



TEXAS GENERAL LAND OFFICE
COMMISSIONER DAWN BUCKINGHAM, M.D.

Community Development & Revitalization Affordable Rental Program

Affordability Compliance Manual

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Section 1- General Requirements:

I.1 Written Agreements

The written agreement is the legally binding document that the Texas General Land Office (“GLO”) executes with the owner or recipient of CDBG-DR funds. HUD requires the agreement to include certain minimum provisions, to ensure compliance with 83 FR 5844. For CDBG-DR assisted rental properties, the written agreement is enforced by a deed restriction, a covenant running with the land, or other mechanism approved by GLO.

I.2 Deed Restrictions and Covenants

A deed restriction or covenant is a legally binding document that is attached to a CDBG-DR funded rental property. The deed restriction or covenant “runs with the land” for the entire affordability period. It ensures that the CDBG-DR affordability requirements stay in place regardless of whether the funds are repaid, or property ownership transfers. Current and future owners are legally bound by the terms outlined in the Land Use Restriction Agreement (“LURA”). The deed restriction or covenant must be recorded and is enforceable by the GLO.

I.3 Affordability Period

The affordability period is the length of time during which the CDBG-DR requirements apply to the CDBG-DR funded property, which can be found in the LURA.

The affordability period can be thought of as the “compliance period.” During this time, the rental property owner must comply with HOME rents, HUD income requirements, tenant lease protections, affirmative marketing, and property standards, among other requirements in the LURA. The standard for affordability compliance rules used by the GLO is the HUD 4350 Handbook (HUD 4350.3) including HOTMA standards, and some Low-income Housing Tax Credit rules adopted additionally. After the CDBG-DR required affordability period ends, the requirements no longer apply.

When a CDBG-DR funded rental property is also assisted by other public funding sources, the owner must comply with the more stringent of the requirements as outlined in the respective program requirements or deed restrictions.

I.4 Plan Improvements

The requirements stated within this plan may change over the course of the affordability period due to GLO decision or applicable HUD and TDHCA rules. The plan may be corrected at any time to best represent the applicable rules as they are decreed.

I.5 Notification

Each property will receive a notice of impending review at least 30 days ahead. An outline of the information that will be requested will be included in the notice. When the review concludes, a notice of Review Completion will be issued. If deficiencies are present, that information will be included in the notice of Review Completion. Once the deficiencies are corrected, a notice will be issued stating their resolution.

Section 2- Reviews:

To protect resident information, please follow HUD guidelines on redacting PII and SPII. When documents are sent via email, password protect each document and send the password in a separate email.

2.1 Initial Review

Once the property is in possession of a Certificate of Occupancy for all units or a G704 Statement of Substantial Completion, an initial review should be completed within 18 months. An initial review must contain a review of each item in the annual review and 3-5 year review sections of this plan. A checklist for each will be completed at the time of the initial review. During the affordability period, household income must be verified annually for all tenants of CDBG units.

If the property has a Wetland LURA, proof of the filed document must be presented at the Initial Review.

2.2 Annual Review

Each property must submit the following for review annually:

If a previous review required corrective action, proof of completion will need to be included submitted to the GLO office within 30 days of the Review Conclusion Letter being issued to the project.

- A. Compliance Unit Report (CUR)- (*Comparable document is acceptable so long as no information is missing*) Must include all columns filled out for all CDBG units and the information must be less than 30-days old.
 - i. High-HOME rents posted annually [click here](#) (active 6/1/24)
 - ii. Income Limits and 30% rent limits are posted annually [click here](#) (active 6/1/24)
Financing option to use is "HOME/TCAP RF"
 - iii. Tenant Rent, Utility Allowance, and Housing Assistance Payment cannot exceed the above rent limits unless a Payment Standard is utilized.
- B. Rent & Income Schedule
 - i. A schedule of rents to ensure compliance with CDBG-DR and HUD requirements. Rent schedule should include:
 - a. Type of Unit Income Level Served
 - b. Number of Units (opt)
 - c. Number of Bedrooms
 - d. Gross Rents
 - e. Tenant Rent
 - ii. Income Limits Used on property by household size
- C. Housing Unit Inspections- Submit all annual inspections for units with move-ins and recertifications effective during the calendar month chosen by the auditor. If deficiencies are found, maintenance work orders will be required to prove resolution.
- D. Self-Certification- the project must submit a Certificate of Continuing Compliance with all occupancy standards, terms, and provisions of the LURA and referencing their compliance with the Unit Status Report, Affirmatively Furthering Fair Housing and marketing for fair housing, among other topics. Form is provided by

the GLO.

- E. Utility Allowance schedule including source (vendor, PHA, etc.), and effective date.
- F. If beginning compliance monitoring multiple years after G704 is issued and property is also monitored by TDHCA, GLO may request proof of compliance reports from TDHCA in order to ensure property has stayed compliant in affordability. If the Report states that the project is non-compliant, the project must submit proof that corrective action was submitted and approved at the next annual review. Non-compliance with TDHCA could also result in a desk or annual review from GLO.
- G. Proof of Current Insurance:
 - i. All properties must maintain property insurance
 - ii. Flood: In accordance with GLO or HUD guidelines, applicable properties will maintain flood insurance in an amount and duration prescribed by The Federal Emergency Management Agency's Flood Insurance Program and maintain said flood insurance for the Term of the Agreement if in flood plain/area.
- H. Annual property budget
 - i. A property budget including cost of all vendor contracts with the property (ex. *Landscaping, trash, make-ready, etc.*)
- I. Tenant Selection Plan & Amendments- refer to HUD 4350.3 Ch 4 & HOTMA for guidance when creating the TSP.
 - i. Each should be
 - a. Written and displayed at the project leasing in a common area;
 - b. Consistent with the purpose of providing housing for families making 80 percent or less of AMI;
 - c. Reasonably related to program eligibility and tenants' ability to perform under the lease;
 - d. Chronological with applications, so that tenants taken from a written waiting list are assisted in order;
 - e. Designed to give prompt written notice of the grounds for rejection to any lessee rejected based on income.
 - ii. Each Tenant Selection Plan must include:
 - a. Citizenship & Social security requirements
 - b. Income limits
 - c. Procedures for accepting applications and selecting from the waiting list:
 - 1. Procedures for accepting applications and pre-applications
 - 2. Procedures for applying preferences
 - 3. Applicant screening criteria
 - Required drug-related or criminal activity criteria *including State lifetime sex offender registration check in all states where applicant household members have resided or using a database that checks against all state registries, e.g., the Dru Sjodin National Sex Offender Database.
 - Procedures for using the EIV Existing Tenant Search; (if applicable)

- Other allowable screening criteria; and
 - Procedures for rejecting ineligible applicants.
 - Policy for opening and closing the waiting list for the property
- d. Occupancy standards
 - e. Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur.
 - f. ADA policies
 - g. Eligibility of students
 - h. Violence Against Women Act (VAWA)
- J. Other documents as requested.
- K. Corrective Action:
- i. If a systemic issue of non-compliance with the affordability requirement or asset management is reflected during reviews, then the project will be required to adhere to corrective actions set forth by the GLO.
 - ii. Tenant files may be requested for review at the GLOs discretion as a result of the annual review, outside of the 3-5 year file review.

2.3 3-5 Year Review and Physical Site Visit

Also coinciding with the Initial Review and occurring every 3-5 years after until the affordability period ends, the property must submit the following for review:

For the site visit section of this review, when not possible as determined by the GLO, photographs of physical asset and scans of documents may be accepted instead of a physical visit.

- A. Affirmative Marketing Plan- Most recent HUD approved Affirmative Fair Housing Marketing Plan with copies of marketing efforts. If no HUD approved AHFMP is available, most recent self-certified AFHMP is requested. If the rule regarding HUD approval is reinstated, the owner will be responsible for following current HUD requirements.
- B. Tenant files
GLO will request a HUD determined number of tenant files for review.
 - i. Income and asset verifications (Documents cannot be older than 90 days and verification by management of household income cannot be more than 90 days old at move-in/recertification.)
 - a. Income calculation must include Upfront Income Verification and/or tenant provided documents for at least most recent 4 consecutive weeks or 2 consecutive paycheck stubs, whichever covers more time, for proof of income.
 - b. Proof of calculation for all income must be included.
 - c. Income must be recertified at least every 12 months.
 - ii. Asset Calculation- To determine asset income, a statement of all assets' values must be collected and dated within the 90 days of the certification. If the managing entity has an Asset Verification form template, this is acceptable if signed by a representative of the location of the asset (e.g. Wells Fargo). All statements of assets must be collected at move-in and annually

- a. If total assets are at or below \$50,000, a self-certification is acceptable at move-in and annually.
 - b. Income from applicable assets must be included in total household income.
 - c. Self-certification forms can be found on the TDHCA and HUD websites.
 - d. No matter the amount or income from the asset, all assets must be listed on the \$50,000 Asset self-certification form.
 - e. If total assets exceed \$50,000, the imputed income must be calculated for all assets with incalculable actual income. The imputed income and the actual asset income is combined and included in the household income.
- iii. Gross income combined with asset income must not exceed the income limits for the affordability designation of that household.
 - iv. Annual Recertification notices are mandatory to the tenant and should be kept in the file. If the rent for the tenant increases at recertification, the tenant must be notified in writing at least 30-days ahead of the change.
 - v. Annual recertification documents should be signed and dated during the recertification appointment. Pre and post-dating documents is unacceptable.
 - vi. If the environmental review states presence of lead-based paint in tenant units, the tenant file must include a Lead Based Paint acknowledgement form at move-in.
 - vii. The lease (or an addendum) must include verbiage that describes the specific protections afforded to the victims of Violence Against Women Act crimes.
 - viii. If the property has been flooded in the past 5 years or is located in a 100-year floodplain, a Flood Disclosure Notice must be signed at move-in and kept in the file. If flooding has occurred during a household's tenancy, the Flood Disclosure Notice must be signed at the following recertification.
 - ix. Student status: Households composed entirely of full-time students that are income eligible and satisfy one or more of the TDHCA Student Eligibility questionnaire are considered eligible. A verification of student status should be included for all adults in the household.
- C. Over Income Guidance: If a tenant exceeds the income for their current subsidy level, they are able to continue renting at the subsidy level until their income exceed 140% of that income limit. Once the household exceeds the 140%, their rent and subsidy level moves up to the next lowest subsidy level.
- i. If the property has market rate units, a previously LMI-qualified over-income household should be considered a market rate unit when the combined income is over 140% of the published limits.
 - ii. If the property has no market rate units, when an over-income household's income exceeds 140% of the published income limits, the property can charge either the market rent or 30% of the household's gross income.
 - iii. If a property needs assistance calculating 30% of the income, please contact the compliance team.
 - iv. If the property is out of compliance with the LMI ratio prescribed in the LURA, the next available unit must be filled with the appropriate subsidy level household to establish LURA compliance.

Ex. One tenant makes \$11,000 and qualifies for 30% rent. They start working a second job and now their income is \$16,000. If the income limit is \$15,750, the tenant can continue to be counted as a 30% renter until their income exceeds \$22,050 (\$15750 x140%). If their income exceeds 140% of the 30% limit, and the property only rents at 30% and 80%, they become an 80% renter.

- D. Move Out Process- Move out process is determined by property but should be followed uniformly. The file should show notices to vacate, intents to vacate, final ledger and explanation of charges, move-out report, and final inspection with charges.
- E. If an accessible unit is leased to a tenant(s) who is not in need of the accommodations, that tenant must be notified in writing at move-in that they may be required to relocate units if another tenant(s) requests an accessibly modified unit. This relocation would be paid for by management.
- F. Physical standard safeguards
 - i. The GLO requires a minimum of 3 years of document retention from the end of the grant between GLO and HUD; documents must be kept to the minimum amount of time required by any agencies that have jurisdiction over the property if that requirement is over 3 years.
 - ii. Management must perform unit inspections at move-in and annually and retain these in the tenant file.
 - a. Four consecutive quarterly inspections may be substituted for an annual inspection.
 - iii. The GLO may perform physical site visits to inspect property's exterior, grounds, and units. During GLO physical site visits, compliance monitors may visit occupied resident units with proper notice at the GLO's discretion and inspect following HUD's NSPIRE guidelines
 - a. Deficiencies found by inspectors must be resolved in timeframe prescribed by HUD NSPIRE guidelines.
 - iv. Management offices must have the following documents posted (new information must be reposted as published)
 - a. Current Income Limits
 - b. Current Rent Schedule/Rental Rates
 - c. Hours and Emergency Phone number
 - d. Tenant Selection Plan
 - e. Fair Housing Poster, must be posted in the manager's office or onsite in a common room if no manager's office is present. The poster should be replaced anytime a new one is published.
If residents that do not speak English live at the property, the Fair Housing Poster in the present languages must be posted annually as well. (language options)
 - v. The property must comply with HUD's guidance on Personally Identifiable Information and Sensitive Personally Identifiable Information published in OHC PII042815. This includes verbal communication as well as written communication and information in the tenant files.

Section 3: Corrective Action

After each annual review, If a systemic issue of non-compliance with the affordability requirement or asset management is reflected, then the project will be required to adhere to corrective actions set forth by the GLO. Tenant files may be requested for review at the GLOs discretion as a result of the annual review, outside of the 3–5-year file review.

After each desk review, a Review Conclusion letter will be issued to the property with any necessary corrective actions. Corrections must be submitted back to the GLO within 30 days. Extensions may be granted at the GLO's discretion.

After 90 days GLO reserves the right to conduct random site visits until all outstanding items are resolved

Failure to respond to documentation or information requests will result in corrective action. ARP's Corrective Action process for Affordability Monitoring includes Request for Information with clear due dates, Non-Compliance plan including schedule of expected events, and a Corrective Action Plan (CAP). If an RFI is responded to appropriately and an additional issue develops, ARP can decide if another RFI is required or if a non-compliance plan should be issued. If lack of willingness to resolve a CAP is exhibited, the issues will be escalated above program.

At the GLO's discretion, with repetitive non-compliance and unwillingness to follow through with corrective actions, the GLO may begin recapture procedures.