

FY2021

RFP Compliance and Monitoring Reference Guide

Supplement to the Consolidated Request for Proposals for Affordable Housing Projects

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I. Introduction

This Compliance and Monitoring Reference Guide (Guide) supplements the Consolidated Request for Proposals (RFP) issued on September 30, 2021, by the D.C. Department of Housing and Community Development (DHCD), the D.C. Housing Finance Agency (DCHFA), the D.C. Housing Authority (DCHA), the D.C. Department of Behavioral Health (DBH), D.C. Department of Health (DC Health) and the D.C. Department of Human Services (DHS).

This guide outlines the relationship between DHCD and those who receive agency funds. It covers what to expect throughout the loan term, and it also:

- Outlines applicable District and Federal rules and regulations.
- Describes DHCD's standards and processes for funded projects.
- Details what DHCD expects from applicants and their project teams during each project phase.

This guide only describes the rules, regulations, and processes associated with DHCD funding. It doesn't include information related to other funding sources made available by DHCD's partner agencies through the RFP. These may include project-based operating subsidies from DCHA and supportive services funds from DHS or DBH.

II. Compliance Review

Several agencies take part in the project review process. DHCD's Development Finance Division (DFD) completes the threshold eligibility review, evaluates projects against the scoring criteria, and issues selection letters. In addition, DHCD's Office of Program Monitoring (OPM) conducts a compliance review of projects chosen by DFD.

OPM reviews documents submitted by a project's development team once a project passes the DFD threshold review. This compliance review covers the following subject areas, listed below:

- A. Funding Source Eligibility
- B. Environmental Requirements
- C. Historic Preservation
- D. The Fair Housing Act
- E. Program and Project Accessibility
- F. Section 3 of the Housing and Urban Development Act of 1968
- G. External Agency Compliance Requirements (First Source, Affirmative Action, SBE)
- H. Labor Standards (Davis Bacon, CWHSSA)
- I. Relocation (if applicable).

A. Funding Source Eligibility

To facilitate OPM's review, DFD matches chosen projects to appropriate funding sources. DFD considers the rules for each source when conducting a review of the applications.

OPM reviews each compliance review submission and determines whether a project is eligible for the funding source DFD has tentatively reserved. The rules specific to each DHCD funding source are 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 §42-2801 et. seq.; 10B DCMR Chapter 41
- [Low-Income Housing Tax Credit \(LIHTC\)](#) — §42 of I.R.S. Code of 1986
- [Housing Trust Fund- Interim Rule](#) — 24 CFR Parts 91 and 93
- [Unified Funds](#) — D.C. Code §42-2857.01
- Department of Behavioral Health Funds — D.C. Code Title 7 Chapter 11A
- [Pilot Program to Help Individuals in Recovery from a Substance Use Disorder Become Stably Housed \(Recovery Housing Program\)- Section 8071 of the Support for Patients and Communities \(SUPPORT\) Act](#)
- [Section 108 Loan Guarantee Program \(Section 108\)](#)

B. Environmental Review

OPM conducts an environmental review (ER) in compliance with the National Environmental Policy Act (NEPA) for each chosen project. This occurs before the project closes, or no later than 60 days after DHCD issues the letter of commitment ("Commitment"). OPM considers the following information submitted with the Applicant's application:

- A project appraisal stating the "as-built" project value, taking into account all covenants and restrictions
- Evidence from the D.C. Office of Zoning that the project can be legally built and operated on the property
- A Phase One Environmental Study (Phase One or ESA) and related documentation
- A Property Needs Assessment (PNA). This includes detailed reports on issues identified in the Phase One or the Property Needs Assessment. These reports include a:
 - Lead-based paint risk assessment
 - Mold abatement plan
 - Termite treatment plan
 - Underground storage tank removal
 - Plan for abating any other environmental hazards identified in the

environmental study.

All documents must be current within six months of the Commitment date.

The Environment Review Record (ERR)

OPM creates an ERR for locally and federally funded projects as required by [24 CFR Part 58](#). The ERR is based on HUD's guidelines and instructions for complying with the [National Environmental Policy Act \(NEPA\) of 1969](#).

OPM provides clearance for a project to proceed following the review of the project activity, project summary, and other supporting documents. While DHCD is responsible for the ERR, the State Historic Preservation Office (SHPO) must agree with OPM's determination regarding historical impact. The [SHPO](#) is the federally designated office that must concur with OPM's decision. Federally funded projects may also require a more extensive review in compliance with [Section 106 of the National Historic Preservation Act of 1966](#) if the proposed actions affect historic buildings¹.

If the project is federally funded and NEPA applies, OPM will review the proposed activity and make one of the following determinations:

- [Categorical Exclusion](#)
- The Applicant must complete an Environmental Assessment
- The Applicant must complete an Environmental Impact Statement (EIS).

Lead-Safe Housing Rule (Lead-Based Paint)

The [HUD Lead-Safe Housing Rule](#) establishes lead hazard controls for residential rehabilitation projects on units built before 1978. Which requirements apply depend on how much federal funding the project is receiving and the property's age.

The Applicant must provide DHCD with a Lead-Based Paint Risk Assessment if:

- The Phase One Environmental Report indicates the possible presence of lead-based paint, or
- Federal financial assistance is more than \$5,000 per unit.

The paint must be removed if federal financial assistance is more than \$25,000 per unit.

This work must be done:

- By contractors and subcontractors certified and accredited by the District
- In accordance with the [1992 Housing and Community Development Act](#), Title X of 24 CFR 35 Subpart H – Rehabilitation
- To comply with Title 6 requirements in the D.C. Code

¹ Section 106 of the [National Historic Preservation Act of 1966 \(NHPA\)](#), "Affordable Housing Allocation," and a new section 1338, entitled "Housing Trust Fund." This fund is referred to as the National Housing Trust Fund (NHTF).

DHCD monitors the work to ensure that contractors follow the Lead-Safe Housing Rules for projects receiving financial assistance. Their goal is to eliminate 100% of the risk from lead hazards in these units. To this end, any rehabilitation of existing buildings must meet HUD/EPA clearance standards and be certified by the D.C. Department of Health (DOH) as lead-safe.

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

Choice-Limiting Action

The 24 CFR §58.22(a) requirements apply to public and private non-profit and for-profit entities. The statute addresses the start of projects that would have an adverse environmental impact or limit the choice of reasonable alternatives.

Loan/grant recipients, participants in the development process, or their contractors can only begin to use HUD funds on project activities after:

- HUD has approved the recipient's Request for Release of Funds (RROF), and
- DHCD issues the related certification.

However, 24 CFR §58.22(b) allows projects or activities that are exempt under 24 CFR §58.34 to start immediately after DHCD issues a Commitment. Exempt activities include, but aren't limited to:

- Environmental and other studies, source identification, and development plans and strategies
- Inspections and testing for hazards or defects
- Purchase of insurance, engineering, or design services
- Technical assistance and training
- Assistance for temporary or permanent improvements that don't alter environmental conditions. These improvements are limited to protection, repair, or restoration activities needed to stop or control the effects of disasters or imminent threats to public safety. Included are those resulting from physical deterioration.

Option Agreements

The recipient can have an option agreement on a proposed site or property before completing the environmental review under two conditions:

1. The recipient will rely on the study to determine if the property is desirable, and
2. The cost is a nominal portion of the purchase price.

C. Fair Housing

The developer must commit to the Fair Housing Compliance Standards noted below during the initial compliance review. During construction, DHCD will conduct periodic site visits to monitor projects for compliance.

Fair Housing and Equal Opportunity (FHEO)

[The Fair Housing Act](#) (FHA) and additional [Equal Opportunity rules and regulations](#) apply to all housing-related transactions. Its requirements apply to developers, tenants, homeowners, and condominium associations. They also apply to management companies, advertising agencies, and anyone involved in the sale, rental, or management of funded housing. Discrimination is prohibited by anyone against prospective tenants or owners protected under the FHA.

Affirmative Fair Housing Marketing Plan (AFHMP)

DHCD requires all housing providers to market housing units pursuant to the FHA's affirmative marketing policies as defined in 24 CFR § 200.600. This requirement includes "publicizing to minority persons the availability of housing opportunities regardless of race, color, religion, sex, handicap, or familial status or national origin, through the type of media customarily utilized by the applicant, including minority publications or other minority outlets which are available in the housing market area."

The AFHMP ensures positive outreach and efforts to inform and educate those least likely to know about and apply for the housing in question. Each Applicant participating in housing programs funded by DHCD must implement an AFHMP to advertise the availability of these properties and solicit qualified buyers and tenants.

The FHA also requires housing providers to make reasonable accommodation in rules, policies, practices, and services when needed to give all people equal opportunity to use and enjoy a dwelling.

Project Accessibility

The FHA also requires new construction projects with four or more dwelling units to comply with its accessibility and adaptability requirements. Under the Act's new construction requirement, dwelling units in multi-family buildings with an elevator(s) must meet FHA design and construction requirements. In addition, all the ground floor dwelling units must meet FHA requirements if there is no elevator.

[Section 504 of the Rehabilitation Act of 1973](#) (Section 504) also provides guidelines for making new or rehabilitated housing units accessible for people with disabilities. Accessible units must be available throughout newly built or altered buildings and sites.

Alterations are considered substantial if a project has 15 or more units and they equal 75% or more of the cost to replace the finished project. They aren't substantial if the project has fewer than 15 units or the cost is less than 75% of the replacement cost. To the maximum extent possible, these changes must be readily accessible to and usable by individuals with disabilities.

DHCD applies Section 504 to all projects. The [Uniform Federal Accessibility Standards \(UFAS\)](#) are applied to projects covered by Section 504. The standards known as UFAS were developed by federal agencies to create standards pursuant to the [Architectural Barriers Act of 1968](#) (ABA). The ABA requires that buildings and facilities designed, constructed, or altered with federal funds be accessible; these standards were developed to define "accessible".

D. [Section 3 of the Housing and Urban Development Act of 1968](#) (Section 3)

Applicants must sign a certification of compliance with Section 3 and create a compliance plan for covered projects. Applicants and their subcontractors must help promote:

- training, employment, contracting, and other economic opportunities to low- and very low-income persons.
- Contracts for work on the project must emphasize residents of the neighborhood or service area in which the investment is made.

DHCD applies Section 3 standards to all projects receiving more than \$200,000. In addition, projects must create an "opportunities plan" and submit quarterly reports to DHCD to demonstrate Section 3 compliance.

On September 28, 2020, HUD published [the final Section 3 Rule](#); the changes focused on streamlining processes and revised benchmarks. For more information, visit <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf>.

E. External Agency Compliance

Before receiving a Commitment from DHCD, project teams must complete plans and agreements as required by District law, including an Affirmative Action Plan (AAP), First Source Plan and agreement, and a Small Business Enterprise (SBE) agreement. OPM will conduct a preliminary review of the document and submit the following to the other District agencies for final review and approval:

The Affirmative Action Plan (AAP)

The Applicant must submit an AAP if they're requesting more than \$25,000 in funding. The [DC Office of Human Rights \(OHR\)](#) must review and approve it *before* loan/grant documents can be approved and funds disbursed.

The AAP, in a form determined by the District, must:

- detail the Applicant'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 by Mayor's Order 85-85 and District law.

Small Business Enterprises and Certified Business Entity Agreements

The District government requires a "beneficiary" of government-assisted contracts/projects to submit documents such as a Certified Business Entity (CBE) agreement and contracting plans before awarding contracts or issuance of funds. The [Department of Small and Local Business Development \(DSLBD\)](#) monitors both public and private projects and contracts.

First Source Employment Agreements

The District requires applicants who receive funding of at least \$300,000 to enter into a First Source Employment Agreement. This agreement is with the [D.C. Department of Employment Services \(DOES\)](#) in accordance with the First Source laws and regulations. Applicants also must use DOES as their first source to recruit, refer, and place new hires or employees into jobs created with DHCD funds.

Registration with the D.C. Apprenticeship Council

Companies must register with the [D.C. Apprenticeship Council](#). They also must report their registration number to DHCD if the contract(s) they are awarded in a year total \$500,000 or more.

F. Labor Standards

Wage Requirements

The [Davis-Bacon Act](#) (DBA) and the [Davis-Bacon Related Acts](#) (DBRA) require applicants to pay "prevailing wages" to all laborers and mechanics on Federal- and District-funded construction projects exceeding \$2,000. Construction includes alteration and repair (including painting and decorating) to public buildings or public works. The U.S. Department of Labor (DOL) determines prevailing wages.

The DBRA is a labor provision included in 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. DBRA statutory provisions apply differently for:

- Community Development Block Grants (CDBG), as found in Section 110 of the Housing and Community Development Act of 1974.
- HOME, as found in Section 286 of Title II of the Cranston-Gonzalez National Affordable Housing Act.

DBA wage regulations specify minimum wage rates for laborers and mechanics on funded construction and rehabilitation projects of eight or more units. They apply to projects funded by the D.C. Housing Protection Trust Fund (HPTF), with or without additional federal funding.

DOL classifies construction projects into four categories: Building, Residential, Heavy, and Highway. [All Agency Memorandum 130 with Addendum 131](#) “Application of the Standard of Comparison ‘Projects of a Character Similar’” details these categories. Use it for guidance regarding construction types.

DBA regulations *do not apply* if the Applicant uses funds *only* for non-construction expenses such as:

- Land acquisition
- Architectural and engineering fees
- Fees for other services such as legal, accounting, or construction management

DHCD determines the actual DBA requirements upon project selection. If DBA applies, DHCD will request a wage determination from DOL’s Wage and Hour Division before loan closing. DHCD’s OPM reviews certified payrolls submitted by the developer. Site visits are also conducted to enforce wage determinations.

The [Contract Work Hours and Safety Standards Act \(CWHSSA\)](#) applies to prime contracts for contractors and subcontractors in excess of \$100,000. CWHSSA requires subcontractors to pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay rate for all hours worked over 40 in a workweek.

The [Fair Labor Standards Act](#) may also apply to DBA-covered contracts, which include overtime provisions. When DOL’s prevailing wage is below that of the [D.C. Living Wage Act of 2006](#), the D.C. living wage must be paid. DOES monitors and enforces the Living Wage Act of 2006. For more information on the D.C. Living Wage, please visit <https://does.dc.gov/service/office-wage-hour-compliance>.

G. Green Building

[The Green Building Act of 2006](#), as amended (DC Law 16-234, D.C. Official Code §§6-1451.01 et seq.) and this RFP require residential projects of 10,000 square feet or more to meet green building standards. They must be certified by Enterprise Community Partners, according to the 2015 [Enterprise Green Communities Criteria](#) (GCC.), or meet a “substantially similar standard.”

Pre-approved standards include certification by the [U.S. Green Building Council](#) for projects pursuing LEED for Homes and LEED for Homes Multi-family Midrise rating systems at the silver level or above. A completed LEED checklist demonstrating compliance with all prerequisites and sufficient points to achieve that level must accompany the Applicant’s submission.

Applicants must consult with the [D.C. Department of Consumer and Regulatory Affairs \(DCRA\) Green Building Division](#) before submission to determine the correct [Leadership in Energy and Environmental Design \(LEED\)](#) rating system. If a project team wants to use another standard, the Division must approve it before submission.

At the time of submission, project teams must include:

- Confirmation of GCC registration on the online certification portal
- A completed 2015 GCC Intended Methods Checklist with the appropriate minimum score
- Documentation of the project’s Goal Setting and Integrated Design Charrette (highly recommended but not required for LEED projects).

DHCD monitors a project’s progress toward compliance with the Green Building Act at several points during the underwriting phase. Before loan closing, project teams must:

- Submit proof of 2015 Enterprise Green Communities Step 1 Pre-Build Certification
- Register with LEED Online and add the District government account to the LEED Online project team

Once construction is complete, projects must meet certification requirements.

H. Relocation (if applicable)

Applicants must notify current tenants (households and businesses) of their intent to apply for DHCD rehabilitation funds and of the possibility of temporary relocation.

They must also provide DHCD with:

- The General Information Notice (GIN) provided to tenants as soon as they submit their funding application

- A completed “Record Keeping and Monitoring Checklist”
- A detailed Relocation Plan for occupants who will be temporarily or permanently displaced
- A complete budget for their relocation

Applicants also must comply with the requirements of:

- The [Uniform Relocation Assistance and Real Property Acquisition Act](#) of 1970 (U.R.A., 42 U.S.C. 4601)
- [Section 104\(d\) of the Housing and Community Development Act of 1974](#) [42 U.S.C. §5304(d)], if using CDBG funds
- Title 10, District Code of Municipal Regulations (DCMR) Chapter 22 - resident notice and compensation under local relocation regulations, if using HPTF funds

Applicants should become familiar with the above applicable requirements, including notices from both the purchaser and seller to residents before making an application to the District for their project.

DHCD will actively monitor approved relocation plans to be sure they are adhered to when a project involves temporary or permanent relocation. For more information on federal relocation requirements, go to:

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

III. Additional Conditions to Closing

DHCD will issue Letters of Commitment (LOC) for each funded project. They contain a series of conditions the Applicant must meet before closing. These could be updates of documents already submitted: an updated appraisal, Phase I Environmental Study, or Certificate of Good Standing. The LOC may have any outstanding items from the OPM compliance review.

The following conditions must also be met before loan closing; these conditions are in addition to those in the Threshold Eligibility Requirements and Scoring Criteria section of the Request for Proposals.

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

The District compiles a list of “debarred” organizations that are ineligible to do business with the city. DHCD checks the list while reviewing applications and before closing on a loan.

An application must include an affidavit certifying that the Applicant and their affiliates

are not debarred, suspended, or otherwise excluded from or ineligible to participate in federal assistance programs. Ineligibility is determined under [Executive Order 12549](#) [51 F.R. 6370, 3 CFR, 1986] or District assistance programs [D.C. Official Code §2-357.07]. The Applicant's affiliates include any entity that owns, manages, contracts, or subcontracts with them.

B. Tax Verification

The Applicant must submit tax verifications from DOES and the [D.C. Office of Tax and Revenue \(OTR\)](#). These show that their affiliates, contractors, and subcontractors comply with the District's license and tax requirements. They also must submit proof of compliance with federal tax requirements to be eligible for DHCD funds

The [Tax Verification \(Clean Hands Certificate\)](#) from OTR validates that an Applicant and its management entities comply with the District's license and tax requirements. All tax verifications must be current within ninety (90) days of the loan closing date.

C. Current on District Obligations and Good Standing Certification

The Applicant must provide DHCD with satisfactory evidence indicating that it is in good standing with its obligations to the District. They must do the same for their affiliate management and ownership companies. The [Good Standing](#) certificates from DCRA must be current within ninety (90) days of the closing date.

D. District Approvals

The D.C. Council must approve all loans of \$1 million or more, and the District's Chief Financial Officer must approve all financial commitments.

E. Advisory Neighborhood Commission Notice Requirement

The Applicant acknowledges that DHCD must comply with the [Advisory Neighborhood Commissions](#)' (ANCs') notice requirements for all financing commitments. This means DHCD must notify affected ANCs before awarding grant funds to a citizen organization or group if the award is of significance to neighborhood planning and development in the affected area.

This notice is required by 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. It gives ANCs a 30-day period to submit written or oral comments and recommendations to DHCD in response to any proposed funding award. DHCD is required to respond to all legally relevant recommendations before making a final funding decision.

F. Other Financing and Project Sources

The Applicant must submit commitment letters and loan documents from all other funding sources needed to complete the DHCD-funded project.

G. Contractor/Subcontractor Selection

The Applicant is required to use a competitive bid process to choose the projects' contractors and subcontractors. If necessary, DHCD may request that the Applicant provide the agency with copies of the executed construction contracts with the general contractor, architect, and management agent. For example, this may occur if costs appear out of line with the market, are beyond DHCD underwriting guidelines, or if an applicant is requesting a loan increase.

H. Permits and Plans and Specifications

The Applicant must obtain and deliver to DHCD copies of all building, occupancy, and similar permits required by District and Federal law. This includes Section 105A of Title 12A of the D.C. Municipal Regulations as applicable to the development and occupancy of the project/property described in the Commitment.

More detail has been added to this section to clarify that it is the Borrower/Grantee's responsibility to determine which permits are required for their specific project. Building permits would apply to all projects, so these are listed as examples. It is the Borrower/Grantee's responsibility to get the most up-to-date versions of the laws applicable to their specific project.

The Applicant will provide DHCD with a copy of the permit, set of plans, and specifications for the project stamped and dated by the DCRA.

I. Completion Guarantee/Payment and Performance Bond

The project guarantors must provide complete, unconditional joint and several guarantees for project completion. The type of guarantee may vary depending upon the project; the guarantee may be drafted by DHCD or the Applicant's counsel.

J. Project Budget Allocation

The Applicant shall submit a budget schedule detailing the allocation of all project funding by source.

K. Draw Schedule

The Applicant shall submit a detailed draw schedule for disbursing loan proceeds.

L. Current Land Survey and Legal Description

The Applicant shall submit to DHCD a current land survey and legal description of the property by a land surveyor registered in the District. This survey must clearly designate all improvements, encroachments, easements, rights-of-way, roads, alleys and ways, rivers, creeks, streams, paths, setbacks, and other matters revealed by the inspection survey. It also must identify any portion of the property that may be covered by water.

M. Public Utilities

DHCD may require the Applicant to provide written evidence of available sanitary sewer, water, and other public utilities. These services must be adequately meet the intended needs of the project approved in the Commitment.

N. Insurance

The Applicant must obtain and maintain the following insurance coverage for each project:

- Liability insurance, including general, auto, professional errors and omissions for contractors and architects, environmental, and umbrella liability policies
- Worker's compensation
- All-risk property and builder's risk policies in accordance with the limits and standards determined by the [DC Office of Risk Management \(ORM\)](#)

The Applicant will secure, keep, and cover the cost of these insurances while their DHCD loans or grants are outstanding. In addition, they must complete these five steps:

1. Provide DHCD with a commitment for title insurance to be issued at the Loan/Grant Closing. It must be in the aggregate principal amount of the loan or grant. It also must show that the title to the property is free and clear of all liens and encumbrances, except encumbrances accepted in writing by DHCD. The Commitment also ensures the Lender's Deed of Trust on the property.
2. Ensure that the current Certificates of Insurance for all liability coverages and Evidence of Property Coverage remain in force for at least one year from the Loan/Grant Closing date. The Government of the District of Columbia must be named as an additional insured and certificate holder. The certificates must issue a waiver of subrogation in the D.C. Government's favor and provide 30 days written notice of cancellation.
3. Provide builder's risk insurance equal to the amount of the Construction Contract. Once construction is complete, they must insure the building under an all-risk, replacement-cost property form. Casualty and builders' risk policies must name DHCD as an additional insured and loss payee.

4. Obtain a performance bond guaranteeing completion of work performed by their general contractor.

O. Organizational Documents/Authorizing Resolution

The Applicant must provide DHCD with 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 affiliated management or ownership entity. They also must provide:

- Satisfactory evidence that the corporation, partnership, or limited liability company and affiliated management or ownership entity structure is in good standing in the jurisdiction where it is incorporated. It must also be qualified in every jurisdiction where it conducts business.
- A Certificate of Incumbency and authorizing resolution. These show that the Applicant has the authority to enter into the Loan/Grant. The documents, certified by their Secretary or other designated official, also show that the person(s) executing the Loan/Grant Documents has the authority to sign and deliver them to DHCD.

P. Opinion of Counsel

DHCD must get a written opinion of the Applicant's/Grantee's counsel stating that:

- The Applicant is validly organized, exists, and is authorized to do business in every jurisdiction requiring these qualifications.
- They have the full authority and legal right to carry out the terms of the Commitment letter and all required documentation they executed.
- They've taken all actions to authorize the execution, delivery, and performance of the Commitment and any required Loan/Grant documents according to their respective terms.
- None of these actions, undertakings, or agreements violates any restriction, term, condition, or provision of their organizational or management documents or any contract or agreement to which they are a party or bound.

The counsel's document must identify the Loan/Grant by name and number, if available. It must also identify the specific documents the counsel used to form their opinion.

Q. Drug-Free Workplace Certification

The Applicant will sign a certification at closing, committing to comply with [The Drug-Free Workplace Act of 1988](#), 41 U.S.C. 701 et seq.; 24 C.F.R part 21.

R. Conflict of Interest Statements

The Applicant must comply with Federal and District laws regarding conflict of interest. They will also provide DHCD with a copy of their conflict-of-interest policies and procedures within 15 days of the Loan Closing.

Federal and District laws strictly prohibit anyone from obtaining a financial interest or benefit from a DHCD-assisted activity. They also can't have a financial interest in any contract, subcontract, or agreement related to those activities if they are:

- Involved or have been engaged in functions or responsibilities related to DHCD-assisted activities, or
- In a position to make decisions, participate in the decision-making process, or gain inside information about these activities.

Further, recipients of HPTF funds must comply with District conflict of interest laws and provisions when procuring supplies, equipment, construction, and services. They must maintain written standards of conduct that:

- Govern the performance of employees engaged in awarding and administering contracts, and
- Address the prohibition against any real or apparent conflict of interest.

IV. Ongoing Compliance

A. Financial Statements

Throughout the Loan/Grant term, the Applicant must submit the following documents to DHCD annually (for the given fiscal year):

1. Final audited financial statements (subject to the Generally Accepted Accounting Principles)
2. Final federal tax return
3. Evidence of commercial property insurance with DHCD added as an Additional Interest, Loss Payee. Send to:
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; send to the address above
5. Copy of operating reserve account statements (if applicable)
6. Proof of payment of real estate property taxes
7. Current business license

8. Reconciliation of DHCD-funded expenditures
9. Project operating statements
10. An Office of Management and Budget (OMB) Circular A-133 audit or other applicable audit requirements outlined in [2 CFR Chapter 1, Chapter II, Part 200 et al](#). This document is due by the 120th day after the close of the Applicant's/Grantee's fiscal year.

B. Accounting/Audit Requirements

The Applicant must establish a separate account for the deposit of any Loan/Grant funds. It must be independent of other accounts and account records. They must also maintain complete and accurate records and documentation of all costs incurred under the Loan/Grant, according to DHCD's instructions. The documents must be organized in a way that identifies cost categories in a project's itemized budget.

C. Reporting Requirements

The Applicant must provide DHCD with all information needed to meet District and federal reporting requirements. It may include, but is not limited to, information on household size, age, income, sex, and race or ethnicity of all occupants living in housing units funded by DHCD loans and grants.

D. General Monitoring Requirements

Throughout the Loan/Grant, the Applicant must be prepared for and facilitate project monitoring by DHCD. They agree to:

- Facilitate monitoring by creating, storing, and maintaining all project records in accordance with DHCD's requirements
- Permit desk monitoring, site visits, and audits
- Permit inspections of project records as DHCD deems necessary to ensure the upkeep and operation of the project in compliance with District and Federal laws

E. Violence Against Women Act (VAWA)

The Applicant must comply with the requirements of the [Violence Against Women Reauthorization Act of 2013 \("Act"\)](#). The Act addresses housing rights for adult and child victims of domestic violence, dating violence, sexual assault, and stalking. VAWA's expansion in the reauthorization included specified federal housing programs, such as the Low-Income Housing Tax Credit (LIHTC) program.

All Owners and managers of LIHTC properties must comply with the VAWA requirements and use applicable VAWA forms as needed. These include but aren't limited to the:

- HUD-5380 Notice of Occupancy Rights under the Violence Against Women Act

- HUD-5381 Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- HUD-5382 Certification of Domestic Violence, Dating Violence or Stalking, and Alternate Documentation
- HUD-5383 Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- HUD-91067 VAWA Lease Addendum

V. General Rules and Regulations

DHCD must monitor projects funded with Federal and District funds for compliance with various Federal and District regulations. Applicants who receive these funds may be subject to all the laws and regulations on the following page.

This document continues on the next page

- Housing Production Trust Fund – D.C. Code §42-2801 *et seq.*; 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
- The Housing Trust Fund (HTF) -Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110- 289).
- Violence Against Women Act (VAWA)- 42
- U.S.C. sections 13701 through 14040
- DBH (D.C. Code Title 7, Chapter 11A)
- Unified Funds (D.C. Code §42-2857.01)
- 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; 40 CFR Part 745; 20 DCMR Chapter 2
- 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
- DC 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)