

Liberty County
Ike Disaster Recovery Housing Program
Notice of Funding Availability (NOFA) for Rental Housing

1) Summary

- a.) Liberty County announces this Notice of Funding Availability (“NOFA”) of \$2,061,301 in federal funding from the Community Development Block Grant (“CDBG”) Disaster Recovery Fund (the “Funds”) to be used within Liberty County for an Affordable Rental Housing Stock Restoration Program in response to Hurricane Ike. The funding breakdown allocates \$1,015,118 to **Single Family Rental Housing** and \$1,046,183 for **Multifamily Rental Housing**.
- b.) These funds will be made available in the form of grants or loans to the owners of rental properties that sustained documented loss of or damage to rental stock as a direct result of Hurricane Ike. Awards will be administered on a competitive basis. If awarded, a minimum of 51% of the total units in each property are to be used for affordable rental housing for low/moderate-income Texans earning 80 percent or less of the Area Median Family Income (AMFI).
- c.) The NOFA complies with the requirements as stated in the Liberty County Disaster Relief Action Plan. This NOFA establishes the award process, the application acceptance period, threshold criteria and selection criteria (including applicable building codes).

2) Allocation of CDBG Funds

- a.) These funds are made available through the County’s allocation of CDBG Disaster Recovery funds from the U.S. Department of Housing and Urban Development (HUD) and the Texas General Land Office. These CDBG Disaster Recovery funds have been set-aside solely for affordable rental housing activities to restore the rental housing stock that was damaged, depleted, or destroyed by Hurricane Ike. The CDBG funds will be made available to single family rental units or multifamily rental developments that received damage from Hurricane Ike. The applications will be reviewed and awarded on a competitive basis.
- b.) All applications submitted will be evaluated for Eligibility, Threshold and Selection criteria. Applications that successfully satisfy Eligibility, Selection and Threshold criteria will then be reviewed for financial feasibility and environmental review. Recommendations for funding will be made for applications that have met all evaluation criteria to the satisfaction of the County and that are the highest scoring for the activity for which they have applied.
- c.) Maximum award for Single Family Rental Stock is \$65,000 for rehabilitation and \$125,000 for reconstruction per single family residence, with a maximum award per application of \$1,105,118.
- d.) Maximum award amount is \$1,046,183 for the Multifamily Rental Stock.
- e.) The Applicant, Development Owner, Developer, or Consultant is limited to only 1 application for the Single-family set-aside.
- f.) The Developer fee for all rental developments, whether single family or multifamily, will be limited to 10% of the total development costs.
- g.) The application acceptance period for this NOFA will begin on May 5, 2014. The County will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published at the offices of Public Management, Inc., 207 South Bonham, Cleveland, Texas 77327 until the application deadline of 5:00 pm on June 2, 2014.

- h.) Awards will be made as grants except in instances where an applicant receiving an award requires and/or requests the use of a fully amortized loan structure in order to make the award conform to the County's underwriting standards, or the requirements of other financing for the same development. (i.e. CDBG funds provided as a grant would reduce tax credit eligible basis or CDBG funds structured as a grant would exceed the Texas Department of Housing and Community Affairs (TDHCA) 1.35 DCR requirement unless the CDBG funds, in whole or in part, are structured as a loan.)

3) Eligible Activities and Applicants

- a.) Rehabilitation of existing single-family or multifamily rental housing developments damaged by Hurricane Ike.
- b.) Replacement of single-family or multifamily rental housing developments or units damaged or destroyed by Hurricane Ike through reconstruction and/or new construction on the same site or another site as long as the applicant shows evidence of an equal or greater number of units damaged or destroyed located within Liberty County. Documentation must be submitted in the form of street addresses to substantiate the damaged/destroyed units.
- c.) Single-family rental units may only be rehabilitated or reconstructed for the purposes of this NOFA.
- d.) The applicant must be either the current owner of the property or, at the time of application, have a binding contract to purchase the property and the seller must have been the owner of record at the time of the disaster. An "as is" appraisal (consistent with 10 TAC §1.34) is required for all acquisition properties.
- e.) If the replacement units are to be reconstructed on a different site, the applicant must show good cause as to why the units are being reconstructed on a different site. Relocation from a floodplain would be an example of good cause.
- f.) Eligible activities will include those permissible under the Housing and Community Development Act (HCDA) Section 105(a) and the federal CDBG Rules at §24 CFR 570, Subpart I, as specifically allowed for under Federal Register Notice dated 8/14/2009, which involve the rehabilitation, reconstruction, or new construction (including demolition, site clearance, and remediation) of affordable rental housing in Liberty County.
- g.) Eligible applicants for this program include qualified nonprofit organizations, for-profit entities, sole proprietors and public housing authorities.
- h.) Scattered site developments are eligible as long as they are or will be affordable rental housing units and satisfy eligibility, selection and threshold criteria prescribed in this NOFA.

4) Ineligible Activities and Applicants

The following violations will cause an Applicant and any Application they have submitted to be ineligible:

- a.) The Applicant, Development Owner, or Developer is an Administrator of a previously funded Contract for which Liberty County Disaster Recovery Housing Program funds have been partially or fully de-obligated due to failure to meet contractual obligations during the 12 months prior to application submission date, unless the de-obligation was voluntary and prior to the contract term expiration date, or was the remainder on a completed Contract;
- b.) The Applicant, Development Owner, or Developer has failed to submit a response to provide an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a monitoring review;
- c.) The Applicant, Development Owner, or Developer has failed to make timely payment or is delinquent on any loans or fee commitments made with the County on the date of the Application submission;
- d.) The Applicant, Development Owner, or Developer has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal

Procurement or Non-Procurement Programs or has otherwise been debarred by HUD, TDHCA, or any State of Texas agency;

- e.) The Applicant, Development Owner, or Developer has violated the State of Texas's revolving door policy;
- f.) The Applicant, Development Owner, or Developer has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline;
- g.) The Applicant, Development Owner, or Developer at the time of Application submission is:
 - i) subject to an enforcement or disciplinary action under state or federal securities law or by the NASD;
 - ii) subject to a federal tax lien; or is the subject of an enforcement proceeding with any governmental entity;
- h.) The Applicant, Development Owner, or Developer with any past due audits has not submitted those past due audits to the County in a satisfactory format on or before the Application submission date in accordance with 10 TAC §1.3;
- i.) The submitted Application has excessive omissions of documentation from; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the County, as determined by the County. If an Application is determined ineligible pursuant to this section, the Application may be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the County's determination of ineligibility will be included in the termination letter to the Applicant;
- j.) The Applicant, Development Owner, or Developer or anyone that has Controlling ownership interest in the Development Owner or Developer that is active in the ownership or Control of one or more other rent restricted rental housing properties in the state of Texas administered by the County is in Material Noncompliance with a Land Use Restriction Agreement ("LURA");
- k.) Any Application that includes financial participation by a Person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or Reconstruction efforts as a result of Hurricanes Dolly and/or Ike or Katrina or any other disaster occurring after September 25, 2005, or was assessed a federal civil or administrative penalty in relation to such a contract.

5) Threshold Criteria

In order to meet minimum threshold criteria for an award, applications must meet the following criteria:

a.) Application Requirements

- i) Completion and submission of the required Application and any other supplemental information deemed necessary by the County.
- ii) Completion and submission of the Site Packet as provided in the application materials.
- iii) Development Certification as provided in the application materials).
- iv) Submission of current financial statements, authorization to release credit and previous participation documentation (if applicable).
- v) Submission of current pro forma and operating budget.
- vi) Provide a third-party verified scope of work or property condition assessment in accordance with 10 TAC §1.36.
- vii) Affidavit of Damage, if applicable.

b.) Evidence of Hurricane Damage

Provide evidence of damage in Hurricane Ike in one of the following forms:

- i) If an insurance claim was paid out, provide a copy of the claim. If the settlement amount was less than the amount requested, the Applicant must provide written justification that warrants the amount of funds requested excluding what would be required under 3(c), (d) and (e) in Site and Development Restrictions under the Ike Round B NOFA.
 - ii) If no insurance claim was filed specific to damages from the applicable hurricane, the Applicant must submit third party documentation from a verifiable source acceptable to the County, establishing the amount of damage incurred as a direct result of Hurricane Ike or Dolly. Such damage must have caused one or more units to no longer be habitable. The amount of the deductible must be confirmed and there must be confirmation that no claim was filed because the amount to be claimed would not have met the deductible;
 - iii) If no insurance claim is available, a Signed and Notarized Affidavit of Damage as provided in this application, accompanied by photos of the property before (if available) and after Hurricane Ike.
- c.) Provide evidence of financial reserves or a line of credit equal to at least ten percent (10%) of the total development cost to be held during the construction period for rehabilitation developments.
- d.) Rehabilitation may include the replacement of damaged or no longer functional appliances. Appliances must be permanently installed and replaced with Energy-Star or equivalently rated appliances (refrigerator, dishwasher, ceiling fans and lighting).
- e.) If HVAC systems are to be replaced, they must be replaced with energy efficient rated systems.
- f.) Affordability Requirements
- i) Each development will require a minimum CDBG affordability period of not less than a 10-year period beginning after closeout of the loan or grant. If the property is restricted under an existing Land Use Restriction Agreement (LURA) from the County, the affordability period will be the greater of 10 years or the existing affordability period reflected in the existing LURA. Throughout this period, the applicant agrees to maintain the development for the intended purpose as outlined in the LURA. Compliance will be monitored by the County consistent with 10 TAC §60, Subchapter A, Compliance Monitoring.
 - ii) At a minimum, 51% of the total units must benefit low-moderate income persons earning 80% or less of the AMFI as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA) Title I, 105(a) unless otherwise specified to sever a high amount of units and/or targeted income group within the application.
 - iii) Rent restricted units occupied by Low/Moderate Income households must be occupied at affordable rents. The units occupied by the Low/Moderate households must comply with the High HOME rents published by TDHCA under the HOME program. Rents must comply with the rent limit through the affordability period and compliance with the rent limit is calculated in the same manner as the HOME program.
- g.) Site and Development Restrictions
- i) Applicant properties must be located within Liberty County
 - ii) All applications must adhere to the TDHCA Integrated Housing Rule at 10 TAC §1.15.
 - iii) Pursuant to 24 CFR §92.251, 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. In the absence of a local code for new construction or rehabilitation, CDBG-assisted new construction or rehabilitation must meet, as applicable, one of three model codes: Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR §200.925 or §200.926. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a CDBG-assisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must

meet the current edition of the Model Energy Code published by the Council of American Building Officials.

- iv) All other CDBG-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR §982.401. When CDBG funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1). All multifamily rehabilitation developments are subject to a Uniform Physical Conditions Standards inspection. All deficiencies identified in that inspection must be corrected before final retainage is released.
- v) Housing developments must meet the 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. 3601-3619) and the design and construction requirements of the Fair Housing Act Design Manual. Additionally, pursuant to the 2009 Qualified Allocation Plan (QAP), 10 TAC §49.9(h)(4)(H), Developments involving New Construction (excluding New Construction of nonresidential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the design and construction requirements of the Fair Housing Act Design Manual, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A compliance certification will be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single-family structures must also satisfy the requirements of §2306.514, Texas Government Code.
- vi) Developments in a 100-year floodplain that are being rehabilitated or demolished and rebuilt are not eligible unless they are elevated or have other acceptable flood mitigations in place in accordance with FEMA advisory flood elevations as well as those mitigations required by the local jurisdiction (if applicable). Such Developments shall be subject to the requirements of 24 CFR §570.605.
 - a) All Reconstruction that is using this source of funding alone, or layered with other funding sources, must meet the minimum threshold requirements as described in §49.9(h) of the Texas Government Code with the exception of the following:
 - b) (3) regarding set-asides;
 - c) (4)(K) and (4)(L) regarding certifications;
 - d) (6)(C) and (D) which relate to tax credit syndication;
 - e) (8) regarding notifications;
 - f) (11)(B) regarding non-profit set-aside for tax credits; and
 - g) (15) regarding self-score.

6) Selection Criteria

Once applications have been determined to meet all eligibility and threshold criteria, they will be scored according to the following selection criteria. Applicants may receive up to 240 points based on the scoring criteria listed below, and must obtain a minimum score of 120 points to be considered for award. Evidence of these items must be submitted in accordance with the application submission requirements, effective as of the date of issuance of this NOFA. All applications will be held to scoring criteria. The scoring criteria is as follows:

a.) Proposed Activities and Project Readiness — Maximum 100 Points

- i) Developments proposing Rehabilitation of properties that are in compliance, at the time of application, with the County's established floodplain policy, if applicable, and that are not located in a slum or blighted area as designated by the local jurisdiction (city and/or ETJ) through a resolution and that are not located in an area of high concentration of poverty: up to 100 points.
- ii) Developments proposing Reconstruction/ New Construction of properties that are in compliance, at the time of application, with the County's established floodplain policy, if applicable, and that are not located in a slum or blighted area as designated by the local jurisdiction (city and/or ETJ) through a resolution and that are not located in an area of high concentration of poverty: up to 50 points.

b.) Extremely Low-Income and Mixed-Income Targeting — Maximum 20 Points

To encourage the inclusion of families and individuals with the highest need for affordable housing while at the same time encouraging economically integrated communities and developments, applicants will receive a maximum of 20 points for proposed developments that provide a percentage of units to families or individuals earning 30 percent or less of the area medium income (AMI) for the development site that also includes an equal percentage of market rate units. The maximum monthly rent (which includes the tenant paid portion of the rent, the utility allowance, and any rental assistance payment) charged by the development owner for units benefiting low-moderate income persons should not be more than 30% of the household's adjusted gross income. To receive points, the applicant must target units for both criteria in point structure below.

- i) If less than or equal to 5 percent of the total development will serve families at 30 percent AMI and less than or equal to 5 percent of the total development will contain market rate units: 5 Points
- ii) If at least 6 percent but less than or equal to 10 percent of the total development will serve families at 30 percent AMI and if at least 6 percent but less than or equal to 10 percent of the total development will contain market rate units: 10 Points
- iii) If at least 11 percent but less than or equal to 15 percent of the total development will serve families at 30 percent AMI and if at least 11 percent but less than or equal to 15 percent of the total development will contain market rate units: 15 Points
- iv) If at least 16 percent but less than or equal to 20 percent of the total development will serve families at 30 percent AMI and if at least 16 percent but less than or equal to 20 percent of the total development will contain market rate units: 20 Points

c.) Exceeding the LMI requirement — Maximum 30 Points

All assisted developments must designate at least 51 percent of all assisted units to serve low-moderate income families earning 80 percent or less of AMFI as defined by HUD for the applicable affordability period. Developments that exceed this minimum figure for the affordability period will receive the following points:

- i) For developments that designate at least 52 percent but less than 61 percent of the units to serve low-moderate income families: 10 points
- ii) For developments that designate at least 62 percent but less than 71 percent of the units to serve low-moderate income families: 20 points

- iii) For developments that designate at least 72 percent or more of the units to serve low-moderate income families: 30 points

d.) Cost-Effectiveness of a Proposed Development — Maximum 10 Points

Points will be provided for one or the other criteria below, but not both:

- i. For units designated for elderly individuals, if the hard cost associated with the construction of the unit per square foot of Net Rentable Area do not exceed \$87.00 the applicant will receive 5 points.
- ii. For units designated for families, if the hard costs associated with the construction of the unit per square foot of Net Rentable Area does not exceed \$77.00 per square foot the applicant will receive 5 points.
- iii. For either type of development, if the per unit subsidy amount is less than the following thresholds per unit, the development will receive the associated points.
 - 1) Less than \$90,000 per unit, 1 point
 - 2) Less than \$60,000 per unit, 2 points
 - 3) Less than \$30,000 per unit, 5 points

e.) Increasing the affordable housing stock — Maximum 20 Points

In order to target units that will have the most impact on increasing the affordable housing stock, points will be awarded based on improving the current condition of the development.

For unoccupied rehabilitation projects:

- i) Developments that have less than or equal to 5 percent of the Total Units uninhabitable and unoccupied and propose to make those units affordable units will receive: 5 points
- ii) Developments that have at least 6 percent but less than 10 percent of the Total Units uninhabitable and unoccupied and propose to make those units affordable units will receive: 10 points
- iii) Developments that have at least 11 percent but less than 15 percent of the Total Units uninhabitable and unoccupied and propose to make those units affordable units will receive: 15 points
- iv) Developments that have greater than or equal to 16 percent of the Total Units uninhabitable and unoccupied and propose to make those units affordable units will receive: 20 points

Or, for occupied but substandard units, points will be awarded according to these guidelines:

- vi) Developments that will make less than 25 percent of their currently substandard affordable units meet habitability standards will receive: 5 points
- vii) Developments that will make 26 percent but less than 50 percent of their currently substandard affordable units meet habitability standards will receive: 10 points
- viii) Developments that will make 51 percent but less than 75 percent of their currently substandard affordable units meet habitability standards will receive: 15 points
- ix) Developments that will make 76 percent but less than 100 percent of their currently substandard affordable units meet habitability standards will receive: 20 points

f) Serving persons with disabilities — Maximum 10 Points

Developments that increase the number of accessible units beyond the minimum required by Section 504, the Fair Housing Accessibility Guidelines or other mandated minimums. To earn points units must meet the full mobility requirements of Section 504 to receive points. Maximum points for this item: 10 points

- i) Developments that increase the required accessible units by an additional 5% (rounded to the next whole unit): 5 points
- ii) Developments that increase the required accessible units by an additional 10% (rounded to the next whole unit): 10 points

g.) Units That Meet or Exceed Low-Maintenance And Energy Efficiency Standards— Maximum 10 Points

Any combination of the following items may be used to achieve the maximum points.

- i. Install water-conserving fixtures 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. (in all units) – 2 Points
 - ii. Install Energy Star labeled refrigerators in all units. 2 Points
 - iii. Install Energy Star-labeled lighting fixtures in all interior units and use Energy Star or high-efficiency commercial grade fixtures in all common areas. 2 Points
 - iv. Use tankless hot water heaters or install conventional hot 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). 2 Points
 - v. Install Energy Star-labeled power vented fans or range hoods that exhaust to the exterior (in all units). 2 Points
 - vi. Install Energy Star-labeled bathroom fans in all units that exhaust to the outdoors which as a humidistat sensor or timer, or operates continuously in all units. 2 Points
 - vii. Install correctly sized HVAC units (according to Manual J) of at least 14 SEER or better in all units. 4 Points
- a.) Perform an energy analysis of the existing building condition, estimate the cost of improvements and make those improvement that pay for themselves within ten years. 4 Points

b.) Homeless Population – Maximum 10 Points

Developments that set aside units for persons who have been or are homeless will receive points for this item. Applicants are strongly encouraged to work in partnership with social service organizations to ensure that members of this population have adequate supports in place to maintain their tenancy. Units may be used for transitional housing or permanent supportive housing. Developments that dedicate at least 10 percent of their units towards serving families who have previously been homeless or are at risk of being homeless: 10 Points

f. Leveraging of Public and Private Financing — Maximum 40 Points

Developments will receive points for the involvement of non-CDBG financing in the housing under one of the following subparagraphs. Evidence must be submitted in the form of a Final Commitment or Term Sheet: Maximum for this item 40 points

- i. Applicants that receive a total contribution of funding from other local, state, federal, or private contributions of at least 10 percent up to 25 percent of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule) 10 points; or
- ii. Applicants that receive a total contribution of funding from other local, state, federal, or private contributions of at least 26 percent up to 50 percent of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule) 20 Points; or

- iii. Applicants that receive a total contribution of funding from other local, state, federal, or private contributions of at least 51 percent up to 75 percent of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule) 30 Points
- iv. Commitments of funds in the amounts listed above in the form of a FIRM Commitment letter will receive an additional 10 points.

8) Tie Breakers

In the event that two or more applications are received at the same time or are ready to proceed at the same time, the County will first utilize those priorities noted in Section 6 a) "Proposed Activities" of this NOFA. If those applications are within the same priority category, the County will utilize the remaining factors in Section 6, in the order they are presented, to determine which Development will receive a preference in consideration for an award. The County may also make a partial funding recommendation.

9) Application Review Process

- a.) Review and Assessment of Applications. Applications submitted for consideration for CDBG Disaster Recovery funding under this NOFA will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in Item 5 of this NOFA. Applicants will be promptly notified in these instances.
 - i) Eligibility Criteria Review. All Applications will first be reviewed as described in this section. Applications will be confirmed for eligibility for funding.
 - ii) Threshold Criteria Review. Applications will be reviewed for Threshold. Applications not meeting Threshold Criteria will be notified of any Administrative Deficiencies; in each event the Applicant will be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect.
 - iii) Selection Criteria Review. Applications will be evaluated to determine if the proposed activities meet the County requirements.
 - iv) Administrative Deficiencies. If an Application contains Administrative Deficiencies, as determined by the county, that require clarification or correction of information submitted at the time of the Application, the County may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold and Selection Criteria, and review for financial feasibility by the County may occur separately, Administrative Deficiency requests may be made several times. The County will request clarification or correction in a deficiency notice in the form of an email, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt within 24 hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the County by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then the Application will move behind the other Applications in the process behind their priority group. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. This Administrative Deficiency process applies to all requests for information made by the County.
- b.) Financial Evaluation. The County shall underwrite an Application to determine the financial feasibility and amount of requested funds needed for the Development to arrive at an appropriate level of CDBG Disaster Recovery Funds. In determining an appropriate level of CDBG Disaster Recovery Funds, the County shall, at a minimum, evaluate the estimated cost of repairs needed by the development based on insurance estimates from the development owner's insurer, and if applicable verifiable estimates from reputable contractors. The County shall evaluate acceptable cost parameters as evidenced in the third-party verified scope of work or property condition assessment. Underwriting of a Development will include a determination by the County, that the amount of CDBG Disaster

Recovery Funds recommended for commitment to a Development is necessary for the financial feasibility of the Development and its viability as a qualified rent restricted housing property. In making this determination, the County will use the 2014 Underwriting Rules and Guidelines, as published by the Texas Department of Housing and Community Affairs. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not increase their funding amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the County to remedy an Administrative Deficiency or by amendment of an Application after a commitment.

The County may decline to consider any application if the proposed activities do not, in the County's sole determination, represent a prudent use of the County's funds. The County is not obligated to proceed with any action pertaining to any applications that are received and may decide it is in the County's best interest to refrain from pursuing any selection process. The County strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. The County reserves the right to negotiate individual elements of any application.

- c.) Compliance Evaluation. After the County has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of their compliance status by the County.
- d.) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the County or a third party designated by the County. Such inspection will evaluate the Development Site based upon the criteria set forth in the Site Evaluation form provided in the Application and the inspector shall provide a written report of such site evaluation. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational and accessibility via the existing transportation infrastructure and public transportation systems shall be considered. "Unacceptable" sites include, without limitation, those containing an immitigable environmental factor that may adversely affect the health and safety of the residents.
- e.) Environmental Review. All applications will be subject to a CDBG-compliant environmental review as prescribed in 24 CRF Parts 50 and 58. The County will work with the developer to complete this review for any successful application. However, the environmental review must be completed prior to any choice limiting activity with regards to the property.

10) Submission and Review Process

- a.) The application acceptance period for this NOFA will begin on May 5, 2014. The County will accept applications from 8:30 a.m. to 4:30 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the County's web site until the deadline stated in this NOFA. For questions regarding this NOFA please contact Joy Rice at 281-592-0439 ext. 26 or joyrice@publicmgt.com.
- b.) All applications and associated materials and forms must be submitted as described in this NOFA in hard copy to the address listed at the end of the NOFA. Submit three hard copies and one electronic copy on disc.
- c.) Development Owners may not proceed or allow a contractor to proceed with construction, including demolition, on any Activity, Project or Development without first completing the required CDBG-compliant environmental clearance procedures and Loan closing with the County.
- d.) Third party reports – If all applicable third party reports (i.e. Property Condition Assessment and Appraisal, if applicable) are not received at the time of application submission, the Application will be terminated.
- e.) All Application materials including manuals, NOFA, program guidelines, and all applicable CDBG rules, will be available on the County's website <http://www.co.liberty.tx.us/> Applications will be required to adhere to the CDBG Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the County, and cannot be altered or modified and must be in final form before submitting them to the County.

11) Contract Administration

Any activity funded under this NOFA will be governed by a written Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract. Any amendments must be in writing and are subject to the requirements of TDHCA's HTC Amendment Policy and the requirements of this section.

- a.) Unless otherwise changed by agreement of the parties in a Contract and approved by the County Commissioner's Court, the terms found in Contract shall be consistent with the following:
- i) Up to fifty percent of the developer fee shall be disbursed in accordance with the percentage completion of construction. The remaining fifty percent of developer fee shall not be disbursed until the later of the following:
 - (1) 90% occupancy, or
 - (2) 100% completion of construction and certificates of occupancy or architect's certification are/is received.
 - ii) The County may, at the County's sole discretion, authorize up to 50% of the developer fee to fund a special reserve account with funds to be released in accordance with Paragraph (i) of this Subsection, as allowable by HUD. Through Contract or other means the County deems appropriate, the County will control release of these funds.
 - iii) The County may withhold any draw until completion of a site/construction inspection as deemed necessary by the County to ensure that construction progress is being made in accordance with the Contract.
 - iv) Contract provisions to ensure compliance with 24 CFR Part 570 and Federal Register Notice dated February 13, 2009.
- b) **Timing.** Unless otherwise changed by agreement of the parties in the Contract and approved by the County Commissioners Court, performance under the Contract will be evaluated by a set of benchmarks to be determined by the County. Benchmarks to be named in a Contract may include closing, construction start, construction completion and other generally accepted benchmarks for residential development. Time is of the essence for each benchmark in the Contract for which time is an element.
- c) If the Development Owner fails to meet a benchmark requirement and does not seek, or is not granted, an extension of a benchmark, the awarded funds related to the lack of performance may be entirely or partially de-obligated at the County's sole discretion. Each benchmark reflected in Subsection (b) of this Section is an individual term and subject to the amendment processes. An interim benchmark extension may or may not extend the entire Contract at the County's discretion.
- d) **Waiver.** The Court, in its discretion and within the limits of federal and state law, may waive any one or more of the requirements of the Contract if the Court finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for good cause, as determined by the Court.
- e) **Accounting Requirements.** Within sixty (60) days after the Contract end date, the Administrator or Development Owner shall provide a full accounting of funds expended under the terms of the Contract. Failure of a Development Owner to provide full accounting of funds expended under the terms of a Contract shall be sufficient reason for the County to deny any future Contract to the Development Owner.

Applications must be submitted by one of the following delivery methods:

Via overnight delivery to:

Attn: Disaster Recovery Rental Housing

Joy Rice, Project Manager

**Public Management, Inc.
207 S. Bonham
Cleveland, TX 77327**

Or via the U.S. Postal Service to:

Attn: Disaster Recovery Rental Housing

**Joy Rice, Project Manager
Public Management, Inc.
P. O. Box 1827 (USPS)
Cleveland, TX 77327**

***NOTE:** This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular CDBG Rental Housing Development Program. For proper completion of the application, the County strongly encourages potential applicants to review all applicable State and Federal regulations.*