LOUISIANA OFFICE OF COMMUNITY DEVELOPMENT ("OCD")/ DISASTER RECOVERY UNIT ("DRU")

RESERVATION OF GUSTAV-IKE PIGGYBACK PROGRAM CDBG FUNDS

APPLICATION GUIDELINES FOR GUSTAV-IKE PIGGYBACK FUNDING (CDBG FUNDS COMBINED WITH OTHER FUNDING SOURCES)

Published March 15, 2010

I. OVERVIEW. These Application Guidelines contain the program requirements for the Gustav-Ike Piggyback program (the "Program"). With respect to the Program, these Application Guidelines supersede and replace all prior Piggyback guidance.

A. **Terminology.** OCD-DRU refers to the Louisiana Office of Community Development-Disaster Recovery Unit. Capitalized terms not defined herein have the meaning given to them in the CDBG Legal Documents. The term "sponsor" as used in these guidelines means the applicant seeking to borrow funds under the Program.

B. **OCD Web Site.** References herein to OCD-DRU's web site refer to the following URL: http://www.doa.louisiana.gov/cdbg/drpiggy.htm

C. **Program Objective.** The Program's objective is to finance the development of additional workforce rental housing in Gustav-Ike impacted areas. The Gustav-Ike impacted area is defined in the State's Gustav-Ike Action Plan, available on OCD-DRU's web site.

D. **Program Funding.** OCD-DRU has set aside $25 million of Community Development Block Grant ("CDBG") funds, which will be utilized in combination with other sources of funding. Projects applying for the Program may not apply for or receive any other OCD-DRU funds. However, all types of funds from sources other than OCD-DRU may be used by sponsors. See Section II regarding funding limits for individual projects. OCD-DRU reserves the right to increase or decrease the level of funding available for the Program and/or to obtain additional sources of funding for the Program.

E. **Form of CDBG Funding.** CDBG funding is to be offered in the form of Gap Financing Loans (see Section IV).

F. **Timeline.** OCD-DRU envisions the following timeline for awarding funds:

Date	Event
March 15, 2010	Application Guidelines published
March 26, 2010	Questions submitted by COB on this date will be answered by OCD-DRU on or before COB April 7, 2010.
April 8, 2010	First date for submission of applications
April 30, 2010	Last date for submission of CDBG applications to OCD-DRU for the initial funding round.
June 30, 2010	Subject to availability of funding, last date for submission of CDBG applications to OCD-DRU for the second funding round.
August 31, 2010	Subject to availability of funding, last date for submission of applications for the third funding round.

G. **Method of Award.**

1. **Funding Pools.** See Section IX for additional information on how OCD-DRU will manage the pools.
    a. $10 million for Mixed Income Projects in the 10 Parishes with greatest damage from Gustav-Ike[1].
    b. $5 million for Mixed Income Projects in all remaining Parishes in the Gustav-Ike impacted area.
    c. $10 million for Permanent Supportive Housing ("PSH") Projects. Projects may be located in any Parish in the Gustav-Ike impacted area. Remaining funding will stay within this pool and will not be transferred to the General Pool.
    d. Any funding remaining in the Mixed Income funding pools after awards pursuant to the Second Funding Round will be transferred to the General Pool (to be available in the Third Funding Round to all acceptable applications without regard to location or project type).
2. **Initial Funding Round.** Complete applications received on or before April 30 will compete against each other for funding. Awards will be made among acceptable applications[2] in decreasing order of point score.
3. **Second Funding Round.** If any funding remains after awards have been made to Initial Funding Round projects, complete applications received after April 30 through June 30 will compete for funding against each other. Awards will be made among acceptable applications in decreasing order of point score.
4. **Third Funding Round.** If any funding remains after awards (if any) have been made to Second Funding Round projects, complete applications received through August 31 will compete for remaining funding. These competing applications may include applications received through June 30

[1] Terrebonne, Cameron, Iberville, East Baton Rouge, Lafourche, Jefferson, Assumption, St. Mary, Ascension, and Calcasieu Parishes.

[2] That is, applications that are complete, that resolved any deficiencies, and that meet the requirements of these Application Guidelines.

but not funded earlier, due to funding limits in the initial pools. Awards will be made among acceptable applications in decreasing order of point score.

5. **Point System.** Competition within each pool in each funding round will be based on points. Points will be awarded solely for financial efficiency. See Section X for the point system ("selection criteria").
6. **Combination Projects.** Projects that meet the requirements for both types of eligible project (Mixed Income and PSH, for example a Mixed Income project with 15% PSH units) will compete in the PSH Pool and in one of the Mixed Income Pools. See Q&A #26 in Attachment A.

H. **CDBG Application Submission.** See Section VI for the contents of the application package. See Section I.F for application due dates. Applications must be received by OCD-DRU not later than 4:00 pm Central time on the applicable date. Applications must be submitted to OCD-DRU at the following address:

Attn: Thomas LaTour
Office of Community Development
Disaster Recovery Unit
150 North 3rd Street, 5th Floor
Baton Rouge, LA 70801

I. **Potential Supplemental Funding.**

In the event that OCD-DRU increases the funds allocated to the Program, or if any of the allocated funds remain available following awards under all three rounds, OCD-DRU reserves the right at its option to re-consider acceptable applications submitted for the Program which were not funded under the three rounds without the need of re-opening the Program for additional applications. In such event, Sponsors will need periods of site control sufficient to receive an award issued under this provision.

II. PRIMARY REQUIREMENTS

A. **Minimum Project Size.** Projects must have at least 30 residential rental units. There is no maximum project size.

B. **Residential Rental Use Only.** Mixed-use projects (that is, projects that include uses other than residential rental) are not eligible. Also see Q&A #20 in Attachment A.

C. **Maximum CDBG Award.** The maximum CDBG award is the lesser of (1) $100,000 per residential rental unit (i.e., $3 million for a 30 unit project) or (2) for projects of more than 60 units, $6 million. Sponsors should note that there is a limit on total awards to a sponsor and its affiliates; see Section III.D.

D. **CDBG Leverage Requirement.**

1. For Mixed Income Projects, CDBG funding cannot comprise more than 50% of the following: total uses of funds (subject to any limitations discussed herein, such as the limitations on developer fee), minus any proposed initial reserves in excess of $5,000 per residential rental unit.
2. For PSH Projects, CDBG funding cannot comprise more than 70% of the following: total uses of funds (subject to any limitations discussed herein, such as the limitations on developer fee), minus any proposed initial reserves in excess of $5,000 per residential rental unit.

E. **Permanent Supportive Housing Requirement.** All projects must include units for Permanent Supportive Housing (“PSH”). See II.F for the number of PSH units that are required. PSH Units must satisfy all of the following requirements:

1. **One-bedroom units.** The Louisiana Department of Health and Hospitals, the Louisiana Department of Social Services, and the Local Lead Agencies have informed OCD-DRU that most PSH households are single persons.
2. **Affordable at 20% AMI.** Affordability can be provided through a project-based rental assistance contract (for example, project-based Section 8 Housing Choice Vouchers[3]), or by cross-subsidy (i.e., the higher rents) from other units within the project. The application must clearly identify the number of units (and unit type) for proposed PSH units and must state how this level of affordability will be provided for the PSH units.
3. **Reserved for PSH tenants referred by the Local Lead Agency.** Project owners will sign the State’s standard PSH Set-Aside Agreement, a copy of which is available from OCD-DRU’s web site. The PSH Set-Aside Agreement has a five year term and is automatically renewable so long as the State continues to provide supportive service funding to the Local Lead Agency.
4. **Comparable to other units in the project**. The application must include an exhibit establishing that the PSH units are comparable to other units in the project. PSH units may not differ (for example, in size, number of bathrooms, or quality of finishes) from other units within the property having the same number of bedrooms. If no other units within the property have the same number of bedrooms, the exhibit must demonstrate to OCD-DRU (in OCD-DRU’s sole discretion) that the proposed unit sizes, numbers of bathrooms, and finish quality for the PSH units are comparable to the remaining units, taking into account differences in number of bedrooms.
5. **Distributed throughout the project**. The application must include an exhibit establishing that the PSH units distributed throughout the project.
6. **Income Limit.** Eligible households will have incomes at or below 30% AMI (if the 30% AMI waiting list is exhausted, PSH households with incomes up to 40% AMI may be admitted but no additional rent may be charged).

[3] OCD-DRU is not offering any State Project-Based Rental Assistance in connection with this program.

F. **Eligible Project Types.** Eligible projects must meet either the Mixed Income Project requirement or the PSH Project requirement.

1. **Mixed Income Project Option**.
   a. CDBG National Objective Requirement. Mixed Income Projects must have at least 51% of units affordable to (i.e., with rents and tenant-paid utilities at or below 30% of 80% AMI), and reserved for occupancy by, households with incomes at or below 80% AMI. This requirement must be satisfied over the entire term of the CDBG Regulatory Agreement (35 years).
   b. PSH Requirement. Mixed Income Projects must have at least 5% PSH units.
   c. Deep Affordability Limit. Mixed Income Projects may not include more than 40% of total units (including PSH units) that are restricted to / affordable to households at or below 40% AMI.
   d. Mixed Income Projects must reserve at least 30% of their units for market rate tenants. These market rate units are defined as units with no restrictions on rent or income. Sponsors should note that the CDBG National Objective requirement limits market rate units to no more than 49% of total units.
   e. Sponsors will NOT be allowed to overlay any form of project based rental assistance on the market rate units (or on any 80% AMI units[4]), because that would reduce the likelihood that the project would achieve the mixed income profile that OCD-DRU intends.
   f. Sponsors of Mixed Income Projects must include a Rent Comparability Study to establish the market rents that the project is likely to achieve once built, using the protocol from HUD's Section 8 Renewal Policy Guide Chapter 9 (Chapter 9, and HUD's Rent Comparability Grid, are available on the OCD-DRU web site). This requirement is in addition to the market study that is required for all projects.
   g. The affordable units must be comparable to the market rate units. See Section VI.B.7.
   h. Scattered site Mixed Income projects must be on sites that are contiguous (i.e., no physical separation) or adjacent (i.e., separated only by a street or easement). Sponsors who intend to utilize Low Income Housing Tax Credits should note that LHFA and the IRS place restrictions on the use of LIHTCs in scattered site projects.
   i. Example. A Mixed Income project meeting the minimum 5% PSH requirement is not required to include any additional deeply

[4] Units in the 80% AMI tier will count toward the CDBG National Objective Requirement but are not "market rate units" for purposes of the mixed income project requirements. Sponsors may overlay project based rental assistance on units in the 60% AMI tier and below.

affordable units but may include up to an additional 35% of units that are deeply affordable.

2. **Permanent Supportive Housing Project ("PSH Project") Option.**
   a. CDBG National Objective Requirement. PSH Projects must have at least 51% of units affordable to (i.e., with rents and tenant-paid utilities at or below 30% of 80% AMI), and reserved for occupancy by, households with incomes at or below 80% AMI. This requirement must be satisfied over the entire term of the CDBG Regulatory Agreement (35 years).
   b. PSH Requirement. At least 15%, but not more than 50%, of total units must be PSH Units.
   c. PSH Projects may have any mix of market-rate and affordable units consistent with meeting the CDBG National Objective Requirement.
   d. Scattered site projects are eligible to qualify as PSH Projects (the PSH units must be evenly distributed among the sites). Sponsors who intend to utilize Low Income Housing Tax Credits should note that LHFA and the IRS place restrictions on the use of LIHTCs in scattered site projects.
   e. Example. A PSH project meeting the minimum 15% PSH requirement is not required to include any additional deeply affordable units. The sponsor may include up to an additional 35% of units that are PSH units. In addition, it is acceptable for up to 100% of units in a PSH project to be income-restricted, and there is no deep affordability limit for PSH projects.

3. **Combination Projects.** Projects that meet the requirements for both types of eligible project (Mixed Income and PSH, for example a Mixed Income project with 15% PSH units) will compete in the PSH Pool and in one of the Mixed Income Pools. See Q&A #26 in Attachment A.

G. **Local Support Requirement.** A letter from the local government, endorsing the project. The letter must be signed by the highest elected official of the jurisdiction in which the proposed project will be located. Typically, the highest elected official is the Mayor of a city or (for projects located outside an incorporated city) the President of a Parish.

H. **Project Readiness Requirement.** The sponsor must demonstrate, to the satisfaction of OCD-DRU in its sole discretion:

1. Site control. Site control must be in the form of either:
   a. Ownership or ground lease (executed prior to the March 15, 2010 publication date of these Application Guidelines[5]), or

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[5] Purchase or lease of a site after this date would constitute a prohibited choice-limiting action that cannot take place until OCD-DRU has issued environmental clearance to the sponsor of an awarded project. Sponsors who have

b. An option to purchase or lease (with the option period extending at least 60 days past the anticipated construction start date indicated by the sponsor in the LHFA electronic application), acceptable to OCD-DRU in its sole discretion.

2. Commitments (acceptable to OCD-DRU) for all non-CDBG sources of funding.
   a. Commitments must be dated no more than thirty days prior to the date on which the application was submitted to OCD-DRU and must extend at least thirty days past the anticipated funding date indicated by the sponsor in its electronic application.
   b. OCD-DRU reserves the right to require updated commitments as it deems necessary.
   c. Commitments for LIHTC equity must provide for at least 10% pay-in prior to the first payment from OCD-DRU.
   d. Conditions contained in commitments shall be subject to determination by OCD-DRU as to reasonableness. OCD-DRU may reject any commitment (and deem the application deficient) if, in the sole discretion of OCD-DRU, any condition is outside of market requirements and/or is unlikely to be satisfied.
   e. Each commitment from a lender must acknowledge and permit the Gap Financing Loan, must consent to the execution and delivery of the CDBG Legal Documents, and must agree that the loan will be made subject to the CDBG Regulatory Agreement.
3. Projects that will utilize 9% LIHTCs must have a LIHTC reservation from LHFA.
4. Projects that will utilize 4% LIHTCs need not have a LIHTC reservation from LHFA but must have a syndication / investor commitment acceptable to OCD-DRU.

I. **Construction Has Not Started.** Projects for which construction has started are not eligible. In addition, sponsors should note that CDBG environmental requirements include a requirement that no choice limiting actions (for example, purchasing the project site, or starting construction) may occur until OCD-DRU has issued environmental clearance.

J. **Other Compliance Requirements.** In addition to requirements discussed in this Section, all awardees must meet the CDBG regulatory compliance requirements contained in the CDBG Legal Documents. These requirements include (without limitation) Davis-Bacon prevailing wage requirements, Section 504 accessibility requirements, and Section 3 low-income outreach requirements. Also see Section VII.

K. **Non-compliance in Federal or Other Agency Programs.** Sponsors (including Affiliates) cited for non-compliance in federal housing programs or in a

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already purchased or leased a site prior to the publication date of these Application Guidelines must still obtain environmental clearance from OCD-DRU before taking choice-limiting actions such as starting construction.

project/program administered by OCD-DRU shall not receive a reservation of CDBG funds unless or until such non-compliance is cleared to the satisfaction of OCD-DRU in its sole discretion.

L. **Duration of Requirements.** All requirements will be applicable for the duration of the CDBG Regulatory Agreement (35 years).

III. SECONDARY REQUIREMENTS.

A. **CDBG Gap Funding.**

1. **CDBG Limited to Funding Gap.** For purposes of structuring the CDBG application, sponsors should assume that CDBG funds will close any funding gap (subject to the limitations on CDBG funding discussed herein) and that the amount of CDBG funding will be limited to that funding gap.
2. **Subsidy Layering Review.** Sponsors should note that OCD-DRU will perform a post-construction-completion subsidy layering analysis to verify that CDBG funding does not exceed the amount needed to develop the project.
3. **Use of CDBG.** OCD-DRU generally will require that CDBG funding be used for the hard costs of rehabilitation / construction. Sponsors who wish to use CDBG for any other purpose must obtain the written agreement of OCD-DRU prior to submitting an application.

B. **Projects with Existing LIHTC Reservations.** OCD-DRU assumes that projects with existing LIHTC reservations will require re-processing by LHFA. For any projects that do require re-processing:

1. If LHFA determines that the proposed project has excess sources of funds, LHFA and OCD-DRU will determine how to reduce project funding to the level required to develop the project.
2. If LHFA determines that the proposed project does not have sufficient sources of funds, OCD-DRU will not increase the CDBG award, and it is possible that LHFA will reject the sponsor's LIHTC application.

C. **Restrictions on Development Costs.** Although OCD-DRU does not impose any limits on project development costs and does not impose any per-unit development cost limits, OCD-DRU expects that other funders will impose such limits. Sponsors should determine whether LHFA, or other funders if any, impose such limits. Sponsors should also note that the per-unit CDBG funding limit and the CDBG Leverage Requirement may have a similar effect as a limit on development costs.

D. **Developers May Receive Awards for Multiple Projects.** Developers and their Affiliates may submit multiple proposals and may receive multiple awards.

E. **Potential Exception for Storm-Damaged Properties.** Sponsors may request specific exceptions to the requirements of these Application Guidelines, as needed to facilitate the repair / reconstruction of workforce rental housing properties that existed prior to Hurricanes Gustav and Ike, were storm-damaged, and have not been re-occupied (including such properties that will be relocated to alternate sites while preserving their deep affordability subsidy contracts). Requests for exceptions may be submitted by email to thomas.latour@la.gov or in writing to the address provided above for submission of CDBG Applications. Any such exceptions may be granted by OCD-DRU in its sole discretion. Requests for exceptions may be made prior to, or included within, the CDBG Application, but sponsors are encouraged to make their requests as soon as possible. Granting of any exception must be in writing. Any exception granted shall only be for the specific project and shall not apply to other projects unless expressly made applicable by OCD-DRU. Also see Q&A #22 through #25 in Attachment A.

IV. GAP FINANCING LOANS

A. **Loan Documents.**

1. **In General.** Gap Financing Loans will be documented using OCD-DRU's template legal documents ("CDBG Legal Documents") for Gustav-Ike Piggyback Programs to be posted on OCD-DRU's web site (http://www.doa.louisiana.gov/cdbg/drpiggy.htm). By submitting an application, sponsors agree to execute the template legal documents without modification. OCD-DRU may require modifications to the templates to address particular features of funding or other aspects of any given project.
2. **Loan Documents Control.** The summary below is provided for the convenience of sponsors. If the summary below differs from the CDBG Legal Documents, the CDBG Legal Documents will prevail.
3. **CDBG Regulatory Agreement.** The CDBG Regulatory Agreement will be subject to only those liens and encumbrances specifically agreed to by OCD-DRU. The lien of any permanent mortgage will be subject to the CDBG Regulatory Agreement.
4. **Mortgage.** The Gap Financing Loan will have either (a) first lien position, or (b) second lien position behind the lien of permanent financing acceptable to OCD-DRU (in which case, if the first lien lender so requests, OCD-DRU agrees to execute OCD-DRU's standard form of Subordination Agreement contained in the CDBG Legal Documents).
5. **Guaranties.** Sponsors should note that OCD-DRU will require one or more Key Principals to give a Guaranty of Completion, and an Operating Deficit Guaranty, to OCD-DRU. OCD-DRU's requirements for Key Principals, and for financial statements that all proposed Key Principals must submit prior to closing, contained in the CDBG Legal Documents.
6. **Transaction Costs/Expenses.** The sponsor will be responsible for all costs related to closing the loan, whether or not closing occurs, including all title costs, recording costs, legal fees (including OCD-DRU fees),

abstract fees, appraisal costs, environmental and historic property review, and site and progress inspection fees (including OCD-DRU's fees), survey costs, or such other costs associated with the funding. These costs will include OCD-DRU's expenses, (if any) that may be incurred subsequent to the closing. Expenses provided under this paragraph and incurred subsequent to the closing but not escrowed at the time of closing shall be the responsibility of the sponsor.

7. **Conflicts.** Conflicts between the CDBG Legal Documents and any other documents executed in connection with the project will be resolved in favor of the CDBG Legal Documents. Sponsors should note that OCD-DRU will not be a party to "operating agreements" and other agreements between the sponsor and its investor(s). In particular, sponsors should note that no agreements can be made between the sponsor and its investors and lenders regarding cash distributions, except as regards the share of Surplus Cash that is distributed to the project owner.
8. **Representations and Warranties.** Sponsors should note that the CDBG Legal Documents contain representations and warranties that are ongoing. See, for example, Section 7 of the Loan Agreement. Accordingly it is possible (for example, because of subsequent non-compliance or other circumstances that prevent the sponsor from making the required representations and warranties) that a sponsor may receive an Award Acceptance Agreement but be ineligible to close.

B. **Interest Rate.** The interest rate will be zero percent. Sponsors may, however, request interest at the Applicable Federal Rate.

C. **Loan Term.**

1. 35 year maturity date. The loan balance, if any, is due and payable at this time.
2. Loans will be due on sale, refinancing, or if accelerated pursuant to the terms of the CDBG Legal Documents.

D. **Timing for Funding.** Sponsors may request funding either:

1. At completion of construction (see CDBG Piggyback Round Two Loan Agreement (at completion)); or
2. During construction (see CDBG Piggyback Round Two Loan Agreement (*pari passu*[6])). Requests for *pari passu* funding are subject to the following requirements:
    a. CDBG is a cost reimbursement program; disbursements during construction are limited to the reimbursement of actual eligible costs that have been incurred[7].
    b. *Pari passu* funding requires a construction lender or bridge lender, on whose inspection and oversight capabilities OCD-DRU, in its

[6] *Pari passu* basically means "in equal proportion". In concept, if CDBG funding were 50% of total funding, and if all funders agreed to fund based on percentage of completion, then OCD-DRU would fund 50% of each draw.
[7] OCD-DRU reserves the right to pay costs directly to suppliers or contractors. Also see Q&A #14 in Attachment A.

sole discretion, is willing to rely. In the event OCD-DRU determines it requires independent inspection(s), the fees and costs associated with the inspection shall be the responsibility of the sponsor.

c. *Pari passu* funding is subject to OCD-DRU reaching agreement with the other construction period funder(s) on a mutually acceptable intercreditor agreement.

d. The final disbursement will be at least 5% of the loan amount plus the CDBG portion of any construction contract retainage; see Section 2 of the Loan Agreement for the conditions for final disbursement.

E. **Required Payments.** Gap Financing Loans will be payable from sale / refinance proceeds and from a defined share of Surplus Cash.

F. **Required Payments From Surplus Cash.** Surplus Cash is a balance sheet measurement that compares available cash with short term liabilities ("obligations"). As of a project's fiscal year end date, if cash exceeds obligations, Surplus Cash is positive, and a payment will be due on the Gap Financing Loan. Surplus Cash is defined in the Loan Agreement. A series of Surplus Cash related Q&As are available on OCD-DRU's web site.

1. Annually, OCD-DRU will receive ("Tier A") 1/3 of the first $1000 per unit of Surplus Cash.
2. Annually, OCD-DRU will also receive ("Tier B") 2/3 of all Surplus Cash in excess of $1000 per unit.
3. For eligible projects that utilize LIHTC funding, if the sponsor can demonstrate in the CDBG application (to OCD-DRU's reasonable satisfaction) , that deferred developer fee would not be reasonably likely to be repaid (including interest at the Applicable Federal Rate), the sponsor may request that OCD-DRU defer the beginning point for Tier B for up to 15 years. This request must be made and documented at the submission date of the CDBG application[8].
4. The following must be paid solely from the sponsor's share of Surplus Cash: deferred developer fee, any tax credit adjusters, any asset management fees or investor service fees, and the replenishment of any reserves. However, normal monthly deposits to the Reserve for Replacements may be paid from operations as if they were operating expenses (deposits to other reserves may be made only from Surplus Cash that is distributed to the owner). Sponsors may request that OCD-DRU allow up to $30 per residential unit per year of asset management fees or similar fees, to be treated as operating expenses; any such request must be included in the CDBG application.

V. CDBG AWARD PROCESS

[8] Also see Q&A #19 in Attachment A.

A. **Questions Regarding These Application Guidelines.** Sponsors and other stakeholders may submit questions by email to thomas.latour@la.gov. Periodically OCD-DRU will post answers to questions on OCD-DRU's web site and on LHFA's web site. Answers to questions received by COB Friday, March 26 will be posted to the OCD-DRU web site not later than COB Wednesday, April 7. However, questions may be submitted at any time; answers will be posted to OCD-DRU's web site as questions are answered.

B. **Process for Reviewing Applications.**

1. **Communication with Contact Person.** OCD-DRU will communicate only with the contact person listed in the Application. Information received from persons other than the contact person will be disregarded by OCD-DRU.
2. **Completeness.** The review process will begin with a review for completeness. Applications that are incomplete will be rejected without further review, and no opportunity to complete the application will be given. See Section V.C below regarding rejected applications.
3. **Potential OCD-DRU Requests for Clarification.** OCD-DRU may, but shall not be obligated to, follow-up with a sponsor's contact person during the application review process in a telephone conversation or in writing in order to obtain clarification should OCD-DRU determine it to be advisable or necessary. Sponsors should endeavor, however, to provide thorough and complete applications as they may not have an opportunity for subsequent communications either oral or written other than the response to the deficiency letter.
4. **Deficiency Letter.** All sponsors who submitted complete applications will receive a deficiency letter based on OCD-DRU staff review of the application, whether or not the application includes a deficiency.
   a. The deficiency letter will include the staff score. If a deficiency affects the score, the deficiency letter will state how the score would be affected if the deficiency were cured, if the impact can be determined.
   b. Deficiencies are aspects of a complete application that are inadequate to allow OCD-DRU evaluation of the application. Examples of deficiencies include: statements (for example, in a market study) that are not adequately supported, inconsistent or conflicting information, and explanations that are confusing or ambiguous.
   c. Sponsors will have ten business days to respond to the deficiency letter. If all deficiencies are not remedied within the allowed period, the application will be rejected.
5. **Order of Award.** Complete applications without deficiencies (including applications that cure deficiencies within the allowed response period), and that are determined to comply with the requirements hereof, will be awarded in descending order of point score (subject to availability of Program funding, and subject to the requirements hereof such as, without

limitation, pool size and developer limits). See Section V.C below regarding applications that fail to address deficiencies within the allowed response period.

C. **Rejected Applications.** If an application is rejected by OCD-DRU (for example, for failure to submit a complete application), or if the sponsor fails to cure all deficiencies within the allowed period, a new application for the same site may not be submitted (either by the original sponsor or by any successor sponsor) until at least 90 days have elapsed since the date of rejection, or the date the deficiency letter response was due, as applicable.

D. **Award Acceptance Agreement ("AAA").**

1. **Form of AAA.** OCD-DRU will issue Award Acceptance Agreements to sponsors of awarded applications. Sponsors should note that the AAA will require commencement of construction within three months after issuance of the AAA (a three month extension is available for good cause[9]).
2. **Funding Reservation.** Funding will be reserved for the awarded project for the time period allowed in the AAA for the sponsor's execution and return of the AAA (two weeks).

E. **Recapture.** If the sponsor does not execute the AAA within the allowed time period, if the sponsor does not comply with the terms of the AAA, or if the sponsor relinquishes its AAA after executing it, OCD-DRU will reverse the funding reservation and may restore the funding to the Program.

F. **Reservation Pursuant to Federal Regulations.** OCD-DRU reserves the right to make and revise reservations in accordance with published federal regulations, rulings, guidelines and notices. OCD-DRU will not close a gap financing loan until environmental clearance has been issued.

G. **Funding Obligation.** OCD-DRU will not obligate funding to the project until the CDBG Legal Documents are executed.

VI. CDBG APPLICATION PACKAGE. Materials that do not need to be signed may be submitted on CD-ROM. Electronic spreadsheets must be submitted in "live" Excel format with all formulas active.

A. **LHFA Electronic Application.** Whether or not the sponsor plans to utilize LIHTCs or other LHFA funding, OCD-DRU will require an LHFA electronic application as part of the CDBG application package.

1. Sponsors must use the current LHFA format (2009 Version 1.7). This version includes 2010 FMRs and 2009 AMIs. This version is available from the OCD-DRU web site.

[9] The good-cause request must be in writing and must provide documentation of the reasons why the sponsor believes that good cause exists to grant the requested extension of time.

2. The LHFA Electronic Application must be submitted on CD-ROM.
3. Two hard copies of the LHFA Electronic Application are required, with original signatures of the sponsor on all pages that require signatures.

B. **Attachments, Appendices, Addenda, Exhibits and Certifications.**

1. OCD-DRU Selection Criteria. Sponsors must submit an Excel file provided by OCD-DRU (available from the OCD-DRU web site). The first worksheet in this file determines eligibility and calculates the project's score. The second worksheet is an optional checklist for preparing the application package.
2. All required certifications and appendices must be included and must be signed.
3. All required appraisals, market studies, and rent comparability studies must state conclusions as of a date within 90 days prior to the date of application.
4. Required certifications and appendices (for projects that will utilize LHFA funding) must meet applicable LHFA requirements. In the Previous Participation section of Appendix 1, include any previous participation in projects funded by OCD-DRU.
5. Required certifications and appendices (for projects that will not utilize LHFA funding) must submit the following certifications and appendices (Appendix numbers refer to LHFA appendices):
   a. Appendix 1 (ownership information). In the Previous Participation section, include any previous participation in projects funded by OCD-DRU.
   b. Appendix 2 (site control) – including a copy of the purchase option or other document evidencing site control.
   c. Appendix 4 (zoning)
   d. Appendix 5 (appraisal)
   e. Rent Comparability Study (Mixed Income projects only)
   f. Appendix 7 (financing commitments)
   g. Appendix 29 (amenities)
   h. Appendix 30 (community facilities)
   i. Appendix 39 (market study meeting LHFA requirements for LIHTC market studies); also see Section VI.B below.
   j. Appendix 41 (debarment / suspension).
   k. Also see the remainder of this Section VI.
6. City / Parish support letter.
7. All exhibits and addenda required by the Underwriting Criteria in Section VIII.
8. For Mixed Income projects, an exhibit establishing that the affordable units are comparable to the market units and are distributed throughout the project. In Mixed Income projects, affordable units may not differ (for example, in size, number of bathrooms, or quality of finishes) from other units within the property having the same number of bedrooms. If no other units within the property have the same number of bedrooms, the exhibit

must demonstrate to OCD-DRU (in OCD-DRU's sole discretion) that the proposed unit sizes, numbers of bathrooms, and finish quality for the affordable units are comparable to the remaining units, taking into account differences in number of bedrooms.

9. If any real estate to be acquired will be purchased or leased from an entity that has an identity of interest with the sponsor, an appraisal supporting the proposed acquisition price.
10. A statement regarding any regulatory agreements, use agreements or affordability agreements to which the project will be subject, other than the CDBG Regulatory Agreement; plus a true and correct copy of each such agreement.
11. If the project involves rehabilitation of a building constructed prior to 1978, a copy of the lead-based paint risk assessment and a copy of the lead-based paint inspection report.
12. Any other exhibits and addenda required pursuant to this document.

C. **Market Study; Rent Comparability Study.**

1. The market study must state conclusions as of a date within 90 days prior to the date of application.
2. All applications must include a market study meeting LHFA requirements. See the LHFA 2009 Per Capita QAP, Section II.I.
3. The market study must include an estimate of comparable market rents (i.e., the rents that the proposed project could command in the absence of rent and income restrictions).
4. For Mixed Income projects, the market study must be supplemented by a Rent Comparability Study meeting the requirements of HUD's Section 8 Renewal Policy Guide Chapter 9. The rent comparability study may be, but is not required to be, prepared by the same analyst who prepared the market study.

VII. **CDBG COMPLIANCE REQUIREMENTS.** Funding of the Program is through the United States Department of Housing and Urban Development, Community Development Block Grant Program. Sponsors and their counsel should be familiar with the full range of CDBG compliance requirements and should review Section 3 of the template Loan Agreement. The following is a brief summary of certain aspects of some of these compliance requirements.

A. **Environmental Clearance.** Sponsors selected for funding will be required to submit an Environmental Review Record (ERR) pursuant to 24 CFR Part 58. This record will be reviewed by OCD-DRU. A successfully completed ERR will then require a 30 day public comment period prior to Release of Funds. Prior to receipt of environmental clearance from OCD-DRU, the sponsor may not undertake, or commit any funds to, physical or choice-limiting actions, including property acquisition, demolition, tenant relocation, rehabilitation, conversion, repair or construction. Violations of this provision may result in the denial of any funds under this program. Sponsors are encouraged to ensure that site control exists for sufficient period of time to allow environmental clearance process to be completed before purchase must occur.

B. **Accessibility.** Projects will be subject to accessibility requirements under Section 504 of the Rehabilitation Act of 1973.

C. **Davis-Bacon.** Construction will be subject to Davis-Bacon wage and record-keeping requirements.

D. **Formerly Occupied Properties.** For properties that were occupied at the time of Hurricanes Gustav and/or Ike but have not become re-occupied, sponsors must provide reasonable efforts to enable former tenants to return if they are otherwise eligible for a unit within the property. (Unless waived by HUD, this is a Federal requirement pursuant to Section 414 of the Stafford Act.)

E. **Uniform Relocation Act ("URA").** If the project site is occupied at the time the CDBG application is made, the application must include an exhibit explaining either that no relocation of tenants will result, or that such relocation will be temporary (supported by an adequately documented estimate of relocation costs)[10]. Projects that would result in permanent relocation of tenants (as such term is defined in the URA) are not eligible. If the sponsor has the power of eminent domain, and if the project site is not owned by the sponsor at the time the CDBG application is made, the seller must receive the URA voluntary sale notice. Additional information on URA requirements is available from HUD at http://www.hud.gov/offices/cpd/relocation.cfm.

F. **Lead Based Paint.** HUD's lead based paint regulations at 24 CFR Part 35 will apply. Sponsors should be aware that neither compliance with the requirements of the Louisiana Department of Environmental Quality, nor compliance with the requirements of OSHA, is sufficient to meet HUD's Part 35 requirements. The HUD regulations require, among other things, that lead hazard evaluation and reduction activities be carried out for projects originally constructed before 1978 and receiving CDBG assistance. Capitalized terms in this paragraph are as defined in 24 CFR Part 35. The discussion below assumes that CDBG assistance will be at least $25,000 per residential unit.

1. For any project that includes an existing building that was completed prior to January 1, 1978, the application must include a discussion that establishes whether each such building is Target Housing.
2. For any proposed project that includes Target Housing:
    a. Prior to commencement of construction, a Risk Assessment (to determine the existence of lead paint hazards, and to design a lead hazard control plan) must be completed by State-accredited inspection personnel. The Risk Assessment must be prepared in accordance with HUD's regulations at 24 CFR Part 35. The Risk Assessment must also identify any lead paint Hazards.

[10] Temporary relocation cannot exceed twelve months.

b. An Inspection (to determine the location of any lead-based paint) is also required. The Inspection must identify the components that contain lead paint in sufficient detail to permit construction personnel to formulate a hazard control plan.

c. During the rehab, any Lead Hazards (that were identified in the Risk Assessment) must be Abated, and this Abatement work must be performed by State-licensed Abatement Contractors.

d. A lead hazard clearance report, based on Dust Testing by a State-accredited Risk Assessor or Inspector, is required after completion of construction. Dust Testing must be carried out, and evaluated, in accordance with HUD's regulations at 24 CFR Part 35.

e. The application must include a Use of Funds item for lead paint hazard reduction of at least $1,500 for each unit that is Target Housing, or a smaller amount that is supported by a Risk Assessment and Inspection[11].

f. A copy of the Risk Assessment and Inspection must be included in the application.

g. Sponsors must determine whether compliance with the requirements of OCD-DRU will be sufficient to satisfy any applicable lead-based paint requirements of the Louisiana Department of Environmental Quality and/or OSHA.

G. **Section 3.** HUD's Section 3 requirements apply. In general, Section 3 requires outreach, prior to awarding contracts and subcontracts to construct a project under the Program. Sponsors must conduct outreach to low-income individuals living in the area where the project is located and to certain businesses located in the area in which the project is located. The intent of the Section 3 requirements is to encourage employment of such individuals and businesses in connection with the construction of the project. These requirements apply to any contract or subcontract in excess of $100,000. For additional information concerning Section 3, see http://www.hud.gov/offices/fheo/section3/section3.cfm.

H. **Other.** Other applicable CDBG requirements will apply; see the CDBG Legal Documents.

VIII. UNDERWRITING CRITERIA FOR SIZING THE CDBG REQUEST. OCD-DRU will employ the following criteria when evaluating applications and requires sponsors to use the following criteria in the electronic application.

A. **In General.**

1. Whether or not projects include LIHTCs, OCD-DRU generally adopts the underwriting criteria used by LHFA.
2. To the extent the criteria below differ from those of LHFA, OCD-DRU understands that any application that the sponsor may make to LHFA will comply with LHFA criteria and therefore may differ from the CDBG

[11] This is an OCD-DRU requirement that is in addition to HUD's Part 35 requirements.

application. The CDBG application must meet the requirements of these Application Guidelines.

B. **Rents.**

1. **Rents for Market Rate Units.** The proposed rents for market rate units must be not less than 95% and not more than 100% of the comparable market rents identified in the rent comparability study.
2. **Rents for PSH Units.** The rent paid by the tenant is the 20% AMI rent. Rental assistance (if any) must be included in the rental income projections.
3. **Rents for Other LIHTC Units.** Not less than 95% and not more than 100% of the maximum LIHTC rent (for example, the 40% AMI rent for units restricted at the 40% AMI level), but not to exceed 95% of the comparable market rent identified in the market study.

C. **Rent Loss.** 7.0% of gross potential rents (for vacancy loss, bad debt loss, and concession loss). If the project involves acquisition of an existing project that has experienced rent loss in excess of 7.0%, the application must include an exhibit discussing how the proposed project will overcome the factors that led to the higher historical rent loss. Projects that are expected to incur rent loss in excess of 7.0% are not eligible to be funded.

D. **Operating Expenses.** Below are the 25th and 75th percentile operating expenses per unit per year, from awarded applications in the first Katrina-Rita Piggyback funding round. If any category of proposed operating expenses is less than the 25th percentile shown below, or more than the 75th percentile shown below, the application must include an exhibit providing adequate support for the amount proposed for that expense category.

Operating Expense Category	25th Percentile	75th Percentile
Real estate taxes	$450	$800
Property insurance	$775	$1375
Project Paid Utilities	$275	$550
Management Fee	$350	$425
Other Operating Expenses	$1,500	$2,000

E. **Replacement Reserve Deposit.** The proposed replacement reserve deposit must be not less than $300 per unit per year nor more than $500 per unit per year.

F. **Inflation.** The Pro Forma page of the electronic application must reflect the following inflation rates: 2% annually for revenue and 3% annually for expenses.

G. **First Mortgage Terms.**

1. **In General.** The application must include a commitment from a lender, containing the same business terms as those the sponsor included in its electronic application.
2. **Debt Service Coverage Ratio (on 1st Mortgage).** The debt service coverage ratio on the Pro Forma Calculation page of the electronic application must be not less than 1.15:1 and not more than 1.40:1. If a sponsor determines that an initial debt service coverage ratio above 1.40:1 is necessary, the application must include an exhibit that supports the need for the higher initial debt service coverage ratio ("DSCR") (for example, a long term cash flow projection showing that the higher initial DSCR is needed in order to maintain an acceptable minimum DSCR over the 15 year compliance period).
3. **First Mortgage Amount.** The actual amount of the first mortgage loan may not exceed the amount specified in the CDBG application.

H. **Operating Expense Cushion.** Operating expense cushion is Cash Flow Available (row 90 on the Cash Flow Pro Forma page of the LHFA electronic application) divided by Total Operating Expenses (row 78).

1. **Gap Financing Loan is in First Lien Position.** The operating expense cushion must be at least 10%.
2. **Gap Financing Loan is in Second Lien Position.** There are two requirements:
    a. The operating expense cushion must be at least 7%.
    b. The sum of Cash Flow Available plus First Mortgage Debt Service must be at least 10% of Total Operating Expenses.

I. **Developer Fee.**

1. The proposed developer fee in the CDBG Application is limited to 15% of the following amount: total uses of funds, minus developer fee, minus acquisition costs. This amount includes interest, if any, on any deferred portion of the developer fee.
2. In accordance with LHFA policy, certain proposed soft costs (such as consultant fees and contingency fees) will be treated as part of the proposed developer fee.
3. The actual developer fee is limited to the proposed developer fee specified in the CDBG Application, even if actual development costs are higher than estimated development costs.
4. If more than 20% of the proposed developer fee is proposed to be deferred, the application must include an exhibit demonstrating whether the proposed deferred portion is reasonably likely to be repaid during the first 15 years of project operations post-construction-completion, from the portion of Surplus Cash that is distributable to the owner (i.e., after deducting the Tier A and Tier B payments). If the proposed deferred portion is not reasonably likely to be repaid, the sponsor may request deferral of the Tier B payment; see Section IV.F.3.

5. If the *pari passu* funding option is selected for a Gap Financing Loan, no more than 17.5% of the cash portion of the developer fee may be drawn (from any funding source) at initial closing and no more than 35% (cumulative) may be drawn (from any funding source) through completion of construction.

J. **Initial Reserves.** If a CDBG award is issued, the award will require the funding of any initial reserves that are specified in the CDBG Application.

1. The CDBG Application may include an initial deposit to the Reserve for Replacements.
2. The CDBG Application may include other initial reserves (such as a debt service reserve, lease-up reserve, or operating deficit reserve). If any such additional reserves are proposed:
    a. During the term of the Gap Financing Loan, funds may be withdrawn only for (i) project operating expenses approved by OCD-DRU and (ii) to repay the Gap Financing Loan.
    b. Withdrawals may be replenished only from the portion of Surplus Cash that is distributed to the project owner.
    c. Funds in any such reserve may be used to satisfy obligations under the OCD-DRU Operating Deficit Guaranty.
3. Sponsors should note that some initial reserves are deducted for purposes of determining compliance with the CDBG Leverage Requirement. See Section II.F.
4. When OCD-DRU performs its post-construction subsidy layering analysis, any initial reserves in excess of amounts specified in the CDBG Application will not be considered eligible project costs (i.e., such excess reserves must be funded through deferral of developer fee, or by increases in non-CDBG sources of funds).

IX. CDBG POOL STRUCTURE

A. **Pool Structure.** $25 million in CDBG funding will be allocated initially to the following pools. Funds remaining in the two Mixed Income Pools will be transferred to the General Pool following completion of the Second Funding Round.

1. **$10 Million. Mixed Income Pool A.** Only (a) Mixed Income Projects; (b) located in Terrebonne, Cameron, Iberville, East Baton Rouge, Lafourche, Jefferson, Assumption, St. Mary, Ascension, and Calcasieu Parishes; and (c) with applications submitted through June 30, 2010, will qualify for this pool.
2. **$5 Million. Mixed Income Pool B.** Only (a) Mixed Income Projects; (b) located within the Gustav-Ike impacted area[12], but outside the ten Parishes listed above; and (c) with applications submitted through June 30, 2010, will qualify for this pool.

[12] For a list of the 53 Parishes in the Gustav-Ike impacted area, see the Gustav-Ike Action Plan Amendment 1, Appendix A, Table 1, available from the OCD-DRU web site.

3. **$10 Million. PSH Pool.** Only (a) PSH Projects; and (b) with applications submitted through June 30, 2010, will qualify for this pool. PSH Projects may be located anywhere in the Gustav-Ike impacted area.
4. **None. General Pool.** Funds remaining from Mixed Income Pool A and from Mixed Income Pool B will be transferred to this pool following completion of the Second Funding Round. PSH Pool funds will remain within the PSH Pool.

B. **Reservation of Funds in Pools.**

1. Projects that meet the requirements for both types of eligible project (Mixed Income and PSH, for example a Mixed Income project with 15% PSH units) will compete in the PSH Pool and in one of the Mixed Income Pools. See Q&A #26 in Attachment A. Otherwise, each project must apply in only one pool.
2. Within each funding pool, acceptable applications will receive a reservation of CDBG Funds in descending order of score (see Section X Selection Criteria) until all CDBG Funds available for reservation have been reserved (or until remaining funding is not sufficient to fund the next highest scoring acceptable application).
3. Within the two Mixed Income pools, there will be two rounds of funding. The first round will be limited to acceptable applications received through April 30. Unless all funding is awarded in the first round, the second round will be limited to acceptable applications received through June 30.
4. Mixed Income Projects that apply in one of the Mixed Income pools, and that are not awarded in those pools, will compete in the General Pool, for a third round open to all acceptable applications (for all project types, in all Parishes) received through August 31.
5. PSH Projects will compete for funding in the PSH Pool and also (in the Third Funding Round) in the General Pool.
6. In the event there are insufficient funds remaining in a Mixed Income Pool to fund the project having the highest score among projects not yet funded, the remaining funds will be transferred to the General Pool for potential award in the Third Funding Round.
7. In the event of a tie between applications for which there are insufficient CDBG Funds to reserve to each project, OCD/DRU will award the project that had the best score for CDBG Funding Per Unit (see Section X below).

X. SELECTION CRITERIA

A. **Categories; Maximum Point Score.** The maximum point score is 200:

1. CDBG Funding Per Unit 100 points maximum. See Section X.C below.
2. CDBG Leverage 100 points maximum. See Section X.D below.

B. **Minimum Score.** There is no minimum point score for award of CDBG funds.

C. **(100 points maximum) CDBG Gap Financing Loan per Unit.**

1. Each project's point score will be computed as follows:
   a. Funding cap (number of units, multiplied by the $100,000 per-unit cap; or $6 million whichever is less)
   b. Minus Gap Financing Loan reservation requested, equals the amount by which the Gap Financing Loan request is below the cap.
   c. Divided by the cap.
   d. Times 100, rounded.
2. Example: 40 unit mixed income project, $3.5 million Gap Financing Loan request:
   a. $100,000 x 40 = $4,000,000. $4 million is less than $6 million, so the cap for this project is $4 million.
   b. $4,000,000 - $3,500,000 = $500,000
   c. $500,000 ÷ $4,000,000 = .125
   d. .125 x 100 = 12.5 = 13 points (rounded)
3. Example: 40 unit PSH project, $1.5 million Gap Financing Loan request:
   a. $100,000 x 40 = $4,000,000. $4 million is less than $6 million, so the cap for this project is $4 million.
   b. $4,000,000 - $1,500,000 = $2,500,000
   c. $2,500,000 ÷ $4,000,000 = .625
   d. .625 x 100 = 63 points (rounded)

D. **(100 points maximum) CDBG Gap Financing Loan Leverage.**

1. Each project's point score will be computed as follows:
   a. Gap Financing Loan amount requested.
   b. Divided by total Sources of Funds (LHFA electronic application, Sources and Uses page, cell F23), reduced by the amount (if any) by which total initial reserves exceed $5,000 per unit.
   c. Times 100.
   d. Subtracted from 100.
2. Example: 40 unit project, $3.0 million Gap Financing Loan reservation request, $7.25 million total Sources of Funds, $100,000 total initial reserves:
   a. $3,000,000 Gap Financing Loan requested.
   b. Initial reserves are below $5,000 per unit, so adjusted total sources of funds is $7.25 million. $3,000,000 ÷ $7,250,000 = .414
   c. .414 x 100 = 41.4 = 41 (rounded)
   d. 100 minus 41 = 59 points.
3. Example: 40 unit project, $3.0 million Gap Financing Loan reservation request, $7.25 million total Sources of Funds, $1,000,000 total initial reserves:
   a. $3,000,000 Gap Financing Loan requested.
   b. Initial reserves exceed $5,000 per unit ($800,000) by $200,000, so adjusted total sources of funds is $7,050,000. $3,000,000 ÷ $7,050,000 = .426

c. .426 x 100 = 42.6 = 43 (rounded)
d. 100 minus 43 = 57 points.

XI. BOND AND LIHTC RELATED REQUIREMENTS. For sponsors planning to utilize tax-exempt bond financing, OCD-DRU provides the following based on its understanding of bond-related requirements that may be applicable and that sponsors should take into consideration:

A. **Fees.** Sponsors should determine any fees that the issuing agency may charge. No application fees or analysis fees are payable to OCD-DRU in connection with this program.

B. **Construction Timing Considerations.** Sponsors are reminded that the CDBG program's environmental review requirements prohibit sponsors from taking any 'choice limiting actions' such as purchasing land or commencing construction, prior to receiving environmental approval from OCD-DRU. Sponsors are reminded that the issuer and/or the IRS may have additional requirements (such as the IRS limitations on 'original expenditures') that may affect the sponsor's timing for commencing construction.

C. **Type of Project.** OCD-DRU understands that the IRS regulations for tax-exempt bonds differ from normal LIHTC requirements in ways that may affect scattered site projects, transitional housing projects, and projects that may serve student populations. Sponsors and their legal advisors should pay particular attention to these issues in structuring their applications.

D. **Public Notice Requirement.** Sponsors are reminded that bond financing includes a public notice requirement.

XII. ATTACHMENTS.

A. Questions and Answers.
B. Explanation of Permanent Supportive Housing.

Attachment A: Q&As on Gustav-Ike Piggyback Program

Questions Regarding Other Sources of Funds

1. **Q: For 4% LIHTC projects, can CDBG Gap Financing Loan funds be used to pay down construction period bonds, after the placed in service date, if the permanent bond financing amount will be lower than during the construction period?** A: Yes.

2. **Q: Is there an OCD-DRU requirement that projects must have long-term "hard debt"?** A: No. Accordingly, for 4% LIHTC projects, it is acceptable to OCD-DRU that all tax-exempt bonds be repaid following the placed in service date.

3. **Q: I understand that sponsors cannot utilize other types of OCD-DRU funding. Are there any forms of grants or soft loans, other than funding from OCD-DRU, that are prohibited under this program?** A: No. However, in the event of conflicts between program requirements, requirements of the OCD-DRU program will control (for example, requirements regarding lien position and requirements regarding distribution of surplus cash). For example, payments on soft loans can be made only from the portion of Surplus Cash that is distributed to the project owner.

Questions Regarding Permanent Supportive Housing (PSH)

4. **Q: I am planning a 47 unit Mixed Income project. How many PSH units must my project contain?** A: 47 units x 5% = 2.35 units, rounded up equals 3 required PSH units (you must have <u>at least</u> 5% PSH units).

5. **Q: Where can I find the definition of the eligible PSH household types?** A: The PSH eligibility process is managed by the Local Lead Agencies (LLAs), who will refer PSH households to Piggyback projects. In general, households including a person with disabilities and having incomes within the eligibility limits are eligible provided that the LLA determines that the household needs the supportive services. DHH and DSS have informed OCD-DRU that large numbers of eligible households are expected to apply to LLAs. Potentially eligible households, and project owners and managers, should contact the applicable LLA for additional information. Also see Attachment B below.

6. **Q: Will project-based Section 8 (or project-based Housing Choice Vouchers) be an acceptable subsidy method to support PSH units?** A: Yes; in fact we prefer these forms of subsidy. OCD-DRU will accept the Section 8 income limit and the Section 8 formula for tenant contribution in lieu of the corresponding requirements in the program summary.

7. **Q: Will Shelter Plus Care be an acceptable subsidy method to support PSH units?** A: Yes, so long as Shelter Plus Care requirements do not conflict with OCD-DRU requirements.

8. **Q: What is the rationale for setting the PSH rent at 20% AMI but setting the PSH income limit at 30% AMI?** A: Many PSH households have SSI income only, and the 20% AMI rent is consistent with SSI income. However, in some Parishes, SSI income will be modestly above 20% AMI, so OCD-DRU have set the income limit so as to encompass SSI households in all Parishes. Sponsors should note that the 20% AMI rent limit is applicable to all PSH units without regard to the actual income of the individual PSH resident.

9. **Q: It appears that there are strong incentives to offer additional PSH units above the 5% minimum in Mixed Income projects, is that correct?** A: Yes, that is our intention.

10. **Q: I plan a modular housing project that will have a two-unit PSH requirement. The non-PSH units will be 2BR and 3BR single family units. My modular housing supplier offers a building containing two 1BR units. Will OCD-DRU waive the requirement that PSH units be distributed throughout the project, in this situation?** A: OCD-DRU is willing to consider such an arrangement. Please include a waiver request in your CDBG Application. OCD-DRU will entertain a waiver request prior to application submission if you prefer.

11. **Q: I am planning a Mixed Income project containing only single-family units (2BR and 3BR units). Will OCD-DRU waive the requirement that PSH units be 1BRs in this situation?** A: Yes, if your project does not contain any 1BR units, then larger BR sizes are acceptable for the PSH requirement.

12. **Q: Will OCD-DRU allow 0BR (efficiency) units or SRO (single room occupancy) units to fulfill the PSH requirement?** A: OCD-DRU will allow efficiency units containing a full kitchen and full bath. SRO units will not be permitted.

Questions Regarding Mixed Income Projects

13. **Q: Are Mixed Income Projects precluded from accepting tenant-based Housing Choice Vouchers?** A: No. However, OCD-DRU will require that rents for the market units be affordable and attractive to market-rate tenants, and that the market units be marketed aggressively to non-assisted tenants before any assisted tenants are accepted.

Questions Regarding *pari passu* Funding During Construction

14. **Q: How does CDBG *pari passu* funding work with other sources that are available during construction?** A: For those projects that do elect to receive CDBG funding on a *pari passu* basis, the process will work as follows. Prior to closing on the CDBG Gap Financing Loan, the sponsor will submit for OCD-DRU's review a monthly sources and uses statement covering the development period. OCD-DRU will calculate the amount of each monthly draw after ensuring that developer fee is drawn in accordance with Program requirements and after ensuring that non-cash uses (such as contingencies) have been excluded. Any sources that are funded on a pre-determined schedule (as opposed to

being funded as construction progresses) will then be applied against each draw amount. During the construction period, the remaining amounts of the monthly draws will be shared *pari passu* between the Gap Financing Loan and all other construction period sources of funds that will be funded as construction progresses (e.g., construction loan and bridge loan). OCD-DRU will determine the percentage share for each construction period source of funds in accordance with the amount of each source that is provided during the construction period. For purposes of this calculation, OCD-DRU will assume that the entire Gap Financing Loan amount will be drawn during the construction period. However, sponsors should be aware that OCD-DRU withholds the final 5% of the Gap Financing Loan amount until the funding conditions in Section 2 of the Loan Agreement have been satisfied (these conditions include completion of the cost certification audit and OCD-DRU's completion of its post-construction subsidy layering review).

Questions Regarding Eligible Project Types

15. **Q: Are senior projects (occupancy restricted to those 55 and older) eligible?** A: Yes.

Other Questions

16. **Q: Will OCD-DRU exclude sponsors whose Katrina-Rita Piggyback projects have not started construction, or have not achieved significant construction progress?** A: No.

17. **Q: What is the basis for the priorities by Parish location (Mixed Income Pools A and B)?** A: These priorities reflect each Parish's share of damage from the storms. See Attachment A to the LRA Gustav-Ike Action Plan Amendment 1.

18. **Q: Why are both a market study and a rent comparability study required for Mixed Income Projects?** A: OCD-DRU rely on the market study to validate the need for the project. OCD-DRU rely on the rent comparability study to validate the rents that will be achievable by the market rate units.

19. **Q: If OCD-DRU agrees to defer its Tier B 2/3 share of Surplus Cash, how will OCD-DRU decide the length of the deferral period, and what will the CDBG Legal Documents actually say?** A. The length of the deferral period will be determined by the sponsor's long term cash flow projection that is included in the CDBG application, unless OCD-DRU finds technical errors in the spreadsheet (sponsors must submit a "live" Excel spreadsheet including all formulas) or determines that the sponsor's economic assumptions are unreasonable. That is, the length of the deferral will be the minimum number of years needed to provide for repayment of the pro forma deferred developer fee, including interest at the AFR, using the reasonable economic assumptions provided by the sponsor. The spreadsheet's assumptions for first stabilized year revenues and expenses must match those in the LHFA electronic application's Cash Flow Pro Forma page, but the sponsor may use any reasonable set of assumptions about future inflation. The CDBG legal documents will provide that the Tier B share of Surplus Cash will begin on the earlier to occur of (a) January 1 of the appropriate year or (b) an earlier date,

depending on the actual amount of Surplus Cash distributed to the owner (computed assuming that 100% of the owner's share of Surplus Cash is applied toward the deferred developer fee).

20. **Q: Can projects include management offices, maintenance facilities, clubhouses, other recreational amenities, laundry facilities, and vending machines?** A: Yes.

21. **Q: My project is located within an incorporated city. I understand that I need a letter of support from the City. Do I need a letter of support from the Parish as well?** A: No.

Questions Regarding Exceptions for Storm-Damaged Properties

22. **Q: Will OCD-DRU consider exceptions to pool sizes, funding limits, or Program timeliness?** A: No.

23. **Q: Will OCD-DRU consider exceptions to CDBG compliance requirements such as the CDBG National Objective Requirement?** A: No.

24. **Q: Will storm-damaged properties have to qualify as either a Mixed Income Project or a PSH Project?** A: Yes.

25. **Q: If the physical layout of a storm-damaged property makes it impractical to distribute PSH units throughout the project, will OCD-DRU consider an exception?** A: Yes.

Questions Regarding Combination Mixed Income – PSH Projects

26. **Q: I will be applying for funding for a project that will meet the Mixed Income Project definition and the PSH Project definition. How will such a project be treated in the competition for funding?** A: The project will be entered into the PSH Pool and into the appropriate Mixed Income Pool (A or B, depending on Parish location). If the project's score would allow it to be funded in only one of these two pools, the project will be assigned to the pool in which it would receive funding. If the project's score would allow it to be funded in both pools, OCD will choose which pool will provide the funding. In making this choice: (a) if both pools are under-subscribed, OCD may choose to fund the project from either pool; (b) if one pool is under-subscribed and the other is over-subscribed, OCD will fund the project from the under-subscribed pool; and (c) if both pools are over-subscribed, OCD will fund the project from the pool in which the project that would be thereby displaced has the lowest score (in the event of a tie, the score for CDBG funding per unit will be used as a tie-breaker).

Attachment B: Permanent Supportive Housing ("PSH") under the Gustav-Ike Piggyback Program (the "Program")

Permanent Supportive Housing ("PSH") In General. OCD-DRU seeks to facilitate the development of permanent supportive housing for the eligible target populations listed herein.

- Experience with similar approaches in other States suggests that this approach leads to reduced utilization of emergency room services and other high-cost health / social service interventions, and to cost savings that outweigh amounts spent to provide the supportive services. PSH is an "evidenced-based" practice which facilitates community integration through flexible, sustainable cross-disability supportive service approaches. The PSH model represents effective government policy to reduce reliance on expensive and restrictive settings for people with disabilities such as nursing homes, public institutions (e.g., state psychiatric hospitals), homeless facilities, acute care and emergency facilities, etc. PSH is also increasingly used to address the complex needs of other vulnerable populations, such as transition age youth, people with chronic health conditions, and people who have been homeless for long periods of time.
- Permanent supportive housing is an "evidenced-based" best practice housing model which provides affordable rental housing units in a non-institutional setting linked with flexible community-based supportive services.
- Supportive services will be provided by Local Lead Agencies, with funding and oversight from the Louisiana Department of Health and Hospitals.
- Local Lead Agencies also will receive applications from individuals / households seeking PSH units; Local Lead Agencies will refer eligible PSH tenants to Piggyback projects.
- The relationship between a Piggyback Project and the Local Lead Agency will be governed by the PSH Set-Aside Agreement. Also see the discussion below of the PSH Set-Aside Program.

For additional information on the PSH program of the Louisiana Department of Health and Hospitals, see http://www.dhh.louisiana.gov/offices/?ID=353. This web site includes frequently asked questions, which include contact information for Local Lead Agencies.

Identification of PSH Units within a Project Under the Program. OCD-DRU intends that PSH applicants (both initially and over time) be able to exercise choice among available units; accordingly it is possible that the physical units used for PSH will change over time.

- The units initially identified for PSH must consist of a mix of accessible and non-accessible units and cannot be made up of more than 50% of the accessible units required under Section 504 of the Rehabilitation Act of 1973[13].
- PSH units should be integrated throughout the development and should not be segregated to one area of a building or development[14].

[13] In order to comply with the requirements of Section 504, sponsors typically make at least 5% of total units accessible to persons with mobility impairments plus an additional 2% of units accessible to persons with visual or hearing impairments. Not more than 50% of such units can be utilized toward the PSH requirement, unless the actual PSH applicants select a greater percentage of the accessible units.

[14] However, the units initially identified for PSH should be selected from those units that are located on accessible routes.

Eligible Populations. Literature and practice in the area of permanent supportive housing asserts that the target population for PSH should be people with extremely-low incomes who have chronic health and other conditions that are at least episodically disabling or who face other substantial barriers to obtaining/maintaining housing (e.g. history of out-of-home placement); do not currently live in appropriate and stable affordable housing; and who would be unable to retain housing without tightly linked supportive services coordinated with the housing at the systems level. Consistent with this expectation, the eligible target populations for PSH in the Program will be extremely-low-income individuals and households (i.e., with incomes at or below 30% of AMI) who have one or more of the following conditions:

- They are hurricane displacees in need of Permanent Supportive Housing (as determined by the Local Lead Agency) living in the homeless shelter system or otherwise in temporary housing[15].
- The individual/household member has a substantial, long-term disability as determined by the Local Lead Agency including any of the following:
    - Serious Mental Illness;
    - Addictive Disorder, i.e., individuals in treatment/recovery from substance abuse disorder;
    - Developmental Disability, i.e., mental retardation, autism, or other disability acquired before the age of 22;
    - Physical, sensory, or cognitive disability occurring after the age of 22;
    - Disability caused by chronic illness (e.g., people with HIV/AIDs who are no longer able to work); and
    - Age-related disability (i.e., “frail elderly).
- The household is homeless, or is determined by the Local Lead Agency to be (1) most-at-risk of homelessness, and (2) in need of Permanent Supportive Housing. This will include family services clients with a goal of family reunification who are at risk for homelessness.
- The individual/household member is aging out of the state Foster Care system and is determined by the Local Lead Agency to be in need of Permanent Supportive Housing.

Sponsors of PSH Projects may propose to house other special needs populations, subject to the prior concurrence of the Louisiana Department of Health and Hospitals (“DHH”) and the Louisiana Department of Social Services (“DSS”).

Local Lead Agencies. DHH and DSS have agreed to jointly designate Local Lead Agencies in each DHH region that will apply for Supportive Services Grants, assume primary responsibility for identifying and prioritizing members of the eligible population for referral to PSH units; for referring eligible tenants to project sponsors as PSH units become available; and for arranging for appropriate Permanent Supportive Housing Services to be delivered. Local Lead Agencies and project sponsors will enter into PSH Set-Aside Agreements.

[15] In consultation with DSS and affected parties, OCD will issue additional guidance defining “temporary housing” for purposes of determining Eligible Population membership. OCD may issue additional guidance and/or requirements as OCD deems necessary to ensure that the objectives of the Piggyback PSH program are realized.

PSH units created through the Program will be open to any members of the eligible target population[16]. However, DHH and DSS have agreed in principle that sponsors of elderly properties who wish to restrict PSH units to elderly PSH clients may do so, wherever such a restriction is otherwise lawful.

The Permanent Supportive Housing Set-Aside Agreement. The following is a brief summary of some provisions of the template PSH Set-Aside Agreement. Any conflicts between the following and the actual provisions of the template PSH Set-Aside Agreement shall be resolved in favor of the template PSH Set-Aside Agreement

- **Local Lead Agency ("LLA").** Services will be provided to PSH clients through a DHH/DSS-approved Local Lead Agency ("LLA"). Sponsors are required to work cooperatively with the applicable LLA who will refer potential tenants.
- **Initial Term of Agreement.** The initial PSH Set-Aside agreement (between the sponsor and the Grantee) will have a term of five years.
- **Automatic Renewal of Agreement.** The sponsor (and its successors and assigns) shall accept renewals of the PSH Set-Aside agreement, if offered by the LLA (and its successors or assigns) on substantially the same terms, for a term (or terms) not to exceed in the aggregate thirty years after the commencement date of the initial PSH Set-Aside Agreement.
- **Termination of Agreement.** The PSH Set-Aside Agreement will provide that the sponsor may terminate the Agreement upon 90 days' advance written notice to the LLA and OCD-DRU if, at any point, the LLA notifies the sponsor that the LLA can no longer provide supportive services to PSH clients. However, neither expiration nor termination of the Agreement shall relieve the sponsor of any of its obligations under leases with PSH clients / residents.
- **Referral Process for PSH Set-Aside Units.**
    - Project sponsors must promptly notify the LLA whenever an eligible unit becomes available (that is, whenever the sponsor has not yet filled its PSH set-aside requirement).
    - If the LLA refers one or more PSH clients within a reasonable period not to exceed one week, the sponsor must accept or decline such PSH client(s) prior to considering any other applicant(s) for such unit.
    - If the LLA is unable to provide a referral within the allotted period, it may compel the sponsor to hold the unit off line for an additional period of up to 25 days if the LLA offers to compensate the owner for the loss of rental income during this period.
    - Sponsors are not required to hold a unit if the PSH client fails to provide needed information (for example, verification of income) within a reasonable time.
    - Project sponsors are not obliged to accept a referred applicant unless the applicant is acceptable in accordance with the sponsor's standard nondiscriminatory resident selection criteria (which must be applied consistently to all applicants for all units in the property).

[16] An exception is possible for PSH Developments whose sponsors are permitted by DHH and DSS to serve less than the full range of the eligible target population.

- Project sponsors may vary the terms of the tenancy (including, specifically, requiring a lease term as short as month-to-month), so long as the sponsor's decision is based on nondiscriminatory criteria consistently applied to all applicants for all units in the property[17].
- LLAs may not refer a client to a project sponsor unless (a) the client has affirmatively expressed a desire to live in that specific property, (b) in the LLA's reasonable judgment, the client has sufficient and sufficiently stable income to afford the rent and utilities (typically affordable at 20% AMI), and (c) in the LLA's reasonable judgment, the client is likely to uphold his or her responsibilities under the lease.

- **PSH Client to be the Tenant.** The client must be the tenant / lessee; neither the LLA itself nor any service provider is permitted to be the lessee.

Typical Working Relationship between Project Sponsor and LLA.

- DHH and DSS require LLAs to commit to a productive working relationship with project sponsors, consistent with the following.
- Upon acceptance of the PSH client by the project sponsor, the LLA will have arranged with a service provider(s) to provide (at no cost to the project sponsor) the appropriate array of services to the tenant residing in the PSH unit.
- The LLA will coordinate the timing of the service provision to ensure that the service provider is in place to assist with move-in and initial occupancy activities.
- Service provider staff will assist each PSH tenant to comply with the lease agreement and to achieve a successful long-term tenancy.
- The LLA must provide for a designated Tenant Liaison/Service Coordinator who will serve as the primary day to day contact for the Sponsor's property management staff.
- The LLA must provide points of contact for PSH client referral and for sponsor feedback regarding the provision of services to PSH clients.

[17] For example, the sponsor's criteria for requiring a shorter lease term may not be based on the presence, nature or severity of a disability but could be based on neutral criteria such as housing history and credit history.