

CDBG Upper-Story Rental Housing Conversion Program

The Iowa Economic Development Authority (IEDA) has initiated an Upper Story Rental Housing Conversion Program. This activity is limited to existing buildings to either rehabilitate un-occupiable (see definition) units or convert existing space into new units. All spaces must be vacant and un-occupiable at the time of application.

The maximum award per project is \$500,000. This maximum amount includes funding for CDBG grant administration.

Projects will be funded through IEDA's Housing set-aside (HSG) from the State's Community Development Block Grant (CDBG) program and will be reviewed and scored on a competitive basis.

The IEDA may require (at IEDA's discretion) a market study to be conducted to support the claimed need for a proposed project (including such factors as location, size of rental units, number of rental units, rent structure, etc.). Required market studies will be at the applicant's expense.

Effective in 2020, a Council of Government (COG), and/or consultant may not have more than 10 open CDBG Housing contracts at one time. This will now be part of the application review and determination of eligibility. Only awards made in 2020 and subsequent years will be considered when determining this threshold; Awards made prior to 2020 will not included.

National Objective:

- CDBG National Objective - All assisted rental projects shall meet the national objective of "Primarily benefits persons of low and moderate income – Housing". Effectively, this means that no less than 51% of the rental units in an assisted rental project shall be occupied by persons or households whose incomes are at or below 80% of the area median income limits (LMI) by household size as established by HUD for the jurisdiction in which the rental project is located.
 - 51% of all rental units in the project (rounded up to the nearest whole number) shall be made available to and occupied by a low and moderate (LMI) tenant (e.g., in 7-unit project, 4 units shall be made available to and occupied by LMI tenants). However, CDBG funds must also be proportional to the number of LMI units in the project. Please see more under "Form of Assistance."
 - For rental projects that contain residential units of varying bedroom sizes, to the extent possible the 51% criteria needs to be applied (i.e., a proportional share) to all sizes (number of bedrooms) of units.
 - According to HUD Occupancy rules: all single unit structures must be occupied by an LMI tenant, two-unit structures (duplex) must have at least one unit occupied by an LMI tenant and structures containing more than two units must have at least 51% of the units occupied by LMI tenants.
 - Projects may include scattered sites if all sites are owned by the same entity and units are equitable in size, design, finishes, etc. 51% of the units at each site shall be made available to and occupied by a low and moderate (LMI) tenant.

- For LMI Income limits:
IEDA website for CDBG Median Income Levels (MFI) Income Limits:
<https://www.iowaeconomicdevelopment.com/Community/downloads>
HUD Income Calculator: <https://www.hudexchange.info/incomecalculator/>

Definitions:

“Affordable Rental Units” means the number of units contained in the mortgaged property and contained in the agreement for covenants and restrictions that are occupied by low- and moderate-income persons or households at any given time. The number of affordable rental units (in the appropriate number as described later in these guidelines under the CDBG National Objective criteria) are to be retained at all times as affordable rental units throughout the period of affordability through income limitations of the tenants occupying those units and through rent limitations for the tenants occupying those units.

“Conversion/Reconstruction” For this activity reconstruction, for CDBG purposes, is generally defined as meaning the rebuilding of a structure on the same site in substantially the same manner. Deviations from the original design are permitted for reasons of safety or if otherwise impractical. Conversion/Reconstruction shall include any historic preservation rental housing projects, upper story residential projects and conversion of existing structures into new housing units.

“Development Agreement” means the agreement executed between the Recipient Responsible Entity (City or County) and the Developer (building owner/manager). This agreement is NOT a Sub-Recipient agreement per HUD regulations, as it does not delegate the roles and responsibilities of the Recipient down to the developer. The Recipient retains all responsibilities and the Developer owns the property and executes the project. The Development Agreement should include the CDBG award amount, the number of units and the timeline for project completion.

“Low and Moderate-Income” – Persons with income at or below 80% of the area median income as defined by the US Department of Housing and Urban Development (HUD)

“Mixed Use” means a project that includes a commercial venture with residential. The residential project must stand on its own and commercial improvements will not be considered in this application. All costs associated with the commercial must be separated and not reflected in the proposed budget, sources and uses of funds and proforma for the residential project. No live/work units will be funded.

Due to federal requirements, no work can be completed on commercial space during the term of the CDBG contract. Please contact IEDA staff with any questions regarding this requirement.

“Multi-family” means a project that is intended to be for rental units for multiple families. Single family detached units are not included in this activity.

“Period of Affordability” means the term in which the assisted units must maintain the required tenant income verification and rent limits, five years from the receipt of the Certificate of Occupancy (CO) or the date of the first signed lease, if CO is not issued. Upon initial lease up after rehab/conversion all tenants will be income verified by the Recipient or their Grant Administrator, using the provided certification form. For the subsequent years of the period of affordability, the developer/owner will re-certify tenants annually and provide completed certification forms to IEDA.

“Project” means a site or sites together with any building or buildings located on a site or sites that are under common ownership, management, and financing and are to be assisted with CDBG funds as a single undertaking, and includes all activities associated with the site(s) and building(s). Projects may not include more than 7 units.

“Un-occupiable” means an existing space that is not currently able to be occupied or would not be occupiable with minimal minor improvements (e.g. paint, flooring, cosmetic updates, etc.). Un-occupiable units are units that have been unoccupied for at least 5 years and will require major improvements and possible code-updates to allow someone to reside in the unit.

NOTE: Storage is considered a prior use if it was a commercially leased space for storage and not merely a vacant space used for owner storage.

Application Requirements:

- Applications must be submitted to IEDA through the municipality in which the housing project is located, and in coordination with a CDBG experienced Grant Administrator. All CDBG regulations as outlined in IEDA’s annual CDBG Management Guide shall apply to this funding.
- Applications must be thorough and complete. All items identified in the application checklist must be provided as applicable, and all signatures included. Incomplete applications will not be reviewed.
- The maximum number of units to be included in the project is seven (7).
- A Developer must be a for-profit entity who owns or will own the building.
- Ownership of the property or purchase agreement for the property should be provided in the application. The developer can show ownership of the project property by either producing a Title Guaranty Certificate or a title opinion and/or documentation from the county recorder’s office or the County Assessor’s office. Land ownership in Iowa must be recorded in the county that the property resides with the recorder and the county assessor’s office also lists ownership of land as a way of accurately taxing property owners. For any property being purchased; no acquisition, purchase or real estate closing, may occur after an application is submitted to IEDA until IEDA issues a Release of Funds.

- Prior to application submission, applicants will determine the development team that will be involved in the project. All projects must comply with federal procurement regulations, 2 CFR 200, including regulations as they apply to non-federal entities. Applicants will need to be able to convey the development team members and their respective roles and responsibilities in the proposed projects within the application submitted to the IEDA. Entities identified in the application as members of the development team and considered instrumental in the development of the application **may** not be subject to competitive bidding and procurement after a project is awarded. It is very important to fully document the pre-award Development team, as any partners not clearly engaged in the project pre-award, will be subject to competitive bidding, and any entity with advanced knowledge of the project, that may have an unfair advantage, would be precluded from bidding. Development team members may include, but are not limited to:
 - Owner (or eventual owner)/Developer;
 - Program administrator / overseer from start to finish, including throughout the prescribed period of affordability, if different from the owner;
 - Architectural / Engineering (A/E) or design services, as applicable;
 - Construction Lender(s);
 - Permanent Lender(s), as applicable;
 - Property Manager(s);

Please note: ALL CONSTRUCTION contracts will be competitively bid through standard federal procurement procedures. No work can be completed by the owner/developer, all work must be bid and contracted.
- All additional costs of the project above the stated CDBG fund limitations shall come from other financial resources. All other necessary financial resources shall be committed and secured prior to the commitment of CDBG funds to the project. **All secured financial resources should be supported by commitment letters with terms or account balance statements for owner funds in the application.** Financial documents can be submitted as confidential. If an applicant intends to use Historic Preservation Tax Credits, Workforce Housing Tax Credits, or any other applicable tax credit, in their sources of funds, providing documentation that these credits have been applied for is sufficient for this application. Award of said tax credits is not required for application. However, as tax credits are realized at the end of a successful project, sufficient documentation of bridge financing must be incorporated into the application. The value of the tax credit will not be counted as a source of funding if it is not supported by either a solicitation agreement or sufficient bridge financing.
- This activity does not include those projects for which Low Income Housing Tax Credits (LIHTC) are also sought or that comprise any portion of the financial resources of the proposed project's budget.

Form / Terms of Assistance:

- CDBG funds must be proportional to the number of LMI units in the project. For instance, if 51% of the units will be LMI then CDBG funds cannot be more than 51% of the total cost of the project. If, however, 61% of the units will be LMI, then CDBG funds can be 61% of the budget. All projects must at least meet the 51% LMI unit requirement. For instance, if you only requested that CDBG funds cover 26% of the budget that does not mean that only 26% of the units need to be LMI. That project would not meet a national objective.
- The form of financial assistance (CDBG funds) will be a 5-year forgivable loan (non-receding), forgiven in full at the end of the 5-year compliance period. If the assisted rental project is sold or transferred or converted to an alternate use during the compliance period following completion and acceptance, the entire amount of the CDBG forgivable loan shall be repaid. Upon mutual agreement and consent between the IEDA and the originally assisted rental property owner; the assisted rental project may be sold or transferred; but only, if the new purchaser agrees to continue with the terms of the forgivable loan agreement and the agreement for covenants and restrictions, completing the remainder of the affordability period which includes tenant income and rent limitations on 51% of the rental units.
- Contracts for funded projects will have a term of 3 years. Projects must be completed, and units must be leased within the 3-year contract term.
- In accordance with the recorded lien, property owners must secure and provide documentation of property insurance. IEDA must be listed as named insured on the insurance policy.
- Prior to the authorization of the first construction payment, each property receiving CDBG funds will be required to enter into a forgivable loan/mortgage and agreement for covenants and restrictions in the form of a recorded lien in order to ensure sufficient insurance and project compliance from the onset of construction (sample of lien available upon request from IEDA). The term of affordability begins upon the issuance of the Certificate of Occupancy, or the date of the first leased unit, whichever is earlier. For scattered sites each individual site will have a recorded lien and forgivable loan on each parcel for the amount of the actual construction costs allocated by CDBG funds for that site and an aggregate of soft costs divided by square footage for all scattered sites in a single application; ensuring that the total of all scattered sites forgivable loans match the total CDBG funds award amount for the project. It is at this juncture (initial occupancy following the provision of assistance) that the appropriate number of units in the project needs to be occupied by the appropriate number of LMI tenants and the subsequent rents limited on those units.
- Projects constructed under this activity could result in mixed-income projects, in that, only a percentage of the total number of units are required to meet the activity income and rent requirements (i.e., the “assisted” units). In the design of projects under this activity, consideration needs to be given to keeping all units in the project, not just the assisted units, consistent with each other in terms of bedroom

sizes, square footage, similar design features, similar amenities, etc. This will allow property owners units to maintain the required percentage of assisted units within the project and at the same time be able to use any of the units in the project to meet the required percentage. If unit design is not consistent, applications may be rejected; awards reduced and/or contain other restrictions to ensure appropriate use of funds for affordable units.

- Maximum (Gross) rent limits on the CDBG Fund assisted (affordable) rental units (by bedroom size) shall not exceed the most current HOME Program 65% rent limits. This requires the owner to subtract out any essential tenant utilities from the maximum rent, so that rent + essential utilities = the HOME 65% rent limit.
- Throughout the period of affordability, assisted rental property owners shall agree to periodic reporting requirements and compliance monitoring and/or inspections (for tenant incomes and rents on the affordable units, appropriate unit mix, property standards compliance, etc.).
- The CDBG funds forgivable loan may be recorded in junior position to the principal conventional loan (if there is one) but must be recorded in senior position to any and all other funding in the project. Additionally, recipients must maintain their assistance security agreements in the above-stated recording position throughout the 5-year affordability period.

Additional Requirements:

- No properties funded under this activity shall be located in a 100-year flood plain.
- All projects must utilize a licensed architect and/or engineer for design development and compliance, unless previously approved by IEDA.
- All projects must use IEDA provided tenant applications, leases and income verification documents.
- All owners must understand the importance of utility allowances and the calculation of utilities off of the maximum rent limit.
- All multi-family units shall be designed and constructed in accordance with all locally adopted and enforced building codes and standards. In the absence of any locally adopted and enforced building codes or standards, the requirements of the current Iowa State Building Code shall apply.
- No basement or first floor storefront units are allowed under this program. If first floor accessible unit are included in the project, they must not occupy an otherwise commercial space, and must have a separate entrance from the commercial space.
- It is the IEDA's goal to utilize the CDBG Funds in a manner that results in green-built, sustainable multi-family structures. All units shall meet the requirements of the Iowa Green Streets Criteria. All proposals must submit a completed Green Development Plan and Checklist. The Iowa Green Streets Criteria and supporting

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resources are available under the “Resources” section online at www.iowaeconomicdevelopment.com/CommunityDevelopment/green.

- All properties proposed for rental housing need to be identified and site control (not necessarily ownership) obtained, prior to application submission, and be identified (property address and legal description) within the application. Purchase Agreements may be used to document site control if the owner doesn't currently own the building, however no purchase can take place from the date of application until after IEDA has issued Release of Funds for awarded project.
- These CDBG funds are subject to the requirements of the Federal Lead Safe Housing regulations, impacting all dwelling units that were constructed prior to January 1, 1978. As such, this program is designed to limit projects to those that either work under Lead Safe Interim Controls as qualified for under the exemption for National Register listed or eligible properties, under 24 CFR 35.115 OR the contractor implements full lead abatement in accordance with the Federal Lead Safe Housing regulations.
- When calculating income for tenants, verifications must be completed and in accordance with 24 CFR 5.609 (Part 5). Income verifications are valid for twelve months from the date verification is completed.
- All awarded projects are subject to the standard State and Federal Regulations associated with the expenditure of Federal Community Development Block Grant (CDBG) funds, including but not limited to Environmental Review, Lead Safe Housing, Civil Rights and Fair Housing, etc. Grant administrators for these projects should be familiar with these regulations and should ensure that all developments comply with the terms of the CDBG contracts.

Special Environmental Review Requirements:

- Asbestos: Projects are NOT exempt from asbestos requirements. Since projects funded under this program involve conversion, they are not considered a housing rehabilitation activity of 1-4 units.
- Explosive and Flammable Materials in the Environmental Review: Projects are NOT exempt from review. If there is an above ground storage tank that contains fire-prone gases and liquids that is NOT within an acceptable separation distance and mitigation cannot be completed, CDBG cannot fund the project.
- Noise in the Environmental Review: Noise levels for projects should be at the Acceptable level of 65 dB. If above 65 dB, the prior use of the space must be discovered to determine the next steps:
 - If the property is vacant now, but the prior use was residential (regardless of how long property has been vacant):
 - Above 65 dB, but below 75 dB noise level: Normally Unacceptable range: attenuation will be required so that the internal noise level attains a 45 dB

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- Above 75 dB noise level: Unacceptable: The Responsible Entity will need to document on letterhead and have signed by the certifying officer that attenuation can be reached to 45 dB, project supports community planning objectives, no outside uses are planned, and it fulfills a demand for housing.
- If the property is vacant now, but the prior use was non-residential:
 - Above 65 dB, but below 75 dB noise level: The Responsible Entity will need to document on letterhead and have signed by the certifying officer that attenuation can be reached to 45 dB, project supports community planning objectives, no outside uses are planned, and it fulfills a demand for housing.
 - Above 75 dB noise level: Unacceptable: The project cannot proceed.