



# Galveston County Landlord Assistance Program: Multifamily Rental Guidelines

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## 1.0 INTRODUCTION

- A. The Texas General Land Office (GLO) is administering funds under a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. GLO is the lead agency and responsible for disaster funds allocated to housing activities and has contracted with Galveston County to administer these funds to carry out eligible housing activities at the local level within Galveston County (not including the City of Galveston).
- B. These Housing Guidelines are developed to serve as the basis for housing programs related to Round 2 of the Galveston County Landlord Assistance Program (GCLAP). This document is expected to serve as direction for the Rental Program activities funded under Round 2. At the option of the GCLAP, rental program activities may be offered as a housing program to the residents of the GCLAP's jurisdiction. These particular guidelines pertain specifically to multifamily rental activities.
- C. The GCLAP has received \$6,932,857.00 in Hurricane Ike Round 2 Disaster Recovery Community Development Block Grant (CDBG) funding for a Rental Program administered by the GLO.
- D. Benefit to Low to Moderate Income (LMI) is the only National Objective that is approved for the Rental Program under Round 2. Eligible activities are defined as follows: rehabilitation, reconstruction, replacement, or new construction, and associated elevation and demolition. The GCLAP may also provide assistance for Individual Mitigation Measures (energy efficiency and storm mitigation activities).

## 1.1 PROGRAM OBJECTIVES

- A. Texas was hard hit by hurricanes and is still in the recovery process both for its communities and its residents. The primary focus of this program is to provide relief for those people impacted with consideration given to affirmatively furthering fair housing, as called for within the Fair Housing Act.
- B. The following objectives are provided for the implementation and administration of a successful Rental Program.
  - a. The primary objective of this Program is to provide decent, safe, and sanitary housing in the hurricane impacted areas through the provision of activities designed to mitigate storm damage that occurred as a result of Hurricane Ike, as well as any future hurricanes.
  - b. A second objective is to ensure that the housing needs of low, very low and extremely low-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the communities being served.
  - c. A third objective is to prioritize the provision of decent, safe and sanitary housing for elderly and disabled populations with an emphasis on housing choice and design to reduce maintenance and insurance costs as well as provide for the provision of independent living options.

## 1.2 PROGRAM PURPOSE

- A. The Program has been designed to provide funds for rehabilitation, reconstruction, and/or new construction of affordable multifamily and single family rental housing projects in areas impacted by Hurricane Ike. Funding is available through the Community Development Block Grant (CDBG) Disaster Recovery Program, administered by GLO.
- B. The purpose of the Program is to facilitate the rehabilitation, reconstruction, and/or new construction of affordable rental housing needs within the GCLAP's service area. A minimum of 51% of the multi-family units must be restricted during the affordability period of ten years for low to moderate income (LMI) persons. The rents, at a minimum, must comply with High HOME Investment Partnership (HOME) Rents and other existing Land Use Restriction Agreement (LURA) restrictions if applicable. HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30% of the adjusted income for people earning 65% of the AMFI and can be found on GLO website at: <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/>. The units must also accept Section 8 vouchers for the duration of the LURA.

## 2.0 FUNDING LEVELS

- A. The maximum award cap under the Affordable Multifamily Rental Program is \$6,932,857.00. Exact award will depend upon the amount of storm damage, the cost reasonableness of funds bringing the property up to Housing Quality Standards (HQS), and other funding sources available. Eligible costs include hard costs for construction and soft costs associated with repair or construction of rental units plus other costs permissible under 24 CFR 570.
- B. The CDBG funds may not be used to pay for damages covered by any FEMA reimbursement, SBA assistance, insurance claim, or any insurance policy including delayed or future payments anticipated under insurance policies.
- C. The CDBG Affordable Rental Program funds will be in the form of a 0% performance-based loan. [The Note will be forgiven when all contractual obligations have been met](#), including satisfactory completion of construction and compliance with the ten-year affordability period and conditions found in the LURA. The terms of the forgivable note may be modified by agreement, if necessary; given other requirements from other financial programs (i.e. tax credit programs, etc.).
- D. A Land Use Restriction Agreement (LURA) will be placed on developments and any applicable lenders must agree to subordinate to the LURA. The Developer / Borrower will guarantee completion of construction until a certificate of occupancy has been issued and retainage has been released. There is a 10 year affordability period under the LURA, during which time the units must accept Section 8 vouchers.
- E. Project construction must be completed within 18 months of the effective date of the contract, unless otherwise extended with agreement of the GLO.

## 2.1 ELIGIBLE PROPERTY TYPES

- A. All properties must be located within Galveston County (not to include the City of Galveston).
- B. The GCLAP intends to offer an Affordable Multifamily Rental Program and will develop a Notice of Funding Availability (NOFA) or application process to fund rehabilitation of existing multifamily housing developments or replacement of damaged units through reconstruction or new construction. The GCLAP will use a Request for Proposal (RFP) process in order to solicit vendors to participate in the Program. Projects evaluated for awards are evaluated according to the priorities established in the NOFA or application. Hurricane Ike damaged or destroyed projects awarded assistance will typically be in the 10-30 year old range. The repair/replacement assistance will extend the useful life of the development at least ten years.
- C. Proposed new construction located in the 100-year flood plain as identified on the most current Federal Emergency Management Agency (FEMA) Flood Maps must comply with HUD Policy.
- D. At a minimum, 51% of the total number of units in the development must benefit low-moderate income persons earning 80% or less of Area Median Income as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA) Title I, 105(a).

- F. The project may also be included in the overall income category targets in the Needs Assessment. Rent restricted units occupied by low-moderate income households must be occupied at affordable rents. Rent restrictions for the units occupied by LMI households apply through the ten year affordability program. The units occupied by low-moderate income households must comply with the High HOME rent limits published by GLO under the HOME program. HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30% of the adjusted income for people earning 65% of the AMFI and can be found on GLO website at <http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/>.

## 2.2 APPLICANTS AND ELIGIBILITY REQUIREMENTS

- A. Eligible applicants can be For-profit, public housing authorities, units of local governments and not-for-profit Developers/ Borrowers, acting individually or as participants in a limited partnership [LP] or limited liability corporation [LLC]. Not-for-profit entities must provide evidence of IRS tax-exempt status. Developments are required to list properties on the PHA landlord list and provide notification to DHAP providers.
- B. The Applicant, Development Owner, Principal or Developer/Borrower must be in good standing with any outstanding loans and loan commitments. There may be no defaults or negative collection actions on current or previous loans.
- C. No Applicant, Developer Owner, Principal or Development/Borrower or General Contractor may be “debarred” from the federal and state debarment lists, in accordance with 24 CFR §570.609, as well as other applicable laws.
- D. Applicant, Developer Owner, Principal or Developer/Borrower must provide a complete listing with addresses of multifamily properties currently owned or managed.

## 2.3 SELECTION CRITERIA FOR APPLICANTS

- A. Through the NOFA selection process and the RFP process, the GCLAP will identify those properties that could provide the greatest benefit to the community and benefit the persons with the highest need for affordable housing. The GCLAP selection process shall determine the projects that will best meet the housing goals and objectives of the Multifamily Rental Program. The GCLAP will develop criteria to award funds to the projects meeting the housing goals and objectives of the program, and fair housing as well as those of the community. All awards must be made to applicants that demonstrate capacity to complete the development planned in the application. The selection criteria utilized must be consistent with overcoming the impediments in the Interim Analysis of Impediments. The NOFA or application must meet the following criteria:
  - a. Use of the funds must affirmatively further fair housing and increase housing choice; therefore, selected criteria must be consistent with overcoming impediments identified in the Phase 1 Analysis of Impediments—including addressing concentrations of poverty or race/ethnicity.
- B. A Land Use Restriction Agreement (LURA) will be placed on each multifamily development receiving disaster funds to repair, construct or reconstruct rental units. The LURA sets

income and rent restrictions applicable to units of affordable rental housing with respect to the specific affordable rental housing. These documents will be filed with the local county clerk's office in the land records. The LURA must be approved by GLO and require all multifamily projects (four or more units) and projects with 20 or more single family units under common ownership to accept section 8 housing choice rental vouchers during the affordability period. The LURA imposes the requirements on the property for the full ten (10) years affordability period.

- C Based on the Needs Assessment, criteria developed by the GCLAP to identify projects providing the greatest benefit to the community may consider the following:
- a. Increasing the number of affordable units by exceeding the requirement to lease 51% of the units to low/moderate income households.
  - b. Providing units to households with the highest need for affordable housing by agreeing to create set asides targeting extremely low, very low income, low and moderate income tenants.
  - c. Providing broader access to persons with disabilities through single story structures or those served by an elevator.
  - d. Meeting low-maintenance and energy efficiencies by installing energy efficient products and low maintenance items. Combinations of the following items can be used up to the maximum number of points.
    - i. Install water-conserving fixtures in all units with the following specifications for toilets and shower heads, and follow requirements for other fixtures wherever and whenever they are replaced: toilets – 1.6 gallons per flush; showerheads – 2.0 gallons per minute; kitchen faucets – 2.0 GPM; bathroom faucets – 2.0 GPM.
    - ii. Install Energy Star or equivalent refrigerators in all units.
    - iii. Install Energy Star or equivalent lighting fixtures in all interior units and use. Energy Star or high-efficiency commercial grade fixtures in all common areas.
    - iv. Use tankless water heaters or install conventional water heaters in rooms with drains or catch pans piped to the exterior of the dwelling and with non-water sensitive floor coverings (for all units).
    - v. Install Energy Star or equivalent power vented fans or range hoods that exhaust to the exterior (in all units).
    - vi. Install Energy Star or equivalent bathroom fans in all units that exhaust to the outdoors which has a humidistat sensor or timer, or operates continuously in all units.
    - vii. Install correctly sized HVAC units (according to Manual J) of at least 14 SEER or better in all units.
    - viii. Perform an energy analysis of existing building condition, estimate costs of improvements, and make those improvements resulting in a 10 year or shorter payback.

## 2.4 FEASIBILITY ANALYSIS AND PROGRAM REQUIREMENTS

- A. Projects awarded disaster recovery funds must satisfy all the GCLAP levels of eligibility requirements.
- B. The Program will be reviewed in terms of financial feasibility with the objective to repair existing hurricane damage, bring the property up to standard to extend the useful life, replace the severely damaged units or add new units. Financials, pro-formas, and loan information as well as the sources and uses of funds must be submitted identifying the proposed financing sources and expenses of the project.
- C. Upon allocation for funding, the property will go through environmental review. Project limiting decisions cannot be made by the applicant until the environmental review is complete.
- D. For rehabilitation or construction activities for multi-family structures, the Developer / Borrower must submit an acceptable Property Condition Assessment (PCA) conducted by a qualified third party. In addition to repair costs identified in the estimated repair cost report, other costs allowable under CDBG will be considered if they extend the useful life of the project. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. Plans and specifications must be submitted for replacement units.
- E. The project must comply with all applicable federal and state requirements.
- F. The project must address identified impediments to fair housing choices, as well as address how the Program will provide assistance in furthering fair housing.
- G. The project must serve the local population impacted by Hurricane Ike.

## 2.5 UNDERWRITING

- A. The proposed multifamily developments will go through underwriting which will review the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable).
- B. The underlying debt and operating expenses of the property will be reviewed to determine if the project is feasible during the affordability period and demonstrates income adequate to cover operating expenses and applicable debt service.
- C. Sources and uses will be reviewed to determine the adequacy of the funding to complete the project in conjunction with the PCA. The scope of work including the repair of any hurricane damage will be assessed.
- D. Following underwriting, a contract will be executed between the developer and the GCLAP. This contract will specify the terms under which the funding is provided to the development; the number of units to be renovated / developed; the affordability period; and other conditions of the agreement.

### 3.0 ENVIRONMENTAL REVIEW OVERVIEW

- A. Each development assisted with CDBG Disaster Recovery funds must be environmentally cleared. No commitment or disbursement of funds will occur prior to the completion of this review. The environmental assessment reviews conditions such as wetlands, coastal zones, flood zones, runway clear zones and any other requirements imposed by State or Federal regulations.
- B. Rental Program funds cannot be used to assist rental units (Multi and single family) that have been determined to be in the Coastal Barrier Resource Zones or airport runway clear zones. Once the Environmental Review is complete the review is forwarded to the GLO for environmental clearance.
- C. The Developer / Borrower must comply with all applicable laws with respect to lead based paint in conjunction with Section 302 of the Lead Based Paint Poisoning Prevent Action (42 USC Section 4831(b)), as well as the presence of asbestos containing materials within the project.  
A Property Condition Assessment must be conducted for rehabilitation. The PCA must conform to American Society for Testing and Materials (ASTM - <http://www.astm.org/>) "2018 Standard Guidelines for Property Condition Assessments." For further assistance, please click the following link: <http://www.tdhca.state.tx.us/readocs/10-REARules.pdf>

### 4.0 CONSTRUCTION REQUIREMENTS

- A. Housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When CDBG funds are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards and meet Housing Quality Standards. All newly constructed and reconstructed housing units must meet the current edition of the Model Energy Code (MEC) (<http://www.energycodes.gov/implement/pdfs/modelcode.pdf>) published by the Council of American Building Officials. GLO will conduct a final inspection of the development. Common areas and units are subject to a Uniform Physical Conditions Standards inspection. Any deficiencies identified in that inspection must be corrected before final retainage is released.
- B. Housing developments must meet all accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794). Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC § 60.201-211). Covered multifamily dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments with covered dwellings must meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C.3601-4619).
- C. The Developer/borrower must comply with Labor Standards; the local Section 3 Plan; Minority / Business Enterprise (MBE); Small Business Enterprise (SBE) requirements; Affirmative Marketing; and Contractor Clearance.
- D. The project costs must be "reasonable and customary" as determined by an acceptable, independent third party report or considered reasonable as documented by a bidding process. GLO shall be the final arbiter of what is reasonable and customary if a disagreement occurs.

- E. All contracts will be payment and performance bonded. All projects are subject to The Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70), The Contract Work Hours and Safety Standards Act (40 USC 327 et seq), The Copeland “Anti-Kickback” Act (18 USC Sec 874), and should budget accordingly.
- F. Prior to commencement of construction, the Developer / Borrower must have a notice to proceed. Scattered site projects owned by a sole owner with 8 or more units must comply with the Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70).
- G. AIA forms 702 and 703 will be required prior to funding each draw.
- H. Ten percent (10%) of each draw will be held as retainage until satisfactory completion of the project.

## 5.0 LABOR STANDARDS

- A. All applicable developments must comply with applicable labor standards, including, but not limited to Davis-Bacon wages, the local Section 3 Plan, Minority / Business Enterprise, and Small Business Enterprise. Under the federal Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70, 24 CFR §570.603), prevailing wages must be paid on all construction and related work on projects that have eight (8) or more units.
- B. The following information will be provided on all projects to the GLO Labor Standards Specialist:
  - a. Notes of bid and preconstruction conferences as well as attendance rosters with attendees’ signatures.
  - b. Notice to Proceed.
  - c. All Department of Labor (DOL) General Wage Determination reports showing prevailing wages applicable to each project throughout the construction phase.
  - d. Final Wage Compliance Report
  - e. Davis-Bacon communications, including:
    - i. Department of Labor communications
    - ii. Letters to Contractor(s) requesting payments of restitution owed to workers and liquidated damages, including copies of letters confirming Contractor(s) compliance and / or resolution of labor-related issues. Department of Labor (DOL) Semi-Annual Report with all required reporting data associated with the CDBG-DR Hurricane Ike award.
    - iii. Additional documentation as required by GLO.

## 5.1 MULTIFAMILY RELOCATION

- A. The Developer/Borrower is responsible for the relocation activities related to the project. The Developer / Borrower shall comply with program regulations at 24 CFR §570.606, the Uniform Relocation Assistance and Real Property Policies Act of 1970 (“URA”), as amended, at 49 CFR §24, and §104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR §42 if any residents are forced to leave rental property because of the repair or reconstruction.
- B. If applicable, Developer / Borrower shall submit to the GCLAP copies of all documentation relating to URA, including but not limited to, a Relocation Plan with Assurance Letter, Notice to Real Property, Tenant Status Reports, and all Notices with Tenant Acknowledgments as required by the URA.

## 5.2 PROJECT COMPLETION AND RELEASE OF RETAINAGE PROCEDURES

- A. When  
 When an estate is finished, the procedures listed below will be followed to document completion and allow for retainage (the last 10% of project costs) to be paid. List of items include:
  - i. Developer/Borrower submits Final Draw for retainage. This draw is identical in form to the others and includes the final inspection report from the third party inspector indicating that the project is complete.
  - ii. Developer / Borrower completes and submits a Final Wage Compliance Report.
  - iii. Developer / Borrower submits Certificate of Occupancy for project.
  - iv. Developer / Borrower submits letter of certification from Architect that project meets requirements of the Americans with Disabilities Act.
  - v. Developer / Borrower submits Certificate of Substantial Completion, and AIA form that is signed by the Owner, General Contractor, and Architect.
  - vi. Developer / Borrower submits Lien Release from General Contractor to show that all subcontractors have been paid. (Contractor = GCLAP) and (Subcontractor = Building Contractor)
  - vii. The GLO will perform a final inspection prior to funds being released.

## 5.3 MULTIFAMILY PROJECT LEASE-UP PROCEDURES

- A Multifamily developments assisted with CDBG funds are required to have a project tenant selection policy (TSP), Affirmative Marketing Plan, and schedule of leases & rents to ensure compliance with CDBG requirements. The tenant selection policy must be:
  - a. Written and displayed at the project leasing in a common area.
  - b. Consistent with the purpose of providing housing for families making 80% or less of AMFI as called for in the Needs Assessment.
  - c. Reasonably related to program eligibility and Lessee’s ability to perform under the lease.
  - d. Chronological, so that tenants taken from a written waiting list are assisted in order.
  - e. Designed to give prompt written notice of the grounds for rejection to any Lessee rejected based on income.

## 5.4 MULTIFAMILY ANNUAL MONITORING PROCEDURES

Completed projects require annual monitoring. Monitoring will be conducted by the GCLAP in coordination with developers and/or property management companies throughout the affordability period. The results and reviews of monitoring activities ensure the provision of safe, decent, affordable rental housing in compliance with all applicable regulations. Income targets and rents must comply with Affordable Rental Program LURA requirements and other compliance requirements. Monitoring includes:

- a. On-site inspection of rehabilitated properties to ensure compliance with Housing Quality Standards (HQS) under 24 CFR Sec. 982-401, or current federal standards at the time of the inspection.
- b. Compliance Standards Review (CSR) to ensure compliance with the CDBG regulations and the NOFA, but not limited to, the following:
  - i. Affordable Rental Housing
  - ii. Subsequent Rents during the Affordability Period
  - iii. Initial and Annual Recertification of Tenant Income
  - iv. Periods of Affordability
- v. Tenant and Participant Protection (lease term, prohibited lease terms, tenant selection policy)
- vi. Civil Rights Act of 1964 and amendments
- vii. Section 504 of the Rehabilitation Act of 1973
- viii. Architectural Barriers Act and the Americans with Disabilities Act
- ix. Design and Construction requirements
- x. For Rehab projects, entire structure must meet Housing Quality Standards
- xi. Benefit all income targets including the CDBG LMI requirement to least 51% of the units to LMI households.
- xii. Affirmative Marketing
- xiii. National Flood Insurance Program
- xiv. Displacement, relocation, acquisition, and replacement
- xv. Lead-Based Paint Compliance
- xvi. Fair Housing and Equal Opportunity
- xvii. 24 CFR Part 135 (Section 3 Compliance)
- xviii. Any reporting requirements as noted in the Conciliation Agreement

- c Notification in writing of the results of the monitoring activity will be provided to the borrower, with a stated corrective action plan, if one is needed.

## 5.5 MULTIFAMILY FILES AND REPORTS

The GCLAP will maintain accurate Rental Program files and records for general administration activities, for each development and tenant for a period of ten (10) years as required by the GLO. Such files will be open for inspection to HUD, HUD OIG, State Auditor's Office, GLO or any of its duly authorized representatives, or funding source representatives.

## 5.6 MULTIFAMILY CHANGES, WAIVERS, APPEALS AND/OR CONFLICTS

- A. The GCLAP has the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of GLO.
- B. See the "Appeal Process" section of the General Guideline for guidance related to the appeals process.

## 5.7 LANDLORD/PROPERTY MANAGER REQUIREMENTS

These requirements include:

- a. Leasing all units to tenants that have eligible household incomes (80% AMI or below).
  - b. Charging rents that are at or below, at a minimum, High HOME rents.
  - c. Following income certification and verification procedures and keeping records on all tenants' income.
  - d. Maintaining complete and accurate rent rolls.
  - e. Renting units in accordance with HUD Fair Housing Standards.
- A. The developers and/or property management are responsible for maintaining complete and accurate records for the full period of the forgivable note term. These records must fully and completely support the satisfactory completion of all compliance items. These records must be provided to the GCLAP, GLO, SAO, HUD, or HUD OIG upon request.
  - B. Compliance with these terms for the full period of the forgivable note will result in the note being forgiven in full, leaving the applicant with no obligation to repay the forgivable note or interest on it. Failure to comply with terms will lead to non-compliance.