

EXHIBIT Z-4

SECTION 3 PROGRAM CERTIFICATION & CHECKLIST

ATTACHMENTS

- ☐ Section 3 Program Certification & Checklist for construction/rehab/acquisition:
Housing and non-housing projects
- ☐ Section 3 Certification for Business Concerns Required Checklist
- ☐ Section 3 Clause and Information



**D.C. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
OFFICE OF PROGRAM MONITORING FAIR HOUSING DIVISION**

Section 3 Program Certification & Checklist

(Construction/Rehabilitation/Acquisition: Housing & Non-housing Projects)

(Completed form to be submitted at time of application)

The Department of Housing and Community Development (DHCD) requires that applicants for federal and/or District of Columbia funds sign and complete the "Section 3 Certification Form" which indicates that subrecipients will adhere to and comply with all applicable regulations under the Housing and Urban Development Act of 1968 (24 CFR part 135) (12 U.S.C. 1701u) to ensure that "employment and other economic opportunities generated by the Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward LOW- and VERY-LOW-INCOME persons, particularly those receiving public assistance."

Furthermore, recipients, subrecipients, contractors and subcontractors will:

1. Incur all costs required for compliance with the applicable regulations,
2. Be subject to DHCD monitoring for compliance, and
3. Accept any applicable penalties for noncompliance.

Signature and Certification:

The undersigned certifies to DHCD that it has read and understands all of its obligations under the Section 3 requirements. The undersigned acknowledges that this certification will be relied upon by DHCD in its review and approval of proposal for funding, and any misrepresentation of information or failure to comply with any conditions proposed in this certification could result in penalties, including the disbarment of Applicant for a period of time from participation in DHCD administered programs.

Name and address of Project

Applicant (Organization Name, LLC, LLP, etc)

Applicant CEO/President Name & Signature

Date _____

Contractor/Developer President/CEO Name & Signature

Date _____



Notice of Non-Discrimination: In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code Section 21401.01 et. seq. (Act) the District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

Created: 07/07





Section 3 Certification for Business Concerns

Requirements Checklist

Name of Business _____

Address of Business _____

Type of Business: ☐ Corporation
☐ Partnership
☐ Sole Proprietorship
☐ Joint Venture

Attach following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- | | |
|--|--------------------------|
| (1) Copy of resident lease; | <input type="checkbox"/> |
| (2) Copy of receipt of public assistance | <input type="checkbox"/> |
| (3) Copy of evidence of participation | <input type="checkbox"/> |
| (4) Any other evidence of participation in a public assistance program | <input type="checkbox"/> |

For business entity as applicable:

- | | |
|--|--------------------------|
| 1. Copy of Articles of Incorporation | <input type="checkbox"/> |
| 2. Certificate of Good Standing | <input type="checkbox"/> |
| 3. Assumed Business Name Certificate | <input type="checkbox"/> |
| 4. Corporation Annual Report | <input type="checkbox"/> |
| 5. Partnership Agreement | <input type="checkbox"/> |
| 6. List of owners/stockholders and % ownership of each | <input type="checkbox"/> |
| 7. Organization chart with names and titles and brief function statement | <input type="checkbox"/> |
| 8. Latest Board minutes appointing officers | <input type="checkbox"/> |
| 9. Additional documentation | <input type="checkbox"/> |

Cont.: Certification for Business Concerns

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 businesses:

1. List of subcontracted Section 3 business(es) and subcontract amount []

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

1. List of all current full-time employees []
2. List of employees claiming Section 3 status []
3. PHA/IHA Residential lease less than 3 years from day of employment []
4. Other evidence of Section 3 status less than 3 years from date of employment []

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

1. Current financial statement []
2. Statement of ability to comply with public policy []
3. List of owned equipment []
4. List of all contracts for the past two years []

Authorizing Name and Signature

Attested by: _____

Section 3 Clause

All Section 3 covered contracts must include the following clause in its entirety:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted project covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment practices can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulation of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).¹

¹ This paragraph (G) is not applicable to the HOME Program; nonetheless, the regulations require that the Section 3 clause be included verbatim in all contracts subject to the requirements of Section 3.
DHCD Section 3 Strategy & Plan



(Information ONLY – Do NOT remit back to DHCD)

SECTION 3

Section 3 of the HUD Act of 1968, as amended (12 U.S.C. 1701u), 24 CFR, PART 135 (Section 3) requires HUD funding recipients to ensure that employment and other economic and business opportunities generated by HUD's financial assistance, to the greatest extent feasible, be directed to public low- and very-low income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

POLICY STATEMENT

The D.C. Department of Housing and Community Development (DHCD) abides by all federal and local funding regulations which endorse equal employment opportunity of low and very low income District residents (Section 3) through its funded projects without regard to race, color, religion, sex, national origin, disability, marital status.

DHCD implements this policy through: (1) projects funded by and through DHCD which awards funding grants to developers and its contractors; (2) partnerships to facilitate or create training opportunities; and (3) creation of employment and business opportunities for residents of and other qualified low- and very low-income persons residing in the funded project area.

The policy shall result in a reasonable level of success in the grantees recruitment, employment, and utilization of low- and very low-income residents and other eligible persons and business interests by funded developers working on contracts partially or wholly funded with the U.S. Department of Housing and Urban Development (HUD) monies.

DHCD shall evaluate and consider a developer's potential for success in providing employment and business opportunities to low- and very low-income residents prior to acting on any proposed contract award.

CONTRACTING POLICY AND PROCEDURE

The D.C. Department of Housing and Community Development will ensure that the appropriate and HUD mandated Section 3 language is written into all grant award contracts generated by the Department where HUD funding is used.

All contractors/businesses seeking Section 3 preference must, before being awarded a DHCD grant award, complete a Section 3 plan and be certified as a Section 3 Business interest (exhibit 2), as appropriate, as acknowledgement of the contracting and employment provisions required by this Section 3 section. The certifications shall be adequately supported with appropriate documentation as referenced in the applicable form.

This policy and procedure contains goal requirements for awarding contracts to Section 3 Business Concerns (Exhibit 3).

WHO IS A SECTION 3 RESIDENT?

A Section 3 resident: ADC public housing resident, or an individual who lives within the District of Columbia and whose income falls within the guidelines for low- or very low income.

Very low-income person: Families (including single persons) whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

PROVIDING PREFERENCE EMPLOYMENT OF SECTION 3 RESIDENT ORDER OF PRIORITY

When considering the employment of a Section 3 resident, contractors and subcontractors are required to follow the order of priority as outlined in 24 CFR 135.32:

- 1) **Category 1 – Section 3 Resident**
Residents of or in the area of the DHCD funded project development who meet the low and very-low income limits.
- 2) **Category 2 – Section 3 Resident**
Residents of public housing developments managed by the DC Housing Authority
- 3) **Category 3 – Section 3 Resident**
Participants in HUD Youthbuild program being carried out in the project boundary area.
- 4) **Category 4 – Section 3 Resident**
Residents of Section 8 of the DC Housing Authority as well as all other residents residing in the District who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).

In all cases, applicants must meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimum qualifications.

RESIDENT HIRING REQUIREMENTS

In view of DHCD's desire to ensure employment opportunities to Section 3 residents and low and very-low income neighborhood residents, the following scale is a guide for contractors to ensure resident hiring in the execution of their DCHD grants (construction, service contracts, and professional services) which contain a "labor" component:

TOTAL LABOR DOLLARS Use Total Contract Amount for Service Contracts	RESIDENT AS A % OF TOTAL LABOR DOLLARS
At least \$25,000, but less than \$100,000	10% of the labor dollars
\$100,000, but less than \$200,000	9% of the labor dollars
At least \$200,000, but less than \$300,000	8% of the labor dollars
At least \$300,000, but less than \$400,000	7% of the labor dollars
At least \$400,000, but less than \$500,000	6% of the labor dollars
At least \$500,000, but less than \$1 million	5% of the labor dollars
At least 1 million, but less than \$2 million	4% of the labor dollars
At least 2 million, but less than \$4 million	3% of the labor dollars
At least \$4 million, but less than \$7 million	2% of the labor dollars
\$7 million or more	1 – 1/2% of the labor dollars

With this sliding formula, it is expected that an appropriate number of Section 3 District residents and with particular qualifications or willingness to begin unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy Section 3 resident hiring requirements set forth above.

SECTION 3 CERTIFICATION

Any Developer seeking Section 3 preference in the awarding of contracts with DHCD shall complete the Certification for Section 3 Business Concerns, which can be obtained from the Office of Program Monitoring – Fair Housing Division at DHCD.

The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program.

Certifications for Section 3 preference for business concerns must be submitted to DHCD along with the grant submission. If a business concern who is 51% owned by Section 3 residents, previously received a Section 3 Certification and none of its qualifications have changed to place them outside of the certification status* then the approved certification can be submitted along with the proposal for funds.

***Income and ownership verification will be conducted**

Certifications are provided on a yearly or per grant basis, whichever is more. However, section 3 employee percentages and new subcontractor information must be kept current to maintain the certification (multi-year grants will be updated on a yearly basis).

If a business was certified ONLY for the duration of a previous grant, that contractor must submit a new certification request for new grant awards.

WHAT IS A SECTION 3 BUSINESS CONCERN?

Business Concern— a business entity formed and licensed in accordance with District law to engage in the type of business activity for which it was formed.

A Section 3 Business Concern is a business concern, as defined in this section—

1. That is fifty-one percent (51%) or more owned by Section 3 residents; or
2. Whose permanent, full-time employees include persons, at least thirty percent (30%) of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in items (1) or (2) above.

Note: A business concern seeking to qualify for Section 3 shall certify and submit evidence that the business meets one of the guidelines stated above. (Refer to Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability Form – Exhibit 1)

Subcontractor – any entity (other than a person who is an employee of the contractor) which has a contract with the DHCD funded Developer and it's general contractor to undertake a portion of the general contractor's obligation for the performance of work arising in connection with a Section 3 covered project.

Section 3 Covered Contracts— a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work arising in connection with Section 3 covered projects.

Section 3 covered contracts do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

Section 3 Covered Project - the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**ORDER OF PREFERENCE
FOR SELECTING A SECTION 3 BUSINESS CONCERN**

When more than one Section 3 business concern is being considered for an award, to the greatest extent possible, awards shall be made in the following order of priority:

1. A Section 3 business concern that is fifty-one percent (51%) or more owned by resident(s) of the public housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) of the residents of the public housing development in which the work is directed;
2. A Section 3 business that is majority owned by resident(s) of the DC Housing Authority or low and very-low income residents not necessarily living in the housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) residents of the DC Housing Authority or are low and very-low income residents of the District but not the housing development in which the work is directed;
3. HUD Youthbuild programs that are being carried out in the City in which the Section 3 covered assistance are expended.
4. A Section 3 business concern that is majority owned by a Section 3 resident who is not a public housing resident or whose permanent, full-time workforce includes no less than thirty percent (30%) Section 3 residents who are not public housing residents or that subcontract in excess of twenty-five percent (25%) of the total amount of subcontracts to Section 3 business concerns.

Note: A Section 3 business concern seeking any of the above preferences shall submit evidence that it meets the guidelines of that preference.

WHAT IF MY BUSINESS DOES NOT QUALIFY AS A 'SECTION 3' BUSINESS?

DHCD will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to DHCD's satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all business must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

This will include:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. Making available, to the greatest extent possible, vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order to priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

EXHIBIT Z-5: LEAD-SAFE HOUSING ADDENDUM
DHCD/DFD Multi-Family Rehabilitation Projects

I. Introduction

This Addendum is intended to be an integrated summary of Federal and District requirements for the implementation of lead hazard reduction. DHCD is responsible for the enforcement of the HUD Lead-Safe Housing Rule, 24 CFR Part 35, "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance" - <http://www.hud.gov/offices/lead/leadsaferule/index.cfm>. The Borrower of DHCD funds is responsible for the implementation of the lead-safe housing requirements defined below.

The Addendum is structured in two parts: Requested Information – to be provided as a part of responding to this RFP; and Requirements – to identify the requirements that the potential Borrower will be responsible for if the proposal is selected for underwriting.

REQUESTED INFORMATION

1. How old is the property? _____
2. Is there a known presence of Lead-Based Paint (LBP)? Y/N _____
3. If the presence of lead is known, has it been disclosed to the tenants if the property was occupied at the time the presence of lead was determined? Y/N _____
4. If disclosure has taken place, provide a copy of evidence of disclosure.
5. How was the presence of LBP determined? _____

6. What documentation exists that identifies the presence of LBP (e.g., Phase 1 environmental, lead survey, lead inspection, etc.) _____

7. Has a risk assessment been performed? Y/N _____
If yes, please provide a copy with proposal.
8. Are LBP hazards present (peeling, chipped or cracked LBP)? Y/N _____
9. Is the building occupied? Y/N _____
10. Are there children under 8 residing at the property? Y/N _____
11. Has there been previous testing of children residing at the property? Y/N _____

REQUIREMENTS

The requirements presented below are based on (HUD) 24 CFR 35, Subpart J - Rehabilitation. Where there is an additional or greater requirement of the District, it will be so stated. Borrowers need to be very familiar with both Federal and District lead laws and regulations.

II. *Requirements Summary*

The goal of the requirements is to be lead-safe, not lead-free. The most important requirements are summarized below. A summary of the HUD 24 CFR 35, Subpart J – Rehabilitation – is presented in Attachment (1). DHCD requirements are the same as 24 CFR 35 except as noted.

1. HUD requirements are tied to levels of assistance. The HUD 24 CFR 35 establishes different lead-based paint (LBP) requirements for rehabilitation, depending on the level of Federal assistance to the project. The thresholds are up to \$5,000 per unit; \$5,001 to \$25,000 per unit; and greater than \$25,000 per unit. This is amplified in Attachment (1). These thresholds are for hard costs, and do not apply to soft or lead hazard reduction costs. **[Requirements for locally¹ funded projects are the same as for the Federal funding level of \$5,000-\$25,000. These requirements focus on interim controls to treat LBP hazards].** Attachment (1) provides a general comparison between HUD and DHCD requirements.
2. Disclosure. Requirements of the Disclosure Rule have been in effect since 1996 - <http://www.hud.gov/offices/lead/disclosurerule/index.cfm> . This requires that landlords and/or property managers disclose any known lead-based paint and lead-based paint hazards when renting a unit. A sample disclosure form is contained in **Appendix B**. As part of disclosure, the tenants must be given a copy of the pamphlet “Protect Your Family from Lead in Your Home” - <http://www.hud.gov/offices/lead/>. Tenants are also to receive a copy of the pamphlet at the beginning of any rehab job, unless the pamphlet has previously been provided to the tenants.
3. A Risk Assessment, performed by a certified risk assessor, is required for all Multi-Family Rehab projects. It is due prior to the Final Application. Paint testing - to determine the presence of LBP in all surfaces to be disturbed - is required as part of the Risk Assessment. A presumption of lead will not be accepted. (Phase 1 environmental testing and hazmat surveys are not acceptable, as they do not meet the requirements of 24 CFR 35). Risk assessments will identify LBP hazards and include options to treat the hazards.
4. Notification. There are several required notices to be provided to tenants:
 - a. A Notice of Evaluation describing the nature, scope and results of the Risk Assessment;
 - b. A Notice of Hazard Reduction Activities must be provided to the tenants to inform them of the nature, scope and results (including clearance) of the completed lead hazard reduction scope of work; and
 - c. Notices for on-going maintenance as may be required by 24 CFR 35.

¹ Locally funded: not assisted with Federal housing funds (HUD, EPA, Agriculture).

Attachment (1): Summary of the HUD 24 CFR 35, Subpart J – Rehabilitation

5. Testing of children. Upon receipt of the Risk Assessment, the D.C. Department of Health (DOH) will request the testing of all children under six (6). Units with children who may test for certain elevated blood levels (EBLs) will be inspected by DOH. If the unit is determined to be the cause of the child's EBLs, the owner will be issued a Notice of Violation. DHCD will not commit to funding a project (execute a Letter of Commitment) until the owner agrees to cure the violation.
6. Temporary safe housing for tenants is typically required during the lead hazard reduction activity for occupant protection - with some exceptions. See Section VI.
7.
 - a. "Certified workers, certified supervisors, and certified business entities" are required for all work that is designed to permanently eliminate LBP hazards², and for projects receiving over \$25,000 in federal assistance per unit.
 - b. "Trained workers" are required for all other work impacting an LBP surface (all work that is not designed³ to permanently eliminate LBP hazards) in any project that is:
 1. Receiving up to \$25,000 of federal assistance per unit; or
 2. Locally funded by DHCD regardless of amount.
8. Safe work practices as specified in 24 CFR 35 must be used by contractors/workers whenever they will disturb a surface with LBP.
9. Units must pass clearance testing before reoccupancy. DHCD requires that the clearance report submitted to DOH for verification, and that a Certificate of Lead-Based Paint Compliance be obtained.
10. Ongoing LBP maintenance (corrective measures to treat LBP hazards, using trained workers and required documentation) and reevaluation are required for HOME-funded rental projects. For locally funded projects, and projects funded with CDBG, DHCD requires the same ongoing maintenance as 24 CFR 35 where there is a defined affordability period. DHCD requires a visual assessment for deteriorated paint and the failure of hazard reduction measures at unit turnover and every 12 months over the affordability period. All deteriorated lead-based paint must be stabilized, and failed hazard reduction methods corrected with interim controls, or permanent controls if originally required. Trained or certified workers must use safe work practices and the unit(s) must pass clearance. DHCD does not require re-evaluation for these programs.

Maintenance records per 24 CFR 35 must be retained by the landlord for all properties containing LBP.

² Work designed to permanently eliminate LBP hazards: All permanent control work items (removal, replacement, encapsulation or enclosure) resulting from changes or additions to the rehab scope of work, based on an agreement on the implementation of the risk assessment by the developer and the risk assessor. The agreement is to be founded on reasonable accommodation by both the developer and the risk assessor/project designer, and will be reviewed by DHCD.

³ Exemption: DHCD will sign off on the DOH required exemption with the developer for work that is not designed to permanently eliminate LBP hazards.

11. Homeownership. For condominiums and cooperatives, **all** units will be paint tested, risk assessed, and cleared.

III. Exemptions

The following are exempt from this Requirements Exhibit; see 24 CFR 35 for a complete list of exempt properties:

1. Housing built after January 1, 1978
2. Housing for the elderly or persons with disabilities unless a child under eight resides, is expected to reside, or regularly visits
3. Any zero bedroom unit, such as an efficiency or a single-room occupancy unit
4. Lead-free properties

IV. Conditions Precedent to Closing

The following documentation, presented below, will be completed and submitted to the DHCD Project Manager as conditions precedent to closing that will be required in the Letter of Commitment. The first two are due with the Application if the presence of lead is known, and the property is occupied. Items 3, 4 and 5 are due after selection for underwriting. Items 6 and 7 are due prior to closing.

1. Disclosure: Evidence that disclosure has been made to residents if the building is occupied and LBP is present.
2. Evidence that the owner/manager has provided tenants a copy of the pamphlet “Protect Your Family from Lead in Your Home”.
3. Risk Assessment
4. Notice of Lead Hazard Evaluation (risk assessment) provided to tenants following the risk assessment – if the building is occupied.
5. “Selected Lead Hazard Reduction Options for Project Scope of Work”
6. Occupant Protection Plan.
7. Temporary Safe Housing Plan and notice required to date.

V. Occupant Protection and *Temporary* Safe Housing

Safe work practices [24 CFR 35 (Subpart R, §35.1350)] require occupant protection (§35.1345).

This means that occupants and their belongings must be protected from lead contamination during rehabilitation. The most effective way to protect occupants is by temporarily relocating them while the work is underway.

An Occupant Protection Plan (ref. 24 CFR 35.1325 and EPA 40 CFR 745) is required:

1. Projects with Federal funding greater than \$25,000 per unit; and
2. All District funded projects. The Plan will identify work-site protection measures and management procedures, including protection of household belongings. The Plan must

identify procedures to allow tenants access to their belongings – through “reasonable accommodation” – during the period of temporary safe housing. The Plan must be submitted to the DHCD Project Manager for approval.⁴

Temporary relocation is not required if the Borrower can meet the five calendar day exception criteria⁵ (ten days for District funded projects for householders without children under six) for completion of lead hazard reduction in a given unit with end of workday cleanup. Also, the elderly will have an exemption as defined in 24 CFR 35.

The Borrower may look for ways to temporarily relocate families from one unit to another while work is underway. Temporary relocation as part of normal, planned rehab phasing may obviate the need for any relocation for lead purposes only.

If families must temporarily move out of the building, the following apply:

- Referrals. Families must be referred to lead-safe units for federally funded projects. This may mean hotels or motels built in 1978 or later, if other lead-safe units are not available. For locally funded projects, lead-safe referrals are not required for households with children six (6) or older. However, a visual assessment shall be performed (a risk assessment is not required), interim controls applied if needed, and cleaning and clearance testing completed if hazard reduction work is to be done and/or a child under six is part of the move.
- Requirements of Chapter 2-4 (Appendix B) of the HUD Relocation Handbook 1378⁶ shall apply to all temporary moves, including notices.
- Stipend. The Borrower will pay a stipend to households that are temporarily relocated to cover out of pocket costs associated with the move, including moving expenses and increased housing expenses (including rent differential for the duration of the temporary move).
- Tenants’ belongings must be protected as long as the belongings remain in the unit from which the tenants are temporarily relocated.
- A Temporary Safe Housing Plan is required regardless of whether it is federally or locally funded. The content of the plan will include the following:
 1. Number of units occupied and names of heads of household.
 2. Number of units with children under eight, and a list of the children’s names.
 3. Procedures to address the requirements of Appendix B.
 4. Schedule, including length of temporary move and phasing of lead-related work.
 5. Cost Estimates

⁴ An OP Plan is required if the project meets the definition of an abatement project. Then it must meet EPA requirements. If only trained workers are required (under \$25,000), an OP Plan is not required.

⁵ 24 CFR 35.1345(a)(2)(iv).

⁶ HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition

PROJECT MONITORING

Monitoring is the way that the District of Columbia's Department of Housing and Community Development (DHCD) ensures that its funded projects are carried out in accordance with local and Federal funding source program requirements. The program funds that will be available in this NOFA offering are the Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) program funds, HUD's HOME program funds, the District of Columbia's Housing Production Trust Funds (HPTF) and the Department of Mental Health (DMH) program funds. DHCD must ensure that property owners and managers develop their projects in compliance with HOME and other Federal standards. The monitoring requirements outlined below ensures that all residential projects are constructed in compliance with the appropriate new construction and rehabilitation standards as well as the approved project plans, built in compliance with Federal regulations such as Davis Bacon labor standards, the Uniform Relocation Act, and environmental protection statutes, and marketed in compliance with fair housing laws including Section 504 of the rehabilitation.

Residential Projects

DHCD has determined that it will apply the federal laws and regulations to all projects and the more restrictive HOME monitoring requirements, where appropriate, because the application of the HOME requirements will allow for the maximum yield of low-moderate homeowners and renters and a longer affordability period for all units.

Initial Monitoring

Effective monitoring begins in the planning stages of the project and continues after the project funds have been expended and the project is completed. Successful property owners and managers will have to take into consideration the following items in the planning stages of the project as these requirements impact on the construction/rehabilitation cost and the income flow of the project:

Income Requirement – Twenty percent (20%) or more of the units in the development may be subject to income restrictions which will require the units to be marketed to persons or households earning between 0% - 80% of the Area Median Income (AMI).

Rental and Occupancy Requirements - Will dictate the rent structure for targeted units and the occupancy requirements for each type of unit, i.e., efficiency, 1-bedroom, etc.

Unit Reservation or Set-Aside Requirement – DHCD policy will require that a minimum of 20% of all available units or the number of units equal to the percentage of DHCD funding to the overall development costs of the project (whichever is greater) be set aside for low to moderate income persons and families as follows:

- For developments of 5 or more units – 20% of the units shall be reserved to persons or families in the 50% or less AMI. The remaining units shall be reserved for persons or families earning from 51% to 80% of AMI.

Affordability and Retention Requirements – The type of funding received by the project will determine the period of time the program-designated units will be subject to the income, rental/occupancy and unit reservation requirements.

The property owner, manager or developer must commit to ensuring that the income and rental requirements for each program-designated unit is maintained throughout a minimum 20-year retention period or the length of the loan, whichever is greater. Where there are specific program requirements (HOME/HPTF/DMH) for affordability and retention, DHCD will use whichever regulation provides for the maximum affordability period.

Section 504 Requirement – that 5% of the newly constructed or “substantially” rehabilitated units accommodate persons with mobility impairment and that an additional 2% of said units accommodate persons with vision and hearing impairments.

Lead-Based Paint Requirements – Are applicable to all rehabilitation and renovation projects. Property owners and managers must ensure that there are no existing lead hazards prior to construction. If there are existing lead hazards, then property owners and managers must take the appropriate methods and measures to ensure containment or removal of the hazard prior to completion of construction.

The Lead-Based paint information is contained in a separate document.

Long-Term Monitoring

The long-term review and monitoring of projects will occur annually for the duration of the affordability period in the following areas:

- **Income targeting/occupancy and rent controls.** Long-term monitoring is an important way to ensure that rental units assisted with its funds remain occupied by low-income households and that the rents charged to these tenants are affordable. Sustaining long-term affordability of units is particularly important in tight housing markets, with high housing costs.
- **Unit condition.** DHCD expects that when it invests its funds in a property, the property will remain in decent, standard condition for a period of time. This is important to ensure health and safety of the tenants, important for promoting neighborhood revitalization efforts, and important for protecting the city’s financial investment. Inspections are one way to ensure that owners and managers are adequately maintaining their properties.

- **Equal treatment of all applicants.** DHCD expects that all applicants will be treated fairly and without discrimination. Monitoring helps ensure that the city's investment in affordable housing is available to all applicants irrespective of race, color, sex, age, religion, ethnic background, disability, or familial status.

Monitoring Rental and Homeownership Projects

Homeownership Projects

Property owners or developers who receive loans or grants under the above-mentioned funding programs, to construct or renovate a residential unit(s), must commit to ensuring that the property is acquired by a low-moderate income household with an AMI of <80% and that the property is retained for low-moderate income owners throughout the affordability period.

The length of time of the affordability period is determined by the regulations of the funding source or by the length of the loan, whichever is greater. Failure to ensure the continuity of the income requirements for the ownership of the program-funded unit(s) will result in a default of the loan or grant agreement and the immediate repayment of the loan or grant.

Attached as **Exhibit Za and Zb** are the reporting and certification forms which will be used to initiate and continue the annual monitoring review of homeownership projects.

Rental Projects

Property owners and managers will implement the day-to-day operations of the rental property and make daily decisions that affect compliance of the project with the requisite program funding rules. Some property owners and managers will carry out these functions themselves; others will utilize property managers and property management firms.

Property owners and managers' monitoring responsibilities include, but are not necessarily limited to:

- Making sure the property meets and is continually maintained according to required building code standards, performs financially and;
- Ensuring that project personnel understand and implement program rules related to income, occupancy, affirmative marketing, and fair housing;
- Submitting annual reports and other documentation that may be requested by DHCD that document compliance with the program rules;
- Identifying and making available files requested by the OPM Monitor;
- Providing notice to, and making arrangements with, tenants whose units will be inspected; and
- Following up on any corrective actions that may be identified by the OPM Monitor.

Attached as **Exhibit Zc and Zd** are the reporting and certification forms which will be used to initiate and continue the annual monitoring review of rental projects.

Compliance with Federal Laws, Rules and Regulations

DHCD requires property owners and managers to certify that they will comply with the applicable federal standards that accompany DHCD's local and federal funding. These certifications must be appropriately executed and submitted with the application. DHCD will regularly review and monitor compliance with these federal standards.

The **Exhibits** referred to above are the reporting and certification forms, which must accompany your submission package. Choose the appropriate form based upon the program funds you are requesting, [CDBG and HPTF] and the type of project contemplated, [ownership interests (fee simple, condominium, cooperative, etc.), and rental.] Upon receipt, these forms and certification documents will be the basis upon which monitoring activities will be implemented and reviewed annually.

The Project Manager assigned to each project will inform the property owners and managers of their responsibilities prior to loan closing, and then again at the time of the Final Draw.

Please refer to the Exhibit Checklist packages and the Request For Proposal Reference Guidebook for further information.

EXHIBIT Za

HPTF Ownership Project Compliance Report - Period From: _____ To: _____

(To be submitted by property manager)

Project: _____

Address: _____

Total Percentage of units in project:

Date Submitted: _____

Affordability Period (year) # _____ of a _____

Total Number of HPTF units:_____

Affordability Period _____

Number of Section 504 units: _____

[illegible]

Attach additional sheets as needed.

I certify the above information is true and correct. Owner or property manager signature:

Date: _____

PJ reviewer:_____

Date reviewed: _____

EXHIBIT Zb
CDBG Occupancy/Ownership Reporting Form and Certification

CDBG Ownership Project Compliance Report - Period From: _____ To: _____
(To be submitted by property manager)

Project: _____

Address: _____

Date Submitted: _____

Affordability Period (year) # _____ of a _____
Affordability Period

Total Percentage of units in project: _____

Total Number of CDBG units: _____

Number of Section 504 units: _____

Unit #	# bed-rooms	Section 504 Designation ("Yes" or "No")	Owner Name	Number in Household	Annual Income	Area Median Income %	Date of Purchase	Purchase Price	Date of Sale	Sales Price	Comments

Attach additional sheets as needed.

I certify the above information is true and correct. Owner or property manager signature: _____
Date: _____

PJ reviewer: _____ Date reviewed: _____

EXHIBIT Zc

HPTF Occupancy and Rent Reporting Form and Certification

HPTF Rental Project Compliance Report - Period From: _____ To: _____
(To be submitted by property manager)

Project: _____

Address: _____

Date Submitted: _____

Affordability Period (year) # ____ of a

_____ Affordability Period

Total Percentage of units in project: _____

Total Number of HPTF units: _____

Number of Low HPTF Rent units: _____

Number of High HPTF Rent units: _____

Number of Fixed Units: _____ Number of

Floating Units: _____

Number of Section 504 units: _____

Unit #	# bed-rooms	Low or High HPTF Rent Unit	Sec. 504 Unit	Fixed or Floating	Tenant	# in Hshld	Annual Income	Date Determined	% AMI	Lease date	Lease rent ¹	Tenant-Paid utilities ²	Total rent plus utilities	Allowable rent & utilities ³	Comments

Attach additional sheets as needed.

I certify the above information is true and correct. Owner or property manager signature: _____ Date: _____

PJ reviewer: _____ Date reviewed: _____

¹ Including any owner-paid utilities.

² If tenant pays utilities, enter from PHA utility allowance worksheet. If utilities are included in rent, enter "Incl."

³ Enter from HUD published limits for High or Low HOME Rent as applicable.

CDBG Rental Project Compliance Report _____
(To be submitted by property manager)

**Affordability Period (year) # _____ of a
_____ (year) Affordability Period**

Number of Section 504 designated units: _____

[illegible]

PJ review er:_____ Date reviewed:_____

³ Enter from HUD published limits for High or Low HOME Rent as applicable.

EXHIBIT GB – GREEN BUILDING

With the passage of The Green Building Act of 2006, Washington, DC 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. Additional information on green building may be found in Section 6 of the RFP Reference Guidebook.

Any application submitted in this RFP round is required to complete and submit the Intended Method of Satisfying Green Communities Criteria and the Green Development Plan.


ATTACHMENTS (Electronic files available on CD)

- ☐ Exhibit GB-1: Intended Method of Satisfying Green Communities Criteria (sample)
- ☐ Exhibit GB-2: Green Development Plan (sample)

Exhibit GB-1: Intended Method of Satisfying Green Communities Criteria

	Must include a Site Map indicating distance of utilities and sidewalk connections as appropriate. Must include Context Map indicating locations of minimally required community facilities and their distances from project boundaries			
	Item	Yes/No	Points	Reasons for Not Meeting
Section 1: Integrated Design Process				
1-1	Green Development Plan (Mandatory)			
Section 2: Location and Neighborhood Fabric				
2-1a	Smart Site Location - Proximity to Existing Development. (Mandatory except for Infill Sites or Rehab. Must provide site map demonstrating that project satisfies this item).			
2-1b	Smart Site Location – Protecting Environmental Resources. (Mandatory except for infill sites or rehab).			
2-1c	Smart Site Location: Proximity to Services (Mandatory except for previously developed infill sites)			
2-2	Compact Development (Mandatory except for rehab)			
2-3	Walkable Neighborhoods (Mandatory)			
2-4a	Smart Site Location - Make Use of Passive Solar Heating / Cooling (Optional 5points)			
2-4b	Smart Site Location – Grayfield, Brownfield or Adaptive Reuse Site (Optional 10 points)			
2-5	Compact Development (Optional 5 points maximum for an increase of at least ten units per acre for multifamily buildings and at least one unit per acre for single-family houses)			
2-6	Walkable Neighborhoods (Optional 5points)			
2-7	Transportation Choices (Optional 12 pts)			
Section 2 Subtotal			0	
Section 3: Site Improvements				
3-1	Environmental Remediation (Mandatory)			
3-2	Erosion and Sedimentation Control (Mandatory)			
3-3	Landscaping (Mandatory - if providing landscaping)			
3-4	Surface Water Management (Optional 5points)			
3-5	Storm Drain Labels (Optional 2points)			
Section 3 Subtotal			0	
Section 4: Water Conservation				
4-1a	Water Conserving Appliances and Fixtures (Mandatory)			
4-1b	Water Conserving Appliances and Fixtures (Mandatory)			
4-2	Efficient Irrigation (Mandatory)			
Section 4 Subtotal			0	
Section 5: Energy Efficiency				
5-1a	Efficient Energy Use (Mandatory for new construction)			
5-1b	Efficient Energy Use (Mandatory for moderate rehab)			
5-2	Energy Star Appliances (Mandatory if providing appliances)			
5-3a	Efficient Lighting - Interior (Mandatory)			
5-3b	Efficient Lighting - Exterior (Mandatory)			
5-4	Electricity Meter (Mandatory except for 0 bedroom dwelling units)			
5-5a	Additional Reductions in Energy Use for new constructions (Optional - 5 points for each additional point awarded by the Home Energy Rating System (HERS) or for each 5 percent change in energy efficiency)			

5-5b	Additional Reductions in Energy Use for moderate rehab (Optional - 10 points for each additional point awarded by HERS or for adopting additional improvements that extend the payback period to at least 14 years)			
5-6a	Photovoltaic (PV) Panels (Optional 5 points, plus 5 points for each additional 10 percent increment, up to a maximum of 15 points)			
5-6b	Photovoltaic (PV) Ready (Optional 2 points)			
Section 5 Subtotal		0		
Section 6: Materials Beneficial to the Environment				
6-1	Construction Waste Management (Optional 5 points)			
6-2	Recycled Content Material (Optional 2 points, plus 2 points for each additional 5 percent increment, not to exceed 14 points)			
6-3	Certified, Salvaged and Engineered Wood (Optional 10 points)			
6-4a	Water-Permeable Walkways (Optional 5 points)			
6-4b	Water-Permeable Parking Areas (Optional 10 points)			
6-5a	Reducing Heat-Island Effect – Roofing (Optional 5 points)			
6-5b	Reducing Heat-Island Effect – Paving (Optional 5 points)			
Section 6 Subtotal		0		
Section 7: Healthy Living Environment				
7-1	Low/No VOC Paints and Primers (Mandatory)			
7-2	Low/No VOC Adhesives and Sealants (Mandatory)			
7-3	Formaldehyde-free Composite Wood (Mandatory)			
7-4	Green Label certified floor coverings (Mandatory - if providing floorcoverings)			
7-5a	Exhaust Fans - bathroom (Mandatory except for moderate rehab)			
7-5b	Exhaust Fans - kitchen (Mandatory except for moderate rehab)			
7-6	Ventilation (Mandatory except for moderate rehab)			
7-7	HVAC Sizing (Mandatory)			
7-8a	Water Heaters - mold prevention (Mandatory)			
7-8b	Water Heaters - minimizing CO (Optional 2 points)			
7-9	Cold Water Pipe Insulation (Mandatory)			
7-10a	Materials in Wet Areas - Surfaces (Mandatory)			
7-10b	Materials in Wet Areas - Tub and Shower Enclosures (Mandatory)			
7-11a	Basements and Concrete Slabs - Vapor Barrier (Mandatory)			
7-11b	Basements and Concrete Slabs - Radon (Mandatory)			
7-12	Surface Water Drainage (Mandatory)			
7-13	Garage Isolation (Mandatory)			
7-14	Clothes Dryer Exhaust (Mandatory)			
7-15	Integrated Pest Management (Mandatory)			
7-16	Lead Safe Work Practices (Mandatory)			
7-17a	Healthy Flooring Materials - alternative sources (Optional - 5 points)			
7-17b	Healthy Flooring Materials - reducing dust (Optional 2 points)			
Section 7 Subtotal		0		
Section 8: Operations and Maintenance				
8-1	Owner's Manual (Mandatory for all Multifamily Buildings)			
8-2	Resident's Manual (Mandatory for rental projects)			
8-3	Homeowner and New Resident Orientation (Mandatory)			
Section 8 Subtotal		0		
GRAND TOTAL		0		

	Green Development Plan		Developer Name:		
			Project Name:		
	Project Description		Address (Street/City/State):		
Description					
Summary description of site and proposed development including location details and number & type of units: (note please expand response cell if necessary - typical for all templates)					
Goals					
Sustainability Goal/ Mission Statement:					
Facilitator					
Name		Address	Affiliation	Tel. No.	E-Mail
(To be chosen at the Kick-Off Meeting)					
Attachments					
Graphics/drawings/photos					
Additional minutes, etc.					