

STATE EARTHQUAKE REHABILITATION ASSISTANCE (SERA)  
GUIDELINES FOR RENTAL PROPERTY REHABILITATION LOANS

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STATE EARTHQUAKE REHABILITATION ASSISTANCE PROGRAM

RENTAL LOAN GUIDELINES

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## STATE EARTHQUAKE REHABILITATION ASSISTANCE

### GUIDELINES FOR RENTAL PROPERTY REHABILITATION LOANS ADMINISTERED BY LOCAL AGENCIES WITH FUNDS PROVIDED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) REVISED: FEBRUARY 23, 1988

#### I. Introduction

The State Earthquake Rehabilitation Assistance Program (SERA) provides deferred payment property rehabilitation loans to homeowners and owners of rental housing whose properties were damaged in the October 1, 1987 Los Angeles - Whittier Narrows Earthquake. It is administered by the State of California, Department of Housing and Community Development (HCD).

These Guidelines establish policies and procedures for SERA loans to owners of rental housing. They are designed for use by local agencies under contract with HCD to operate the program in their communities, and are being issued pursuant to Sections 50660-50671 of the California Health and Safety Code. These Guidelines are an expanded and revised edition of the December 18, 1987 Guidelines. Changes have been made to more fully explain program requirements and to assist Local Agencies in operating the program.

HCD has issued a separate set of guidelines for loans to homeowners. It is also accepting applications for SERA loans under the Special User Housing Rehabilitation program (SUHRP). SERA-SUHRP funds can only be used on earthquake-damaged residential hotels, apartments for the elderly and disabled, group homes for the disabled, and motels being converted to apartments. SERA-SUHRP loans are made directly to eligible Borrowers and carry a 30 year loan term.

For further information, please contact SERA staff at (916) 323-3178.

#### II. Eligibility Criteria

##### A. Eligible Properties

1. Must be one of the following: a single- or multi-family rental dwelling, residential hotel, mixed residential rental and commercial building, mixed owner-occupant and rental building or limited equity or stock cooperative; and
2. Must be earthquake damaged and located in Los Angeles or Orange County.

##### B. Eligible Borrowers

1. Can be individuals, partnerships, corporations, non-profit corporations, and other legal entities;

2. Must have held title to the property or have had firm site control at the time of the earthquake (except for nonprofit borrowers);
3. Must apply for and use all funds available to the Borrower for property rehabilitation from the Small Business Administration, local government rehabilitation programs, and private sources, including insurance proceeds. The one exception to this rule is described in Section III.B below.

### III. Loan Limits

- A. SERA loans to owners of rental properties are generally limited to:

\$10,000 maximum per unit, based on the number of units after rehabilitation;

\$200,000 maximum for each rental property;

Nonprofit corporations may receive up to \$35,000 per unit, and \$1,000,000 per property, for projects involving both acquisition and rehabilitation.

HCD may waive these limits where required to cover the cost of code-required rehabilitation.

- B. Additional constraints on SERA loan amounts are as follows:

1. For loan amounts over \$10,000, total after-rehabilitation indebtedness may not exceed appraised after-rehabilitation value, except where other collateral can be provided to the satisfaction of HCD.
2. The SERA loan amount is limited to the amount necessary to cover costs not fully covered by other available funding sources. The only exception to this rule is when use of the full amount of other available financing, combined with SERA rent limits, would result in a negative cash flow. In this case, borrowers are required to use other financing only in the amount that results in a break-even operation with rents at the SERA limits.

### IV. Loan Rate and Terms

Loans bear simple interest at a rate of 3% per annum on the principal balance. The entire accrued interest and principal amount is payable when the loan is due. The initial term of the loan is five years, unless the local agency and HCD determine that a longer term is required in order to obtain other rehabilitation financing or subsidies which make the project feasible. Borrowers may repay the loan at any time without a prepayment penalty; however, the restrictions imposed by the Rental Loan Agreement remain in effect for the original and the extended term of the

loan.

The initial 5-year term may be renewed with HCD's approval up to 5 additional 5-year periods for a maximum term of 30 years. Renewals will be allowed if borrower fully abides by all provisions of the Rental Loan Agreement, including those limiting rents and occupancy.

SERA loans may be assumed by a purchaser upon approval of the Local Agency and HCD, provided that the purchaser agrees to assume all provisions of the Rental Loan Agreement, including the limitations on rents and occupancy.

V. Eligible Uses of Funds: For Residential Structures or Portions of Building Used for Residential Purposes

A. Construction Contract Payments

1. For rehabilitation work necessary to eliminate code violations resulting from the earthquake.
2. For rehabilitation work necessary to eliminate serious code violations not caused by the earthquake, such as seismic reinforcement and fire safety improvements which pose a health and safety threat to occupants and/or are required to be abated as a condition of receiving a building permit.
3. For cosmetic work necessary due to code-required rehabilitation.
4. For repair or replacement of earthquake damaged walls and fences not attached to the rental units, where reasonably required for the security of the residential units or to prevent soil erosion or structural damage to the rental property.
5. For repair or replacement of driveway and walkways that cause a safety hazard.
6. For chimney repair or demolition, but not rebuilding.
7. For replacement of units destroyed by the earthquake (reconstruction). Local Agencies should contact HCD immediately when considering property replacement. Determination of specific allowable costs will be made on a case-by-case basis.
8. For handicapped accessibility improvements, where such improvements are necessary to alleviate hardship for existing occupants.
9. For repair or replacement of carports and garages (attached and detached), where required to eliminate a hazard.

- B. Reimbursement of approved eligible construction costs incurred prior to loan approval (see Section X.A. for more information).
- C. Soft Costs, including, but not limited to:
  - 1. Construction period interest, insurance and taxes, where essential for project feasibility.
  - 2. Appraisal, title, credit report, and escrow fees.
  - 3. Architectural and engineering design services.
  - 4. Building permits.
- D. Tenant relocation, as specified in Section XII.
- E. Acquisition of properties to be rehabilitated, for nonprofit corporations only.
- F. Refinancing of debt incurred to pay for repair of earthquake damage, to the extent necessary to eliminate negative cash flow and to allow rents to be set at the SERA limits.
- G. Administrative Grants

Local Agencies are eligible to receive grants to cover their expenses incurred in the operation of the SERA Rental Program. The maximum grant amount for each loan is 5% of the loan amount. HCD will disburse grant funds at the time of loan fund disbursement. If loan funds are returned to HCD, the Local Agency must also return grant funds in the amount of 5% of the returned loan funds.

Costs incurred in the origination and servicing of SERA loans should be reimbursed to the greatest extent possible from the grant funds received by the Agency. Local Agencies must receive prior written authorization from HCD to charge origination or servicing fees to Borrowers.

## VI. Ineligible Uses of Funds

- A. Construction Costs.
  - 1. Work paid for or to be paid for by other funding sources.
  - 2. Non-essential items (e.g., swimming pools) or luxury quality materials and construction techniques (e.g., stained glass).
  - 3. Remodeling and general property improvements not required by code.
  - 4. Furnishings, furniture and other personal property.

5. Appliances not required to correct code violations.
  6. Burglar bars or security alarm systems.
  7. Work associated with non-residential portions of a mixed-use structure.
- B. Acquisition, except for nonprofit corporations.
  - C. Refinancing, except as specified in Section V.F.
  - D. Development fees levied pursuant to Sections 53080 and 65995 of the Government Code.

VII. Occupancy Requirements and Rent Limitations

Occupancy and rent limitations apply for the full loan term, including extensions, regardless of prepayment, sale, or transfer. Units in rental structures occupied by the Borrower are exempt from the occupancy and rent limitations. Specific requirements are listed below.

A. Occupancy Requirements.

Tenants living in units at time of application shall be allowed to continue in occupancy. If forced to lease due to construction, these tenants shall be allowed to return to their units when construction is completed.

Vacant units must then be filled in accordance with the priorities listed below. As used here, the terms "low income" and "moderate income" have the meanings set forth in the California Administrative Code Section 7400. "Low income" is essentially the same as the Section 8 income limit (80% of area median income, adjusted for household size). "Moderate income" is essentially 120% of median income, adjusted for household size. Specific income limit schedules are available from local housing authorities or SERA staff.

| <u>Priority</u> | <u>Household<br/>Income Limit</u> | <u>How Household Affected<br/>By Earthquake</u>   |
|-----------------|-----------------------------------|---|
| 1st             | Not applicable.                   | Displaced from the rehabilitated property by the earthquake or earthquake related repairs.                  |
| 2nd             | Low Income.                       | Displaced from other rental units prior to October 1, 1988 by the earthquake or earthquake related repairs. |

|     |                         |   |
|-----|-------------------------|---|
| 3rd | Low or moderate income. | Displaced by earthquake or earthquake related repairs, or forced to pay significantly higher rents as a result of the earthquake, prior to October 1, 1988. |
| 4th | Low income.             | Are not required to have been affected by the earthquake.   |

After the Borrower has reached the fourth tenant selection priority, each time a unit is vacated it must be rented to another low income household.

B. Tenant Referral and Selection

The Department will refer tenant displacees to local agencies for information on rehabilitated properties. Local Agency staff can then refer tenants to Borrowers. Borrowers may select tenants based on normal section criteria (ability to pay rent and record of behavior towards people and property), but must give priority as stated above. Borrowers must maintain records specifying reasons for denial of applicants in priority occupancy categories.

Once the Borrower has begun to select tenants according to the 2nd priority listed above, they will be responsible for verifying each new tenant's income. The Tenant Income Summary (Attachment A) lists income and employment information and must be given to each tenant. Borrowers must then verify the income information provided by the tenant. Paycheck stubs and benefit information statements for social security, pensions and welfare are acceptable as verification of income. Borrowers must keep all Tenant Income Summaries and their verification of tenants' income on file. Local Agencies should provide property owners with copies of the form and an explanation of their responsibilities at the time the loan application is made.

Borrowers need not verify incomes for tenants receiving Section 8 rental assistance.

C. Rent Limitation Requirements

From the time of application until the end of the first year following the completion of construction, maximum rents for all units in a rehabilitated property shall be the lesser of: (a) pre-earthquake rents plus an inflation factor equal to 0.4% times the number of months between October 1, 1987 and the date the application is submitted to the Local Agency, up to pre-application rents; or (b) the ceiling rents listed below. These requirements derive from California relocation law and the statute creating the SERA Rental Program.

|                           | <u>Bedrooms</u> | <u>Maximum After-<br/>Rehab Rent</u> |
|---------------------------|-----------------|--------------------------------------|
| <u>Los Angeles County</u> | 0               | \$ 563                               |
|                           | 1               | 603                                  |
|                           | 2               | 725                                  |
|                           | 3               | 805                                  |
|                           | 4+              | 957                                  |
| <u>Orange County</u>      | 0               | 642                                  |
|                           | 1               | 689                                  |
|                           | 2               | 825                                  |
|                           | 3               | 973                                  |
|                           | 4+              | 1,088                                |

After the first year following completion of construction, rent limitations apply to one unit for every \$5,000 in SERA loan funds advanced to the Borrower. For the restricted units, rents may be increased at most once per year, and at a rate not to exceed 50% of the increase rate of the Western Regional All Items Consumer Price Index (CPI) for All Urban Consumers. HCD will provide each Local Agency with allowable percentage increase rates.

If the rehabilitated units are located in a community that has adopted a rent stabilization ordinance which would require a lower increase in rents, the local provisions shall apply. Additionally, if a borrower is participating in the Section 8 Moderate Rehabilitation program, then HUD's standards for allowable rent increases shall prevail. Where the Borrower occupies a unit in the property, the rent restrictions on his or her unit will not apply for as long as he or she remains in occupancy.

Please note that these rental restrictions will apply to the full loan term, including extensions, regardless of tenant turnover, loan prepayment, sale, or transfer.

#### VIII. Loan Package Review and Approval

##### A. Initial Loans

All initial loan packages deemed acceptable for approval by the local agency must be submitted to HCD for review and approval. If the initial packages are fully consistent with SERA requirements, HCD will delegate preliminary approval authority to the Local Agency for loans of under \$10,000. Once the delegation has occurred, Local Agencies stop forwarding loan packages to HCD for loans of this size. Instead, they prepare and submit a single-page loan summary form, on which basis HCD makes a disbursement for loan and grant funds. In the event of unsatisfactory local Agency performance, HCD reserves the right to take back the authority it delegates, and to require submission of complete loan packages.

B. Loans Under \$10,000

After HCD has delegated preliminary approval authority to a Local Agency, loans under \$10,000 are generally processed as follows:

1. Local Agency completes loan package and reviews for compliance with HCD requirements using the SERA Loan Summary form (Attachment B).
2. Local Agency submits SERA Loan Summary and Request for Funds (Attachment C) to HCD.
3. HCD reviews Loan Summary form, conducts a final duplication of benefits check, and sends an approval letter to the Local Agency.
4. HCD disburses loan proceeds and administrative grant funds to Local Agency or designated disbursement agent. Local Agency or agent closes the loan, in accordance with the procedures set forth in Section XI.

C. Loans of \$10,000 and Over

Complete packages for loans of \$10,000 and over must be submitted to HCD for review and approval. Otherwise, these loans are processed exactly as for loans under \$10,000.

IX. Loan Application Procedures/Components of Loan Package

A. Full Disclosure of Rental Requirements

Complete disclosure of the program requirements to the borrower will prevent misunderstandings and reduce your agency's time commitment for administration. The SERA Rental Applicant Notice, Attachment D, provides an overview of the Rental Program and should be given to all applicants with the SERA Rental Loan Application.

B. SBA Application Required

To be eligible for a SERA loan, applicants must have applied to the Small Business Administration (SBA) for a disaster assistance loan, and, with the exception noted in Section III.B., use all assistance authorized by SBA. If an applicant missed SBA's application filing deadline, and SBA does not allow them to submit a late application, then they cannot be considered for SERA funds. The only exception to this rule applies to nonprofit acquiring their property as part of the SERA-financed project.

If an SBA application has been submitted, but has not yet been approved or disapproved, or is being reconsidered following an initial denial, the Local Agency may still process the SERA application. If the SERA loan is ready for approval, but SBA has

still not made a decision, HCD will fund the SERA loan if it can obtain an assignment of the SBA loan proceeds.

C. SERA Application Forms

SERA has two rental loan applications. The application for loans of \$10,000 and over requests more comprehensive information (Attachment E). A simplified application is used for loans under \$10,000 (Attachment F).

D. Duplication of Benefits Monitoring

The Rental Loan Application requests information from applicants regarding other disaster assistance they have or will receive, along with documentation from each source. Since the SERA loan is only to be used when all other sources of financing have been exhausted, verification of all other funds received must be made to avoid any duplication of benefits.

Generally, the allowable SERA loan amount equals total project costs less the SBA authorization amount, available insurance proceeds, and available local rehabilitation funds. The Local Agency will also have to be assured that the SERA loan amount is less than or equal to the cost of eligible work items as set forth in Section V, and that the loan amount is within the SERA loan limits.

E. The Loan Package

All initial loan packages must be submitted to HCD for review and approval. Thereafter, and for Local Agencies granted preliminary approval authority, only packages for loans over \$10,000 must be submitted. In all cases, loan packages should contain complete and accurate documentation.

Below is a description of the components of the loan package. Item 1 is required for loans under \$10,000 only. Items 2 through 14 should be in all loan packages regardless of the loan amount. Items 15 through 18 should only be included in packages for loans of \$10,000 and over.

Item To Be Included Only in Loan Packages for Loans Under \$10,000

1. SERA Loan Summary

This form, Attachment B, summarizes the project. It also serves to ensure that all SERA underwriting issues are reviewed.

Items To Be Included In All Loan Packages

2. Request for Funds Form

A Request for Funds Form, Attachment C, should be submitted with each loan package and must have the original signature of the individual authorized by the agency's resolution. The request will not be processed by HCD until the loan is approved. Additionally, if administrative grant funds are being requested, they should be included on the Request form. Grant funds cannot exceed 5% of the total loan amount requested. Local agencies may request less than the 5% at the time the Request for funds is submitted. If they do so, additional grant funds up to the balance of the 5% may not be requested later.

3. Loan Application Form

As noted above, there are different forms for loans of under \$10,000 and for loans of \$10,000 and over. Please make sure you are using the correct form and that the application is complete and signed by the Borrower and an authorized representative of the Local Agency.

4. SBA Application Form

This should be submitted whether the SBA loan has been approved, denied or is pending.

5. SBA Loan Approval or Denial Letter

This letter will enable the Local Agency to determine the amount of available SBA funds.

6. Hazard (Property) Insurance Policy

Borrowers must submit a complete copy of the policy in effect on October 1, 1987. Local Agencies should review the policy to determine whether any insurance proceeds may be available to cover a portion of the repairs. Earthquake coverage is typically provided as an endorsement to the main policy.

7. Insurance Recovery Documentation

This applies only to properties covered by earthquake insurance. For these properties, Borrower must submit their insurance settlement statement or other documentation showing the status of their claim. Should the claim be pending, HCD will consider funding the SERA loan provided that the Borrower assigns any insurance proceeds that ultimately become available.

8. Evidence of Approval of Other Funds.

This includes local rehabilitation assistance and private resources, and may consist of a letter or a notice of approval from the funding source.

9. Preliminary Title Report

Required for all SERA loans, the report should show proper vesting of title. Additionally, all taxes and assessments should be current and the title should be free of attachments, judgments, and mechanic's liens. If there are any clouds on the title they must be removed prior to loan closing.

Extended lot book reports are acceptable for loans of under \$10,000. California Title Reports (CTRs) and Policies of Insurance of Record Titles (PIRTs) are acceptable for loans under \$50,000. These items must, however, include an indication of proper vesting of title, a legal description, and all involuntary or voluntary liens, including tax liens, attachments, judgments, and mechanic's liens.

Preliminary title reports, extended lot book reports, or PIRTs that are over three months old at the time of the loan application is submitted must be updated. Loans over \$50,000 must be covered under an ALTA policy of title insurance. Loans between \$10,000 and \$50,000 must be insured by a PIRT or an ALTA policy.

10. Mortgage Verifications

Required for each existing mortgage, the verification should include the current balance, possible balloon payments or other adjustable terms, the monthly payment, whether the loan is interest only or includes principal, taxes and insurance, and an indication that the loan is current. Attachment G is a sample form that includes all this information. Mortgage verifications should be no more than three months old at the time the loan is submitted to HCD. If they are, the borrower may submit copies of subsequent payment receipts or cancelled checks to the local agency to update the verification. If the verification indicates any delinquencies or consistent late payments, the loan must be submitted to HCD for review and approval, regardless of the loan amount.

11. Work Write-up and Cost Estimate

This should be prepared by Local Agency staff. It should clearly indicate items and costs that qualify for SERA assistance, and should include the total cost of these items. See Attachment H for a suggested format for this document.

12. Proposed Construction Contract

A copy of the execution-ready or executed contract, including all contract documents, should be included in the package.

13. Contract Bid Tabulation

This item is required only if competitive bidding is used and should list all contractors and their bid amounts.

Should bids not be solicited, and the contract sum differs significantly from the Local Agency's cost estimate, the Local Agency must certify the reasonableness of the contract sum. This certification is made on the signature page of the SERA application.

14. SERA Loan Documents

SERA has standard loan documents, copies of which are attached to the Guidelines. Where loan packages are submitted to HCD prior to approval, they should include the following completed (but not dated or signed) items:

|  |                           |
|--|---------------------------|
| SERA Rental Loan Agreement<br>(Attachment I) | Page 1 and Exhibit B only |
| Promissory Note (Attachment J)               | All pages                 |
| Deed of Trust (Attachment K)                 | All pages                 |

Where loan packages are not submitted to HCD prior to approval, copies of the executed documents should be filed with the package upon closing.

15. Tenant Lease or Rental Agreement Form.

The lease or rental agreement used by Borrower must include a provision substantially similar to the following:

"Landlord shall terminate this Lease (or Agreement) only in accordance with the Law and only for good cause. Good cause for termination shall include:

1. Abandonment of the unit by Tenant;
2. Nonpayment of rent in a timely manner;
3. Material or repeated violation by Tenant of reasonable house rules;

4. Material or repeated violation of the terms of this lease (or Agreement) by Tenant; or
5. Intentional misrepresentation or intentional failure to state any fact or facts, including facts concerning Tenant's income and assets, upon which Landlord has relied in agreeing to enter into the Lease (or Agreement).

Landlord shall, in any notice to quit or notice of termination, state the facts constituting the good cause for termination."

Items To be Included Only for Loans of \$10,000 and Over

16. Federal Income Tax or Information Returns.

Exact copies of filed tax returns for the two most recent tax years are required. If the Borrower does not file returns, a letter from the Borrower to this effect is acceptable.

17. Financial Information

Partnerships, corporate and self-employed applicants must submit Business Income and Expense Statements and Balance Sheets for the two most recent fiscal years. If audited financial statements are available, they should be submitted.

Individuals and partnership general partners should complete the Personal Financial Information form attached to the SERA application. HCD reserves the right to require third-party income verifications.

18. Credit Reports

The local agency should review the credit report closely for poor payment patterns, bankruptcy, judgments or extensive liabilities that may indicate a prohibitive risk to making a loan. This report should be included in the loan package. The cost of the credit report can be included in the loan amount.

19. Appraisal.

Appraisals for loans under \$50,000 may be prepared by a fee appraiser or by a qualified local agency staff person. Appraisals for loans over \$50,000 must be prepared by a SREA, MAI, or comparably certified fee appraiser. If the appraiser is a local agency staff member, HCD will closely review that individual's qualifications. Appraisal fees for independent appraisers may be included in the SERA loan amount. All appraisals must include:

- a. The name, address, qualifications, and signature of the person preparing the appraisal;
- b. The after-rehabilitation value of the property as determined by applicable appraisal techniques (i.e., market, income, and replacement cost appraisal approaches);
- c. A description of the property;
- d. A description of the general location of the property and the surrounding neighborhood;
- e. The methodology and calculations used in arriving at the value indicated by each valuation technique;
- f. Any additional supporting material such as maps, photographs, or plans; and
- g. The dates showing when the values were estimated and when the report was prepared.

Appraisals will not be acceptable if they are more than six months old, or were performed prior to October 1, 1987, unless the appraiser submits a statement verifying that the values of the specific property and surrounding properties have not decreased. Appraisals are not required where the total of the existing and proposed encumbrances on the property do not exceed 50% of the documented tax assessor's market value.

#### X. Underwriting Policies and Issues

##### A. Reimbursement for Eligible Work Items

SERA funds may be used to reimburse an applicant for work performed prior to loan approval under the following conditions:

1. The pre-rehabilitation condition necessitating the work is clearly documented, including the verification of earthquake damage. Acceptable documentation includes SBA's "Verification of Real Property Damage" form and local code inspection reports.
2. The actual cost of the work is documented through receipts or other means.
3. The Local Agency inspects the work and certifies that it has been completed and that the cost was reasonable.

Loan packages involving reimbursement must contain the documentation and certification listed above. Otherwise they cannot be processed

as an application for SERA funds.

B. SERA Security Position

SERA loans may be junior in position to existing or new private financing or an SBA loan, but must be senior to new local public funds.

C. Balloon Payments

Senior loans with balloon payments due prior to the end of the SERA loan's initial five year term are generally unacceptable. Local Agencies must secure written HCD approval before approving SERA loans junior to this type of financing.

D. Borrower Credit History

For loans where HCD does not review the loan package, and mortgage verifications indicate a history of less than fully satisfactory payment, Local Agencies must secure written HCD approval prior to making the loan.

HCD may disapprove loans due to poor credit history, especially where the applicant lacks substantial equity in the secured property.

E. Loan-to-Value

For loans over \$10,000, total indebtedness may not exceed after-rehabilitation appraised property value (100% Loan-to-Value Ratio). HCD may allow exceptions to this rule where other real property can be used to secure the SERA loan.

F. Cash Flow

SERA has no maximum cash flow limit (no limit on return on investment).

For loans of \$10,000 and over, negative cash flow is generally not allowed; after-rehabilitation project operating income must be sufficient to cover operating expenses (not including depreciation), replacement reserves, and debt service. HCD may waive this requirement if the negative cash flow will be of limited duration or under other unusual circumstances.

G. Contingency Funds

The maximum amount of funds allowed for construction contingencies is 10 percent of the construction contract amount. Contingency funds that are used must be documented with construction change orders signed by the local agency, the Borrower, and the contractor. Funds that have not been used must be returned to HCD and the

Promissory Note amended to reflect the corrected loan amount. HCD should be contacted for specific instructions to amend a promissory note. Contingency funds, as with all SERA funds, may not be used for general improvement of the property, but only eligible costs.

H. Mixed Residential/Commercial Uses

If the project contains both residential and commercial spaces, SERA funds may be used only for the following:

1. Costs directly attributable to the residential space, and that benefit it exclusively; and
2. A pro-rata share, based on gross floor area, of costs that cannot be directly attributed to either the commercial or residential space. For example, SERA will pay for two-thirds of the cost of a roof in a three-story building with two residential stories.

Work write-ups prepared by Local Agencies must clearly show which work items are attributable to the commercial space. Cost estimates must similarly break out commercial and residential costs.

I. Decreasing Number of Units Due to Rehabilitation Work

The number of units in a development may be decreased if no permanent displacement results and:

1. The decrease in units is necessary to meet applicable building or housing codes; or
2. The new unit composition is necessary to ensure the economic feasibility of the project.

J. Section 8 Contract Rents

If a SERA loan is to be used in conjunction with a Section 8 Moderate Rehabilitation Loan, there is a procedure for calculating imputed debt service in the SERA loan. See Attachment L, Section 8 Moderate Rehabilitation Contracts Rents, for specifics.

XI. Local Agency Responsibilities After Loan Approval

A. Loan Closing

Local Agencies are responsible for ensuring that all loans are properly closed. This means:

1. Ensuring compliance with SERA hazard insurance requirements. Coverage must be in an amount sufficient to cover the total after rehabilitation property indebtedness. An insurance binder in the required amount naming HCD as loss payee must be

submitted to you or your escrow agent prior to loan closing. Additionally, if a property is located in a flood zone, flood insurance coverage is also required.

2. Ensuring satisfaction of any conditions listed in HCD's loan approval letter.
3. Ensuring proper execution and, where applicable, recordation of the loan documents listed in the chart at the end of this section.
4. Causing to be issued, on loans of \$10,000 or more, a PIRT, CLTA, or ALTA title insurance policy at loan closing. Loans over \$50,000 must be insured by an ALTA policy.

Following closing, all of the original loan documents and the title insurance policy must be forwarded to HCD.

B. Fund Disbursement and Construction Monitoring

Local Agencies are responsible for disbursing construction contract payments and monitoring construction in accordance with normal prudent construction lending practices, including periodic inspections by qualified construction inspectors.

Local agencies are required to maintain acceptable records of construction contract payments for each loan. These records must fully and completely show the date, amount, purpose and payee for all disbursements.

When construction is satisfactorily completed, Local Agencies must record a Notice of Completion.

C. Construction Completion

After satisfactory completion of the work, your agency is to promptly submit to HCD the documents listed in the chart at the end of this section.

D. Ongoing Monitoring Responsibilities

*"Local Agency"*

Once rehabilitation work has been completed, your agency has monitoring responsibilities that continue through the term of the loan. These responsibilities include:

1. Reviewing annual reports submitted by each Borrower to verify compliance with the Rental Loan Agreement. These reports consist of (a) documentation of property tax payments and (b) a schedule of current rents and the incomes of new tenants.

2. Performing annual inspections to ensure adequate maintenance (defined as compliance with Section 8 Housing Quality Standards).
3. Taking corrective action, as directed by HCD, in the event a Borrower fails to comply with the Rental Loan Agreement.
4. Processing loan extension and assumption requests.
5. Representing HCD in probates and similar matters.

Documents to be Signed, Notarized and/or Recorded

| <u>Loan Closing Documents</u>   | <u>Signed</u> | <u>Notarized</u> | <u>Recorded</u> |
|---|---------------|------------------|-----------------|
| Truth in Lending Disclosure Statement<br>(for projects with less than five units)<br>(Attachment M) | X             |                  |                 |
| Notice of Right to Cancel (for projects<br>with less than five units) (Attachment N)                | X             |                  |                 |
| Promissory Note (Attachment J)  | X             |                  |                 |
| Deed of Trust (Attachment K)  | X             | X                | X               |
| SERA Rental Loan Agreement (Attachment I)   | X             | X                | X               |
| PIRT, CLTA or ALTA Title Insurance Policy<br>(Loans of \$10,000 to \$50,000)                        |               |                  |                 |
| ALTA Policy (Loans over \$50,000)   |               |                  |                 |
| <br><u>Completion of Rehabilitation Documents</u>   |               |                  |                 |
| Notice of Completion  | X             |                  | X               |
| Disposition of SERA Funds (Attachment O)  | X             |                  |                 |
| All Change Orders   | X             |                  |                 |
| Tenant Relocation Assistance Form<br>(Attachment P)   | X             |                  |                 |

## XII. Tenant Relocation Benefits

### A. Eligible Tenants

Eligible tenants must live or have lived in the property to be rehabilitated with SERA assistance and either:

1. Have been forced to move from their units in the property because the earthquake rendered them uninhabitable; or
2. Have been forced to move from their units because of earthquake related repairs completed before the start of the SERA-financed construction; or
3. Be forced to move from their units due to the SERA-financed construction work.

To be eligible for the financial assistance described in Section B below, tenants must also apply for and use all similar assistance available from other sources.

### B. Types of Benefits

1. Reoccupancy rights: eligible tenants must be allowed to reoccupy their units upon completion of the SERA-financed rehabilitation. The only exception to this rule is when reoccupancy would necessitate the displacement of another tenant.
2. Financial assistance: eligible tenants may receive up to \$1,000 per household. The amount available to a particular household is essentially the extra rent they must pay as a result of moving, less any rental assistance received from other sources.

All financial assistance is included in the SERA loan amount. That portion of the principal used for relocation, and interest accrued on this sum, will be forgiven by HCD at the end of the loan term, provided that the Borrower has fully complied with the Rental Loan Agreement.

### C. Local Agency Administrative Responsibilities

Local Agencies are responsible for the following tasks, each of which is described in detail below:

1. Developing a relocation budget.
2. Notifying potentially eligible tenants of their reoccupancy rights and of the availability of financial assistance.
3. Processing claims for financial assistance.

4. Disbursing financial assistance.
5. Maintaining records regarding tenant eligibility and disbursements.

D. Relocation Budget

The relocation budget amount is calculated assuming that all potentially eligible tenants will receive the maximum \$1,000 SERA relocation payment. Generally, this means that the budget will be \$1,000 times the sum of the following:

1. The number of units vacated immediately after the earthquake due to a determination by FEMA or a local building official that the units were uninhabitable;
2. The number of units that must be vacated due to SERA-financed construction; and
3. The number of units vacated due to previous documented earthquake damage repairs.

This amount should be shown on the HCD loan application and included in the SERA loan amount.

E. Tenant Notification

Upon loan approval, Local Agencies must provide written advance notice to tenants who will be required to move due to SERA-financed construction. This notice must advise tenants of their right to reoccupy the unit without a rent increase upon completion of construction. It must also state that they may be eligible for financial benefits, inform them where and how to apply, and set a 30-day deadline for filing an application. Attachment Q is a sample notice.

Local Agencies must also make a good faith effort to locate eligible tenants who have already vacated their units. At a minimum, they must mail the above-mentioned notice to the tenants' forwarding addresses identified by Borrower in the loan application tenant survey form, and to the tenants' vacated units.

F. Processing Relocation Claims

Tenants applying for financial assistance should complete Attachment R, the SERA Tenant Relocation Questionnaire. If they are required to move due to SERA-financed earthquake damage repair work (as distinct from work required for other reasons) they should also be instructed to apply to the Federal Emergency Management Agency (FEMA) for relocation assistance available under FEMA's Temporary Housing Program. FEMA's phone number is (818) 307-3762.

Local Agencies must review all documentation submitted in support of relocation claims to ensure its authenticity. Prior to making a disbursement, Local Agencies must also contact SERA staff to verify information provided by the tenant regarding relocation assistance received from other sources.

Local agencies should use Attachment P, the Tenant Relocation Assistance Form, to calculate allowable relocation payments. When construction has been completed, all tenants' relocation benefits have been calculated, and the form completed, a copy should be forwarded to HCD.

G. Disbursements

Local Agencies must disburse each tenant's relocation payment to the tenant in one lump sum.

H. Required Records

Local Agencies must retain in their files copies of all notices regarding relocation supplied to tenants, all documentation of tenant relocation claims, the Tenant Relocation Assistance form discussed above, and complete accounting records for all disbursements.

I. Disposition of Surplus Funds.

Unused relocation loan proceeds must be promptly returned to HCD. Upon return, the Borrower's Promissory Notice will be amended to reflect the reduced loan amount.