Affordable Rental Housing Request for Proposals (RFP)

CITY OF HOUSTON
HOUSING AND COMMUNITY DEVELOPMENT

HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT
601 Sawyer, 4th Floor• Houston, TX 77007•(713)868.8300

Table of Contents

Part I. Overview—Public Private Partnership Toward Community Development 1
Part II. Allocation of City of Houston Multifamily Program Funds..... 1
HOME Investment Partnership Program Funds [Approximately $7 million] 2
Community Development Block Grant (CDBG) [Approximately $1 million] 2
Neighborhood Stabilization Program Funds [Approximately $1 Million] 2
Housing and Homeless Bonds--[Approximately $13 million] 2
Section 108 Loans--[Amount to be determined]..... 2
Part III. Eligible Activities 3
Part IV. Eligible and Ineligible Applicants 3
Part V. Loan Limits and Financing Terms..... 4
Loan Amount..... 4
Interest Rate..... 4
Loan Position..... 4
Terms..... 4
Guaranty 5
Affordability Covenants 5
Material Changes..... 7
Documentation of Agreement 7
Part VI. DEVELOPMENT REQUIREMENTS 8
Minimum Units 8
Code Compliance 8
Floating Units 8
Architectural or Engineering Evaluation and Property Life 8
Accessibility 8
Environmental Impact 9
Development in the Floodplain and Floodway 9
Site and Neighborhood Standards 10
Model Energy Code 10
Affirmative Marketing 10
Uniform Relocation Act 11
Construction Employment..... 11
Davis-Bacon Labor Standards 11
Minority Business Enterprises/Small Business Enterprises 11

Section 3 11
Bidding Process and Captive General Contractor 11
Cost Overruns and Completion Guarantee 12
Construction Draws and Inspections 12
PART VII. Application Submission Requirements 12
Application Format 13
Regulations 13
Application Threshold Requirement 14
Part VIII. Application Selection Criteria 15
Readiness to Proceed (maximum 20 points) 15
Action Plan (maximum 20 points) 15
Development Capacity (maximum 20 points) 16
Management Capacity (maximum 15 points) 16
Energy Efficiency (maximum 10 points) 16
Quality of Life (maximum 15 points) 17
Part IX. Financial Evaluation and Underwriting 18
Part X. Conditional Commitment 18

Part I. Overview—Public Private Partnership Toward Community Development

The Housing and Community Development Department (HCDD) is looking to you, the community of developers, to address its expanded mission—to make Community Development an expanded focus of our housing activities. In the past, the Multifamily (MF) Group of HCDD has distributed funds to nonprofit and for-profit entities to address the needs of the City of Houston (the City) for quality, safe, affordable housing for its low and moderate income residents. This year the MF Group is adding a new dimension to our activities—to assure quality and safe neighborhoods and to develop resources to improve the lives of the residents whom we serve. A major component of this is to extend the reach of fair housing choices within our communities.

This Request for Proposal is seeking proposals which exhibit creative ways to expand HCDD's effectiveness at reaching our goals of improving both the housing stock of the City of Houston's affordable housing and the neighborhoods in which the housing stock is located, as well as providing choices outside of the low-income saturated neighborhoods in which most of the City's affordable housing stock is located. Our priorities include reconstruction or rehabilitation of existing multifamily housing properties, new housing for special needs populations (homeless, seniors, veterans, disabled, large families), mixed-use and transit oriented development, and mixed income properties.

Leveraging of the City funds is key to the ultimate success of these projects. HCDD has developed a close working relationship with the Low Income Housing Tax Credits (LIHTC) program administered by the Texas Department of Housing and Community Affairs (TDHCA) as a frequent source of leverage. Additionally, utilization of conventional debt and equity financing, foundation grants, weatherization program, and other non-City funds may be a source of leverage. The City funds shall be used only to provide gap financing that is not otherwise available from other sources. Additionally, to enhance the efficacy of the housing product, alliances with agencies which provide supportive services for the target population are strongly encouraged.

Part II. Allocation of City of Houston Multifamily Program Funds

During 2011, we expect the sources of funds listed below to be available. The amounts shown are estimates inasmuch as the internal departmental allocations of HOME and CDBG funds have not yet been set. Assistance may be provided in the form of fully repayable interest bearing loans, cash flow loans, or performance based (0% interest) loans repayable only upon sale of the asset or another capital event. Depending on the investment, affordability requirements will range from 10 years to 20 years. The department will determine the best source and mix of available funds. Applicants may not transfer ownership of the asset throughout the affordability period except with the express consent of HCDD.

This RFP will be conducted as an open application cycle and funding will be available on a first-come, first-served basis until all funds are committed or Friday, July 29, 2011 whichever event takes place first.

HOME Investment Partnership Program Funds [Approximately $7 million]

This Federal program was established to expand the supply of safe, decent, affordable housing for low and very low-income households through public–private partnerships. For the HOME program, the applicant must show "Match" funds—contributions from his organization in the form of cash, donated time, goods, or services in addition to any commercially borrowed funds. Therefore the department is requiring that all applications show a minimum of 12.5% of Match funds. Documentation of the Applicant's ability to meet this requirement shall be presented in the Application in the form of a commitment from the organization providing the Match. Preference will be given to organizations showing a Match, no matter what the source of City funds.

Community Development Block Grant (CDBG) [Approximately $1 million]

The CDBG Program finances public facilities and improvements, public services and economic development assistance activities as well as rehab housing activities all in support of improving and/or preserving the City of Houston's low and moderate income (LMI) neighborhoods. Use of these funds must satisfy at least one of the following national objectives: 1) benefit to LMI income individuals, or 2) removal or prevention of slum and blight.

Neighborhood Stabilization Program Funds [Approximately $1 Million]

This federal program was established to stabilize neighborhoods that have high numbers of foreclosed and/or abandoned properties and high concentrations of delinquent loans and subprime loans. The City will identify these neighborhoods as "NSP Target Zones" based on certain criteria set out by the US Department of Housing and Urban Development (HUD). These "NSP Target Zones" are published on the NSP Program's webpage within HCDD's website. The City will allocate these funds for the acquisition, demolition, rehabilitation and/or redevelopment of one or more foreclosed and/or abandoned multifamily properties. The funds probably will not be available until the summer of 2011 at the earliest.

Housing and Homeless Bonds--[Approximately $13 million]

These bond funds have been approved in past municipal bond elections. Their use is specifically for housing of the homeless (SRO, transitional housing, family homeless housing), as well as multifamily rehabilitation and construction. These funds may be used alone or in conjunction with HUD funds and/or conventional financing. HCDD has not accessed these funds in the recent past and is presently investigating the procedures by which these funds may be released. There is no guaranty that these funds will be available in the near term.

Section 108 Loans--[Amount to be determined]

This HUD Loan Guarantee Program is a source of financing for economic development activities, housing acquisition and rehabilitation, public facilities rehab, related relocation, clearance and site improvements. Inasmuch as the City must repay these funds, all disbursements will be structured as fully repayable loans. Therefore these funds must be used for enterprises and property developments which will have adequate cash flow to cover debt service in repayment of these loans. As part of the CDBG program, use of these funds must satisfy at least one of the following national objectives: 1) benefit to LMI individuals, or 2) removal or prevention of slum and blight. HCDD welcomes developers to present ideas which could utilize

these low interest rate loans to further economic development, and help turn around or arrest the deterioration of many of Houston's neighborhoods. A focus on mixed-income communities and mixed use development is encouraged. Economic development projects are welcome as well. At the time of writing, it is anticipated to take about one year to access these funds.

Part III. Eligible Activities

For the 2011 multifamily application cycle, HCDD has defined City priorities for multifamily housing to include rehab and reconstruction, special needs populations and transit oriented development. All activities funded must be within the boundaries of Houston City Limits. Below is a list of activities which are eligible for funding:

- Rehabilitation or reconstruction of multifamily properties of 64 units or more. A minimum of 12 units is required for Special Needs projects.
- New construction for special needs populations for which open market financing is unavailable or infeasible without public or private foundation support. This category includes senior citizens, persons with disabilities, larger families (requiring 3 and 4 bedrooms, homeless (both transitional and permanent facilities), veterans, and single room occupancy facilities serving those special needs populations.
- Transit Oriented Development (TOD) which may include acquisition, new construction, rehab, mixed-use, mixed income.
- Demolition as part of rehabilitation and reconstruction which will serve to reduce density, if appropriate, making the property more manageable.
- Acquisition of multifamily properties or land for multifamily properties, a percentage of which will serve very low, low, and moderate income households. While CDBG funds may generally not be used for new construction, they may be used for acquisition of properties which may affirmatively further fair housing.
- Project-related soft costs and lease up reserves may be awarded on a limited basis and will be at the recommendation of staff and based on need determined during the underwriting review.

Part IV. Eligible and Ineligible Applicants

Applicants can be a for-profit or nonprofit entity with documented capacity to construct or rehabilitate and operate multifamily housing that benefits low-income families. Applicants must be either the current owner of the property or, at the time of application, have a binding contract to purchase the property. 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) and HOME Investment Partnership Program (HOME) regulations.

Applicants and Applicants' team members must be in good standing with HCDD on all previous grants, loans, or loan commitments. There may be no defaults or negative collection actions. Any Developer or general contractor who is on the federal, state, county or city debarment list will not be allowed to participate. No developers or contractors with management or compliance issues outstanding with the Department will be allowed to participate.

Applicants must provide a complete listing with addresses of multifamily properties currently owned or managed, and recently owned or managed (during the past 5 years). These addresses will be cross-checked with the Neighborhood Protection Service and the Forfeiture Abatement and Seizure Team (FAST). Applicants with excessive or unpaid nuisance citations will be ineligible to participate in this program. Additionally, there must be no outstanding tax liens on any properties owned or managed by the Applicant. Furthermore, the City will perform background checks and seek references from other lenders, partners, or public agencies with whom the Applicant has recently done business.

If the Applicant is a nonprofit and an Audit Certification by the Office of Management and Budget is due, it must be current. Financial Statements of all Applicants and guarantors are required as well.

Part V. Loan Limits and Financing Terms

As a policy, the City desires to provide enough funding to each approved transaction to increase the availability of affordable units at approved standards without over-subsidizing (enriching) the development or increasing the risk associated with over-leveraging the development (too much debt for the restricted rents to support). The City reserves the right to determine award and financing terms based on the financial evaluation of the transaction in tandem with the program requirements and availability of funds.

Loan Amount

Applicants should make a specific loan request to the City. The request should be the difference between (a) the total project costs and (b) the Applicant's equity plus commercially available debt, other grants, tax credits, and capital contributions.

Upon completion and stabilization of the development, all operating cash flow from the property in excess of 1.50x debt service coverage must be reserved by Borrower and may only be used for project related expenses.

Interest Rate

Interest rates will vary based on the level and type of investment by the City and the program funding. Determination will occur during underwriting review and the City will establish final loan structure to meet financial feasibility and program regulatory requirements.

Loan Position

In most cases the City loan position will be junior to Senior Debt; however the City reserves the right to have a position Senior to other sources of financing.

Terms

HCDD will typically provide for a maximum eighteen (18) month rehabilitation/construction period. Any variation from this timeline should be explained in footnotes to the pro-forma project costs. The loan and property affordability period will begin at the acknowledgement by the Department of successful completion of the project (IDIS completion). Loan commitments are not transferable and become due and payable in full in the event of noncompliance or default over the life of the agreement.

The loan term shall typically be no less than five (5) years and no greater than forty (40) years and the amortization schedule shall be no less than twenty (20) years and no greater than forty (40) years.

The loan shall be structured with a regular monthly payment beginning at the end of the construction period and continuing for the loan term. The Department may approve a loan structure with annual payments payable from surplus cash flow provided that the debt coverage ratio, inclusive of the loan, continues to meet underwriting requirements.

The loan may be structured as a zero percent (0%) performance based loan which is repayable only upon the sale of the property at an amount of 50% of the proceeds up to the loan amount. In an event of default the loan is payable in full at the default interest rate.

Guaranty

Developers will personally guarantee the loan until rehabilitation and construction is complete and all buildings receive a certificate of occupancy. Upon completion, if the development is in compliance with applicable HUD requirements, personal liability of the guarantors will be released except for losses due to fraud, theft, failure to pay taxes, failure to maintain insurance and similar acts or omissions ("bad acts exceptions").

Affordability Covenants

A Land Use Restriction Agreement (LURA) restricts the rents charged to tenants based upon the renter's income as a percentage of Adjusted Median Income (AMI) established annually by HUD. The LURA also defines the number of units which must be restricted and to which income groups. These covenants must be in a lien position superior to all other debt, including existing debt, and will require the existing lender to subordinate to the rent restrictions. The LURA will be recorded in higher priority than any first lien made by a commercial lender and will remain in force throughout the affordability period despite bankruptcy, sale, or other event transferring title. The LURA will be insured with title insurance provided by the developer. Developers are advised to use the HOME restrictions (below) to underwrite all projects since they are the strictest with respect to affordability.

During the affordability period, HCDD will monitor each project's performance to ensure financial stability as well as compliance with the project's Minimum Property Standards and LURA. This will include:

- Regular review of financial statements
- Annual inspections of property to assure that Minimum Property Standards are maintained
- Verifying lease related documentation/ actions to demonstrate compliance with Affirmative Marketing, Equal/Fair Housing requirements under local, state and federal rules in tenant selection/housing;
- Verifying income documentation and eligibility of persons certified/assisted; and
- Certifying/approving rent rates and utility allowances within limits set by local, state or federal agencies as applicable to each project.

HOME Restrictions

The HOME program restricts rents for affordable units based on income at each level. For households at 50% or below the AMI, tenant rent (which will be reduced by the utility allowance) is the lowest of 30% of Adjusted Income, Low HOME rent, or Fair Market Rent

(FMR). For households above 60% of the AMI, the rent (which will be reduced by the utility allowance) is the lower of 30% of Adjusted Income, High HOME rent, or FMR. The Low HOME, High HOME and FMR for 2010 are as follows:

U.S. DEPARTMENT OF HUD 05/2010

STATE:TEXAS RENTS ---------- 2010 HOME PROGRAM ----------

PROGRAM	EFFICIENCY	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Houston-Baytown-Sugar Land, TX HUD Metro FMR Area							
LOW HOME RENT LIMIT	$ 570	$ 610	$ 732	$ 846	$ 945	$ 1,042	$ 1,139
HIGH HOME RENT LIMIT	$ 659	$ 735	$ 892	$ 1,066	$ 1,170	$ 1,272	$ 1,375
For Information Only:							
FAIR MARKET RENT	$ 659	$ 735	$ 892	$ 1,189	$ 1,494	$ 1,718	$ 1,942
50% RENT LIMIT	$ 570	$ 610	$ 732	$ 846	$ 945	$ 1,042	$ 1,139
65% RENT LIMIT	$ 721	$ 774	$ 931	$ 1,066	$ 1,170	$ 1,272	$ 1,375

Source: http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/affordablehousing/programs/home/limits/rent/2010/tx.pdf

HOME funded loans must restrict at least a percent of units proportionate to the total dollars invested to total development costs of the transaction. For 2011 HOME funds, all restricted units must be restricted to households earning at or below sixty percent (60%) of AMI throughout the affordability period. Furthermore, at least twenty percent (20%) of the HOME assisted units must be leased to households at fifty percent (50%) or below the AMI and five percent (5%) must be leased for households at 30% of the AMI. [For example, if COH contributed 10% of the funds for a 400 unit property, 40 units must be restricted to tenants who are LMI. All 40 units must be to tenants who are at 60% or below the AMI. Twenty percent of the 40 restricted units (i.e. 8 units) must be to households who are at 50% of AMI, and 5% of the 40 restricted units (i.e. 2 units—which are part of the 8 units) must be to households who are at 30% of AMI.]

New construction will have a minimum affordability period of 20 years. Rehabbed or acquired properties of $40,000/unit or more will have a minimum affordability period of 15 years. Rehabbed or acquired properties of $15,000-$40,000/unit will have a minimum affordability period of 10 years. Any properties rehabbed for less than $15,000/unit will have a minimum affordability period of 5 years.

CDBG Restrictions

CDBG funds must restrict 51% of all units in the property (regardless of the share of CDBG funds in the project) to households at 80% AMI or below for CDBG Rent limits. The Department uses the lower of High Home Rents or FMR as the maximum chargeable for restricted units.

One for One Replacement - If the owner proposes to demolish units that are assisted with CDBG funds, these units must be replaced at the development site or within the assisted housing stock of the City of Houston at another site. HCDD will provide technical assistance to developers who may plan to reduce density.

Other Funding

All other funding, which is sourced from other than HOME and CDBG and is made available through HCDD, will adopt definitions of federal income restrictions and federal rent limits. The

final determination of rent restrictions and limits will be at the discretion of the Department after the underwriting review and in tandem with Department housing goals.

Material Changes

Any material changes to the project during underwriting or construction must be reported in writing to the Department. Failure to do so may result in a Default under the loan.

Documentation of Agreement

This RFP is a framework upon which requests may be submitted. The Loan Agreement will be negotiated and signed by the borrower before the Request for Council Action (RCA) is taken to City Council. All documents as required by the City and its attorneys including without limitation, the Deed of Trust, the Promissory Note, Uniform Commercial Code (UCC) Financing Statement, and Assignment of all contracts, leases and rents will be negotiated and presented as appendices to the Loan Agreement. Final documents will be executed prior to closing.

- Closing on the Loan shall be conditioned upon the occurrence of closing with any superior lien holders or any other sources of funds determined to be necessary for the long-term financial feasibility of the Development and all due diligence determined by the Department to be prudent and necessary to meet and to secure the interests of the Department and of the City of Houston. All necessary documents must be executed including, construction contracts, final survey and title, partnership agreements, final budget and sources & uses,
- Insurance - Title Insurance, Property Insurance (if applicable), Flood Insurance (if applicable), Builder's Risk Insurance, and Worker's Compensation will be required. Other insurance requirements apply and are more fully described in the loan documents.
- Certified Financial Statements - Prior to signing of the Loan Agreement, the Borrower and Guarantor must submit signed and certified financial statements and tax returns for the past 2 years.
- Payment, Performance, and Maintenance Bonds - The contractor shall furnish a payment bond for the full amount of the construction contract conditioned upon the contractor's full performance of the construction contract. The contractor shall also furnish a maintenance bond to secure the warranty required under the construction contract between the owner and the contractor. Bonds shall be made payable to the City and the owner, in a form approved by the Director of HCDD. The surety issuing the bond must be on the current list of accepted sureties on federal bonds published by the US Treasury Department and/or on the State Board of Insurance list of authorized insurance companies in Texas. Alternatively the bond requirements may be waived by the HCDD Director if the owner provides an Unconditional Letter of Credit in a form approved by the City Attorney in the amount of 10% of the construction contract.
- Other liens - Borrower will NOT be permitted to place subsequent liens against the subject property either in priority or subordinate to City's lien. No additional debt is allowed without prior written approval by the Director of HCDD. The City's lien (debt) position can be junior to an existing lender, but the LURA covenants must be superior to all other debt and liens including existing debt, and will require the existing lender to subordinate to the rent restrictions.

- Letters of Support - HCDD strongly advises that applicants seek additional letters of support from City Council members, local civic clubs, neighborhood groups, or the Super Neighborhood Council.

Part VI. DEVELOPMENT REQUIREMENTS

Minimum Units

Developments involving New Construction or Rehabilitation will include a minimum of 64 units. The minimum number of units for Special Needs Categories shall be 12 units.

Code Compliance

Upon completion, rehabilitated or newly constructed properties must comply with local building code, health code, safety code, and Minimum Property Standards as defined by the Department.

Floating Units

All units required under this section may be "floating" HOME units, in accordance with the meaning ascribed by HUD, except for units receiving funds for the development of units for persons with disabilities. Such units shall be designated "fixed" HOME units. Developer must use its best efforts to distribute units reserved for Low Income Families, Very Low Income Families and Extremely Low Income Families among unit sizes in proportion to the distribution of unit sizes in the Property and to avoid concentration of Low Income Families, Very Low Income Families and Extremely Low Income Families in any area or areas of the Property.

Architectural or Engineering Evaluation and Property Life

For all rehabilitation or reconstruction projects, a Property Condition Assessment prepared by a qualified, independent, third party Engineer, completed to ASTM Standards must be provided. This report must show that that the planned improvements will bring the property into compliance with all building codes as well as the Department's Minimum Property Standards for Rehabilitation. The report must be dated no more than six months prior to application. The Department may utilize its own vendor or employees to verify information presented by the PCA in order to establish cost-reasonableness.

The construction of rehabilitated properties must generally extend the useful life of the property by 20 years. For new construction projects, the useful life of the property must be a minimum of 30 years.

Accessibility

Section 504 - All properties receiving City funds must be in compliance with Section 504. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C Sec 794) requires all programs that are federally supported do not discriminate based upon handicap. HUD has established rules explaining Section 504 as it applies to housing. They are found in the Code of Federal Regulations at 24 CFR Part 8. Section 504 requires that 5% of the units (or at least one unit) must be accessible to persons with physical disabilities. An additional 2% of units (at least one)

must be accessible to persons with visual or hearing disabilities. These costs must be reflected in the Development Budget.

Covered multifamily dwellings, as defined at 24 CFR Sec 100.201 as well as common use facilities in developments with covered dwellings must meet the design and construction requirements of CFR Sec 100.205, which implement the Fair Housing Act (42 U.S.C. Sec 3601-3619) . Additionally the project must comply with the Architectural Barriers Act of 1968 (42 U.S.C. Sec. 4151 et seq.), including use of telecommunications device of deaf persons (TDDS) or equally effective communication system.

Notwithstanding the general requirement of 5% accessibility and 2% visually and hearing impaired, the Department may waive this requirement for rehabilitation projects where the cost of rehabilitation is less than 75% of replacement costs. However, if this requirement is waived, the work done with any grant dollars must be made handicap accessible.
http://www.hud.gov/offices/fheo/disabilities/sect504faq.cfm

Environmental Impact

Once an application has been received by the Housing and Community Development Department, the total project must be in compliance with all federal environmental regulations as explained in 24 CFR Part 58. 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 undertake any activities having either an adverse environmental impact or limitation on the choice of reasonable alternatives.

The environmental review process takes from 60 to 90 days to complete. If any funds [private or public] are spent or committed to a development prior to the completion of the environmental review process, the Housing and Community Development Department cannot provide federal funding for the development.

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.

All properties must be free of contaminants/hazardous substances 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 developer will be responsible for the testing and either an O&M plan (operations and maintenance plan) or the abatement process (contractor must be a certified asbestos contractor).

Development in the Floodplain and Floodway

Floodplain development is discouraged, but will be considered by the Department only when there is no practicable alternative to performing work in the floodplain, and where all mitigation measures possible are implemented in order to avoid adverse impacts to the floodplain and to restore and preserve the natural and beneficial values of the floodplain. Mitigation includes but is not limited to Chapter 19 of the City's Code of Ordinances.

Floodplain development refers to work performed in the 100-year floodplain, with the exception of 'critical action' projects (defined in 24 CFR Part 55), where floodplain regulations apply to the 500-year floodplain in addition to the 100-year floodplain. Critical action projects involve facilities where even a slight chance of flooding would be too great, because

such flooding might result in loss of life, injury to persons, or damage to property. Such projects include facilities that house hazardous materials, store irreplaceable records, provide vital services (i.e. police and fire stations), and provide care to persons who lack mobility (i.e. hospitals, nursing homes, convalescent homes, etc).

Multifamily development in the floodway is prohibited under all circumstances.

Applicants are advised to check property address against the most recent flood maps which can be accessed at www.tsarp.org.

Site and Neighborhood Standards

Applications proposing New Construction are subject to the Site and Neighborhood Standards as describe herein and will be reviewed by HUD before an award can be granted. Key standards include:

- Adequacy of site;
- Utility and street access;
- Not in an area of minority concentration;
- If in racially mixed area, will not increase significantly proportion of minorities;
- If in area of minority concentration--
    - That sufficient comparable opportunities exist outside the area for minorities, or
    - If there is overriding housing needs that cannot otherwise be met;
- Project promotes greater choice of housing opportunities and avoids undue concentration of assisted persons;
- The neighborhood not be seriously detrimental to family life;
- Access to a broad range of services and facilities;
- Travel or access to jobs not be excessively difficult.

These regulations are defined in the home code 24 CFR 983.57 (e).

Model Energy Code

The Developer must ensure that all new construction of multifamily housing units must meet the current edition of the Model Energy Code (MEC), published and maintained by the International Code Council (ICC) as the "International Energy Conservation Code" (IECC) as of 1998, contains energy efficiency criteria for new residential and commercial buildings and additions to existing buildings. It covers the building's ceilings, walls, and floors/ foundations; and the mechanical, lighting, and power systems. MEC information can be found on the following site: www.energycodes.gov/implement/pdfs/modelcode.pdf.

Affirmative Marketing

Developers must adopt affirmative marketing policies and procedures in furtherance of the City's commitment to non-discrimination and equal opportunity in housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status, or disability. Records should be maintained describing actions taken by the Developer to affirmatively market units and the City will assess the results of these actions. Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act is required. Applicants will be required to use HUD form 935.2a to meet these requirements.

Uniform Relocation Act

If families are required to move as a result of the improvements made with federal funding, developers must comply with the Uniform Relocation Act and Real Property Acquisition Policies Act of 1970 (URA) as amended, as well as the Housing and Community Development Policy and Procedure Manual for Relocation. The URA requires that the owner of the property receiving federal funding provide notices and assistance to tenants impacted by acquisition, demolition, and/or rehabilitation/reconstruction. HCDD staff will assist properties to comply with the URA. Please provide the following documentation for all Acquisition, Demolition and Rehabilitation developments:

- Detailed Relocation Plan with fully executed Assurance Letter
- Detailed Budget for Relocation
- Notice to Real Property or Deed

Templates and the HCDD relocation policy may be found on the City website at: www.houstontx.gov/housing/multicompliance.html. Details of the requirements for following URA are available in Handbook 1378 at the following web site: http://www.hud.gov/offices/pih/centers/sac/update1378.cfm

Construction Employment

Davis-Bacon Labor Standards

HCDD anticipates that all developments selected will require compliance with the Davis-Bacon Labor standards. Applicants should take this into consideration when preparing the budget. Davis-Bacon requires that prevailing wage rates be paid to all construction laborers. Practically, under most conditions, this will mean weekly reporting of all contractors, sub-contractors, and sub-sub-contractors payroll.

Minority Business Enterprises/Small Business Enterprises

All work using public funds performed in the City of Houston must provide for 15% MBE and 7% SBE.

Section 3

Under Section 3 of the Housing and Urban Development Act of 1968, developers are required to provide job opportunities to low-income residents and businesses, to the greatest extent possible. Regular reporting of efforts and results will be required of all Developers, subsequent to City Council Action/Closing.

Bidding Process and Captive General Contractor

If the owner does not have the capacity to complete the construction work through a related entity, all projects will be required to select a general contractor based on a bidding process which will be facilitated by the construction compliance staff of HCDD. If the project is bid, the City will pay for actual hard costs (and relocation costs) and will pay for general contractor, conditions, profit and overhead.

If the owner has the capacity to complete the construction work through a related entity as a captive general contractor, the City will pay for actual hard costs (and relocation costs) but will not pay for general contractor conditions, profit and overhead. If the construction costs are partially funded by a different federal or state program which allows for general conditions, profit and overhead (e.g. Low Income Housing Tax Credits), these costs may be paid out of the other program funds.

Cost Overruns and Completion Guarantee

Borrowers must demonstrate the ability to fund cost overruns either through personal net worth or a letter of credit.

Construction Draws and Inspections

During construction, Borrower must provide monthly inspections from an acceptable third party firm confirming work in place. HCDD reserves the right to alter this term. Borrowers will certify that each draw request is for actual costs expended and must provide documentation to support such costs, including sub-contractor payment requests/invoices. The City will only pay for work done and may hire independent inspectors to review the draws and the back-up documentation.

Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure requested. Any change in scope during the construction process must be approved by HCDD. The Department may request Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of funds to Development Owner as may be necessary or advisable for compliance with all program requirements.

HCDD will retain 10% of each draw for all costs until satisfactory completion of the development.

Retainage will be held until at least thirty (30) days after completion of construction; a final inspection is completed and clearance is issued by the Department; labor standards final wage compliance report is completed; and certificates of occupancy are received for new construction or a certification of completion is received from the development architect for rehabilitation.

The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

PART VII. Application Submission Requirements

The City of Houston as a unit of local government reserves the right to reject any and/or all proposals, reserves the right to waive any informalities or irregularities in the proposal or evaluation process, and reserves the right to award contract(s) in the best interest of the City of Houston.

Application Format

- Please complete each yellow cell of each Tab of the Application for City of Houston Funds. Print and sign one original and one copy. This complete original Application for each proposed development plus one copy, must be submitted in a binder with tabs delineating the sections of the application and in an electronic PDF format on a recordable compact disc (CD-R). Improperly compiled and unbound Applications will not be accepted.
- Page Limit – None
- Page Size – 8 ½ x 11; oversized or pullout pages must be folded to accommodate
- Application must be typed and properly bound appropriate for the document's thickness and must be tabbed.
- All applications must be signed by the organization's Board Chair/Executive Director/President/or Designee. Unsigned applications will not be accepted.
- Original Documents shall have original signatures and be clearly noted ***ORIGINAL***.
- All statements requiring a notarized signature must be notarized.

All Applications submitted under this RFP must be received on or before 5:00 p.m. Friday, July 29, 2011. Late proposals will not be accepted, and will be returned, unopened, to the proposer, at the proposer's expense.

The Department will accept Applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this RFP is published on the Department website. A bound original and a bound copy and an electronic pdf of the complete application must be submitted. Applications will be accepted ONLY at the following address:

City Secretary's Office
City Hall Annex, Public Level
900 Bagby
Houston, TX 77002

A bound original, a bound copy, and an electronic copy on a CD must be delivered to the above address. For questions regarding this RFP, please contact Eta Paransky, Assistant Director in the Commercial Division at (713) 868-8449 or via e-mail at eta.paransky@houstontx.gov.

IN ACCORDANCE WITH THE ANTI-LOBBYING ORDINANCE, CODE OF SILENCE OR SIMILAR REQUIREMENTS, AFTER THE APPLICATION SUBMISSION OR DEADLINE AND UP TO PANEL REVIEW AND SCORING OF APPLICATIONS, ALL COMMUNICATION BETWEEN APPLICANTS AND CITY STAFF MUST BE IN WRITING.

Regulations

Applicants must comply with all pertinent federal regulations as described herein and provided in the Loan Documents. These regulations include, but are not limited to:

- Community Development Block Grant Regulations (24 CFR Part 570)
- HOME Investment Partnership Program "Final Rule", (24 CFR Part 92)

- Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) (24 CFR Parts 8-9)
- 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)
- Environmental Requirements (24 CFR Part 58)
- Lead Safe Housing Rule (24 CFR Part 35)
- Uniform Relocation Act (49 CFR Part 24)
- Economic Opportunities for Low and Very Low Income Persons Section 3 (24 CFR Part 135)

Application Threshold Requirements

An Application must be substantially completed before the Department can consider it. At a minimum, the following threshold requirements must be met for initial consideration.

1. Applicants must complete all of the required fields in the electronic application available for download.
2. Attachment A-1: Application Forms from the HCDD website
3. Attachment A-2: Project Map
4. Attachment A-4: Project Narrative
5. Attachment A-5: List of Properties Owned and/or Managed
6. Attachment B-1: Articles of Incorporation or Partnership documents
7. Attachment B-2: 501©3 documentation (if applicable)
8. Attachment B-3: Agency's organizational chart(s)
9. Attachment B-4: Project organizational chart
10. Attachment B-7: Explanations of Declarations of Principal Owners, Officers, and Directors
11. Attachment B-8: Letters of Commitment (other sources of financing)
12. Attachment C-1: Documentation of Site Control
13. Attachment C-6: Photos of Project Site
14. Attachment C-11: Cost Estimates and Architect's/Engineer's statement
15. Attachment E-1: Audit/Financial Statements and Tax Returns for Developer
16. Attachment E-2: Audit/Financial Statements and Tax Returns for Guarantor
17. Application Fee of $500 if developer is for-profit.

If an application does not meet Threshold Requirements, a deficiency letter will be sent. The applicant has 10 business days to respond with all required information, otherwise the application will be considered incomplete. Incomplete applications will not be considered. All other attachments and required information must be submitted before a commitment may be awarded. The department reserves the right to waive any submission items except for those specified in the Threshold requirements.

The application may show which specific source of funds the applicant would like to receive. However, the final decision of which funds will fund which projects remains that of the Department.

ALL APPLICATION SUBMISSIONS BECOME THE PROPERTY OF HCDD.

Part VIII. Application Selection Criteria

Applications which pass the threshold requirement will be reviewed by a panel of HCDD underwriters after remaining information is received. The members of the panel will score each application for each category. Ranks will then be reviewed. All applications must meet a minimum total score of 60 points to be considered for funding. Should applications meeting this minimum score threshold exceed available funding, eligible applications will be retained regardless of date of submission until such a time that funding is available in sufficient amounts to fund the applications or a subsequent RFP is released. If third party reports become "stale," updates will be required.

Maximum Total Score = 100 Points:
Readiness to Proceed (20 Points)
Plan of Action (20 Points)
Development Capacity (20 Points)
Management Capacity (15 Points)
Energy Efficiency (10 Points)
Quality of Life (15 Points)

Readiness to Proceed (maximum 20 points)

1. A defined scope of work including preliminary design plans and site plans.
2. Documentation of necessary reports required to develop action plan including: Site Control, Appraisal, Survey, Environmental Assessment, Property Condition Assessment, Cost Estimates.
3. Availability of third party sources of funding.
4. Demonstrated Owner's equity.
5. Demonstration that the development is feasible in terms of costs, sources and uses, and financial thresholds.
6. Senior lender willingness to subordinate to LURA and allow 2nd lien.

Action Plan (maximum 20 points)

1. Population served.
2. The long-term viability of the proposed property including cash flow and ability to carry debt.
3. Construction Cost per unit and Total Cost per unit relative to similar properties submitted under this RFP and in the marketplace.
4. Sources of Leverage.
5. Match funds.
6. Letters of Support from community and legislative representatives.
7. Implementation schedule that shows readiness to proceed and ability to complete the development within the time framework requirement.
8. Affirmatively furthering fair housing.
9. Responsiveness to requests for additional information.

Development Capacity (maximum 20 points)

1. Applicants' prior experience with development of properties similar to proposed project, including such details as acquisition of real property, rehabilitation, marketing, rental of affordable rental housing, and history of partnership with support service providers. If proposal is serving specific target populations, the organization's experience serving that population must be stated.
2. Demonstrates qualifications and experience of proposed staff and strength of the development team. The City reserves the right to refuse funding a project if prior experience with the City was unfavorable.
3. Positive history administering public funds and meeting requirements.
4. Demonstrates depth of financial resources of developer to meet unforeseen needs.
5. Ability to leverage additional non-city financial resources.
6. The applicant's overall financial condition and its ability to fund cost overruns or other costs not included in the HCDD loan amount.

Management Capacity (maximum 15 points)

1. The proposed property management, whether in-house or third party, must be identified in the application. The property manager's capacity will be analyzed to determine experience and skill with respect to multifamily property operations. This analysis will include the financial results of Applicant's previous rental developments and a search of nuisance citation records.
2. Capacity of applicant and/or third party management company to provide property management services to property and affirmatively further Fair Housing.
3. Ability to ensure that leasing requirements are met, and that regular reports can be produced to allow the City of Houston to monitor performance.
4. Knowledge of the federal program regulations.
5. Evidence that the organization has adequate working capital to meet operating fluctuations.

Energy Efficiency (maximum 10 points)

Describe how the development will incorporate specific energy efficient elements in the development plan. Applicants are encouraged to use energy efficient appliances. In addition, HCDD would also like to see Applicants incorporate environmentally friendly or other sustainable or green elements in their development plans.

1. LEED Certification.
2. Energy Star appliances including refrigerators, water heaters, light fixtures, fans and vents, HVAC units.
3. Install water-conserving fixtures.
4. Other sustainable development practices described and presented in the development plan.
5. For Rehab projects, perform an energy analysis of existing building condition, estimate costs of improvements, and make those improvements resulting in a 10 year or shorter payback.

6. Re-use of cleared sites as community resources, such as community gardens, pocket parks, or floodplain impoundment areas.

Quality of Life (maximum 15 points)

While the City does not prescribe property amenities and green building practices, it does encourage consideration of items to create better neighborhoods.

Developments that are designed to promote community and not just shelter. Examples include:

1. Provision of social services on site
2. Afterschool programs
3. Day care center
4. Safety features (lighting and security cameras)
5. Adult Education classes
6. Job skills training
7. Computer skills training
8. Improvements that enhance access to and within the property.
9. Recreational facilities that meet needs of the target population.

Developments that take into consideration neighborhood improvements include:

1. Making provision for area beautification and services, such as caring for a landscaped median in the streets surrounding the property.
2. Providing space for a neighborhood clinic.
3. Educational and social programs open to the wider community.
4. Set-aside of green space within the property for a community garden.
5. Innovative community development proposals including partnership with social services to residents.
6. Alliances with other public or private organizations providing direct investment in the area on or adjacent to the property.

Choice of location to maximize flexibility for residents. Examples include:

1. Easy accessibility to local transit.
2. Decreasing number of units to increase the amount of green space in the property.
3. Location within one mile of grocery store.
4. Proximity of elementary school with at least a “Recognized” status or higher as determined by the Texas Education Agency.
5. Proximity within one mile of general medical services.
6. Applications which include innovative community development proposals including a) partnerships with social service agencies providing services to residents, b) other public or private organizations providing direct investment in the area adjacent to or on the property, which meet the mission of increasing community development, may qualify for additional points toward consideration.

Part IX. Financial Evaluation and Underwriting

The sources and uses of funds related to each project will be reviewed, in conjunction with the Property Condition Assessment, to determine the adequacy of the funding to complete the construction or rehabilitation. Needless to say, sources and uses must match.

The proposed developments will go through the underwriting process which will evaluate the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable).

The pro-forma operating statement must make adequate provisions for the anticipated number of rent-restricted units, vacancy rate-no greater than 10% stabilized, and replacement reserves of $300/unit/year. Depending upon the age of the property and the Property Condition Assessment, the replacement reserve may be increased.

HCDD will review the underlying proposed debt and operating pro-forma of the property to determine the development's feasibility during the affordability period (i.e. demonstration of a minimum of 1.20x debt service coverage ratio (DSCR), indicating income adequate to cover operating expenses and applicable debt service). For those properties, such as those for special needs population, which demonstrate that they cannot carry any debt service, income must exceed expenses**.** A commitment of the ownership entity to cover the losses will be required in the event of loss**es.**

Any proposal demonstrating a projected DSCR greater than 1.5 will be reviewed to assure that the City's contribution is not "overenriching" the property owner.

Part X. Conditional Commitment

Following the receipt and analysis of applications, the Director of HCDD **may** issue a Conditional Commitment for funding. A Conditional Commitment is a letter stating that the Department recommends funding a development, subject to the finalization of an appropriate contractual agreement between the City and the Applicant.

The letter says that the City will proceed with the development in good faith, while reviewing Applicant's pro forma and complete application.

Customarily, there will be some conditions attached to the proposed contract. Items such as environmental hazard abatement may have to be addressed. Underwriting may also reveal deficiencies in an application that will need to be addressed following the issuance of a Conditional Commitment.

Projects do sometimes fail to materialize after a Conditional Commitment letter is issued. HCDD, at its sole discretion, reserves the right to rescind the Conditional Commitment and proceed to the next highest-priority development identified through the most recent application round; or to add the released funds to the upcoming funding round pool.