

## INTRODUCTION

- A. The Texas General Land Office (GLO) partnered with the Texas Department of Rural Affairs (TDRA) in the administration of a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. The City of Houston's Housing and Community Development Department (HCDD) and The Houston Housing Authority (HHA) have both been tasked with meeting the multiple needs of the very low, low, and moderate income individuals in multifamily communities. The agencies will openly collaborate in order to limit duplication of efforts, closely compare applications submitted to each other's organizations, and may consider cooperatively financing each other's projects by means available under their standard operating activities to provide as much quality affordable housing stock as possible with the funds available.
- B. Housing Guidelines have been developed to serve as the basis for housing programs related to Round 2 of the Program. This document is expected to serve as direction for the Rental Program activities funded under Round 2. These Guidelines apply only to Round 2 of the program—they do not apply to or replace the Guidelines already developed and in use under Round 1. Additionally, these guidelines supplement the General Guidelines which provide direction for issues that affect all of the programs and cover all areas of administration not expressly covered in this document. Rental activities may include single family or multifamily rental activities or both.
  - a. Appendix A addresses requirements specific to projects which will be renovated or constructed with the Public Housing Set-Aside portion of the funds made available to the City of Houston to the extent such requirements may vary from requirements and procedures identified in this part.
  - b. Appendix B (to be submitted at a later date) will address requirements specific to the single-family rental portion of the program.
- C. Subrecipient has received Hurricanes Ike and Dolly Round 2 Disaster Recovery Community Development Block Grant (CDBG) funding for a Rental Program administered by the GLO.
- D. Benefit to Low to Moderate Income (LMI) persons is the only National Objective that is approved for the Rental Program under Round 2. Eligible activities, which are defined in the General Guidelines, are as follows: rehabilitation, reconstruction, replacement, or new construction, demolition and acquisition. Subrecipient may also provide assistance for Individual Mitigation Measures (energy efficiency and storm mitigation activities).
- E. The City of Houston (City) committed, as part of the Program, to a robust public participation and planning process to determine, among other things, the mix of Income Target groups for the Community Revitalization Areas (CRAs). CRAs are areas where

the City desires to invest funds from the Program, where the City has committed to affirmatively further fair housing by encouraging the creation of economically feasible, mixed income developments and communities with diverse populations to the greatest extent possible pursuant to best practices cited in the Planning Study by SWA and other partners and the Round 2 Guidelines, as amended. The planning process identified national best practices and included extensive market and demographic analysis to assist in this determination.

## **I. PROGRAM OBJECTIVES**

- A. The primary objective of the Program is to provide decent, safe, and sanitary housing in a manner that affirmatively furthers fair housing where very low, low, and low to moderate income individuals will have access to housing choice where they may benefit from a sustained level of public and private investments which produce neighborhood "services" (groceries, medical care, shopping, employment, schools) and amenities (parks, green space), and improved infrastructure. Over time, it is anticipated that the investments in these neighborhoods will act as a catalyst to produce vibrant, economically and racially integrated communities where people of different income and ethnic backgrounds will choose to live and do business.
- B. A second objective is to ensure that the housing needs of very low, low and moderate-income households are assisted with housing based upon the percentages of the population within each of those income categories whose housing was impacted by the storm. Using (a) the Needs Assessment, (b) a new, more detailed damage data set from LJA, (c) HUD/FEMA information from the State and (d) population figures from the U.S. Census Bureau and American Community Survey data, an updated summary identified a breakout of damage by income group. Using (a) the updated Needs Assessment with this new, more detailed damage data set from LJA and, (b) National Best Practices and other resources identified in the Planning Study, the planning team made a recommendation about the funding levels by income group. The Planning Study includes further breakdowns by program for each Income Target group that relies on the needs of the entities running the program and the need for long term viability. The Planning Study also suggests that the Income Target groups should remain flexible and be reviewed regularly to determine whether the chosen income mix is meeting the goals of the programs.

## **II. PROGRAM PURPOSE**

- A. The Hurricane Ike Disaster Recovery (DR) Affordable Rental Program has been designed to provide funds for rehabilitation, reconstruction, and/or new construction of affordable multi-family (including single family homes of 8 or more units owned by a single individual or entity) and single family rental housing projects in areas impacted by Hurricane Ike or Dolly. Funding is available through the Community Development Block

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Grant (CDBG) Disaster Recovery Program, initially administered by the Texas Department of Housing and Community Affairs (TDHCA) and now administered by the General Land Office (GLO).

- B. The purpose of the Affordable Rental Program is to facilitate the rehabilitation, reconstruction, and/or new construction of affordable rental housing needs within the City limits. Units qualifying for rehabilitation assistance must have sustained damage from Hurricanes Ike or Dolly.
- C. A minimum of 51% of the units must be restricted for ten or more years to low to moderate income (LMI) individuals earning 80% or less of the Area Median Family Income (AMFI) at affordable rents. The rents must comply with High HOME Investment Partnership (HOME) Rents HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30% of the adjusted income for people earning 65% of the AMFI and can be found on HUD's website at (<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/>)

## **PART A – MULTIFAMILY RENTAL PROGRAM**

### **I. TYPES AND AMOUNTS OF ASSISTANCE**

- A. The maximum award cap under the Affordable Multifamily Rental Program is \$25,000,000 per development. Exact award will be determined through the City's underwriting process which will base its decision upon the cost to construct a project in accordance with the applicable City of Houston Building Codes, Minimum Property Standards, Section 504/UFAS, and any other procedures required by applicable procurement rules or regulations and review by a third-party for cost reasonableness. Eligible costs include hard costs for construction and soft costs associated with repair or construction of rental units plus other costs permissible under 24 CFR 570.
- B. To prevent duplication of benefits for damages covered by any FEMA reimbursement, SBA assistance, insurance claim, or any insurance policy including delayed or future payments anticipated under insurance policies, the City will perform a duplication of benefits analysis and adjust awarding of funds accordingly. However, in the event that a project did receive some form of assistance from any or all of the sources identified above which was used to repair and or replace a building system(s), replacement of said building system(s) as part of a renovation or rehabilitation, will not necessarily result in a reduction of eligible cost, if replacement is supported by the duplication of benefit analysis.
- C. The CDBG Affordable Rental Program funds will be in the form of a 0% performance-based loan and will be forgiven when all contractual obligations have been met, including satisfactory completion of construction and compliance with a minimum ten-year

affordability period (Loan Terms). Once the City's form of Loan Agreement (COH Loan) has been approved by the State, the City may modify terms of the COH Loan on a project by project basis, as necessary to address particular nuances for each, so long as the general Loan Terms remain the same.

- D. Project construction must be completed within 18 months of the effective date of the closing of the COH Loan (Approved Construction Period), unless otherwise extended at the sole discretion of the City. In no case shall an Approved Construction Period extend beyond the end date of the Contract between the GLO and the City of Houston.

## **II. PROJECT ELIGIBILITY**

- A. All projects must be located within the city limits of the City of Houston.
- B. All projects must have sustained damage from Hurricane Ike or Dolly or will replace those which were materially damaged or destroyed. However, projects which will replace those destroyed may be located on a different site in a different part of the City in accordance with the Program Objectives.
- C. The City of Houston issued a Request for Proposals (RFP), which meets the purpose of the Notice of Funds Availability and has followed the selection procedures outlined therein to identify potential projects for award of funds. No City Council approval of projects will be sought until the Guidelines are approved by the State and no award of funds to a particular project will be final until approved by the City of Houston's City Council.
- D. Hurricane damaged or destroyed projects awarded assistance will typically be in the 10-30 year old range. The repair/replacement assistance will extend the useful life of the development at least ten years.
- E. Proposed new construction located in the 100 year flood plain as identified on the most current TSARP Map must comply with the TDHCA flood policy found in 10 TAC Part 1 Section 50.6.
- F. City priorities for multifamily housing shall include new construction, substantial rehabilitation, reconstruction, and Transit Oriented Development to serve the needs of the residents and act as a catalyst to revitalization as described in the Planning Study. All developments (with the possible exception of those as part of the Public Housing Set-Aside) will be mixed-income including a market-rate component. Mixed-use developments are also encouraged.
- G. One, two, or three bedroom floorplans will be typical, but the City may consider smaller or larger floor plans on a project by project basis.

### **III. PARTICIPANT ELIGIBILITY REQUIREMENTS**

- A.** For-profit Developers/Borrowers, public housing authorities, units of local governments and not-for-profit Developers/Borrowers, acting individually or as participants in a Single or Special Purpose Entity (SPE) are eligible to participate. Developments are required to list properties on PHA landlord list and provide notification to DHAP providers.
- B.** The City of Houston will designate the selected Applicant(s) as Developer(s) as the term is defined under the Community Development Block Grant (CDBG) regulations. Applicants and Applicants' team members must be in good standing with HCDD on all previous grants, loans, or loan commitments.
- C.** The Applicant or Developer should be in good standing with any outstanding loans and loan commitments. There may be no defaults or negative collections actions on current or previous government loans.
- D.** In accordance with 24 CFR 570.609, no Applicant, Developer, or construction contractor included on federal or state debarment lists may participate in the program.
- E.** Applicant, Developer/Owner, Principal, or Developer/Borrower must provide a complete listing with addresses of multifamily properties currently owned or managed.

### **IV. SELECTION CRITERIA**

- A.** The City of Houston issued a RFP and has followed the selection procedures outlined therein to identify potential projects for award of funds. Selection priority is given to proposed developments which appear to provide the greatest likelihood of meeting the Program Objectives.
- B.** The RFP issued by the City of Houston encouraged potential developer applicants to increase the number of affordable units by exceeding the requirement to lease 51% of the units to low/moderate income households.
- C.** As the negotiation and underwriting process progresses, developer applicants whose projects have been given priority will be encouraged to:
  - a.** Provide broader access to persons with disabilities through single story structures or those served by an elevator.
  - b.** Meet low-maintenance and energy efficiencies by installing energy efficient products and low maintenance items.
    - i.** Install water-conserving fixtures in all units with the following specifications for toilets and shower heads, and follow requirements for

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other fixtures wherever and whenever they are replaced: toilets – 1.6 gallons per flush; showerheads – 2.0 gallons per minute; kitchen faucets – 2.0 GPM; bathroom faucets – 2.0 GPM. ii. Install Energy Star or equivalent refrigerators in all units.

- ii. Install Energy Star or equivalent lighting fixtures in all interior units and use. Energy Star or high-efficiency commercial grade fixtures in all common areas.
- iii. Use tankless hot water heaters or install conventional hot water heaters in rooms with drains or catch pans piped to the exterior of the dwelling and with non-water sensitive floor coverings (for all units).
- iv. Install Energy Star or equivalent power vented fans or range hoods that exhaust to the exterior (in all units).
- v. Install Energy Star or equivalent bathroom fans in all units that exhaust to the outdoors which has a humidistat sensor or timer, or operates continuously in all units.
- vi. Install correctly sized HVAC units (according to Manual J) of at least 14 SEER or better in all units.
- vii. Perform an energy analysis of existing building condition, estimate costs of improvements, and make those improvements resulting in a 10 year or shorter payback.

## V. PROGRAM REQUIREMENTS

- A. Projects awarded disaster recovery funds must satisfy the eligibility requirements as defined herein.
- B. City provided form of Land Use Restriction Agreement (LURA) will be placed on developments receiving disaster funds This restriction will be in the primary lien position except in the event that another source of funding, e.g. Tax Credits, require their own form of LURA, in which case the two LURAs will run concurrently and both will be superior to any other liens on the property. The LURA sets forth the number of restricted units and the income and rent restrictions applicable to these specific units. These documents will be filed with the local county clerk's office in the land records. The LURA must be approved by the State and must require the Project to accept section 8 housing choice rental vouchers during the affordability period. The LURA imposes the requirements on the property for the full ten (10) years affordability period.
- C. Each Project will also be reviewed in terms of financial feasibility with the objective to repair existing hurricane damage and bring the property up to standard to extend the

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useful life or replace the severely damaged units. Financials, pro formas, and loan information as well as the sources and uses of funds must be submitted identifying the proposed financing sources and expenses of the project.

- D. Prior to award of funding the property will go through environmental review.
- E. A Property Condition Assessment conducted by a qualified third party inspector must be conducted for rehabilitation. In addition to repair costs identified in the PCA, other costs will be considered if they extend the useful life of the project for a minimum of 15 years. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. The PCA must conform to American Society for Testing and Materials (ASTM - <http://www.astm.org/>) “2018 Standard Guidelines for Property Condition Assessments.” The Developer / Borrower are also directed to the TDHCA Section 1.36 of the 2009 REA Rules for PCA guidance (<http://www.tdhca.state.tx.us/readocs/10-REARules.pdf>).
- F. Applicant will perform all multifamily construction activities in accordance with HCDD’s Minimum Property Standards for Multifamily Facilities. These standards are posted on the HCDD website at: <http://www.houstontx.gov/housing/pdf/multifamilyminimumstandards.pdf>
- G. Applicants must comply with all pertinent city, state, and federal regulations as described herein and provided in the Loan Agreement. These regulations include, but are not limited to:
- Community Development Block Grant Regulations (24 CFR Part 570)
  - Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) (24 CFR Parts 8-9); Texas Administrative Code, Title 10, Chapter 60, Subchapter (B)
  - Davis-Bacon and Related Acts and Copeland Anti-Kickback Act
  - Fair Labor Standards Act (29 CFR Part 5)
  - Fair Housing (24 CFR Parts 100-115)
  - Conflict of Interest Requirements (24 CFR 92.356(f))
  - Economic Opportunities for Low and Very Low Income Persons - Section 3 (24 CFR Part 135) as defined by the City of HCDD’s Policy and Procedures
  - Environmental Requirements (24 CFR Part 58)
  - Lead Safe Housing Rule (24 CFR Part 35)
  - Uniform Relocation Act (49 CFR Part 24)
  - HCDD's Minimum Property Standards for Multifamily Facilities

## VI. UNDERWRITING

- A. HCDD will underwrite the proposed multifamily projects reviewing the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable).
- B. The underlying debt and operating expenses of the property will be reviewed to determine if the project is feasible during the affordability period and demonstrates income adequate to cover operating expenses and applicable debt service.
- C. Sources and uses will be reviewed to determine the adequacy of the funding to complete the project. The scope of work including the repair of any hurricane damage will be assessed.
- D. Following underwriting, a contract will be executed between the developer and the subrecipient. This contract will specify the terms under which the funding is provided to the project; the number of units to be renovated / developed; the affordability period; and other conditions of the agreement.

## VIII. ENVIRONMENTAL REVIEW

- A. Prior to award of funds, the property will go through environmental review. Once an Application has been received by HCDD, internal staff must review for compliance with all federal environmental regulations as explained in 24 CFR Part 58, and approval from HUD must be granted to receive funding. During this review period, neither an Applicant nor any participant in the development process, including public or private nonprofit or for-profit entities or any of their contractors, may commit or expend any funds, including non-HUD funds, or commence substantial construction activities on the site. Rehabilitation of any buildings built before 1978, must comply with federal lead-based paint requirements including lead screening in accordance with 24 CFR Part 92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. The environmental assessment reviews will include wetlands, coastal zones, flood zones and runway clear zones.
- B. Rental Program funds cannot be used to assist rental units (multi and single family) that have been determined to be in the Coastal Barrier Resource Zones or airport runway clear zones. Once the Environmental Review is complete, the review will be forwarded to GLO for environmental clearance.
- C. The Developer / Borrower must comply with all applicable laws with respect to lead based paint in conjunction with Section 302 of the Lead Based Paint Poisoning Prevent Action (42 USC Section 4831(b)), as well as the presence of asbestos containing materials within the project.

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- D. All properties must be free of contaminants/hazardous substances at levels that pose dangers to users of the property or conflict with the intended purpose of the property as explained in 24 CFR 58.5(i)(2)(i). This includes, but is not limited to, toxic mold and asbestos. If there might be a concern that a property contains toxic mold or asbestos, the Borrower will be responsible for the testing and either the implementation of an O&M plan (operations and maintenance plan) or the abatement process (for which contractor must be a certified asbestos contractor).

## IX. CONSTRUCTION

- A. Housing that is constructed or rehabilitated with CDBG funds must be designed and constructed to meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time the project receives permits for construction from the City of Houston's Permitting Department. When CDBG funds are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards and meet the City's Minimum Property Standards. All newly constructed including reconstructed housing units must meet the current edition of the Model Energy Code (MEC) (<http://www.energycodes.gov/>) published by the Council of American Building Officials. City field inspectors will inspect for compliance with applicable building codes, Architect will be reviewing construction for adherence to Plans and Specifications and actual completion of work subject to draw request. Third-party inspection firm will review draw request and make site inspection to verify that work is in place prior to draw funding. Any deficiencies identified in that inspection must be corrected before final retainage is released. Any deficiencies identified in an inspection related to draw funding must be corrected before funding or draw request will be amended accordingly. GLO will conduct a final inspection of the development. Common areas and units are subject to a Uniform Physical Conditions Standards inspection.
- B. Housing developments must meet all accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794). Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC § 60.201-211). Covered multifamily dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments must meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C.3601-4619).
- C. The project costs must be "reasonable and customary" as determined by an acceptable, independent third party report or considered reasonable as documented by a bidding process.
- D. Scattered site projects owned by a sole owner with 8 or more units must comply with the Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70).
- E. All contracts will be payment and performance bonded.

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- F. Prior to commencement of construction, the Developer / Borrower must have a notice to proceed.
- G. The report and AIA forms 702 and 703 signed by the Developer/Borrower, general contractor, and architect will be required prior to funding each draw request.
- H. Ten percent (10%) of each draw will be held as retainage until satisfactory completion of the project.
- I. The Developer / Borrower will guarantee completion of construction until a certificate of occupancy has been issued and retainage has been released.

#### X. LABOR STANDARDS

- A. All applicable developments must comply with applicable labor standards, including, but not limited to Davis-Bacon wages. Under the federal Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70, 24 CFR §570.603), prevailing wages must be paid on all construction and related work on projects that have eight (8) or more units.
- B. The Housing and Community Development Department has adopted Section 3, Minority / Business Enterprise, and Small Business Enterprise policies and has internal capacity to administer to the requirements of the regulations above. The following information will be provided on all projects to the TDHCA Labor Standards Specialist:
  - a. Notice to Proceed executed by the designated person at the Housing and Community Development Department will be countersigned by the State at a later date which may be after commencement of construction.
- C. The Housing and Community Development Department will keep the following information on file and provide for any or all projects to the State Labor Standards Specialist upon request:
  - a. Notes of bid and preconstruction conferences as well as attendance rosters with attendees signatures.
  - b. All Department of Labor (DOL) General Wage Determination reports showing prevailing wages applicable to each project throughout the construction phase.
  - c. Final Wage Compliance Report
    - i. Davis-Bacon communications, including:
      - i. Department of Labor communications

- ii. Letters to Contractor(s) requesting payments of restitution owed to workers and liquidated damages, including copies of letters confirming Contractor(s) compliance and / or resolution of labor-related issues. Department of Labor (DOL) Semi-Annual Report with all required reporting data associated with the CDBG-DR Hurricane Ike award.
- iii. Additional documentation as required by GLO.

## **XI. PROJECT COMPLETION AND RELEASE OF RETAINAGE PROCEDURES**

- A. When a project is finished, the procedures listed below will be followed to document completion and allow for retainage (the last 10% of project costs) to be paid. List of items necessary for payment of retainage include:
  - a. Developer / Borrower submits Final Draw for Retainage. This draw is identical in form to the others and includes the final inspection report from the third party inspector indicating that the project is complete.
  - b. Final Wage Compliance Report.
  - c. Developer / Borrower submits Certificate of Occupancy or other documentation provided by City of Houston acknowledging that project is suitable for occupancy.
  - d. Developer / Borrower submits letter certification from Architect that project meets requirements of the Americans with Disabilities Act.
  - e. Developer / Borrower submits Certificate of Substantial Completion, and AIA form that is signed by the Owner, General Contractor, and Architect.
  - f. Developer / Borrower submits Lien Release from General Contractor to show that all subcontractors have been paid.

## **XII. PROJECT LEASE UP PROCEDURES**

- A. Multifamily developments assisted with CDBG funds are required to have a project tenant selection policy (TSP), Affirmative Marketing Plan, and schedule of leases & rents to ensure compliance with CDBG requirements. The TSP must be:
  - a. Written and displayed at the project leasing in a common area.
  - b. Consistent with the purpose of providing housing for families making 80% or less of AMFI.

- c. Reasonably related to program eligibility and Lessee's ability to perform under the lease.
- d. Chronological, so that tenants taken from a written waiting list are assisted in order.
- e. Designed to give prompt written notice of the grounds for rejection to any Lessee rejected based on income.

### **XIII. ANNUAL MONITORING PROCEDURES**

- A. Completed projects require annual monitoring. Monitoring will be conducted by the subrecipient throughout affordability period. The results and reviews of monitoring activities ensure the provision of safe, decent, affordable rental housing in compliance with all applicable regulations. Income targets and rents must comply with Affordable Rental Program LURA requirements and other compliance requirements. Monitoring includes:
  - a. On-site inspection of rehabilitated properties to ensure compliance with Minimum Property Standards.
  - b. Compliance Standards Review (CSR) to ensure compliance with the CDBG regulations, but not limited to, the following:
    - i. Affordable Rental Housing
    - ii. Subsequent Rents during the Affordability Period
    - iii. Initial and Annual Recertification of Tenant Income
    - iv. Periods of Affordability
    - v. Tenant and Participant Protection (lease term, prohibited lease terms, tenant selection policy)
    - vi. Civil Rights Act of 1964 and Amendments
    - vii. Section 504 of the Rehabilitation Act of 1973
    - viii. Architectural Barriers Act and the Americans with Disabilities Act
    - ix. Design and construction requirements
    - x. For Rehab projects, entire structure must meet Minimum Property Standards.

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- xi. Benefit all income targets including the CDBG LMI requirement to lease 51% of the total number of units to LMI households
  - xii. Affirmative Marketing
  - xiii. National Flood Insurance Program
  - xiv. Displacement, relocation, acquisition, and replacement Lead-Based Paint compliance
  - xv. Fair Housing and Equal Opportunity
  - xvi. Section 3 (24 CFR Part 135) goals and reporting requirements
  - xvii. Applicant data reporting as required by the Conciliation Requirement
- c. Notification in writing of the results of the monitoring activity will be provided to the borrower, with a stated corrective action plan, if one is needed.

## **XI. RELOCATION**

- A. The Developer/Borrower is responsible for the relocation activities related to the project. The Developer / Borrower shall comply with program regulations at 24 CFR §570.606, the Uniform Relocation Assistance and Real Property Policies Act of 1970 (“URA”), as amended, at 49 CFR §24, and §104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR §42.
- B. If applicable, Developer / Borrower shall submit to the subrecipient copies of all documentation relating to URA, including but not limited to, a Relocation Plan with
- C. Assurance Letter, Notice to Real Property, Tenant Status Reports, and all Notices with Tenant Acknowledgments as required by the LURA.

## **XII. FILES AND REPORTS**

- A. The subrecipient will maintain accurate Rental Program files and records for general administration activities for each development and tenant for a period of ten years as required by State. Such files will be open to inspection by State or any of its duly authorized representatives, or funding source representatives.

## **XIII. CHANGES, WAIVERS, AND/OR CONFLICTS**

- A. The subrecipient has the right to change, modify, waive, amend, or revoke all or any part of these guidelines, with prior written approval of State, which approval will not be unreasonably withheld.

## **APPENDIX A**

### RENTAL PROGRAM SUPPLEMENT FOR PROJECTS WITH FUNDS DEDICATED TO THE PUBLIC HOUSING SET-ASIDE

#### Public Housing Development Requirements

This appendix is intended to identify the particular areas where the requirements for developing public housing units differ from the requirements associated with developing non-public housing units utilizing CDBG-DR funds and thereby differ from certain parts of the Guidelines which are solely governed by CDBG-DR.

#### Mixed Finance Development

These guidelines strongly encourage development of public housing through the mixed finance and mixed income approach to promote lower concentrations of public housing units.

#### Applicability

This Supplement applies to development that include units which receive the benefit of Operating Fund assistance under section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437, et. seq.) (the "Act") for the Project and/or the Project Units. The Project Units qualify as "replacement units," as provided by HUD under 24 CFR § 941.102(c)(1). The Applicable Public Housing Requirements are binding upon the Owner Entity and any partner of the Authority.

#### Proposal Approval

##### Development Proposal

In order to release funds for construction activities, the Applicant must provide a mixed finance proposal approved by HUD which meets the requirements of 24 CFR § 941.606, which includes the following: (a) an identification of the participating parties and a description of the activities to be undertaken by each of the participating parties and the Authority; (b) a description of the proposed Development, including the number and type of Project Units (with bedroom count) and, if applicable, the number and type of non-Project Units (with bedroom count); (c) the proposed methodology for providing operating subsidies on behalf of the Project Units; (d) a summary of the proposed management and occupancy policies to be implemented at the Project, including any use of local preferences, restricting admissions to the elderly or physically disabled, use of a site-based waiting list, etc.; (e) if the Project is to be newly constructed, evidence of compliance with section 6(h) of the Act; (f) the Authority certifications required by 24 CFR 941.606(n)(1); and (g) relocation information, as required by 24 CFR 941.606(i).

#### Applicable Public Housing Requirements

##### Development Requirements

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The Project must be developed in accordance with all requirements applicable to the development of public housing, including:

- The United States Housing Act of 1937,
- the Annual Contribution Contract Amendment,
- the regulations at 24 CFR 941,
- the declaration of restrictive covenants to be recorded against the Development.

Admissions and Occupancy Requirements

The Project must ensure that the requirements for admission to, continued occupancy of, management, and modernization of the Project Units are in accordance with all requirements applicable to public housing, including:

- The United States Housing Act of 1937

The Annual Contributions Contract

The Authority's standard public housing admissions and occupancy policies adopted in accordance with Federal law and described in the Authority's approved Public Housing Agency Annual Plan, or any approved amendment to the Plan (the "Plan"); provided, however, that the Authority may adopt modifications of its standard public housing admissions and occupancy policies for purposes of its mixed finance projects generally, or specifically for the Project, to the extent these modifications conform with the requirements of Federal law, including but not limited to 24 CFR parts 903, 960, and 966 (and expressly including tenants' advance notice and comment rights afforded by 24 CFR § 966.3 and § 966.52 relating to modifications of standard public housing lease and grievance procedures, respectively), and such modified admissions and occupancy policies are described in the Plan and made applicable to the Project, and all other pertinent Federal statutory, executive order, and regulatory requirements, as those requirements may be amended from time to time.

Land Use Restriction (Declaration of Restrictive Covenants)

The Owner Entity must execute and file for record against the Development, a Declaration in form and substance as approved by HUD. The Declaration shall affirm and evidence that the Project Units must be developed, operated and maintained in compliance with the Applicable Public Housing Requirements for the period required by law. Such requirements include, without limitation, the restrictions against demolition or disposition of the Project Units, and of the interests in the Owner Entity. The Declaration shall provide further that it may not be modified, amended or released without the prior written approval of HUD.

CHANGES, WAIVERS, AND/OR CONFLICTS FOR THIS SUPPLEMENT

The subrecipient has the right to change, modify, waive, amend, or revoke all or any part of these guidelines, with prior written approval of State, which approval will not be unreasonably withheld.

APPENDIX B

Single-family rental program