

# SUMMER 2018

## COMPLIANCE AND MONITORING REFERENCE GUIDE

Supplement to the Consolidated Request for Proposals  
for Affordable Housing Projects

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# I. INTRODUCTION

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The purpose of this Compliance and Monitoring Reference Guide is to supplement the Consolidated Request for Proposals (RFP) issued on July 31, 2018 by the DC Department of Housing and Community Development (DHCD), the DC Housing Authority (DCHA), the DC Department of Behavioral Health (DBH), and the DC Department of Human Services (DHS).

This Guide will provide prospective applicants with a general overview of the relationship they will have with DHCD from the moment their project is selected for DHCD funding through the expiration date of the project's affordability covenant and repayment of its loan. In many if not most cases, this relationship will last more than 40 years.

This Guide will outline applicable District and Federal rules and regulations, and will describe DHCD's relevant standards and processes for projects financed with DHCD funds. This Guide also will detail what is expected of the project team during each phase of the project life cycle, from DHCD's perspective.

This Guide only describes the rules, regulations, and processes associated with DHCD funding sources. It does not include information related to funding sources made available through this RFP by DHCD's partner agencies, such as project-based operating subsidies from DCHA and supportive services funds from DHS.

## II. COMPLIANCE REVIEW

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After DHCD's Development Finance Division (DFD) completes the threshold eligibility review, evaluates projects against the scoring criteria, and issues selection letters, selected projects are then reviewed by DHCD's Office of Program Monitoring (OPM) for a compliance review.

OPM's review will be based on documents submitted by the development team at the time of application, as well as additional documentation that will be requested of project teams after they pass the Threshold Review. The Review covers the following subject areas:

- A. Funding Source Eligibility**
- B. Environmental Review**
- C. Fair Housing**
- D. Section 3**
- E. Affirmative Action**
- F. Labor Standards**
- G. Green Building**
- H. Relocation (if applicable)**

Each of these subject areas is described in further detail in the sections below.

### **A. Funding Source Eligibility**

OPM will review selected proposals and make a determination on whether the project is eligible for the funding source that has been tentatively reserved for the project by DFD.

DFD will match selected projects to appropriate funding sources (from among those that applicants indicate they would like to be considered for) to facilitate this portion of the OPM review.

Rules specific to the DHCD funding sources are codified as follows:

- HOME Investment Partnerships Program (HOME) - 24 CFR Part 92
- Community Development Block Grant (CDBG) - 24 CFR Part 570
- Housing Production Trust Fund (HPTF) - D.C. Code §42-28
- Low-Income Housing Tax Credit (LIHTC) - §42 of IRS Code of 1986
- Housing Trust Fund- Interim Rule- 24 CFR Parts 91 and 93<sup>1</sup>

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<sup>1</sup> The Housing Trust Fund (HTF) was established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289). Section 1131 of HERA amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) (Act) to add a new section 1337, entitled

## B. Environmental Review

OPM conducts an environmental review (ER) of every project selected, regardless of funding source prior to project closing. OPM analyzes documents submitted at the time of application, such as the Phase I and any related documentation, the mold and asbestos report, any applicable Lead Safe documents, the appraisal, and the project budget.

### *Choice-Limiting Action*

Please note that per 24 CFR §58.22(a), neither a [recipient](#) nor any participant in the development process, including public or private non-profit or for-profit entities, or any of their contractors, may commit HUD funds on an activity or project until HUD has approved the [recipient's](#) Request for Release of Funds (RROF), if required, and the related certification is issued by DHCD. Furthermore, until the RROF and the related certification have been approved, neither a [recipient](#) nor any participant in the development process may commit non-HUD funds on or undertake an activity or project if it would have an adverse environmental impact or limit the choice of reasonable alternatives.

However, according to §58.22(b), if a project or activity is exempt under §58.34, the [recipient](#) may undertake the activity immediately after [DHCD](#) has documented its determination. Such exempt activities include, but are not limited to: environmental and other studies, resource identification, and the development of plans and strategies; inspections and testing of properties for hazards or defects; purchase of insurance; purchase of tools; engineering or design costs; technical assistance and training; and assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration.

Also, an option agreement on a proposed site or property is allowable prior to the completion of the environmental review if: (1) the option agreement is subject to a determination by the [recipient](#) on the desirability of the property for the project as a result of the completion of the environmental review; and (2) the cost of the option is a nominal portion of the purchase price.

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"Affordable Housing Allocation" and a new section 1338, entitled "Housing Trust Fund". This fund is referred to as the National Housing Trust Fund or NHTF.

## ***National Environmental Policy Act (NEPA)***

OPM will create the Environmental Review Record (ERR) by making a clearance level determination based on the disclosed project activity, initial review of the project summary and other supporting documentation submitted. This determination is required when federal funding is used for project activities based on the U.S. Department of Housing and Urban Development's (HUD) ER guidelines and instructions for compliance with the National Environmental Policy Act (NEPA) of 1969 provided for in 24 CFR Part 58. If NEPA applies, OPM will determine whether the project qualifies as a Categorical Exclusion or must complete an Environmental Assessment (EA) or an Environmental Impact Statement (EIS).

While most of this review is conducted within DHCD, the Department also obtains a concurrence from the State Historic Preservation Office (SHPO) as part of the ER. This concurrence is obtained for both locally funded and federally funded projects; federally funded projects may trigger a Section 106<sup>2</sup> review.

## ***Lead Safe Housing Rule (Lead Based Paint)***

The HUD 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.

DHCD is committed to the goal of 100 percent elimination of risk from lead hazards in housing. Any rehabilitation of existing buildings must meet HUD/EPA clearance standards and must be certified by the DC Department of Health (DOH) as lead-safe. All abatement and clean-up must be carried out in accordance with the 1992 Housing and Community Development Act included in Title X of 24 CFR 35 Subpart H - Rehabilitation and with District requirements found in Title 6 of the DC Code. All abatement contractors or subcontractors must be certified and accredited by the

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<sup>2</sup> Section 106 of the [National Historic Preservation Act of 1966 \(NHPA\)](#).

District. For information on District abatement requirements, please call 202-535-1934, the DOH Lead Paint Risk Assessment and Certification Office.

### **C. Fair Housing**

During the initial compliance review, DHCD requires the developer to commit to certain Fair Housing compliance standards noted below. During construction, DHCD will actively monitor projects for compliance through periodic site visits.

#### ***Fair Housing and Equal Opportunity (FHEO)***

The Fair Housing Act (FHA) and additional Equal Opportunity rules and regulations apply to all housing related transactions. The regulations (as described in 24 CFR Part 107) are applicable to: developers; tenants; homeowners; condominium associations; management companies; advertisement agencies; and anyone involved in the sale, rental, or management of funded housing. Each of those parties is prohibited from discriminating against prospective tenant or owners based on any of the protected categories under the FHA.

#### ***Affirmative Fair Housing Marketing Plan (AFHMP)***

The FHA 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.”

DHCD follows the federal guidelines in ensuring that *all* of its funded projects and programs, regardless of funding 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 FHA 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 DHCD will implement an AFHMP in soliciting buyers and tenants, and in advertising the availability of housing properties.

## ***Project Accessibility***

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

Section 504 of the Rehabilitation Act of 1973 provides guidelines for new construction or rehabilitation of housing units that should be accessible to persons with disabilities. Key requirements include:

- 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 percent 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 percent 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.

Section 504 standards are applied by DHCD to all development finance projects receiving financial assistance. Section 504 applies the Uniform Federal Accessibility Standards (UFAS). DHCD ensures compliance with these rules and regulations through on-site monitoring during the construction phase.

### **D. Section 3 of the Housing and Urban Development Act of 1968**

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 persons residing in the area of the Section 3-covered project.

Section 3 standards are applied to all projects receiving DHCD assistance greater than \$100,000. Section 3 is applied to the total budget, not just the DHCD contribution, regardless of funding source. Projects are required to create an

opportunities plan and submit quarterly reports to demonstrate Section 3 compliance.

## **E. Affirmative Action**

Before receiving a Letter of Commitment from DHCD, project teams must complete an affirmative action package, which will be reviewed and approved by DHCD and/or another District agency. The four components to this affirmative action package are listed below.

### ***Affirmative Action Plan***

An Affirmative Action Plan (AAP) must be submitted by the Borrower/Grantee for review and approval by the District before approval of the Loan/Grant Documents and the disbursement of any proceeds of the Loan/Grant.

The AAP will be in a form to be determined by the District and must:

- detail the Borrower's/Grantee's efforts to comply with the District's goals for achieving equal employment in District government contracts; and
- explain specific standards for the use of minorities in all job categories, as required in Mayor's Order 85-85 and District law.

The DC Office of Human Rights (OHR) requires applicants receiving financial assistance greater than \$25,000 to complete an AAP. Approval of this plan by OHR is a condition of DHCD's program monitoring review.

### ***SBE Agreements***

The District government requires a "Beneficiary" of government- assisted contracts/projects to submit certain documents, (that is, acknowledgement forms and SBE Subcontracting Plans) before the issuance of funding or award of contracts.

Following receipt of funding or after contract award, Beneficiaries are required to submit quarterly reports.

The Department of Small and Local Business Development (DSLBD) is charged with monitoring both public and private projects and contracts per DC Official Code §2-218.46: Performance and subcontracting requirements for construction and non-construction contracts; subcontracting plans.

### ***First Source Employment Agreements***

DHCD will require applicants receiving financial assistance (totaling at least \$300,000) to enter into a First Source Employment Agreement with the DC 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 DC Apprenticeship Council and report the registration number to DHCD.

## **F. Labor Standards**

### ***Davis-Bacon Act and Davis-Bacon Related Acts***

The Davis-Bacon Act (DBA) and the Davis-Bacon Related Acts (DBRA) require the payment of prevailing wage rates (as determined by the U.S. Department of Labor (DOL)) to all laborers and mechanics on Federal government and District government construction projects exceeding \$2,000. Construction includes alteration and/or repair, including painting and decorating, or public buildings or public works.

The DBRA refers to 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 DBRA statutory provision for:

- CDBG can be found in Section 110 of the Housing and Community Development Act of 1974.
- HOME can be found in Section 286 of Title II of the Cranston-Gonzalez National Affordable Housing Act. District of Columbia Department of Behavioral Health funds.

DBA wage regulations specify minimum wage rates that must be paid to laborer and mechanic workers on a construction project: These regulations do apply to HPTF-funded construction and rehabilitation projects of eight or more units, even if there are no federal funding sources in the project.

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 DBA requirements will be determined upon the selection of the project. If the requirement applies, DHCD will request a Wage Determination form the Department of Labor's (DOL) Wage and Hour Division before closing. Applicants must certify that they will comply with any applicable DBA requirements.

DHCD's OPM actively enforces the Wage Determination by reviewing Certified Payrolls submitted by the developer and by conducting site visits.

## **G. Green Building**

In accordance with The Green Building Act of 2006, as amended (D.C. Law 16-234, D.C. Official Code §§6-1451.01 et seq.) and the requirements of this RFP, residential projects of 10,000 square feet or more that receive DHCD funding must be certified by Enterprise Community Partners using the 2015 Enterprise Green Communities Criteria (GCC).

Residential projects also may pursue a "substantially similar standard." Currently certification with the U.S. Green Building Council using LEED for Homes and LEED for Homes Multifamily Midrise rating systems at the Silver level or above are pre-approved "substantially similar standards." Applicants must consult with the DC Department of Consumer and Regulatory Affairs (DCRA) Green Building Division before submission to determine the correct LEED rating system. If a project team would like to use another standard, it also must be pre-approved by the Green Building Division before submission.

At the time of submission, project teams must submit:

- confirmation of GCC registration on the online certification portal;
- a completed 2015 GCC Intended Methods Checklist with the appropriate minimum score; and
- documentation of the Goal Setting and Integrated Design Charrette.

If selected for financing, at several points during the project underwriting phase, DHCD will monitor progress toward compliance with the Green Building Act. As a condition precedent to loan closing, project teams must submit proof of 2015 Enterprise Green Communities Step 1 Pre-Build certification. Once construction is complete, projects must demonstrate that they have achieved certification.

Projects pursuing LEED for Homes or LEED for Homes Multifamily Midrise at the Silver level or above must be certified by the US Green Building Council. At the time of

submission, upon consultation with the team's design professionals, the appropriate completed LEED checklist must be submitted, demonstrating compliance with all prerequisites and sufficient points to achieve LEED Silver or above. Please note that submission of evidence of an integrated design charrette is not mandatory for LEED projects, but is strongly recommended by DHCD. If selected for financing, as a condition precedent to loan closing, project teams must be registered with LEED Online and add the District government account to the LEED Online project team. Once construction is complete, projects must demonstrate that they have achieved the appropriate certification.

## **H. Relocation (if applicable)**

For existing occupied buildings, the applicant must notify its tenants of its intent to submit an application to DHCD for rehabilitation funds and the possibility of temporary Relocation. Applicant must submit a draft of the Relocation Plan for any projects that may result in the temporary or permanent displacement of current occupants (that is, households or businesses). DHCD requires the applicant to comply with the requirements of:

- the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601 also known as URA) ;
- Section 104(d) of the Housing and Community Development Act of 1974 [42 U.S.C. §5304(d)] if CDBG funds are used; or
- Resident notice and compensation under local relocation regulations found at Title 10, District Code of Municipal Regulations (DCMR) Chapter 22 if HPTF funds are used.

Applicants should make themselves familiar with the requirements of URA §104(d) or 10 DCMR 22, as applicable, including notices from both the purchaser and seller to residents that may apply to their project. Information on federal relocation requirements may be found at:

<http://www.hud.gov/offices/cpd/library/relocation/index.cfm>.

Applicant must submit to DHCD the following documentation:

- Provide a General Information Notice (GIN) to tenants as soon as Applicant(s) submits the funding application to DHCD
- Complete the "Record Keeping and Monitoring Checklist"
- Submit a detailed Relocation Plan
- Provide a complete Budget for the Relocation

DHCD will actively monitor that the approved relocation plan is adhered to when a project involves temporary or permanent relocation.

### **III. ADDITIONAL CONDITIONS TO CLOSING**

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Letters of Commitment (LOC) issued by DHCD contain a series of conditions that must be met before closing. Some of these requirements may be updates of documents already submitted, such as an updated appraisal, Phase I, or Certificate of Good Standing. Any outstanding items from the OPM compliance review also will be listed as conditions in the LOC.

In addition to all the requirements listed in the previous sections of this document and in the Threshold Eligibility Requirements and Scoring Criteria section of the Request for Proposals, DCHD will require the following:

**A. Non-Procurement Debarment (Vendor Eligibility List Verification)**

The District government uses a list of “debarred” organizations that are ineligible to do business with the city. Organizations identified on this list cannot receive funding from DHCD. The Borrower/Grantee must submit at the time of application an affidavit certifying that neither Borrower/Grantee, nor its affiliates, nor any of its contractors or subcontractors at any tier are debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 or District assistance programs.

DHCD must verify that an organization is not on this list before approval of any project. DHCD will reference this list at the time of application and again before closing to ensure that no members of the project team are debarred.

**B. Tax Verification**

The Tax Verification validates that a developer is in compliance with the District’s license and tax requirements. Verifications are required from two city organizations: DOES and the DC Office of Tax and Revenue (OTR). The results of this verification will determine whether the requesting organization is eligible to receive funding from DHCD. The Borrower also must demonstrate that it is current on all federal tax payments.

**C. Current on District Obligations**

Borrower/Grantee and any other entity that comprises its management or ownership structure must be current on all obligations outstanding to any District agency or entity, whether or not related to the proposed Loan/Grant. Borrower/Grantee must provide to Lender/Grantor satisfactory evidence indicating that it is in good standing on its obligations to the District.

**D. District Approvals**

Loans in the amount of at least \$1 million are contingent upon the approval of the DC Council and all financial commitments are contingent upon the approval of the District's Chief Financial Officer.

**E. Advisory Neighborhood Commission Notice Requirement**

Financing commitments are conditioned upon compliance with Advisory Neighborhood Commissions' (ANCs') notice requirements.

DHCD is required to provide notice to affected ANCs before the award of any grant funds to a citizen organization or group if the award is of significance to neighborhood planning and development in the affected commission area. (This is in accordance with the Home Rule Act and the Advisory Neighborhood Commissions Act of 1975, DC Law 1-58, March 26, 1976, codified at D.C. Official Code §1-309.10.)

ANCs are entitled to a 30-day comment period to submit written or oral comments and recommendations to DHCD in response to any proposed funding award. If comments are received, DHCD is required to respond to all legally relevant recommendations before making a final decision on any funding award.

**F. Other Financing and Project Sources**

Borrower must submit letters of commitment and loan documents from all other funding sources necessary to fully perform all development and construction obligations required to complete the project.

**G. Contractor/Subcontractor Selection**

The Borrower/Grantee must demonstrate to DHCD that a competitive bid process is used for the selection of contractors/subcontractors that will work on the project.

Borrower/Grantee must provide DHCD with a copy of the executed construction contract with its general contractor for the project, as well as a copy of the executed contracts with its architect and management agent.

**H. Permits**

The Borrower/Grantee must obtain and deliver copies of any and all building, occupancy, and similar permits required by District and Federal law, to include, Section 105A of Title 12A of the DC Municipal Regulations in connection with the development and occupancy of the project/property described in the Commitment.

**I. Completion Guaranty/Payment and Performance Bond**

The Project Guarantors must provide full, unconditional joint and several guarantees for project completion.

**J. Project Budget Allocation**

Borrower must submit a budget schedule that details the allocation of all funding sources for the project budget.

**K. Draw Schedule**

Borrower must submit a detailed draw schedule for the Loan proceeds disbursement.

**L. Current Land Survey and Legal Description**

The Borrower/Grantee must submit to Lender/Grantor a current land survey and legal description of the property from a land surveyor registered in the District. Such survey must clearly designate all improvements, encroachments, easements, rights-of-way, roads, alleys, ways, rivers, creeks, streams, paths, setbacks, and other matters revealed by inspection survey, as well as any portion of the property that may be covered by water.

**M. Termite Inspection**

If applicable, the Borrower/Grantee must submit satisfactory evidence of a property termite inspection and written certification that there is no evidence of infestation of termites or wood-boring insects now or upon completion of the project.

**N. Public Utilities**

The Borrower/Grantee must provide such written evidence, as Lender/Grantor may require, to the effect that sanitary sewer, water, and other public utilities are available and adequate to serve the property for purposes consistent with the uses contemplated in the Commitment.

**O. Insurance**

Borrower/Grantee must obtain and maintain at no expense to the Lender, while any obligation of the Borrower/Grantee under any Loan/Grant Documents remains outstanding, liability, casualty, all-risk, workers' compensation, builder's risk, contractor's liability and architect's professional liability insurance policies in accordance with the following requirements:

1. A commitment for title insurance to be issued at Loan/Grant Closing for the benefit of the Lender/Grantor in the aggregate principal amount of the Loan and Grant, showing title to the property to be free and clear of all liens and encumbrances, except those encumbrances accepted in writing by the Lender/Grantor, and insuring the Lender's Deed of Trust on the property.

2. Insurance binders for liability and casualty insurance prepaid for at least one year from the date of Loan/Grant Closing and listing the Lender/Grantor as an additional insured and providing to Lender at least 30 days b written notice before cancellation. Casualty insurance must be for replacement costs of the property. Liability insurance may not be less than \$1 million per incident and \$3 million in the aggregate.
3. Builder's risk insurance must be for the amount of the Construction Contract. After the builder's risk coverage is no longer in place, casualty insurance must be at least for the replacement costs of the property. The liability insurance must be in at least the amount of \$1 million per occurrence and an aggregate amount of \$3 million. The casualty and builders risk policies must name the Lender/Grantor under a Lender's Loss Payable endorsement.
4. Borrower/Grantee must obtain a performance bond guaranteeing completion of work performed by Borrower's/Grantee's general contractor.

**P. Organizational Documents/Authorizing Resolution**

Borrower/Grantee must provide:

1. A certified copy of the Articles of Incorporation, By-laws, Certificate of Limited Partnership, Articles of Organization and Operating Agreement for the borrowing entity and any other entity that comprises its management or ownership structure, as required by the Lender/Grantor;
2. Evidence satisfactory to Lender/Grantor that the corporation, partnership or limited liability company and any other entity that comprises its management/ownership structure is in good standing in the jurisdiction where it is incorporated and qualified to do business in every jurisdiction in which it conducts business; and
3. Certificate of Incumbency, together with an authorizing resolution showing that the Borrower/Grantor has the authority to enter into the Loan/Grant and that the person(s) executing the Loan/Grant on behalf of the Borrower/Grantee has the requisite authority to sign and deliver the Loan/Grant Documents to the Lender/Grantor. The Certificate of Incumbency and authorizing resolution must be duly certified by the Secretary of Borrower/Grantee or the official so designated.

**Q. Opinion of Counsel**

A written opinion of the Borrower's/Grantee's counsel stating that:

1. the Borrower/Grantee is validly organized, existing and authorized to do business in every jurisdiction in which the nature of its business or its properties make such qualification necessary;
2. the Borrower/Grantee has the full authority and legal right to carry out the terms of the Commitment letter and all documentation required in this Guide to be executed by Borrower/Grantee;
3. the Borrower/Grantee has taken all actions to authorize the execution, delivery, and performance of the Commitment and any documents required to be executed in connection with the Loan/Grant according to their respective terms;
4. none of the aforesaid actions, undertakings or agreements violates any restriction, term, condition or provision of the Borrower's/Grantee's organizational or management documents or any contract or agreement to which Borrower/Grantee is a party or by which it is bound; and
5. the Loan/Grant is identified by name and Loan/Grant number, if available, and specifically identifies the documents upon which the Opinion is based.

**R. Drug Free Workplace Certification**

Borrower/Grantee signs a certification at closing, committing to comply with The Drug Free Workplace Act of 1988, 41 U.S.C. 701 et seq.; 24 CFR part 21.

**S. Conflict of Interest Statements**

Federal and District laws strictly prohibit any person who exercises or has exercised any functions or responsibilities regarding DHCD-assisted activities or who is in a position to participate in a decision-making process or gain inside information with regard to such activities from obtaining a financial interest or benefit from a DHCD-assisted activity, or have a financial interest in any contract, subcontract, or agreement regarding a DHCD-assisted activity.

Further, as it relates to the procurement of supplies, equipment, construction and services, recipients of HPTF monies are held to the conflict of interest provisions of District laws. HPTF recipients must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts and standards of conduct that address the prohibition against any real or apparent conflict of interest. The Borrower must submit a copy of its conflict of interest policies and procedures to the Lender within 15 days of the Loan Closing.

## IV. ONGOING COMPLIANCE

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### A. Financial Statements

Throughout the duration of the Loan/Grant, Borrower/Grantee must submit to DHCD the following on an annual basis:

1. Final Audited Financial Statements for current year – financial statements required by the Loan/Grant are subject to Generally Accepted Accounting Principles standards
2. Final Tax Return for current year
3. Evidence of Commercial Property Insurance with DHCD added as an Additional Interest, Loss Payee:  
DC Department of Housing and Community Development  
Portfolio Asset Management Division  
1800 Martin Luther King, Jr. Avenue, SE  
Washington, DC 20020-6900;
4. Evidence of Liability Insurance with DHCD added as a Certificate Holder:  
DC Department of Housing and Community Development  
Portfolio Asset Management Division  
1800 Martin Luther King, Jr. Avenue, SE  
Washington, DC 20020-6900;
5. Copy of Operating Reserve Account Statements (if applicable);
6. Evidence of payment of Real Estate Property Taxes
7. Current Business License
8. Reconciliation of Lender/Grantor-funded expenditures
9. Project Operating Statements
10. On an annual basis, by the 120th day after the close of Borrower's/Grantee's fiscal year, an Office of Management and Budget (OMB) Circular A-133 audit or other applicable audit requirements set forth in 2 CFR Chapter 1, Chapter II, Part 200 et al.

### B. Accounting/Audit Requirements

The Borrower/Grantee must establish a separate account independent of other account records of Borrower/Grantee, for the deposit of any Loan/Grant funds. The Borrower/Grantee must maintain complete and accurate records and documentation of all costs incurred under the Loan/Grant in accordance with the instructions of the Lender/Grantor and organized in a manner that identifies cost categories in the itemized budget.

**C. Reporting Requirements**

The Borrower/Grantee agrees to provide Lender/Grantor with all information that may be required to meet District and/or federal reporting requirements. Such information may include, but is not limited to: information on household size, age, income, sex, and racial ethnic group on all occupants who reside in housing units funded by the Loan/Grant proceeds.

**D. General Monitoring Requirements**

Throughout the duration of the Loan/Grant, the Borrower/Grantee must be prepared for and facilitate Project monitoring by DHCD in compliance with Federal and District requirements. The Borrower/Grantee:

- Agrees to facilitate project monitoring by creating, storing and maintaining all project records in accordance with the Lender's requirements.
- Agrees to permit desk monitoring, site visits and audits.
- Must permit all inspections of the project records as Lender/Grantor deems necessary to ensure the upkeep and operation of the project in compliance with District and federal laws.

## V. GENERALLY APPLICABLE RULES AND REGULATIONS

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HUD and the District of Columbia regulations require DHCD to monitor projects funded with federal and/or District of Columbia funds for compliance with various federal and District regulations. Applicants receiving financial assistance from DHCD could be subject to any and all of the following laws and regulations:

- Housing Production Trust Fund - D.C. Code §42-28; DCMR 10-B41
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards - 2 CFR Part 200
- Community Development Block Grant (CDBG) - 24 CFR Part 570
- HOME Investment Partnerships Program (including long-term affordability requirements) - 24 CFR Part 92
- Housing Opportunities for Persons with AIDS (HOPWA) - 24 CFR Part 574
- Environmental Reviews - 24 CFR Part 58
- Certified Business Enterprise Agreement
- Age Discrimination Act of 1975 - 24 CFR Part 146
- Affirmative Action Plan - Mayor's Order 85-85
- Non-procurement Debarment - 2 CFR Part 2424
- Anti-lobbying Restrictions - 24 CFR Part 87
- D.C. Notice on Non-Discrimination - D.C. Official Code §§2-1401.1 *et seq.*
- The Rental Housing Conversion and Sale Act of 1980 (D.C. Law 3-86)
- The Rental Housing Act of 1985
- Section 3 of the Housing and Urban Development Act of 1968, -12 USC. 1701u - 24 CFR Part 135
- First Source Program - D.C. Official Code §§2-219.01 *et seq.*
- Americans with Disabilities Act of 1990 - 42 USC 2181 *et seq.*
- Lead Safe Housing Rule (Lead Based Paint) - 24 CFR Part 35
- Section 504 of Rehabilitation Act of 1973, as amended - 24 CFR Part 8
- Uniform Relocation Act - 42 USC Chapter 61: District of Columbia Relocation Assistance provisions (10 DCMR Chapter 22)
- Freedom of Information Act - D.C. Official Code §2-531 *et seq.*
- Davis Bacon and related Acts - 40 USC §§276a-276a-5 and 42-USC 5310: 42 USC 327 *et seq.*
- Conflict of Interest - 24 CFR §570.611: 24 CFR §§ 85.42 and 85.36
- Fair Housing - 24 CFR Part 107: 24 CFR Part 100
- Hatch Act - 5 USC Chapter 15
- LIHTC - § 42 of IRS Code of 1986
- National Environmental Policy Act (NEPA) of 1969 - 24 CFR Part 58
- Sections 9a and 9b of the Historic Landmark and Historic District Protection Act of 1978, as amended
- Section 106 of the National Historic Preservation Act of 1966 - 36 CFR Part 800
- Drug Free Workplace - 24 CFR Part 21
- Inclusionary Zoning Implementation Act of 2006, D.C. Law 16-275, D.C. Official Code §§6-1041.01 *et seq.*
- Broadband Infrastructure in HUD-Funded New Construction & Substantial Rehabilitation: HOME - 24 CFR 92.251(a)(2)(vi); CDBG - 24 CFR 570.202(g)