Redevelopment Assistance Capital Program (RACP)

Article 8 Guidance

November 2024

GUIDANCE ON ARTICLE 8 OF THE GRANT AGREEMENT

The following guidance is a clarification from our bond counsel regarding the impacts of grantee's selling properties acquired and/or improved with RACP funds. As you may know, the Commonwealth sells tax-exempt GO bonds to support its program reimbursements. In order to maintain the tax-exempt status of our bonds we need to ensure, among other things, that neither the Commonwealth nor any governmental entity receives a payment for the use of the proceeds of the bonds. This is incorporated into Article 8 of our grant agreement. Inquiries have been made as to the intent of this requirement or clarification of its intent. Summarized below is information, which shall constitute our policy in evaluating grantee/sub-grantee intent to sell:

1. Sale of Property by Grantee

In the event our grantee (a local government or authority) owns the property that is improved with RACP funds and the grantee wishes to sell the property or a portion thereof, the grantee must first establish the market value of the property or portion thereof. A grantee may then determine their cost basis for the property (e.g. the costs to acquire, rehabilitate/renovate/construct) before determining what amount must be discounted by the value of the grant. In the event the market value is equal to or exceeds the cost basis for the parcel (including the RACP grant proceeds) the grantee must first discount the cost basis value by the amount of the grant or the proportion of the grant that can be reasonably allocated to the parcel. The grantee is then able to sell the property at the discounted cost basis value. For example, suppose the market value is $3M and the RACP grant was $1M and matched by $1M locally for a $2M improvement project. The grantee would discount the $2M cost basis value by the $1M RACP grant and could sell the property for $1M. Similarly, if the market value is equal to the cost basis, the market value/cost basis value is discounted by the value of the grant. As an example, a parcel has a market value of $2M and the grantee received $1M RACP and matched it with $1M of local funds to build the project, the grantee would discount the $2M market value by the value of the grant and could sell the property for $1M maximum. In the event the grantee’s cost basis exceeds the market value, the discount of the grant is applied to the cost basis value first. As an example, supposed a $1M RACP grant is provided and the grantee spends $4M to acquire, remediate and improve a parcel. Total expenditures are $5M in this case. Assume the market value is less than the $5M spent on the property, say $3M. The grantee could sell the property for the $3M because this is less than the discounted cost basis. The cost basis, in this example is $5M and the grant is $1M resulting in a $4M discounted cost basis value. The $3M market value is less than the discounted value to improve the property so the grantee is actually selling the parcel at a loss even after the grant. The point of these illustrations is to indicate that grantees CANNOT recoup the value of the grant in the sale price without jeopardizing the tax-exempt bond status of the Commonwealth. In the event they are selling a portion of the property (e.g. 1 acre of 10 acres developed) then the grant should be proportionately allocated to the individual parcel.

2. Sale of Property by the sub-grantee

In the event that our grantee (local government or authority) is acting solely as a pass-through and that the sub-grantee is the developer of the project, owner of the property and the ultimate recipient of the RACP funds, the same policy as in #1 above is to be used when the sub-grantee is a governmental entity or authority. If the sub-grantee is a private organization (profit or non-profit) and owns the property since the beginning of our project they would be able to sell the property at market value provided no funds went back to our grantee or the Commonwealth.

3. Leases

In the event the grantee or sub-grantee wishes to lease the property or parcels thereof, the same logic applies in that the Commonwealth nor any local government or authority can recoup proceeds of the bonds through the lease. The present value of the lease over the full term of the lease shall be calculated and then the present value shall be discounted for the amount of the RACP grant or the proportionate share of the grant.

4. Options/Obligations to Purchase

In the event that the grantee or governmental entity sub-grantee wishes to sell options/obligations to purchase property to be improved with RACP funds, then the value of the "to be improved property" must be discounted by the value of the grant.