

Special Instructions for Applicants Requesting CDBG-DR/AHF Funding

Developers seeking financing for new construction, and substantial rehabilitation of site-specific, affordable, multi-family rental housing in communities impacted by Superstorm Sandy, Tropical Storm Lee, or Hurricane Irene, (the “Covered Storms”) are eligible to apply for New York Rising Rental Buildings Recovery Program Multi-family/Affordable Housing Fund (AHF). AHF utilizes federal Community Development Block Grant – Disaster Recovery (CDBG-DR) funds provided to New York State and administered through the Housing Trust Fund Corporation (HTFC). New York State Homes and Community Renewal (HCR) and the Governor’s Office of Storm Recovery (GOSR) expect to make available up to \$50,000,000, which will be awarded pursuant to applications submitted under this Notice.

AHF financing may only be utilized to finance the development of residential properties where the majority of units are affordable to households with incomes up to 80% of area median income (AMI), as adjusted for family size. However, if AHF funds are used in conjunction with other income-targeted subsidies, the more restrictive regulations and requirements will apply.

To be eligible for AHF assistance, a project must be located in the one of the following counties and address an unmet need for housing resulting from a Covered Storm:

- Superstorm Sandy: Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester
- Hurricane Irene: Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Greene, Hamilton, Herkimer, Montgomery, Nassau, Orange, Otsego Putnam,

Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, and Westchester

- Tropical Storm Lee: Broome, Chemung, Chenango, Delaware, Fulton, Herkimer, Oneida, Orange, Otsego, Schenectady, Schoharie, Tioga, Tompkins and Ulster

HCR/GOSR retains the right to waive any requirement contained in this RFP, subject to the applicable statutes and program regulations. HCR/GOSR also retains the right to revise this RFP from time to time, extend the submission due date, to not award all of its funds, and to issue subsequent RFPs.

Federal Requirements

All Proposals must comply with all Federal, State and local laws, including rules and regulations specific to CDBG-DR. CDBG-DR rules and regulations include labor, environmental, green building standards, accessibility, and equal employment opportunity.

Development activity involving the temporary or permanent displacement of qualified rental tenants may create obligations under the Uniform Acquisition and Relocation Act (URA).

Davis-Bacon wage rates and compliance requirements will apply to all developments with 8 or more units where CDBG-DR funds are expended on construction. See Federal Requirements, including Federal Labor Standards Provisions:

http://www.nyshcr.org/AboutUs/training/06seminar4_HUD_4010.pdf

Projects may also be subject to requirements of Section 3 of the U.S. Housing and Urban Development Act of 1968. The purpose of Section 3 to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. 24 CFR Part 135 implements Section 3 requirements. See:

<http://portal.hud.gov/hudportal/documents/huddoc?id=11secfaqs.pdf>

Contract Requirements

Applicants should be aware that federal law and regulations require that GOSR contracts providing CDBG-DR assistance contain certain provisions including, but not limited to those listed below. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

- Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold);
- Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000);
- Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees);

- Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair);
- Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation);
- Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers);
- Compliance with Sections 503 and 504 of The Rehabilitation Act of 1973 (29 U.S.C 794) as supplemented by Department of Labor regulations (41 CFR Part 60-741 and 24 CFR 8). (Contracts awarded by grantees and subgrantees in excess of \$10,000);
- Notice of awarding agency requirements and regulations pertaining to reporting;
- Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract;
- Awarding agency requirements and regulations pertaining to copyrights and rights in data;
- Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions;
- Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed;
- Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000);
- Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the

Energy Policy and Conservation Act (U.S.C. 6201);

Applicants are advised to review “Appendices for Contracts,” available at which describes AHF contract requirements in detail. The document is available at:

www.nyshcr.org/Topics/Developers/MultifamilyDevelopment/CDBG-DR/AHFRFP.htm

“Appendices for Contracts” is made available for information purposes and is subject to revision. Applicants are further advised that GOSR may impose additional requirements at its sole discretion.

Duplication of Benefits (DOB)

In accordance with the Stafford Act, Disaster Recovery funds issued through HUD’s Community Development Block Grant Disaster Recovery (CDBG-DR) program may not be used for any costs for which other disaster recovery assistance was previously provided or available.

Any Governmental and Non-Governmental assistance provided to the property owner(s) for structural repair or replacement of the rental unit(s) could potentially be considered a Duplication of Benefit (DOB). DOB occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. Section 312 of the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which an owner has received financial assistance under any other program or from insurance or any other source. Common sources of disaster recovery assistance include insurance, FEMA, SBA, non-profit

organizations, faith-based organizations, other disaster relief organizations, and other governmental entities. New construction, where there were no rental units previously in existence, will not be reviewed for potential DOB.

Applicants under this RFP are required to disclose and document all sources of disaster recovery assistance received in response to Hurricane Sandy, Hurricane Irene and Tropical Storm Lee, and the State is required to verify the amount received. The State is required to verify the source and amounts of aid received.

Special Instructions by Unified Funding Application Section

1D. Program Funding

Indicate the amount of CDBG-DR/AHF funding requested in line 10.

1E.2. Policy Priorities

Select “CDBG-DR/AHF” in 1E2 and select the applicable type(s) of Policy Priorities from the list provided.

Upload supporting documentation to demonstrate how the project meets indicated Policy Priorities.

1H.1. Units in Project by Construction Funding Source and 1.H.2. Units in Project by Permanent Funding Source

Indicate Units in Project for CDBG-DR Funding source.

1I. Income Targets

Complete column indicating Target Group for CDBG-DR units by income tier.

1J.1 Special Population Households

One of the CDBG-DR/AHF Competitive Criteria is an admissions preference for rental households who were displaced by one of the Covered Storms. Set-aside units under the Competitive Criteria are to be identified on Attachment F17 - CDBG-DR Multi-Family Affordable Housing Fund (AHF) Information, but are **not** indicated under 1J.1 Special Population Households

2D1. Community Needs Narrative

In addition to the information requested, the narrative in 2D1 must describe the project’s tie to a Covered Storm and the impact of the Storm(s) on availability of rental housing stock.

2D2. Community Needs Narrative

In addition to the information requested, the narrative in 2D2 must describe the project’s tie, if any, to one or more Community Reconstruction Plans. This narrative should indicate whether the project is named in the Plan or otherwise consistent with the Plan.

2D3. Community Needs Narrative

In addition to the information requested, the narrative in 2D3 must describe the project's use of storm-damaged property, including but not limited to structures damaged by a Covered Storm or sites where storm-damaged housing has been demolished.

3A. Construction Cost Basis

If CDBG-DR funds are to be used for construction on a project of 8 or more units, Davis-Bacon wage rates must be the Construction Cost Basis. If CDBG-DR is used only for non-construction purposes, such as acquisition, operating reserves, or pre-construction application and planning expenses, then Davis-Bacon wage rates are not required to be used as the Construction Cost Basis by CDBG-DR.

3C. Development Budget

AHF funds may be used for acquisition, construction, rehabilitation, project soft costs, and reserves for adapting units. AHF funds may not be used to cover initial operating deficits.

Applicants may request CDBG-DR/AHF assistance in the form of a grant, a loan or both a grant and a loan. If requesting both a grant and a loan, show the amounts in separate columns.

Multi-Family Programs Application Attachments

C. Community Need/Market Demand Attachments

C.2. Market Demand

This narrative must include information on the unmet need for rental housing resulting from one of the Covered Storms.

Duplication of Benefits

Successful applicants will be required to complete and submit a Consent and Release Form for Nonpublic Information for purposes of verifying Duplication of Benefits information. The Authorized Signatory must indicate the Applicant's willingness to comply with this requirement by submitting Attachment F18 - CDBG-DR/AHF Consent and Release of Non-Public Information.