



DEVELOP LOUISVILLE

LOUISVILLE FORWARD

Notice of Funding Availability for
Louisville Metro Government's
Affordable Development Projects

October 15, 2019

Develop Louisville Office of Housing

Greg Fischer-Mayor

Marilyn Harris-Director

Notice of Funding Availability (NOFA)

Develop Louisville, working through its Office of Housing ("OH"), is soliciting proposals from nonprofits, including Community Housing Development Organizations ("CHDO"), Community Development Corporations ("CDC") and for-profit developers for "gap financing" needs associated with Metro-wide affordable housing development projects. Louisville Metro Government ("LMG") has set aside funding from the U.S. Department of Housing and Urban Development ("HUD") HOME Investment Partnerships Program ("HOME"), and Community Development Block Grant ("CDBG") to fund multiple projects.

The 2019 HOME NOFA focuses the program goals to offer housing choices to a range of homebuyers and renters by creating "quality of place" neighborhoods with a diverse blend of affordable housing types supported by public facilities and other amenities. LMG has CHDO set-aside, and general HOME dollars available to commit for projects. **LMG has allocated approximately \$2,627,000.00 for this NOFA, of which at a minimum \$440,000.00 is reserved for CHDOs to undertake development activities. Additionally, OH has also allocated up to \$100,000 in CDBG funds to go toward increased energy efficient upgrades for any eligible project.**

The HOME Affordable Housing Development Program & Application Guidelines were created to familiarize developers, Metro Council, and other internal and external stakeholders with LMG housing programs and application processes. These guidelines introduce the Rental, Lease-Purchase, and Homeownership Production Programs, provide underwriting guidance, explain program funding rules and requirements, and provide specific instructions on how to apply for funding.

The Application Guidelines are complemented by LMG's Application and Proforma. These documents combined will allow LMG staff to: (1) evaluate the relevant experience of the development team; (2) evaluate the development's fiscal viability and staffing; (3) evaluate the market capacity for the submitted projects; (4) calculate the sustainability of a project; and (5) provide an outline of LMG's documentation requirements. The Application and all attachments will be evaluated by a Review Committee, who will objectively weigh the proposals, with the use of an Evaluation Scoring Criteria.

The NOFA, Guidelines, Application and Proforma will be emailed to interested applicants (upon request) and posted to the OH website. The most responsive proposals that best meet the community's needs and long-term goals of LMG will be selected. OH reserves the right to reject any proposal and/or waive any requirements of the solicitation process. For more information about

this notice, please contact Kiffany McAfee, Programs and Policy Manager, at (502) 574-7602 or via e-mail at kiffany.mcafee@louisvilleky.gov

All applicants must read the OH Application Guidelines and complete the respective Application and Proforma. There are separate applications for LMG's homeownership, rental production and lease-purchase products. LMG reserves the right to make revisions to the timetable. Upon selection of the projects and conditional approval of proposals by OH, final award allocations may be subject to the review and/or approval of the Louisville Metro Council.

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1.0 PURPOSE OF THE NOFA

OH is committed to the development of affordable housing in Louisville, Jefferson County, Kentucky. The objective of this Notice of Funding Availability (NOFA) is to outline detailed processes and policies related to Louisville Metro Government's real estate development investments through OH as a department of Develop Louisville and a division of Louisville Forward, and to create a single point of entry, or process, to vet the receipt of affordable housing project proposals. In the furtherance of the departmental mission, OH is formally soliciting proposals from not-for-profit organizations, CHDO's, and for-profit developers for "gap financing" needs associated with Metro-wide affordable housing development projects.

LMG will prioritize projects that have the potential for Community Impact, in which projects leverage and/or complement existing neighborhood development. LMG is particularly interested in projects that will contribute to the permanent revitalization of an area, repurpose vacant and abandoned real estate, and/or redevelop property currently owned by LMG. Developer capacity will be evaluated, with a review of past performance on projects developed of a similar size and complexity. Project Characteristics, Market Assessment, Financial Structure, and Readiness to Proceed will also be evaluated.

LMG has allocated a maximum amount of **\$2,627,000.00** for this NOFA. The HOME Program requires at least 15% of LMG's allocation be set-aside for investment only in housing to be owned, developed, or sponsored by CHDOs. LMG has set-aside a minimum of **\$440,000.00** of the total NOFA allocation for the CHDO set-aside. LMG has also allocated a maximum of **\$100,000.00** in CDBG funds to support any qualified project. All CDBG funded projects are subject to Super Circular 2 CFR 200 and 24 CFR 570, and must be eligible under the National Objective Category and the National Objective Sub-Category. This NOFA summarizes portions of the HOME requirements; however, applicants should refer to the effective HOME Final Rule (Published July 24, 2013), 24 CFR Part 92 in its entirety for a comprehensive description of all requirements.

2.0 PREFERENCES FOR PROJECT FUNDING

2.1 Threshold Criteria for Project Proposals

For a project to be eligible for funding, it must meet the criteria listed below. If the proposed project fails to meet any of the criteria listed below, the proposal shall be considered non-responsive.

The Project must be located within Louisville (Jefferson County), Kentucky.

The Project must comply with the HUD 2013 HOME Final Rule.

All applicants and contractors must be current on all financial obligations to LMG, including but not limited to fines, liens, and unpaid property taxes. LMG reserves the right to withhold funding awards from an organization, agency, or development team with outstanding disallowed costs, defaulted loans, debarment actions, delinquency, default, or non-compliance on any current Metro-funded project, or any other legal encumbrances.

All funds must be committed to a specific local project(s) no later than December 31, 2020 as per 24 CFR 92.2 definition of “Commitment”.

All projects must be completed by **June 20, 2022** as per 24 CFR 92.2 definition of “Project Completion”.

2.2 Funding Priorities for Proposed Projects

The following are the funding priorities for proposed projects:

Projects that rehabilitate existing structures, including historic structures.

Projects that build upon Metro’s revitalization efforts and investments in neighborhoods across Metro Louisville.

Projects that redevelop Metro owned, or affiliated, real estate (Richmont Terrace RFP, Land Bank Authority, Urban Renewal Commission, etc.).

Projects that build on existing and emerging neighborhood anchors such as a school, church, full-service grocery store, hospital, park, or public transportation route within a .25 mile. Projects with safe, walkable sidewalks connecting the development to neighborhood amenities are given further preference.

Projects that increase affordable housing for low-and moderate-income households in census tracts that are not predominantly low-income; promoting mixed income neighborhoods.

Projects that do not permanently displace existing residents.

Projects that incorporate energy efficient, renewable, and sustainable building standards, practices, and designs. Further preference given to projects that achieve Energy Star, LEED, Green Enterprise Community and/or similar nationally recognized certifications. ([link to Energy Efficient Project Examples](#))

2.3 Development Team Qualifications & Commitments

Developer capacity and fiscal soundness will be examined. The proven ability of

the Developer or development entity to perform administrative, managerial, and operational functions, oversee the work necessary for successful completion of the proposed project, and place it in service in accordance with the construction or other schedules submitted within the Application will also be considered. To be eligible, an applicant must exhibit prior work experience of the same general type and complexity as the project being proposed, which resulted in the successful development of affordable housing projects. Staff, partners, and/or consultants need to demonstrate experience of the same general type and complexity as the housing development proposed.

The Developer(s) may either provide services in the appropriate disciplines by their firm or through joint ventures or agreements with outside firms that meet the criteria of experience.

Developers that have requested and received loan modifications and/or loan forgiveness from Metro programs at any time in the past are eligible to submit applications to this NOFA, however such past requests shall be considered during review of developer's capacity.

The selected Developer(s) will receive a Conditional Commitment Agreement which will require that certain evidentiary items be submitted. Please note that the Conditional Commitment does not constitute a "commitment" pursuant to definition found within 24 CFR 92.2. Such deliverables include but are not limited to: post construction appraisals; Affirmative Marketing Plan; unit sizes and mix; initial rent schedule and updated financial information; and/or Phase 1 environmental site assessment. (Please see attached Application Guidelines Section F.10, Environmental Review Requirements).

Upon satisfactory completion of the environmental review, proof of all financing is submitted, a budget and production schedule are established, underwriting and subsidy layering is finalized, and construction commencement is imminent; the selected Developer(s) will be required to enter into a Development Agreement with OH. Entering into a Development Agreement with OH equals the commitment of HOME funds to a project, which meets the requirements at 24 CFR 92.2. The Development Agreement will specify the terms and conditions for the use of funds, work schedules for the Project, affordability and reporting requirements, requirements for the inclusion of diverse business enterprises, Section 3 good faith efforts to employ low-income vendors or laborers, and such other provisions, depending on the role the entity assumes, the type of project undertaken, etc.

2.4 Structure of Funding Allocation

Proposals shall be identified for the expenditure of HOME program funds to provide gap financing for acquisition, new construction, or rehabilitation of affordable housing. Applicants must describe in their initial application how they will finance the construction/rehabilitation of the project. The applicant must include in their initial package a Letter of Intent from all proposed interim and permanent lenders. Projects will typically receive construction financing that converts to a combination of permanent subsidy, repayment to LMG, or retention as CHDO Proceeds to develop additional units. A current lender's Commitment Letter (including amount, term, and amortization) must be provided prior to the commitment of HOME funds. Developers may use up to fifteen percent (15%) of the HOME funds awarded for developer fees. Upon completion of the project, HOME funding may remain as a permanent loan on the project, which may be amortized for the term of the prescribed Affordability Period.

LMG reserves the right to fund any projects which meets or exceeds the minimum threshold of 60 points on the 2019 HOME NOFA Evaluation Scoring Criteria. LMG expects the Applicant to accept development project responsibility from project inception through project completion and compliance to the end of the established period of affordability. More specifically, the preparer of the application should have an ownership interest in the project and should have the authority to execute the binding project agreements. Proposals that do not meet the threshold criteria listed in Section 2.1 will be rejected and will not be scored.

3.0 SUBMISSION REQUIREMENTS

3.1 Submittal Specifications

Formal submissions must include:

One (1) digital Application/Proforma, with all the required attachments noted in the Application Proforma Instructions Tab, submitted through the OH website application portal, **OR**;

One (1) digital Application/Proforma, with all the required attachments noted in the Application Proforma Instructions Tab, submitted via thumb drive or CD and delivered to OH.

Please submit responses to:

Office of Housing
Develop Louisville
Attn: Kiffany McAfee
444 S. Fifth St., Suite 500
Louisville, Kentucky 40202

3.2 Evaluation & Scoring Criteria

Completion of the entire Application and Proforma and the required attachments will serve as the Developers baseline Application Proposal.

The selection of the Projects will be determined by the order of their total overall score and ranking, with the highest scoring ranked first. Proposals will be scored on a 100-point scale, with 100 being the highest and 0 being the lowest. Proposals receiving a score of less than 60 will not be considered eligible projects.

3.3 Cost Incurred in Application Response

All costs directly or indirectly related to preparation of a response to this NOFA or any oral presentation required to supplement and/or clarify the submittal which may be required by OH shall be the sole responsibility of, and shall be borne by, the applicant.

Each Applicant, by submitting their proposal, waives any claim for liability against OH as to loss, injury, and costs or expenses, which may be incurred as a consequence of its response to this document.

All documents prepared by the Applicant or others in response to this NOFA, shall, upon submittal, become property of OH, and as such are subject to the Public Information Act and will become public property.

3.4 Technical Assistance and General Inquiries

Questions regarding this NOFA should be submitted in writing on the applicant's letterhead and properly signed. Letters will be accepted until 5:00 pm. EST. on **November 15, 2019**. Responses to written inquiries will be posted to the OH website.

3.5 Submission Deadline

All Proposals will be received until 5:00 pm EST, on **December 13, 2019**. Delivered proposals will be received at the fifth-floor reception desk:

Metro Development Center
Develop Louisville
Office of Housing
444 S. Fifth St, 5th Floor
Louisville, Kentucky 40202

Late or incomplete proposals will not be accepted. Regardless of the delivery method, the Developer is responsible for actual delivery of the proposals to OH as specified herein. Digital documents not submitted via the OH website must be downloaded to a disc or flash drive. Emailed responses will not be accepted. Any application not logged in by the deadline will not be considered. Applicants submitting incomplete or ineligible proposals will be notified.

3.6 Addendums

In the event it becomes necessary to revise any part of this NOFA, an addendum will be provided. Addendums will be posted on the OH program website.

Any addendums issued by OH shall become a part of the NOFA and should be considered by Applicants in preparing their response. Deadlines for submission of the NOFA may also be adjusted to allow for revisions.

3.7 Withdrawals

Any proposal may be withdrawn prior to the award.

3.8 Reservations

OH reserves the right:

To request additional information as deemed necessary to complete a thorough comprehensive project review.

To supplement, amend, or otherwise modify the terms or schedules set forth herein.

To conduct all investigation and background checks necessary for adequate evaluation.

OH does not guarantee that any or all funds will be awarded as a result of this NOFA.

OH reserves the right to reject any and all submittals and to re-solicit.

To waive any administrative requirements noted herein in whole or in part. Any applicant requesting waivers must do so in writing and address to:

Marilyn Harris, Director, Office of Housing
Develop Louisville
444 South 5th Street, Suite 500
Louisville, KY 40202.

4.0 OTHER FEDERAL REQUIREMENTS

Please review the attached Guidelines for:

- Davis-Bacon Requirements
- Environmental Review Requirements and Timelines
- Fair Housing and Equal Opportunity Requirements
- Lead-Based Paint
- Uniform Relocation Act, and
- Section 3 Requirements.

4.1 Licensing & Business Requirements

The Developer/Applicant is responsible to comply with all licensing requirements and associated business regulations whether Local, State or Federal.

4.2 Equal Employment Opportunity

The Developer/Applicant/Responder shall affirm that it does not subscribe to any personnel policy which permits or allows for discrimination in the employment promotion, demotion, dismissal or laying off of any individual due to his/her race, creed, color, national origin, age, gender, sexual orientation, gender identity, or physical handicap, and that it has not be convicted of violating Code of Laws.

4.3 Minority, Women, & Small Business Enterprise Requirements

Consistent with Presidential Executive Orders 11625, 12138, 12432, the Respondent shall make efforts to ensure that minority, women and small business enterprises, labor surplus area businesses and individuals or firms located in or owned in substantial part by persons residing in the areas of a Public Housing Agency project are used when possible.

4.4 HUD Section 3, 24 CFR PART 135

Efforts shall be made to provide opportunities for employment and training for lower income residents within the project area, and to award subcontracts for work in connection with the project to business concerns which are located, or owned in substantial part, by persons residing in the area of the project, as described in HUD Regulations 24 CFR 135.

4.5 Sexual Orientation, Gender Identity, and Marital Status

LMG prohibits discrimination based on sexual orientation, gender identity, or marital status, and it will comply with Equal Access to Housing Final Rule 2012 and 24 CFR 5.100, 5.105, and 5.106. LMG will comply with Louisville Metro Code 92.01 which seeks to ensure that its programs are open to all eligible individuals and families regardless of race, color, religion, national origin, familial status, age, disability, sex, gender identity, or sexual orientation.

4.6 Title VI

LMG prohibits discrimination in all of its programs and activities on the basis of race, color or national origin. LMG will comply with all statutes and regulations of Title VI of the Civil Rights Act of 1964. No person should be excluded from participation in or be denied the benefit of or be subjected to discrimination under any program or service provided by or affiliated with LMG on the basis of non-merit reasons. To file a complaint of discrimination, write to LMG Human Relations Commission, 410 W. Chestnut Street, Louisville, KY 40202, or call the intake number at (502) 574-3631.

4.7 Force Majeure

No party to such Agreement(s) shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by any act of God, force majeure, storm, fire, casualty, civil disturbance, riot, war, national emergency, act of Government, act of public enemy or other cause of similar nature beyond its control.

4.8 Broadband Infrastructure

Louisville Metro will comply with the December 26, 2016 *Final Rule for Broadband Infrastructure in HUD-Funded New Construction and Substantial Rehabilitation of Multifamily Rental Housing*. Metro will do so by requiring developers of multi-family housing assisted with CDBG and/or HOME funding to comply with the following telecommunications installation standards. This requirement will be implemented and enforced through funding agreements.

Developers of HOME-assisted rental housing may be required to:

Install a spare telecommunication 4-inch conduit from the right of way to the electrical/mechanical room of any new multi-family development in addition to the telco (example: AT&T), cable TV (CATV) and electric feeds;

Use split duct within the conduit to provide for access by multiple providers;

Include with the conduit a stub up on the utility pole or intersect with underground cable path for telecommunications providers in the right of way;

Install a tied off at each end of the conduit; and

A 12-inch pull box should be installed to allow for easier installation of fiber/cable in the future, if the duct makes more than three 90 degree turns.

5.0 TERMS AND CONDITIONS

The following shall be essential terms and conditions of any Agreements, resulting from this process:

5.1 Compliance Monitoring Fee

As of July 1, 2018, all HOME loans awarded by OH will be subject to a compliance monitoring fee payable in full at construction finance closing. This fee based is on the project's total unit count and inspection schedule and must be included in the final project underwriting. For more information on Compliance Monitoring Fees, see Section K of the NOFA Guidelines.

5.2 Termination

OH and the Developer will mutually agree upon the work schedule for the project and other specific details that will be outlined in the Conditional Commitment Agreement and the Development Agreement. The failure of the Developer to satisfactorily adhere to the terms of either the Conditional Commitment Agreement or the Development Agreement within the time specified may cause termination of the contract.

5.3 Breach of Agreement

If Developer fails to fulfill its obligations under either Agreement in a timely and proper manner or if there is a violation of any of the terms of either Agreement(s), OH shall have the right to immediately terminate such contract and withhold payments in excess of fair compensation for work completed. The term "breach of agreement" specifically includes, but is not limited to, failure to comply with any applicable Federal, State, or Local laws or regulations. Notwithstanding the above, the Developer shall not be relieved of liability to OH for damages sustained by virtue of any breach by the Developer.

5.4 Modification of Agreement

Such Agreement may be modified only by written amendment executed by all parties.

5.5 Partnerships/Joint Ventures

Such Agreement shall not in any way be construed or intended to create a partnership or joint venture between the parties or among any of the parties. None of the parties of such Agreement shall hold itself out in a manner contrary to the terms of this. No party shall become liable for any representation, act, or omission of any other party contrary to the terms of this.

5.6 Prohibition on Gratuities and Kickbacks

Gratuities:

It shall be a breach of ethical standards for any applicant to propose, give, or agree to give any Metro Employee, or former Metro employee, or for any Metro Employee, or former Metro Employee, to solicit, demand, accept, or agree to accept from any member of the Development Team, a gratuity or a prospect of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement, or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation,

auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement of a contract or subcontract, or to any solicitation of proposal therefore.

Kickbacks:

It shall be a breach of ethical standards for any payment, gratuity, or proposal of employment to be made by, or on behalf of, a subcontractor under a contract to the prime contractor - or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

5.7 Indemnification

The Developer shall agree to indemnify and hold OH, its officers, agents and/or employees harmless from and against any and all lawsuits, damages and expenses, including court costs and attorney's fees. by reason of any claim and/or liability imposed, claimed and/or threatened against OH, its officials, agents and/or employees for damages because of bodily injury, death and/or employees for damages because of bodily injury, death and/or property damages arising out of or in consequence of the performance of services under these Agreement(s) to the extent that such bodily injuries, death and/or property damages are attributable to the negligence of the Developer and/or the Development team members, its agents and/or employees.

5.8 Assignment-Consent Required

The provisions of such Agreement(s) shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Such Agreement(s) or any of the rights and obligations of the Developer hereunder shall not be assigned subcontracted or transferred in whole or in part without the prior written consent of OH. Any such assignment transfer or subcontract shall not release the Developer from its obligations hereunder and OH may contract with or reimburse any such assignee without waiving any of its rights against the Developer.

5.9 Entire Agreement

Such Agreement(s) resulting from the NOFA shall set forth the entire Agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties until and unless an amended Agreement is entered into between the parties.

6. 2019 HOME NOFA TIMETABLE

October 15, 2019	Circulation of NOFA
November 15, 2019	Questions Submitted to OH
November 22, 2019	Formal Responses Published
December 13, 2019	NOFA Submission Due to OH
February 7, 2020	Awards Announced
December 31, 2020	Commitment deadline
June 30, 2022	Completion deadline