases 1 to 3 and therefore will also not be able to receive any Consolidation Subsidies. Such persons must be dealt with in accordance with the directives of the Department of Social Development and may be accommodated in rental housing opportunities if available or special facilities for this purpose. Where legal guardianship arrangements apply, the ownership of the property may be transferred as provided by the guardianship arrangement or in trust as the case may be.
- **Single persons without financial dependants:** Beneficiaries falling in this category may apply for the acquisition of individual ownership or elect to opt for rental accommodation if available. Beneficiaries in this category will not be allowed to apply for consolidation subsidies for house construction purposes. These options will only become available when and if such a person complies with the remaining qualification criteria of the relevant National Housing Programme.
- **Persons earning in excess of R3 500,00 per month but who comply with the remainder of the Housing Subsidy Scheme qualification criteria:** Beneficiaries falling in this category may apply to acquire individual ownership of the stands created under the programme or may elect to opt for rental accommodation if available. They may also apply for Financed Linked Individual Subsidies. The beneficiaries in this category who wish to acquire the individual stands in ownership will be required to pay a purchase price equal to the cost of the development of the stand. This cost will comprise a land acquisition component, a component equal to the cost of the provision of the municipal engineering services and transfer costs. These beneficiaries will not qualify for consolidation subsidies for house construction purposes.
- **Persons complying with the qualification criteria of the Housing Subsidy Scheme, including single beneficiaries:** These beneficiaries may apply for registered ownership of the properties created during Phases 1 to 3 or may opt for rental accommodation if available. The ownership option may include communal ownership schemes. Beneficiaries wishing to apply for the consolidation subsidy to construct houses will be required to make the required contribution. This may be achieved through participation in an approved People's Housing Process project or by paying the financial contribution.
- **A framework for a strategy to manage the movement of households within project phases and the demolition of informal structures as and when households relocate to their formal housing:** The management of the

movement of households within a project, the influx of new households and the demolition of informal structures as and when households access their formal housing is a critical success factor for project implementation. The MEC in considering project applications will require a detailed strategy, as agreed to by the representatives of the community and the municipality, on how these aspects of the project will be managed. The following must be considered in the compilation of the required strategy:

- Movement of households within settlements

Due to the nature of informal settlements, households may tend to vacate settlements and resettle to new locations, perhaps to follow new work opportunities, or as development initiatives become known. Households from other settlements, areas and/or regions may move to the informal settlement under development. These actions will have a substantial effect on planning and project execution phases.

Demolition of informal structures

The developer must ensure that:

- a. In respect of each formal housing opportunity created and a household is allowed access to, it must demolish the informal structure vacated by the beneficiary household.
- b. Land vacated by the beneficiary household must be protected against reinvasion/occupation
- c. Any reinvasion of land must be promptly dealt with in accordance with the provisions of the relevant legislation
- d. The strategy should demonstrate the process that will be followed in securing the vacated land. In this regard it should include:
 - i. The methodology to be employed
 - ii. The personnel involved or private capacity that will be acquired
 - iii. The systems that will be utilised.

