

GUIDELINES FOR RENTAL PROPERTY REHABILITATION LOANS

California Natural Disaster Assistance Program for Rental Properties (CALDAP-R)



State of California

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**California Natural Disaster Assistance Program
Guidelines for Rental Property Rehabilitation Loans**

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GUIDELIN.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CALIFORNIA NATURAL DISASTER ASSISTANCE PROGRAM

GUIDELINES FOR RENTAL PROPERTY REHABILITATION LOANS

201 Introduction

The State Department of Housing and Community Development (HCD) administers the California Natural Disaster Assistance Program for rental properties (CALDAP-R) which provides deferred payment property rehabilitation loans to owners of rental housing damaged as a result of a natural disaster and located in a jurisdiction subject to a state of emergency proclaimed by the Governor. The loans shall be made only to assist owners of rental housing developments that were damaged or destroyed by a natural disaster and only to the extent that other federal and state resources, private insurance proceeds or private institutional lending sources are not available or do not provide the assistance or coverage needed to rehabilitate or reconstruct such housing.

HCD may make loans through a Local Agency that has entered into a Standard Agreement with HCD to administer the program in its jurisdiction. HCD may also make CALDAP-R loans directly to eligible Borrowers if subject property is located in a non-participating jurisdiction. HCD or the Local Agency may subcontract with eligible entities to administer all or a portion of the CALDAP-R program. Any such contract must be approved by HCD.

These Guidelines establish policies and procedures for CALDAP-R loans to owners of rental housing. These Guidelines are issued pursuant to Sections 50661.5, 50661.7 and 50671.5 of the California Health and Safety Code. 50079.5

202 Eligibility Criteria

(a) Eligible Rental Properties

- (1) Must be one of the following: a single- or multi-family rental dwelling, apartment, residential hotel, rental mobilehome, group home for senior citizens or the disabled, buildings of mixed residential and commercial use, building of mixed owner-occupied and rental use of three or more units or limited equity or stock cooperative; and
- (2) Must have sustained damage from a natural disaster rendering the project all or substantially uninhabitable or hazardous. For applications requesting acquisition or refinancing funds, substantially uninhabitable or hazardous

means a pro-rata share of at least thirty percent (30%) hard rehabilitation costs based upon the total acquisition or refinancing expenses; and

- (3) Must have been damaged or destroyed by a natural disaster which results in a proclamation by the Governor of a state of emergency; and
- (4) Must be located in a jurisdiction subject to a state of emergency proclaimed by the Governor as a result of the natural disaster; and
- (5) If reconstruction is precluded on the original project site due to documented soil, geological or other conditions which cannot be mitigated at a reasonable cost or the cost of the rehabilitation or reconstruction would exceed 110 percent (110%) of the value after reconstruction, HCD may approve reconstruction on a comparable site in the immediate neighborhood provided that the project serves the same tenant population as prior to the natural disaster. However, under the above circumstances, loan funds may not be used for acquisition of land; and
- (6) Vacant properties, if the vacancy at the time of the disaster was a result of tenant turnover. Units cannot have been vacant for longer than a reasonable amount of time necessary to advertise and fill a vacancy (90 days). Damaged property owned by a public agency and vacant at the time of a disaster is eligible; and
- (7) Vacant property under rehabilitation at the time of the natural disaster with the intent of being used as rental property. There must be clear evidence that the rehabilitation process had begun prior to the natural disaster.

(b) Eligible Borrowers

- (1) Borrowers may be individuals, partnerships, corporations, nonprofit corporations, and other legal entities; and
- (2) Borrowers must own or propose to acquire rental property which was damaged in the natural disaster; and
- (3) For rehabilitation loans only, Borrowers must have been referred to HCD by the Small Business Administration (SBA), but do not qualify for or will not receive sufficient assistance from other federal, state, and insurance sources; and
- (4) Borrowers who qualified for an SBA loan at 4% interest rate but for whom acceptance of the loan would require rent increases above the rent charged for the units prior to the disaster; and

- (5) Borrowers who qualified for a SBA loan at an eight percent (8%) interest rate (or who have been determined by SBA as capable of obtaining a credit elsewhere loan) but for whom acceptance of the loan would result in a substantial negative cash flow. In this case, Borrowers must seek other financing before requesting CALDAP-R funds. If the Borrower qualifies for conventional financing but the terms of the such financing would prohibit compliance with CALDAP-R rent restrictions, the Borrower may accept only the amount which would result in compliance with the CALDAP-R rent restrictions. The Borrower may then apply for a CALDAP-R loan for the remaining unmet needs; and NEW
- (6) Borrowers must be able to demonstrate the capability or experience to own, manage, and rehabilitate rental housing property in such a manner that assures protection of the interests of the State. This requirement may be met by Borrower's demonstration of prior ownership and/or management of comparable rental property. NEW

(c) Eligible Local Agency

- (1) HCD may contract for the administration of loans with entities that it determines to have the necessary experience to administer the loan program, including but not limited to local public agencies and private organizations.

203 Loan Limits

- (a) There are no maximum per unit CALDAP-R loan limits.
- (b) The total after-rehabilitation indebtedness may not exceed the appraised after-rehabilitation value of the property (100% loan-to-value ratio). For projects which include acquisition or refinancing costs, a ten percent (10%) cash investment is required. This investment is based on the total development costs including acquisition or refinancing costs. HCD, in its sole discretion, may waive these requirements when necessary to ensure compliance with health and safety standards, seismic safety standards, and general property improvements relating to these standards. NEW
- (c) Where a project includes CALDAP-R funds for acquisition or refinancing, the loan amount shall be further limited to the amount, as determined by HCD, necessary to establish the fiscal integrity of the project. Fiscal integrity shall mean that the projected project income is sufficient to pay all reasonable and necessary project expenses, including debt service, and including an annual rate of return on Borrower's actual cash investments, as determined by HCD, not to exceed eight percent (8%). (This criteria would be used to make underwriting decisions and would not result in a long-term limitation on the return on the owner's investment.) NEW

Where a project involves CALDAP-R funds for rehabilitation only, the loan amount is limited to the amount necessary to cover eligible costs not fully covered by other available funding sources. The only exception to this requirement is when use of the full amount of other available financing, combined with the CALDAP-R rent limits, would result in a negative cash flow. In this case, Borrowers are required to use other financing only in the amount, as determined by HCD, necessary to establish the fiscal integrity of the project.

NEW

- (d) If the project contains both residential and commercial space, CALDAP-R funds may only be used for a pro-rata share of the acquisition and rehabilitation costs based on the gross residential floor area.

204 Loan Rate and Terms

- (a) Loans bear simple interest at a rate of three percent (3%) per annum on the principal balance. Repayment of the entire accrued interest and principal amount is deferred until the end of the loan term. The term of the loan is twenty (20) years for rehabilitation loans and thirty (30) years for acquisition or refinancing and rehabilitation loans. Borrowers may repay the loan at any time without a prepayment penalty; however, the restrictions imposed by the Regulatory Agreement (see Section 207) will remain in effect for the original term of the loan. Upon evidence from the Borrower that all assisted units have been vacated by the initial tenants, HCD will remove the Regulatory Agreement from the record of title.
- (b) CALDAP-R loans may be assumed by a purchaser upon approval of HCD, provided that the purchaser demonstrates to the satisfaction of the HCD that it is capable of operating a rental housing development and agrees to assume all provisions of the Rehabilitation Loan Agreement and the Regulatory Agreement including the limitations on rents and occupancy.

NEW

205 Eligible Uses of Program Funds

Funds may be used for costs associated with rehabilitation of residential rental units and must be necessary to eliminate code violations or hazardous conditions resulting from a natural disaster.

(a) Eligible Construction Costs

- (1) Rehabilitation work necessary to eliminate code violations resulting from the natural disaster.

- (2) Rehabilitation work necessary to eliminate serious code violations not caused by the natural disaster as well as seismic reinforcement and fire safety improvements which pose a health and safety threat to occupants, which are required to be abated as a condition of receiving a building permit.
- (3) Cosmetic work necessary due to code-required rehabilitation.
- (4) Repair or replacement of damaged walls and fences detached from the rental dwelling when necessary to prevent soil erosion, if necessary for security reasons, or to prevent structural damage to the rental property.
- (5) Repair or replacement of driveways or walkways that cause safety hazards.
- (6) Chimney repair, replacement or demolition. Rebuilding to zero clearance using prefabricated metal rather than masonry is encouraged.
- (7) Reconstruction of units destroyed by the natural disaster when deemed necessary by local officials or when the estimated cost including demolition, construction and related activities is less than the estimated cost of rehabilitation. The Local Agency should contact HCD immediately when considering reconstruction. If reconstruction is precluded on the original project site due to documented soil, geological or other conditions which could not be mitigated at a reasonable cost or would exceed 110% of the loan-to-value ratio, reconstruction on a comparable site in the immediate neighborhood may be approved by HCD. Projects of this type must serve the same tenant population as served prior to the natural disaster. ✓ However, loan funds shall not be used for acquisition of real property. Determination of specific allowable costs and projects will be made on a case-by-case basis.
- (8) Handicapped accessibility improvements, where such improvements are necessary to provide access for existing occupants.
- (9) Repair, replacement or demolition of attached carports and garages where required to eliminate a hazard. Detached carports and garages may only be repaired or reconstructed if the structure is essential as required by local building codes and where it is required to eliminate a hazard.
- (10) Reimbursement of approved eligible construction costs related to emergency repairs incurred prior to loan approval (see Section 208(a)).

(b) Eligible Development Costs

- (1) Acquisition of property damaged by the natural disaster, including costs related to such acquisition.

- (2) Refinancing of that amount of debt existing at the time of application which is necessary to achieve rents in accordance with program requirements and costs related thereto, or when necessary to avoid a foreclosure or to ensure fiscal integrity of the project.
- (3) Architectural, engineering, legal and other consulting costs and fees which are directly related to the planning and execution of the project. Does not include reimbursement for rental income lost as a result of the natural disaster.
- (4) Carrying costs from date of disaster through construction, including insurance, taxes and interest where essential for project feasibility.
- (5) Escrow, title insurance, recording, tax service fees and other related costs.
- (6) Building permits, state and local fees.
- (7) Tenant relocation benefits as defined in Section 209.
- (8) Insurance deductible when funds were expended for eligible cost items.

(c) Administrative Grants to Local Agency

The eligible Local Agency shall be entitled to receive a grant for administrative expenses incurred in processing loans under these Guidelines as follows:

- (1) An amount not to exceed eight percent (8%) of the approved rehabilitation loan, not to exceed a total administrative grant of \$50,000 for each rehabilitation loan approved.
- (2) Administrative expenses do not include those legal, architectural, engineering, or financial fees which may be eligible development costs.
- (3) The administrative grant shall be disbursed from program funds to the Local Agency at the time of loan closing in accordance with policies and procedures adopted by HCD.

206 Ineligible Uses of Program Funds

- (a) Program funds shall not be used to pay for work items paid by or out of other funding sources. Other ineligible costs include but are not limited to: non-essential items not attached to the main dwelling structure; luxury quality materials and construction techniques; personal property or furnishings; appliances not required to correct code violations; and work associated with nonresidential portions of a mixed-use structure.

- (b) Program funds shall not be used for costs associated with upgrading the dwelling above the pre-disaster condition (except as set forth in paragraph 205(a)). Disallowed costs include work items such as increased number of units, addition of common space, change in unit configuration or other such changes in the dwelling and must be funded from sources other than CALDAP-R. (Projects which include such upgrades in excess of ten percent (10%) of the CALDAP-R loan amount will not be approved. Funding for such upgrades will be considered as other available funding in lieu of CALDAP-R funding. This limitation does not apply if the additional funding is contributed by a Local Agency and any liens against the property as a result of this contribution must be junior to the CALDAP-R lien. NEW
- (c) The cost of replacement of "aged" building components and systems satisfactorily functioning in a safe and healthy manner at the time of rehabilitation are not eligible expenses. NEW
- (d) CALDAP-R funds may not be used to purchase damaged rental projects situated on large parcels of property to be used for future development. Funds may only be used to purchase a damaged structure and a reasonable amount of land. Excess land must be acquired with funds other than CALDAP-R. This type of loan request will be considered on a case-by-case basis. NEW

207 Occupancy Requirements and Rent Limitations

(a) Occupancy Requirements

- (1) Tenants who occupy a unit in the dwelling at the time of application for a CALDAP-R loan, shall be allowed to continue occupancy. Tenants who are displaced as a result of either the rehabilitation work or both the natural disaster and the subsequent rehabilitation work shall be allowed to return to their units when rehabilitation or reconstruction is completed. Vacant units must then be filled in accordance with the priorities listed below.

<u>Priority</u>	<u>How Household Was Affected By Disaster</u>
1st	Displaced from the rehabilitated property by the natural disaster or disaster-related repairs.
2nd	Displaced from other housing units damaged by the natural disaster or disaster-related repairs.

(2) Borrower shall comply with the above with respect to the marketing of vacant units to achieve occupancy by the stated priorities and must demonstrate compliance with this paragraph. These occupancy priorities are required until the end of the first year following initial occupancy after rehabilitation.

(b) Rent Limitation Requirements

As a condition of assistance under CALDAP-R, Borrowers shall agree to the rent limitations with respect to assisted units. The number of assisted units shall be established on the basis that the proportion of assisted units to the total number of residential units in a rental housing development shall be at least equal to the percentage of total eligible project costs funded by the CALDAP-R loan.

Until the end of the first year following initial occupancy after rehabilitation, maximum rent for each of the assisted units in a rehabilitated property shall not exceed the rent charged immediately prior to the natural disaster, unless allowable increases have been approved by HCD.

After one year of initial occupancy, and annually thereafter, the rents for the assisted units may be increased by the Borrower at a rate not to exceed the most recently published annual average percentage change in the U.S Department of Labor Bureau of Labor Statistics, Consumer Price Index, Rent, Residential for all Urban Consumers for the West (CPI). In the event this particular CPI index is no longer published, HCD shall select a similar index for this purpose. Borrowers may appeal to HCD for a greater adjustment in rents if necessary to ensure the fiscal integrity of the rental housing development. Borrowers shall submit all requests for rent adjustments, including all information and documentation as HCD may require, at least 60 days prior to the anticipated implementation of the rent increase.

If the rehabilitated units are located in a community that has adopted a rent stabilization ordinance that would require a lower increase in rents, the local provisions shall apply. Additionally, if a Borrower is participating in the Housing and Urban Development (HUD) Section 8 Moderate Rehabilitation Program, the HUD standards for allowable rent increases shall prevail.

(1) Rehabilitation Loans

If the CALDAP-R loan funds cover only the rehabilitation costs of a rental housing development, the assisted units shall remain restricted only until such time as the initial occupant after rehabilitation, either voluntarily vacates the assisted unit or is evicted for good cause.

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(2) Acquisition and Rehabilitation Loans

If the CALDAP-R loan funds are used for both rehabilitation and acquisition or refinancing of a rental housing development, all units are considered assisted units and shall remain restricted for the entire original term of the loan.

(c) Optional Low-Income Restrictions

Borrowers who agree to maintain 100 percent (100%) of the rental units in the project affordable to and occupied by lower income households (as defined in Section 50079.5 of the Health and Safety Code) may be eligible to have a portion of the loan amount forgiven. Affordable rents must be maintained for a minimum of ten years. Borrowers must make a commitment to participate in the loan forgiveness portion of the program at the time of application. Loan forgiveness is only applicable to the rehabilitation portion of the loan amount and accrued interest thereon. Any acquisition cost or refinancing expenses are not eligible for forgiveness. The percentage of loan forgiveness is based on the ratio of the original loan term to the number of years during which the rents are maintained at affordable levels. Example:

<u>Original Loan Term</u>	<u>Number of Years Affordable</u>	<u>Percentage of Forgiveness</u>
20	10	50%
	15	75%
	20	100%
30	10	30%
	15	50%
	30	100%

If a Borrower maintains the rehabilitated units at affordable rents for at least 10 years and subsequently sells the project to a nonprofit organization, the loan forgiveness percentage amount shall not be less than the ratio of 15 years to the original term of the loan.

Eligible households, regardless of income level, must be allowed to reoccupy their units upon completion of the rehabilitation. When the initial tenant voluntarily vacates the unit the Borrower is required to fill the unit with a lower income household.

(a) Reimbursement for Eligible Work Items

CALDAP-R funds may be used to reimburse a Borrower for eligible 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 natural disaster damage. Acceptable documentation includes SBA's "Verification of Real Property Damage" form or the Local Agency inspection reports.
- (2) The actual cost of the work is documented through receipts or other means.
- (3) The Local Agency or HCD 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 or they cannot be processed as an application for CALDAP-R funds.

(b) CALDAP-R Security Position

CALDAP-R 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

CALDAP-R loans that will be junior to financing with balloon payments due prior to the end of the CALDAP-R term will be considered on a case-by-case basis.

(d) Refinancing

Refinancing is only considered when necessary to avoid a foreclosure, or to maintain affordable rents and ensure fiscal integrity. HCD will subordinate to a refinanced loan only to the extent that the new loan amount together with the CALDAP-R loan and any other loan senior to the CALDAP-R loan does not exceed 100% loan-to-value ratio.

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(e) Borrower Credit History

The Local Agency, to the extent required by the Standard Agreement, must secure written HCD approval prior to approving a loan. HCD may disapprove

loans due to poor credit history, especially where the Borrower lacks substantial equity in the secured property.

(f) Loan-to-Value Ratio

Total indebtedness may not exceed the after-rehabilitation appraised property value (100% Loan-to-Value Ratio). HCD may allow exceptions to this limitation when necessary to ensure compliance with health and safety standards, seismic safety standards, and general property improvements relating to these standards.

(g) Cash Flow

The after-rehabilitation project operating income must be sufficient to cover operating expenses, replacement reserves, and debt service; however, depreciation is not included. HCD may waive this requirement if the negative cash flow will be of limited duration or the Borrower provides adequate assurances of providing sufficient operating income from other sources.

(h) Contingency Funds

Generally, the maximum amount of funds allowed for construction contingencies is ten percent (10%) of the construction contract amount. Contingency funds that are used must be documented with construction change orders signed by the Local Agency or HCD, the Borrower, and the contractor. Funds that have not been used must be returned to HCD and will be applied towards the Borrower's outstanding CALDAP-R principal loan balance.

(i) Mixed Residential/Commercial Uses

If the project contains both residential and commercial space, CALDAP-R funds may be used only for the following:

- (1) A pro-rata share of acquisition cost based on gross residential floor area.
- (2) Costs directly attributable and exclusively beneficial to the residential space. All work write-ups must clearly show which work items are attributable to the commercial space. Cost estimates must similarly reflect separately the commercial and residential rehabilitation costs.
- (3) A pro-rata share, based on gross floor area, of costs that cannot be directly attributable to either the commercial or residential space. For example, CALDAP-R will pay for two-thirds of the cost of a roof in a typical three-story building with two residential stories.

(j) Decreasing Number of Units Due to Rehabilitation Work

The number of units in a project may only be decreased when no permanent tenant displacement results and when:

- (1) The decrease in units does not exceed ten percent (10%) of the total number of units available in the original dwelling; or when
- (2) The decrease in units is necessary to meet applicable building or housing codes; or when
- (3) The new unit composition is necessary to ensure the economic feasibility of the project.

209 Tenant Relocation Benefits

(a) Eligible Households

Eligible households must live or have lived in the dwelling to be rehabilitated or acquired and rehabilitated with CALDAP-R assistance and either:

- (1) Have been forced to move from their units in the dwelling because the natural disaster rendered the unit uninhabitable; or
- (2) Have been forced to move from their unit in the dwelling due to disaster-related repairs completed before the start of the CALDAP-R financed rehabilitation; or
- (3) Will be forced to move from their unit in the dwelling due to the CALDAP-R financed rehabilitation work.

(b) Types of Benefits

- (1) Reoccupancy rights: eligible households must be allowed to reoccupy their units upon completion of the CALDAP-R financed rehabilitation. The only exception to this requirement is when reoccupancy would necessitate the displacement of another household.
- (2) Financial assistance: eligible households shall be entitled to relocation benefits pursuant and subject to the requirements of Section 7265.3 of the Government Code. Relocation benefits include rent differential payments as well as moving expenses. Moving expenses, however, may not exceed \$500 per household.

(3) All relocation costs may be included in the CALDAP-R loan amount.

(c) Relocation Administrative Responsibilities

With the assistance of the Local Agency, the Borrower shall undertake the following responsibilities:

- (1) Notify potentially eligible households of their reoccupancy rights and of the availability of financial assistance.
- (2) Develop a relocation budget.
- (3) Process claims for financial assistance.
- (4) Disburse financial assistance funds.

(d) Relocation Budget

The relocation budget amount is calculated based on Attachment N and may be included as part of the CALDAP-R loan amount requested.

(e) Tenant Notification

The Local Agency must assist the Borrower in providing written advance notice to tenants who will be required to move due to CALDAP-R financed rehabilitation or reconstruction. This notice must advise tenants of their right to reoccupy the unit 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 L is a sample notice. A good faith effort must be made to locate eligible tenants who have already vacated their units. At a minimum, the above-mentioned notice must be mailed to the tenant's forwarding address and to the tenant's vacated unit.

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(f) Processing Relocation Claims

Tenants applying for financial assistance should complete the CALDAP-R Tenant Relocation Questionnaire (Attachment M).

All documentation submitted in support of relocation claims must be reviewed by the Local Agency to ensure authenticity. Prior to making a disbursement, CALDAP-R staff must be contacted to verify information provided by the tenant regarding relocation assistance received from other sources.

The Tenant Relocation Summary and Budget Calculation Form (Attachment N) should be used to calculate allowable relocation payments. When construction

has been completed, all tenant relocation benefits have been calculated, and the forms completed, a copy must be forwarded to HCD.

(g) Disbursements

Tenant relocation payments are to be disbursed on a monthly basis by the Local Agency to the tenant. If the Local Agency has an existing relocation payment procedure, the relocation benefits may be disbursed to be consistent with the existing practice of the Local Agency. HCD must approve the disbursement procedure. } DIFF

(h) Required Records

A copy of all relocation notices supplied to tenants, all documentation of tenant relocation claims, the Tenant Relocation Assistance Form and complete accounting records for all relocation disbursements shall be retained in the Borrower loan file.

(i) Disposition of Surplus Funds

Unused loan proceeds allocated for relocation expenses must be promptly returned to HCD. The funds will be applied towards the Borrower's outstanding CALDAP-R principal loan balance.

210 Components of the Loan Package

All loan packages must be submitted to HCD for review and approval. In all cases loan packages must contain complete and accurate information. Following is a listing of items to be included in all loan packages:

(a) Loan Application Form

All Borrowers must complete the CALDAP-R Loan Application (Attachment A). The application must be complete with original signature of all Borrowers and the authorized representative of the Local Agency or HCD.

(b) Notice to Applicants for Rehabilitation Loans

The Notice to Applicants for Rehabilitation Loans (Attachment B) is to be submitted with each loan package and must have the original signature of the Borrower. The purpose of this form is to ensure that the Borrower

has reviewed and understands the provisions of the CALDAP-R loan.

(c) Disaster Agency Referral

Proof of the status of each Borrower's SBA loan must be submitted whether the loan has been approved, denied or is pending. If Borrower's SBA loan request is in process and it is evident the SBA loan limits will be insufficient to meet the rehabilitation costs, the CALDAP-R loan request may be processed simultaneously with the SBA loan request.

(d) Hazard (Property) Insurance Policy

Borrowers who are current owners of the subject property must submit a complete copy of the insurance policy in effect on the date of the natural disaster. The Local Agency or HCD will review the policy to determine whether any insurance proceeds are available to cover repairs. Special coverages are typically provided as endorsements to the main policy. *new*

(e) Insurance Recovery Documentation

Borrowers who have properties covered by insurance applicable to the natural disaster 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 CALDAP-R loan provided that the Borrower assigns to HCD any insurance proceeds that ultimately become available. Any such proceeds received by HCD shall be credited to the Borrower's loan amount.

(f) Evidence of Approval of Other Funds

Borrowers must provide evidence of approval of funds other than those discussed above. This includes local rehabilitation assistance and private resources and may consist of a letter or notice of approval from the funding source. Borrowers need not exhaust local resources before applying to CALDAP-R, however, HCD encourages use of other funding sources to the maximum extent possible. Depending upon the circumstances of a specific project, if the loan request includes funds for acquisition or refinancing, HCD may request that the Borrower seek other financing in addition to CALDAP-R funding.

(g) Preliminary Title Report and Title Insurance

A preliminary title report and title insurance are required for CALDAP-R loans, showing vesting of title in the Borrower's name and title insurance

ensuring marketable title. Additionally, all taxes and assessments must be current and the title should be free of attachments, judgments, or mechanic's liens. All clouds on title must be removed prior to loan closing.

Extended lot book reports are acceptable for CALDAP-R loans under \$10,000. If there is any question regarding title, Policies of Insurance of Record Titles (PIRTs) will be required. California Title Reports (CTRs) and (PIRTs) are acceptable for loans under \$100,000. 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, judgment, and mechanic's liens.

Preliminary title reports, extended lot book reports, or PIRTs that are over three months old at the time the loan application is submitted must be updated at the request of HCD.

Loans over \$100,000 must be covered under an ALTA policy. Some title companies have a disaster relief rate which is 70 percent of the regular rate. Title companies may also be willing to waive the inspection fee on ALTA policies as a goodwill gesture.

(h) Mortgage Verifications

Mortgage verifications are required for each existing mortgage. Each verification should include the current balance, balloon payments or other adjustable terms information, the monthly payment, whether the loan is interest only or includes principal, taxes and insurance, and an indication as to whether the loan is current. (Attachment C is a sample form). Mortgage verifications should be no more than three months old at the time the loan is submitted to HCD; however, the Borrower may submit copies of subsequent payment receipts or cancelled checks to the Local Agency to update verifications over three months old.

If the Borrower has the year-end statement and payment receipts which reflect that the loan is current to date and the promissory note which reflects the loan terms, these documents may be substituted for the mortgage verification form.

(i) Federal Income Tax or Information Returns

Exact copies of complete, filed tax returns for the two most recent tax years should be submitted. If the Borrower has not filed returns, a letter from the Borrower to this effect is acceptable.

(j) Financial Information

Partnerships, corporate, and self-employed Borrowers must submit Business Income and Expense Statements, and Balance Sheets for the two most recent fiscal years. Audited financial statements should be submitted if available.

(k) Credit Reports

The Borrower's credit report must be reviewed closely for poor payment patterns, bankruptcy, judgment or extensive liabilities that may indicate a prohibitive risk to making a loan. This report must be initiated by the Local Agency and included in the loan package.

(l) Appraisal

Appraisals for loans under \$50,000 may be prepared by a fee appraiser or by a qualified HCD or Local Agency staff person. Appraisals for loans over \$50,000, if required, must be prepared by a SREA, MAI, or comparably certified fee appraiser. HCD reserves the right to order an alternate appraisal. This requirement may be waived by HCD if it is clear that the loan-to-value ratio requirement as it relates to the CALDAP-R loan has been met. Appraisals are required in every case involving acquisition requests. 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 CALDAP-R loan amount. All appraisals must include:

- (1) The name, address, qualifications, and signatures of the person preparing the appraisal.
- (2) The pre-rehabilitation appraised value.
- (3) The after-rehabilitation value of the property as determined by applicable appraisal techniques (i.e. market, income, and replacement cost appraisal approaches).
- (4) A description of the property.
- (5) A description of the general location of the property and the surrounding neighborhood.
- (6) The methodology and calculations used in arriving at the value indicated by each valuation technique.

- (7) Any additional supporting material such as maps, photographs, or plans.
- (8) 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 the natural disaster, 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 75 percent (75%) of the documented tax assessor's market value.

(m) Work Write-Up and Cost Estimate

The Work Write-up and Cost Estimate (Attachment D) should be prepared by a qualified individual representing the Local Agency or HCD. It should clearly indicate items and costs that qualify for CALDAP-R assistance, and should include the total cost of all work to be performed. CALDAP-R will make conditional loan approvals based on estimates. Final bids should be sent to CALDAP-R as soon as they are available.

(n) Construction Contract

A copy of the proposed execution-ready or executed contract, including all contract documents, should be included in the package, if available. Receipts must be included for work already completed and paid for if the CALDAP-R loan is reimbursing the Borrower for these costs. Contact HCD prior to submitting receipts or documentation. Prior to the commencement of construction, the general contractor shall obtain insurance coverage as set forth in the Rehabilitation Loan Agreement. (Attachment G).

(o) 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 or HCD's cost estimate, the Local Agency or HCD must certify the reasonableness of the contract sum.

(p) Management Plan

If a project contains more than 16 units, a Management Plan is required which sets forth the plan for operating the project after rehabilitation. A sample outline (Attachment E) is attached.

(q) Tenant Lease or Rental Agreement Form

A copy of the lease or rental agreement effective at the time of the disaster should be included in the loan submittal. Additionally, the proposed lease or rental agreement forms to be used by the Borrower must be included and contain provisions 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.
- (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)."

211 Loan Package Review and Processing

(a) Loan Package Submittal by the Local Agency

All loan packages recommended for approval or denial by the Local Agency must be submitted to HCD for review and approval.

(b) Loan Processing

Loans are processed as follows:

- (1) After receiving a loan package, HCD will complete the first level of review (quantitative review) to determine if the submitted documents are in compliance with CALDAP-R requirements. If this is verified, the loan application becomes a "Substantially

Complete Application" (SCA) and the requested loan funds are placed on reserve for 30 working days. If the application is not SCA, the Local Agency is informed of the deficiencies required to be corrected.

- (2) HCD then performs a more detailed level of review (qualitative review) to verify the correctness and completeness of the loan application and accompanying documentation. HCD will inform the Local Agency of any remaining deficiencies that must be corrected prior to loan approval.
- (3) HCD will conduct a final duplication of benefits check. All Borrowers must register for federal and state assistance before applying to CALDAP-R for funding. Verification of all other funds received must be made to avoid any duplication of benefits.
- (4) After all CALDAP-R requirements have been satisfactorily met, an approval letter is sent to the Local Agency along with a Request for Funds (Attachment F) form to be completed and returned to HCD. A copy of the approval letter is also sent to the Borrower together with a set of sample loan documents for the Borrower's review.
- (5) HCD will prepare and forward to the Local Agency an amendment to the Standard Agreement which encumbers the funds for the loan. After the amendment has been approved, the Request for Funds will be processed for disbursal.

212 Responsibilities After Loan Approval

(a) Loan Closing

- (1) The following CALDAP-R loan documents are to be completed by the Local Agency and submitted to HCD for review prior to loan closing:
 - (i) Rehabilitation Loan Agreement (Attachment G). This is the controlling document during the construction phase of the rehabilitation. This agreement is entered into between the Borrower and the Local Agency. If the loan request is for reimbursement only, the Rehabilitation Loan Agreement is not used.
 - (ii) Promissory Note (Attachment H).
 - (iii) Deed of Trust (Attachment I). This document is used to secure the Promissory Note. It is recorded and is a lien against the subject property.

- (iv) Regulatory Agreement (Attachment J - for projects with 16 or fewer units). This agreement sets forth the program requirements. This document is executed by HCD and the Borrower and is acknowledged and recorded as a lien against the subject property.
 - (v) Regulatory Agreement (Attachment K - for projects with 17 or more units). This agreement sets forth the program requirements. Additional requirements are included in this agreement to provide for the operation of larger projects. This agreement is executed by HCD and the Borrower and is acknowledged and recorded as a lien against the subject property.
- (2) HCD will review the loan documents, execute and acknowledge the Regulatory Agreement and prepare escrow instructions, all of which will be forwarded to the Local Agency. The loan funds will be forwarded separately to the Local Agency.
 - (3) The Local Agency shall ensure compliance with CALDAP-R hazard insurance requirements insuring against loss by fire or other hazards, with a lenders loss payable endorsement showing HCD insured in an amount sufficient to cover the total after-rehabilitation replacement value. If a property is located in a flood zone, flood insurance coverage is also required. The Local Agency shall also ensure that a current liability insurance policy for the property has been issued, with general liability coverage in an amount not less than \$1,000,000 per occurrence, with the HCD named as additional insured.
 - (4) The Local Agency shall ensure satisfaction of any conditions listed in the loan approval letter and escrow instructions.
 - (5) The Local Agency shall arrange for the Borrower's execution of loan documents and recordation of the loan documents. Following recordation, the Local Agency shall forward to HCD all of the executed original documents, the title insurance policy, and proof of insurance.
- (b) Fund Disbursement and Construction Monitoring

The Local Agency, HCD, or their designated subcontractors 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. Acceptable records of construction contract payments for each loan must be maintained. Records must fully and completely show the date, amount, purpose and payee for all disbursements.

A Notice of Completion must be prepared and recorded once the project has been satisfactorily completed. Retention payments should typically be released 35 days after the filing of the Notice of Completion.

(c) Unused Funds

All unused loan proceeds and accrued interest, if any, shall be returned to HCD within twenty (20) days after the retention payment has been disbursed. These funds will be applied against the Borrower's outstanding CALDAP-R principal loan balance.

(d) Transfer of Files

Within thirty-five (35) days after final construction payment, the Local Agency shall submit all completed loan files to HCD.

213 Monitoring Responsibilities

After rehabilitation work has been completed, HCD will monitor all loans. These responsibilities include:

- (1) Reviewing annual report, including management plan and operations budget, if applicable, submitted by Borrowers to verify compliance with the Regulatory Agreement. These reports consist of: (a) documentation of property tax payments; (b) a schedule of current rents; and (c) the incomes of all tenants under occupancy and rental restrictions.
- (2) Performing site inspections as necessary to ensure adequate maintenance.
- (3) Taking corrective action in the event a Borrower fails to comply with the conditions of the Regulatory Agreement, Deed of Trust or Promissory Note.
- (4) Processing loan subordination and assumption requests.
- (5) Monitoring any defaults or foreclosures.
- (6) Processing and monitoring all loan servicing responsibilities.

SECTIONS.