LEXINGTON

Affordable Housing Fund

Application Guidelines for Housing Production, Acquisition and Preservation

Office of Affordable Housing
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859-280-8044
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EQUAL HOUSING OPPORTUNITY

Lexington Fayette Urban County Government
Affordable Housing Fund
Rental Production, Rehabilitation and Preservation
Program Requirements and Guidelines (Board Approved)

Introduction

The Lexington-Fayette Urban County Government (LFUCG) created the Affordable Housing Governing Board (the Board) and the Affordable Housing Fund (the Fund) (Ordinance No. 101-2014 and 103-2014).

The purpose of the Fund is to leverage public and private investment to provide, produce and preserve safe, quality affordable housing. Housing is considered affordable when safe, quality housing is available and rent and utility costs are no more than 30 percent of gross household income.

The goal of the Office of Affordable Housing is that every household in Fayette County will have access to safe, quality and affordable housing.

Developments funded all or in part with affordable housing dollars must be permanent housing that serves households at or below 80 percent of the Fayette County area median income upon leasing or purchasing a unit. More specific targets may be established by the Board. These targets shall reflect awareness of the need to ensure that a portion of the fund's resources serve the housing needs of households at or below 50 percent of area median income and households at or below 30 percent of area median income. Permanent housing is defined as housing where there is no time limit on how long a household can reside in a unit.

In order to meet its mission and goal, LFUCG allocated $3 million in fiscal year 2015, $2 million in fiscal years 2016, 2017, 2018, 2019, 2020 and 2021. Another $3 million was allocated in Fiscal 2022. LFUCG plans to allocate $2 million annually to the Fund.

Loans and grants from the Fund are not intended to be the sole source of funding for a development, therefore developments must leverage other public and private dollars. The development's financing plan must demonstrate Fund dollars will assist in reducing development costs, and therefore reduce or eliminate debt that must be serviced from rental income. Energy efficient construction is required to ensure reduced utility costs. It is expected that reduced debt service and utility costs will correspond to lower rents charged to the tenants. Additionally, all developments receiving resources from the Fund will be deed restricted to ensure long term affordability.

Eligible applicants are non-profit and for profit developers as well as the Lexington Housing Authority.

Rental assistance dollars, while an eligible use of the Fund, are currently not available.

Funding to offset the costs of administering housing units in exchange for the owner leasing the units at a lower rate are currently not available.

Developments requesting funds shall have all of their funding committed prior to receiving a firm commitment of dollars from the Affordable Housing Fund. Applications proposing multi-year allocations for the preservation and/or new construction of units will not be considered for funding.

Eligible Uses of the Fund:

Eligible uses of the Fund are:

1. **Construction, Acquisition, Bridge, Pre-Development and Permanent Loans.**
    - Please review the Fund's Loan Underwriting Policies and Procedures.
    - Loans in excess of $500,000 are required to be in participation with other financial institutions, unless otherwise approved by the Board.
    - Copies of the application and other required documentation that are submitted to the financial institution must be submitted to the LFUCG Office of Affordable Housing.
    - Loans will be amortizing with periodic payments due.
    - A 1 percent fee is charged and due at loan closing.
    - Interest rates and loan terms will be determined at time of commitment.
2. **Forgivable and Due at Maturity Deferred loans.**
    - These products provide gap financing for rental developments.
    - The proposed development must set aside 10 percent or more units for families at extremely low income (50 percent of area median income and below) and/or permanent supportive housing.
    - A 1 percent fee is charged and due at closing, unless waived by the Board.
    - Any forgiveness of Due at Maturity Deferred Loans must be approved by the Board.
3. **Grants.**
    - Grant dollars can be used for gap financing to preserve and/or develop affordable rental units as well as paying LFUCG costs that are unable to be waived.
    - The proposed development must set aside 20 percent or more units for families at extremely low income (50 percent of area median income and below) and/or permanent supportive housing.

Populations to be served

The following are funding priorities related to the resident populations intended to be served in developments utilizing resources from the Fund:

1. **Housing affordable to low-wage working families, families with children and individuals.**
    - Proposed developments should be located near transportation, local services and amenities.
    - Applications for mixed income developments as well as developments that combine housing and commercial space are eligible for funding.
    - Costs associated with market-rate housing and commercial space are not eligible for LFUCG Fund dollars.
    - Common areas and program office space may be eligible for LFUCG Fund dollars if it is determined they will serve low wage earners.

2. **Housing for seniors, single parents, special needs populations and people with disabilities (Permanent Supportive Housing)** Developments for these individuals and households that propose service components must demonstrate a relationship with a service provider and how those services will be funded. Populations to be served are:
    - **A.** Elderly
    - **B.** Homeless
    - **C.** Victims of Domestic Violence
    - **D.** Physically disabled
    - **E.** Youth aging out of Foster Care
    - **F.** Persons with acquired traumatic brain injury
    - **G.** Veterans
    - **H.** Persons with severe mental illness
    - **I.** Persons addicted to substances
    - **J.** Single parents

As mentioned above, Fund dollars are available to provide housing units for households at or below 80 percent of area median income upon leasing or purchasing a unit. Area median incomes for Fayette County in 2021 are as follows:

Lexington- Fayette County Area Median Incomes

Household Size	100% of Area Median Income	80% of Area Median Income	60% of Area Median Income	50% of Area Median Income	30% of Area Median Income
1	$52,900	$42,300	$31,740	$26,450	$15,900
2	$60,400	$48,350	$36,240	$30,200	$18,150
3	$68,000	$54,400	$40,800	$34,000	$20,400
4	$75,500	$60,400	$45,300	$37,750	$22,650

Therefore, for populations served with the Fund's dollars, the following monthly costs for housing related expenses (rents plus utilities) are considered affordable:

Maximum Affordable Monthly Rent plus Utilities in Fayette County

Household Size	*80% of Area Median Income*	*60% of Area Median Income*	*50% of Area Median Income*	*30% of Area Median Income*
1	*$1,058*	*$794*	*$661*	*$398*
2	*$1,209*	*$906*	*$755*	*$454*
3	*$1,360*	*$1,020*	*$850*	*$510*
4	*$1,510*	*$1,133*	*$944*	*$566*

Rents:

Unless otherwise approved by the Affordable Housing Board, monthly housing costs (rent plus utilities) for households residing in units funded with Affordable Housing Fund dollars shall not exceed the maximum affordable housing amount shown for household size and incomes being served. For example, if a household of 3 with income at or below 60% of area median income is leasing a unit, their rent plus utilities shall not exceed $1,020. The area median incomes and maximum affordable housing costs are updated annually.

Developments funded with housing credits (Section 42 of the Internal Revenue Code) will be subject to the rent requirements for housing credit developments.

Student Housing:

The production or preservation of student housing is not an eligible use of affordable housing dollars. However, students who meet one or more of the following criteria are eligible to live in units funded all or in part by the Fund:

1. A student receiving assistance under Title IV of the Social Security Act.
2. A student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social

Security Act.

3. A student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under similar Federal, State, or local laws.
4. A student who is a single parent with children and the parent does not qualify as a dependent of another individual.
5. A student or students who are married filing a joint income tax return.

Application process:

1. **Applicant contacts the office of affordable housing**
   To discuss the development concept and receive any necessary technical assistance.
2. **Application is submitted by the due date.**
   A copy of applications to other agencies such as Kentucky Housing Corporation (KHC), The Federal Home Loan Bank, LFUCG HOME, etc. is required to be submitted to the Office of Affordable Housing and will substitute for the LFUCG application. However, the LFUCG Office of Affordable Housing may ask for additional data as the review process proceeds. All applications must contain a statement of sources and uses and a 15 year pro forma that is consistent with the information presented to other funders.
3. **Application is reviewed by the Office of Affordable Housing and Board**.
   Approved developments will receive a contingent commitment letter from the Office of Affordable Housing.
4. **Technical submission process begins**.
   Once an application is initially approved a technical submission checklist outlining all required submission items will be sent to the applicant. The LFUCG Office of Affordable Housing requires copies of all technical submission items sent to other funders. These items must be submitted and approved prior to the development receiving a firm commitment.
5. **Final staff and Board review of proposed development**.
   Approved developments will receive a firm commitment letter from the Office of Affordable Housing.

Prior to application, applicants are required to prepare, document and begin implementing a community relations plan, including neighborhood notification activities. The community relations plan is needed whether the application is for funding for new construction or renovation of an existing building, regardless of whether there is a change in ownership.

A successful notification effort leads to open, ongoing communication between developers and neighbors. This requires cooperation by developers, the city, and neighborhood residents. A positive, open relationship between housing developers and neighbors can prevent misunderstandings and facilitate prompt resolution of misunderstandings and issues.

Funding of affordable housing will not be refused solely on the basis of concerns expressed by neighbors. The LFUCG Fund supports and is committed to promoting diversity in Fayette County neighborhoods. Consistent with local, State and Federal law, housing may not be excluded from a neighborhood based on any of the following characteristics of the persons who will live there: age, ancestry, color, creed, disability, gender identity, marital status, honorably discharged veteran or military status, national origin, family status, victims of domestic violence, political ideology, race, religion, sex, sexual orientation, possession or use of a Section 8 voucher, or use of a service animal by a disabled person.

LFUCG supports affordable housing projects that will preserve and enhance the strengths of neighborhoods. Housing developers and neighbors should keep the Office of Affordable Housing informed of any issues or concerns throughout the community notification process and operation of the development.

Applications are to be submitted to:

Richard L. McQuady
Office of Affordable Housing
Lexington Fayette Urban County Government
200 East Main Street
Lexington, KY 40507

Pre-Construction Conference and loan closing:

A pre-construction conference will be held for all developments funded in whole or in part by the Fund. The conference will include Fund staff, and staff from LFUCG representing legal, finance and inspections. The purpose of the meeting is to outline the basic responsibilities and duties of the parties throughout the construction process and the affordability period. During this meeting, all grant and loan documents will be reviewed and signed and the funds disbursement process will be discussed.

Deed Restrictions:

Any development receiving Fund dollars shall include deed restrictions to ensure projects are maintained as affordable housing for the affordability period**.** Affordability periods, generally between five (5) and fifteen (15) years, will be determined by the Board.

Sale of Property Prior to Expiration of Deed Restriction:

Upon the sale of a property which received funding from the Affordable Housing Fund, the Deed Restrictions shall remain in place until the expiration date. The new owners will be subject to the same restrictions and conditions as the original owners.
Transactions that result in a new owner assuming the terms of a repayable or forgivable loan must be approved by the Board prior to closing.

The Office of Affordable Housing will assess fees related to the preparation of documents associated with the sale of the property and the assumption of loan terms by the new owner(s).

Disbursement of Funds:

Construction draws will be processed on a reimbursable basis. The project sponsor will submit a draw request form to the Office of Affordable Housing. After inspection, the draw will be approved and funds disbursed. As mentioned above, this process will be discussed during the loan closing and pre-construction conference.

Evaluation Criteria:

Applications will be evaluated by the staff and Board of the Office of Affordable Housing based on the following criteria:

1. **Capacity of the Development Team.**
   A review of the team's experience with affordable housing developments as well as their financial capacity. This review includes a capacity evaluation of the developer, architect, Contractor, Counsel, Equity Provider and Management Company.

2. **Need/Market for the development.**
   A market study or market analysis documenting the need and market for the development is required. The review will assess the impact on other rental properties in the general area of the proposed development as well as a review of income levels to be served and the rents to be charged to the tenants.

3. **Project Design.**
   Reviews related to unit size, effect on the neighborhood, type of construction, compliance with applicable laws, amenities, tenant relocation plan and energy enhancements to reduce utility costs.

4. **Financial Feasibility.**
   A review of the statement of Sources and Uses of funds as well as a 15 year pro forma. These statements must be consistent with those presented to other funders. A post rehab or new construction appraisal may be required.

5. **Readiness to Proceed.**
   The staff and Board will review a development timeline as well as status of zoning, property acquisition, other resources, etc.

Financial requirements:

Liens and Appraisals:

Loans funded with Fund dollars will be in first lien position unless otherwise approved by the Board. The maximum combined loan to value ratio may not exceed 100 percent for all permanent loans associated with the project. The project's investment value will be determined by an appraisal.

The staff and Board of the Fund reserve the right to request an appraisal on any project utilizing Funds. Appraisals must be received during the technical submission stage. Applicants are responsible for all costs associated with the completed appraisal. Appraisals ordered for another lender may be acceptable. It is the policy of the Board for applicants to utilize an appraisal firm listed on Kentucky Housing Corporation's approved list and the appraisal must meet the standards outlined in Kentucky Housing Corporation's appraisal requirements. These approved appraisers and requirements are available on Kentucky Housing Corporation's web site at www.kyhousing.org, under development; multifamily; underwriting resources.

Debt Coverage Ratio:

Developments are required to have a minimum debt coverage ratio of 1.2 in year one and remain positive throughout the affordability period. Any development with a debt coverage ratio that is approaching the break-even point, on or before the end of the affordability period, must provide an explanation and document that sufficient funds will be available to support and maintain the development throughout the affordability period.

Reserve for Replacement:

Unless waived or amended by the Affordable Housing Fund Board, new construction developments shall establish a minimum reserve for replacement deposit of $400 per unit per year for new construction developments. The minimum amount for rehabilitation developments will be determined by the physical needs assessment, but in no case be less than $400 per unit per year.

Developer Fee:

Per the ordinance establishing the Fund, developer fees paid with Lexington-Fayette County Affordable Housing Fund dollars may not exceed 15 percent of total development costs.

Insurance Requirements:

For all properties assisted with Affordable Housing Funds, the borrower or property owner shall maintain all risk, fire and extended coverage, in form and with companies acceptable to LFUCG, for each unit of the project and any improvements to be constructed thereon in an amount of not less than Affordable Housing Funds made available to the borrower. Each policy must include appropriate loss payable clauses in favor of LFUCG.

Construction Contingency:

The construction contingency may not exceed 15 percent of total construction hard costs. When calculating contingency, acquisition of the property should not be included as hard costs. If no contingency is being requested, the applicant must explain the rationale as to why none is required. Furthermore, if no contingency is requested and change orders occur during construction, the applicant is responsible for all such costs. For new construction projects, contingency should always be less than 10 percent (in most cases generally less than 5 percent). For rehabilitation projects, the contingency may be as much as 15% but should generally be minimized by in-depth studies and evaluations that should be conducted as part of the developer's due diligence in preparing the application.

The construction contingency is set aside for unforeseen cost overruns. To draw contingency funds, a change order must be prepared and approved by both the inspector and plan reviewer at the time the change is deemed necessary. If contingency funds are not used, those funds will be recaptured and the necessary loan documents will be modified to reflect the difference in the amount funded. Soft cost contingencies are not allowed.

Annual Operating Expenses:

The staff and Board of the Fund will review proposed operating expenses for reasonableness. Applicants may be required to provide additional information related to projected annual operating costs.

Management fees generally should be comparable to market fees and should not exceed 8.5 percent of effective gross income. Smaller projects and/or special needs projects, which may require a higher fee, must justify a higher percentage.

Cost Containment:

While maintaining aesthetic and livable standards, the staff and Board will thoroughly review costs associated with construction to ensure reasonableness. The Fund will follow the cost containment guidelines utilized by Kentucky Housing Corporation. These can be found at www.kyhousing.org.

Costs associated with commercial space or a Community Service Facility, as defined in Section 42 of the Internal Revenue Code, will not be considered in the cost containment calculation.

Projects that contain commercial space must itemize the associated commercial space costs on a separate statement. No Fund money can be used to fund commercial space.

Any project-related fees or soft costs associated with a Community Service Facility or commercial space must be allocated on a pro-rata basis, or the actual amount of the soft cost, if it is specific to the space.

Operating Deficit Reserve Account (ODR):

The Board and staff may require an operating deficit reserve be established. The purpose of the ODR is to ensure that adequate funds are on hand should operating costs (e.g., utilities, maintenance costs, debt service obligations, etc.) exceed the project's ability to pay them with other funds. In addition to being a safeguard during the initial lease-up phase, the ODR is vital to ensuring the long-term financial stability of the project by increasing the project's ability to absorb or respond to temporary changes in circumstances, such as the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues.

If required, the minimum operating deficit reserve is to be calculated as follows:

Six months of debt service payments
+ Six months of projected operating expenses
= Minimum Operating Deficit Reserve Required

Construction Requirements:

All buildings must comply with all state and local building codes including accessibility standards, applicable federal accessibility laws (including Fair Housing Accessibility Guidelines) and the Americans with Disabilities Act Accessibility Guidelines.

All developments must comply with requirements for design-based security.

All developments must comply with the Uniform Residential Landlord Tenant Act.

All projects must implement the Universal and Minimum Design Standards of Kentucky Housing Corporation (KHC) to ensure energy-efficient design and construction practices are utilized.

Rehabilitation projects are encouraged to incorporate KHC's Universal Design standards when it is feasible. These standards are available on KHC's web site www.kyhousing.org.

All rehabilitation projects consisting of 12 or more units will be required to submit a physical capital needs assessment.

Any affordable housing development funded in whole, or in part, by the Fund shall be inspected at least once per calendar year to ensure compliance with affordable housing standards adopted by the Board. These may include, but are not limited to; building and property maintenance codes applicable in the Commonwealth of Kentucky or within Lexington-Fayette County, requirements for design-based security such as Secured by Design, and other standards as set forth by the Board or the Urban County Government.

Compliance:

Any affordable housing development funded in whole or in part by the Fund shall be subject to compliance reviews to ensure adherence to tenant income requirements, rent restrictions, pledged amenities and all commitments made in application for funding.

Any development found to have inspection and/or compliance issues that are not timely addressed will be subject to recapture of funds and other penalties as determined by the Board.

Any development found to not be in compliance with applicable laws and/or these guidelines may have their funds recaptured and be subject to other penalties as determined by the Board.

Financial and property reports are required to be submitted on an annual basis to the Office of Affordable Housing. The content of these reports will be determined by the Board.

Where applicable, developments must participate in the KY-HMIS and associated common assessment process.

All compliance requirements will be discussed with the sponsor during the pre-construction and loan closing meeting.

Other requirements and guidelines:

Physical/Capital Needs Assessment (PCNA):

All rehabilitation projects of 12 or more units and/or total Affordable Housing funding of $200,000 or more are required to submit a PCNA as an attachment to the application, unless waived by the Board. The applicant is responsible for the cost of PCNA. The PCNA will include a complete and thorough inspection of all structural components, appliances, mechanical and electrical systems to determine life expectancy, needed repairs and/or replacement. The Office of Affordable Housing may require an assessment of the plumbing as part of the PCNA.

The PCNA is to be conducted by an inspector who is an independent third party and is a licensed architect and/or engineer qualified to complete the assessment. The inspector may consult with structural, mechanical or electrical engineers to provide expert opinions as to the existing condition of a particular item.

PCNA/Capital Needs Report Requirements:

1. The report shall describe, in detail, all rehabilitation work required and an estimate of the associated costs.
2. A minimum of 25% of all units and at least one of each type must be inspected prior to the preparation of the report.
3. All reports should indicate the items and areas in need of immediate repair. A separate analysis should be completed on all components that will need repair or replacement within the next 5 years.
4. Provide a report on all existing conditions or items in violation of applicable building codes, federal and/or state accessibility standards, and/or local ordinances. Corrective measures required to bring all items into compliance must be thoroughly detailed.
5. Any visible evidence of hazardous substances, including but not limited to asbestos containing material, lead-based paint, petroleum bulk storage, polychlorinated biphenyls, and chlorofluorocarbons must be noted.
6. Deferred maintenance not performed on a normal operating basis, including estimates of corrective costs.
7. Any repairs or improvements needed to nonresidential buildings such as community buildings, management offices, garages, etc. and estimates of costs.

Relocation:

Development of affordable rental housing and acquisition of property for such development must minimize displacement of households. Any temporary relocation or permanent displacement of households must comply with all applicable provisions of law and relocation plan is part of the project design review of all applications.

Affirmative Marketing and Tenant Selection Plans:

Funded developments are required to affirmatively market vacant units using marketing methods designed to reach persons from all segments of the community, including minorities, persons of color and persons with disabilities.

In addition, sponsors of rental housing projects are strongly encouraged to inform providers of emergency shelters and transitional housing about their projects and to promote access to households ready to move into permanent housing. Sponsors will be required to maintain records of their affirmative marketing efforts and to report annually to the Office of Affordable Housing on those efforts.

Owners of rental properties funded in whole or in part with affordable housing dollars are required to accept tenants with rental vouchers, and their tenant selection plans should ensure acceptance of households that would qualify for a voucher. Prior to receiving funding the sponsor's tenant selection plan will be reviewed to ensure compliance with Fund requirements.

Women and Minority Business Enterprises:

Sponsors and their general contractors shall be encouraged to take actions which will increase opportunities for women and minority business enterprises (WMBE). The Office of Affordable Housing encourages efforts to increase WMBE participation including internships and participation in apprenticeship and other training opportunities.

Affordable Housing Processes:

In addition to this document, all applicants must refer to the document outlining program guidelines and requirements.

Initial Contact:

Applicant contacts Office of Affordable Housing to discuss the project concept and schedule a technical assistance meeting to discuss application process and program requirements.

Application Submission and Review:

Application will be reviewed by staff within the Office of Affordable Housing. This may include review of project plans and costs by an inspector which may involve site visits. Staff will then present project to Affordable Housing Board for review. This review may result in preliminary approval, final approval or rejection of application.

After action by the board the applicant will receive a letter from staff describing the board's action and outlining any further documentation needs, contingencies, and/or any other requirements approved by the board.

Technical Submission:

Based on the letter from staff, applicants will submit additional items to the office of Affordable Housing. These items will be reviewed and submitted to the Affordable Housing Board for final approval.

Once approved, the applicant will receive a letter from the Office of Affordable Housing detailing the action by the board. The letter will also include a projected timeframe for document preparation, pre-construction conference and loan closing.

Pre-Construction/Closing:

Upon completion of the legal documents a pre-construction and closing meeting will be held with the applicant, affordable housing staff, LFUCG legal, LFUCG inspectors and LFUCG finance staff. The purpose of this meeting is to review the legal documents, construction process, inspection process and disbursement of funds as well as all program and project requirements.

Construction and Placed in Service:

Construction will be monitored by affordable housing staff and LFUCG inspectors. When construction is complete and passed final inspection the property will be placed in service.

Compliance Monitoring:

During the affordability period affordable housing staff will monitor the project's performance and adherence to program requirements and commitments/amenities pledged in the application.

Loan Servicing/Asset Management:

Staff of the Office of Affordable Housing will arrange for servicing of any amortizing loans and will review project performance reports.

Lexington-Fayette County Affordable Housing Fund
Loan Underwriting Policies and Procedures

Introduction and Purpose of Fund:

The Lexington-Fayette Urban County Government (LFUCG) created the Affordable Housing Fund through Ordinances 101-2014 and 103-2014.

The Lexington-Fayette County Affordable Housing Fund (the Fund) was created to leverage public and private investment to provide, produce and preserve safe quality affordable housing for Fayette County residents.

The purpose of this document is to codify The Fund's operating procedures and program policies related to program loans. This document is subject to modification by The Fund's Board of Directors as experience dictates and programs change.

Loan Products and Services:

The Fund offers the following loan products from its various funds to serve developers and sponsors of affordable housing in Fayette County, Kentucky:

1. Predevelopment Loan
2. Acquisition Loan
3. Construction Loan
4. Equity Bridge Loan

5. Permanent Loan

In addition, technical assistance may be provided to borrowers of the Fund's loan products, including:

1. Determining the financial feasibility of the development
2. Discussion of required steps to develop and finance the development
3. Discussion of other funding sources available to finance the development
4. Working with conventional lenders on the development's financing
5. Discussion of marketability of the proposed development

The Fund's Board of Directors:

A 13 member board governs The Fund and monitors the policies, procedures, and performance of The Fund's loan portfolio. All proposed loans are subject to board approval.

Predevelopment Loans:

The Fund's predevelopment loan product is a short term (up to 24 months), flexible debt product utilized by developers of affordable housing to fund costs in the early stages of the development of a project. Loan proceeds can be used to fund project costs such as architectural drawings, permitting fees, professional fees, environmental investigations and engineering. The following are general guidelines for all applications:

1. The development must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. Developments must have evidence of financial commitments for completion of the project.

4. The maximum loan amount is $250,000.

5. A 1% loan origination fee will be charged.

6. There are no prepayment penalties.

7. Developer fees and operating costs are not eligible for funding.

8. All loans must have a plausible payoff strategy. The Board may require personal guarantees.

9. All developments must serve households at or below 80% of area median income.

10. Interest accrues at a rate determined by the board and all unpaid accrued interest and principal is due at the closing of the construction loan.

Acquisition Loans:

The Fund's Acquisition Loan Program is utilized by affordable housing developers and sponsors to acquire land or buildings that will be used for the development of affordable housing. This short-term loan (up to 36 months) can be used in combination with a predevelopment loan. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. Developments must have evidence of financial commitments for completion of the project.
4. A qualified appraisal may be required.

5. The maximum loan amount is $500,000. If total acquisition cost exceeds $500,000, The Fund may participate with a financial institution's loan for property acquisition in the form of a shared first mortgage.

6. A 1% loan origination fee will be charged.

7. There are no prepayment penalties.

8. All loans must have a plausible payoff strategy. A first mortgage on the property is required. The Board may also require personal guarantees.

9. All developments must serve households at or below 80% of area median income. Mixed income developments are also eligible; however the portion of the acquisition cost representing the market rate units must be obtained from other sources.

10. Interest accrues at a rate determined by the board and is payable quarterly. Any unpaid interest and principal is due at the closing of the construction loan.

Construction Loans:

The Fund's Construction Loan Program is utilized by affordable housing developers and sponsors for construction and/or rehabilitation of affordable housing developments. Loan proceeds can be used to fund all construction and rehabilitation related costs and this product can include property acquisition. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. Developments must have evidence of financial commitments for permanent financing of the project.

4. A qualified after construction appraisal may be required.

5. The maximum loan amount is $500,000. If total construction costs exceed $500,000, The Fund may participate with a financial institution's construction loan in the form of a shared first mortgage.

6. A 1% loan origination fee will be charged.

7. There are no prepayment penalties.

8. All developments must serve households at or below 80% of area median income. Mixed income developments are also eligible; however the portion of the construction costs representing the market rate units must be obtained from other sources.

9. All loans must have a plausible payoff strategy. A first mortgage on the property is required. The Board may also require personal guarantees.

10. Interest accrues at a rate determined by the board and is payable quarterly. Any unpaid interest and principal is due at the closing of the permanent loan.

Equity Bridge Loans:

The Funds Equity Bridge Loan Program is utilized on housing credit developments to bridge investor equity contributions. Loan proceeds can be used to fund all development costs except operating costs and deferred developer fees. The loan will be repaid from the equity contribution to the development. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. Developments must have evidence of financial commitments for equity contributions and investor notes will serve as collateral for the loan.

4. A qualified appraisal may be required.

5. The maximum loan amount is $500,000. If total construction costs exceed $500,000, The Fund may participate with a financial institution's bridge loan.

6. A 1% loan origination fee will be charged.

7. There are no prepayment penalties.

8. All developments must serve households at or below 60% of area median income. Mixed income developments are also eligible; however the portion of the bridge loan representing the market rate units must be obtained from other sources.

9. Note terms including interest rate and repayment requirements will be determined by the board.

Permanent Loans:

The Fund's Permanent Loan Program may be in the form of a first or second mortgage and used in conjunction with any multifamily affordable housing development. The Loan Program's purpose is to provide a lower than market interest rate on some or all of the debt associated with an affordable housing development which enables the property owner to provide affordable rents to eligible tenants. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. A qualified appraisal may be required.

4. A 1% loan origination fee will be charged.

5. There are no prepayment penalties.

6. All developments must serve households at or below 80% of area median income. Mixed income developments are also eligible; however the portion of the permanent loan representing the market rate units must be obtained from other sources.

7. Note terms including interest rate and repayment requirements will be determined by the board.

8. The maximum first mortgage loan amount is $1,000,000. If total permanent financing exceeds $500,000, The Fund requires participation with a financial institution's permanent first mortgage loan.

9. The maximum second mortgage loan is $400,000.

10. All projects are required to underwrite to a 1.20 debt coverage ratio in year 1 and the debt coverage ratio must remain positive through the term of the loan. Underwriting also includes the assumptions that rents increase 2% per year and expenses increase by 3% annually. A 7% vacancy rate is assumed. Smaller projects must assume a 10% vacancy.

11. *Surplus cash notes must receive repayment from surplus cash generated by the development prior to any deferred developer fee being paid from surplus cash.*

Project Evaluation Criteria

Applications will be evaluated based on criteria established by the board. The Affordable Housing staff will prepare a summary for the board that will include the following:

I. Development Executive Summary
   A. Development description
   B. Development team
   C. Sources and Uses
   D. Strengths of the Development
   E. Concerns related to the development

II. Project Design
   A. Location and site description
   B. Project amenities
   C. Populations to be served
   D. Number of units and bedroom sizes
   E. Incomes to be served
   F. Rents to be charged vs market and maximum rents allowable
   G. Construction features
   H. Energy enhancements
   I. Relocation plan (if applicable)
   J. Effect on neighborhood

III. Capacity of Development Team

A. Development Teams experience with affordable housing developments
B. Summary of responses to application questions
C. Financial capacity of development team
D. Development’s teams relationship with other funders

IV. Financial Feasibility
A. Sources and Uses
B. Construction budget
C. Pro-Forma
D. Appraisals
E. Other funding resources
F. Projected lease up period

V. Market/Need
A. Results of market study
B. Incomes to be served and rents
C. Effect on other rental properties within proximity of proposed development

VI. Readiness to Proceed
A. Project timeline
B. Property zoning
C. Status of funding from other sources
D. Ownership of property

Financial Guidelines and Benchmarks for Rental Applications:

Following is a summary of some of the criteria the staff and board of the affordable housing fund will consider when underwriting a multifamily development. This list is not intended to be all-inclusive.

Statement of Sources and Uses:

Documents all of the financial resources related to a development and how those resources will be used. This document also includes a detailed construction budget outlining both hard costs (those directly related to construction) and soft costs (indirect construction costs). Key elements of this document include:

1. Description of funds used to leverage affordable housing dollars
2. Pricing of housing credits (if applicable)
3. Total costs per unit as well as hard costs and soft costs per unit
4. Amount of fees paid to architects, attorneys, consultants and developers

5. Amount of construction overhead, general requirements and profit
6. Amount of construction contingency and operating reserves.

The goal of the Affordable Housing Fund is to leverage $6 for every $1 provided by the fund. This does not apply to each development but does serve as a benchmark for the overall use of fund dollars.

Currently for Fayette County developments we should see credit prices between 85 and 90 cents on the dollar.

The fund will utilize the containment guidelines of Kentucky Housing Corporation. Soft costs normally are 25% to 30% of total hard costs. Costs associated with commercial space or a Community Service Facility will not be included in the calculation. Current cost containment guidelines are attached.

Maximum allowable construction fees are based on the total development cost as shown below:

Total Development Cost	**General Requirements**	**Builder's Overhead**	**Builder's Profit**
$250,000 and less	6%	7%	12%
$251,000 - $750,000	5%	6%	8%
$751,000 and greater	6%	2%	6%

Construction management fees are considered to be a part of General Requirements. Therefore, they must be included with general requirements and cannot exceed the general requirement percentage.

Developer fees, including consulting fees may not exceed 15% of total development costs.

Architect and legal fees vary by development and the affordable housing fund staff and board will monitor those for reasonableness.

The construction contingency may not exceed 10 percent of total construction hard costs. When calculating contingency, acquisition of the property should not be included as hard costs. If no contingency is being requested, the applicant must explain the rationale as to why none is required. Furthermore, if no contingency is requested and change orders occur during construction, the applicant is responsible for all such costs. For new construction projects, contingency should always be less than 10 percent (in most cases generally less than 5 percent). For rehabilitation projects, the contingency should generally be minimized by in-depth studies and evaluations that should be conducted as part of the developer's due diligence in preparing the application. Soft cost contingencies are not allowed.

The purpose of an operating deficit reserve is to ensure adequate funds are on hand should operating costs exceed the development's ability to pay them as well as a safe guard during the initial lease up period. Normally, the minimum operating deficit reserve deposit is calculated as 6 months debt service plus 6 months operating expenses.

Pro-Forma:

A 15-20 year budget for the proposed rental development outlining income and operating expenses. During this period most funders assume a 2% annual rent increase and 3% increase in operating expenses. Key issues related to this document include:

1. Debt coverage ratio.
2. Operating expenses per unit, including management fees
3. Rental vacancy rate
4. Cash flow after expenses and debt service
5. Amount of replacement reserve contribution

Debt coverage ratios are required to have a minimum debt coverage ratio of 1.2 in year one and remain positive throughout the affordability period. Any development with a debt coverage ratio that is approaching the break-even point on or before the end of the affordability period must provide an explanation and document that sufficient funds will be available to support and maintain the development throughout the affordability period.

Affordable developments in Fayette County currently have average operating expenses (maintenance, utilities, management fees, taxes and insurance) totaling $3,956 per unit per year. The average costs exclusive of utilities are $3,094 per unit per year. The affordable housing fund board and staff will review projected operating costs for reasonableness.

Management fees generally should be comparable to market and should not exceed 8.5% of gross income. Smaller projects and those housing populations with special needs may apply for a higher fee and if so, justification must be provided.

A vacancy rate of 7% for developments with more than 15 units should be included on the pro-forma. The vacancy rate is 10% for developments of 15 units or less.

The affordable housing fund requires a minimum reserve for replacement deposit of $400 per unit per year for new construction developments. The minimum amount for rehabilitation developments should be determined by the capital needs assessment, but in no case be less than $400 per unit per year.

Proposed Policy to ensure development team is in compliance with all Lexington-Fayette Urban County Government (LFUCG) Ordinances and is current on all taxes, fees and other obligations with LFUCG.

Definitions:

“Applicant” refers to the individual or entity who submits an application to the LFUCG Office of Affordable Housing in order to secure funding.

“Development team” includes the Applicant, any managers, members or partners of the Applicant, the Applicant’s employees, the Applicant’s contractors who were retained with respect to the Proposal, any agent of the Applicant who has authority to act on behalf of the Applicant with respect to the Proposal, the Developer, the Development owner, and any consultants, architects, management companies, service providers, guarantors, equity providers, and/or syndicators connected with the Proposal.

“Proposal” refers to the property that the Applicant seeks to rehabilitate and/or develop, and for which purpose the Applicant seeks funding from the LFUCG Office of Affordable Housing.

"Knowingly" means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

1. Prior to submitting an application, the Development Team must be authorized to do business under the laws of the Commonwealth of Kentucky and must be in good standing and have full legal capacity to provide the goods or services specified in the loan application.

2. The Applicant must have all necessary rights and lawful authority to submit the application and enter into any loan agreements for the full term, including any necessary corporate or other action authorizing the Applicant to submit the loan application and enter into a loan agreement. All loan applications must be signed by a duly authorized officer, agent or employee of the Applicant.

3. If requested, the Applicant must LFUCG with a copy of a corporate resolution authorizing this action and/or a letter from an attorney confirming that the proposer is authorized to do business in the Commonwealth of Kentucky.

4. The Applicant shall obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of any funds.

5. The Applicant shall be current on all taxes, fees, and any other obligation owed to LFUCG and will remain current in regard to those taxes, fees, and obligations before any money is disbursed to the Applicant.

6. The Development Team shall comply with Chapters 12 and 13 of the Code of Ordinances of the Lexington-Fayette Urban County Government.

7. The Development Team may not have been suspended or disbarred by the U.S. Department of Housing and Urban Development (HUD) or any state housing finance agency prior to submitting the application and may not be suspended or disbarred during the rehabilitation or development of the Proposal.

8. The Development Team must be in compliance with Ordinance 35-2000 pursuant to contractor registration with the Division of Building Inspection.

9. The Applicant shall:

(1) Reveal any final determination of a violation by the Applicant within the previous five year period pursuant to KRS Chapters 136 (corporation and utility taxes), 139 (sales and use taxes), 141 (income taxes), 337 (wages and hours), 338 (occupational safety and health of employees), 341 (unemployment and compensation) and 342 (labor and human rights) that apply to the contractor; and

(2) Be in continuous compliance with the above-mentioned KRS provisions for the duration of the loan agreement.

10. By submitting a loan application, the Applicant asserts that it has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as the "Ethics Act."

11. By submitting a loan application, the Applicant authorizes the Office of Affordable Housing to verify any of the above mentioned information with the Division of Revenue and any other Division within LFUCG, as applicable, prior to any funds being awarded.

12. An Applicant’s failure to reveal any information detailed in the capacity review and referenced above, and/or the failure to comply with any of these provisions for the duration of the loan agreement, may be grounds to reject the loan application, cancel any loan agreement(s), and/or disqualify the Applicant from eligibility for future awards form the Affordable Housing Fund for a period of two (2) years.

Lexington Fayette Urban County Government
Affordable Housing Fund
Rental Production, Rehabilitation and Preservation
Program Requirements and Guidelines (Board Approved)

Introduction

The Lexington-Fayette Urban County Government (LFUCG) created the Affordable Housing Governing Board (the Board) and the Affordable Housing Fund (the Fund) (Ordinance No. 101-2014 and 103-2014).

The purpose of the Fund is to leverage public and private investment to provide, produce and preserve safe, quality affordable housing. Housing is considered affordable when safe, quality housing is available and rent and utility costs are no more than 30 percent of gross household income.

The goal of the Office of Affordable Housing is that every household in Fayette County will have access to safe, quality and affordable housing.

Developments funded all or in part with affordable housing dollars must be permanent housing that serves households at or below 80 percent of the Fayette County area median income upon leasing or purchasing a unit. More specific targets may be established by the Board. These targets shall reflect awareness of the need to ensure that a portion of the fund's resources serve the housing needs of households at or below 50 percent of area median income and households at or below 30 percent of area median income. Permanent housing is defined as housing where there is no time limit on how long a household can reside in a unit.

In order to meet its mission and goal, LFUCG allocated $3 million in fiscal year 2015, $2 million in fiscal years 2016, 2017, 2018, 2019, 2020 and 2021. Another $3 million was allocated in Fiscal 2022. LFUCG plans to allocate $2 million annually to the Fund.

Loans and grants from the Fund are not intended to be the sole source of funding for a development, therefore developments must leverage other public and private dollars. The development's financing plan must demonstrate Fund dollars will assist in reducing development costs, and therefore reduce or eliminate debt that must be serviced from rental income. Energy efficient construction is required to ensure reduced utility costs. It is expected that reduced debt service and utility costs will correspond to lower rents charged to the tenants. Additionally, all developments receiving resources from the Fund will be deed restricted to ensure long term affordability.

Eligible applicants are non-profit and for profit developers as well as the Lexington Housing Authority.

Rental assistance dollars, while an eligible use of the Fund, are currently not available.

Funding to offset the costs of administering housing units in exchange for the owner leasing the units at a lower rate are currently not available.

Developments requesting funds shall have all of their funding committed prior to receiving a firm commitment of dollars from the Affordable Housing Fund. Applications proposing multi-year allocations for the preservation and/or new construction of units will not be considered for funding.

Eligible Uses of the Fund:

Eligible uses of the Fund are:

1. **Construction, Acquisition, Bridge, Pre-Development and Permanent Loans.**
    - Please review the Fund's Loan Underwriting Policies and Procedures.
    - Loans in excess of $500,000 are required to be in participation with other financial institutions, unless otherwise approved by the Board.
    - Copies of the application and other required documentation that are submitted to the financial institution must be submitted to the LFUCG Office of Affordable Housing.
    - Loans will be amortizing with periodic payments due.
    - A 1 percent fee is charged and due at loan closing.
    - Interest rates and loan terms will be determined at time of commitment.
2. **Forgivable and Due at Maturity Deferred loans.**
    - These products provide gap financing for rental developments.
    - The proposed development must set aside 10 percent or more units for families at extremely low income (50 percent of area median income and below) and/or permanent supportive housing.
    - A 1 percent fee is charged and due at closing, unless waived by the Board.
    - Any forgiveness of Due at Maturity Deferred Loans must be approved by the Board.
3. **Grants.**
    - Grant dollars can be used for gap financing to preserve and/or develop affordable rental units as well as paying LFUCG costs that are unable to be waived.
    - The proposed development must set aside 20 percent or more units for families at extremely low income (50 percent of area median income and below) and/or permanent supportive housing.

Populations to be served

The following are funding priorities related to the resident populations intended to be served in developments utilizing resources from the Fund:

1. **Housing affordable to low-wage working families, families with children and individuals.**
    - Proposed developments should be located near transportation, local services and amenities.
    - Applications for mixed income developments as well as developments that combine housing and commercial space are eligible for funding.
    - Costs associated with market-rate housing and commercial space are not eligible for LFUCG Fund dollars.
    - Common areas and program office space may be eligible for LFUCG Fund dollars if it is determined they will serve low wage earners.

2. **Housing for seniors, single parents, special needs populations and people with disabilities (Permanent Supportive Housing)** Developments for these individuals and households that propose service components must demonstrate a relationship with a service provider and how those services will be funded. Populations to be served are:
    - **A.** Elderly
    - **B.** Homeless
    - **C.** Victims of Domestic Violence
    - **D.** Physically disabled
    - **E.** Youth aging out of Foster Care
    - **F.** Persons with acquired traumatic brain injury
    - **G.** Veterans
    - **H.** Persons with severe mental illness
    - **I.** Persons addicted to substances
    - **J.** Single parents

As mentioned above, Fund dollars are available to provide housing units for households at or below 80 percent of area median income upon leasing or purchasing a unit. Area median incomes for Fayette County in 2021 are as follows:

Lexington- Fayette County Area Median Incomes

Household Size	100% of Area Median Income	80% of Area Median Income	60% of Area Median Income	50% of Area Median Income	30% of Area Median Income
1	$52,900	$42,300	$31,740	$26,450	$15,900
2	$60,400	$48,350	$36,240	$30,200	$18,150
3	$68,000	$54,400	$40,800	$34,000	$20,400
4	$75,500	$60,400	$45,300	$37,750	$22,650

Therefore, for populations served with the Fund's dollars, the following monthly costs for housing related expenses (rents plus utilities) are considered affordable:

Maximum Affordable Monthly Rent plus Utilities in Fayette County

Household Size	*80% of Area Median Income*	*60% of Area Median Income*	*50% of Area Median Income*	*30% of Area Median Income*
1	*$1,058*	*$794*	*$661*	*$398*
2	*$1,209*	*$906*	*$755*	*$454*
3	*$1,360*	*$1,020*	*$850*	*$510*
4	*$1,510*	*$1,133*	*$944*	*$566*

Rents:

Unless otherwise approved by the Affordable Housing Board, monthly housing costs (rent plus utilities) for households residing in units funded with Affordable Housing Fund dollars shall not exceed the maximum affordable housing amount shown for household size and incomes being served. For example, if a household of 3 with income at or below 60% of area median income is leasing a unit, their rent plus utilities shall not exceed $1,020. The area median incomes and maximum affordable housing costs are updated annually.

Developments funded with housing credits (Section 42 of the Internal Revenue Code) will be subject to the rent requirements for housing credit developments.

Student Housing:

The production or preservation of student housing is not an eligible use of affordable housing dollars. However, students who meet one or more of the following criteria are eligible to live in units funded all or in part by the Fund:

1. A student receiving assistance under Title IV of the Social Security Act.
2. A student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social

Security Act.
3. A student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under similar Federal, State, or local laws.
4. A student who is a single parent with children and the parent does not qualify as a dependent of another individual.
5. A student or students who are married filing a joint income tax return.

Application process:

1. **Applicant contacts the office of affordable housing**
   To discuss the development concept and receive any necessary technical assistance.
2. **Application is submitted by the due date.**
   A copy of applications to other agencies such as Kentucky Housing Corporation (KHC), The Federal Home Loan Bank, LFUCG HOME, etc. is required to be submitted to the Office of Affordable Housing and will substitute for the LFUCG application. However, the LFUCG Office of Affordable Housing may ask for additional data as the review process proceeds. All applications must contain a statement of sources and uses and a 15 year pro forma that is consistent with the information presented to other funders.
3. **Application is reviewed by the Office of Affordable Housing and Board**.
   Approved developments will receive a contingent commitment letter from the Office of Affordable Housing.
4. **Technical submission process begins**.
   Once an application is initially approved a technical submission checklist outlining all required submission items will be sent to the applicant. The LFUCG Office of Affordable Housing requires copies of all technical submission items sent to other funders. These items must be submitted and approved prior to the development receiving a firm commitment.
5. **Final staff and Board review of proposed development**.
   Approved developments will receive a firm commitment letter from the Office of Affordable Housing.

Prior to application, applicants are required to prepare, document and begin implementing a community relations plan, including neighborhood notification activities. The community relations plan is needed whether the application is for funding for new construction or renovation of an existing building, regardless of whether there is a change in ownership.

A successful notification effort leads to open, ongoing communication between developers and neighbors. This requires cooperation by developers, the city, and neighborhood residents. A positive, open relationship between housing developers and neighbors can prevent misunderstandings and facilitate prompt resolution of misunderstandings and issues.

Funding of affordable housing will not be refused solely on the basis of concerns expressed by neighbors. The LFUCG Fund supports and is committed to promoting diversity in Fayette County neighborhoods. Consistent with local, State and Federal law, housing may not be excluded from a neighborhood based on any of the following characteristics of the persons who will live there: age, ancestry, color, creed, disability, gender identity, marital status, honorably discharged veteran or military status, national origin, family status, victims of domestic violence, political ideology, race, religion, sex, sexual orientation, possession or use of a Section 8 voucher, or use of a service animal by a disabled person.

LFUCG supports affordable housing projects that will preserve and enhance the strengths of neighborhoods. Housing developers and neighbors should keep the Office of Affordable Housing informed of any issues or concerns throughout the community notification process and operation of the development.

Applications are to be submitted to:

Richard L. McQuady
Office of Affordable Housing
Lexington Fayette Urban County Government
200 East Main Street
Lexington, KY 40507

<u>Pre-Construction Conference and loan closing</u>:

A pre-construction conference will be held for all developments funded in whole or in part by the Fund. The conference will include Fund staff, and staff from LFUCG representing legal, finance and inspections. The purpose of the meeting is to outline the basic responsibilities and duties of the parties throughout the construction process and the affordability period. During this meeting, all grant and loan documents will be reviewed and signed and the funds disbursement process will be discussed.

<u>Deed Restrictions</u>:

Any development receiving Fund dollars shall include deed restrictions to ensure projects are maintained as affordable housing for the affordability period**.** Affordability periods, generally between five (5) and fifteen (15) years, will be determined by the Board.

Sale of Property Prior to Expiration of Deed Restriction:

Upon the sale of a property which received funding from the Affordable Housing Fund, the Deed Restrictions shall remain in place until the expiration date. The new owners will be subject to the same restrictions and conditions as the original owners.
Transactions that result in a new owner assuming the terms of a repayable or forgivable loan must be approved by the Board prior to closing.

The Office of Affordable Housing will assess fees related to the preparation of documents associated with the sale of the property and the assumption of loan terms by the new owner(s).

Disbursement of Funds:

Construction draws will be processed on a reimbursable basis. The project sponsor will submit a draw request form to the Office of Affordable Housing. After inspection, the draw will be approved and funds disbursed. As mentioned above, this process will be discussed during the loan closing and pre-construction conference.

Evaluation Criteria:

Applications will be evaluated by the staff and Board of the Office of Affordable Housing based on the following criteria:

1. **Capacity of the Development Team.**
   A review of the team's experience with affordable housing developments as well as their financial capacity. This review includes a capacity evaluation of the developer, architect, Contractor, Counsel, Equity Provider and Management Company.

2. **Need/Market for the development.**
   A market study or market analysis documenting the need and market for the development is required. The review will assess the impact on other rental properties in the general area of the proposed development as well as a review of income levels to be served and the rents to be charged to the tenants.

3. **Project Design.**
   Reviews related to unit size, effect on the neighborhood, type of construction, compliance with applicable laws, amenities, tenant relocation plan and energy enhancements to reduce utility costs.

4. **Financial Feasibility.**
   A review of the statement of Sources and Uses of funds as well as a 15 year pro forma. These statements must be consistent with those presented to other funders. A post rehab or new construction appraisal may be required.

5. **Readiness to Proceed.**
   The staff and Board will review a development timeline as well as status of zoning, property acquisition, other resources, etc.

Financial requirements:

Liens and Appraisals:

Loans funded with Fund dollars will be in first lien position unless otherwise approved by the Board. The maximum combined loan to value ratio may not exceed 100 percent for all permanent loans associated with the project. The project's investment value will be determined by an appraisal.

The staff and Board of the Fund reserve the right to request an appraisal on any project utilizing Funds. Appraisals must be received during the technical submission stage. Applicants are responsible for all costs associated with the completed appraisal. Appraisals ordered for another lender may be acceptable. It is the policy of the Board for applicants to utilize an appraisal firm listed on Kentucky Housing Corporation's approved list and the appraisal must meet the standards outlined in Kentucky Housing Corporation's appraisal requirements. These approved appraisers and requirements are available on Kentucky Housing Corporation's web site at www.kyhousing.org, under development; multifamily; underwriting resources.

Debt Coverage Ratio:

Developments are required to have a minimum debt coverage ratio of 1.2 in year one and remain positive throughout the affordability period. Any development with a debt coverage ratio that is approaching the break-even point, on or before the end of the affordability period, must provide an explanation and document that sufficient funds will be available to support and maintain the development throughout the affordability period.

Reserve for Replacement:

Unless waived or amended by the Affordable Housing Fund Board, new construction developments shall establish a minimum reserve for replacement deposit of $400 per unit per year for new construction developments. The minimum amount for rehabilitation developments will be determined by the physical needs assessment, but in no case be less than $400 per unit per year.

Developer Fee:

Per the ordinance establishing the Fund, developer fees paid with Lexington-Fayette County Affordable Housing Fund dollars may not exceed 15 percent of total development costs.

Insurance Requirements:

For all properties assisted with Affordable Housing Funds, the borrower or property owner shall maintain all risk, fire and extended coverage, in form and with companies acceptable to LFUCG, for each unit of the project and any improvements to be constructed thereon in an amount of not less than Affordable Housing Funds made available to the borrower. Each policy must include appropriate loss payable clauses in favor of LFUCG.

Construction Contingency:

The construction contingency may not exceed 15 percent of total construction hard costs. When calculating contingency, acquisition of the property should not be included as hard costs. If no contingency is being requested, the applicant must explain the rationale as to why none is required. Furthermore, if no contingency is requested and change orders occur during construction, the applicant is responsible for all such costs. For new construction projects, contingency should always be less than 10 percent (in most cases generally less than 5 percent). For rehabilitation projects, the contingency may be as much as 15% but should generally be minimized by in-depth studies and evaluations that should be conducted as part of the developer's due diligence in preparing the application.

The construction contingency is set aside for unforeseen cost overruns. To draw contingency funds, a change order must be prepared and approved by both the inspector and plan reviewer at the time the change is deemed necessary. If contingency funds are not used, those funds will be recaptured and the necessary loan documents will be modified to reflect the difference in the amount funded. Soft cost contingencies are not allowed.

Annual Operating Expenses:

The staff and Board of the Fund will review proposed operating expenses for reasonableness. Applicants may be required to provide additional information related to projected annual operating costs.

Management fees generally should be comparable to market fees and should not exceed 8.5 percent of effective gross income. Smaller projects and/or special needs projects, which may require a higher fee, must justify a higher percentage.

Cost Containment:

While maintaining aesthetic and livable standards, the staff and Board will thoroughly review costs associated with construction to ensure reasonableness. The Fund will follow the cost containment guidelines utilized by Kentucky Housing Corporation. These can be found at www.kyhousing.org.

Costs associated with commercial space or a Community Service Facility, as defined in Section 42 of the Internal Revenue Code, will not be considered in the cost containment calculation.

Projects that contain commercial space must itemize the associated commercial space costs on a separate statement. No Fund money can be used to fund commercial space.

Any project-related fees or soft costs associated with a Community Service Facility or commercial space must be allocated on a pro-rata basis, or the actual amount of the soft cost, if it is specific to the space.

Operating Deficit Reserve Account (ODR):

The Board and staff may require an operating deficit reserve be established. The purpose of the ODR is to ensure that adequate funds are on hand should operating costs (e.g., utilities, maintenance costs, debt service obligations, etc.) exceed the project's ability to pay them with other funds. In addition to being a safeguard during the initial lease-up phase, the ODR is vital to ensuring the long-term financial stability of the project by increasing the project's ability to absorb or respond to temporary changes in circumstances, such as the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues.

If required, the minimum operating deficit reserve is to be calculated as follows:

Six months of debt service payments
+ Six months of projected operating expenses
= Minimum Operating Deficit Reserve Required

Construction Requirements:

All buildings must comply with all state and local building codes including accessibility standards, applicable federal accessibility laws (including Fair Housing Accessibility Guidelines) and the Americans with Disabilities Act Accessibility Guidelines.

All developments must comply with requirements for design-based security.

All developments must comply with the Uniform Residential Landlord Tenant Act.

All projects must implement the Universal and Minimum Design Standards of Kentucky Housing Corporation (KHC) to ensure energy-efficient design and construction practices are utilized.

Rehabilitation projects are encouraged to incorporate KHC's Universal Design standards when it is feasible. These standards are available on KHC's web site www.kyhousing.org.

All rehabilitation projects consisting of 12 or more units will be required to submit a physical capital needs assessment.

Any affordable housing development funded in whole, or in part, by the Fund shall be inspected at least once per calendar year to ensure compliance with affordable housing standards adopted by the Board. These may include, but are not limited to; building and property maintenance codes applicable in the Commonwealth of Kentucky or within Lexington-Fayette County, requirements for design-based security such as Secured by Design, and other standards as set forth by the Board or the Urban County Government.

Compliance:

Any affordable housing development funded in whole or in part by the Fund shall be subject to compliance reviews to ensure adherence to tenant income requirements, rent restrictions, pledged amenities and all commitments made in application for funding.

Any development found to have inspection and/or compliance issues that are not timely addressed will be subject to recapture of funds and other penalties as determined by the Board.

Any development found to not be in compliance with applicable laws and/or these guidelines may have their funds recaptured and be subject to other penalties as determined by the Board.

Financial and property reports are required to be submitted on an annual basis to the Office of Affordable Housing. The content of these reports will be determined by the Board.

Where applicable, developments must participate in the KY-HMIS and associated common assessment process.

All compliance requirements will be discussed with the sponsor during the pre-construction and loan closing meeting.

Other requirements and guidelines:

Physical/Capital Needs Assessment (PCNA):

All rehabilitation projects of 12 or more units and/or total Affordable Housing funding of $200,000 or more are required to submit a PCNA as an attachment to the application, unless waived by the Board. The applicant is responsible for the cost of PCNA. The PCNA will include a complete and thorough inspection of all structural components, appliances, mechanical and electrical systems to determine life expectancy, needed repairs and/or replacement. The Office of Affordable Housing may require an assessment of the plumbing as part of the PCNA.

The PCNA is to be conducted by an inspector who is an independent third party and is a licensed architect and/or engineer qualified to complete the assessment. The inspector may consult with structural, mechanical or electrical engineers to provide expert opinions as to the existing condition of a particular item.

PCNA/Capital Needs Report Requirements:

1. The report shall describe, in detail, all rehabilitation work required and an estimate of the associated costs.
2. A minimum of 25% of all units and at least one of each type must be inspected prior to the preparation of the report.
3. All reports should indicate the items and areas in need of immediate repair. A separate analysis should be completed on all components that will need repair or replacement within the next 5 years.
4. Provide a report on all existing conditions or items in violation of applicable building codes, federal and/or state accessibility standards, and/or local ordinances. Corrective measures required to bring all items into compliance must be thoroughly detailed.
5. Any visible evidence of hazardous substances, including but not limited to asbestos containing material, lead-based paint, petroleum bulk storage, polychlorinated biphenyls, and chlorofluorocarbons must be noted.
6. Deferred maintenance not performed on a normal operating basis, including estimates of corrective costs.
7. Any repairs or improvements needed to nonresidential buildings such as community buildings, management offices, garages, etc. and estimates of costs.

Relocation:

Development of affordable rental housing and acquisition of property for such development must minimize displacement of households. Any temporary relocation or permanent displacement of households must comply with all applicable provisions of law and relocation plan is part of the project design review of all applications.

Affirmative Marketing and Tenant Selection Plans:

Funded developments are required to affirmatively market vacant units using marketing methods designed to reach persons from all segments of the community, including minorities, persons of color and persons with disabilities.

In addition, sponsors of rental housing projects are strongly encouraged to inform providers of emergency shelters and transitional housing about their projects and to promote access to households ready to move into permanent housing. Sponsors will be required to maintain records of their affirmative marketing efforts and to report annually to the Office of Affordable Housing on those efforts.

Owners of rental properties funded in whole or in part with affordable housing dollars are required to accept tenants with rental vouchers, and their tenant selection plans should ensure acceptance of households that would qualify for a voucher. Prior to receiving funding the sponsor's tenant selection plan will be reviewed to ensure compliance with Fund requirements.

Women and Minority Business Enterprises:

Sponsors and their general contractors shall be encouraged to take actions which will increase opportunities for women and minority business enterprises (WMBE). The Office of Affordable Housing encourages efforts to increase WMBE participation including internships and participation in apprenticeship and other training opportunities.

Affordable Housing Processes:

In addition to this document, all applicants must refer to the document outlining program guidelines and requirements.

Initial Contact:

Applicant contacts Office of Affordable Housing to discuss the project concept and schedule a technical assistance meeting to discuss application process and program requirements.

Application Submission and Review:

Application will be reviewed by staff within the Office of Affordable Housing. This may include review of project plans and costs by an inspector which may involve site visits. Staff will then present project to Affordable Housing Board for review. This review may result in preliminary approval, final approval or rejection of application.

After action by the board the applicant will receive a letter from staff describing the board's action and outlining any further documentation needs, contingencies, and/or any other requirements approved by the board.

Technical Submission:

Based on the letter from staff, applicants will submit additional items to the office of Affordable Housing. These items will be reviewed and submitted to the Affordable Housing Board for final approval.

Once approved, the applicant will receive a letter from the Office of Affordable Housing detailing the action by the board. The letter will also include a projected timeframe for document preparation, pre-construction conference and loan closing.

Pre-Construction/Closing:

Upon completion of the legal documents a pre-construction and closing meeting will be held with the applicant, affordable housing staff, LFUCG legal, LFUCG inspectors and LFUCG finance staff. The purpose of this meeting is to review the legal documents, construction process, inspection process and disbursement of funds as well as all program and project requirements.

Construction and Placed in Service:

Construction will be monitored by affordable housing staff and LFUCG inspectors. When construction is complete and passed final inspection the property will be placed in service.

Compliance Monitoring:

During the affordability period affordable housing staff will monitor the project's performance and adherence to program requirements and commitments/amenities pledged in the application.

Loan Servicing/Asset Management:

Staff of the Office of Affordable Housing will arrange for servicing of any amortizing loans and will review project performance reports.

Lexington-Fayette County Affordable Housing Fund
Loan Underwriting Policies and Procedures

Introduction and Purpose of Fund:

The Lexington-Fayette Urban County Government (LFUCG) created the Affordable Housing Fund through Ordinances 101-2014 and 103-2014.

The Lexington-Fayette County Affordable Housing Fund (the Fund) was created to leverage public and private investment to provide, produce and preserve safe quality affordable housing for Fayette County residents.

The purpose of this document is to codify The Fund's operating procedures and program policies related to program loans. This document is subject to modification by The Fund's Board of Directors as experience dictates and programs change.

Loan Products and Services:

The Fund offers the following loan products from its various funds to serve developers and sponsors of affordable housing in Fayette County, Kentucky:

1. Predevelopment Loan
2. Acquisition Loan
3. Construction Loan
4. Equity Bridge Loan

5. Permanent Loan

In addition, technical assistance may be provided to borrowers of the Fund's loan products, including:

1. Determining the financial feasibility of the development
2. Discussion of required steps to develop and finance the development
3. Discussion of other funding sources available to finance the development
4. Working with conventional lenders on the development's financing
5. Discussion of marketability of the proposed development

The Fund's Board of Directors:

A 13 member board governs The Fund and monitors the policies, procedures, and performance of The Fund's loan portfolio. All proposed loans are subject to board approval.

Predevelopment Loans:

The Fund's predevelopment loan product is a short term (up to 24 months), flexible debt product utilized by developers of affordable housing to fund costs in the early stages of the development of a project. Loan proceeds can be used to fund project costs such as architectural drawings, permitting fees, professional fees, environmental investigations and engineering. The following are general guidelines for all applications:

1. The development must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. Developments must have evidence of financial commitments for completion of the project.

4. The maximum loan amount is $250,000.

5. A 1% loan origination fee will be charged.

6. There are no prepayment penalties.

7. Developer fees and operating costs are not eligible for funding.

8. All loans must have a plausible payoff strategy. The Board may require personal guarantees.

9. All developments must serve households at or below 80% of area median income.

10. Interest accrues at a rate determined by the board and all unpaid accrued interest and principal is due at the closing of the construction loan.

Acquisition Loans:

The Fund’s Acquisition Loan Program is utilized by affordable housing developers and sponsors to acquire land or buildings that will be used for the development of affordable housing. This short-term loan (up to 36 months) can be used in combination with a predevelopment loan. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.
2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.
3. Developments must have evidence of financial commitments for completion of the project.
4. A qualified appraisal may be required.
5. The maximum loan amount is $500,000. If total acquisition cost exceeds $500,000, The Fund may participate with a financial institution’s loan for property acquisition in the form of a shared first mortgage.
6. A 1% loan origination fee will be charged.
7. There are no prepayment penalties.
8. All loans must have a plausible payoff strategy. A first mortgage on the property is required. The Board may also require personal guarantees.
9. All developments must serve households at or below 80% of area median income. Mixed income developments are also eligible; however the portion of the acquisition cost representing the market rate units must be obtained from other sources.
10. Interest accrues at a rate determined by the board and is payable quarterly. Any unpaid interest and principal is due at the closing of the construction loan.

Construction Loans:

The Fund’s Construction Loan Program is utilized by affordable housing developers and sponsors for construction and/or rehabilitation of affordable housing developments. Loan proceeds can be used to fund all construction and rehabilitation related costs and this product can include property acquisition. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. Developments must have evidence of financial commitments for permanent financing of the project.

4. A qualified after construction appraisal may be required.

5. The maximum loan amount is $500,000. If total construction costs exceed $500,000, The Fund may participate with a financial institution's construction loan in the form of a shared first mortgage.

6. A 1% loan origination fee will be charged.

7. There are no prepayment penalties.

8. All developments must serve households at or below 80% of area median income. Mixed income developments are also eligible; however the portion of the construction costs representing the market rate units must be obtained from other sources.

9. All loans must have a plausible payoff strategy. A first mortgage on the property is required. The Board may also require personal guarantees.

10. Interest accrues at a rate determined by the board and is payable quarterly. Any unpaid interest and principal is due at the closing of the permanent loan.

Equity Bridge Loans:

The Funds Equity Bridge Loan Program is utilized on housing credit developments to bridge investor equity contributions. Loan proceeds can be used to fund all development costs except operating costs and deferred developer fees. The loan will be repaid from the equity contribution to the development. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. Developments must have evidence of financial commitments for equity contributions and investor notes will serve as collateral for the loan.

4. A qualified appraisal may be required.

5. The maximum loan amount is $500,000. If total construction costs exceed $500,000, The Fund may participate with a financial institution’s bridge loan.

6. A 1% loan origination fee will be charged.

7. There are no prepayment penalties.

8. All developments must serve households at or below 60% of area median income. Mixed income developments are also eligible; however the portion of the bridge loan representing the market rate units must be obtained from other sources.

9. Note terms including interest rate and repayment requirements will be determined by the board.

Permanent Loans:

The Fund’s Permanent Loan Program may be in the form of a first or second mortgage and used in conjunction with any multifamily affordable housing development. The Loan Program’s purpose is to provide a lower than market interest rate on some or all of the debt associated with an affordable housing development which enables the property owner to provide affordable rents to eligible tenants. The following are general guidelines for all applications:

1. The property must be located in Fayette County, Kentucky.

2. Borrowers may be a unit of local government or a for-profit or non-profit entity in good standing with the Office of the Kentucky Secretary of State.

3. A qualified appraisal may be required.

4. A 1% loan origination fee will be charged.

5. There are no prepayment penalties.

6. All developments must serve households at or below 80% of area median income. Mixed income developments are also eligible; however the portion of the permanent loan representing the market rate units must be obtained from other sources.

7. Note terms including interest rate and repayment requirements will be determined by the board.

8. The maximum first mortgage loan amount is $1,000,000. If total permanent financing exceeds $500,000, The Fund requires participation with a financial institution's permanent first mortgage loan.

9. The maximum second mortgage loan is $400,000.

10. All projects are required to underwrite to a 1.20 debt coverage ratio in year 1 and the debt coverage ratio must remain positive through the term of the loan. Underwriting also includes the assumptions that rents increase 2% per year and expenses increase by 3% annually. A 7% vacancy rate is assumed. Smaller projects must assume a 10% vacancy.

11. *Surplus cash notes must receive repayment from surplus cash generated by the development prior to any deferred developer fee being paid from surplus cash.*

Project Evaluation Criteria

Applications will be evaluated based on criteria established by the board. The Affordable Housing staff will prepare a summary for the board that will include the following:

I. Development Executive Summary
   A. Development description
   B. Development team
   C. Sources and Uses
   D. Strengths of the Development
   E. Concerns related to the development

II. Project Design
   A. Location and site description
   B. Project amenities
   C. Populations to be served
   D. Number of units and bedroom sizes
   E. Incomes to be served
   F. Rents to be charged vs market and maximum rents allowable
   G. Construction features
   H. Energy enhancements
   I. Relocation plan (if applicable)
   J. Effect on neighborhood

III. Capacity of Development Team

A. Development Teams experience with affordable housing developments
B. Summary of responses to application questions
C. Financial capacity of development team
D. Development’s teams relationship with other funders

IV. Financial Feasibility
A. Sources and Uses
B. Construction budget
C. Pro-Forma
D. Appraisals
E. Other funding resources
F. Projected lease up period

V. Market/Need
A. Results of market study
B. Incomes to be served and rents
C. Effect on other rental properties within proximity of proposed development

VI. Readiness to Proceed
A. Project timeline
B. Property zoning
C. Status of funding from other sources
D. Ownership of property

Financial Guidelines and Benchmarks for Rental Applications:

Following is a summary of some of the criteria the staff and board of the affordable housing fund will consider when underwriting a multifamily development. This list is not intended to be all-inclusive.

Statement of Sources and Uses:

Documents all of the financial resources related to a development and how those resources will be used. This document also includes a detailed construction budget outlining both hard costs (those directly related to construction) and soft costs (indirect construction costs). Key elements of this document include:

1. Description of funds used to leverage affordable housing dollars
2. Pricing of housing credits (if applicable)
3. Total costs per unit as well as hard costs and soft costs per unit
4. Amount of fees paid to architects, attorneys, consultants and developers

5. Amount of construction overhead, general requirements and profit
6. Amount of construction contingency and operating reserves.

The goal of the Affordable Housing Fund is to leverage $6 for every $1 provided by the fund. This does not apply to each development but does serve as a benchmark for the overall use of fund dollars.

Currently for Fayette County developments we should see credit prices between 85 and 90 cents on the dollar.

The fund will utilize the containment guidelines of Kentucky Housing Corporation. Soft costs normally are 25% to 30% of total hard costs. Costs associated with commercial space or a Community Service Facility will not be included in the calculation. Current cost containment guidelines are attached.

Maximum allowable construction fees are based on the total development cost as shown below:

Total Development Cost	**General Requirements**	**Builder's Overhead**	**Builder's Profit**
$250,000 and less	6%	7%	12%
$251,000 - $750,000	5%	6%	8%
$751,000 and greater	6%	2%	6%

Construction management fees are considered to be a part of General Requirements. Therefore, they must be included with general requirements and cannot exceed the general requirement percentage.

Developer fees, including consulting fees may not exceed 15% of total development costs.

Architect and legal fees vary by development and the affordable housing fund staff and board will monitor those for reasonableness.

The construction contingency may not exceed 10 percent of total construction hard costs. When calculating contingency, acquisition of the property should not be included as hard costs. If no contingency is being requested, the applicant must explain the rationale as to why none is required. Furthermore, if no contingency is requested and change orders occur during construction, the applicant is responsible for all such costs. For new construction projects, contingency should always be less than 10 percent (in most cases generally less than 5 percent). For rehabilitation projects, the contingency should generally be minimized by in-depth studies and evaluations that should be conducted as part of the developer's due diligence in preparing the application. Soft cost contingencies are not allowed.

The purpose of an operating deficit reserve is to ensure adequate funds are on hand should operating costs exceed the development's ability to pay them as well as a safe guard during the initial lease up period. Normally, the minimum operating deficit reserve deposit is calculated as 6 months debt service plus 6 months operating expenses.

Pro-Forma:

A 15-20 year budget for the proposed rental development outlining income and operating expenses. During this period most funders assume a 2% annual rent increase and 3% increase in operating expenses. Key issues related to this document include:

1. Debt coverage ratio.
2. Operating expenses per unit, including management fees
3. Rental vacancy rate
4. Cash flow after expenses and debt service
5. Amount of replacement reserve contribution

Debt coverage ratios are required to have a minimum debt coverage ratio of 1.2 in year one and remain positive throughout the affordability period. Any development with a debt coverage ratio that is approaching the break-even point on or before the end of the affordability period must provide an explanation and document that sufficient funds will be available to support and maintain the development throughout the affordability period.

Affordable developments in Fayette County currently have average operating expenses (maintenance, utilities, management fees, taxes and insurance) totaling $3,956 per unit per year. The average costs exclusive of utilities are $3,094 per unit per year. The affordable housing fund board and staff will review projected operating costs for reasonableness.

Management fees generally should be comparable to market and should not exceed 8.5% of gross income. Smaller projects and those housing populations with special needs may apply for a higher fee and if so, justification must be provided.

A vacancy rate of 7% for developments with more than 15 units should be included on the pro-forma. The vacancy rate is 10% for developments of 15 units or less.

The affordable housing fund requires a minimum reserve for replacement deposit of $400 per unit per year for new construction developments. The minimum amount for rehabilitation developments should be determined by the capital needs assessment, but in no case be less than $400 per unit per year.

Proposed Policy to ensure development team is in compliance with all Lexington-Fayette Urban County Government (LFUCG) Ordinances and is current on all taxes, fees and other obligations with LFUCG.

Definitions:

“Applicant” refers to the individual or entity who submits an application to the LFUCG Office of Affordable Housing in order to secure funding.

“Development team” includes the Applicant, any managers, members or partners of the Applicant, the Applicant’s employees, the Applicant’s contractors who were retained with respect to the Proposal, any agent of the Applicant who has authority to act on behalf of the Applicant with respect to the Proposal, the Developer, the Development owner, and any consultants, architects, management companies, service providers, guarantors, equity providers, and/or syndicators connected with the Proposal.

“Proposal” refers to the property that the Applicant seeks to rehabilitate and/or develop, and for which purpose the Applicant seeks funding from the LFUCG Office of Affordable Housing.

"Knowingly" means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

1. Prior to submitting an application, the Development Team must be authorized to do business under the laws of the Commonwealth of Kentucky and must be in good standing and have full legal capacity to provide the goods or services specified in the loan application.

2. The Applicant must have all necessary rights and lawful authority to submit the application and enter into any loan agreements for the full term, including any necessary corporate or other action authorizing the Applicant to submit the loan application and enter into a loan agreement. All loan applications must be signed by a duly authorized officer, agent or employee of the Applicant.

3. If requested, the Applicant must LFUCG with a copy of a corporate resolution authorizing this action and/or a letter from an attorney confirming that the proposer is authorized to do business in the Commonwealth of Kentucky.

4. The Applicant shall obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of any funds.

5. The Applicant shall be current on all taxes, fees, and any other obligation owed to LFUCG and will remain current in regard to those taxes, fees, and obligations before any money is disbursed to the Applicant.

6. The Development Team shall comply with Chapters 12 and 13 of the Code of Ordinances of the Lexington-Fayette Urban County Government.

7. The Development Team may not have been suspended or disbarred by the U.S. Department of Housing and Urban Development (HUD) or any state housing finance agency prior to submitting the application and may not be suspended or disbarred during the rehabilitation or development of the Proposal.

8. The Development Team must be in compliance with Ordinance 35-2000 pursuant to contractor registration with the Division of Building Inspection.

9. The Applicant shall:

(1) Reveal any final determination of a violation by the Applicant within the previous five year period pursuant to KRS Chapters 136 (corporation and utility taxes), 139 (sales and use taxes), 141 (income taxes), 337 (wages and hours), 338 (occupational safety and health of employees), 341 (unemployment and compensation) and 342 (labor and human rights) that apply to the contractor; and

(2) Be in continuous compliance with the above-mentioned KRS provisions for the duration of the loan agreement.

10. By submitting a loan application, the Applicant asserts that it has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as the "Ethics Act."

11. By submitting a loan application, the Applicant authorizes the Office of Affordable Housing to verify any of the above mentioned information with the Division of Revenue and any other Division within LFUCG, as applicable, prior to any funds being awarded.

12. An Applicant's failure to reveal any information detailed in the capacity review and referenced above, and/or the failure to comply with any of these provisions for the duration of the loan agreement, may be grounds to reject the loan application, cancel any loan agreement(s), and/or disqualify the Applicant from eligibility for future awards form the Affordable Housing Fund for a period of two (2) years.