

**City of Plattsburgh**  
**Community Development Revolving Loan Fund**  
**(CDRLF)**  
**Policies and Procedures Manual**

**Adopted by the City of Plattsburgh Common Council**  
**May 2, 2022**

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March 28, 2022

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## List of Acronyms

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|--|--|
| CCCO - Clinton County Clerk's Office                 | LBP - Lead Based Paint                                       |
| CCHD - Clinton County Health Department              | LMI - Low-to Moderate Income                                 |
| CDO - Community Development Office                   | LRC - Loan Review Committee                                  |
| CDRLF - Community Development<br>Revolving Loan Fund | MBD - Microenterprise Business<br>Development                |
| CFR - Code of Federal Regulations                    | NEPA - National Environmental Policy Act                     |
| CHC - Certified Housing Counselor                    | NFIP - National Flood Insurance Program                      |
| DEC - Department of Environmental<br>Conservation    | NYS - New York State   |
| DSCR - Debt Service Coverage Ratio                   | PPM - Policies and Procedures Manual                         |
| EAF - Environmental Assessment Form                  | RADRP - Residential Anti-Displacement<br>and Relocation Plan |
| EOA - Equal Credit Opportunity Act                   | ROR - Rate of Return   |
| EIS - Environmental Impact Statement                 | SBA - Small Business Administration                          |
| EO - Executive Order                                 | SDF - Statement of Disposition of Funds                      |
| EPA - Environmental Protection Agency                | SEQRA/SEQR - State Environmental<br>Quality Review Act       |
| FEMA - Federal Emergency Management<br>Agency        | SFHA - Special Flood Hazard Area                             |
| FIRM - Flood Insurance Rate Map                      | SHPO - New York State Office of Historic<br>Preservation     |
| FMR - Fair Market Rents                              | UCC - Uniform Commercial Code                                |
| FTE - Full-Time Equivalent                           | URA - Uniform Relocation Act                                 |
| GML - General Municipal Law                          | USC - United States Code                                     |
| HCDA - Housing and Community<br>Development Act      | WWU - Work Write-Up  |
| HUD - Housing and Urban Development                  |  |

## Purpose / Overview

The City of Plattsburgh's (City) Community Development Revolving Loan Fund (CDRLF) is a gap financing measure used primarily to support viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. The program originally received federally sourced capital funding from the U.S. Department of Housing and Urban Development via Community Development Block Grant<sup>1</sup> and Small Cities<sup>2</sup> funds made available to the City from 1974-2000.

The CDRLF is a self-replenishing pool of money, utilizing interest and principal payments on old loans to issue new ones. This fund provides access to a flexible source of capital that can be used in combination with more conventional sources. In some cases, the CDRLF is a bridge between the amount the borrower can obtain on the private market and the amount needed to finance an eligible project. The fund is built on sound fiscal practices and should not be perceived as a free or easy source of financing. The CDRLF must be able to generate enough of a return via interest payments and fees to replenish the fund for future loan awards. With competitive rates and flexible terms, the CDRLF provides borrowers with access to an affordable financing source while lowering the City's overall risk and ensuring a reasonable return on investment.

**This Policies and Procedures Manual (PPM) is a comprehensive text that details every aspect of the CDRLF's policies, the procedures for following those policies, and the forms needed to complete each process. A policies and procedures manual is a reference tool for managers and supervisors and is not intended as a marketing or educational pamphlet for borrowers and applicants. The City will develop educational and marketing materials for the general public, borrowers, and applicants at a future date.**

## Terminology

Throughout this manual, the terms "applicant" and "borrower" are used to describe those CDRLF participants applying for and utilizing financial assistance. Generally, the term "applicant" is used to refer to CDRLF participants whose loan applications have not yet been formally approved by the Common Council and the term "borrower" is used to refer to CDRLF participants whose loan applications have been formally approved by the Common Council and who have entered into binding legal agreements with the City governing the use of CDRLF proceeds. However, the terms "applicant" and "borrower" may be used interchangeably when the chronological and/or legal distinctions between the two are subject to interpretation.

In order to assist with the CDRLF's administrative workload, the City reserves the right to enter into agreements with qualified individuals and organizations that shall serve as agents of the City and be empowered to act on its behalf. Throughout this manual, any reference to the City, its employees, or its constituent departments should be understood to include any such agents as well. The City's authority, to the extent that the Common Council has formally delegated such authority, should be understood to apply to the City's agents as well.

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<sup>1</sup> <https://www.hudexchange.info/programs/cdbg/cdbg-laws-and-regulations/>

<sup>2</sup> Authorized under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended 42 U.S.C. 5301 et seq.

## **Basic Requirements – Statutory Benefit for Low and Moderate Income (LMI) Households**

Section 101(c) of the HUD authorizing statute<sup>3</sup> sets forth the primary objective of the program as the *development of viable communities by the provision of decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.*<sup>4</sup> The program rules state that, in order to be eligible for funding, every CDBG-funded activity must qualify as meeting one of the three national objectives of the program. An activity that fails to meet one or more of the applicable tests for meeting a national objective is in noncompliance with CDBG rules.

The law and regulations require that each activity meet specific tests<sup>5</sup> for either:

- Benefiting low- and moderate-income persons; or
- Preventing or eliminating slums or blight; or
- Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

Information on the specific tests can be found in both the HUD CDBG Regulations and various handbooks<sup>6</sup> on the HUD Exchange website.<sup>7</sup>

Loan activities may qualify for more than one national objective category. For the activities that meet more than one national objective, it may prove useful to document compliance with all the applicable national objectives, especially if there is some uncertainty regarding the ability of an activity to meet the chosen national objective upon completion.

### **Low-Moderate Income Persons Definition**

*A low- to moderate-income (LMI) person is defined as a member of a family having an income equal to or less than the Section 8 Housing Assistance Payments Program low-income limits established (from time to time) by HUD<sup>8</sup> applicable to the size of the person's family for Clinton County, New York.<sup>9</sup>*

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<sup>3</sup> <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-National-Objectives-Eligible-Activities-Chapter-3.pdf>

<sup>4</sup> The terms “persons of low and moderate income” and “low- and moderate-income persons” mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term “persons of low income” means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term “persons of moderate income” means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 1437(f) of this title. <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap69-sec5302.htm>

<sup>5</sup> <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-National-Objectives-Eligible-Activities-Chapter-3.pdf>

<sup>6</sup> [https://www.hud.gov/sites/documents/DOC\\_16472.PDF](https://www.hud.gov/sites/documents/DOC_16472.PDF)

<sup>7</sup> <https://www.hudexchange.info/programs/cdbg/cdbg-laws-and-regulations/>

<sup>8</sup> <https://www.huduser.gov/portal/datasets/il.html>

<sup>9</sup> <https://www.huduser.gov/portal/datasets/il/il2021/2021summary.odn>

The criteria for how an activity may be considered to benefit LMI persons are divided into four subcategories:

**(1) Those based on area benefit** (neighborhood or geographic area).

- a. The area benefit category is the most commonly used national objective for activities that benefit a residential neighborhood. An area benefit activity is one that benefits all residents in a particular area, where at least fifty-one percent (51%) of the residents are LMI persons.
- b. If the service area has not already been identified for an activity, the City has to determine the service area before CDRLF assistance can be provided under the LMI Area Benefit category.
- c. An area is considered to meet the test of being LMI if there is a sufficiently large percentage [fifty-one percent (51%)] of LMI persons residing in the service area as determined by:
  - i. The most recently available decennial Census information, together with the Section 8 income limits that would have applied at the time the income information was collected by the Census Bureau; or
  - ii. A current survey of the residents of the service area.

**(2) Those serving a limited clientele** (qualifying LMI households).

- a. The limited clientele category is a second way to qualify specific activities under the LMI benefit national objective. Under this category, fifty-one percent (51%) of the beneficiaries of an activity have to be LMI persons. In contrast to the area benefit category, it is not the LMI concentration of the service area of the activity that determines whether the activity will qualify or not, but rather the actual number of LMI persons that benefit from the activity. Activities in this category provide benefits to a specific group of persons rather than everyone in an area. It may benefit particular persons without regard to their residence, or it may be an activity that provides a benefit to only particular persons within a specific area.
- b. With respect to determining the beneficiaries of activities as LMI and qualifying under the limited clientele category, activities must meet one of the following tests:
  - i. Benefit a clientele that is generally presumed to be principally LMI. This presumption covers abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or
  - ii. Require documentation of family size and income in order to show that at least fifty-one percent (51%) of the clientele are LMI; or
  - iii. Have income eligibility requirements limiting the activity to LMI persons only; or
  - iv. Be of such a nature and in such a location that it can be concluded that clients are primarily LMI.

**(3) Those involving housing** (LMI households).

- a. The housing category of LMI benefit national objectives qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.
- b. Examples of eligible activities include, but are not limited to, rental housing acquisition, rental housing site improvements and rehabilitation, rental/single family new construction, direct home ownership, and owner-occupied housing rehabilitation for single family units. Adaptive reuse and conversion into new apartments, where at least fifty-one percent (51%) of the units will be occupied by LMI households at affordable rents<sup>10</sup> is also an eligible activity.
- c. In order to meet the housing LMI national objective, structures with one (1) unit must be occupied by a LMI household. If the structure contains two (2) units, at least one unit must be LMI occupied. Structures with three (3) or more units must have at least fifty-one percent (51%) occupied by LMI households.
- d. Rental buildings under common ownership and management that are located on the same or contiguous properties may be considered as a single structure.
- e. For rental housing, occupancy by LMI households must be at affordable rents, consistent with City standards.<sup>11</sup>

**(4) Those involving employment (LMI employment-jobs).**

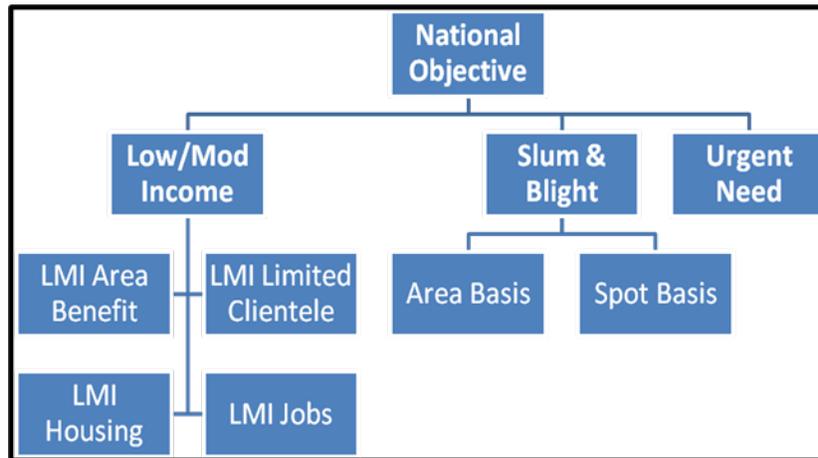
- a. The job creation and retention LMI benefit national objective addresses activities designed to create or retain permanent jobs, at least fifty-one percent (51%) of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons.
- b. The following requirements must be met for jobs to be considered created or retained:
  - i. There must be documentation indicating that at least fifty-one percent (51%) of the jobs will be held by, or made available to, LMI persons.
  - ii. There must be sufficient information documenting that the jobs would have been lost without the CDRLF assistance.
- c. Created or retained jobs are only considered to be available to LMI persons when special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons, provide training, and take actions to ensure that LMI persons receive first consideration for filling such jobs.
- d. Created or retained LMI jobs will be evidenced by the completion of a signed income documentation form for either the existing employee (retained) or a job description as noted in (c) above supplemented by post-employment income documentation (created).

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<sup>10</sup> Affordable Rents are defined and explained in the section of this document entitled Standards for Determining Affordable Rents.

<sup>11</sup> Ibid.

**Table 1: National Objectives and Statutory Benefits Chart**



**LMI Eligibility Documentation**

**Single Family Owner-Occupied LMI Eligibility Documentation**<sup>12</sup>

If the low- and moderate-income national objective for housing applies, documentation provided must show that the applicant is low- and moderate-income, based on the applicant’s household size and household income at the time the assistance was provided. The recognized income will be the gross annual income of all adult members of the household as reported on the last Federal Income Tax Forms submitted to the Internal Revenue Service. If there has been a change in income from the income reported on the Federal Income Tax Return, the most current income figures will be verified. Income Verification Forms will be completed for each income source and used as income verification when a Federal Income Tax form is not the documented source of income information.

**Rental Rehabilitation LMI Eligibility Documentation**<sup>13</sup>

A written agreement between the City and the landlord or developer receiving assistance will include the total number of dwelling units in each multifamily structure assisted and the number of units that will be occupied by low-and moderate-income households upon completion. Documentation showing the rent charged (or to be charged) after completion, for each CDRLF-assisted dwelling unit in each structure will be required. The rents charged will be reconciled with any existing documentation or tests established by HUD showing the affordability of the assisted units (occupied or to be occupied) by low- and moderate-income households, pursuant to any supplementary criteria established and made public by the City.

If the property or any part of the property, is leased, then fifty-one percent (51%) of the dwelling units (apartments) must be occupied by low- or moderate-income tenants. The term “low- or moderate-income tenants” means a household whose income does not exceed eighty percent (80%) of the median income for the City as determined by HUD. The applicant will provide to the City

<sup>12</sup> 24 CFR 570.208(a)(3) and 24 CFR 570.506(b)(4)(iii)  
<sup>13</sup> 24 CFR 570.506(b)(4)(i) [24 CFR 570.506(b)(4)(iv)(A)]

such financial information and documentation about each tenant’s rent and income status in order for the City to determine LMI eligibility for the CDRLF. The information will be provided prior to loan review and annually during the term of the loan. If a unit is occupied by a low- or moderate-income household, then the tenant’s rent cannot exceed the “fair market rent” established by HUD for Existing Housing in the Clinton County under Section 8 of the National Housing Act.<sup>14</sup> The Fair Market Rents in place at the time of this initial policy document are provided in the table below. These are updated by HUD from time to time.

**Table 2: Representation of Clinton County Fair Market Rents for 2021 and 2022<sup>15</sup>**



**FY 2022 FAIR MARKET RENT DOCUMENTATION SYSTEM**

The FY 2022 Clinton County, NY FMRs for All Bedroom Sizes

Final FY 2022 & Final FY 2021 FMRs By Unit Bedrooms					
Year	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
FY 2022 FMR	\$682	\$686	\$884	\$1,134	\$1,219
FY 2021 FMR	\$692	\$697	\$884	\$1,150	\$1,266

Clinton County, NY is a non-metropolitan county.

### **Standards for Determining Affordable Rents**

If the borrower’s project involves rental housing to be occupied by low- and moderate-income households, the City’s standards<sup>16</sup> for determining “affordable rents” will be employed in evaluating the affordability of rents charged. For the purposes of the CDRLF, the City’s standards shall be the HUD Section 8 Existing Housing Program Fair Market Rents (FMR) for Clinton County, New York, periodically published by the U.S. Department of Housing and Urban Development (HUD). Affordable rents are defined as rents, including utility costs, not to exceed thirty percent (30%) of the maximum gross monthly income for the typical family size of the unit or the FMR for Clinton County as determined by the HUD Section 8 Existing Housing Program, whichever is the lesser amount.

The Loan Agreement will outline a multi-year rent schedule and limit the tenancy in the rehabilitated property for the loan term to families with incomes that would qualify them for Section 8 LMI Limits for existing housing with eligibility limits set annually by the United States Department of Housing and Urban Development.<sup>17</sup> In the event that the landlord rents to a tenant who does not qualify initially as a LMI family or if the rent no longer meets the defined affordable rent levels, the landlord will be obligated to repay the loan according to the terms of the Loan Agreement.

<sup>14</sup> <https://www.huduser.gov/portal/datasets/fmr.html>; <https://www.huduser.gov/portal/dataset/fmr-api.html>

<sup>15</sup> [https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2022\\_code/2022summary.odn](https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2022_code/2022summary.odn)

<sup>16</sup> 24 CFR 570.208(a)(3)

<sup>17</sup> 24 CFR, Part 813

During the loan term, and at the end of each calendar fiscal year, the landlord will provide the City with an updated schedule of affordable rents and a list of LMI tenants in compliance with the HUD Section 8 Affordable Rent Schedule and HUD Section 8 LMI eligibility limits. The landlord will authorize the City to evaluate the activities of the landlord and verify the income level of the tenants of the landlord each year for purposes of determining the continued eligibility of tenants as LMI families pursuant to the regulations contained at 24 CFR Part 813. The landlord will authorize the City to review the circumstances relating to any family unable to occupy the assisted unit(s) due the level of rent charged. The landlord will notify all prospective tenants, who are to be considered as LMI families, that the City may require verification of their income for purposes of ascertaining the continued eligibility of the landlord for the loan.

The landlord, as part of the Loan Agreement and for the duration of the loan term, will take reasonable measures to prevent eviction of tenants for purposes of the landlord's initial qualification or continuing qualification for the loan term.

The loan will be considered in default if landlord charges rent greater than "affordable rents" as defined herein or if landlord rents a rental unit to a new tenant other than a LMI family.

### **Preventing or Eliminating Slums or Blight**

In the absence of substantial evidence to the contrary, activities meeting one or more of the criteria identified under "Designated Slum and Blighted Area" or "Spot Blight" will be considered to aid in the prevention or elimination of slums or blight. The criteria for how an activity may qualify under this national objective include:

#### **Designated Slum or Blighted Area**

Clearly eliminating objectively determinable signs of slums or blight in a designated slum or blighted area. The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated, or deteriorating area under state or local law. Additionally, the area must meet either one of the two conditions specified below:

- a. Public improvements throughout the area are in a general state of deterioration; or
- b. At least twenty-five percent (25%) of the properties throughout the area exhibit one (1) or more of the following:
  - i. Physical deterioration of buildings/improvements.
  - ii. Abandonment of properties.
  - iii. Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings.
  - iv. Significant declines in property values or abnormally low property values relative to other areas in the community.
  - v. Known or suspected environmental contamination.

Documentation must be maintained detailing the boundaries of the blighted area and the conditions that qualified the area at the time of its designation. The designation of an area as slum or blighted must be reevaluated every ten (10) years to determine whether the area still qualifies.

When undertaking residential rehab in a slum or blighted area, the building must be considered substandard<sup>18</sup> under the HUD definition and all deficiencies contributing to the building's substandard condition must be eliminated before less critical work is undertaken.

### **Spot Blight**

Strictly limited to eliminating specific instances of blight outside a designated slum or blighted area ("spot blight"). Activities under this category are limited to acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, and building rehabilitation activities. Furthermore, rehabilitation is limited to the extent necessary to eliminate a specific condition detrimental to public health and safety.

### **Urgent Needs**

Meeting other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs. To comply with this national objective, an activity must be designed to alleviate existing documentable conditions that meet all of the following criteria:

- a. Pose a serious and immediate threat to the health or welfare of the community.
- b. Are of recent origin or recently became urgent [a condition will generally be considered to be of recent origin if it is developed or became critical within the past eighteen (18) months].
- c. The applicant is unable to finance the activity on its own.
- d. Other resources of funding are not available to conduct the activity.

### **Eligible Activities and Uses of Funds**

As noted in the previous section, the program rules<sup>19</sup> state that, in order to be eligible for funding, every CDBG-funded activity must qualify as meeting one (1) of the three (3) national objectives of the program. All eligible activities and uses of funds are subject to these requirements.

### **Activities Generally Eligible for CDRLF Funding**

These activities can be undertaken individually or in combination with each other or other eligible activities listed in various sections of the manual:

- Real Property: Rehabilitation, Construction, or Adaptive Reuse of Residential, Commercial or Industrial Properties within the City.
- Business Development and Microenterprise Assistance.
- Direct Homeownership Assistance.

### **Real Property**

- a. The acquisition of real property which meets one (1) or more of the following criteria:
  - i. Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.
  - ii. Real property appropriate for rehabilitation or conservation activities.

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<sup>18</sup> <https://www.govinfo.gov/content/pkg/CFR-2000-title24-vol1/xml/CFR-2000-title24-vol1-sec5-425.xml>

<sup>19</sup> 42 U.S.C. United States Code, 2010 Edition Title 42 – The Public Health and Welfare Chapter 69 - Community Development Sec. 5305 - Activities eligible for assistance from the U.S. Government Publishing Office, [www.gpo.gov](http://www.gpo.gov) §5305. Activities eligible for assistance (a) Enumeration of eligible activities

- iii. Real property appropriate for the preservation or restoration of historic sites.
- b. The rehabilitation or development, including façade renovations, of housing principally for the benefit of low- and moderate-income persons.
- c. Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area.
- d. Lead-based paint hazard evaluation and reduction.
- e. Historic preservation.
- f. Clearance, demolition, removal, reconstruction, and rehabilitation including one (1) or more of the following activities:
  - i. Interim assistance and financing private acquisition for reconstruction or rehabilitation of privately owned properties.
  - ii. Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons.
  - iii. Environmental remediation.
- g. Financial assistance to households or property owners (principally for the benefit of LMI persons) to make energy conserving and efficiency improvements to residential structures, and any other proposed energy conservation activities.
- h. Activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily LMI neighborhoods.
- i. Construction or improvement of disaster-safe shelters for residents of manufactured housing, consisting of predominantly of LMI persons.

### **Business/Economic Development**

- a. Provision of assistance to private, for-profit (or non-profit) entities, when the assistance is appropriate to conduct an economic development project that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods and that shall address one (1) or more of the following statutory requirements:
  - i. Creates or retains permanent part-time and full-time (FTE) jobs for low-and moderate-income persons.
  - ii. Prevents or eliminates slums and blight.
  - iii. Meets urgent needs.
  - iv. Creates or retains businesses owned by community residents.
  - v. Assists businesses that provide goods or services needed by, and affordable to, LMI residents.
- b. Microenterprise Business Development
  - i. Financing for the establishment, stabilization, and expansion of microenterprises principally for the benefit of LMI persons.

### ***Eligible Uses of Business/Economic Development Funds***

The uses enumerated below are eligible only if the above listed Business/Economic Development requirements are met. A project can dedicate CDRLF funding toward one (1) or more of the following:

- a. Working capital

- b. Real estate, including façade renovations.
- c. Machinery and equipment.
- d. Furniture and fixtures.
- e. Accounts receivable.
- f. Inventory.

### **Direct Homeownership Assistance**

Provision of direct assistance to facilitate and expand homeownership among LMI persons by using such assistance to address one (1) or more of these needs:

- a. Subsidize interest rates and mortgage principal amounts for LMI homebuyers.
- b. Finance the acquisition by LMI homebuyers of housing that is already occupied by the homebuyers.
- c. Provide up to fifty percent (50%) of any down payment required from a LMI homebuyer.
- d. Pay reasonable closing costs (normally associated with the purchase of a home) incurred by a LMI homebuyer.

### **Ineligible Applicants and Uses of Funds**<sup>20</sup>

- a. Agricultural production.
- b. Houses of worship and fraternal organizations.
- c. Publicly owned projects.
- d. Any illegal activity.
- e. Gambling facilities.
- f. Lending and investment institutions.
- g. General promotion of the community as a whole.
- h. Assistance to professional sports teams.
- i. Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons.
- j. Acquisition of land for which the specific proposed use has not yet been identified.
- k. Assistance to a for-profit business while that business or any other business owned by the same person(s), or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient. This provision applies as well to a Substantial Owner, defined for the purposes of this PPM as a person, member, or shareholder who owns or controls at least ten percent (10%) of the shares, stocks, or ownership interest of a company, corporation, partnership, trust, or other related entity.
- l. Support for any project using the power of eminent domain for economic development that primarily benefits private entities.
- m. Individuals and organizations engaged in pending litigation against the City of Plattsburgh, New York, its agencies, departments, or independent boards. This provision applies as well to the officers of any such organization and to a Substantial Owner in any such organization.
- n. Individuals and organizations who owe property taxes, water or sewer fees, special assessments, fines for violations of City ordinances, or any other fees or past due monies of any name or nature owed to the City of Plattsburgh (hereinafter "unpaid monies") are

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<sup>20</sup> 24 CFR 570.482(f)(4)(ii) [Annual HUD Appropriations Act

not eligible for revolving loan funds from the City. The applicant shall have the burden of providing proof in a form acceptable to the City that there are no such violations or unpaid monies. In the event that the applicant has accrued violations or unpaid monies, such application to the CDRLF shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made, or another parcel owned by applicant, or are personal to the applicant. This denial shall also apply to such violations or unpaid monies for any parcel of real property within the City of Plattsburgh owned by a Substantial Owner of a company, corporation, or partnership.

## **Conflicts of Interest**

All CDRLF applicants/borrowers must comply with conflict-of-interest requirements at the federal, state, and local levels.

### **Federal Statutes**

Conflict of interest provisions<sup>21</sup> are applicable to both procurement and applicant activities conducted with CDRLF funding:

### **Prohibition of Conflicts of Interest During Procurement**

With respect to procurement activities, the City maintains written standards of conduct which require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by CDRLF funds if a real or apparent conflict would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in an individual, organization, or firm selected for an award:

- a. An employee, officer, or agent of the City.
- b. Any member of an employee's, officer's, or agent's immediate family.
- c. An employee's, agent's, or officer's partner.
- d. An organization which employs or is about to employ any of the parties named in this section.

The City also requires that employees, agents, and officers neither solicit nor accept gratuities, favors, or anything of value from contractors or parties to any CDRLF awards or agreements. The City will undertake disciplinary actions for any violations of these standards by its employees, agents, or officers.

### **CDRLF Funding**

With respect to all other CDRLF-assisted activities, the general standard is that no employee, agent, or officer of the City who exercises decision-making responsibility with respect to CDRLF funds and activities is allowed to obtain a financial interest in or benefit from CDRLF activities, or have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities. Specific provisions include that:

- This requirement applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, or a subrecipient, and to their immediate family members, and business partner(s).

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<sup>21</sup> Conflict of Interest (24 CFR 570.611; 24 CFR 85.36; and 24 CFR 84.42)

- The requirement applies for such persons during their tenure and for a period of one (1) year after leaving the City or subrecipient organization.
- Upon written request, exceptions may be granted by HUD on a case-by-case basis after consideration of the cumulative effect of various factors listed at 24 CFR 570.611(d), and only with: (a) full disclosure of the potential conflict; and (b) legal opinion of the City attorney that there would be no violation of state or local laws in granting the exception.

### **Subrecipients of the City**

The City will require any management agents administering the CDRLF to also comply with the federal, state, and local conflict of interest regulations and standards of conduct.

### **City of Plattsburgh Conflict of Interest: State and Local Regulations**

Applicants will certify that they have read and comply with City, State, and Federal Conflict of Interest Regulations, including Article 18 of NYS GML, the City's own Conflict of Interest Regulations, and the Federal Regulations summarized in this policy.<sup>22</sup>

### **Loan Characteristics**

The City of Plattsburgh will administer the CDRLF in accordance with *Prudent Lending Practices*<sup>23</sup> which means generally accepted underwriting and lending practices for public loan programs based on sound judgment to protect both Federal and City interests. *Prudent Lending Practices* must be applied to loan processing, documentation, loan approval, servicing, administrative procedures, collateral protection, collections, and recovery actions, as well as compliance with local laws and filing requirements to obtain and maintain a security interest in CDRLF collateral.

### **Interest Rates**

Interest rates are set for the life of the loan at seventy-five percent (75%) of the prime rate listed in the Wall Street Journal on the date of loan approval by the Common Council, or at three percent (3.0%) APR, whichever is higher. A sixty (60) day lock in period will apply from the date of written notice of loan approval.

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<sup>22</sup> Conflict of Interest (24 CFR 570.611; 24 CFR 85.36; and 24 CFR 84.42)

<sup>23</sup> Prudent Lending Practices. (13 CFR § 307.8)

**Loan Types, Terms, Amounts, Loan-To-Value Ratio, and Security**

*Please Note: This is a summary table representing the primary loan categories and their associated terms and conditions. The loan approval from the City, as well as the Loan Agreement, will describe the specific loan terms and conditions offered to a particular applicant.*

**Table 3: Loan Types, Terms, Amounts, Interest Rates, and Security**

<b>Loan Type</b>	<b>Term</b>	<b>Loan Amounts</b>	<b>Loan-To-Value Ratio (% of Appraised Value)</b>	<b>Collateral protection and Security (LLC, Corporation, or Individual)</b>
For-Profit/Non-Profit/Investment Real Estate	Up to 15 years	Up to \$150,000 or 40% of total project costs (whichever is lower)	1-4 Families: 80% 5+ Families: 75% New Construction: 75% All Others: 75%	Note and Mortgage
For-Profit/Non-Profit Furniture, Fixtures and/or Equipment	Up to 7 years (limited to useful life)	Up to \$25,000	70%	UCC-1 and Assignment of Collateral in the event of a default
For-Profit/Non-Profit Working Capital, Accounts Receivable and/or Inventory	Up to 2 years	Up to \$25,000	Inventory: 50% A/R: 75% Working Capital: 50%	Assignment of Collateral: Rents/Accounts Receivable and Promissory Note
For-Profit/Non-Profit Bridge Loans	Up to 2 years	Up to \$150,000		Note and Mortgage. UCC-1/Promissory Note/Assignment of Collateral. Confirmation/agreement with original source of funding documentation.
LMI Home Ownership	Up to 10 Years	Up to \$150,000	Single Family Structure: 80% Mfg. Home (i.e., Mobile Home/Trailer): 75%	Note and Mortgage
LMI Single Family Rehabilitation	Up to 10 Years	Up to \$150,000 or 40% of total project costs (whichever is lower)		

**Eligible Applicants, Loan Fees, and Revolving Loan Fund Conditions**

*Please Note: This is a summary table representing the primary applicant categories and the loan terms and conditions available to each. The loan approval from the City, as well as the Loan Agreement, will describe the specific loan terms and conditions offered to a particular applicant.*

**Table 4: Eligible Applicants, Loan Fees, and Revolving Loan Fund Conditions**

	<b>For Profit/Private Rental Housing/Landlords</b>	<b>For Profit Private Businesses (All Types)</b>	<b>LMI Business/Property Owners and Non-Profit Organizations</b>	<b>LMI Homeowners</b>	<b>LMI Prospective Homeowners</b>
<b>Non-refundable application fee</b>	\$300	\$300	\$50	\$50	\$50
<b>Non-refundable administrative/management fee (paid at loan closing)</b>	\$500	\$500	Waived	Waived	Waived
<b>Commitment fee equal to the greater of \$500 or 1.5% of loan</b>	√	√	Waived	Waived	Waived
<b>Appraisals, flood determinations, title, and lien searches,<sup>24</sup> credit reports, and similar items necessary for City to make a loan determination based on Prudent Lending Practices are the responsibility of the applicant</b>	√	√	Associated costs can be rolled into loan principal.		
<b>Recording, closing, and discharge costs are the responsibility of the applicant</b>	√	√	Associated costs can be rolled into loan principal.		
<b>Minimum bank or other sector financing of 50% of the project</b>	√	√	√	Waived	Waived
<b>Minimum equity investment of 10% (5% cash, 5% equity)</b>	√	√	√	√	√
<b>Federal/State/Local environmental clearance must be obtained<sup>25</sup></b>	√	√	√	√	√
<b>Appropriate permits and licenses to occupy, develop, or operate must be obtained</b>	√	√	√	√	√
<b>Fire and extended coverage property insurance naming the City as insured mortgagee with notice of cancellation<sup>26</sup></b>	√	√	√	√	√

<sup>24</sup>Applicant shall provide the City, at applicant’s expense, with a current judgment and lien search for each parcel of real property. Applicant may be required to provide a copy of their current title insurance policy or abstract of title for each parcel of real property.

<sup>25</sup> See Section on other federal compliance requirements.

<sup>26</sup> Borrower will provide a copy of the insurance policy for fire and extended coverage on the property which shall contain a clause naming the City as an insured mortgagee and shall give the City a minimum of thirty (30) days’ notice of cancellation of the policy. Such insurance shall be kept in effect for the period of the loan. The property shall be insured for at least an amount equal to the fair market value of the property plus the total cost of the rehabilitation improvements.

### **Additional Loan Terms and Conditions**

All applicants to the CDRLF must be U.S. citizens or permanent U.S. residents and all real property to be improved via the CDRLF must be owned by U.S. citizens or permanent U.S. residents.

Terms are fixed to the useful life of the financed asset and are set as part of the City's loan offer and loan approval.

The City may waive the loan ceiling when the applicant has secured a substantial sum from private sources.

The City may take a subordinate creditor position secured by business and/or personal assets. The City may also accept a subordinate creditor position if there is sufficient equity in real property owned by the applicant to secure the loan. The City reserves the right to use other real estate or property owned by the applicant to provide adequate security for the loan.

The City may require the applicant, as part of a conditional loan approval, to provide, at applicant's expense, a property appraisal as a basis for establishing value in real estate transactions.

Borrower must have clear title to real property to be assisted. In the event the property is to be acquired, borrower must be able to obtain and purchase title insurance.

The City will require a lien search at applicant's expense, especially if the City is requested to take a subordinate creditor position.

Personal guarantee(s) and *key man life insurance*<sup>27</sup> may be required for Business Development or Microenterprise loans.

Secured loans are recorded in the Clinton County Clerk's Office (CCCO).

Balloon payments are prohibited for all loans.

Borrowers may be required to demonstrate they are unable to obtain adequate financing from other sources. Demonstration of attempts to find other financing may include a full or partial denial letter from a traditional lender.

Borrowers must not have a conflict of interest with the City of Plattsburgh.<sup>28</sup>

Borrowers must not be delinquent on any Federal or State debt and provide a certification at the time of application.

Compliance with Local Laws, Filings, Permits, and Codes. Applicants are required to consult with, and demonstrate to the City, compliance with all applicable local laws, including obtaining suitable building permits, land use permits (or variances), applicable design guidelines, and other filing requirements at the city, county, or state-level. Projects/businesses seeking funding should comply with and advance the goals of the City's Comprehensive Plan, its Local Waterfront Revitalization Program, and/or other community planning documents.

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<sup>27</sup> "Key person" insurance is a life insurance policy that a company purchases on the life of an owner, a top executive, or another individual considered critical to the business. This type of life insurance is also known as "key man insurance," "key woman insurance," and "business life insurance."

<sup>28</sup> Please see the Policy Manual Section entitled 'Conflict of Interest' for details.

## **Co-Lending**

Co-lending occurs when the City is only one of the lenders on a given project. Generally, the interest rate on the loan from the City is lower than the interest rate on the loan from the project's private lender(s). Thus, it is less expensive to have multiple loans rather than one larger loan from the private lender. Co-lending allows flexibility by mixing and matching financing types. In addition, co-lending helps ensure that there is repayment of the City loan funds which can then be made available for future activities. Underwriting using co-lending loans can be complicated and requires a thorough understanding of collateral, security, private lender expectations, and the potential of the business to succeed in achieving the desired public benefit.

Co-lending by the City may be made in two ways:

- a. **Subordinate financing:** Under this option, the City loan and the private loan share the same collateral from the business, but the right of repayment on the City loan or share is placed behind the loan made by the private lender. Thus, if the project fails, the private lender is repaid first, and the City loan is repaid with whatever proceeds remain. Subordinated loans may entice private lenders to participate in the project by reducing their risk and level of financing. Subordinated loans entail greater risk for the City since they are last in line when a default occurs, and collateral is sought for repayment.
- b. **Tandem loan:** Under this option, the private lender's loan is secured by different collateral than that used to secure the City's loan.

## **Risk Mitigation**

The City CDRLF will minimize and mitigate risk via the following policies:

### **Diversified Loan Portfolio**

The City will limit the amount of loan proceeds that are allocated to one project or borrower, so that one loan or business failure will not doom the entire portfolio. The City will consider limiting loans to individual projects to no more than twenty percent (20%) of total loans funded to lessen the chances of a large failure.

### **Establish loss reserves**

Just as a private lender would, the City will allocate funds for losses from nonperforming loans. The level of loss reserves will vary with the type of projects being financed.

### **Require leverage**

Require that projects be able to provide a minimum percentage of private financing. This helps to spread project risk, stretches loan funds further, and ensures that the project will also be reviewed by a private sector lender. LMI applicants may be exempted from this requirement at the discretion of the City.

### **Certify costs**

Make sure that proposed project costs are reasonable and do not contain any padded costs which mask contractor/developer profiteering.

### **Limit construction financing**

Many things can go wrong during construction and the collateral value of a half-finished building is nearly worthless. Where appropriate and applicable, the City will consider requiring that projects obtain a private construction loan and only offer permanent "take-out" financing. A take-

out commitment is a written guaranty by a lender to provide permanent financing to replace a short-term loan at a specified future date if the project has reached a certain stage. Short term lenders usually require a take-out commitment from another lender before they agree to provide the loan.

### **Conduct cost benefit analyses**

Do the potential benefits of the project (job creation, increased taxes, etc.) outweigh the potential costs of the project (public funds used to repay project costs, possible risk of assets pledged as additional security, etc.)?

### **Limit high-risk loan categories**

Loans to startups and for working capital are especially risky. The City will balance its portfolio with other less risky loans.

### **Allow for changes in rates**

Considerable that time may elapse between the time that a project is identified and the time that final approval is granted. In the interim, interest rates may increase. The City will reserve the right to modify interest rates after a sixty (60) day lock-in period, until formal loan approval by the Common Council.

## **Loan Processing and Review**

### **Preliminary Review**

The City's Loan Review Committee (LRC), established via Common Council resolution on April 4, 2019,<sup>29</sup> will review each application for completeness and verify that the proposed project meets the minimum eligibility requirements of the CDRLF. If the application is not complete, the LRC will advise the applicant of the deficiencies. Staff assistance to the LRC shall be provided as needed by the City's Community Development Office and its Finance Department. The City's attorney and external professionals shall be consulted, as necessary.

### **Outreach, Initial Application Completion, Interview, and Verification of Application Information**

- Advise the applicant on both the general program objectives and the application process. Advise the applicant concerning the preliminary conditions under which a loan is made.
- Have applicant complete the appropriate application forms.
- Check the application forms for completeness.
- Determine initial LMI eligibility of income, beneficiaries, and geographic location.
- Verification of ownership (copy of deed) and clear title (lien/judgement/title).
- LMI verification test documentation.
- Rental: If the applicant is a landlord, income of tenant(s) and rent structure must be verified and compliance with LMI requirements documented.
- Verification of property insurance.
- Business plan and financial information for economic development projects.
- Review/verify other available funding and prior funding commitments.

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<sup>29</sup> Copy of Resolution establishing Loan Review Committee is attached in the appendices.

- Review uniform compliance and other loan requirements with applicant in order to troubleshoot any issues or concerns.
- Assign an application number and establish a separate digital file for each application.

As part of the review, the City will also evaluate the applicant's financial strength and ability to complete the proposed project utilizing the *Prudent Lending Practices* framework. Financial strength may be determined through financial underwriting procedures common in the commercial lending industry and/or a prequalification process similar to the one used to prequalify bidders on construction projects. During preliminary review, the LRC will also determine the necessity of title and lien searches, appraisals, etc. and notify the applicant if these are required for further consideration of the application.

Preliminary cost estimates and final documentation that shows the total cost of the activity, including both CDRLF and non-CDRLF funds, will be included in the applicant's case file.

Once the application and preliminary review are deemed complete, the LRC will then review and recommend approval, conditional approval, or disapproval of the application. If an application is recommended for approval or conditional approval, the LRC may recommend specific terms for the loan. All such recommendations shall be submitted to the Common Council for its consideration.

### **Loan Review Committee**

The LRC is comprised of one (1) staff member from the City's Community Development Office appointed by the Director of Community Development, one (1) staff member from the City's Finance Department appointed by the Chamberlain, and one (1) member from the lending industry appointed by the Mayor. All three (3) members of the LRC shall serve for two (2) year renewable terms. As the LRC shall include no members of a public body and owing to the personal/confidential nature of the material to be reviewed, the meetings and deliberations of the LRC will not be subject to NYS's open meeting statutes.

The primary responsibility of the LRC is to meet periodically, review loan requests, and make formal recommendations to the Common Council pursuant to established guidelines, as amended. The LRC's formal recommendations will propose unconditional approval, approval with modifications or conditions, or denial of the loan request. In all cases, however, the Common Council retains the authority to make final decisions on loan applications.

### **Formal Review by City Council**

Following consideration of the recommendations from the LRC, the Common Council will meet to formally review the application. The Council may request that the applicant be present for the review to answer questions or to provide additional information. It will then vote to approve, approve with conditions, or deny the CDRLF application. If approved, notice of loan approval will be provided to the applicant.

If the application is denied, the City will send a letter to the applicant stating the reasons for rejection. The City will prepare an *Adverse Action Notice* which advises the applicant of exactly

why they were denied funding in compliance with Reg B of the Equal Credit Opportunity Act (ECOA) which requires the adverse action notice be sent.<sup>30</sup>

### **Preparation of Loan Agreement**

Following approval of a CDRLF application by the Common Council, the City's Community Development Office (CDO), its agents, and the City's Attorney will prepare a Loan Agreement, Note and Mortgage, other security and collateral agreements, and supporting schedules. Written loan agreements will clearly describe the repayment terms, what constitutes a default and how it can be cured, what actions the lender will take if the default is not cured, and (if applicable) what is pledged as security for the loan. The Note and Mortgage will assign the duty to discharge the liens to the lender. However, the borrower will bear all associated discharge costs.

A loan closing will be held for all parties to execute the documents. After the loan closing, the City will issue a Notice to Proceed.

### **Loan Servicing**

#### **Loan Distribution**

There are several ways that the City may disburse loan proceeds. They include:

- A single, one-time, lump sum payment at project completion.
- Co-sharing disbursements from an escrow or trust account and loan proceeds.
- Installments or periodic payments from loan proceeds as project-related work progresses.

If the borrower is required to pay part of the cost of the approved project as a condition of the City's approval of the loan application then, prior to entering into a contract for the work or receiving any distributions from the CDRLF, the borrower will submit satisfactory documentation to the City that the borrower has the funds necessary to pay their/its share of the project costs. The City will accept as satisfactory documentation either a financial statement showing borrower's net worth<sup>31</sup> in an amount equal to or in excess of the borrower's share of the cost or a commitment letter from a reputable lending institution whereby the lending institution agrees to loan the borrower sufficient funds to cover the borrower's share of the cost.

If the borrower is required to pay part of the project costs, then before the first advance of funds by the City, the borrower will pay all their/its share of the costs and provide receipts and partial waivers of lien from the contractor, subcontractor, or suppliers in an amount equal to the total funds required to be paid by the borrower.

**Escrow Account:** When a borrower is providing a percentage of the project costs, these funds may be placed in a City-managed escrow account at the time of execution of the Loan Agreement and prior to the issuance of a Notice to Proceed.

If funds are not paid in installments, then prior to paying the funds for the work, the City shall require the borrower to comply with the following conditions:

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<sup>30</sup> § 1002.9 Notifications. | Consumer Financial Protection Bureau (<https://www.consumerfinance.gov/>)

<sup>31</sup> Net worth is defined as the excess of assets over liabilities.

- a. The borrower's contractor shall furnish full and final waivers of lien for themselves/itself and all subcontractors and suppliers.
- b. The work will have been finally inspected by the City and accepted as complete, of satisfactory quality, and in compliance with all requirements of the NYS Building Code and the NYS Office of Historic Preservation (SHPO), if applicable.
- c. The City's Code Enforcement Officer shall have issued a Certificate of Occupancy.

If the City approves a request by the borrower that funds be paid in installments as work progresses, then prior to making any payment, the borrower will certify that no liens have been filed against the property since the start the project and that no claims for payment have been made against the borrower by any contractor, subcontractor, or supplier. Any contractor hired by the borrower will provide a sworn statement and partial waivers of lien from the subcontractors and suppliers evidencing either that payment has been made for work performed through the date of the advance request or that arrangements satisfactory to the subcontractor or supplier have been made for payment of money due upon receipt of the advance. Completed rehabilitation work submitted for installment reimbursement will be inspected by the City's Code Enforcement Officer. The amount advanced by the City may not exceed ninety percent (90%) of the estimated value of the work in place and deemed acceptable by the City. The amount retained will be paid at the time of final payment.

The City may not make more than three (3) payments, including the final payment.

All funds paid by the City shall be by check payable to the borrower, who is in turn responsible for compensating all contractors.

### **Reimbursed Costs**

To the extent that a loan is for reimbursement of approved costs on a particular project, all of the following conditions must be met prior to disbursement of the loan funds:

- a. The applicant must submit a signed statement that contains: (1) a list of all contractors and suppliers who worked on the approved project; and (2) confirmation that the work has been completed in accordance with the approved application and loan.
- b. The applicant must submit final unconditional lien waivers from all contractors and suppliers.
- c. The applicant must supply proof that the improvements have passed all final inspections and meet all code requirements.
- d. The City may also take steps deemed appropriate under the circumstances to verify the information provided and that the project has been completed as approved.
- e. All improvements must be completed within six (6) months of the award of the loan and all requests for reimbursement must be made within nine (9) months of the award of the loan or the applicant shall be deemed to have waived any right to reimbursement and no reimbursement shall be made. Extensions to the six (6) month completion period may be granted for inclement weather, the ordering of special building materials, acts of God, or other extenuating circumstances provided that the applicant requests an extension in writing prior to expiration of the completion period. The City will notify the applicant in writing of its approval or denial of the extension.

## **Statement of Disposition of Funds**

An account of all monies disbursed will be prepared for each project. This account, called the Statement of Disposition of Funds, will be made a part of each project case file.

## **Loan Administration Fees**

After award of the loan, and particularly in the event of delay, default, excessive use of City staff time, or other reasons as determined by the City, the City may impose additional loan administration fees associated with the project management, project review, and monitoring to confirm the progress of the project or to evaluate a project's status. The non-refundable administration/management fees noted in Table 4 will be due at loan closing and will be in addition to any discretionary loan administration fees the City may choose to impose at a later date. All borrowers, including LMI borrowers, may be subject to post-closing administrative fees.

Loan administration fees shall be billed to the applicant as services are rendered and shall be paid by the applicant within thirty (30) days of the invoice date. The City will notify the borrower via letter with an attached invoice authorized by the Mayor. Failure to timely pay loan administration or monitoring fees, upon notice thereof, may be deemed a default of the loan.

## **Loan Security Instruments**

### **Mortgage Filing and Discharge**

#### **Filing at Loan Closing**

The City maintains responsibility for filing the Notes and Mortgages and related documents with the CCCO after loan closing.

#### **Discharge**

Most often, an impending property sale triggers the discharge process for historical loans made prior to 2020. The CDO will institute a more routine discharge process for loans made after 2020 and the Finance Department will immediately notify the CDO when a loan is satisfied in order to initiate the discharge process. Upon receipt of written confirmation from the Finance Department that final payment for a loan has been received, the CDO will initiate a discharge of all mortgages associated with the loan within thirty (30) days.

The CDO and the Finance Department will also field inquiries from past borrowers regarding discharges of previously paid-off loans. Evidence in the form of an Accounts Receivable report from the Finance Department will serve to document payoff of the loan. The CDO will then prepare a discharge note along with the documentation provided by the Finance Department for review by the Mayor. Upon signature of the discharge note by the Mayor and notarization of the document, paper and digital copies shall be provided to both the CDO and the Finance Department. A copy of the signed and notarized discharge notice shall be placed in the project file.

A borrower should also directly notify either the CDO or the Finance Department in the event a discharge is warranted.

The CDO shall verify the discharge fee with the CCCO. CDO staff will then deliver the discharge along with the filing fee to the CCCO for filing. The filing fee is to be paid by the City. The CDO will instruct the CCCO to mail the receipt and associated documents directly to the CDO. The CDO will, in turn, provide the borrower with a copy of the discharge.

### **Discharges of Early Payoffs**

The Finance Department requires a minimum three (3) business days' advance notice to accept early loan payoffs. The City's accounting system requires the exact date of the payoff in order to account for daily interest charges and calculate the exact payoff amount. Any figure provided by the City for an early loan payoff is based upon the payoff date provided by the borrower. If the payoff does not occur on that date, the borrower shall be responsible for issuing a new check for the revised payoff amount.

### **Loan Repayment Collection**<sup>32</sup>

The Finance Department maintains an electronic accounting system that recognizes loans as Accounts Receivable from the time of loan closing to final payoff and loan closeout at the end of loan term. This system generates both an account borrower ID and an amortization schedule and establishes a monthly payment amount via invoice/billing. These amortization schedules and payment amounts may be provided to the borrower. Payments from borrowers are collected monthly by the Finance Department and deposited in the appropriate account(s) where the principal and interest portions of each payment are both tracked. A monthly Accounts Receivable report can be generated to monitor loan payments and delinquencies. This report tracks both on-time and late payments and can serve as indication that a loan payment late notice should be provided to borrowers (see Delinquent Loans and Recovery Actions section).

### **Delinquent Loans and Recovery Actions**

#### **Late Fees**

In the event that monthly payments of principal and interest are not paid within fifteen (15) days after payments are due, the borrower will pay to the City an administrative charge equal to four percent (4%) of the overdue payment, provided that said administrative charge shall not be prohibited by law.

The CDO and Finance Department will share responsibility for monitoring loan repayments by reviewing, on a monthly basis, the Accounts Receivable report for the CDRLF. Borrowers will be contacted, first by phone, and second by a letter from the Finance Department when loan payments are more than sixty (60) days overdue as evidenced by an Accounts Receivable report for the CDRLF. The accounting system will add any overdue loan fees to the outstanding balance. If payments are not provided within the sixty (60) day window, the matter may be referred to the City's attorney for further action including, potentially, a Notice of Default. Notwithstanding the above, matters involving late payments may be referred to the City's attorney for further action at any point.

#### **Default Conditions and Actions**

Any funds advanced by the City to the borrower will become immediately due and payable fifteen (15) days after the City gives the borrower written notice that a default has occurred. The full amount of the loan will be due and payable immediately upon any default including, but not limited to, the situations noted below:

- a. Failure to make any payment required within fifteen (15) days of the date it is due.
- b. The borrower's abandonment of the work for a period of more than three (3) months.

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<sup>32</sup> [24 CFR 570.502(a)(4) (2013 edition)]

- c. In the event that any representation made by borrower to the City with respect to the loan be false or misleading in any material respect.
- d. Borrower fails to keep any other promise or agreement stated in the loan approval, Loan Agreement, or any executed security or collateral agreement including the Note and Mortgage(s) within the time stated or, if no time is stated, within fifteen (15) days after notice is given that borrower is in default.
- e. Borrower's failure to comply with any condition, covenant, or agreement contained in the loan documents or any other agreement between the City and borrower.
- f. The borrower's failure, through no fault of the borrower's contractors, to complete the improvements approved by the City in a good and workmanlike manner.
- g. Failure to obtain, keep, or maintain insurance policies insuring the buildings and improvements on the property as required by the Loan Agreement.
- h. The destruction of the property by fire or another casualty.
- i. Entry by borrower into an agreement to sell property listed in the Loan Agreement, execution by borrower of a lease with option to purchase said property, granting by borrower of an option to purchase said property, sale by borrower of said property under a land contract, or borrower's entry into any other agreement to convey title or conveyance of title to said property during the term of the loan. This restriction shall not apply to the transfer of title to said property under the terms of the borrower's will, under the laws of intestacy, or by virtue of joint ownership upon the death of the borrower.

If, in the event of a default, the City employs and directs attorneys to collect the outstanding indebtedness, the borrower will pay, in addition to the indebtedness and unpaid interest, all the costs and disbursements of the City's attorneys, together with their reasonable fees.

### **Uncollectible Debt and Write-off**

In the event that the City Chamberlain, in consultation with the City's attorney, determines that it is necessary and appropriate to write off a bad debt when the related borrower's payment is considered to be uncollectible, the City Chamberlain, in consultation with the City's attorney, will proceed accordingly. This may include having the Chamberlain prepare and present to the Common Council a resolution to this effect for its consideration. Supporting documentation for said resolution will include a brief justification for the write-off and evidence of multiple collection attempts.

### **Forbearance Agreement**

At the sole discretion of the City, a forbearance agreement may be considered whereby the City would agree to reduce or suspend loan payments for a set amount of time based upon a mutually agreeable schedule. The borrower shall agree that, if the City employs and directs attorneys to prepare a forbearance agreement in order to collect the indebtedness, the borrower will pay, in addition to the indebtedness and unpaid interest, all the costs and disbursements of the City's attorneys, together with their reasonable fees.

### **Uniform Federal Compliance Loan Requirements**

A summary of the Uniform Compliance Requirements for federal loans is provided below with detailed descriptions of the compliance standards and requirements following the summary.

**Table 5: Uniform Federal Compliance Loan Requirements  
for Real Property Activities**

CDRLF Summary of Compliance Standards Applicability	<i>Type of Real Property-Based Loan Assistance</i>				
	<i>Individual/Owner- Occupied Housing Rehabilitation</i>	<i>Miulti-Family Rental Housing Rehabilitation</i>	<i>Single-Family Home Ownership Assistance</i>	<i>Economic Development-Non Residential-Real Property/Fixed Assets</i>	<i>Economic Development-Mixed Use Real Property/Fixed Assets</i>
<i>Eligible Loan Activities</i>	<b>Compliance Standards Applicability</b>				
LMI Benefit	YES	YES	YES	YES	YES
Lead Hazards	YES	YES	YES	NO	YES
Tenant/Owner Relocation	YES	YES	YES	MAYBE	YES
Labor Standards	NO	MAYBE	NO	MAYBE	MAYBE
Sec 3	NO	YES	NO	YES	YES
Federal Environmental (NEPA)	YES	YES	YES	YES	YES
NYS Environmental (SEQRA)	YES	YES	YES	YES	YES
Local Permits	YES	YES	YES	YES	YES
Special Flood Hazard Area	YES	YES	YES	YES	YES
Conflict of Interest	YES	YES	YES	YES	YES
Public Benefit Standard (ED)	NO	NO	NO	YES	YES
Procurement	YES	YES	YES	YES	YES

*[remainder of page intentionally left blank]*

**Table 6: Uniform Federal Compliance Loan Requirements  
for Non-Real Property Activities**

CDRLF Summary of Compliance Standards Applicability	<i>Tangible/Non-Tangible Assets (Not involving Real Property)</i>			
	<i>Economic Development- Microenterprise</i>	<i>Economic Development- Working Capital</i>	<i>Economic Development- Machinery and Equipment</i>	<i>Economic Development- Accounts Receivable /Inventory</i>
<i>Eligible Loan Activities</i>	<i>Compliance Standards Applicability</i>			
LMI Benefit	YES	YES	YES	YES
Lead Hazards	NO	NO	NO	NO
Tenant/Owner Relocation	MAYBE	NO	NO	NO
Labor Standards	MAYBE	NO	NO	NO
Sec 3	MAYBE	NO	NO	NO
Federal Environmental (NEPA)	YES	NO	NO	NO
NYS Environmental (SEQRA)	YES	NO	NO	NO
Local Permits	YES	NO	NO	NO
Special Flood Hazard Area	MAYBE	NO	NO	NO
Conflict of Interest	YES	YES	YES	YES
Public Benefit Standard (ED)	YES	YES	YES	YES
Procurement	YES	YES	YES	YES

## **Procurement**

The CDRLF is subject to federal, state, and local procurement regulations, including the City of Plattsburgh’s own procurement standards.<sup>33</sup>

### **Federal Procurement Standards**

Federal Procurement Standards<sup>34</sup> require that the CDRLF use documented procurement procedures that are consistent with state and local laws and regulations and shall maintain oversight to ensure that applicants/borrowers and contractors perform in accordance with the

<sup>33</sup> [https://www.cityofplattsburgh-ny.gov/sites/cityofplattsburgh.com/files/human-resources/City of Plattsburgh Approved Employee Handbook 02222019.pdf](https://www.cityofplattsburgh-ny.gov/sites/cityofplattsburgh.com/files/human-resources/City%20of%20Plattsburgh%20Approved%20Employee%20Handbook%2002222019.pdf)

<sup>34</sup> 200.318 General procurement standards. The non-federal entity's (City) documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

terms, conditions, and specifications of their loan approvals. The City will maintain records sufficient to detail the history of CDRLF procurement including a rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the loan amount and contract price. Violations of law will be referred to the local, state, or federal authority that has proper jurisdiction.

### **Borrower/Contractor Performance, Cost Controls, and Compliance**

The City will only award CDRLF loans to borrowers and their respective contractors who possess the ability to perform successfully under the terms and conditions of a proposed procurement.<sup>35</sup> Consideration will be given to such matters as integrity, compliance with laws and regulations (e.g., suspension, debarment, or limited denial of participation), record of past performance, financial capacity, and technical resources. The CDRLF will maintain written documentation indicating that it has not funded excluded, disqualified, or otherwise ineligible contractors.<sup>36</sup>

Further, the CDRLF will include oversight in order to obtain reasonable assurances that the borrower and their contractor(s) are following applicable procurement policies and procedures in the administration of their contracts, purchase orders, and cost controls. This oversight will include:

- a. The City and the borrower will provide evidence that a cost or price analysis was performed in connection with every procurement action and threshold noted in the Procurement Compliance Standards, including contract modifications.
- b. The CDRLF will employ a system of contract administration for determining the adequacy of contractors' performance.<sup>37</sup>
- c. In the event that the CDRLF uses prequalified lists, the City will ensure that such lists are developed through an open solicitation process without overly restrictive criteria, are kept current, and include an adequate number of qualified sources.<sup>38</sup>
- d. If loans are awarded for construction or facility improvements, the CDRLF will follow the City's own requirements relating to bid guarantees, performance bonds, and payment bonds for construction contracts or subcontracts.<sup>39</sup>
- e. If contracts are awarded for construction or facility improvements, the City will determine whether the projects meet the minimum federal requirements for bid guarantees, performance bonds, and payment bonds for construction contracts or subcontracts.<sup>40</sup>
- f. If loans are awarded for construction or facility improvements, the CDRLF may require a specific drawdown schedule so that funds are disbursed incrementally in order to limit risk exposure.
- g. When funds are to be disbursed for construction loans, the City will have the option to require, at the borrower's expense, completion of a "run out" report by a title company to verify that no liens have been filed against the subject property prior to disbursement being made.

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<sup>35</sup> See also § 200.214

<sup>36</sup> 24 CFR 570.609

<sup>37</sup> 24 CFR 570.502 (2013 edition); 24 CFR 85.36(b)

<sup>38</sup> 24 CFR 570.502 (2013 edition); 24 CFR 85.36

<sup>39</sup> 24 CFR 570.502 (2013 edition); 24 CFR 85.36(h)

<sup>40</sup> 24 CFR 570.502 (2013 edition); 24 CFR 85.36(h)

- h. The City may also choose to require an inspection of the subject property by a qualified appraiser with photos to verify that work is being completed prior to disbursement being made.

**Contracting with Small and Minority Firms, Women’s Business Enterprises, and Labor Surplus Area Firms**

The City will take affirmative steps to encourage the use of small, minority-owned, and women-owned businesses in CDRLF program solicitations. Those steps may involve the inclusion of such businesses on solicitation lists and establishing a requirement that borrowers take affirmative steps to select small, minority-owned, and women-owned businesses as contractors for their projects.

**Procurement Methods for Borrower Loans**

**Table 7: Methods of Procurement to be Followed<sup>41</sup>**

Acquisition Purpose →	Commodities, Supplies, Furniture, Fixtures, Equipment	Services (including professional)	Real Property (land, including land improvements, structures and appurtenances thereto, but excluding moveable machinery and equipment)	Building/ Work/ Construction (referred to as Public Works in the City's procurement policies, including construction activities but excluding manufacturing, furnishing of materials, and servicing/maintenance work)
<p><b>Key: Yellow Highlight = City procurement policies are more restrictive and will be used.</b>  <b>Blue Highlight = Federal procurement policies that will be used in cases not covered by City policies.</b></p> <p><b>Please Note: Where there is a conflict or inconsistency regarding applicability of the procurement policies for the CDRLF, the more restrictive policy will control.</b></p>				
<b>Proposals</b>	Purchase contracts for goods costing less than \$20,000: □ \$100 - \$999: 1 Quote \$1,000 - \$2,999: 2 Quotes \$3,000 - \$19,999: 3 Quotes	\$250,000 or more	\$250,000 or more	Public works contracts costing less than \$35,000: □ \$100 - \$15,000: 2 Quotes \$15,001 - \$34,999: 3 Quotes
<b>Sealed Bids (Competitive Bidding)</b>	\$20,000 or more	n/a	n/a	\$35,000 or more
<b>Non-Competitive Procurement</b>	n/a	\$50,000 or less	\$50,000 or less	n/a

<sup>41</sup> See 2 CFR 200.320; <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>

## **Lead Hazards**

Lead-based paint is serious business. Financial assistance from the CDRLF for residential properties, including owner and renter-occupied properties, must comply with Federal Lead Hazard Requirements. In 1992 Congress passed legislation addressing Lead Based Paint (LBP)<sup>42</sup> in federally assisted housing that, among other provisions, required the disclosure of known information on lead-based paint and lead-based paint hazards before the sale or lease of most housing built before 1978. The LBP regulations apply to CDRLF loans involving residential properties.<sup>43</sup>

*Lead abatement* is an activity designed to permanently eliminate lead-based paint hazards. Abatement can involve specialized techniques not practiced by most residential contractors. The U.S. Environmental Protection Agency (EPA) requires individuals and firms who perform abatement projects in pre-1978 housing and child-occupied facilities to be certified and follow specific work practices.<sup>44</sup>

Some properties and actions are exempt from the requirements of the LBP regulations. These include:

- a. Housing built after 1978.
- b. Housing exclusively for the elderly or for people with disabilities unless a child under age six (6) is expected to reside there.
- c. Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, and military barracks.
- d. Property where all LBP has been removed.
- e. Unoccupied property that will remain vacant until it is demolished.
- f. Non-residential property.
- g. Any rehabilitation or housing improvement that does not disturb a painted surface.
- h. Emergency repair actions needed to safeguard against imminent danger to human life, health, or safety, or to protect property from further structural damage.

Lead inspections and lead risk assessments are useful first steps which can lead to more thoughtful decisions on managing LBP and lead hazards.<sup>45</sup>

The CDRLF will require an LBP protocol/plan for addressing LBP hazards that exist in any property built before 1978 that is included in a CDRLF application. LBP assessment and compliance will vary with the borrower as follows:

- a. For-profit and non-profit borrowers with non-exempt property(ies) will be responsible for all activities and costs associated with 1) the LBP protocol/plan for addressing LBP hazards, and 2) any LBP abatement activities that result from the LBP risk assessment, including providing all the necessary documentation to the City.

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<sup>42</sup> The Lead Disclosure Rule | HUD.gov / U.S. Department of Housing and Urban Development (HUD) Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X, to protect families from exposure to lead from paint, dust, and soil.

<sup>43</sup> [https://www.hud.gov/sites/documents/DOC\\_12311.PDF](https://www.hud.gov/sites/documents/DOC_12311.PDF); Compliance with the Lead Hazards requirements of 24 CFR Part 35 (24 CFR 570.608)

<sup>44</sup> <https://ag.ny.gov/environmental/lead/lead-paint-hazards>

<sup>45</sup> [https://www.hud.gov/program\\_offices/healthy\\_homes/lbp/hudguidelines](https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines)

- b. LMI single family homeowners will work with the City's Code Enforcement Officer, the CDO, and the Clinton County Health Department (CCHD) to prepare an LBP protocol/plan for non-exempt, owner-occupied properties. File documentation will be kept in this situation by the CDO.
- c. LMI borrowers involved in the new home purchase loan program should obtain a lead-free compliance statement from the realtor/seller prior to entering into a contract of sale. This documentation must be provided to the CDO.

For all borrowers, the LBP protocol/plan will include:

- a. The age of any children residing within the property and any available information regarding existing LBP on the property.
- b. A written statement provided to both the property owner and all tenant(s) that includes a determination as to whether to perform paint testing and/or a risk assessment and an explanation of any decision to forgo lead hazard evaluation.
- c. The HUD/EPA pamphlet, "*Protect your Family from Lead in Your Home.*"<sup>46</sup>
- d. An evaluation of the property via a certified LBP risk assessment professional. Lead hazard evaluation activities will be contracted out to an independent firm certified to perform paint testing and risk assessments. The evaluation shall include:
  - i. Completion of a walk-through inspection of the property to identify the location(s) and nature of potential lead hazards.
  - ii. Preparation of a cost estimate for the LBP rehabilitation work.
- e. Notification to building occupants of the results of the lead hazard evaluation within fifteen (15) days after results have been received. Notification will include the presence and location of any confirmed LBP and a description of how occupants can obtain further information.
- f. If the presence of LBP has been confirmed and once the scope of the lead hazard present in the building is clear, a scope of work for the rehabilitation and lead hazard reduction will be prepared.
- g. Contractors performing lead hazard reduction work will be selected per the City's procurement policies and shall be required to have the appropriate qualifications and certifications according to 24 CFR part 35 and the EPA.
- h. A pre-construction conference with the landlord, renter, and/or homeowner as well as the rehabilitation contractor, lead hazard reduction contractor, and a City representative to review the project schedule, location of lead hazard reduction work, occupant protection measures, and cleanup and clearance procedures.
- i. Monitoring of the lead hazard reduction activities to ensure proper occupant protection, worksite preparation, daily cleanup, safe work practices, and worker protection.
- j. A final inspection to confirm that all lead hazard reduction work has been completed in accordance with the work specification.
- k. A clearance inspection which will be performed by a certified LBP clearance professional. Following receipt of a passing clearance inspection report, final payment to contractor will be authorized. If the worksite does not pass clearance, the contractor will be responsible for additional cleaning and will not receive final payment until the worksite passes clearance.

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<sup>46</sup> [https://www.hud.gov/sites/documents/PROTECT\\_FAMILY\\_LEAD\\_2012.PDF](https://www.hud.gov/sites/documents/PROTECT_FAMILY_LEAD_2012.PDF)

1. Within fifteen (15) days of completion, the occupants will receive the results of the lead hazard reduction and clearance inspection which will include a summary of activities and the location, if any, of remaining LBP surfaces and lead hazards.

### **Occupant Protection and Temporary Relocation during Lead Hazard Reduction**

In all jobs that require lead hazard reduction, appropriate actions will be taken to protect occupants from LBP hazards if the unit will not be vacant during the rehabilitation project. In those cases, occupants may not enter the worksite during the lead hazard reduction activities. Re-entry is permitted only after such activities are completed and the unit has passed a clearance examination.

Occupants of the unit do not have to be relocated if one (1) or more of the following circumstances apply:

- a. Rehab work will not disturb lead-based paint or create lead-contaminated dust.
- b. Hazard reduction activities can be completed within one eight (8) hour daytime period and the worksite is contained to prevent safety, health, or environmental hazards.
- c. Exterior-only work is being performed where the windows, doors, ventilation intakes and other openings near the worksite are sealed during hazard reduction activities and cleaned afterward, allowing for a lead-free entry to be maintained.
- d. Hazard reduction activities will be completed within five (5) calendar days, the work area is sealed, the area within ten (10) feet of the containment area is cleaned each day, and occupants have safe access to sleeping areas, bathroom, and kitchen facilities.
- e. Occupants are not permitted into the worksite until after clearance has been achieved.

According to HUD regulations, relocation of elderly occupants is not typically required so long as complete disclosure of the nature of the work is provided and informed consent of the occupants is obtained before commencement of the work.

If occupied units are to undergo more extensive lead hazard abatement activities, the occupants must be temporarily relocated. Most often, furniture and occupant belongings can be covered and sealed with protective plastic sheeting, although storage of major furniture and removal of all small furnishings during the hazardous materials reduction work may sometimes be necessary. Owners and/or occupants are responsible for carefully packing all breakables, removing all clothing from closets, etc. During the abatement work, only workers trained in lead hazard reduction may enter the work site. This means that neither owners nor occupants are permitted to return to the work site during the day or at night. Only when the unit has been cleaned to the federally mandated standards and passed a clearance examination is it safe and permissible for occupants to return home. Occupants will be provided with a written authorization for re-occupancy.

If the rehabilitation work is to be completed in stages with the lead hazard reduction work occurring first and the normal renovation work following, interim lead dust clearance must be obtained prior to re-occupancy by the owners, occupants, or other non-lead related rehabilitation workers. Final lead dust clearance must be repeated following the rehabilitation work to verify that the residence is free of lead hazards.

### **Tenant/Owner Relocation**

If the CDRLF is used in a project involving the rehabilitation, acquisition, or demolition of a property and, if any tenants or owners are required to relocate permanently or temporarily, both the project and the City are required to comply with the applicable relocation requirements

included in the Uniform Relocation Assistance and Real Property Acquisition Act (URA), Section 104(d).<sup>47</sup>

The URA is a federal law that establishes minimum standards for projects that require the acquisition of real property (real estate), or which displace persons from their homes, businesses, or farms. The URA provides important protections and assistance for people affected by the acquisition, rehabilitation, or demolition of real property for federally funded projects. Congress enacted this law to ensure that people whose real property is acquired, or who move as a direct result of projects receiving federal funds, are treated fairly and equitably and receive assistance in moving from the property they occupy.

In the event of a determination that a proposed project financed, in whole or in part, by the CDRLF triggers the URA, the following minimum protocols will be followed by the borrower and monitored by the City:

For Real Property Acquisition<sup>48</sup>

- a. Appraise the property before negotiations.
- b. Invite the property owner to accompany the appraiser during the property inspection.
- c. Provide the owner with a written offer of just compensation and a summary of what is being acquired.
- d. Pay for the property prior to taking possession.
- e. Borrowers reimburse property owner for expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.

For Residential Displacements

- a. Provide relocation advisory services to displaced tenants and owner occupants.
- b. Provide a minimum ninety (90) days written notice to vacate prior to requiring possession.
- c. Reimburse tenants and owner occupants for moving expenses.
- d. Provide payments for the added cost of renting or purchasing comparable replacement housing.

For Nonresidential Displacements (businesses and nonprofit organizations)

- a. Provide relocation advisory services to displaced commercial tenants.
- b. Provide a minimum ninety (90) days written notice to vacate prior to requiring possession.

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<sup>47</sup> 24 CFR 570.606; 49 CFR Part 24; and 24 CFR Part 42. [49 CFR Part 24](#) is the government-wide regulation that implements the URA. [HUD Handbook 1378](#) provides HUD policy and guidance on implementing the URA and 49 CFR Part 24 for HUD funded programs and projects.

<sup>48</sup> Voluntary Acquisition vs. Involuntary Acquisition of Property. Under the URA, an acquisition is considered to be involuntary when an agency acquires property under threat or use of eminent domain. Eminent domain is the power of the government to take private property for public purposes with payment of just compensation. The Fifth Amendment of the U.S. Constitution states that "private property shall not be taken without payment of just compensation" and that "no person shall be deprived of life, liberty, or property without due process of the law." These constitutional rights form the basis of the URA's protections for property owners. The URA's requirements for voluntary acquisitions and involuntary acquisitions differ significantly. While there are protections for property owners in both circumstances, only involuntary acquisitions trigger the full acquisition requirements of the URA found in 49 CFR Part 24 Subpart B.

- c. Reimburse commercial tenants for moving and reestablishment expenses.

### **Labor Standards Compliance**

Construction work that is financed in whole or in part with CDRLF funds must adhere to certain federal labor standards requirements.<sup>49</sup> Under these labor laws, the prime or general contractor is responsible for full compliance with applicable requirements, including all employers/subcontractors on the project. The City is responsible for the administration and enforcement of the requirements to ensure compliance.

New York State has labor laws that may also apply to CDRLF-funded construction projects. If federal and state laws differ, the more stringent of the two will be followed.

Four (4) labor laws<sup>50</sup> may apply to CDRLF-funded construction work including the following:

- (1) **The Davis-Bacon Act (40 USC, Chapter 3, Section 276a-276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7)**<sup>51</sup> is triggered when construction work over two thousand dollars (\$2,000) is financed in whole or in part with CDRLF funds. It requires that workers receive no less than the prevailing wages being paid for similar work in the same area.

Non-construction related activities will not cause Davis-Bacon to apply to the whole project. These are activities such as real property acquisition, procurement of furnishings, architectural and engineering fees, procurement of modular (industrialized) and manufactured housing components, and certain pieces of equipment that would not become permanently affixed to the real property. Contracts solely for demolition when no construction is anticipated on the site do not trigger Davis Bacon. Force account labor (i.e., construction conducted by municipal employees or, in certain instances, a subrecipient's employees) does not trigger Davis-Bacon.

Davis-Bacon does not apply to the rehabilitation or new construction of residential structures containing less than eight (8) housing units.

- (2) **The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3)**<sup>52</sup> requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.

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<sup>49</sup> Part 5 – Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to no construction contracts subject to the Contract Work Hours and Safety Standards Act). This Part concerns the responsibilities of Federal agencies in the administration and enforcement of Davis-Bacon wage requirements, Copeland Act anti-kickback, certified payroll, and wage payments requirements, and CWHSSA overtime provisions. Part 5 is likely the most relevant for HUD. It contains definitions and provisions that must be included in the contracts for all covered works, standards for contractor/subcontractor compliance, enforcement requirements and remedies, debarment proceedings, liquidated damages provisions for CWHSSA overtime violations, and reporting requirements, <https://www.law.cornell.edu/cfr/text/29/part-5>

<sup>50</sup> HUD has published two (2) guides that are available for downloading from its web site on labor standards requirements. These documents are “Making Davis Bacon Work: A Practical Guide for States, Indian Tribes and Local Agencies” and “Contractor’s Guide to Davis-Bacon: Prevailing Wage Requirements for Federally-Assisted Construction Projects.” Additional information is available on HUD’s website.

<sup>51</sup> <https://www.hud.gov/sites/documents/13441AII-4SECH.PDF>

<sup>52</sup> <https://www.hud.gov/sites/documents/CDBGCHAPTER16.PDF>

- (3) **The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240)**<sup>53</sup> applies to contracts over one hundred thousand dollars (\$100,000) and requires that workers receive overtime compensation [time and one-half (1.5) pay] for hours they have worked in excess of forty (40) hours in one week. Violations under this Act carry a liquidated damages penalty of ten dollars (\$10) per day per violation.
- (4) **Section 3 of the Housing and Urban Development Act of 1968**,<sup>54</sup> as amended requires the provision of opportunities for training and employment that arise through CDRLF-financed projects to lower-income residents of the project area. Also required is that contracts be awarded to businesses that provide economic opportunities for low- and very low-income persons residing in the area.<sup>55</sup>

Section 3<sup>56</sup> applies when the total amount of assistance to a project exceeds a threshold of two hundred thousand dollars (\$200,000). Training or employment arising in connection with a HUD-funded housing rehabilitation, housing construction, or other public construction project when assistance to the project exceeds two hundred thousand dollars (\$200,000) are subject to compliance with Section 3. Additionally, contracting opportunities arising in connection with projects are, to the greatest extent feasible, required to be given to business concerns that provide economic opportunities to low- or very low-income persons consistent with the Section 3 statute and regulations. Section 3 does not apply to material only contracts or those that do not require any labor. Professional service contracts for non-construction services that require an advanced degree or professional licensing are not required to be reported.

Per this statutory language, recipients of HUD funds (i.e., borrowers and contractors) used to assist housing and community development projects are, to the greatest extent feasible,<sup>57</sup> required, for construction-related training, jobs, and contracting opportunities, to give preference to low- and very-low income persons and to businesses that are owned by low- and very-low income persons or businesses that hire them. These opportunities are both gender and race neutral. This is accomplished through a set of metrics and standards outlined in the compliance checklist regulations.<sup>58</sup> These include, but are not limited to:

- i. Notifying potential borrowers, contractors, and subcontractors that are associated with Section 3 applicable projects and activities about the requirements of Section 3, including a Section 3 clause in every contract and subcontract subject to compliance with regulations in 24 CFR part 75, and

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<sup>53</sup> <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/safe01.pdf>

<sup>54</sup> <https://www.hud.gov/section3#:~:text=The%20Section%203%20program%20requires,and%20to%20businesses%20that%20pr>  
[provide](https://www.hud.gov/section3#:~:text=The%20Section%203%20program%20requires,and%20to%20businesses%20that%20provide)

<sup>55</sup> <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf>

<sup>56</sup> <https://www.hud.gov/sites/documents/11SECFAQS.PDF>

<sup>57</sup> <https://www.hud.gov/sites/documents/11SECFAQS.PDF>

<sup>58</sup> <https://www.charlottesville.gov/DocumentCenter/View/6152/HUD-Section-3-Final-Rule-Compliance-Review-Checklist>;  
<https://www.hudexchange.info/programs/section-3/section-3-guidebook/welcome/>

ensuring that any subcontractors also include this Section 3 clause in their subcontracts for work performed on the project.

- ii. Requiring borrowers and/or their respective contractors/subcontractors to maintain hiring and contracting practices to the greatest extent feasible so that twenty-five percent (25%) of the total labor hours expended on the project are by Section 3 workers, of which five percent (5%) are by targeted Section 3 workers as defined in 24 CFR part 75. As part of these practices, borrowers and/or their respective contractors/subcontractors shall agree to provide priority consideration to eligible residents and businesses in accordance with 24 CFR Part 75, as applicable. If the borrower and/or their respective contractor/subcontractors are not able to meet this benchmark goal, a narrative must be provided detailing efforts taken and supporting documentation explaining why this goal was not met despite the efforts made.

The HUD Section 3 Opportunity Portal<sup>59</sup> is intended to help local governments and Section 3 businesses meet their Section 3 obligations for employment and contracting. The site is to be used by either Section 3 workers or employers. Section 3 workers may use the site to search for jobs, post their profile/employment history for companies to search or post their business(es). Employers may use the site for posting opportunities, business(es), or to search for workers to fill positions.

### **Environmental Compliance Standards**

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. The environmental review process<sup>60</sup> is required for all CDRLF-assisted projects to ensure that the proposed project does not negatively impact the surrounding environment and that the property site itself will not have an adverse environmental or health effect on end users.

Not every project is subject to a full environmental review (i.e., every project's environmental impact must be examined, but the extent of this examination varies), but every project must comply with the National Environmental Policy Act (NEPA) and other related federal and state environmental laws including the NYS Environmental Quality Review Act (SEQRA).

Applicants must check with the CDO to make a joint determination as to the applicability of NEPA/SEQRA and any related environmental consultations or approvals necessary for their specific project. The applicant and the City are jointly responsible for determining compliance protocols and documenting the compliance process.

For all CDRLF applications, any out-of-pocket expenses associated with environmental compliance are the sole responsibility of the applicant.

### **Federal Compliance: NEPA Part 58**

Under Part 58, the City is deemed the “responsible entity” tasked with determining both the scope and content of the review and with making the necessary findings. The certifying officer of the

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<sup>59</sup> <https://hudapps.hud.gov/OpportunityPortal/>

<sup>60</sup> 24 CFR Part 58; 24 CFR 570.604

responsible entity, usually the Mayor, signs and assumes legal responsibility for the review. As the responsible entity, the City will accept public comments during any public comment period and approve the use of CDRLF assistance.

An environmental review must be performed before any funds, regardless of their source, are committed to a project. Documentation of the environmental review will be maintained in the environmental review record. This record contains the description of all activities that are part of the project and an evaluation of the effects of the project on the environment and vice versa.

### ***Timing the Review***

Once a project has become federally assisted (i.e., once a project sponsor has applied for funding via the CDRLF), HUD's regulations at 24 CFR 58.22 prohibit the CDRLF and potential borrowers from committing or spending CDRLF or non-CDRLF funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review. This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions. The restriction on undertaking or committing funds for choice-limiting actions does not apply to undertakings or commitments of non-federal funds before a project participant has applied for CDRLF funding. A party may begin a project in good faith as a private project and is not precluded from later deciding to apply for CDRLF assistance. However, when the party applies for CDRLF assistance, it will generally need to cease further choice-limiting actions on the project until the environmental review process is complete.

### ***Project Description***

A complete and clear project description is the foundation of the environmental review process. The project description should provide location specific information, geographic boundaries, and a delineation of all activities included in the overall scope of the project. The project description should capture the maximum anticipated scope of the proposal, not just a single activity that the money is going toward. It should include all contemplated actions that are a composite part of the project. Activities should be aggregated according to the regulations at 24 CFR Part 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities, specifically Part 58.32,<sup>61</sup> which says that the responsible entity must group together and evaluate as a single project all individual activities which are related on a geographical basis, a functional basis, or both, and which are logical parts of a composite of contemplated actions.

The project description for the environmental review may not be identical to the description of the project and activities used by the funding program as the project description in the environmental review may consider activities not financed by CDRLF.

If the project or environmental review contains information that can be considered sensitive, such as the location of a domestic violence shelter, sacred site, or endangered species habitat, it should be omitted from the publicly reviewable environmental review record.

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<sup>61</sup> <https://www.law.cornell.edu/cfr/text/24/58.32>

### ***Level of Review***

Once the scope of the project is known, the City will determine the appropriate level of environmental review. There are five (5) levels of review:

#### **Level One: Exempt – Part 58 applies to CDRLF-relevant eligible activities listed at 24 CFR 58.34(a)<sup>62</sup>**

- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration.

#### **Level Two: Categorically excluded from NEPA<sup>63</sup> – Applies to CDRLF-relevant eligible activities listed at 24 CFR 58.35(b) (Part 58)**

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances [see § 58.2(a)(3)]<sup>64</sup> in which a normally excluded activity may have a significant impact.

- (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- (3) Rehabilitation of buildings and improvements when the following conditions are met:
  - a. In the case of a building for residential use [with one (1) to four (4) units], the density is not increased beyond four (4) units, and the land use is not changed.
  - b. In the case of multifamily residential buildings:
    - i. Unit density is not changed more than twenty percent (20%).
    - ii. The project does not involve changes in land use from residential to non-residential; and
    - iii. The estimated cost of rehabilitation is less than seventy-five percent (75%) of the total estimated cost of replacement after rehabilitation.
  - c. In the case of non-residential structures, including commercial, industrial, and public buildings:
    - i. The facilities and improvements are in place and will not be changed in size or capacity by more than twenty percent (20%); and
    - ii. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- (4)
  - a. An individual action on up to four (4) dwelling units where there is a maximum of four units (4) on any one site. The units can be four (4) one-unit buildings or one (1) four-unit building or any combination in between; or

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<sup>62</sup> <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-D/section-58.34>

<sup>63</sup> <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-D/section-58.35>

<sup>64</sup> Extraordinary circumstances are defined in HUD regulations at 24 CFR 58.2(a)(3) as follows: Actions that are unique or without precedent; Actions that are substantially similar to those that normally require an EIS; Actions that are likely to alter existing HUD policy or HUD mandates; or Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

- b. An individual action on a project of five (5) or more housing units developed on scattered sites when the sites are more than two thousand (2,000) feet apart and there are not more than four (4) housing units on any one site.
  - c. Paragraphs (4)(a) and (b) of this section do not apply to rehabilitation of a building for residential use [with one (1) to four (4) units] [see paragraph (3)(a) of this section].
- (5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
  - (6) Combinations of the above activities.

Compliance with the other applicable federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in this section.

**Level Three: Categorical exclusions not subject to § 58.5<sup>65</sup> – Applies to CDRLF-relevant eligible activities**

The following categorically excluded activities would not alter any conditions that would require an environmental review or compliance determination under the federal laws and authorities cited in § 58.5:

- (4) Economic development activities, including but not limited to, equipment purchases, inventory financing, interest subsidies, operating expenses and similar costs not associated with construction or expansion of existing operations.
- (5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.
- (6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

***Circumstances requiring NEPA review.***

If a responsible entity determines that an activity or project identified in this section, because of extraordinary circumstances<sup>66</sup> and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

Compliance with the other applicable federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in this section.

**Level Four: Environmental Assessment<sup>67</sup> (EA)**

- a. All other projects (Part 58).

<sup>65</sup> <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-D/section-58.35>

<sup>66</sup> 24 CFR 58.35(c); <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-D/section-58.35>

<sup>67</sup> <https://www.hudexchange.info/programs/environmental-review/environmental-assessments/>

- b. Applicable to both projects and activities not covered under a categorical exclusion or exemption.
- c. Also applies when extraordinary circumstances<sup>68</sup> exist and elevates the level of review.

**Level Five: Environmental Impact Statement<sup>69</sup> (EIS)**

- a. Required when an environmental assessment concludes in a Finding of Significant Impact.
- b. Applies when the complexity of the project exceeds the scope of an environmental assessment.
- c. Applies when extraordinary circumstances<sup>70</sup> exist and elevate the level of review.
- d. Required when noise levels exceed seventy-five (75) decibels (unacceptable noise zone).
- e. Also required when noise levels are between sixty-five (65) and seventy-five (75) decibels (normally unacceptable noise zone) and the project site is largely undeveloped or will encourage incompatible development.
- f. See 24 CFR 58.37 or 24 CFR 50.42.
- g. Required for projects involving two-thousand, five hundred (2,500) or more housing units or beds.

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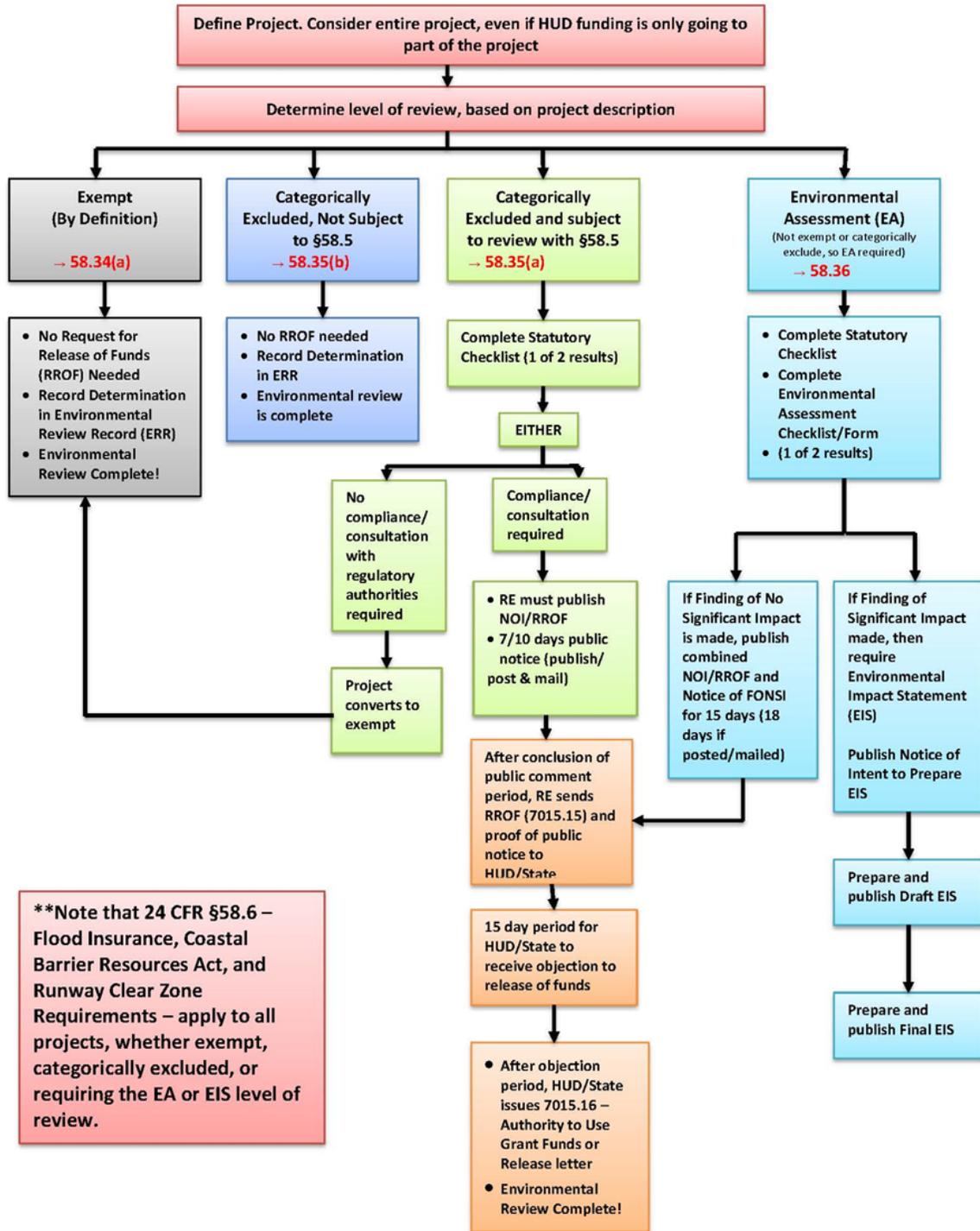
<sup>68</sup> 24 CFR 58.35(c); <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-D/section-58.35>

<sup>69</sup> <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-D/section-58.37>

<sup>70</sup> 24 CFR 58.35(c); <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-D/section-58.35>

**Table 8: NEPA Environmental Review Process**

## Environmental Review Process (To Be Conducted by Responsible Entity)



**\*\*Note that 24 CFR §58.6 – Flood Insurance, Coastal Barrier Resources Act, and Runway Clear Zone Requirements – apply to all projects, whether exempt, categorically excluded, or requiring the EA or EIS level of review.**

## **NYS Environmental Review Act (SEQRA) Compliance<sup>71</sup>**

Both the City and the applicant must also demonstrate compliance with NYS Environmental Review regulations. SEQRA establishes a process to systematically consider environmental factors early in the planning stages of actions that are directly undertaken, funded, or approved by local, regional, and state agencies. By incorporating environmental review early in the planning stages, projects can be modified as needed to avoid adverse impacts on the environment.

The NEPA and SEQRA processes and consultations are remarkably similar, but not exactly so. While the required documentation may overlap, the determination of the level of review is quite different. Accordingly, it is essential that a SEQRA determination be made separately.

If the decision is made that the activity is one that is subject to SEQRA review, the next step in the process is to determine what classification of action is being analyzed.

The action will fall into one of the following three (3) categories:

- a. Type I – a list of actions, described in 6 CRR-NY 617.4, that experience has shown are more likely to have significant adverse environmental impacts.
  - i. If more than one agency engages in the review of a Type I action, a coordinated review is required, and a lead agency must be established. A full Environmental Assessment Form (EAF) must be completed.
  - ii. Type I actions include: non-residential projects physically altering ten (10) or more acres of land; zoning changes affecting twenty-five (25) or more acres of land; and adopting land use plans (e.g., comprehensive plan). For a full list of Type I actions see SEQRA regulations, 6 CRR-NY 617.4.
  - iii. For Type I actions, the next step is to systematically consider environmental factors involved with the action to make a reasoned determination regarding the likelihood that the action may have a significant adverse impact on the environment. The SEQRA tool used to make this determination is the EAF. If a significant adverse impact is likely to occur, an Environmental Impact Statement (EIS) is prepared to explore ways to avoid or reduce adverse environmental impacts or to identify a potentially less damaging alternative. If, on the other hand, the determination is made that the proposed action will not significantly impact the environment, then a negative declaration is prepared, which ends the SEQRA process.
- b. Type II – a list of actions, described in 6 CRR-NY 617.5, that have been determined not to have significant adverse environmental impacts.
  - i. Type II actions are actions that NYS Department of Environmental Conservation (DEC) has determined will not have a significant adverse impact on the environment. Therefore, no further SEQRA review is required.
  - ii. Type II actions include: constructing, expanding or granting area variances for a single one (1), two (2), or three (3) family dwellings; constructing or expanding a primary, non-residential structure with less than four thousand (4,000) sq. ft. of gross floor area; non-discretionary approvals like building permits; interpreting existing codes, rules or regulations; minor maintenance

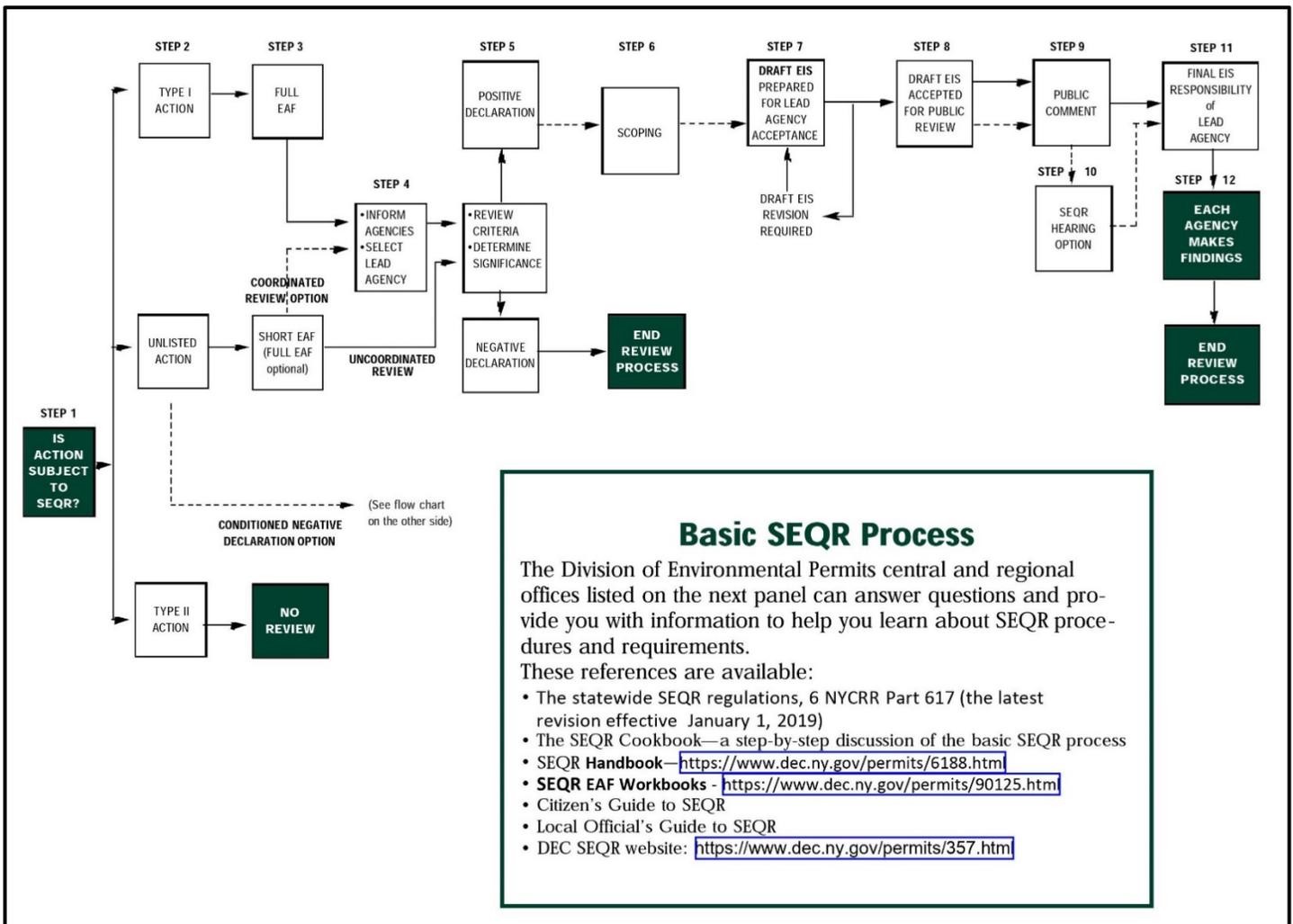
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<sup>71</sup> [https://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/seqrhandbook.pdf](https://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf); <https://www.dec.ny.gov/permits/36860.html>

- and repair activities; construction of garages, fences, home swimming pools; routine permit/license renewals; granting a request for a single setback, lot line variance and adjustments; and agricultural practices including farm building construction.
- iii. For a full list of Type II actions see SEQRA regulations, 6 CRR-NY 617.5.
  - iv. If the action is classified as Type II, SEQRA is satisfied, and no further action is required.
    - v. However, the agency should succinctly document its Type II classification and the rationale for such classification in writing.
  - c. Unlisted – all actions that are not Type I or Type II. This is the vast majority of actions that come under SEQRA review.
    - i. Unlisted actions are those actions not included in any statewide or individual agency lists of Type I or Type II actions. Unlisted actions require a SEQRA review since they range from minor zoning variances to complex construction activities that fall just below the threshold for Type I actions. At minimum, a short EAF must be completed. If more than one agency participates in the review, a coordinated review is optional.
    - ii. For Unlisted actions, the next step is to systematically consider environmental factors involved with the action to make a reasoned determination regarding the likelihood that the action may have a significant adverse impact on the environment. The SEQRA tool used to make this determination is the EAF. If a significant adverse impact is likely to occur, an EIS is prepared to explore ways to avoid or reduce adverse environmental impacts or to identify a potentially less damaging alternative. If, on the other hand, the determination is made that the proposed action will not significantly impact the environment, then a negative declaration is prepared, which ends the SEQRA process.

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**Table 9: SEQRA Environmental Review Process**



### Special Flood Hazard Area

If CDRLF funds are used for rehabilitation of real property located within the Special Flood Hazard Area (SFHA), assisted properties must be in compliance with the flood insurance purchase and community participation requirements at Sections 102(a) and 202(a) of the Flood Disaster Protection Act of 1973, as amended, and at 24 CFR 570.605 and 24 CFR 570.509(c)(4)(iv).<sup>72</sup>

Applicants must consult with the CDO to make a joint determination as to the applicability of federal/state/local floodplain regulations, together with any related consultations, flood insurance requirements or approvals necessary for their specific project. The applicant is jointly responsible with the City to 1) determine compliance protocols; and 2) document the compliance process. Any

<sup>72</sup> 24 CFR 570.605 and 24 CFR 570.509(c)(4)(iv); <https://www.hudexchange.info/programs/environmental-review/floodplain-management/>; <https://www.ecfr.gov/current/title-24/part-55>

out-of-pocket expenses associated with floodplain compliance are the sole responsibility of the applicant.

The CDRLF may require borrowers to obtain a “Life of Loan Flood Certificate.”

Executive Order 11988 - Floodplain Management (EO 11988)<sup>73</sup> requires federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. The Federal Emergency Management Agency (FEMA) designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area. The FEMA Map Service Center provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs) and/or Flood Hazard Boundary Maps.

HUD’s regulations in 24 CFR Part 55 outline HUD’s procedures for complying with EO 11988. Part 55 applies to all HUD actions that could be harmed or cause harm if located in a floodplain including, but not limited to, proposed acquisition, construction, demolition, improvement, disposition, and financing actions under any HUD program. The purpose of Part 55 is not in most cases to prohibit actions in a floodplain, but to provide the method for HUD projects to comply with EO 11988 and avoid unnecessary impacts.

For more information on basic responsibilities and definitions, refer to 24 CFR 55.1 and 55.2. For more detailed information on the different types of floodplains, see FEMA Flood Zones.<sup>74</sup>

### **Critical Actions<sup>75</sup>**

Critical action means any activity for which even a slight chance of flooding would be too great because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain, or extend the useful life of those structures or facilities that:

- a. Produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials.
- b. Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or
- c. Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events (e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers). Housing for independent living for the elderly is not considered a critical action.

Critical actions shall not be approved in floodways or coastal high hazard areas.

### **Non-Critical Actions (not defined in Part 55)**

Although Part 55 does not contain elevation requirements for non-critical actions, projects involving new construction and substantial improvements as defined in 24 CFR 55.2(b)(10)<sup>76</sup> must

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<sup>73</sup> <https://www.fema.gov/glossary/executive-order-11988-floodplain-management>

<sup>74</sup> <https://www.fema.gov/glossary/flood-zones>

<sup>75</sup> [https://www.ecfr.gov/current/title-24/part-55#p-55.2\(b\)\(3\)](https://www.ecfr.gov/current/title-24/part-55#p-55.2(b)(3))

<sup>76</sup> <https://www.ecfr.gov/current/title-24/subtitle-A/part-55>

be elevated or, for nonresidential structures, floodproofed to the base flood elevation of the floodplain in order to get flood insurance from FEMA.

If the project involves new construction or substantial improvement as defined in 24 CFR 55.2(b)(10), National Flood Insurance Program (NFIP) regulations require that the affected structure(s) be elevated to the base flood elevation. State or local law or program policy may require additional elevation (or “freeboard”) beyond the minimum elevation requirements set by FEMA.

#### Complying with 24 CFR Part 55

The City and the applicant are jointly responsible for documenting compliance with federal, state, and local floodplain regulations.

Step 1: Determine whether any of the exceptions at 55.12(c) apply.

Step 2: Determine whether the project site contains a floodplain.

Step 3: Determine if the 8-Step Process is required.

Step 4: Complete the 8-Step Process and identify mitigation requirements.

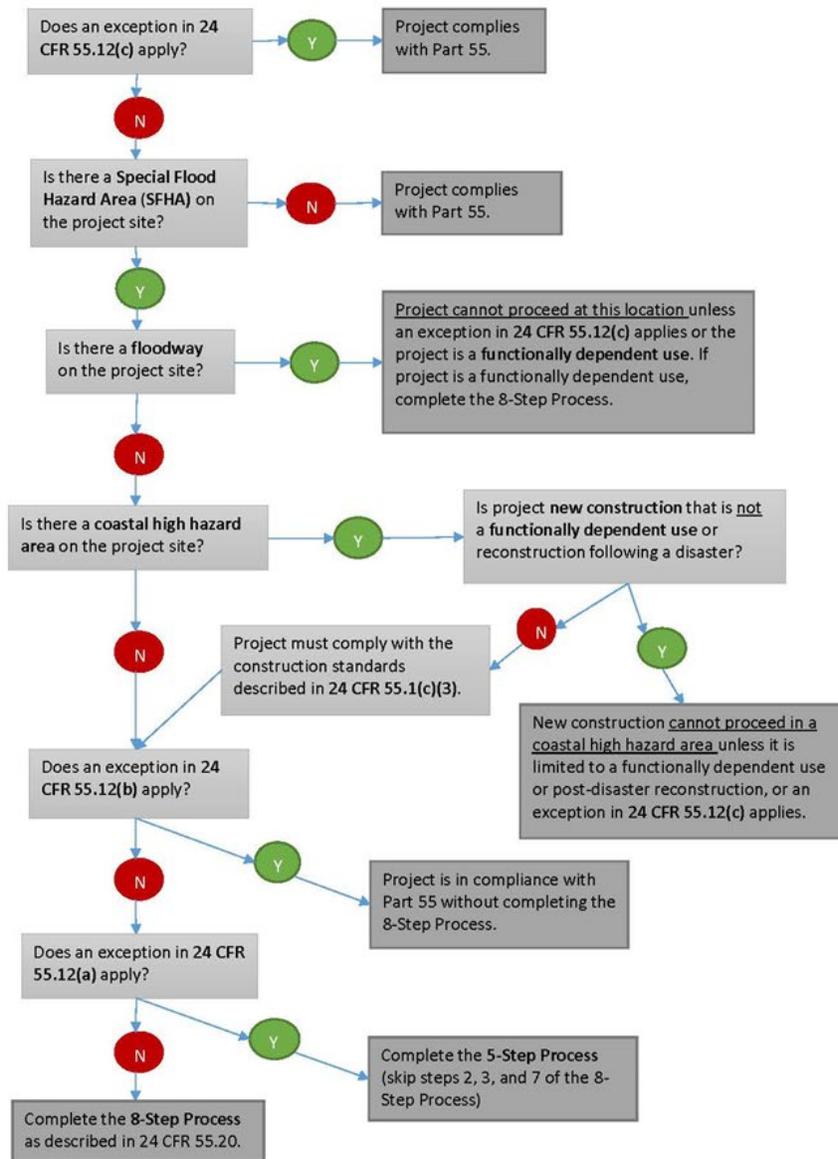
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**Table 10: Part 55 Floodplain Management Compliance – Non-Critical Actions**

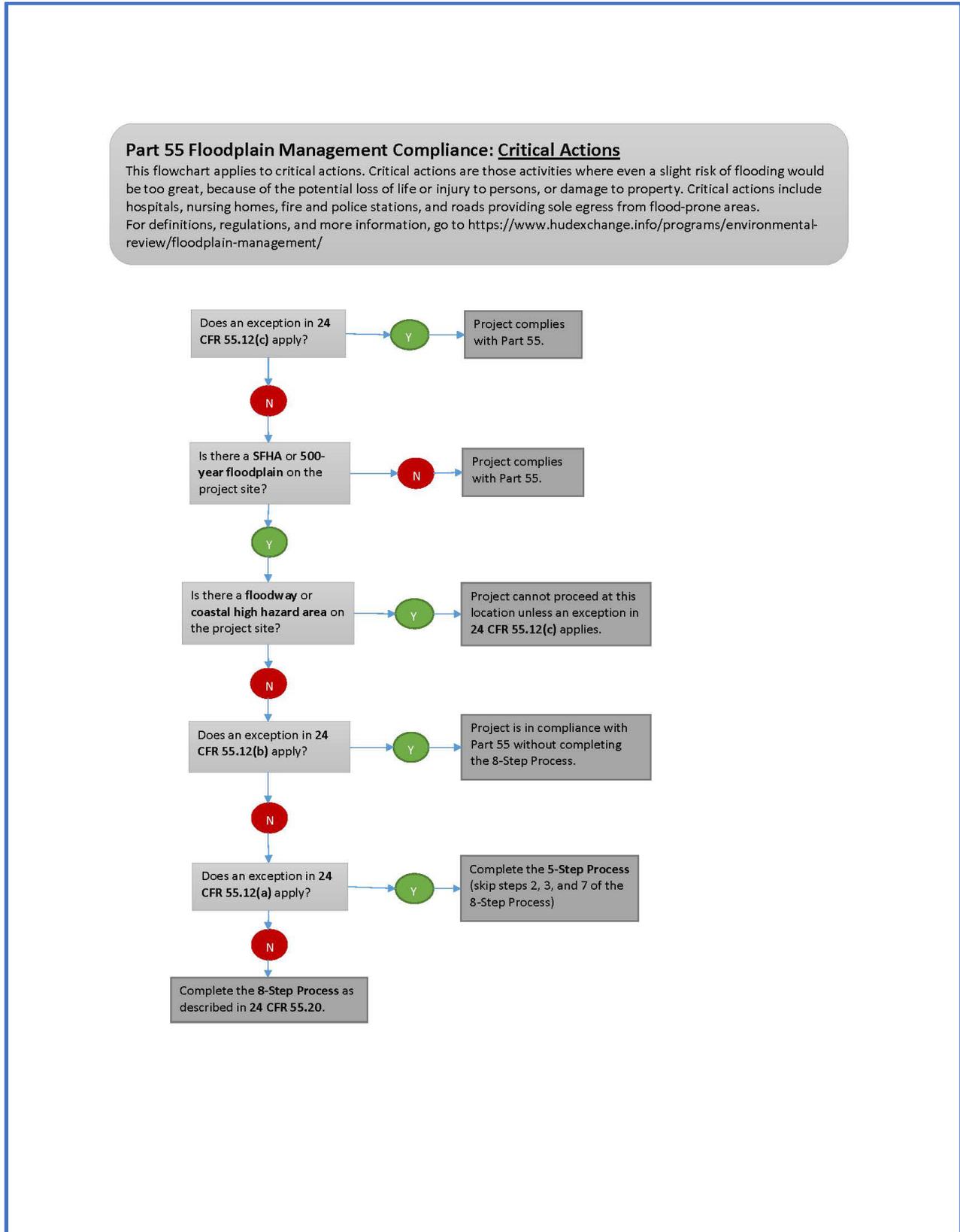
**Part 55 Floodplain Management Compliance: Non-Critical Actions**

This flowchart applies to actions that are not critical actions (e.g. hospitals, fire stations, roads providing sole egress from flood-prone areas). Non-critical actions include housing, community centers, independent living for the elderly, and commercial activities.

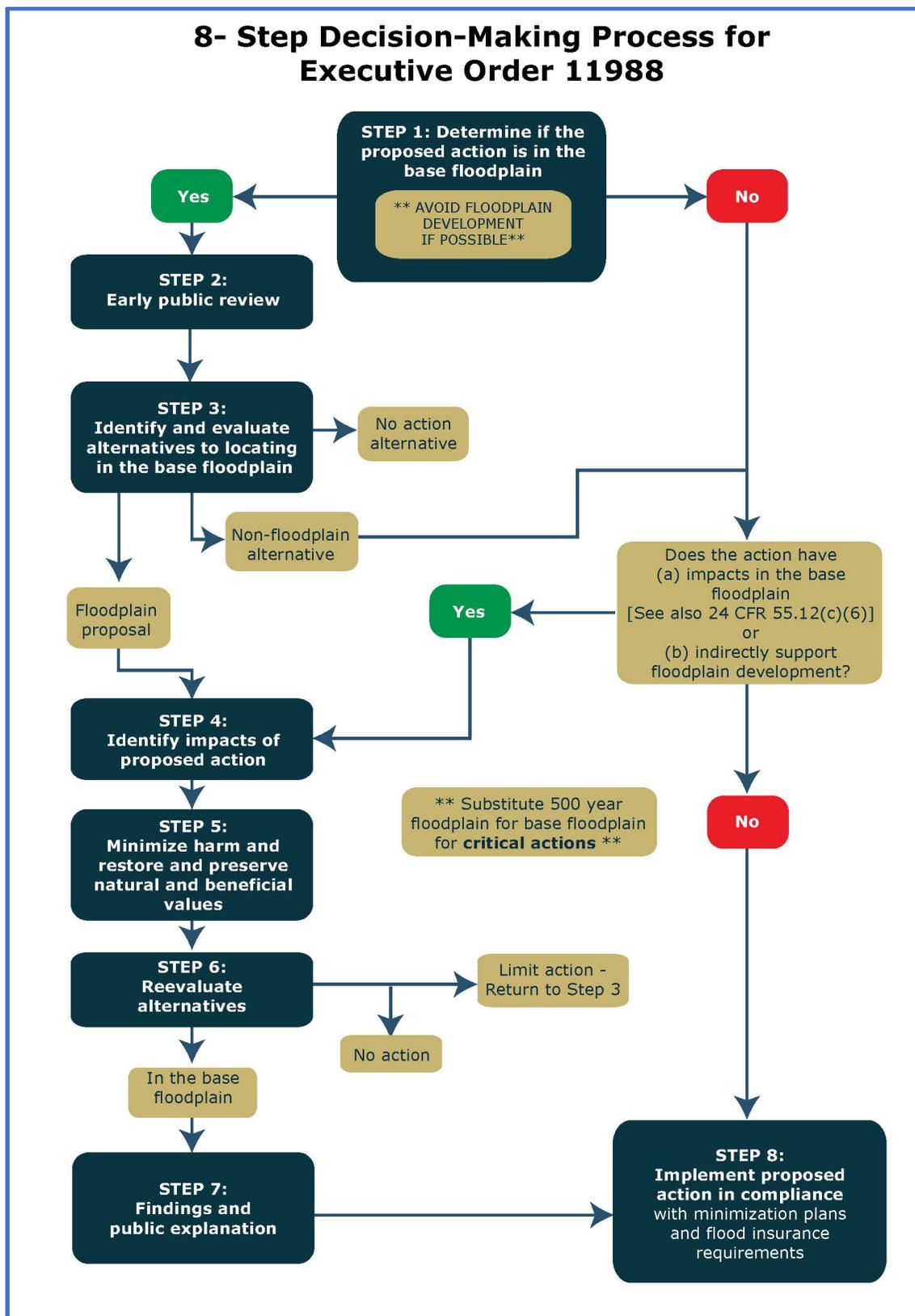
For definitions, regulations, and more information, go to <https://www.hudexchange.info/programs/environmental-review/floodplain-management/>



**Table 11: Part 55 Floodplain Management Compliance – Critical Actions**



**Table 12: 8-Step Decision-Making Process for EO11988**



## **Public Benefit Standards (Economic Development Activities)**

The CDBG authorizing statute<sup>77</sup> requires that eligible economic development activities (described and noted in this PPM) and undertaken by for-profit, private businesses, must meet standards established by HUD public benefit regulations set forth in 24 CFR 570.482(f).<sup>78</sup> It should be noted that the requirement for meeting the public benefit standards is a basic eligibility issue for assistance to private, for-profit entities and should not be confused with the requirements concerning the meeting of a HUD national objective. Meeting these public benefit standards are required in addition to meeting national objectives for eligibility.

### **The Standards**

Public benefit standards for individual economic development projects set limits on the maximum allowable loan per jobs created or retained. Currently, CDRLF loans cannot exceed \$50,000 per full-time equivalent, permanent job created or retained by the project and/or a maximum of \$1,000 per LMI person to which goods or services are provided by the activity. If an individual economic development project will both create/retain jobs and provide goods/services to LMI persons, the activity will only be disqualified if both amounts are exceeded [i.e., the activity may exceed one limit and not the other per 24 CFR 570.482(f)(5)(i)].

## **Real Estate Lending: Construction-Related Loan Processing Protocols**

The City will manage construction related CDRLF loans in a manner that ensures transparency, risk reduction, and prudent administration of public funds. These protocols include but are not limited to the following tasks.

### **Real Property Ownership**

The applicant must provide:

1. Proof of clear title to the property as evidenced by a warranty deed, current abstract of title, and/or title insurance.
2. Proof of all encumbrances, in the form of judgments, liens (including tax liens), and mortgages on the property.
3. Verification of the value of the property, in the form of current [six (6) months old or less] appraisals or assessed valuation.

### **Construction Contract Required**<sup>79</sup>

The borrower will use a written contract in a form approved by the City to outline the terms and conditions of the use of loan funds associated with any construction underwritten by the program. The construction contract will contain either a list of all the work to be performed, or will refer to some other document (e.g., a scope of work) that lists all the work to be performed. The contract will also include the cost of the work to be performed and name all of the contractors and/or subcontractors responsible for performing each item of work.

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<sup>77</sup> <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-State-National-Objectives-Eligible-Activities-Appendix-C.pdf>

<sup>78</sup> <https://www.law.cornell.edu/cfr/text/24/570.482>

<sup>79</sup> 24 CFR 570.502(a)(6); 24 CFR 85.22 (2013 edition)

### **Property Insurance**

All borrowers utilizing the CDRLF for property improvements will be required to present evidence of current fire insurance and, if applicable, extended coverage endorsement(s) equal to, at a minimum, the amount of the loan.

### **Flood Insurance**

Property owners located within SFHA, as designated by the maps issued by FEMA for the purpose of the NFIP, are required to purchase and maintain flood insurance for their property. Prior to receiving CDRLF assistance, the current FEMA maps will be reviewed to determine if the property is located in a floodplain area. If a property is located within a SFHA, the borrower must obtain flood insurance in an amount equal to or greater than the amount of the loan and must maintain said insurance for the life of the loan. The borrower must provide evidence of flood insurance to the City in the form of certificate of insurance that lists the City as an additionally insured party.

### **Tenant/Owner Relocation Standards**

Loan funds used in a project involving the rehabilitation, acquisition, or demolition of a property where any tenants or owners are required to relocate permanently or temporarily must follow the applicable relocation requirements [e.g., the URA, Section 104(d)].<sup>80</sup>

### **General Construction/Rehabilitation Standards**

The CDRLF provides funding for several types of housing and economic development projects that involve rehabilitation undertaken by the applicant. These include owner-occupied, investor-owned, multi-family renter-occupied, single family, mixed use, and non-residential real estate. In all cases, compliance with the regulations and guidelines cited in this document must be adhered to in order to qualify for rehabilitation loans. LMI eligibility documentation is covered in a previous section for both owner-occupied and rental rehabilitation projects.

### **Sweat Equity**

The City may permit the inclusion of Sweat Equity, defined as unpaid labor to be completed by the applicant, when evaluating a loan application. Such determinations shall be made upon evaluation of capacity, competency, and necessity associated with the specific project, as well as a detailed breakdown of objective tasks and anticipated hours required to complete said tasks.

### **Historic Properties**

If the property is located in a historic district, or on a property listed on the National or State Register of Historic Places, the plans for the rehabilitation work are subject to a review for compliance with federal and state historic preservation requirements including those of the New York State Historic Preservation Office (SHPO).

### **Code Compliance**

A rehabilitation loan is made to cover the cost of rehabilitation necessary to bring a substandard property, as defined by HUD regulations, up to standard condition.<sup>81</sup> A substandard housing unit is defined by HUD as a housing unit in which one (1) or more of the following is true:

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<sup>80</sup> 24 CFR 570.606, 49 CFR 24 and 24 CFR Part 42

<sup>81</sup> <https://www.govinfo.gov/content/pkg/CFR-2000-title24-vol1/xml/CFR-2000-title24-vol1-sec5-425.xml>

- a. Is dilapidated.
- b. Does not have operable indoor plumbing.
- c. Does not have a usable flush toilet inside the unit for the exclusive use of a family.
- d. Does not have a usable bathtub or shower inside the unit for the exclusive use of a family.
- e. Does not have electricity or has inadequate or unsafe electrical service.
- f. Does not have a safe or adequate source of heat.
- g. Should, but does not, have a kitchen.
- h. Has been declared unfit for habitation by an agency or unit of government.

All repairs financed, in whole or in part, by a rehabilitation loan must, at a minimum, conform to the Residential Code of New York State. The plans and specifications for the improvements must be approved by the City's Code Enforcement Officer.

### **Section 8 Housing Quality Standards**

Please note that housing defined as "substandard but suitable for rehabilitation" includes, as a minimum, those units that do not meet Section 8 Existing Housing Quality Standards. The term "standard" refers to units that do not meet the local definition of substandard.<sup>82</sup>

### **Relocation – Temporary or Permanent**

If relocation is necessary, it will be implemented in accordance with the URA, as amended. In addition, housing counseling services will be provided to the relocating family in accordance with the Residential Anti-Displacement and Relocation Plan (RADRP)<sup>83</sup> to be developed and adopted by the City in the event a relocation is needed.

The City has the option of preparing a generic RADRP or effectuating one on a case-by-case basis.

In the event a loan applicant anticipates relocation subject to the URA, the applicant will cause to be prepared a project specific RADRP that is both in conformance with the URA and satisfactory to the City (HUD provides a template<sup>84</sup> for the applicant to use in the event one is needed).

### **Mobile Home Replacement**

Mobile home replacement will be considered when conditions are so severe that it is better to replace the unit rather than to rehabilitate it. There must be evidence that the cost of the rehabilitation is more than the cost to purchase a used mobile home in standard condition. Mobile home replacement will occur in a manner that prevents relocation or displacement of the family. Mobile home replacement will only occur when the applicant possesses deeded ownership of the site on which the mobile home is located and when site conditions meet all requirements of the NYS Residential Code and all other rules and regulations. Replacement units will be new, Energy Star rated manufactured homes installed on permanent foundations.

If a mobile home was manufactured after 1994, evidence of the original title certificate to verify ownership will be required.

### **Eligible Repairs**

The overall objective of the CDRLF is to allow the City's residents an affordable means to reside in decent, safe, and sanitary housing. Therefore, priority is given to those repairs which will

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<sup>82</sup> See 24 CFR 91.205(b).

<sup>83</sup> [https://www.hud.gov/sites/documents/DOC\\_16273.PDF](https://www.hud.gov/sites/documents/DOC_16273.PDF)

<sup>84</sup> [https://www.hud.gov/sites/documents/DOC\\_16273.PDF](https://www.hud.gov/sites/documents/DOC_16273.PDF)

eliminate structural deficiencies and inadequacies, and which will bring the property up to standard condition. Ineligible repairs are those which are purely cosmetic or aesthetic in nature and which have no bearing on the health and safety of the occupants.

Eligible repairs and bid specifications for a specific project will be described in a written document entitled the Work Write-Up (WWU) for all properties to be rehabilitated. A template for the WWU is to be provided in the Forms Workbook appended to this PPM. All loans shall be sufficient to make the property decent, safe, and sanitary by providing for the correction of all code violations and basic health and safety needs.

### **Health and Safety Items**

Improvements which ensure the health and safety of the occupants or assist in preventing neighborhood blight are eligible for funding, as are exterior repairs that increase the life of the structure. These eligible improvements and repairs include, but are not limited to:

- a. Repair or replacement of inefficient or dangerous heating systems.
- b. Repair or upgrading of electrical systems and fixtures.
- c. Replacement of defective plumbing, including defective sinks, tubs, and toilet facilities.
- d. Elimination of all serious insect and rodent infestations.
- e. Creation of safe exit ways.
- f. Insulation and attic insulation to NYS Energy Code standards.
- g. Hardwired smoke detectors.
- h. Removal of all blighted exterior conditions.
- i. Walls, ceilings, and floors.
- j. Roof, gutters, and downspouts.
- k. Chimneys.
- l. Foundations.
- m. Room additions to overcrowded houses.
- n. Repairs to mobile homes, if said homes are primary places of residence and are permanently located, can be considered as real property.

In accordance with the HUD LBP Regulation (24 CFR Part 35), rehabilitation work on housing built before 1978 that is financially assisted by the federal government is subject to requirements that will control LBP hazards. At the very least, any painted surface that is disturbed during the work will be repaired. Deteriorated paint, which includes the correction of moisture leaks or other obvious causes of paint deterioration, will be stabilized. A risk assessment to identify LBP hazards and perform interim control measures to eliminate any hazards that are identified will be performed. In lieu of a risk assessment, standard LBP treatments throughout a unit will be performed.

### **Ineligible Repairs**

The following list is illustrative and, if an item is not explicitly noted as ineligible, it does not mean it is categorically eligible. The City will be the final arbiter of whether a repair is eligible or not. Ineligible improvements and repairs include, but are not limited to, the following:

- a. Reimbursement for an owner's personal labor.
- b. Room additions and extensions (unless family size demands it).
- c. Appliances.
- d. Purchase, installation, or repair of furnishings.

- e. Demolition that does not improve the existing structure.
- f. Interior wood paneling.
- g. Bookcases.
- h. Barbecue pits/outdoor fireplaces.
- i. Bath houses, swimming pools, saunas, and hot tubs.
- j. Burglar alarms.
- k. Dumbwaiters.
- l. Flower boxes, greenhouses, and greenhouse windows.
- m. Kennels.
- n. Photo murals.
- o. Steam cleaning of exterior.
- p. TV antennas.
- q. Tennis courts.
- r. Valances, cornice boards, and drapes.
- s. Wallpaper or paneling on walls which are in good condition.
- t. Decorative bathroom fixtures and improvements.
- u. New fences.
- v. New driveways or walkways for use by non-handicapped occupants.
- w. Landscaping, except for grading or filling.

### **Contractor Selection Policies and Procedures**

For construction-related work, the borrower will use a contractor who meets the experience, insurance, and financial requirements of the City. The City's approval of a contractor for participation in the program is not a representation or guarantee by the City that the contractor will properly perform the work and complete the work called for under the contract.

A list of all eligible contractors will be maintained by the City and kept current. All contractors who receive payment through the CDRLF must present evidence of a range of liability and worker's compensation insurance which protects both the owner and the property. Contractors with poor performance records, unreliable references, a record of not honoring warranties, and those listed as disbarred by any governmental entities<sup>85</sup> will not be eligible to participate in the CDRLF. Additionally, contractors engaged in active litigation against the City, its agencies, departments, or independent boards, shall not be eligible for participation in the CDRLF.

A contractor may be removed from the list of eligible contractors. Examples of causes of removal from the eligibility list include, but are not limited to, the following:

- a. Non-performance of contract.
- b. Insufficient credit.
- c. Inability to complete jobs in a timely manner.
- d. Inability to work amicably with the property owners and/or the City.
- e. Inability to perform quality construction work.

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<sup>85</sup> 24 CFR 570.609; 2 CFR Part 180; 2 CFR Part 2424

### **Contractor Dispute Resolution**

Prior to engaging in litigation, the parties are encouraged to seek binding or non-binding mediation or arbitration in which both parties shall equally share the cost of the dispute resolution process, although personal attorneys, witnesses, and specialists are the direct responsibility of each party, and their fees and expenses shall be the responsibility of the individual parties.<sup>86</sup>

In the event mediation or arbitration is not successful, the parties may pursue litigation.

### **Construction-Related Procurement**

Participants in the CDRLF will follow the procurement standards outlined in this manual which are based, in part, upon the loan amount associated with construction.<sup>87</sup>

### **Bid Process**

The CDO will ensure that all contractors are notified by mail when they have been selected to bid on a project. Cover letters requesting bids with the WWU will be mailed to all selected contractors at the same time. All contractors receiving bid request letters will receive identical copies of the WWU. All bids are due at the date and time listed on the bid request letter but, generally, contractors shall have twenty-eight (28) calendar days to submit a bid. Any bids received after the date and time listed in the bid request letter cannot be considered.

If a borrower wishes to consider a late bid, the entire project must be rebid to allow all contractors an equal opportunity. In that event, new bid request letters with the new due date will be mailed to all selected contractors. Those contractors that had previously submitted a bid may revise their bid or resubmit the same bid.

All bids submitted must include a total bid price and itemized costs which correspond with the breakdown included in the WWU. Failure to do so may be grounds for rejection of the bid.

Every effort will be made to ensure that each contractor possesses the same understanding of the scope of work involved and the methods expected to be used for each item in the scope.

Contractors may be present at the time of bid opening and may view all bids at that time. The City should either have a representative present at the time of the bid opening or designate an appropriate agent to accept bids. The lowest responsible bid is not necessarily determined during the bid opening. All bids shall be reviewed by the City and the borrower prior to the award of the lowest responsible bid.

If the bids received exceed the funds available, the borrower, in consultation with the City, may eliminate items from the schedule of alternate items, if such a schedule is included in the WWU, prior to award of the lowest responsible bid. If the bids received exceed the funds available and a schedule of alternate items was not included in the WWU, the borrower may not eliminate items from the WWU prior to award of the lowest responsible bid and must either award the lowest responsible bidder all work included in the WWU or reject all received bids. The lowest responsible bid will be determined by the total of items to be performed under the contract, not necessarily the total of all items, including alternate items, requested for bids on the WWU.

It is the borrower's responsibility, in consultation with the City, to accept or reject each bid as either complete/valid or incomplete/invalid. Contractors will be notified by mail of the acceptance

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<sup>86</sup> 24 CFR 84.41 and 85.36(b)(12) (2013 edition); 2 CFR 200.318(k)

<sup>87</sup> 24 CFR 570.502(a)(6); 24 CFR 85.22 (2013 edition)

or rejection of their bid. If none of the received bids are deemed by the borrower to be complete/valid, the project should be rebid.

### **Contractor Approval and Payment Procedures**

The City shall approve the cost of the work before the borrower enters a contract for construction. All construction contracts shall include language stating that the borrower understands and agrees that the City is not in any way representing or guaranteeing that the work to be performed can or will be accomplished for the approved construction cost amount. The City may advise the borrower in the selection of a contractor, though responsibility for contractor selection will remain with the borrower.

The contractor that submitted the lowest responsible bid will meet with the borrower prior to the execution of a contract to review the proposed bid and ensure that all parties to have a clear understanding of the scope of work.

### **Drawdown Schedule and Schedule of Values**

As part of the Loan Closing documents, the contractor and borrower, in consultation with the City, will prepare a drawdown schedule that closely reflects the construction milestones and, ultimately, the actual value of work completed. As part of the construction contract, a schedule of values will be developed by the contractor and approved by the borrower in consultation with the City. The drawdown schedule will require a five percent (5%) retainage for each phase of the work identified. Final payment will be made upon completion of all work specified in the construction contract. All payments for work completed by contractors will be made payable to the borrower. The borrower, in turn, shall make payment to the contractors.

The borrower, in consultation with the City, will inspect all work prior to issuing payment to the contractor. Documentation in the form of photographs, videos, and comparison to the scope of work should be provided to the City. The borrower, in consultation with the City, will confirm that the actual cost of the work components is documented. The borrower or their authorized representative must approve each payment and maintain payment disbursement records.

### **Change Orders**

If, during the course of construction, it is found that additional work is necessary, the contractor shall inform both the borrower and the City, and a change order will be filed. In consultation with the City, the borrower shall review the change order to ensure that the scope and cost of the change order appear reasonable. The cost of all additional work must be agreed upon by the borrower and the City prior to the addition of said work to the contract.

### **Final Completion**

All contractors will be required to furnish the borrower with a one (1) year warranty of all work performed. Contractors and their employees performing lead hazard reduction activities are required to be properly certified for such work and proof of said certification will be kept on file.

All contractors will be required to supply a certification of completion of all work in accordance with the construction contract, including a Certificate of Occupancy issued by the City.

Final inspection of the work will be conducted by the borrower, in consultation with the City, after the receipt of the aforementioned certification. Documentation in the form of photographs, videos, and a comparison to the scope of work should be provided to the City at the completion of the project.

## **Construction Supervision and Management**

Note: If the borrower retains a registered architect to undertake development and supervision of a construction project, the City will consider allowing the registered architect to assume specific duties normally performed by the City including construction supervision, management, and payment approval.

The City will assume fiduciary responsibility for the activities associated with loan underwriting, which may include, in addition to those identified in prior section of this PPM, the following protocols:

### ***Initial Inspection and Work Write-Up Review***

- a. Performance of an initial property inspection with the borrower and a determination of the age of the structure in order to implement LBP regulations and SHPO review, as applicable.
- b. In the absence of an architect being retained by the borrower, preparation of the preliminary WWU and cost estimate by the borrower in consultation with the City.
- c. Following the lead hazard policies noted previously in this PPM, have the appropriate party perform an LBP risk assessment and paint inspection on required property and incorporate recommendations into the WWU.
- d. In consultation with the City's Code Enforcement Officer, make a determination as to whether the rehabilitated property will conform to the Residential Code of New York State, as applicable.
- e. Consult with the borrower on the preliminary WWU and cost estimates to reach an agreement on the scope of work to be accomplished.
- f. The WWU must be structured to establish a base scope of work that must be either awarded in whole as part of the lowest responsible bid award or rejected in whole if bid prices exceed cost estimates and budgeted loan amounts. At the discretion of the borrower, alternate items may be included in the WWU which, should bid prices exceed cost estimates and budgeted loan amounts, may be either awarded in addition to the base scope of work as part of the lowest responsible bid award, or rejected on a case-by-case basis.

### ***Final Bid Specifications***

- a. Prepare a final WWU and cost estimate. The WWU must be specific enough to use in the construction bid package.
- b. Send final WWU to contractors selected by the borrower pursuant to the construction work procurement standards detailed in this manual.
- c. Obtain bids and proposals from contractors.
- d. Assist borrower with bid evaluation and award of the lowest responsible bid.

### ***Contracting Construction Services and Loan Closing***

- a. Prepare the construction contract documents for the borrower.
- b. Hold a preconstruction meeting with the borrower and the selected contractor to review the construction contract and the scope of work.
- c. Conduct an appraisal of the property with the appraised value based upon work to be completed.
- d. Establish a Loan Closing date which allows time to process loan monies.
- e. Prepare a Notice to Proceed to be signed by borrower at time of Loan Closing.
- f. Execute the contract.

- g. Request necessary permits from the contractor.
- h. Issue a Notice to Proceed.
- i. Execute all Loan Closing documents.

### ***Progress Inspections***

- a. In consultation with the City's Code Enforcement Officer, the CDO will make periodic inspections of the work to ensure compliance with the construction contract, schedule of values, drawdown schedule, and applicable building codes. Inspections are to be documented with photos and written evidence outlining work completed, materials on site, etc.
- b. Upon receipt of contractor's invoice or bill for sixty percent (60%) completion, make progress payment to borrower if all parties are satisfied.

### ***Loan Closeout and Final Payment***

- a. Have the appropriate parties perform and approve the LBP clearance inspection.
- b. Upon receipt of the contractor's certification of completion, conduct a final inspection of the work.
- c. Obtain release of liens and manufacturers'/suppliers' warranties from contractor.
- d. Make final payment to the borrower.
- e. Prepare an account of all monies spend on the project in a document titled the "Statement of Disposition of Funds" (SDF).

## **Direct Homeownership Assistance Standards & Policies**

The following policies and procedures will apply to all home purchase projects funded through the CDRLF and is designed to provide assistance to LMI households desiring to purchase a home in the City for the first time.

The City and the applicant will determine which eligible activities are requested (or required) by each loan application. If the applicant is interested in assistance with down payment and/or closing costs and the property requires repair or hazard mitigation, then the application should be evaluated based on the entire scope of CDRLF involvement. In addition to the procedures outlined in this section, repairs/hazard mitigation activities underwritten with loan proceeds should follow the procedures identified in the Real Estate Lending section of this manual.

### **Participant Eligibility Requirements**

Program participants must meet the LMI eligibility requirements as outlined in this PPM.

### **Pre-Purchase Counseling: Mandatory Use of a Certified Housing Counselor**

In order to participate in the CDRLF, applicants for direct homeownership loans must engage in pre-purchase housing counseling in order to reduce the risk to all parties.<sup>88</sup>

The applicant will make an appointment with a Certified Housing Counselor (CHC). The process of purchasing a home, beginning with budgeting, capital, capacity, credit history, and collateral should be discussed in detail. This process leads to a determination as to what purchase price and mortgage amount the applicant can afford. The applicant should be informed of the steps in

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<sup>88</sup> Friends of the North Country, Inc. Phone: 518-293-5045 Website: <https://www.friendsofthenorthcountry.org> Agency ID: 82487; Housing Assistance Program of Essex County, Phone: 518-873-6888 E-mail: [info@hapec.org](mailto:info@hapec.org) Website: <https://hapec.org> Agency ID: 80004; <https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=NY>

acquiring a mortgage and the terms of financing. The CHC becomes part of the home buyer's "team" and assists with building the package of lending options and products needed to facilitate purchase of a home.

The CHC should make clients aware of predatory lending practices and the dangers of sub-prime lending. Applicants should be counseled to avoid excessive loan commitment fees of more than three percent (3%) above the current average percentage rate for home purchases. Adjustable-rate mortgages are not recommended.

If the applicant is not ready to purchase due to credit history problems, debt to income issues, etc., the process is suspended until the issue(s) are resolved. Assistance may be provided to help resolve any such issues. Applicants are also encouraged to participate in any financial management training courses which may be offered.

### **Eligible Activities for Direct Homeownership Assistance**

Eligible activities<sup>89</sup> for direct assistance to facilitate and expand homeownership among LMI persons may include, but are not limited to:

- a. Subsidize interest rates and mortgage principal amounts
- b. Finance the acquisition of housing that is already occupied by the homebuyers.
- c. Provide up to fifty percent (50%) of any required down payment.
- d. Pay reasonable closing costs normally associated with the purchase of a home.
- e. General repairs for health, safety, and building code issues.
- f. Removal of LBP hazards.

A LMI applicant can utilize one or more forms of assistance (e.g., acquisition, rehabilitation).

All properties purchased with the assistance of CDRLF funds will be required to comply with the Residential Code of New York State. Applicable local codes, rehabilitation standards, and ordinances will be met through this requirement. A Certificate of Occupancy and, if applicable, a building permit from the City's Code Enforcement Officer will be required for each home purchase project.

In the event costs associated with general repairs and/or hazard mitigation are determined to constitute the bulk of the requested funding, then the procedures outlined in the Real Estate Lending: Construction-Related Loans section of the PPM will be followed

### **Other Homeownership General Policies**

#### **Property Eligibility**

In order to qualify as a property for home purchase, the selected home should be modest in character.

#### **Building Lots**

CDRLF funds may be used to purchase a home by LMI persons who already own a building lot but cannot afford to construct a home. All homes constructed for residency by LMI persons must be the principal residence of the borrower once construction is completed.

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<sup>89</sup> Currently, this list of specific activities appears only in the HCD Act but is noted by title at 570.201(n) in the regulations.

### **Escrow Account**

All monies to be used for repairs when a borrower is providing a percentage of the total repair cost are to be placed in an escrow account prior to contract signing and the issuance of a Notice to Proceed. The LMI borrower receiving home buyer assistance is required to escrow funds for taxes and homeowner's insurance.

### **Statement of Disposition of Funds**

An account of all monies disbursed for the home shall be prepared for each project. This account is called the Statement of Disposition of Funds (SDF) and shall be made part of each project case file.

### **Property Insurance**

All borrowers will be required to present evidence of current fire insurance and, if applicable, extended coverage endorsements equal at a minimum to the amount of the loan.

### **Flood Insurance.**

Borrowers whose property is located within SFHA as designated by the maps issued by FEMA for the purpose of the NFIP are required to purchase and maintain flood insurance for their property. Prior to receiving CDRLF assistance, the current FEMA maps will be reviewed to determine if the property is located in a floodplain area. If a property is located within a SFHA, the borrower must obtain flood insurance in an amount equal to or greater than the amount of the loan and must maintain said insurance for the life of the loan. The borrower must provide evidence of flood insurance to the City in the form of a certificate of insurance that lists the City as an additionally insured party.

### **Contractors**

Use of contractors to engage in any repairs or removal of hazards will comply with the policies outlined in this PPM.

## **Direct Homeownership Program Procedures**

The City will process CDRLF applications in the order in which applications are received and noted as complete. Applicant income, readiness to purchase, and all other financing commitments will be verified.

### **Initial Interview and Verification of Application Information**

- a. Assign an application number to the loan case and establish a separate file for the application.
- b. Income certification via three (3) years signed federal income tax returns, W-2's, two (2) recent [i.e., dated within the previous thirty (30) days] bank statements and/or paystubs, and completion of a budget and financial statement form.
- c. Assessment of applicant's ability to obtain a mortgage via:
  - i. Credit report authorization and receipt.
  - ii. Provide a reasonable estimate as to what mortgage amount a bank will approve.
  - iii. Advise applicants as to which banks have favorable products to offer.
- d. If a specific property has been selected, determine:
  - i. Was the property constructed prior to 1978? If yes, address LBP compliance.
  - ii. Ownership via title search.
  - iii. Property and flood insurance requirements.

- iv. Verification of appraised property value.
- v. Determine the maximum loan amount based on the loan-to-value (LTV) ratio and the value of the collateral offered.

### **Initial Inspection and Cost Estimate**

The City's Code Enforcement Officer will conduct an initial inspection to ensure that the subject property will meet all applicable local codes, rehabilitation standards, and ordinances. In the event costs associated with general repairs and/or hazard mitigation are determined to constitute the bulk of the requested funding, then the procedures outlined in the Real Estate Lending: Construction-Related Loans section of the PPM will be followed.

- a. Perform an initial property inspection with the applicant.
- b. Follow rehabilitation guidelines in Real Estate Lending section to establish costs.
- c. Review the application, inspection report, and cost estimate to determine eligibility of the applicant.
- d. Use repair/hazard removal cost estimates to determine the required financial assistance.
- e. Use cost estimate to determine the property's value after rehabilitation via consultation with the City's tax assessor.

After the review of the above information, make a final determination as to the project's financial feasibility and whether the applicant is eligible for a CDRLF award.

### **Contract/Commitment Process**

Upon completion of the inspection, acceptance by applicant of a sales price, and after pre-approval by a bank or other reputable financial institution, the financing institution is provided with a commitment letter by the City in the least amount necessary to make the home affordable to the applicant. This amount may include the costs of principal reduction, closing costs, and repairs. If repairs are necessary, the financing institution is also given a copy of the WWU for repairs or upgrades that are to be completed.

When the loan approval is issued by the City and any other lenders, a closing will be scheduled, where the applicant signs both the City's and the financing institution's documents after they have completed the program mortgage, mortgage note, and contract for repairs. Prior to closing, the borrower will authorize, in consultation with the City, an updated appraisal and title search to be completed at the borrower's expense.

## **Economic Development Loan-Funded Activities: Standards & Policies**

As a lender, the City effectively becomes a financial partner with the assisted business and, if the project fails, there may be a loss of public funds and credibility. Lending therefore necessitates a strong and continuous flow of information between borrower and the City.

The City will mitigate these risks through prudent screening, underwriting, structuring, and monitoring of business loans. At a minimum, the City will determine project and applicant eligibility, make sure a HUD national objective will be met, and ensure compliance with other specific requirements such as the public benefit test and project underwriting. The security requirement will be satisfied by either a specific lien on real estate or a Uniform Commercial Code

(UCC) filing on personal property. The City may require that other collateral be provided by the applicant (personal, corporate guarantee, etc.).

In addition to the standards and policies established throughout this PPM, the following standards and policies apply to economic development activities underwritten by the CDRLF.

### **Eligible Activities for Business/Economic Development Loans**

Provision of assistance to private, for-profit, or non-profit entities, when the assistance is appropriate to conduct an economic development project that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods and that meets one (1) or more of the following statutory objectives:

- a. Creates or retains permanent part-time and full-time equivalent (FTE) jobs for LMI persons.
- b. Prevents or eliminates slums and blight.
- c. Meets urgent needs.
- d. Creates or retains businesses owned by community residents.
- e. Assists businesses that provide goods or services needed by, and affordable to, LMI persons.
- f. Constitutes a Microenterprise Business Development (MBD) with fewer than five (5) employees, at least one (1) of whom is the owner, and which principally benefits LMI persons.

### **Eligible Uses of Funds**

- a. Working capital.
- b. Real estate, including façade renovations.
- c. Machinery and equipment.
- d. Furniture and fixtures.
- e. Accounts receivable.
- f. Inventory.

### **Public Benefit Standards for Economic Development Support**

Each activity underwritten with CDRLF funds must meet the public benefit standard for LMI job creation and/or retention outlined in this PPM as determined at the time funds are obligated to activities. As noted, providing federally originating financing to a for-profit business triggers the use of mandatory public benefit tests. Financial assistance to small businesses (non-MBDs) can satisfy the LMI national objectives under the following two (2) criteria:

- a. As an area benefit activity. If the business provides goods or services that are available to all residents of a primarily residential service area such that the number of LMI persons residing in the area served by the assisted business amounts to at least one (1) LMI person per \$1,000 of CDRLF funds used; or
- b. As an LMI job creation/retention activity. To meet the individual public benefit standard, the business will be expected to create or retain one (1) permanent FTE job per \$50,000 of CDRLF assistance.

Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the City may elect to evaluate the activity under either the jobs standard or

the area resident's standard. Financial assistance to businesses rarely qualifies under the slum and blight or urgent need national objectives.

### **Enforcement and Monitoring of Public Benefit Standard**

The borrower will make a written commitment, subject to annual monitoring, that it has met and continues to meet the public benefit standards during the life of the loan. When a business pledges to make jobs available to LMI persons, the written agreement will include a listing of job titles, descriptions, FTE status, and any prerequisites/skills required for each position. The agreement will further describe the actions to be taken, how first consideration for available positions is to be given to LMI persons, and the hiring process. As part of the annual monitoring requirements, the business will provide the names of persons interviewed, their income status, and whether they were hired or not.

The borrower must also maintain sufficient records to demonstrate the level of public benefit actually achieved (i.e., job creation and retention) upon completion of the CDRLF-assisted economic development activities and how those results compare to the level of such benefit anticipated when the CDRLF assistance was awarded.

If, at any time during the loan term, a borrower fails to provide the required information for monitoring compliance with the public benefit standard or fails to meet the test for the LMI benefit, the loan will be considered in default and recapture proceedings will ensue.

### **Underwriting Economic Development Business Loans**

The City will conduct basic financial underwriting prior to providing financial assistance to a for-profit business. The City's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project and, in the case of a MBD or other small business, to take into account the differences in the capacity and level of sophistication among businesses of differing sizes.

The objectives of the underwriting guidelines are to ensure:

- a. Project costs are reasonable.
- b. All sources of project financing are committed.
- c. The project is financially feasible.
- d. That, to the extent practicable, the return on the owner's equity investment will not be unreasonably high.
- e. That, to the extent practicable, CDRLF funds are disbursed on a pro rata basis with other finances provided to the project.
- f. City funds are necessary gap financing and minimum leverage requirements are met.
- g. Loss reserves are established.
- h. Balloon payments are limited.
- i. Costs can be certified.

### **Economic Development Project Loan Award Criteria**

The following criteria should be given significant weight during the review process:

- a. Whether the project will encourage the economic development of the City.
- b. Whether the project will add to the City's tax base.

- c. Degree of value added and public benefit to property.
- d. Type of project and whether it serves a community need.
- e. Extent of opportunity for redevelopment and expansion of existing businesses, as well as new development.
- f. Benefits to community of job creation and/or needed services or facilities.
- g. Financial and/or business strength of applicant (e.g., creditworthiness, business plan, letters of intent, experience).
- h. Extent to which project follow through will benefit the community.
- i. Risk of proposal.
- j. Extent to which performance guarantees are provided.
- k. Dollar amount to be invested and potential return.
- l. Project's financial feasibility and viability.
- m. Whether the project helps the City diversify its loan portfolio.

### **General Economic Development Underwriting Guidelines**

#### ***Reasonable Project Costs***

Project costs shall be deemed reasonable if they meet all the following criteria:

- a. Are ordinary and necessary for the completion of the project.
- b. Reflect an arm's length transaction with an unrelated third party.
- c. Meet the standard of due prudence (that is, a prudent person would incur the cost).
- d. Are consistent with established policies/practices across the agency and program.
- e. Are incurred directly for the purposes of the program.
- f. Are reasonably allocated (if costs benefit multiple activities).

The budget is a logical starting point in the project cost analysis. If the budget is overinflated, there may be a waste of scarce public resources and a surplus can end up as an additional fee to a developer or entrepreneur. Conversely, if the budget is understated, the success of the project may be affected, which could reduce the income available for debt service. In extreme cases, the project may go unfinished or fail before repayment has occurred.

Where construction costs are involved, require quotes from independent third parties. Compare the applicant's proposal with costs of comparable projects. Use guaranteed contracts, performance bonds, and/or letters of credit. Retain a contractor's fee for a period after completion or retain the developer's fee or the leasing reserve. Require costs to be certified by a third party.

#### ***Sources are Committed***

Avoid the risk of approving and disbursing funds to fund a portion of the project without sufficient funds from other sources to complete the project. All other sources of funds do not have to be in place prior to submittal of a CDRLF application. However, the authorization of the public loan may be made contingent upon the securing of conventional financing and the closing of the CDRLF loan should be simultaneous with other loans. Before CDRLF funds are disbursed, ensure that all financing is firmly committed to the project and all equity is in place.

#### ***City Funds are Not Substituted for Non-Federal Funds***

In general, the City should clearly establish that there is a need for the investment of public resources. Incentive funds are far too scarce and valuable to waste. Historically, public lenders have established the need for public investment if an economic development project has one or two types of funding gaps: A financing gap or a rate of return (ROR) gap.

A financing gap is determined by calculating the amount of debt the project can support and computing either the amount of equity the project can generate or the amount available to the borrower. If the budget is greater than or equal to the sum of debt plus equity, then there is a financing gap and public funds should be invested. If the budget is less than the sum of the debt plus equity, there is no financing gap and, therefore, no need for public investment.

The ROR gap is a variation of the financing gap. The ROR method is more applicable to real estate transactions than business deals, particularly for smaller projects. It is the ratio of income received by the owner to the equity invested by the owner and is determined by calculating the debt the project can support, computing the amount of equity necessary to complete the project, and comparing the ROR based on the equity invested.

### ***Project Feasibility***

The project or venture should be viable with CDRLF assistance. In other words, it should be able to achieve a level of operation that is successful in both the near and long term. A venture should provide sufficient cash flow to repay debt and provide a reasonable ROR on equity invested. An infeasible project will be unable to repay the public investment or meet the community development objectives if the business fails or is foreclosed upon. In a co-lending opportunity, the private lender can be a resource for conducting the necessary feasibility analysis.

Determination of a project's feasibility requires an understanding of the industry in which it will operate and the ability to assess various assumptions about operations. Working with lenders who have this experience will be helpful.

Viability/sustainability is the achievement of feasibility over the long run. Public underwriters need to be concerned that the venture remains feasible or viable for at least the term of the loan. Repayment terms are a part of feasibility because if the terms are too harsh, the survival of the venture or project is jeopardized.

Calculating the financing gap determines the least amount of public funds needed to complete the project. However, keep in mind that that addition of public debt, particularly amortizing public debt, may cause the other lenders to reduce their loan amounts. Adding public debt can affect the project's conventional debt and equity and public lenders must find the proper combination which closes the gap without adversely affecting other financing arrangements.

### ***Owner's Equity Return is Reasonable***

A borrower strives to receive a reasonable ROR on their project. This varies by market and type of venture. However, the ROR should be reasonable given the equity invested and risk taken. Generally, the greater the risk the higher the ROR demanded so ventures need to be examined in comparison to similar ventures in similar markets.

It is often difficult to compute the return on equity for small business projects. The use of standardized publications to calculate RORs for small businesses is not recommended. There are significant variations in the data and there are many anomalies associated with small businesses that skew the results. In general, such an approach is more applicable to publicly traded companies or real estate projects. For real estate ventures, the return on equity should come from the project's cash flow rather than from capital sources.

Repayment terms are a part of feasibility analysis because, if the terms of repayment are too lenient, the borrower may receive an excessive ROR (i.e., an ROR that is above the going market rate for similar projects).

### ***CDBG Funds Disbursed Pro Rata***

As a general rule, CDRLF funds should be disbursed in proportion to the percentage of the project they fund. For example, if CDRLF funds represent twenty percent (20%) of a project's total financing, each dollar disbursed for the project should be matched by four (4) dollars from other funding sources. One exception is where CDRLF funds are allocated for an acquisition activity.

### ***The Ability to Repay***

The City will utilize the global Debt Service Coverage Ratio (DSCR), currently listed as 1:5, to determine an applicant's ability to repay. The DSCR measures the ability of a company to use its operating income to repay all its debt obligations, including repayment of principal and interest on both short-term and long-term debt.

### ***Collateral***

If the project cannot repay a loan from cash flow, the lender attempts to collect payment by liquidating the asset pursuant to the specific lien securing the loan. This ability is measured by a ratio called loan-to-value (LTV). The LTV ratio is defined as the loan amount divided by the lesser of either the cost or the value of the collateral securing the loan.

LTV ratios will vary based on the nature of the asset being financed. Current LTV values are noted in Table 3 of this PPM.

### ***Personal and Corporate Loan Guarantees***

Personal and corporate loan guarantees only apply to economic development loans. If the agreed upon methods of repayment are insufficient, the lender will attempt to collect on other collateral, generally in the form of personal and corporate guarantees. Owners with an equity interest in the company of twenty percent (20%) or more must guarantee the loan and this condition will be written into the Loan Agreement.

### ***Balance Sheet Analysis***

A business's balance sheet must be sound before a loan is made. Soundness is determined primarily by analyzing the following:

- a. Does the company collect its receivables? An inability to collect receivables will hamper cash flow.
- b. Does the company pay its bills? Late or missed payments may indicate poor cash flow or unreliable character.
- c. Is the company managing its inventory? Sloppy inventory practices may be indicative of overall managerial deficiencies.
- d. Does the company generate sufficient cash flow relative to its cash needs?
- e. Is the owner paying himself/herself a reasonable salary or charging reasonable fees?

It is likely that an affirmative answer to these five (5) questions means that the balance sheet is in sound condition.

### ***Experienced Management***

The management team must have experience in all areas of running the business: sales, finance, operations, personnel, etc. The management team includes the principals, directors, senior management, and consultants. The management team should have direct experience in these areas or have comparable business skills that can be transferred to these areas.

### ***Credit History***

The owners and management staff should have favorable credit histories, a reputation for treating customers fairly, no bankruptcies in the past five (5) years, and a clean criminal record. In most cases, a credit report and a Dun & Bradstreet check are sufficient.

### ***Underwriting Real Estate Transactions***

Real estate transactions are also called developer or investor deals. Cash flow for the repayment of debt service is derived from leases to third party tenants. Despite the range of properties, all real estate deals are analyzed in essentially the same manner. The underwriting analysis is only as sound as the quality of the information an analyst uses. Business loans and real estate loans have similar underwriting concepts, but each transaction is analyzed differently. All the criteria are important, and deficiencies in any may constitute sufficient cause to refuse a loan request. For a real estate project involving business tenants, two levels of analysis are needed: (1) to determine the feasibility of the real estate project; and (2) to determine whether the project will generate the projected rents.

Using prudent underwriting standards and risk management techniques can help communities limit risk to an acceptable level.

### ***Market Stability***

In general, the lender wants a high probability of leasing (if not signed leases) and tenants of acceptable credit quality. For larger projects, a market or feasibility study by an independent third-party professional is often required.

### ***Collateral and Equity***

One means of repayment is liquidating the mortgage or deed of trust which secures the real estate loan. An appraiser normally determines the real estate's value and should have experience with comparable projects and possess the necessary certifications. If properly prepared, the appraisal should have a wealth of information concerning rents, vacancy, and operating expenses. In general, the purpose of the appraisal should be to determine fair market value with fee simple ownership.

In addition to the equity invested in the project, commitment by the owners and the developer reduce the risk to the lender and increases the likelihood that the venture will be successful.

### ***Experience of the Development Team***

It is critical to the success of the transaction that the development team has experience in completing projects of similar type and scale. The development team includes the developer, architect, contractor, property manager, syndicator, leasing agents, mortgage banker, etc. In smaller projects, the owner may perform all of the roles listed above.

The developer of the project should have a good credit history and be reputable.

### ***Securing Real Estate Loans***

The security requirement will be satisfied by a specific lien on the real estate or a UCC filing on personal property. Additionally, some form of general lien will be provided (personal guarantee, corporate guarantee, developer completion, etc.). If the transaction does not conform to the underwriting thresholds, the borrower should pledge additional security. Examples of additional security pledged may include the following:

- a. Income stream from a “seasoned” loan portfolio.
- b. Parking revenue.
- c. Pledge of tax increment from a tax increment financing district.
- d. Pledge of land or property (must have value).

### ***Evaluating Startups/Small Loans***

Startups and small businesses may have trouble satisfying all the underwriting criteria. In general, these classes of loans are high risk. Accordingly, public lenders will probably have to allocate a disproportionate amount of staff time to monitor and service these loans. Larger than usual loss reserves may also need to be set aside for such loans. One tool that can help reduce the risk associated with lending to such businesses is the provision of business training and ongoing technical assistance to businesses receiving loans. The City should investigate options for providing this assistance such as business centers operated by the Small Business Administration (SBA), local educational institutions, and/or business mentoring through institutions such as the local Chamber of Commerce. Information on these programs should be provided to borrowers.

In addition to the underwriting criteria described in this manual, evaluation of loan applications submitted by MBDs, start-ups, and small businesses will also consider the applicant’s business plan, borrower commitments, and, to the appropriate extent, personality, and market niche.

A business plan can identify obviously worthy or unworthy ventures, though an analyst should not rely solely on a business plan during the underwriting process. The value of a business plan is increased substantially if the entrepreneur completes it personally. The CDRLF is financing the entrepreneur, not the accountant or consultant who writes the plan, though input from qualified professionals is often beneficial. Of particular importance are monthly cash flow statements for the first year of the enterprise.

It is difficult for a small firm to compete with much larger companies on price. Is the entrepreneur committed to customer service? A startup or small business needs to understand the market in order to create a market niche or offer a unique product or service to differentiate itself from competitors.

An applicant’s level of personal investment in an enterprise can substantially affect the likelihood of an enterprise’s success. Although there are many caveats, a borrower who commits most of its assets into a potential transaction is less likely to let the deal fail than a borrower who invests only a portion of their assets. The borrower should sign personally for the loan and should be prepared to accept a nominal salary until the business is established.

### **Microenterprise Development**

The type and capacity of MBDs vary widely. They include a range of service providers and retail businesses that typically serve a specific need of their community. Some examples are the home-based daycare provider, the roving automobile mechanic, and the hairdresser who serves the

neighborhood. Some MBDs are operated part-time by owners who want or need to supplement their income. With careful planning, an MBD can be an effective strategy toward the self-sufficiency and empowerment of various groups, including displaced workers, women, and minority entrepreneurs, and other LMI persons.

### **Definition of Microenterprise**

The HUD CDBG regulations provide the following definitions:<sup>90</sup>

- A “microenterprise” is a commercial enterprise that has five (5) or fewer employees, one (1) or more of whom owns the enterprise.
- "Persons developing microenterprises" means persons who have expressed interest in and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

### **Applicability of Public Benefit Standards**

Microenterprise assistance provided pursuant to 24 CFR 570.201(o) is not subject to the public benefit standards applicable to other economic development activities (see 24 CFR 570.209 for the categories of activities subject to these standards).

### **Documenting National Objective for Microenterprise Activities**

Microenterprise assistance can qualify under the limited clientele criteria for LMI benefit if the business owner qualifies as LMI. This eliminates the need to track job creation or retention numbers. In certifying LMI status, the City will document the owner’s income but not the income of any employees.

If the owner is not LMI, the borrower can still meet the LMI job creation/retention criteria. Job retention is documented during the life of the loan.

### **Eligible Activities for Microenterprises**

Microenterprises are eligible to participate in any and all activities open to other for-profit businesses as described in this PPM.

### **Underwriting Guidelines for Microenterprises**

In general, the underwriting criteria for economic development-related loans will be followed for microenterprises and supplemented with the guidelines noted in this section.

Owing to the risks associated with lending to microenterprises, it is realistic to anticipate a certain amount of losses. A well-balanced loan portfolio will be composed of a majority of healthy loans that will balance riskier loans that entail a large and beneficial impact on the community. In order to target small startups, minimize risk, and help the assisted business maintain a reasonable debt level, the City will consider limiting loan amounts for microenterprises. Given their size and level of development, loans to microenterprises may be quite small, ranging from \$500 to \$20,000.

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<sup>90</sup> 24 CFR Part 570.201(o)(3) for Entitlements, and HCDA Section 105(a)(22) for States

### **Risk Reduction for Microenterprise Lending**

The following strategies will be incorporated on a case-by-case basis as the CDRLF reviews microenterprise loan applications:

- a. Early and effective screening/underwriting of applicants to ascertain commitment and feasibility of the business or concept.
- b. Emphasis on careful business planning to identify risks and develop contingency strategies.
- c. Equity investments or favorable payment plans to allow businesses to stabilize.
- d. “Stepped” lending, in which the amount of available financing gradually increases as the entrepreneur establishes a business and credit history.

Since microenterprises may not be able to meet traditional lending criteria, the City may consider other factors on a case-by-case basis, including:

- a. Does the business plan outline the financial/planning objectives and activities of the potential owner, and does it provide an indication of the fiscal soundness of the business?
- b. What is the commitment of the owner to their business venture and to repayment of the loan (e.g., will the borrower personally guarantee the loan)?
- c. What are the skills of the entrepreneur? Are they flexible enough to make quick adjustments in order to address ever changing circumstances?

### **Mandatory Business Counseling**

Training and technical assistance are critical for microenterprises, many of which are startup enterprises requiring intensive business planning, basic accounting, and market research assistance. The CDRLF requires that microenterprise borrowers obtain technical assistance on issues such as budgeting, marketing, and/or business planning in conjunction with their loan in order to help alleviate risk and increase the chance for success. Borrowers should investigate options for providing this technical assistance, such as SBA business centers, local educational institutions, and/or business mentoring through institutions such as the local Chamber of Commerce.

## **Appendices**

Appendix A: Common Council Resolutions Involving the CDRLF

Appendix B: City Procurement Policies

Appendix C: Forms Workbook