



CITY OF HOUSTON

Housing & Community Development Department

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March 26, 2019

**Subject: Letter of Clarification No.3
NOTICE OF FUNDING AVAILABILITY(NOFA) – 2019
DISASTER RECOVERY (DR-17) MULTIFAMILY PROGRAM- ROUND 1**

Reference: Request for Proposal No.: T28910

To all Prospective Proposers:

This Letter of Clarification is issued for the following reasons:

- Extension of NOFA deadline
- Extension of question period
- Notification of CDBG eligible expenses
- Description and further clarification of HCDD's Workforce Protection Program
- Supplemental Application-HCDD Compliance Plan

Application Due Date

HCDD acknowledges the following measures will require applicants to revise and potentially update their projections. HCDD will extend the application date for all applications and revisions until **Friday, April 12th at 3:00 pm**. Otherwise, all applications must be submitted based on the instructions outlined in the NOFA.

Question Period

HCDD acknowledges the following measures may inspire additional questions. HCDD will extend the date for inquiries under the NOFA until **Monday, April 1st at 3 pm**. Responses will be issued by **Friday, April 5th**.

CDBG Eligible Expenses

Applicants under this NOFA are notified that CDBG-DR awards must be allocated towards eligible costs for a development. Eligible costs applicable to this NOFA include acquisition, certain soft costs associated with development approved by HCDD (i.e. legal, architectural, survey, engineering etc.) and construction costs permitted under the waiver identified in 83 FR 5844, Vol. 83, No. 28.

Upon HCDD's recommendation of award, an applicant will be required to submit a cost allocation worksheet (provided by HCDD at award) to determine eligible expenses funded with CDBG-DR proceeds along with other sources identified within the application.

Workforce Protection Measures

HCDD is committed to ensuring that the construction it finances protects workers on these projects by making sure they are safe, are compensated in accordance with applicable law and have access to pathways for sustainable careers in the construction industry. Contractors who work on developments financed under this NOFA will be required to implement certain policies designed to ensure every worker on the project is safe, receives appropriate pay, and has a path toward building a career in construction. All contractors of any tier that perform work on the development, unless otherwise specified, will be required to comply with the following workforce protection program and employment measures.

HCDD acknowledges many of these provisions may require additional costs. The department will consider award requests sufficient to cover additional costs associated with the new requirements. However, HCDD will still require the limitation of CDBG-DR awards to no greater than 50% of total development costs. HCDD reserves the right to revise the requirements of the workforce protection measures on an as-needed basis before and after issuance of CDBG-DR awards.

Pay or Play

In an effort to create a level playing field for competing contractors, the Pay or Play program (POP) mandates City Contractors to offer their employees a minimum level of health benefits or contribute a prescribed amount towards "Contractors Responsibility Fund" to defray the costs of providing health care to uninsured people in the Houston and Harris County area.

This program applies to contracts for services in which the total expenditure by the City, including contingencies, amendments, supplemental terms and/or change orders equals or exceeds \$100,000. This program also applies to subcontracts for services in which the total value of the subcontract, including contingencies, amendments, supplemental terms and/or change orders equal or exceeds \$200,000.

All project contractors (of any tier) must comply with the City's Pay or Play policies with regard to every Section 3 worker and apprentice-level worker that they employ for work on the project. . Prior to the commencement of a covered contract, the contractor will declare its intent to comply with the Program and will submit a plan for compliance. Contractors will report to the City regarding the identity of covered subcontracts and covered employees working under subcontracts in the form and manner prescribed by the Administrator (OBO).

Pay

If the contractor elects to comply by paying, the contractor will pay to the City \$1 for each regular hour of work performed by covered employees, including covered employees of covered subcontractors. All payments will be deposited into the City shall be deposited in the Contractor Responsibility Fund.

Play

If the contractor elects to comply by "playing", the contractor will provide documentary proof in a form acceptable to the Administrator that it provides the requisite level of health benefits to each covered employee, and that covered employees of covered subcontractors are provided with health benefits. A contractor must contribute no less than \$150 per covered employee per month toward the total premium cost; and the covered employee may not contribute more than \$150 per month toward the premium. A contractor is deemed to have complied with this provision with respect to a covered employee who is not provided health benefits if the employee refuses the benefits and the employee's contribution to the premium is no more than \$40 per month.

Program exceptions such as waivers and types of contracts that do not require participation can be found in Executive Order 1-7. For additional information regarding the City of Houston, Housing and Community Development Department compliance requirements you may visit:

http://www.houstontx.gov/housing/multifamily_compliance.html

Workers' Compensation

The owner and general contractor will provide workers' compensation coverage provided with either project level policy or umbrella policy provided by the owner or GC HCDD will require that the owner and GC place signage onsite to properly inform workers of their benefits under this coverage. Developer must provide the Director of HCDD or his or her designee with evidence of worker's compensation coverage at the time of loan closing.

Awardees will be subject to these terms which will be included within the loan agreement.

Safety Training and Hourly Base Wage Rate

HCDD has expanded the scoring criteria to include the developer's statement on safety training and an hourly base wage rate. Acceptable responses will be awarded **30 points** towards their application.

The owner and general contractor will be required to ensure that (1) all individuals performing project work, regardless of job designation or employment status, have received OSHA 10 certification and (2) at least one (1) on-site supervisor with OSHA 30 certification is present on the job site at all times that work is being performed.

In addition, any individual performing project work, regardless of job designation or employment status, will receive a minimum hourly wage of no less than the higher of (1) \$15.00 per hour or (2) the Federal prevailing wage.

If the applicant elects to include their statement on safety training, they will be required to certify within the HCDD contract they will employ contractors with adequate OSHA training. HCDD will require the construction contract with the general contractor include this provision as an addendum. HCDD will test compliance during onsite visits and payment applications.

If the applicant elects to include their statement on an hourly base wage rate, they will be required to certify within the HCDD contract they will comply with the Hourly base rate requirement of \$15.00 per hour for each worker. HCDD will require the construction contract with the general contractor include the Hourly Base Rate of \$15.00 requirement along with the applicable DBRA wage scale as an addendum. HCDD will test compliance during construction.

Awardees will be subject to these terms which will be included within the loan agreement.

Employment Training and Apprenticeships

HCDD expects project contractors to commit to the development of their craft workforce and invest in skills training linked to construction career paths. A minimum of 10% of all labor hours on each project must be performed by individuals enrolled in apprenticeship or craft training programs that are certified by the U.S. Department of Labor.

Owners will be required to certify within the HCDD contract they will employ contractors that adhere to the employment and apprenticeship policy. HCDD will require the construction contract with the general contractor include acknowledgement that 10% of all labor hours will be performed by apprentices enrolled in apprenticeship or craft training programs that are certified by the Department of Labor. HCDD will test compliance during construction.

Awardees will be subject to these terms which will be included within the loan agreement.

Section 3

Awardees must, to the greatest extent feasible, employ Section 3 Residents (as defined in Title 24 CFR Part 135) for 30 percent (30%) of the aggregate number of new hires for each year over the duration of the project. At a minimum, awardees must, to the greatest extent feasible, ensure that 10 percent (10%) of all project work hours are performed by Section 3 Residents.

Awardees will be subject to these terms which will be included within the loan agreement.

Employment Classification

HCDD expects its awardees to hire responsible contractors who can reliably verify the proper employment classification of all individuals they engage to perform work on covered projects and provide verified reporting of wages owed and paid to employees and monthly certified payroll data to the City.

All Section 3 workers and apprentice-level workers must be directly employed by a project contractor. In addition, all self-employed workers will be subject to the same compensation standards and protections as other employees/contractors outlined in this policy.

Awardees will be subject to these terms which will be included within the loan agreement.

Davis Bacon and Related Acts (DBRA)/Labor Standards Provisions

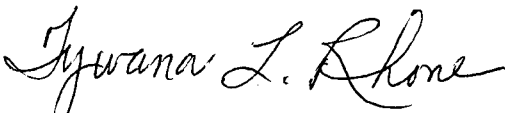
All HCDD financed developments require compliance with the Davis-Bacon Labor Standards no matter the use of HCDD's funds. Davis-Bacon and Related Acts require that prevailing wage rates be paid to all construction laborers regardless of job designation or employment status.

Compliance Plan

Respondents of this NOFA will be required to provide a written acknowledgment the applicant has reviewed Clarification 3 and will be required to submit a plan for implementing these measures. An example of a compliance plan can be found as an addendum to Clarification 3. The plan is not required to have detailed procedure, but at minimum an acknowledgement that the applicant will inform general contractors that they and all subcontractors of any tier will be subject to these terms when solicited for the referenced development.

This Letter of Clarification will be considered part of the solicitation referenced on the first page of this document.

Furthermore, it is the responsibility of each PROPOSER to obtain any previous Letter(s) of Clarification associated with this solicitation.



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Attachment: Supplemental Application HCD Compliance Plan

DISASTER RECOVERY (DR-17) MULTIFAMILY PROGRAM - ROUND I

SUPPLEMENTAL APPLICATION

HCDD Compliance Plan

Safety Training and Hourly Base Rate

Applicant: _____

Development Name: _____

Safety Training

Contracts funded in whole or in part by the United States Department of Housing and Urban Development are subject to the Contract Work Hours and Safety Standard Act (CWHSSA), found at 29 CFR, part 5. The City of Houston is committed to ensuring the safety of its employees and encourages its developers and their contractors and their subcontractors to pursue the same goal. Applicants must answer the following questions and provide evidence that they meet minimum applicable construction safety standards:

1. Will the applicant have written agreements with its contractors that require its contractors to have a written construction safety program? _____
2. Will the applicant have written agreements with its contractors that require its contractors to provide a minimum of ten hours of OSHA-approved safety training? _____
3. Will the applicant have written agreements with its contractors that require its contractors to employ a safety representative with a minimum of 30 hours of OSHA-approved supervisor training on each construction site?

Hourly Base Wage Rate

The City of Houston is committed to providing its employees with a living wage and encourages its developers and their contractors and their subcontractors to pursue the same goal. Applicants must submit a statement indicating whether employees performing work on the CDBG-DR funded projects are paid the higher of (i) the applicable U.S. Department of Labor prevailing wage or (ii) \$15.00 per hour.

Will the applicant require all contractors and subcontractors to pay their employee wages within the range outlined above? _____

If such employees or contractor's and subcontractors' employees are not paid within the hourly wage rates set out above, the applicant must indicate in its statement the actual amounts paid to such employees.

Application Score

By responding "Yes" to all questions above, that applicant will be awarded **30 points** within HCDD's scoring criteria.

The undersigned certifies that all statements in this application and on each document required to be submitted in connection herewith, including federal income tax returns, are true, correct, and complete. The undersigned further agrees to notify the City promptly of any material change in any such information.

Applicant

Date