



CITY OF HOUSTON

Housing & Community Development Department

Sylvester Turner

Mayor

Tom McCasland
Director
2100 Travis, 9th Floor
Houston, Texas 77002

T. (832) 394-6200
F. (832) 395-9662
www.houstontx.gov/housing

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Subject: Letter of Clarification No.4
Notice of Funding Availability (NOFA) - 2019
Disaster Recovery (DR-17) Multifamily Program Round-1

Reference: Request for Proposal No.: T28910

To all Prospective Proposers:

This Letter of Clarification is issued for the following reasons:

- To answer the following questions:
- Housing and Community Development Department (HCDD)

1. Question: Following the instructions noted in T28910 Letter of Clarification 3:
HCDD acknowledges the following measures may inspire additional questions.
HCDD will extend the date for inquiries under the NOFA until Monday, April 1st at 3 pm. Responses will be issued by Friday, April 5th.

In filling out the current NOFA Worksheet 2, the following errors in formulas were found.

Proforma Tab

- a. Senior Loan (Row 26) does not take into account the interest rate of the loan as noted on the Sources Tab and is only calculation the payments at 1%.
- b. Cash Flow after Debt Service (Row 30 and starting at Column C) The formula is *addition* and not *subtraction* as Cell B30, which is correct.

Answer: HCDD has reviewed the Excel application. The formulas in the Proforma tab are operating correctly. Please be sure you are using the latest Excel application uploaded March 14th and input all needed information in the Sources tab correctly.

2. Question: We submitted an application under the RFP assuming an award of 9% credits. We would also like to submit under a 4% credit and mortgage bond financing scenario. Under this scenario, we would also like to include a separate tract that is located across the street from the original site and add more units. The entire development will have the same name, will be under the same ownership entity and will have the same construction, management, etc. Would that be considered a new submission with an additional \$1,000 fee, or would it be considered an augmentation/supplement?

Answer: *Any proposal that changes the property address (or includes additional sites) would be considered a separate proposal and would require another application.*

3. Question: Per the letter of clarification letter 3, issued March 26, 2019, applications and revisions will be accepted until April 12, at 3pm. Does the following statement from the NOFA still stand in regards to submitting any amendments? Amendments would be accepted until May 12th?

Answer: *The 30-day amendment proposal is no longer applicable with the extension of the application deadline. Any amendments to an application must be provided by April 30th.*

4. Question: Will 100% of the units be required to use the PHA Allowance schedule, or only a certain number (such as when HOME units are designated and only those units are required to use the PHA allowance)? You could run into a TDHCA underwriting issue with this as they have a 65% income/expense ratio threshold. With much higher utility allowances in the PHA schedule (rather than typical third party studies which are allowed on non HUD funded deals) and rising operating expenses, this could be a big problem as most deals will be above the 65% threshold?

Answer: *All restricted units will need to have the utility allowance (UA's) netted from the gross rent using the PHA schedule. Applicants may propose UA's supported by a third-party study that meets the TDHCA's standards.*

5. Question: I have an administrative question about the application submission. Would HCDD like to receive ALL pages of all attachments printed out or would it be acceptable to print only the first few pages of a few of the lengthier attachments and then reference the digital version of the document for all pages, specifically for the audited financial statements, tax returns, and environmental phase 1 report (each are quite long).

Answer: *The City of Houston will allow the lengthier attachments such as financial statements, tax returns, and environmental reports referenced in the binder and provided as a digital version on a flash drive.*

6. Question: Given the new application due date (Friday, April 12) has the June 1st award announcement date changed?

We are under the impression that we are permitted to amend our applications within the 30 day "threshold review" period after submission. Does the 30-day amendment period now begin on April 12th? Are we to interpret the 30 days as business days or does the time period include weekends/holidays? Please confirm.

Answer: The June 1st award announcement still stands.

The 30-day amendment proposal is no longer applicable with the extension of the application deadline. Any amendments to an application must be provided by April 30th.

7. Question: If a project is awarded, can it be sold later with buyers acceptance and commitment to the LURA, without repayment?

Answer Please note that HCDD loan documents will require any event of sale or refinance is subject to HCDD approval in advance of the event. HCDD's approval will require the purchaser to assume the loan covenants under the LURA. Under a 20 year loan term sellers are subject to a partial recapture of up to 50% of net proceeds from the sale.

8. Question Will 40-year loan term be subject to repayment requirements?

Answer HCDD is open to forgiveness of its loan if the borrower elects a 40 year LURA, however each application will need to be reviewed independently to determine if loan forgiveness is eligible.

9. Question If the City funds are paid at closing are developers fees payable at that time?

Answer HCDD will fund towards eligible CDBG costs at closing including acquisition and certain soft costs, however CDBG funds will not be applied towards payment of developer fee.

10. Question If Developers fees are paid at closing, can the lender demand for those to be paid in escrow at their institution?

Answer HCDD will not permit CDBG funds to be applied towards payment of developer fee. The applicant must negotiate developer fee terms with their lender and investor.

11. Question We know that an applicant may not submit more than two applications, but may a guarantor, who has more than sufficient capacity, guarantee more than two applications for different entities/applicants?

Answer HCDD will make a determination of a guarantor's eligibility for each application at the time of review. While not prohibited, HCDD discourages guarantors supporting more than two applications.

12. Question: May we add the additional costs for the items changed from previous projects by this Letter of Clarification No 3 as substantial increases to the historical costs used to establish the projects?

Answer Additional costs incurred as a result to the requirements outlined in Clarification 3 that are CDBG eligible may be expensed with the CDBG award.

13. Question Will the owner and contractor be able to invoice for the \$190,000 for the Safety Training and Hourly Base Rate section of your Letter of Clarification No. 3?

Answer Additional costs incurred as a result to the requirement outlined in Clarification 3 that are CDBG eligible may be expensed with the CDBG award.

14. Question Please clarify that per the Letter of Clarification No 3, you are now asking the owner and the general contractor to provide workers' compensation coverage for workers that are not their employees. This would include subcontractors and vendors typically covered by statutory workers compensation by their employer?

Answer Awardees will be responsible to ensure all site workers will be covered by workers compensation insurance provided by either the general contractor or their subcontractor. This includes coverage requirements for independent contractors. HCDD will not require supplemental insurance if verification of coverage is provided by the general contractor or subcontractor.

15. Question Please clarify that per your section on Safety Training and Hourly Base Wage Rate, you are raising the minimum wage rate to the higher of either \$15.00 or the Federal prevailing wage rate?

Answer All individuals performing work will receive the higher of \$15.00 per hour or the Federal prevailing wage.

16. Question For employment and apprenticeships, does the craft training hours become billed through the project as working hours towards the project costs? Also, does the program have to relate to the work for which the employees was originally hired or is currently performing?

Answer Employment hours applied on the development through approved apprentice or craft training are eligible to be expensed with CDBG award. The apprentice or craft training program must be applicable to work done on the project site.

17. Question For Section 3, clarify that the requirement for the 10% of all project work hours is for the aggregate of the project and not on a weekly, daily, or other unit basis.

Answer HCDD monitors Section 3 compliance and work hours on a monthly basis.

18. Question Clarify the self-employed status on the next to last sentence in the Employment Classification section.

Answer Any independent contractor (1099 worker) is subject to all the responsibilities, rights and privileges outlined in Clarification 3.

19. Question Do you allow Form 1099 workers to be contracted to work on site?

Answer Independent contractors (1099 workers) are permitted to work on site. Section 3 and apprentice level must be direct employees for the general contractor or subcontractor.

20. Question: Since we already submitted the application fee, 3 binder copies (1 with originals), and flash drive on March 26, would we only need to submit the Safety Training and Hourly Base Rate Supplemental Application originals to HCDD?

Answer: Yes, that's fine. Only the supplemental disclosure is needed.

21. Question: Is there a penalty if it is not possible to fulfill the 10% Employment Training and Apprenticeships due to the scope of work requirements not requiring a skilled trade, or lack of labor force available, or some other unknown factor? Every effort will be made to comply with this requirement to the greatest extent feasible, but what if it is not possible?

Answer: No penalties are assessed if proper documentation has been provided that GC has made all attempts to the greatest feasibility. However, HCDD is unable to determine that meaningful efforts have been taken it is likely to result in untimely payments. If the GC and owner refuse to provide proper documentation it may result in a loan default of the contract.

22. Question: We had a question regarding the applicant entity and the limitation of 2 applications per applicant. Can you clarify who qualifies as an applicant or how HCDD defines an applicant? For example, we have 3 different LP entities as applicant submitting 3 separate applications. Our company is part of the SLP on the ownership side and part of the development team on each application. Are we limited to 2 applications even with different owner applicants and different ownership/development structures for each deal?

Answer: *HCDD will make a determination of an applicant's eligibility for each application at the time of review. While companies participate in joint-venture agreement on more than two applications is not prohibited, HCDD will scrutinize applications that show development companies supporting multiple applications.*

23. Question: Please confirm that the 30 points items only apply to Section 3 contractors?

Answer *No, the 30 points regarding the safety training and hourly base wage rate applies to all site workers, not just Section 3.*

24. Question Regarding OSHA and the hourly rate can individual items be chosen in that section or is it all 30 points or 0?

Answer *The applicant must elect to participate in all aspects of the safety training and hourly base program to qualify for the 30 points.*

25. Question If you opt to not go for the extra 30 points on the application then you only have to use the Davis Bacon wage scale and not the minimum of \$15. per hour. Is that correct?

Answer *If the applicant does not elect to participate in hourly base program, they are still subject to the Davis Bacon wage scale.*

26. Question Pay or Play (Pay: requires \$1. per hour each regular hour performed by any employees in lieu of insurance) if some of the employees have insurance and others don't, you pay on all of them because you choose one PAY or the other PLAY for the entire job. (PLAY: requires you to show documentation on all employees that they are covered on a health insurance plan) Is this correct, or can we have a combination where we are just required to show documentation for those that have and pay for those that don't?

Answer *That is correct. A contractor may request POP program waiver if an employee has other health coverage such as through a spouse or parents, or Medicare/Medicaid. Note proof of coverage must be provided in the form of a copy of the employee's insurance card.*

A contractor is deemed to have complied with POP requirement with respect to a covered employee who is not provided health benefits if the employee refuses the benefits and the employee's contribution to the premium is no more than \$40 per month. As applicable, the contractor has the option to both Pay or Play.

27. Question The owner or general contractor will provide workers' compensation. Will we be able to use the General Contractors certificate of insurance or will individual subcontractor certificates be required?

Answer *Depending on the extent of the coverage, if the general contractor coverage extends to all site employees and independent contractors it will be sufficient. If not, proof of coverage must be provided by the subcontractors to extend to their employees and independent contractors.*

28. Question Can you confirm that the OSHA 10 certificate Training is required just for Section 3 subs?
Answer *No, the safety training requirement applies to all site workers, not just Section 3.*
29. Question It appears that a safety representative with a minimum of 30 hours of OSHA approved supervisor training must be on each construction site. If the contractor's on site supervisor have training, do the individual sub on-site supervisor still also required to have?
Answer *HCDD requires at least one onsite supervisor with 30-hours of OSHA training.*
30. Question A minimum of 10% of all labor hours will be performed by apprentices enrolled in apprenticeship or craft training programs that are certified by the Department of Labor. There are several apprenticeship programs and how can you tell if the apprenticeship cards are Department of Labor certified? Do the cards have a dept of labor logo or what? Is there a list of Dept of labor certified apprentices that are approved to work in each state? Is there also a list of approved Dept. of Labor craft training programs? Where can I get a list of subcontractors that show US Department of Labor approved subcontractors with apprenticeship or craft training programs in place? If we need to have our subcontractors set up apprenticeship programs through the Department of Labor how long does it take and what is involved?
Answer *Awardees will be provided additional guidance and information on how to source apprentices through DOL certified programs at the time of award.*
31. Question: Would developments located in the within the Houston ETJ sharing boundaries with the City of Houston limits (either full or limited purpose limits) qualify for application under this RFP?
Answer: *Only properties within the City limits are eligible. Properties in the ETJ are not eligible.*

This Letter of Clarification will be considered part of the solicitation referenced on the first page of this document.

Furthermore, it is the responsibility of each PROPOSER to obtain any previous Letter(s) of Clarification associated with this solicitation.



Tywana L. Rhone
Division Manager
Procurement Services Division
832.394.6204