

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DEPARTMENT OF MENTAL HEALTH**

**REQUEST FOR PROPOSALS
REFERENCE GUIDEBOOK**

***Low Income Housing Tax Credits
Housing Production Trust Fund Program***

**To Accompany DMH / DHCD Request for Proposals
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SECTION 1

Regulatory Requirements of Funding Sources

Housing Production Trust Fund Regulatory Requirements

The Housing Production Trust Fund is a local source of funding for affordable housing projects. Funds may be used to finance for-sale and rental housing construction, rehabilitation, and preservation, for both single-family and multifamily units. Funds also may be used to acquire vacant land and properties for redevelopment of affordable housing.

The following sections outline the regulatory requirements and information required from the applicant. Note that this information is provided in addition to, and not in substitution for, the information provided in the Request for Proposals.

A. HPTF Eligibility - For a project to qualify for HPTF, it must fall within the scope of the program. The current Housing Production Trust Fund Program regulations found at Title 10, Chapter 41 of the D.C. Municipal Regulations. See Attachment A.

In particular:

- Project beneficiaries (e.g., homebuyers and tenants) must meet the income levels shown in Attachment B. This requirement applies only to those HPTF-assisted units (“Reserved Units”) in mixed-income housing developments.
- Subject to the Director’s discretion, at least 20 percent of the units in mixed-income housing developments must be reserved units regardless of the amount of HPTF assistance provided to the project.
- Subject to the Director’s discretion, HPTF monies may compose no more than 49 percent of the total sources for the project.

See the regulations for the complete set of eligibility requirements.

B. Davis-Bacon Wage Rates – Davis-Bacon wage regulations specify minimum wage rates that must be paid to certain categories of workers on a construction project. These regulations do apply to HPTF funded construction and rehabilitation projects of eight (8) or more units, even if there are no federal sources in the project.

The regulations also apply if HPTF is used only for soft costs, for example fidelity bonds; interest reserves; and site cleaning and fencing for demolition. The regulations do not apply if the funds are used only for non-construction expenses such as land acquisition; architectural and engineering fees; or fees for other services, such as legal, accounting or construction management.

The actual Davis-Bacon requirements will be determined upon the selection of the project. Applicants must certify that they will comply with any applicable Davis-Bacon requirements.

C. Affirmative Action - The Mayor’s Office of the District of Columbia established a policy in June 1985 aimed at providing equal opportunity. Mayor’s Order 85-85 has five objectives: 1) provide equal opportunity in employment; 2) prohibit discrimination in employment; 3) provide equal opportunity to all persons for participation in all District of Columbia contracts; 4) provide equal opportunity to Local/Small Disadvantaged Business Enterprises (LSDBEs) in the performance of District of Columbia contracts; and 5) promote the full

realization of equal employment through affirmative, continuing programs by contractors and sub-contractors in the performance of contracts with the District of Columbia Government. After selection of the proposal, an Affirmative Action Plan (AAP) is required to be submitted to DHCD for preliminary approval. The AAP must receive final approval by the Office of Local Business Development before the execution of an agreement. Also, enclosed with the AAP is a First Source Employment Agreement that must be completed and provided as part of the AAP.

The Order applies to HPTF awards in the following cases, regardless of the number of units assisted: construction/rehabilitation awards of \$25,000 or more; or non-construction awards of \$10,000 or more. In these cases, after selection of the proposal, an Affirmative Action Plan (AAP) is required to be submitted to DHCD for preliminary approval. The AAP must receive final approval by the Office of Local Business Development before the execution of an agreement. Also, enclosed with the AAP is a First Source Employment Agreement that must be completed and provided as part of the AAP.

- D. **HUD Section 3** – HUD Section 3 requirements apply to all DHCD funded projects. DHCD encourages developers to make the economic opportunities generated by HPTF financial assistance available to low, very low and extremely low income persons, to the greatest extent feasible.
- E. **Tax Verification** - The Tax Verification validates that a developer is in compliance with the District of Columbia license and tax requirements. Verifications are required from two (2) city organizations: the D.C. Department of Employment Services (DOES) and the D.C. Office of Tax and Revenue (OTR). The results of this verification will determine whether the requesting organization is eligible to receive funding from DHCD.
- F. **Environmental Review** – There are no specific environmental review requirements for HPTF funded projects, as there are for CDBG and HOME funded projects. Nonetheless, depending upon the project's category, some level of environmental review may be required. Since the environmental review may take several months, we are asking that the applicant attempt to classify the project. This will speed the process and allow the applicant to know which level of review is required and, therefore, what to expect in terms of a timeline. DHCD will verify this information.
- G. **Vendor Eligibility List Verification** – The District of Columbia uses a list of “debarred” organizations that are ineligible to do business with the city. Organizations on this list cannot receive funding from DHCD. DHCD must verify that an organization is not on this list prior to approval of any project. Nothing is required of the applicant at this time.
- H. **Site Control** - The sponsoring organization must have the right to propose a site for development. Proof of control is required and must be submitted with the application. ***Projects without site control are ineligible for funding.*** Acceptable documents that can demonstrate site control are:
 - ◆ A copy of a long-term lease

Attachment A

CODE OF D.C. MUNICIPAL REGULATIONS
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TITLE 10. PLANNING AND DEVELOPMENT CHAPTER 41. HOUSING PRODUCTION TRUST FUND PROGRAM

CDCR 10-4100 (2007)

10-4100. General Provisions.

4100.1 This chapter shall set forth rules governing the operation of the Housing Production Trust Fund (the Fund), and administered by the D.C. Department of Housing and Community Development (DHCD).

4100.2 The purpose of the Fund shall be to provide financial assistance to non-profit and for-profit developers for the planning and production of low, very low and extremely low income housing and related facilities.

4100.3 The Fund is established under the authority of the Housing Production Trust Fund Act of 1988, D.C. Law 7-202 (the Act), D.C. Code § 45-3101 et seq. (1990 Repl. Vol.).

4100.4 The Director, for good cause shown in writing, may waive any provision of this chapter, except the provisions of §§ 4101.3, 4105.2, 4106.1, 4106.4, 4107.11, and 4110.3 consistent with applicable law. All waivers shall be justified by a determination that undue hardship will result from applying the requirement and where application of the requirement would adversely affect the purpose and objectives of the Fund.

STATUTORY AUTHORITY: *D.C. Code §§ 42-2801 et seq.*; Mayor's Order 89-130

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)
February 14, 2003 emergency at 50 DCR 1605 by the Department of Housing and Community Development
EXPIRED
November 22, 2002 *10 DCMR 4100 to 4199* amended at 49 DCR 10582 by the Department of Housing and Community Development

CDCR 10-4101 (2007)

10-4101. Organization of the DHCD Housing Production Trust Fund.

4101.1 DHCD shall organize and administer the Fund to facilitate creation of affordable housing and related activities for the citizens of the District of Columbia through the provision of financial assistance to eligible non-profit and for-profit developers.

4101.2 The Fund shall be a permanent proprietary revolving fund of identified, renewable, and segregated capital.

4101.3 DHCD may, subject to the provisions of the District of Columbia Depository Act, designate financial institutions described in § 4105.2(a) and located in the District of Columbia as depositories for the Fund and deposit all or a portion of the monies held by the Fund in the designated depositories.

4101.4 When selecting the financial institutions to serve as depositories for the Fund, DHCD shall give priority to financial institutions described in § 4105.2(a) with the following characteristics:

- (a) Demonstrated commitment to and expertise in community development lending;

(b) Ability and written commitment to provide investments of equity capital to Fund-assisted projects either directly or through a Bank Community Development Corporation (Bank CDC), or similar subsidiary entity;

(c) Demonstrated commitment to organize and capitalize a Bank CDC or increase the capitalization of an existing Bank CDC in amounts related to Fund deposits; and

(d) The ability and commitment to satisfy other criteria which DHCD may reasonably establish and make known to potential depositories.

4101.5 There shall be deposited in the Fund the following:

(a) Fee option contributions made by commercial developers pursuant to any commercial linked development program established by the Council and codified by D.C. Statute;

(b) Community Development Program contributions made pursuant to the District of Columbia Regional Interstate Banking Act of 1985 Amendment Act of 1985, effective April 1986, D.C. Law 6-107; *D.C. Code §§ 26-801 et seq.*, as determined by the Superintendent of Banking and Financial Institutions in consultation with DHCD;

(c) Appropriated amounts;

(c1) Amounts to be deposited in the Fund pursuant to Section 501(b)(3) of the Housing Act of 2002 (D.C. Law 14-114), as amended by Section 1302 of the Fiscal Year 2003 Budget Support Act of 2002.

(d) Grants, fees, donations, gifts, investments or other deposits from public and private sources;

(e) Repayments of principal and interest on loans provided from the Fund, including repayments of principal and interest on loans authorized by the Homestead Housing Preservation Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Official Code § 42-2101 et seq.);

(f) Proceeds realized from the liquidation of security interests held by the District under the terms of assistance provided from the Fund, including liquidation of security interests held by the District under the terms of assistance provide from the Fund through the Homestead Housing Preservation Program Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Official Code § 42-2101 et seq.);

(g) Interest earned from the deposit or investment of monies from the Fund;

(h) All revenues, receipts, and fees of whatever source derived from the operation of the Fund;

(i) Lease payments received under the Land Acquisition for Housing Development Opportunities Program;

(j) Any fee or portion of an application fee that the Zoning Commission, by rule, may require an applicant for a Planned Unit Development to pay when the applicant proposes a housing production option or fee option in connection with a Planned Unit Development application, to the extent that the Zoning Commission designates that the fee or portion of that fee shall be allocable to the Fund;

(k) Available Community Development Block Grants; and

(l) Any other funds as may be designated for this purpose by Council action.

4101.6 The Fund shall be organized into a Housing Production Component and a Special Financial Products Component.

4101.7 The Housing Production Component shall provide loans and grants for the production of housing for target populations on a continuing basis as authorized by D.C. Law 7-202, as amended, and detailed in this chapter; including loans and grants for acquisition, construction, rehabilitation and preservation of housing affordable by low, very low and extremely low income households. The duration of the period of affordability for which the housing shall be affordable on a continuing basis is detailed in § 4107.2(c).

4101.8 The Special Financial Products Component shall provide a variety of specialized forms of financial assistance authorized by D.C. Law 7-202 and specified in this chapter.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)

January 13, 2006 *10 DCMR 4101.7, 4102.1, 4107.2, 4112.8, 4112.9, 4199.1* amended at 53 DCR 293 by the Department of Housing and Community Development
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CDCR 10-4102 (2007)

10-4102. Responsibility and Authority of DHCD.

4102.1 DHCD shall have responsibility and authority for administration of the Fund. DHCD is authorized to pay all reasonable costs of fund administration from the Fund not to exceed in a fiscal year 5 percent of the funds deposited into the Fund during the year.

4102.2 The Director shall allocate monies deposited in the Fund between the Housing Production Component and the Special Financial Products Component. Funds shall be allocated so that, in a given year, no more than 25 percent of the Fund may be allocated to the Special Financial Products Component.

4102.3 DHCD may establish specific underwriting criteria, evaluation procedures, priorities, and other criteria and procedures consistent with the Act and this chapter as may be necessary for the effective day-to-day operation of the Fund. These guidelines and procedures may be revised from by DHCD.

4102.4 The guidelines and procedures shall be specified in writing and made available to any financial institution seeking to be designated as a depository for the Fund pursuant to § 4101.3, or as a Participating Lender as described in § 4105.1 or to any applicant for assistance under the Fund.

4102.5 DHCD shall establish a One Stop Center to provide information to potential developers considering the development of affordable housing, particularly minority and non-profit developers.

4102.6 The One Stop Center shall provide potential housing developers with direct access to information and assistance on housing production programs including, but not limited to, the following:

- (a) Available public and private sources of debt and equity capital;
- (b) Housing programs of DHCD, the D.C. Housing Finance Agency, other District and federal agencies; and
- (c) Pre-application technical assistance to non-profit housing developers.

4102.7 DHCD shall develop an annual community outreach plan, which shall promote maximum visibility of the Fund and its operations and full participation by developers, lenders, and District residents who request assistance through the Fund.

4102.8 DHCD shall periodically review Fund revenue sources to determine what additional revenue sources may be required to assure the continuation of the Fund and its programs and, if necessary, shall request Council action to access revenue sources otherwise unavailable to DHCD.

4102.9 DHCD shall also be responsible for the following:

- (a) Filing with the Chairperson of the Council Committee on Housing and Economic Development quarterly and annual reports on activities and expenditures of the Fund;
- (b) Conducting public hearings, and making annual assessments of the continued housing needs of low, very low and extremely low income households;
- (c) Monitoring for compliance written agreements entered into by DHCD and commercial developers any Borrower or Grantee receiving Fund assistance pursuant to the Act and the rules; and
- (d) Commissioning an annual audit report of the Fund by a Certified Public Accountant or firm of public accountants independent of DHCD in accordance with generally acceptable government auditing standards covering financial and compliance audits which sets forth the amount of deposits in the Fund, the aggregate amount of all loans or grants issued by the Fund, and the number and amount of Fund loans in default.

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CDCR 10-4103 (2007)

10-4103. The Housing Production Trust Fund Board.

4103.1 The Mayor shall establish an advisory Housing introduction Trust Board (Board) to advise DHCD on the development, financing and operation of the Fund and other matters related to the planning and production of housing for low and moderate income households.

4103.2 The Board shall offer advice with respect to the following functions of the DHCD Director:

(a) Identifying and developing sources of private and public capital for the Fund and its projects, to ensure the growth and continuation of the Fund and the achievement of its mission;

(b) Advocating participation in the Fund and its activities by private for-profit and non-profit entities to increase the production of affordable housing and related facilities for low, very low and extremely low income households;

(c) Developing strategies to leverage capital for profit and non-profit community development corporations, public development corporations and similar entities and to identify other resources available for the production of affordable housing for low, very low and extremely low income households;

(d) Monitoring, reviewing, and analyzing Fund programs and operations, providing guidance on the most effective private and public market practices for management of the Fund;

(d1) Monitoring, reviewing and analyzing the actions required to ensure that funds are allocated and used as required by Title V of the Housing Act of 2002 (D.C. Law 14-114);

(e) Encouraging and assisting housing developers, particularly non-profit housing developers, to effectively and efficiently access the Fund, DHCD, and private sector real estate finance opportunities to secure debt and equity capital required to provide affordable housing opportunities and on-site child development facilities for low, very low and extremely low income households; and

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CDCR 10-4104 (2007)

10-4104. The Housing Production Component.

4104.1 Funds allocated to the Housing Production Component may be used to provide Housing Production loans, grants and equity capital investments by DHCD to Eligible Entities described in § 4106.1.

4104.2 DHCD may establish guidelines and procedures consistent with the Act and this chapter as may be necessary to review and authorize equity investments by the Fund. These criteria and procedures may be revised by DHCD.

4104.3 Housing Production funds may be used for the following activities:

(a) Acquisition of real property for housing uses, including housing for the elderly, disabled or handicapped;

(b) Construction of residential structures or substantial rehabilitation of housing and related facilities, including the provision of loans to develop housing and provide services for the elderly, elderly special needs, disabled or handicapped, or other special needs individuals and families;

(c) Improvements to preserve housing including repairs needed to correct or remove actual or incipient D.C. Code violations which, if not repaired, would reasonably be expected to result in District of Columbia Housing Code deficiencies within five (5) years; and

(d) Operating Capital for housing development, including funds to retain Professional Services, or to establish a Contingency Reserve Fund of up to ten percent (10%) of the Housing Production assistance, as follows:

(1) Professional services costs for reasonable and customary costs of architectural, engineering and related professional services required in the preparation of rehabilitation plans, drawings, write-ups, or specifications of work, including grants for architectural designs for adaptive re-use of previously on-residential structures, provided that the applicant is able to demonstrate in writing to DHCD or its designee that the property for which the architectural design for adaptive re-use has been submitted has been reviewed by a licensed architect and has been found to be economically feasible for conversion to housing.

(2) Financing costs, including processing and loan settlement. Examples of financing costs include the following:

(A) The cost of building permits and related fees;

(B) Loan origination fees;

(C) Credit reports;

(D) Fees for title work and other legal fees related to obtaining an acceptable title report;

(E) Fees for recording and filing legal documents related to the loan;

(F) Appraisal fees; and

(G) Fees for an independent rehabilitation cost estimate; and

(3) A Contingency Reserve Fund to be used for unanticipated construction interest or construction costs and unanticipated increases in other eligible costs; and

(e) Predevelopment expenses for projects sponsored by non-profit housing developers;

(f) Loans for first-effort model projects;

(g) Financing for construction loan guarantees or collateral;

(h) Other loans and grants for housing production determined by DHCD to be consistent with this Chapter and the Housing Production Trust Fund Act of 1988 as amended.

4104.4 All Housing Production Loans and Grants shall conform to the following underwriting standards and criteria:

(a) The Housing Production Loan or Grant shall constitute no more than forty-nine percent (49%) of the total Development Costs;

(b) The Housing Production Loan shall be secured by a lien on the property, which may be subordinate to other lien(s) encumbering the property;

(c) The term of the Housing Production Loan shall be up to forty (40) years, or the term of the superior mortgage, if any, whichever is longer;

(d) Any mortgage that is superior to a Fund loan may be refinanced subject only to the express prior written approval of DHCD or its designee; and

(e) DHCD reserves the right to review the terms and conditions of the new superior mortgage(s) and to require amendment of any conditions of the Housing Production Loan before granting approval of any proposed refinancing of a superior mortgage.

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CDCR 10-4105 (2007)

10-4105. Participating Lenders for Housing Production Trust Fund Assistance.

4105.1 DHCD may designate certain Financial Institutions to be Participating Lenders authorized to originate loans from the Fund pursuant to the Act and this chapter.

4105.2 The following types of financial institutions shall be eligible to apply to be designated Participating Lenders and to originate loans from the Fund:

(a) Financial institutions which have accounts insured by any agency of the United States or subsidiary entities of such institutions;

(b) Financial institutions who are approved mortgagees of the Federal Housing Administration, U.S. Department of Housing and Urban Development;

(c) Any financial institution including one designated by Fannie Mae or Freddie Mac as a seller/servicer, that presents evidence of responsibility, permanency, financial adequacy, and requisite administrative capabilities determined acceptable by DHCD;

(d) Any mortgage banking or mortgage brokerage firm licensed and regulated by the D.C. Office of Banking and Financial Institutions; and

(e) National nonprofit intermediaries such as the Local Initiatives Support Corporation and the Enterprise Foundation, and local nonprofit lenders that present evidence of responsibility, permanency, financial adequacy, and requisite administrative capabilities determined acceptable by DHCD.

4105.3 When evaluating Financial Institutions described in § 4105.2 to select Participating Lenders to originate loans from the Fund, DHCD may give priority to Financial Institutions which demonstrate the following:

(a) Ability and commitment to provide investments of equity capital to Fund-assisted projects either directly or through one or more subsidiary entities;

(b) Commitment to expand their housing production lending in the District which is not related to Fund assistance; or

(c) Demonstrated commitment to and expertise in housing production lending for low, very low and extremely low income households.

4105.4 Each Participating Lender approved to originate loans from the Fund shall be required to execute a contract with DHCD, which shall set forth the rights and responsibilities of both the Participating Lender and DHCD. The contract terms shall include, but not be limited to, the following:

(a) All Fund loans originated by the Participating Lender shall conform to written underwriting criteria, evaluation procedures, priorities, written provisions to prevent conflict of interest and identify any real or potential conflict of interest situations between the Participating Lender and the project sponsor and other criteria and procedures established by DHCD consistent with the Act and this chapter;

(b) All Fund loans originated by the Participating Lender shall be subject to review and audit by DHCD; and

(c) The Participating Lender shall be obligated to purchase at its own expense the full amount of any Fund loan which the Participating Lender has originated and DHCD has determined, in its sole discretion, not to be in compliance with the Act, this chapter, or DHCD's written criteria, procedures and priorities.

4105.5 DHCD shall establish and publish the procedures consistent with the Act and this chapter by which DHCD will allocate reservations of Fund monies to Participating Lenders.

4105.6 DHCD may authorize Participating Lenders to assess Eligible Borrowers fees, not to exceed an amount determined by DHCD to be reasonable, to accept and process applications submitted by Eligible Borrowers for Fund loans. The fees may include, but not necessarily be limited to, the following:

- (a) Origination fees;
- (b) Loan discounts;
- (c) Appraisal review fees;
- (d) Lender inspection fees; and
- (e) Fees for preparation or review of closing documents.

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CDCR 10-4106 (2007)

10-4106. Applications for Housing Production Trust Fund Assistance.

4106.1 An entity may be eligible to make application for financial assistance from the Fund if the entity:

- (a) Is a person, partnership, joint venture, non-profit or for-profit organization, corporation or other entity legally capable of entering into contractual obligations;
- (b) Can establish to the satisfaction of DHCD or its designee reasonable capacity to provide the financial requirements of the project;
- (c) Supplies information satisfactory to DHCD or its designee of its management capabilities with respect to development, ownership or operation of the project; and
- (d) Certifies its compliance and warrants continued compliance with all applicable non-discrimination, equal opportunity, affirmative action, and minority business enterprise requirements of the federal and District governments.

4106.2 All applicants shall demonstrate evidence satisfactory to DHCD or its designee of site control of the specified property to be developed. Evidence of site control may include, but is not limited to, the following:

- (a) Title by deed or similar instrument evidencing ownership; or
- (b) Fully executed purchase contract, installment contract, option agreement or similar contractual instrument.

4106.3 DHCD reserves the right to develop specific procedures consistent with the Act and this chapter. The Department shall afford priority consideration to Non-profit Housing Developers and developers that are Local Small Disadvantaged Business Enterprises. The Department also may afford priority consideration project sponsors that are more than 50 percent owned by Non-profit Housing Developers or tenant associations.

4106.4 The following individuals or entities shall be ineligible to make applications for financial assistance from the Fund and to receive such assistance:

(a) Any person(s) including employees, agents, consultants, officers, elected officials or appointed officials of the District of Columbia government or DHCD determined to have a conflict of interest because of their responsibilities to the Fund, consistent with the provisions of the Ethics in Government Act of 1978 (18 U.S.C. 207 (Supp. IV 1980)) and D.C. Code § 1-1461 (1987 Repl. Vol.);

(b) Individuals, corporations, partnerships, or joint ventures officially excluded from participation in District of Columbia or federal contracting activities; and

(c) Individuals prohibited by act of law from participating in District of Columbia contracting activities.

4106.5 DHCD shall in each fiscal year, announce the availability of Fund assistance and a summary of the requirements for receipt of applications for such assistance.

4106.6 In the announcement of availability of Fund assistance, DHCD shall provide general information, in a form prescribed by DHCD, which may include, but is not limited to, the following:

(a) The deadline date(s) or other alternative timing requirements for submission of applications;

(b) The names and addresses of the Participating Lenders, if any, from whom application material and instructions may be obtained and to whom completed applications may be returned;

(c) Application fees, if any, required of applicants;

(d) A detailed description of the types of assistance available through the Fund and the types of activities eligible for assistance from the Fund; and

(e) Criteria that will be used to evaluate applications and make awards.

4106.7 DHCD's announcement of availability of Fund assistance and summary of application requirements shall be published in the following:

(a) At least two (2) newspapers of general circulation in the District of Columbia; and

(b) In a newspaper(s) serving minority communities in the District of Columbia.

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CDCR 10-4107 (2007)

10-4107. Eligibility and Priority Criteria for Housing Production Component Assistance.

4107.1 Properties for which an Eligible Borrower may receive Housing Production Component assistance shall provide a minimum of twenty percent (20%) of the total housing units in the development or project as Reserved Units on a continuing basis as further defined in § 4107.2(c).

4107.1a In each fiscal year, funds shall be awarded from the Housing Production Component and the Special Financial Products component so that, in aggregate:

(a) At least forty percent (40%) of the funds awarded in the fiscal year shall benefit extremely low-income households;

(b) At least forty percent (40%) of the funds awarded in the fiscal year shall benefit very low income households; and

(c) At least fifty percent (50%) of the funds awarded in the fiscal year shall be for the development or rehabilitation of rental housing.

4107.1b In evaluating and scoring project proposals in response to an announcement of availability of Fund assistance, DHCD shall grant additional weight to project proposals that would achieve the objectives set forth in 4107.1a.

4107.2 Fund assistance shall be limited as follows:

(a) The percentage of all units which are Reserved Units in properties assisted with Housing Production Component funds shall not be less than the percentage of the project's total development costs which are financed by the Fund, as determined by DHCD;

(b) The type and size of the Reserved Units shall be representative of the other housing units in the project for which assistance is not provided through the Fund;

(c) Reserved units shall be continuously affordable to low, very low and extremely low-income households as required by the Act and further specified in § 4112.5, subject to the following requirements:

(1) Reserved Units shall be continuously affordable for a period of at least 15 years from the date of loan settlement for for-sales units;

(2) Reserved Units shall be continuously affordable for a period of at least 40 years from the date of the issuance of a Certificate of Occupancy for rental units; and

(3) No period of affordability will be attached to units where assistance is provided for the rehabilitation of owner-occupied single-family homes or where assistance is provided under the Homestead Housing Preservation Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Official Code § 42-2107) or another statutory program; and

(d) The property shall be located in the District of Columbia.

4107.3 For compliance with the requirements regarding Reserved Units, the following shall apply:

(a) In determining the number of Reserved Units for compliance with any requirement of this section, any fraction of a whole number shall be rounded up to the next highest whole number;

(b) The maximum allowable monthly rents for Reserved Units, including utilities, determined periodically by DHCD shall be based on thirty percent (30%) of one-twelfth (1/12) of the annual top income limit for low, very low and extremely low income households, as published periodically by DHCD, and as those terms are defined in § 4199. The formula shall be applied as follows.

Type of Unit	Applicable Low Income Limit
Efficiency (or bed in congregate facility)	One person limit
1 Bedroom	Two person limit
2 Bedroom	Three person limit
3 Bedroom	Five person limit
4 Bedroom	Seven person limit
5 Bedroom	Eight person limit

(c) Where the provision of essential utilities is not included as part of the rent, a reasonable allowance for utilities as determined by DHCD shall be subtracted from the maximum allowable rent in determining compliance with affordable rent requirements.

4107.4 The applicant shall certify to DHCD that the applicant shall rent all Reserved Units in the project exclusively to low, very low and extremely low income households, consistent with the requirements of § 4112.5, and shall certify annually that such units have been rented exclusively to eligible households.

4107.5 Properties which are occupied at the time of submission of an application for assistance under the Fund, or which shall be occupied during rehabilitation or other improvement activity, shall be eligible for participation in the Fund's programs provided that the relocation requirements of § 4107.6 are met.

4107.6 Occupants of property that will be improved with Fund monies shall be eligible for relocation assistance in accord with District of Columbia law. Persons considered permanently displaced by activity assisted by the Fund shall include those whose displacements result from demolition activity.

4107.7 Property for which an eligible entity may receive a Fund assistance shall not include hotels, motels, dormitories, fraternity or sorority houses, hospitals, nursing homes, sanitariums, rest homes, trailer parks and other similar facilities used for residential purposes.

4107.8 The following types of housing developments shall receive priority consideration for Housing Production Loans, provided they also meet other eligibility requirements;

(a) Developments in which at least fifteen (15%) of the total units contain three (3) or more bedrooms and will be available for rental or sale to low, very low and extremely low income households consisting of four (4) or more persons; and

(b) (deleted)

(c) (deleted)

(d) Housing developments that include child development facilities.

4107.9 Projects assisted with Housing Production Component monies shall be determined by DHCD or its designee to be economically feasible according to standard underwriting criteria, consistent with private market requirements, which shall be updated periodically by DHCD, and furnished to applicants.

4107.10 Underwriting criteria may include, but are not limited to, the following:

(a) Loan-to-value ratio;

(b) Debt coverage ratio;

(c) Allowable vacancy loss calculation;

(d) Replacement and operating cost reserves;

(e) Criteria for operating cost allowances;

(f) Appraisal and market analysis requirements; and

(g) Borrower capability and credit requirements.

4107.11 Fund assistance for housing shall be limited to amounts needed to support the availability of Reserved Units which are affordable for occupancy by low, very low and extremely low income households as defined in § 4199.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)

January 13, 2006 *10 DCMR 4101.7, 4102.1, 4107.2, 4112.8, 4112.9, 4119.1* amended at 53 DCR 293 by the Department of Housing and Community Development

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November 22, 2002 *10 DCMR 4100 to 4199* amended at 49 DCR 10582 by the Department of Housing and Community Development

CDCR 10-4108 (2007)

10-4108. Approval and Funding of Applications and Continuing Responsibilities of Developers.

4108.1 Upon receipt of any application for a financial assistance from the Fund, DHCD or its designee shall perform an initial review to determine the completeness and its compliance with Property and other eligibility requirements as specified in §§ 4106 and 4107.

4108.2 DHCD or its designee shall reject applications which are initially determined to be incomplete or ineligible and may, in its sole discretion, grant additional time as it deems appropriate to enable applicants to correct deficiencies identified during the initial evaluation of the application.

4108.3 Applications determined to be complete and meeting intake requirements shall be reviewed by DHCD, or its designee, in accordance with the criteria established pursuant to this chapter.

4109.4 The DHCD or its designee shall approve or reject applications based on written underwriting criteria, evaluation procedures, priorities, and other criteria and procedures, consistent with the Act, this chapter and funding availability.

4108.5 All applications rejected by Participating Lenders shall be referred to DHCD for review and further consideration. DHCD reserves the right to evaluate, approve and fund directly the applications independent of the Participating Lender.

4108.6 At the sole discretion of DHCD, highly ranked applications for which there is no current funding availability may be held by DHCD for subsequent late approval if additional funds become available or earlier approved projects are not proceeding on a timely basis.

4108.7 DHCD or its designee shall notify all applicants, in writing, of its final decision regarding application approval or disapproval.

4108.8 The initial approval of applications by DHCD or its designee shall be in the form of a written conditional commitment letter to the applicant which shall establish conditions precedent to receipt of financial assistance through the Fund.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)
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CDCR 10-4109 (2007)

10-4109. The Special Financial Products Component.

4109.1 Funds allocated to the Special Financial Products Component may be used to provide Special Financial Products to Eligible Borrowers, described in § 4106.1 who may be eligible to make an application for a Housing Production Loan.

4109.2 Special Financial Products may be used to provide the following types of assistance:

(a) (deleted)

(b) Bridge loans and gap financing to reduce up-front costs and costs of residential development and to continue the construction or rehabilitation of a property, should circumstances change adversely during development;

(c) (deleted)

(d) (deleted)

(e) Loans or grants to provide on-site child development facilities for housing or commercial developments financed, assisted or constructed as a result of a linked development program approved by the D.C. Zoning Commission;

(f) (deleted)

(g1) Loans authorized under the Homestead Housing Preservation Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Official Code § 42-2101 et seq.);

(g2) Payments for services authorized under section 6a of the Homestead Housing Preservation Program Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Official Code § 42-2101 et seq.);

(g3) Loans and grants for rehabilitation of single-family homes made under the Department of Housing and Community Development Single-Family Residential Rehabilitation Program or any successor program; and

(h) Other loans for housing production determined by DHCD to be consistent with these Rules and the purposes of the Act.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)

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CDCR 10-4110 (2007)

10-4110. Applications: Special Financial Products.

4110.1 Special Financial Products may be originated as follows:

(a) Directly by DHCD; or

(b) By non-profit organizations pursuant to a written agreement with DHCD specifying the terms and conditions, consistent with the Act and this chapter.

4110.2 All Special Financial Products, whether originated by DCHD or a non-profit organization shall comply with the application procedures for Housing Production Component assistance as set forth in §§ 4106.5, 4106.6, 4106.7, and 4108.

4110.3 All prospective Borrowers or Grantees for financial assistance through the Special Financial Products Component shall be subject to the Borrower eligibility criteria and priorities as set forth in §§ 4106.1 through 4106.4.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)

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CDCR 10-4111 (2007)

10-4111. Eligibility and Priority Criteria for Special Financial Products.

4111.1 Eligible Borrowers or Grantees may make application through the Special Financial Products Component for a variety of specialized forms of financial assistance authorized in D.C. Law 7-202 and specified in § 4109.2

4111.2 Except for properties for which loans or grants are requested to provide on-site child development facilities described in § 4109.2(e) and which shall be subject to the additional eligibility criteria of § 4111.6, properties for which an Eligible Borrower or Grantee may receive assistance through the Special Financial Products Component shall be subject to the Property Eligibility Criteria and Priorities for Housing Production Loans as set forth in § 4107.

4111.3 All other provisions of this chapter notwithstanding, applications and awards for the following Special Financial Products shall be subject to § 4107.1a and the additional eligibility criteria described in §§ 4111.4 through 4111.6:

(a) (deleted)

(b) Bridge Loans and Gap Financing to reduce up-front costs of residential development and to continue the construction or rehabilitation of a property should circumstances change adversely during development, as described in § 4109.2(b); and

(c) Loans or grants to finance on-site child development facilities for proposed housing or commercial development projects, as described in § 4109.2(e).

4111.4 (deleted)

4111.5 Bridge loans and gap financing to reduce up-front costs and costs of residential development to keep a housing project in operation, should circumstances change adversely during development as described in § 4109.2(b) shall only be available to Eligible Borrowers which are able to demonstrate the following to the satisfaction of DHCD or its designee:

(a) Construction of the project for which special financial product assistance is requested has commenced;

(b) Completion of the project for which special financial product assistance is requested would be severely jeopardized without additional funds;

(c) Required additional funds are unavailable to the Borrower from private financial institutions; and

(d) Borrower agrees in writing to accept to abide by any DHCD mandated changes to or substitution of the membership or composition of the Development Team of the Project.

4111.6 Loans or grants to finance on-site child development facilities for proposed housing or commercial development projects described in § 4109.2(e) shall only be available to eligible borrowers which are able to demonstrate the following to DHCD or its designee:

(a) The amount of special financial product assistance for the child development facility does not exceed the minimum cost of constructing the facility to meet the minimum requirements of the D.C. Building Code;

(b) The percentage of spaces reserved for children of low- and moderate-income families in the child development facility shall be no less than the percentage of the facility's total development costs which are assisted by the Fund, as determined by DHCD;

(c) Any fees assessed to the low, very low and extremely low income families described in this section for the child care services shall be affordable to such low, very low and extremely low income families as determined by DHCD or its designee;

(d) When accepting children for the reserved spaces, the following children shall be accepted in descending order of priority:

(1) Dependent children of low, very low and extremely low income residents of the residential building containing an assisted child development facility; or

(2) Dependent children of low, very low and extremely low income employees of businesses located in the commercial building containing the assisted child development facility;

(e) Other children of low, very low and extremely low income households whose residences or places of employment provide reasonable access to the assisted child development facility; and

(f) Children of low, very low and extremely low income District of Columbia residents.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)

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CDCR 10-4112 (2007)

10-4112. Conditions for Project Closings.

4112.1 Prior to closing on any financial assistance under the Fund, the applicant shall meet all conditions of the conditional commitment of DHCD or its designee and other requirements of this chapter to the satisfaction of DHCD or its designee.

4112.2 Each applicant shall agree in writing to permit all inspections of the property and property records as DHCD, its designee, and other District agencies deem necessary to ensure the quality of rehabilitation or development work and compliance with District of Columbia laws and regulations during the construction period and after occupancy.

4112.3 Each applicant shall demonstrate to the satisfaction of DHCD or its designee that the property meets the requirements of the zoning regulations of the District of Columbia for the use, location, and occupancy level intended.

4112.4 With respect to rental or cooperative properties, each applicant shall agree in writing to submit to DHCD or its designee annual audited property or project income and expense statements, as well as annual corporate or business financial statements.

4112.5 Each applicant shall execute and agree to be bound by a Rent Regulatory Agreement or a Price and Carrying Charge Regulatory Agreement, as appropriate, which shall set forth the terms and conditions covering all Reserved Units, and may be recorded as a lien or covenant on the property.

4112.6 The Agreement shall include, but not be limited to, the requirements set forth in §§ 4112.7 through 4112.13.

4112.7 Each applicant shall warrant that the tenant income and eligibility requirements or the initial purchase prices of the reserved units are consistent with the provisions of § 4107.

4112.8 With respect to rental properties each applicant shall do the following:

(a) Establish the basis for the approval or disapproval of rent increases in the Reserved Units to ensure continual affordability to low, very low and extremely low income households for the periods specified in § 4107.2(c);

(b) Warrant that the rents of Reserved Units shall be affordable to low, very low and extremely low-income households on a continuing basis for the periods specified in § 4107.2(c).

4112.9 With respect to Reserved Units, if any, which may be sold to low, very low and extremely low-income households for homeownership, including condominium and cooperative ownership, each applicant shall provide a written strategy subject to the express, prior written approval of DHCD, to ensure that the initial sale prices and all subsequent resale prices shall be continually affordable to low, very low and extremely low-income households for the periods specified in § 4107.2(c).

4112.10 Each applicant shall warrant that priority in renting or selling the Reserved Units shall be provided to low, very low and extremely low income families and individuals referred by the District of Columbia Housing Authority from the date of initial occupancy.

4112.11 Each applicant shall provide that DHCD may establish any means of enforcement of the provisions of this section as it determines to be necessary and consistent with this chapter and other provisions of District of Columbia law.

4112.12 Each applicant shall provide that DHCD shall notify the D.C. Department of Consumer and Regulatory Affairs and other appropriate District and federal authorities, upon the expiration, termination or material breach by Borrower of the Rent Regulatory Agreement.

4112.13 An applicant may petition DHCD to terminate the Rent Regulatory Agreement prior to its expiration. The Director may approve the petition following an appropriate review assessment and analysis of the housing requirements of the tenants of the property, the demand for affordable housing of the District, the impact of termination of the Agreement upon neighborhood stabilization activities, and other factors and consideration which the Director may deem to be necessary and appropriate.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)
January 13, 2006 *10 DCMR 4101.7, 4102.1, 4107.2, 4112.8, 4112.9, 4119.1* amended at 53 DCR 293 by the Department of Housing and Community Development

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November 22, 2002 *10 DCMR 4100 to 4199* amended at 49 DCR 10582 by the Department of Housing and Community Development

CDCR 10-4199 (2007)

10-4199. Definitions.

4199.1 When used in this chapter, the following words and phrases shall have the meanings ascribed:

Applicant - a corporation, partnership, joint venture, individual or other eligible entity which submits an application for assistance from the Housing Production Trust Fund.

Area Median Income (AMI) - the area median income for a household in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development, adjusted for family size without regard to any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers.

Child development facility - facility where a child development program is provided for infants and children, away from home, for less than twenty-four (24) hours a day for each infant or child, and which is to be located on a proposed housing or commercial project under a linked development agreement. The term child development facility shall include a child development center, child development home, or infant care center, but does not include a public or private elementary school engaged in legally required education and related functions.

Code violations - violations of any applicable District of Columbia Municipal Regulation governing the condition or serviceability of a dwelling or its component systems, or its appropriateness for the use or occupancy intended, or its conformance with existing zoning.

Construction - the erection or substantial rehabilitation of structures for housing and related facilities.

Continuing Basis -- Without interruption for the periods of time defined in § 4107.2(c).

Council - Council of the District of Columbia.

DHCD - the Department of Housing and Community Development.

Designee - a Participating Lender or other third-party selected by DHCD to review any portion of an application for assistance, provide financing from the Fund, or provide other services as needed to ensure the efficient operation of the Fund on behalf of DHCD.

Dwelling unit - any part of a multi-family, single room occupancy or congregate housing facility which is rented for residential occupancy and includes any apartment, efficiency apartment, single room, suite of rooms, or duplex. In a congregate housing facility, a bed in a shared sleeping room may be considered as a dwelling unit. If the dwelling unit is a congregate housing or single room occupancy facility, it may or may not contain a kitchen or bath.

Elderly special housing needs individuals and families - an individual or family whose head of household, or spouse of the head of household, is at least sixty (60) years of age and households who belongs to at least one of the following categories:

(a) Disabled - an individual meeting the definition of disability in § 223 of the Social Security Act (*42 U.S.C. 423*) or § 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (*42 U.S.C. 2691 (1)*);

(b) Handicapped:

(1) An individual who has a medically determinable physical impairment, including blindness, which prohibits and incapacitates seventy-five percent (75%) of that person's ability to move about, to assist himself or herself, or to engage in an occupation;

(2) An individual who has a physical or mental impairment which is expected to be of long continued and indefinite duration, substantially impedes his or her ability to live independently, and is of a nature that the ability could be improved by more suitable housing conditions; or

(3) An individual who has developmental disability which is a severe, chronic disability of a person which is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the person attains age twenty-two (22); is likely to continue indefinitely; results in substantial functional limitations in three (3) or more of the following areas of major life activity of self-care, receptive and expressive language, learning, mobility, self-directions, capacity for independence living and economic sufficiency; and reflects the person's need for a combination and sequence of special care, treatment or other services which are of a lifelong or extended duration and are individually planned and coordinated;

(c) An individual who is homeless; or

(d) An individual who is medically determined chronically mentally ill or retarded.

Eligible entity - a borrower or grantee who may be eligible in accordance with § 4106 to make application for financial assistance from the Housing Production Trust Fund.

Equity investment or Equity capital investment - funds provided by DHCD from the Housing Production Trust Fund to an Eligible Entity in exchange for which the Department holds an ownership interest in the real property assisted with Housing Production Trust Fund monies.

Extremely low income - a household or family whose annual income is greater than zero but less than thirty percent (30%) of the area median income, as adjusted for family size.

Fund - the Housing Production Trust Fund established pursuant to Housing Production Trust Fund Act of 1988, D.C. Law 7-202.

Grantee - an "Eligible Borrower" which receives a Grant through the Special Financial Products Components of the Housing Production Trust Fund.

Housing production - the construction, rehabilitation, or preservation of decent, safe, and affordable housing.

Low income - a household or family whose annual income is greater than fifty percent (50%) but less than eighty percent (80%) of the area median income, as adjusted for family size.

Mayor - the Mayor of the District of Columbia.

Minority housing developer - a housing developer controlled by minority persons who possess at least fifty-one (51%) of the ownership and controls its daily management and operations.

Non-profit housing developer - a housing developer who qualifies as a non-profit organization under § 501(c)(3) of the *Internal Revenue Code* of 1986, approved October 22, 1986 (68 Stat. 3; 26 U.S.C. § 501(c)(3)).

Predevelopment expenses - expenses associated with the project which accrue prior to the selection or approval of an applicant. These costs may include, but are not limited to, reasonable professional fees for architects, engineers, development consultants and attorneys.

Property - the land and improvements receiving fund assistance.

Reserved units - dwelling units whose rents or sales prices are affordable, too low, very low and extremely low-income households on a continuing basis.

Total development cost - the cost of preservation, construction, or substantial rehabilitation of Housing and Related Facilities, and of the land on which they are located, including necessary site improvements and other expenses attributable to the capital cost of the preservation, construction, or substantial rehabilitation or development of the Housing and Related Facilities.

Very low income - a household or family whose annual income is greater than thirty percent (30%) but less than fifty percent (50%) of the area median income, as adjusted for family size.

History of Regulations since Last Compilation (March 1994 with 1996 Supplement)

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Attachment B

HPTF Beneficiary Income Limits

All HPTF-funded projects must benefit households with incomes at or below 80% of the area median income, as shown in the table below.

Table 2: HPTF Income Limits (2008)
Effective: February 13, 2008

AMI	Number Of Persons In Family							
	\$99,000							
Maximum Homebuyer Tenant Income	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Low (51-80% AMI)	\$55,400	\$63,360	\$71,280	\$79,200	\$87,120	\$95,040	\$102,960	\$110,880
Very Low (31-50% AMI)	\$34,650	\$39,600	\$44,550	\$49,500	\$54,450	\$59,400	\$64,350	\$69,300
Extremely Low (0-30% AMI)	\$20,790	\$23,760	\$26,730	\$29,700	\$32,670	\$35,640	\$38,610	\$41,580

Table 2: HPTF Rent Limits (2008)
Effective: February 13, 2008

HPTF Rent Limits			
	Extremely Low (0-30% of AMI)	Very Low (31% - 50% of AMI)	Low (51% - 80% of AMI)
Efficiency (or bed in congregate facility)	\$520	\$866	\$1,386
1 Bedroom	\$594	\$990	\$1,584
2 Bedroom	\$668	\$1,114	\$1,782
3 Bedroom	\$817	\$1,361	\$2,178
4 Bedroom	\$965	\$1,609	\$2,574
5 Bedroom	\$1,040	\$1,733	\$2,772

Disbursement of Funds: The Housing Act of 2002 requires that of HPTF funds disbursed in a given fiscal year:

- At least 40 percent benefit extremely low-income households (0-30 percent of AMI);
- At least 40 percent benefit very low-income households (31-50 percent of AMI); and
- The remainder, or 20 percent, may benefit low-income households (51-80 percent of AMI)

SECTION 2

MONITORING ELEMENTS, GUIDELINES, AND/OR REQUIREMENTS

MONITORING ELEMENTS, GUIDELINES, AND/OR REQUIREMENTS

In accordance with Federal and District regulations, the Department of Housing and Community Development (DHCD) is required to monitor the use of funds distributed under this NOFA. Applicants receiving financial assistance from DHCD could be subject to all of the following laws and regulations. Recipients of assistance will be required to maintain sufficient and adequate records to document that the objectives of the applicable regulations have been met, and to allow for monitoring of compliance with the regulations.

Environmental Reviews

The CDBG regulations require that each project undergo an environmental review in accordance with 24 CFR Part 58. The type of activity (i.e. non-construction, rehabilitation, etc.) and whether the project is historic determines the level of environmental clearance required and the time period for the review.

Affirmative Action Program (Local Small Disadvantaged Business Enterprises)

Mayor's Order 85-85 entitled Compliance with Equal Opportunity Obligations in Contracts sets policies and procedures to be followed by contractors and subcontractors performing under District of Columbia government contracts for goods and services, including construction contracts. The rules establish specific commitments for the employment of minorities and women businesses to achieve affirmative action obligations in District of Columbia contracts.

Applicants will be required to submit an affirmative action plan prior to receiving financial assistance from DHCD. This affirmative action plan is required for construction and non-construction contracts. In addition to DHCD's review, the Office of Local Business Development gives final approval of the plan.

Section 3

Applicants will be required to sign a certification of compliance with Section 3 (24 CFR Part 135). Section 3 requires that to the greatest extent feasible, opportunities for training, and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to businesses located in or owned in substantial part by person residing in the area of the Section 3 covered project.

First Source Employment Agreements

DHCD will require applicants receiving financial assistance to enter into a First Source Employment Agreement with the District of Columbia Department of Employment Services (DOES). This agreement, in accordance with Mayor's Order 83-265, states that the applicant will use DOES as its first source for recruitment, referral and placement of new hires or employees whose jobs were created by the project receiving financial assistance.

Registration with the DC Apprenticeship Council

Any company that is awarded a single contract or multiple contracts within a 12-month period that totals \$500,000 or more is required to register with the D.C. Apprenticeship Council and report the registration number to DHCD.

Davis-Bacon Act and Davis-Bacon related Acts

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, or public buildings or public works.

Most HUD construction work **is not** covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if Davis-Bacon wage rates apply to a HUD project it is because of a labor provision contained in one of HUD's "Related Acts" such as the U.S. Housing Act of 1974, the National Affordable Housing Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are often referred to as the **Davis-Bacon and Related Acts or DBRA**.

American with Disabilities Act of 1990

The American with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA also outlaws discrimination against individuals with disabilities in state and local government services, public accommodation, transportation and telecommunications. Under the ADA, communication barriers must be eliminated that prevent individuals with disabilities from enjoying equal opportunity to participate in and benefit from federal awards.

Under ADA public entities may choose from two design standards for new construction and alteration. They can choose the Uniform Federal Accessibility Standards (UFAs) or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG). ADAAG is the standard that must be used for privately owned public accommodations and commercial facilities.

Lead Safe Housing Rule (Lead Based Paint)

The U.S. Department of Housing and Urban Development Lead Safe Housing Rule establishes different lead hazard control requirements for rehabilitation depending on the level of federal financial assistance provided to the project and the age of the residential property. The regulation applies only to residential units built before 1978. Risk assessments must be performed if federal financial assistance is greater than \$5,000 per unit. Abatement is required if federal financial assistance is greater than \$25,000 per unit. "Trained workers" are required for all rehabilitation work. DHCD will monitor to ensure that the Lead Safe Housing Rule is adhered to on projects receiving financial assistance.

Section 504 of Rehabilitation Act of 1973, as amended

Section 504 provides the guidelines for new construction rehabilitation of housing units that should be accessible to persons with disabilities. Accessible units must be made available and dispersed throughout the building and sites in projects involving new construction or alterations. Substantial alterations mean a project that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility. If the alteration is not substantial, that is, the project is less than 15 units and the cost of the alterations is less than 75% of the replacement cost of the completed facility, then the alterations, to the maximum extent possible, should be made readily accessible to and usable by individuals with disabilities. DHCD will ensure that projects receiving financial assistance comply with Section 504. Section 504 follows the accessibility guidelines under the Uniform Federal Accessibility Standards (UFAS).

Freedom of Information Act

The Freedom of Information Act (FOIA) provides for the disclosure of public information. A public record is defined as “any document, book, photographic image, electronic data recording paper, sound recording, or other material regardless of form or characteristic, made or received pursuant to law or in connection with the transaction of public business by any officer or employee of the District”. Any information submitted to DHCD not specifically exempt by D.C. Code § 1-1524 (a) of the DC FOIA may be subject to public disclosure upon receipt of a proper request.

Conflict of Interest

Federal and District laws require recipients of funds to comply with conflict of interest regulations found at (24 CFR 570.611 and 24 CFR 84.42 and 85.36). In addition, DHCD requires that within 15 business days of execution of the grant or loan agreement, the recipient shall submit to the Department a copy of the organization's conflict of interest policies and procedures for review and approval by the Department. The procedure shall include the collection and retention of Conflict of Interest declarations to be executed by each employee and board member/officer.

Fair Housing Equal Opportunity

The Fair Housing (FHAct) Act and additional Equal Opportunity rules and regulations apply to all housing related transactions. The regulations (as described in 24 CFR Part 14 et al.) are applicable to developers; tenant, homeowners, and condominium associations; management companies; advertisement agencies; and anyone involved in the sale, rental or management of funded housing from discriminating against prospective tenant or owners based on any of the protected categories under the Act.

The Act also stipulates that if a new construction project has four or more dwelling units it is subject to the accessibility and adaptability requirements of the Fair Housing Act as amended. Under the new construction requirement of the Act, if the multifamily building has an elevator, all of the dwelling units must meet the Act's design and construction requirements; if there is no elevator, all of the ground floor dwelling units must meet the Act's requirements.

The Act also requires housing providers “to make reasonable accommodation in rules, policies, practices, or services, when such accommodations may be necessary to afford such person(s) equal opportunity to use and enjoy a dwelling”.

The District of Columbia Department of Housing and Community Development (DHCD) follow the federal guidelines in ensuring that ALL of its funded projects and programs, regardless of funded source, follow the federal guidelines for affirmative marketing.

- The AFHMP is a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act and ensure positive outreach and informational efforts to those who are least likely to know about and apply for the housing in question. Each applicant participating in housing programs funded by of the Department of Housing and Community Development (DHCD) shall implement an affirmative fair housing marketing policy in soliciting buyers and tenants, and in advertising the availability of housing properties.

- The purpose of the AFHMP requirement is to ensure that all residents of similar income levels in the same housing market area have available to them a like range of choices in housing, regardless of their protected class. It is a marketing strategy designed to attract buyers and renters of all majority and minority groups to housing and services which are being marketed by an applicant, but who would otherwise, if not for the targeted marketing, not know of the housing or service available by the applicant. It must describe the applicant's initial advertising, outreach (community contacts) and other marketing activities which inform potential buyers and renters of the existence of the units.

SECTION 3

FAIR MARKET RENT

FY 2008 Proposed Fair Market Rents For Existing Housing

Fair Market Rents (FMRs) are primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy program (Mod Rehab), and to serve as a rent ceiling in the HOME rental assistance program. By law the final FMRs for use in any fiscal year must be published and available for use at the start of that fiscal year, on October 1. HUD has not calculated the HOME rent limits to date. HUD typically publishes the HOME rent limits in the first of the year and provides the effective date.

FMRs are gross rent estimates. They include the shelter rent plus the cost of all tenant-paid utilities, except telephones, cable or satellite television service, and internet service. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many low-income families as possible.

Washington, DC Final FY 2009 FMRs By Unit Bedrooms

	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
Final FY 2008 FMR	\$1,002	\$1,131	\$1,288	\$1,647	\$2,157

http://www.huduser.org/datasets/fmr/fmr2009f/SCHEDULE%20B_FINAL_091108R.pdf

SECTION 4

HOUSING QUALITY STANDARDS

The attached Housing Quality Standard (HQS) Inspection Form is a sample guide form that should be used during quality inspections.

Project Name and Address:				Inspection Date:
				Date of Report:
Management Agency:				Report Prepared By:
				Owner's Name:
Building Type:				Resident Manager's Name:
Building #				Property Manager:
Unit#				# of Units:
# of Bedrooms:				# of Vacant Units:
# of Bathrooms:				# of Buildings:
Baths:		Bedrooms:		# of Buildings:
Results: Pass * Fail *				
Part B: Physical Condition. Indicate the physical condition of each item. If maintenance, describe the problem in the comment section.				
	Condition of Apartment	Pass	Fail	Comments:
	Housekeeping			
L/D 1	Living Room/Dining Room	P	F	Comments:
L/D 2	Entry Door/Peep Hole			
L/D 3	Ceiling			
L/D 4	Walls			
L/D 5	Carpet/Flooring			
L/D 6	Light Fixtures			
L/D 7	Outlets/Switches			
L/D 8	V-Blinds			
L/D 9	Patio Door/Screen			
L/D 10	Windows/Screens			
L/D 11	Paint (peeling or chipping)			
K 1	Kitchen (incl. pantry)	P	F	Comments:
K 2	Ceiling			
K 3	Walls			
K 4	Floor			
K 5	Light Fixtures			
K 6	Outlets/Switches			
K 7	Stove/Oven/Microwave			
K 8	Rangehood			
K 9	Refrigerator			
K 10	Cabinets			
K 11	Countertops/Splashguard			
K 12	Sink/Faucet/Supply Lines			
K 13	Garbage Disposal			
K 14	Dishwasher			
K 15	V-Blinds			
K 16	Windows/Screens			
K 17	Paint (peeling or chipping)			
BA 1	Bathroom A	P	F	Comments:
BA 2	Ceiling			
BA 3	Walls			
BA 4	Door			

BA 5	Floor			
BA 6	Light Fixtures			
BA 7	Outlets/Switches			
BA 8	Toilet/Paper Roller			
BA 9	Sink/Faucet/Supply Lines			
BA 10	Medicine Cabinet/Mirror			
BA 11	Exhaust Fan			
BA 12	Towel Bar/Fixtures			
BA 13	Bathtub/Shower Head			
BA 14	Shower Walls/Rod			
BA 15	Windows/Screens			
BA 16	V-Blinds			
BA 17	Paint (peeling or chipping)			
BB 1	Bathroom B	P	F	Comments:
BB 2	Ceiling			
BB 3	Walls			
BB 4	Door			
BB 5	Floor			
BB 6	Light Fixtures			
BB 7	Outlets/Switches			
BB 8	Toilet/Paper Roller			
BB 9	Sink/Faucet/Supply lines			
BB 10	Medicine Cabinet/Mirror			
BB 11	Exhaust Fan			
BB 12	Towel Bar/Fixtures			
BB 13	Bathtub/Shower Head			
BB 14	Shower Walls/Rod			
BB 15	Window/Screens			
BB 16	V-Blinds			
BB 17	Paint (peeling or chipping)			
BR 1	Bedroom 1	P	F	Comments:
BR 1	Door/Closet Door			
BR 2	Ceiling			
BR 3	Walls			
BR 4	Carpet/Flooring			
BR 5	Light Fixtures			
BR 6	Outlets/Switches			
BR 7	Windows/Screens			
BR 8	V-Blinds			
BR 9	Paint (peeling or chipping)			
BR 2	Bedroom 2	P	F	Comments:
BR 1	Door/Closet Door			
BR 2	Ceiling			
BR 3	Walls			
BR 4	Carpet/Flooring			
BR 5	Light Fixtures			
BR 6	Outlet/Switches			
BR 7	Windows/Screens			
BR 8	V-Blinds			

BR 9	Paint (peeling or chipping)			
BR 3	Bedroom 3	P	F	Comments:
BR 1	Door/Closet Door			
BR 2	Ceiling			
BR 3	Walls			
BR 4	Carpet/Flooring			
BR 5	Light Fixtures			
BR 6	Outlet/Switches			
BR 7	Windows/Screens			
BR 8	V-Blinds			
BR 9	Paint (peeling or chipping)			
BR 4	Bedroom 4	P	F	Comments:
BR 1	Door/Closet Door			
BR 2	Ceiling			
BR 3	Walls			
BR 4	Carpet/Flooring			
BR 5	Light Fixtures			
BR 6	Outlets/Switches			
BR 7	Windows/Screens			
BR 8	V-Blinds			
BR 9	Paint (peeling or chipping)			
	Other/Hallway	P	F	Comments:
H 1	Ceiling			
H 2	Walls			
H 3	Carpet/Flooring			
H 4	Closet/Door			
	HVAC/Plumbing/Electrical	P	F	Comments:
H/P 1	Air Conditioning			
H/P 2	Heat			
H/P 3	Thermostat			
H/P 4	Hot Water Heater			
H/P 5	Laundry Connections			
H/P 6	Circuit Breaker Box			
	General Health & Safety	P	F	Comments:
G 1	Access/Egress/Security			
G 2	Halls/Stairs/Railings			
G 3	Garbage/Chutes/Debris			
G 4	Infestation			
G 5	Paint Condition			
G 6	Electrical			
G 7	Smoke Detectors			
G 8	Emergency Lighting			
G 9	Sprinklers			
G 10	Elevator			
G 11	Interior Air Quality			
G 12	Asbestos			
G 13	Presence of Mold/Mildew			
G 14	Handicap Accessible			
G 15	Other Interior Hazards			

G 16	Fire Extinguishers			
G 17	Tripping Hazards			
G 18	Emergency Fire Exits			
G 19	Grounds/Landscaping			

Part C: Miscellaneous Observations. Answers each Question.				
1a. Surrounding neighborhood is:		D	A	Depressed * Average * Prosperous
1b. This condition is expected to:		I	S	Improve* Stay Same * Decline
2a. Overall Physical Condition:		E	S	Excellent* Satisfactory*Below Average * Unsatisfactory
2b. Maintenance Policies		E	S	Excellent* Satisfactory*Below Average * Unsatisfactory

NOTES:

Part F: Signatures

1a. Inspection Performed By:

1b. Title:

1c. Date:

SECTION 5

Green Building

What is Green Building

Overview of Green Building in Washington, D.C.

With the passage of The Green Building Act of 2006, Washington, D.C. joined states and cities across the country in requiring green building design and construction. The requirements will phase in over several years, beginning with public buildings, followed by publicly financed buildings, and ending with private construction.

Currently, the District requires compliance with the 2006 Green Communities Criteria for publically financed affordable housing. However, developers are encouraged to comply with the 2008 criteria.

What is Green Building?

Green building or “sustainable” building is an approach to design and construction that maximizes energy and resource efficiency, protects the environment, and promotes healthier places to live and work.

Green building is important not just for its environmental benefits, but also for its economic and health benefits. Green building reduces the everyday energy costs for owners and renters, and provides significantly better indoor air quality for occupants.

Green building considers the entire life cycle of a structure and its component parts, focusing on efficiency in operating costs, as well as initial construction costs.

The specific elements of green building include the following:

- **Integrated Design Process**- sustainable building strategies are considered from the earliest stages of project planning, with a LEED-accredited professional or experienced green building design specialist participating at every stage.
- **Location and Neighborhood Fabric**- locations that conserve resources, take advantage of existing infrastructure and civic amenities, are close to transportation and contribute to the fabric of healthy, livable communities.
- **Site Improvements**- chosen to conserve natural resources, improve operational efficiencies, enhance health and promote non-automotive means of transit.
- **Water conservation**- utilization of water-efficient appliances and fixtures, low water landscaping and irrigation, and use of rainwater and graywater (water recaptured and recycled from showers, sinks and clothes washers) when possible.
- **Energy efficiency**- a guiding principle in all stages of development, including efficient construction methods, design and insulation of units for efficient heating and cooling, use of Energy Star appliances, and efficient interior and exterior lighting.
- **Materials Beneficial to the Environment**- including reuse and recycling on the construction site to decrease waste, and use of building products and techniques that contribute to more durable, healthy and resource-efficient buildings.
- **Healthy Living Environment**- including the use on safe biodegradable materials such as Low/No VOC paints and primers, adhesives, and sealants; use of materials and construction techniques to reduce mold and ensure adequate ventilation; garage isolation.
- **Operations and Maintenance**- training for employees and residents to explain and assist in the preservation of the property’s green character.

Additional Information

Green Building Standards

Enterprise Community Partners

Green Communities Criteria

www.greencommunitiesonline.org

410.715.7433

U.S. Green Building Council

Leadership in Energy and Environmental Design (LEED®)

www.usgbc.org

202.742.3792

Energy Star (U.S. Environmental Protection Agency and U.S. Department of Energy)

Energy Star Target Finder Tool

http://www.energystar.gov/index.cfm?c=new_bldg_design.bus_target_finder

Energy Star Portfolio Manager

http://www.energystar.gov/index.cfm?c=evaluate_performance.bus_portfoliomanager

Practical green building resources

Metropolitan Washington Council of Governments (COG)

Builders' Recycling Guide: A Directory for Construction and Demolition Materials in the Metropolitan Washington Region

<http://www.mwcog.org/buildersrecyclingguide/info.htm>

202.962.3200

Affordable Housing Design Advisor

<http://www.designadvisor.org/>

Building Technology resources

U.S. Department of Energy, Energy Efficiency & Renewable Energy Building Technologies Program

<http://www.eere.energy.gov/buildings/>

Sustainable Buildings Industry Council (SBIC)

www.sbicouncil.org

202.628.7400

Partnership for Advancing Technology in Housing (PATH)

<http://www.pathnet.org/>

Global Green USA

www.globalgreen.org

Potential green building financial resources

Enterprise Community Partners

Green Communities

www.greencommunitiesonline.org

Washington D.C. Office: 202.842.9190

Home Depot Foundation

www.homedepotfoundation.org

National Housing Trust

Green Affordable Housing Preservation Lending Initiative

Pre-development and bridge loans

www.nhtinc.org

Contact: Keiva Dennis 202.333.8931, or kdennis@nhtinc.org