



TAB I: GENERAL GUIDING PRINCIPLES AND PROJECT REQUIREMENTS

When developing affordable housing in conjunction with Harris County, it is important to review this document and discuss the proposed project with HCCSD prior to finalizing details to ensure compliance with all federal, state and county requirements. This tab discusses overarching federal, state, and local regulatory and program requirements for applicants of HCCSD funding for housing related projects. Failure to comply with these requirements may cause the project to be out of compliance and may lead to termination. Applicants are encouraged to review these requirements and meet with HCCSD staff prior to the start of the project to ensure that their project at minimum meet these requirements.

1.1 Site Control

Project applicants must have control of any site that will receive HCCSD funding for acquisition, rehabilitation and new construction activities. Site control must be documented at the time of application. To document site control, one of the following must be submitted: a deed or other proof of ownership; an executed lease agreement; an executed contract of sale; or an executed option to purchase or lease.

1.2 Appraisal

A property appraisal is required for projects that will receive HCCSD funding for acquisition, rehabilitation and new construction activities. The appraisal must be provided during the Request for Proposal process and cannot be older than 6 months. An appraisal prepared for HCCSD must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation. At minimum, a qualified appraiser must be appropriately certified or licensed by the Texas Appraiser Licensing and Certification Board. HCCSD reserves the right to require an appraisal on completed activities.

1.3 Market Analysis

A market analysis or study is required for projects that will receive HCCSD funding for acquisition, rehabilitation and new construction activities. A market analysis is an evaluation of the economic conditions of supply, demand and rental rates or sales pricing conducted on a specific development. The analysis must determine the feasibility of the subject property rental rates or sales price and state conclusions as to the impact of the property with respect to the determined housing needs. All data presented should reflect the most current information available and the report must provide a parenthetical (in-text) citation or footnote describing the data source. The analysis must clearly lead the reader to the same or similar conclusions reached by the Market Analyst. All steps leading to a calculated figure must be presented in the body of the report. A Market Analysis must be provided during the Request for Proposal process and be prepared and certified by a professional housing market analyst.



1.4 Construction Plans

Nearly complete, but not yet approved, construction plans must be available to HCCSD within 30 days of award notification. Plans will then be reviewed by the Harris County Public Infrastructure Department to ensure compliance with all HCCSD requirements.

1.5 Residential Anti-displacement and Relocation Assistance Policy (RARAP)

The permanent displacement of homeowners, tenants, businesses, non-profit corporations or farms is discouraged. If permanent displacement is necessary, Harris County and its subrecipients, owners or developers must comply with federal regulations found at 24 CFR Part 42, Displacement Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs as amended as well as 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) for Federal and Federally-Assisted Programs as amended.

Relocation Process must comply with the following:

- Harris County will follow the requirements of the Uniform Relocation Act (URA) or Section 104 (d) of the 1974 Community Development Act, as amended. These requirements provide for uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.
- In the case of temporary and voluntary displacement, Harris County or their subrecipient will inform program participant of the relocation services available. Commonly the information is distributed by flyer to homeowners or tenants, who would be receiving rehabilitation services.
- If permanent displacement is necessary, homeowners, tenants, businesses, farms, or non-profits that occupy the site of the CDBG-assisted project will be identified through tax records and/or visual inspection and informed by certified letter.
- Harris County or their subrecipient will serve as liaison between program participant, contractor, landlords, movers, etc. to ensure a problem free transition. The Harris County or their subrecipient will identify and accommodate the displaced household or business when possible as to their need or preference for a particular unit size and location. These will be determined in the in-take process for relocation services.
- Harris County or subrecipients submits necessary documentation to secure relocation payments.
- Relocation evaluation form is forwarded to program participant to evaluate the success of the relocation.
- If complaints arise, Harris County program administrators, their subrecipient and the program participant will enter into informal complaint resolution.
- Documenting relocation services and maintaining files on each program participant by Harris County subrecipients.



1.6 Environmental Review

All actions that utilize federal financial assistance must undergo an environmental review. The environmental review is meant to be a proactive step for protecting the environment and its inhabitants. It considers both the effects the proposal could create that change its environment and the effects imposed by the environment upon the proposal and its accomplishments.

A complete and clear project description should provide location specific information and geographic boundaries, as well as a delineation of all activities included in the overall scope of the project. The level of review varies depending on the type of activities a proposed project will involve as well as other factors, such as but not limited to environmental concerns or location within a flood plain. See Tab II Site Selection & Neighborhood Compatibility under Environmental Review Requirements for more information.

1.7 Restrictive Covenants and Loan Security

HCCSD requires a Land Use Restrictive Agreement (LURA) to secure performance during required affordability periods. Projects that require subordination of the County's LURA to a senior mortgage lender may be deemed not eligible to receive County funding. Harris County's LURA shall be superior to all financial liens; however, may be subordinated to covenants more restrictive in terms of affordability than the County's LURA. When assistance is provided in the form of a loan, such loan shall be secured by a recorded Deed of Trust.

1.8 County Project Costs

HCCSD shall include funds in the overall project budget to cover the cost for inspection of the project construction. Inspections will be performed by County staff to ensure compliance with federal, state, and local regulations as well as to ensure perform measures as detailed in the contract between Harris County and the subrecipient. The total cost shall be approximately 2-3% of the project budget. This amount will be included in the maximum subsidy calculation and, if match is required, in the required match provided by the subrecipient.

1.9 Procurement Requirements

HCCSD requires that applicants selected to receive federal funds comply with the award of contract to the lowest and most responsive bidder in the County Purchasing Act, V.T.C.A., Local Government Code 262.021 *et seq.*, concerning contracts of \$25,000 or more as outlined in the grant agreement. The Subrecipient shall ensure that all contracts let in the performance of this Agreement are awarded in a fair, open, and competitive manner. Executed copies of all contracts shall be forwarded to the Grantee, along with documentation concerning the selection process, if not completed in coordination with Harris County staff. The Subrecipient must adopt and utilize written selection criteria for use in the selection of subcontractors, which selection criteria must conform to the Procurement requirements of 24 C.F.R. 92.356 and 24 C.F.R. 85.36 if subrecipient is a governmental or for-profit entity and 24 C.F.R. 84.44 AND 84.84 if subrecipient is a nonprofit entity.



If proposed project is also applying for Low Income Housing Tax Credits and subrecipient has pre-selected a general contractor as part of the development team, all subcontractors must be procured as noted above.

1.10 Identity of Interest Transactions

Identity of Interest refers to situations where the owner, developer, or project sponsor control or own the services to be provided in a project, including but not limited to the general contractor, subcontractor, property manager or other service provider. A declaration of subcontractors or suppliers for which there is an identity of interest through joint ownership with the owner or developer must be declared in the application for funding submitted to the HCCSD, and disclosed at completion of the project. Failure to declare Identify of Interest situations may deem a project ineligible. A cost certification shall also be required when such transactions are proposed to ensure that services are provided at a reasonable market cost. HCCSD reserves the right to adjust developer profit and/or the amount of funds provided to a project when an Identify of Interest situation exists.

1.11 Conflict of Interest

The standards in OMB Circular A-110, Subpart C, provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

The CDBG regulations at 24 CFR 570.611 and HOME regulations at 24 CFR 92.356 provide that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or subrecipient that are receiving CDBG or HOME funds and (1) who exercises or has exercised any functions or responsibilities with respect to activities assisted with CDBG funds; or (2) who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest from a CDBG-assisted or HOME-assisted activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

Identity of interest means any relationship (generally based on family ties or financial interests) between (a) the seller and purchase (prospective owner), (b) the owner and/or general contractor and the subcontractor, material supplier or equipment lessor, or (c) the owner and the lender, which could reasonably give rise to a presumption that the parties to the transaction may operate in collusion in establishing the purchase price of the property, the cost of the rehabilitation work, or the terms of the financing. Examples of identity of interest relationships include:



- When the owner or one or more of the officers, directors, stockholders, or partners of a corporation or partnership owning or selling the property has any family tie or is an officer, director, stockholder or partner of the general contractor or lender, or has any financial interest whatsoever in the general contractor or lender.
- When the seller or general contractor advances any funds to the owner (purchaser) or takes stock or any interest in the owner's (purchaser's) corporation, partnership, or property as payment.
- When any of the parties is involved with another in an enterprise wholly separate from the proposed HOME/CDBG project.

Conflicts of Interest and Identity of Interest must be disclosed in the request for proposals application for HCCSD funding.

1.12 Inter-creditor Agreement

Within thirty (30) days of the execution of an Agreement, the subrecipient shall secure the execution, by the Senior Lender on the Project, of an Inter-creditor Agreement or Declaration which at a minimum shall: (1) require the Senior Lender to notify Grantee in the event the Senior Lender learns of a default under the Senior Loan for the Project, and (2) require the Senior Lender to give Grantee written notice of and reasonable opportunity to cure any default by subrecipient under the Senior Loan (provided, however, Grantee shall have no obligation to cure any such default). Following execution, the Inter-Creditor Agreement shall be attached to the final agreement.

1.13 Section 3 Requirements

Section 3 of the Housing and Urban Development Act of 1968 requires that employment and other economic opportunities generated by U.S. Department of Housing and Urban Development (HUD) financial assistance, such as Community Development Block Grant (CDBG) Program and HOME Investment Partnerships (HOME) Program, shall to 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 businesses which are located in or owned in substantial part by persons residing in the area of the project.

Section 3 compliance must be adhered to by any public, private, or non-profit agency that is a recipient of over \$200,000 in HUD funding for construction-related projects. Additionally, the recipients' contractors and subcontractors who receive contracts or subcontracts of \$100,000 or more must also comply with Section 3.



1.14 Davis-Bacon & Related Acts

The Davis-Bacon Labor Act provides that contracts in excess of \$2,000 (for CDBG), or for the construction of 12 or more units of housing (for HOME) to which the United States (federal funds) is a party for the construction, alteration and/or repair, including painting and decorating, of federally funded projects which involve the employment of laborers and/or mechanics, shall contain provisions with respect to: minimum wages; fringe benefits; payments without deductions or rebates; withholding funds from contractors to ensure compliance with the wage provisions; and termination of the contract or debarment for failure to adhere to the required provisions.

1.15 Bonding and Insurance Requirements

Public Liability Insurance

The subrecipient shall furnish a Certificate of Insurance as proof that it has secured and paid for policies of public liability and automobile liability insurance covering all risks incident to or in connection with the execution, performance, attempted performance or nonperformance of this Agreement. The amounts of such insurance shall not be less than the maximum liability, which can be imposed on Grantee under the laws of the State of Texas. At present, such amounts shall be as follows:

Property damage, per occurrence	\$100,000
Bodily injury or death, per person	\$100,000
Bodily injury or death, per occurrence	\$300,000

Subrecipient understands that such insurance amounts may be revised upward at Grantee's option and that Subrecipient shall revise such amounts within thirty (30) days following notice to Subrecipient of such revisions.

Workers' Compensation Insurance

Subrecipient also covenants and agrees to cause the Subrecipient to furnish Grantee Department with a Certificate of Insurance as proof that it has obtained and paid for a policy of Workers' Compensation Insurance in the amounts required by State law, covering any and all employees of the Subrecipient active in the Program funded under this Agreement.

Documentation of Insurance Coverage

Subrecipient shall submit to Grantee Department documentation that the Subrecipient has obtained insurance coverage as required in this Agreement prior to payment of any monies hereunder.

Performance and Payment Bond or Takeout Agreement

The Subrecipient will provide or cause to furnish the Grantee with Certificate of Insurance as proof that it has obtained and paid for a certificate of Payment Bond and Performance Bond or



Take-Out Agreement as required by OMB Circular A-102, if subrecipient is a governmental or for-profit entity, or A-110 if subrecipient is a non-profit/educational/ hospital entity.

1.16 Building Codes

Housing that is constructed with federal funds provided through Harris County must meet all applicable local codes and ordinances. All properties shall be constructed in accordance with the latest edition of the International Residential Code (IRC) and must meet the HCCSD Minimum Acceptable Standards. Please see Minimum Acceptable Standards for Residential Acquisition, Construction, and Rehabilitation under Tab IV.

1.17 Construction Methods and Sustainable Design

Designing and locating affordable housing with sustainable design and green building in mind will ensure efficient use of land, reduce energy costs and add to the overall appeal of the property. Harris County and HCCSD recognizes developments with their construction, operations, and maintenance have an impact on the environment and the families who live within them. It is important to the county that housing positively contribute to the human and environmental health of our residents and our neighborhoods. Homes can consume large amounts of natural resources (electricity, water, and natural gas) and generate large amounts of solid waste in the United States. The sustainable design and green building practices within this document seek to contribute to the efforts to decrease energy and water usage, reduce operating and maintenance cost, improve the efficiency and longevity to the building system. Development for both new construction and renovation/rehabilitation of existing buildings are encouraged and in some cases required to be designed and constructed with energy savings methodologies and renewable energy applications.

1.18 Energy Star Certification Required

The Energy Star standard applies to new or “major” rehabilitation of existing buildings for single- or multi-family units. Housing units shall be designed to meet the National Energy Five Star efficiency performance standards (www.energystar.gov). Harris County requires that all affordable housing requesting federal assistance, at a minimum, meet Energy Star certification. Certification must be documented by an independent Home Energy Rater (HER) as meeting guidelines for energy-efficiency set by the U.S. Environmental Protection Agency (EPA). Energy Star units exceed the 2009 International Residential Code (IRC), and include additional energy-saving features that typically make them 20-30% more efficient than standard homes. Applicants should review the Energy Star Qualified Home version 3.0 National Program Requirements and the Energy Star Reference Design guide.

Homes should be constructed to be Energy Star certified through a combination of energy-efficient improvements, including:

- Effective Insulation System



- High-Performance Windows
- Tight Construction and Ducts
- Efficient Heating and Cooling Equipment
- ENERGY STAR Qualified Lighting and Appliances

Multi-family residential units may be eligible for Energy Star’s New Homes Program or the Qualified Multi-family High Rise Building program certifications. Developers should consult the EPA ENERGY STAR program website at www.energystar.gov for more information to determine the applicable program.

1.19 LEED Certification

Leadership in Energy & Environment Design (LEED) is an internationally recognized green building certification system, providing third-party verification that a building or community was designed and built using strategies intended to improve performance in metrics such as energy savings, water efficiency, CO2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts. Harris County encourages and gives added consideration to those projects meeting this criteria. Applicants for HCCSD funds should provide in their application documentation from the architect describing the sustainability approaches within the project and how it will meet LEED certification.

1.20 ADA Standards for Accessible Design and Section 504

Federal laws define a person with a disability as “Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.” Regardless of whether a person lives in private or public housing, federal laws provide the following rights to persons with disabilities: prohibits discrimination, requires housing providers to make reasonable accommodations for persons with disabilities or to allow persons with disabilities to make reasonable modifications to a structure to allow the full enjoyment of the housing and related facilities, and requires that new covered multifamily housing be designed and constructed to be accessible.

ADA Standards for Accessible Design

Harris County requires those requesting federal assistance for rental construction/development projects to comply with federal regulations found at 28 CFR Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, excerpt from 28 CFR Part 36: ADA Standards for Accessible Design. Title II of the ADA covers housing provided or made available by a public entity, including public housing authorities.

Section 504

Section 504 of the Rehabilitation Act of 1973, as amended, provides for equal opportunity to enter facilities and participate in programs and activities. All projects and programs receiving federal assistance must evaluate the current state of accessibility of their programs and activities to disabled participants and employees.



Harris County requires those requesting federal assistance for affordable housing to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program. Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) will be deemed to comply with the Section 504 regulation. Accessible units must be, to the maximum extent feasible, distributed throughout the development and must be available in a sufficient range of sizes and amenities so as not to limit choice.

The project developer shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the requirements of Section 504 and UFAS. The project sponsor shall document and report the results of all inspection activities upon request by Harris County. To comply with Section 504, the project sponsor shall designate and maintain at a minimum, five (5%) of the dwelling units in the development (but not less than one unit) that must be accessible to individuals with mobility impairments. An additional two percent (2%) of the dwelling units (but at a minimum not less than one unit) must be accessible to individuals with sensory impairments (i.e. hearing or vision impairments), unless HUD prescribes a higher number pursuant to 24 CFR & 8.22(c)

1.21 Fair Housing and Affirmative Marketing

Housing projects to the extent possible under the law should ensure all Americans have equal access to the housing of their choice. HUD-funded grant recipients and subrecipients are obligated under various laws not to discriminate in housing or services directly or indirectly on the basis of race, color, religion, sex, national origin, age, familial status, or disability. Design and construction documents for each development shall comply with all Fair Housing Laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA). All rental and homebuyer construction/development projects are required to have a formal Affirmative Marketing Plan. Affirmative marketing differs from general marketing activities because it specifically targets potential tenants and homebuyers who are least likely to apply for the housing in order to make them aware of available affordable housing opportunities. Affirmative Marketing Plans must be submitted as part of an application and will be reviewed to ensure compliance.