



Effective Affordable Rental Housing Programs including Combining CDBG-DR with LIHTCs

2020 CDBG-DR and CDBG-MIT Webinar Series

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Effective Affordable Rental Housing Programs including Combining CDBG-DR with LIHTCs

2020 CDBG-DR and CDBG-MIT Webinar Series

Agenda

- Overview of Key CDBG-DR Rental Program Considerations
 - Program Design - Construction Period - Asset Management
 - Smaller and Larger Multifamily Property Focused Initiatives
 - Direct Administration / Utilization of Subrecipient(s)
- Leveraging Funds and “Piggybacking” with LIHTCs (Tax Credits)
- Experience of the State of New Jersey
- CDBG-MIT Grant Funds to Protect Community Assets
- Q&A



Introductions



Introductions

- Bonnie Newcomb, HUD
- Jim Beachler, ICF
- Laura Shea, New Jersey Housing and Mortgage Finance Agency
- Rosy Dafonseca, New Jersey Housing and Mortgage Finance Agency



Program Design Considerations

Jim Beachler, ICF



Program Design Considerations

- Starting with the Basics
 - Eligible Activities/National Objectives
- Layer on applicable Federal Register notice(s)
 - Amount of funds appropriated by congress
- Leverage of CDBG-DR funds
- Affordability provisions
 - Recent Federal Register notices vary from earlier notices



Program Design Considerations (continued)

- PHAs may either compete for CDBG-DR resources, or a separate set-aside
- Characteristics of rental properties in target areas
 - Smaller rental properties; larger multifamily complexes; or both
 - Focus efforts consistent with post-disaster priorities



Program Design Considerations (continued)

- Grant or loan
 - Simplicity vs. complexity
 - Reception in the development community
 - Possible program income generator IF:
 - Payment options include portions of annual cash flow; required monthly payment; full forgiveness
 - Benefit of cash flow payment; however grantee must account for staff resources to service loan
- Grant or loan amount per unit
 - Variance between smaller properties v. larger properties
 - Fixed amount “cap” v. gap financing
 - All projects must meet “reasonable and necessary” standard



Program Design – Smaller Rental Properties

Smaller Rental Properties

- Typically = 1 to 4 Units
- Considered “residential” in finance industry
- **Required:** Environmental review
- **Frequently Required:** Elevation
 - Complexities of duplexes; upstairs/downstairs properties
- **Not Required:** Davis-Bacon



Program Design – Larger Rental Properties

Larger Rental Properties

- Typically = 5+ Units
- Considered “commercial” in finance industry
 - Some Lenders and HFAs focus only on 15+ unit minimums/ many with much greater (i.e. 50 unit) minimum
- **Required:**
 - Environmental review; lenders often require phase I and phase II
 - Davis-Bacon for 8 units and above
 - Broadband (if new construction/ substantial rehab)



Rehabilitation / Construction Considerations

- Construction costs market based
 - Policy and procedures must address procedure for cost verification - Including profit, overhead and general conditions
 - Change orders must have cost verification procedures
 - Third party verification considered best practice (e.g. architect, cost estimator)
- Lead Based Paint remediation
 - Assessment of lead and asbestos must be conducted for any property built before 1978
 - Any remediation must be included in the rehab specifications and scope of work
 - Remediation must be conducted by certified contractors
 - Assessment and clearance CANNOT be done by firm or individual doing remediation
- Properties must be brought up to code



Rehabilitation / Construction Considerations

- Green Building program
 - Must achieve industry-recognized standard that has achieved certification under one of the following programs:
 - ENERGY STAR
 - Enterprise Green Communities
 - LEED
 - ICC-700 National Green Building Standard
 - EPA Indoor Air Plus
 - Other equivalent green building program acceptable to HUD
 - * Green Building Standards are recommended for CDBG-MIT
- Standard of rehabilitation for non-substantially damaged resident buildings
 - HUD CPD Green Building Retrofit Checklist
- Overview of Green Building Standards from CDBG DR Problem Solving Clinic provides additional guidance



Rehabilitation / Construction Considerations

- Broadband required for all substantial rehabilitation (as defined in 24 CFR 5.100) and new construction projects with five (5) or more units
 - Required for all grantees beginning in 2016
 - A grantee can request a waiver if compliance with the requirements are infeasible based on:
 - Project location
 - Cost would cause undue financial burden
 - Structure of housing to be substantially rehabilitated makes installation infeasible.



Rehabilitation / Construction Considerations

- Occupied Properties – Uniform Relocation Act (URA) will be applicable
 - Should engage your CPD Representative
 - Effectively communicate requirements to applicants + rights of tenants
 - Section 414 of Stafford Act applicable for displaced tenants
 - HUD waiver available provided project commenced one year after presidentially declared disaster
 - Defined as one year from date of request for release of funds to HUD from grantee
 - Otherwise displaced tenants qualify for URA replacement housing allowance
 - Payment amount varies based on whether tenant is low income or not
 - 42 months of assistance; assistance with moving and related costs



Rehabilitation / Construction Considerations

- Davis Bacon and related acts apply to projects with 8 Units or more
 - Cost incorporated in project construction budget
 - Importance of effective implementation and monitoring
 - Contractor and subcontractor pricing; payrolls & statements of compliance; project signage, other pertinent requirements
- Section 3
 - Have a plan in place
 - To meet requirements, all construction contracts must contain specific contract language



Rehabilitation / Construction Considerations

- Actively manage construction process:
 - Inspections
 - Schedule
 - Responsible parties
 - Required with each draw request
 - Draws
 - Schedule to ensure that construction is progressing as planned
 - Requests must be on AIA or similar form
 - All documentation included
 - Change orders
 - Cost verification
 - Documentation and approval process
 - Closeout



Program Design Considerations (continued)

- Special needs initiatives
 - Proper underwriting required of project specific characteristics
 - Group homes; specialized housing populations
- Multiple resource transactions
 - Private or HFA lender funds; CDBG-DR; insurance proceeds; HOME or national housing trust funds; &/or state/local funds, etc.
 - Must be included in Duplication of Benefits (DOB) analysis
 - Affirm that CDBG-DR resources are “necessary and reasonable”



Program Design / Underwriting Considerations

- Minimum affordability period (HUD notices 8/14/18 and 1/27/20)
 - Rehabilitation (8+ Units) = 15 years
 - New Construction (5+ Units) = 20 years
 - Clarification on Affordability Periods and Amended Alternative Requirement
- Grantee definition of “affordable” rent options include:
 - HOME rents; fair market rents; or LIHTC maximum rents
 - Design for ease of execution for operating period for grantee and owners



Program Design / Underwriting Considerations (continued)

- Maximum permissible rent vs. market rent (potential variance)
- Properly structured rental housing initiatives count toward LMI national objective requirements of grantee
 - Tenant income can increase, and unit may still be considered LMI



Use of Low-Income Housing Tax Credits With CDBG-DR Funds – “Piggyback Transactions”



Low Income Housing Tax Credit (LIHTC) Considerations

- Excellent source of leverage
- Critical partnership required with tax credit allocating agency
- Source of credits include:
 - Annual allocation to state (Currently \$2.70 per capita)
 - “4%” LIHTCs if state tax exempt bond cap is available
 - Separate allocation from congress sometimes available
 - Hurricane Katrina / Rita “GO Zone” LIHTCs
 - Additional tax-exempt bond cap if allocated
- Tax credits translate into equity proceeds; pay for project costs
 - Pricing based on local market conditions; project structure
 - Current average price is approximately 90 cents+ per LIHTC credit



LIHTC Considerations (continued)

- Request For Proposal Considerations
 - Separate RFP, or Part of State LIHTC Allocation Agency Process
 - Timing is frequently different
 - Currently 24 states / territories prioritize disaster recovery in qualified action plans
- Underwriting Options
 - Grantee staff
 - Coordinate with state HFA staff
 - Contract out to 3rd Party
- Complexities of syndicated LIHTC transactions
 - Operating reserves; reserve for replacement requirements; coordinate with State Tax Credit Allocation Agency / HFA Staff



Asset Management / Long Term Affordability Provisions

- Low Income / LMI Characteristics – 15 / 20-year operating period
 - 15 year minimum if eight (8) or more units; 20-year period for new construction
- Importance of effectively communicating requirements to owners; documenting requirements in written agreements
 - HUD Notice specifies recorded deed; covenant; or similar mechanism
- LIHTCs do NOT trigger cross cutting requirements (unless credit agency requires) on their own, BUT if you add CDBG-DR grant funding then project MUST comply with all relevant requirements.
 - Long-term cost and monitoring implications



Asset Management / Long Term Affordability Provisions (continued)



- Property managers/ owners key to effective compliance periods
- Asset management staff of grantee must monitor affordability provisions for property operating period
- Property must be viable during the operating period
- Grantee avoids repayment of grant funds to HUD with effective asset management



High Level Takeaways

- Much can be learned from grantees' experience with rental housing CDBG-DR programs
- Program design – key decisions translate into effective initiatives
- Construction period must be effectively managed
- Operating periods of 15 / 20 years require ongoing management commitment



State of New Jersey CDBG-DR Rental Housing Initiatives Coupled with LIHTCs

Laura Shea and Rosy Dafonseca, New Jersey Housing and Mortgage Finance Agency





**FUND FOR
RESTORATION
OF MULTIFAMILY
HOUSING**

FUND FOR RESTORATION OF MULTIFAMILY HOUSING (FRM)

- Provides funding to repair and construction of affordable multifamily rental housing in areas affected by Superstorm Sandy
- Available through a stand-alone program and also in conjunction with other multifamily programs offered by the state to leverage additional resources and create more affordable rental units
- Total Allocation: \$664,520,000
- FRM Units to date: 6,834

TYPE OF FINANCING

- 9% or 4% Tax Credits (more than \$602 million of equity generated from the LIHTCs)
- Multifamily Revenue Bonds
- Bond Financing
- Stand-alone (CDBG funds only)

AGENCY MORTGAGE REQUIRED

- If project can carry permanent debt then first mortgage loan must be Agency provided
- Term shall equal that of the Agency mortgage financing and/or the LIHTC requirements, whichever is applicable
- Term shall also not exceed the affordable period

MAXIMUM SUBSIDY LOAN AMOUNTS

- \$170,000/unit for 9% tax credits
- \$170,000/unit for 4% tax credits
- \$5,000,000 per project maximum

TYPE OF LOANS

- Construction Only
- Permanent Only
- Construction / Permanent

ADDITIONAL REQUIREMENTS

- Compliance with all applicable federal and/or state statutory and regulatory requirements concerning, but not limited to
- Environmental review
- Fair Housing
- Davis-Bacon Act

ADDITIONAL REQUIREMENTS

- Equal Opportunity requirements
- Compliance with the Housing Resource Center registration requirements
- Priority for FEMA registrants or other evidence of displacement during the first 3 months of lease-up
- Other labor standards provisions
- Other CDBG financial requirements

MARKETING PLAN

- 90-day priority for Sandy Impacted residents during initial project lease-up
- Public Service Announcements, Legal Advertisements
- Published in English and Spanish plus other languages based on local population
- Web-based services

SANDY SPECIAL NEEDS HOUSING PROGRAM (SSNHF)

- Eligible Types of Projects include new construction/moderate and substantial rehabilitation
- Maximum Subsidy per project not to exceed \$2.5 million
- Maximum Subsidy for mixed occupancy not to exceed \$170,00 per unit
- Available to projects receiving 9% and 4% tax credits
- Total Allocation: \$60,000,000
- Total Beds: 447

CDBG-MIT Grant Funds to Protect Community Assets



CDBG-MIT (Mitigation) Requirements

CDBG-MIT Activities must:

1. Meet the definition of a mitigation activity
2. Address current and future risks as identified in the Mitigation Needs Assessment
3. Be CDBG-eligible or otherwise eligible pursuant to a waiver or alternative requirement
4. Meet a national objective, including additional criteria specific to CDBG-MIT and Covered Projects



CDBG-MIT (Mitigation) Funds

- CDBG-MIT funds used for strategic and high-impact activities to mitigate disaster risks
- Resources to reduce future losses
 - Investment in resilience and preparation
 - Focus is on repetitive loss of property and critical infrastructure
- HUD Identified Most Impacted and Distressed (MID) Areas
 - 50% of MIT Funds must be spent in MID Areas
- Connection to rental housing communities includes:
 - Addressing potential storm and sanitary sewers; pumping station and related infrastructure problems



CDBG-MIT (Mitigation) and Housing

- Must meet National Objective – potential options:
 - Low and Moderate Housing (LMH)
 - Urgent Need Mitigation (UNM) – addresses current and future risks
- CDBG-MIT fund utilization requires holistic assessment of potential risks
- Long term efficacy and fiscally sustainable projects
- CDBG-MIT funds saves substantial public resources by investing proactively in communities



Q&A



Resources



Resources

- HUD Exchange CDBG-DR page:
 - <https://www.hudexchange.info/programs/cdbg-dr/>
- HUD Exchange CDBG-MIT page:
 - <https://www.hudexchange.info/programs/cdbg-mit/>
- HUD Exchange – Duplication of Benefits Training:
 - <https://www.hudexchange.info/trainings/courses/duplication-of-benefits-webinar-2019/2970/>
- Federal Register Notice – Rental Housing Affordability and Section 414 Provisions:
 - <https://www.govinfo.gov/content/pkg/FR-2018-08-14/pdf/2018-17365.pdf>



Resources (Continued)

- HUD Exchange URA Replacement Allowance:
 - https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780
 - <https://www.hud.gov/sites/documents/tenadisp.pdf>
- NJHMFA Program Info:
 - <https://www.state.nj.us/dca/hmfa/developers/cdbg/>



Upcoming Trainings

| | |
|--|--------------------------------------|
| Managing and Monitoring Subrecipients | Sept. 3, 2020 2:00 - 3:30 PM EDT |
| Sustainable and Resilient Communities Through Solid Waste Investments and Best Practices After a Disaster | Sept. 10, 2020 2:00 - 3:30 PM EDT |
| DRGR Workshop for Disaster Recovery | Sept. 15, 2020 2:00 - 3:30 PM EDT |
| Developing Your Infrastructure Projects – from Procurement to Closeout | Sept. 17, 2020 2:00 - 3:30 PM EDT |
| Duplication of Benefits: Understanding and Applying the Requirements | Sept. 22, 2020 2:00 - 3:30 PM EDT |
| Effective Regional Coordination and Engagement Approaches | Sept. 24, 2020 2:00 - 3:30 PM EDT |





Thank you!

- Questions
- Contact Info
 - Jim Beachler, jim@jmbpa.com
 - Laura Shea, lshea@njhmfa.gov
 - Rosy Dafonseca, rdefonseca@njhmfa.gov
 - HUD Policy Unit, DRSIPolicyUnit@hud.gov