

REVITALIZING NEIGHBORHOODS

New Infill Homeownership Opportunities Program (NIHOP)

Expanding Opportunities for Affordable Homeownership

Neighborhood Construction Program (NCP)

Creating Opportunities to Develop Small Affordable Multifamily Rentals

REQUEST FOR QUALIFICATIONS

Issue Date: December 12, 2014

Pre-Submission Conference: January 9, 2015

Qualifications Submission Deadline: February 19, 2015

Bill de Blasio, Mayor

Alicia Glen, Deputy Mayor for Housing and Economic Development



**Department of
Housing Preservation
& Development**

Vicki Been

Commissioner

www.nyc.gov/hpd

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- E. Additional Information for Applicants Selected to Develop a Site(s)

The lettering of Forms corresponds to the Submission Tabs in the Qualifications. All Tabs do not require a Form to be filled out (see **Section V, Part I Contents of Qualification and Tabbing).*

I. INTRODUCTION

Pursuant to this Request for Qualifications (“RFQ”), the City of New York (“City”), through its Department of Housing Preservation and Development (“HPD”) is inviting sponsors (“Applicants”) to submit development qualifications (“Qualifications”) for the design and construction of high-quality, new construction, affordable housing development projects (“Project(s)”) on public sites (“Sites”) that will be available for disposition. The Project(s) include:

- (1) one- to four-family affordable homes and up to approximately 14-unit condominiums/cooperatives; and
- (2) small (approximately 15- to 30-unit) affordable multifamily rental developments.

The homeownership developments may be eligible for financing through the New Infill Homeownership Opportunities Program (NIHOP). Small rental projects may be eligible for financing through the Neighborhood Construction Program (NCP). Information on these programs is available on HPD’s website: <http://www.nyc.gov/html/hpd/html/developers/term-sheets.shtml>. Applicants to the RFQ must indicate the type(s) of project (NIHOP, NCP, or both) for which they wish to apply.

The goal of this RFQ is to promote neighborhood revitalization across the City through infill developments that expand opportunities for affordable homeownership and create small multifamily affordable rental buildings. Both NIHOP and NCP have been designed to encourage the development of small, previously difficult- to-develop infill sites, and to offer opportunities for small developers, local non-profits, and community development corporations directly or through partnerships to build their development capacity. This RFQ is in accordance with the Mayor’s *Housing New York: A Five-Borough, Ten-Year Plan*, which commits to the preservation or new construction of 200,000 units by 2024. The proposed initiative serves the Plan’s goals of fostering diverse, thriving neighborhoods and building new affordable housing for all New Yorkers.

HPD will assess Applicants who respond to this RFQ for pre-qualification to develop Sites for affordable housing. Specific Sites will not be identified in this RFQ, although “RFQ Neighborhoods” are listed in *Appendix A*. The result of this RFQ will be a list (“List”) of qualified sponsors (“Qualified Sponsors”). Qualified Sponsors then will be considered to develop new construction Project(s) on City-owned Sites in RFQ Neighborhoods and *may* be asked to provide additional information to demonstrate their ability to develop specific sites. The evaluation process from submission of Qualifications through designation of Sites is described in **Section III Qualification Eligibility and Selection Process**. Additionally, HPD reserves the right to select from the List of Qualified Sponsors for participation in other related HPD programs.

All Applicants must adhere to the requirements of this RFQ. HPD will select an Applicant for the List of Qualified Sponsors based on experience in housing development including in the RFQ Neighborhoods, property management capabilities, and financial capacity. This RFQ does not represent any obligation or agreement whatsoever on the part of the City or HPD.

A pre-submission conference will be held on January 9, 2015 at 10:00 AM at HPD, 100 Gold Street, Room 1R, New York, New York 10038. Every Applicant wishing to submit Qualifications in response to this RFQ is encouraged to attend, as this will be the only opportunity to ask questions and receive answers in

person regarding this RFQ. Questions can also be submitted via email to NIHOP&NCPrfq@hpd.nyc.gov
Qualifications are due by hand on Thursday, February 19, 2015 no later than 4:00 p.m.

II. DEFINITIONS

Applicant

An individual, partnership, limited liability company, corporation, joint venture, or other entity that submits Qualifications in response to this RFQ.

Area Median Income

Area Median Income shall mean the median income levels as modified by household size for the New York metropolitan statistical area as determined from time to time by HUD. For 2014, 100% of the AMI in the New York Metropolitan Statistical Area is \$83,900 for a family of four and \$58,800 for a single person.

City

The City of New York.

Competitive Qualified Sponsor

Qualified Sponsor that ranks high on the List.

DOB

The New York City Department of Buildings.

Developer

The entity or entities selected by the City to commence negotiations regarding the development of the Sites that may be offered as a result of this RFQ. The entity or entities will provide equity, secure financing, assemble a Development Team, design, develop, build, market, and manage the Project.

Development Team

The Sponsor and the professional, technical, and construction entities (e.g. general contractor, architect, engineer, legal counsel, not-for-profit organization, marketing agent, and managing agent) that will participate in the design, development, construction, marketing, and/or management of the Project.

HUD

The United States Department of Housing and Urban Development.

LDA

Land Disposition Agreement.

List

List of entity or entities determined to be qualified by the City to develop NIHOP and/or NCP Sites.

Qualifications

Material submitted in response to this RFQ that details the Applicant's development experience, management/ownership experience, and financial capacity.

Principal

An individual, partnership, limited liability company, corporation, or other for-profit entity that will act as the general partner, officer, or managing member of the Applicant, or any entity, known limited partner, or other member that has at least a 10% ownership interest in the Applicant.

Project

The development of affordable housing envisioned for the Site(s).

Proposal

Additional information that a Qualified Sponsor will be required to submit if selected for consideration to develop specific Site(s) through this RFQ. Qualified Sponsors will only be informed of actual Site locations if HPD requests the submission of additional information in a Proposal.

Qualified Sponsor

The entity or entities determined to be qualified by the City to develop NIHOP and/or NCP Sites. If selected for consideration for Site(s), the entity or entities will provide a development proposal(s) for the Site(s) available for disposition. The City and HPD are under no obligation to offer any Qualified Sponsor Site(s) as a result of this RFQ.

Negotiation Letter

Letter from HPD inviting a Qualified Sponsor to commence negotiations to develop Site(s).

NCP

The HPD Neighborhood Construction Program. The program through which City-owned Sites may be developed as small, multifamily affordable rental projects. HPD subsidy *may* be available for privately-owned Sites and City Sites, based on project type and need, as determined by HPD.

NIHOP

The HPD New Infill Homeownership Opportunities Program. The program through which City-owned Sites may be purchased and developed as one- to four- unit affordable homes or up to 14-unit condominiums/cooperatives. HPD subsidy *may* be available for privately-owned Sites and City Sites, based on project type and need, as determined by HPD.

RFQ Neighborhoods

Neighborhoods in which NIHOP and/or NCP Sites are located.

Site(s)

The properties that may be offered for development to Qualified Sponsors as a result of this RFQ, as well as any additional information that may be requested. Individual Sites and addresses will not be identified until the RFQ Review is completed and may only be identified to Qualified Sponsors based on the established criteria, including, but not limited to development experience in the neighborhood in which the Site(s) is located, if applicable.

Sponsor

See definition of "Applicant".

Uniform Land Use Review Procedure (ULURP)

The process, set forth in the City Charter, prescribing the City's land use review process, including public hearings and several levels of government approvals. Actions requiring ULURP include, among others, changes to the City Map, designation or change of zoning districts, Special Permits within the New York City Zoning Resolution requiring approval of the City Planning Commission (CPC), and disposition of City-owned property.

III. QUALIFICATION ELIGIBILITY AND SELECTION PROCESS

A. Eligibility to Apply

This RFQ is open to Sponsors that have experience in housing development. Sponsors may partner with other developers to submit Qualifications. The Sponsor submitting Qualifications, if assigned to the List and selected to develop Sites, should be a part of the ownership structure for any proposed Project(s).

B. Development Site(s)

HPD intends to make available Sites for affordable housing development in the boroughs and neighborhoods listed in *Appendix A*. Sites for the NIHOP program generally accommodate between one- to four- unit homes or up to 14-unit condominiums/cooperatives, while Sites for the NCP program generally accommodate 15- to 30-unit rental developments, though HPD may, at its discretion, consider Qualified Sponsors for Projects with a variety of units.

This RFQ seeks only to create a List of Qualified Sponsors. Applicants are not applying for a specific Site or submitting information related to a proposed Project. HPD will not identify Sites in this RFQ. HPD will use the Qualifications submitted through this RFQ to identify Qualified Sponsors based on experience in an RFQ Neighborhood and ability to develop affordable housing of the scale and type described in this RFQ. Competitive Qualified Sponsors (“Competitive Qualified Sponsor”) may be asked to submit a proposal (“Proposal”) based on a specific Site(s).

C. Process

Step 1: Applicant Submits Qualifications. This RFQ seeks Applicants who have the experience and organizational capacity to successfully develop newly constructed affordable housing. HPD will review applications and identify a List of Qualified Sponsors based on the criteria in **Section IV Qualification Requirements**. Sponsors will be evaluated based on their development experience, record of developing successful projects in the preferred RFQ Neighborhood, and their capacity to implement affordable housing projects.

Step 2: Competitive Qualified Sponsors may be asked to submit additional information. If identified as a Competitive Qualified Sponsor, the Applicant will be informed of the location of Sites and *may* be asked to submit additional information (a Proposal) for one or more of the Sites available for disposition. Examples of such information include architectural plans, a financing proposal (pro forma), and letter(s) of interest from a lender.

Step 3: Designation of Sites. If selected for a Project, HPD will provide the selected Qualified Sponsor with a negotiation letter (“Negotiation Letter”) to inform the Sponsor of Selection and to commence negotiations for a specific Site(s). If selected, the selected Qualified Sponsor will then be expected to apply for financing for the construction and operation/maintenance of the building and to be the developer and/or long-term owner of the Building. If a Qualified Sponsor is selected to develop a Site(s), the Sponsor must adhere to all requirements in **Appendix E**. However, the City and HPD are under no obligation to dispose of City-owned land or select a Qualified Sponsor to develop a Site(s). Not all Applicants who are deemed qualified will be assigned a Site(s). Any obligation or agreement on the part of the City or HPD may only be incurred after the parties enter into a written agreement approved by the Mayor and the City’s Law Department.

IV. QUALIFICATION REQUIREMENTS

Applicants must be qualified in each of the following qualification criteria in order to be considered Qualified Sponsors for possible eligibility for disposition of a Site(s). HPD will evaluate submitted Qualifications to determine if they meet the qualification criteria. All applicants must submit a full response to this RFQ and meet the minimum criteria set forth in this RFQ. Qualifications that are not complete or do not conform to the requirements of this RFQ will be eliminated from further consideration. HPD may request additional information, site visits, interviews, or presentations.

A. Completeness of Qualifications

The Qualifications must contain all documentation required under **Section V Submission Requirements and Qualification Process**. All of the required Forms must be fully completed and application requirements met at the time of submission. Upon review, HPD, at its discretion, may notify an Applicant that additional information or clarification is necessary. Applicants that do not adhere to these requirements risk disqualification from consideration under this RFQ.

B. Development Experience and Capacity

Affordable housing development experience will be evaluated as it reflects the Applicant's demonstrated ability to successfully carry out a quality project of the type, size, and complexity the NIHOP and NCP Programs envision, in a timely manner. Among the factors that will be considered are:

- quality of construction and design in projects completed or currently being built by the Applicant;
- cost effectiveness of past development projects and Applicant's demonstrated ability to stay within budget;
- extent of the Applicant's experience of comparable size and scope, in terms of number, type, and scale of projects completed within the last seven (7) years;
- extent of Applicant's experience in the RFQ Neighborhood(s); and
- current and planned projects of housing development that may limit the ability of the Applicant to undertake additional work.

C. Management and Experience

In addition, for NCP Applicants, asset management and ownership experience will be evaluated by characteristics of the Applicant's recent portfolio, including:

- physical condition and number of Housing Code Maintenance violations on buildings owned and/or managed; and
- current capacity to provide effective management services in a timely and responsive manner, including the handling of tenant complaints.

D. Ability to Finance

Applicants must demonstrate adequate financial resources to develop a project of the scope proposed in their submission and the ability to meet a bank's criteria for deliverables that are required in the transaction. HPD will evaluate the Applicant's assets, bank or other lender

references, and current commitments in order to assess the Applicant's capacity to secure construction financing (construction and permanent financing, for NCP), meet construction lender's equity requirements, absorb any cost overruns, and complete construction of Applicant's entire Project in a timely manner.

E. Community Involvement and Support

Community involvement and support will be evaluated by Applicant's proven ability to obtain the support of community stakeholders and benefit the community through past developments. Among the factors that will be considered are:

- ability to effectively execute a strategy to get community support in the pre-development phase of past projects; and
- planning/design approach within the context of the RFQ Neighborhood.

F. Adverse Findings

An Applicant's Qualifications may be rejected at any time during or after the evaluation process if there are any adverse findings regarding the Applicant, any entity or individual associated with the Applicant, or any property owned and/or managed by them. Such adverse findings may include, but are not limited to:

- conviction, administrative violation, judicial or administrative finding, pending judicial or administrative case, or pending litigation for harassment, arson, fraud, bribery, grand larceny, any felony or crime of dishonesty, or noncompliance with fair housing or anti-discrimination laws, any applicable codes or ordinances, labor laws, or construction laws.
- defaults or poor performance under any government-assisted program;
- suspension or debarment by any governmental entity;
- mortgage arrears, default, or foreclosure proceedings;
- tax arrears, tax foreclosure or enforcement proceedings, or sale of tax liens;
- voluntary or involuntary bankruptcy proceeding; or
- negative findings by the Department of Investigation.

V. SUBMISSION REQUIREMENTS AND QUALIFICATION PROCESS

A. Inquiries

All communications and inquiries regarding this RFQ should be directed in writing to HPD at:

E-mail: NIHOP&NCPrfg@hpd.nyc.gov

All written questions should be submitted by February 4th to be included in the RFQ addendum.

B. Pre-Submission Conference

A pre-submission conference will be held January 9, at 10 AM at HPD, 100 Gold Street, Room 1R, New York, NY 10038. The date, time, and location of this pre-submission conference and any updates and/or additional communications regarding this RFQ will also be posted on HPD's website at the following address: <http://www.nyc.gov/html/hpd/html/developers/RFQ.shtml>

HPD strongly recommends that interested Applicants attend this pre-submission conference, as this will be the only opportunity to ask questions and receive answers in person regarding the RFQ. Responses to all inquiries will be collectively provided at the pre-submission conference and in an addendum, which will be posted on HPD's website and sent to all registered prospective Applicants after the pre-submission conference.

People with disabilities requiring special accommodations to attend and/or participate in the pre-submission conference should contact HPD at the email address provided above.

C. Time and Place of Submission

On or before the submission deadline, the Applicant must submit Qualifications in accordance with the instructions and attachments contained in this RFQ, as well as in any addenda that may be issued to the RFQ. All submissions become the property of HPD. Interviews, site visits and/or additional information may be requested.

Applications must be delivered by hand no later than 4:00PM, Thursday, February 19, 2015 to:

N.Y.C Department of Housing Preservation and Development
Office of Neighborhood Strategies
100 Gold Street, Room 9G-5
New York, NY 10038
Attention: Arielle Goldberg

Late submissions will not be accepted.

D. Format of Qualifications

One (1) bound original, one (1) bound copy and one (1) flash drive with all components of the Applicant's qualifications must be submitted in response to this RFQ. All Proposals must be bound in three-ring binders. An authorized representative of the Applicant must sign the original proposal. The copies of the Qualifications must be clearly labeled with the name of the Applicant(s) on the cover and with tabs as indicated below. The tabs should run down the right hand side of the submission.

Each set of qualifications must be tabbed as indicated below in **Section V, Part I Contents of Qualifications and Tabbing**. All forms associated with the Qualifications must follow the format included in this RFQ. All Forms included in *Appendix D* (Qualifications Forms) will be made available for download on the HPD website. Forms D-1 and D-2 must be submitted as Excel files and in original formatting on the flash drive.

Please keep all aspects of your submission confidential to your team while the review process is occurring.

E. Qualifications Modification

An Applicant may submit a complete modified set of Qualifications to replace all or any sections of a previously submitted set of Qualifications up until the submission deadline of February 19. HPD personnel will not insert pages or otherwise modify the Applicant's Qualifications. The Applicant has the full responsibility for ensuring that its final set of Qualifications has been submitted in the desired form by the submission deadline. The front cover of a modified set of Qualifications must identify the submission as modified Qualifications and include the date on which the modified Qualifications are submitted.

Modifications received after the submission deadline due date will not be considered for the first round of Applicant reviews. If HPD determines, upon review of the Qualifications, that any items are missing and/or incomplete, HPD, in its sole discretion, by written notification given to the Applicant, may permit the Applicant to provide or clarify such items. Failure to provide complete information in a timely fashion could result in rejection of the Qualifications.

F. RFQ Addenda

HPD reserves the right to amend or withdraw this RFQ at any time. In order to be considered, Qualifications must conform to any amendments that may be issued to this RFQ. Amendments may include, without limitation, any requirements and terms or conditions contained in this RFQ. HPD will advise each Applicant that has downloaded this RFQ of any clarifications or revisions.

If, in HPD's judgment, additional time is required for Applicants to prepare their Qualifications, HPD reserves the right to grant an extension of the deadline for submission of Qualifications, and such extension will then be granted to all Applicants.

G. Complete Qualifications

Qualifications that are not complete or are not in conformance with the requirements of this RFQ will be eliminated from further consideration. Applicants should note carefully the submission requirements listed below in **Section V, Part I Contents of Qualifications and Tabbing**.

H. References and Requests for Further Information

Submission of Qualifications shall constitute permission from the Applicant for HPD to make such inquiries concerning the Applicant as HPD deems necessary. HPD reserves the right to communicate with any of the Applicants, but HPD is not obligated to do so. HPD may discuss the Qualifications of any Applicants concurrently or sequentially, as HPD may determine. No Applicant has any rights against HPD arising from any such invitation to a discussion, or from any negotiations that may arise pursuant to the discussions.

Applicants must comply with all requests for information and, if requested by HPD, appear for presentations or interviews. If any Applicant fails to do so within the time period given (or within any time extension that HPD may grant), HPD may deem this as a failure and act of non-compliance with the RFQ, which will permit HPD to disqualify the Applicant or to solicit new Qualifications. In furtherance and not in limitation of the foregoing, before a final selection is made, an Applicant may be required to produce more detailed information concerning the professional background of those persons who own and manage such Applicant, a report on the financial background of such Applicant, and information concerning the nature and status of any past or pending threatened charges or actions (including lawsuits, criminal or disciplinary actions, administrative proceedings by any governmental or regulatory agency or bankruptcy action) against such Applicant or any of its partners, directors, officers, employees, shareholders, subsidiaries, or affiliates, as the case may be.

I. Contents of Qualifications and Tabbing

Each set of Qualifications must contain the forms and supporting documentation described below. Each copy of the Qualifications must be tabbed as indicated below. All Qualifications Forms can be found in *Appendix D*.

TAB A - Completeness Checklist and Applicant's Letter

Each Applicant must submit a Completeness Checklist (Form A-1) and Applicant's Letter (Form A-2). The letter must be printed on the Applicant's letterhead and signed by an authorized representative of the Applicant.

TAB B – Neighborhood Preference(s)

In narrative form, the Applicant should indicate the RFQ Neighborhoods and type(s) of Site(s) (NIHOP or NCP or both) for which s/he would like to be considered and explain why s/he is a good fit for developing projects of that scale and in that neighborhood. Applicants should describe the planning/design approach used for previous developments of comparable size, location, and scope to NIHOP, NCP, or both, if applicable. The description should be limited to two projects and Applicants are encouraged to provide images of those developments to represent the Applicant's design approach.

TAB C – Applicant Description

All Applicants must complete the Development Team Information and Applicant Questionnaire (Forms C-1). Applicants that include a not-for-profit organization as a member of the Development Team must also complete the not-for-profit section of the Applicant Description (Form C-2). If the Applicant is a joint venture, the Principals of each entity that makes up the joint venture must be identified, and a Principal of each entity must sign the Form.

Applicants must include a chart or diagram explaining the intended form and structure of any proposed partnership or joint venture. The structure and percentages of ownership and investment must be included.

Applicants are encouraged to provide resumes describing key members of the Development Team and/or brochures describing the Applicant and any similar projects in which the Applicant has been involved. This information may include information regarding projects that the Applicant has developed in the RFQ Neighborhoods or clarification of information provided in the forms included in the Proposal. Provide a staffing plan indicating which Principals and staff members would have primary responsibilities for implementing the Project and their roles in day-to-day management of the Project.

TAB D – Development Experience, Management Experience and Current Workload

Each Principal of the Applicant must complete Forms D-1 through D-3. If an individual has no experience, this shall be indicated by including a form marked “None”. Forms D-1 and D-2 should be submitted as Excel files in original formatting on the flash drive.

For NCP applicants, a separate form shall be provided for each Principal with residential management experience. Care should be taken to provide accurate information about references. In addition, a separate form shall be provided for a Principal or managing agent proposed to manage the Development.

TAB E – Assets Statement

Each Principal of the Applicant must submit audited or reviewed financial statements describing in detail the Principal’s financial status in the two (2) most recent fiscal years preceding the deadline for the submission of Qualifications in response to this RFQ. Publicly-owned companies must submit the latest annual report and Form 10K as well as any Form 10Q submitted after such Form 10K. As an alternative, the Assets Statement in Form E may be used.

TAB F – Financial Letters of Support

Applicant should attach letters of reference from banks, syndicators, or investors with whom the Applicant has worked in the past five years that will speak to the Applicant’s successful development experience with similar projects and appropriateness to work on a project of the type requested as well as the lenders willingness to lend for a project of the type (NIHOP or NCP or both) requested in the submission.

TAB G – Community Support

If applicable, the Applicant should attach any letters of community support that the Applicant has received from elected officials, Community Boards, and other community stakeholders for past projects in the RFQ Neighborhoods for which the Applicant is applying. Applicant should **not** seek out new letters of community support for this RFQ.

J. Review and Evaluation

HPD will determine if Applicants meet minimum qualification requirements based on the criteria specified in **Section IV Qualifications Requirements**. HPD may disapprove the inclusion of any or all members of the Applicant's development team and may require Applicants to substitute other individuals. HPD will notify all Applicants as to whether or not they meet the eligibility requirements for Qualified Sponsor. Inclusion on the list of Qualified Sponsors does not ensure that a developer will be asked to submit a Proposal or selected for disposition of a Site(s). For those Applicants selected for consideration to develop a Site(s), the information in Appendix E is especially relevant.

VI. CONDITIONS, TERMS, AND LIMITATIONS

This RFQ is subject to the specific conditions, terms and limitations stated below:

- A. The City is not obligated to pay nor shall in fact pay any costs or losses incurred by any Applicant at any time including the cost of responding to the RFQ.
- B. The City reserves the right to reject at any time any or all submissions and/or withdraw this RFQ in whole or in part, to negotiate with one or more Qualified Developers, and/or undertake projects on terms other than those set forth herein. The City likewise reserves the right, at any time, to waive compliance with, or change any of the terms and conditions of this RFQ, and to entertain modifications and additions to the applications of Qualified Developers.
- C. The Qualification of an Applicant will mean only that HPD may commence negotiations with that Applicant regarding a Site. HPD will send written notification ("Negotiation Letter") to commence negotiations if a Qualified Developer is selected to develop a Site.
- D. Qualification of an Applicant through this RFQ will not create any rights on the Applicant's part, including without limitation, rights of enforcement, equity, or reimbursement.
- E. This RFQ and any agreement or other documents resulting there from are subject to all applicable laws, rules and regulations promulgated by any Federal, State or municipal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.
- F. This RFQ does not represent any obligation or agreement on the part of the City, which may only be incurred or entered into by a written agreement which has been approved as to form by the City's Law Department and duly executed by the Applicant and the City.
- G. The Sites that *may* be made available through this RFQ are to be disposed of in "as-is" condition. The City, its officers, agents and employees make no representation whatsoever as to the physical condition of the Sites or their suitability for any specific use.
- H. The Sites that *may* be made available through this RFQ shall be subject to New York City Real Property Taxes and charges. Tax benefits may be available under the Article XI, 421-a, UDAAP, 420-c, and/or 420-a tax exemption programs.
- I. No transaction will be consummated if any principal of any selected Applicant is in arrears, or in default upon any debt, lease, contract or obligation to the City of New York, including without limitation real estate taxes and any other municipal liens or charges. The City reserves the right not to review any Qualification by any such Applicant.
- J. Entities that are in debarred status by either the Comptroller of the City of New York or the United States Department of Labor, and entities with histories of convictions of criminal violations of the Occupational Health and Safety Act within the five years preceding the closing

date, will not be eligible to enter into development agreements or serve as prime or general contractors on this project.

- K. No commission for brokerage or any other fee or compensation shall be due or payable by the City, and an Applicant undertaking to indemnify and hold the City harmless from and against any such claim for any such fee or compensation based upon, arising out of, or in connection with any action taken by the Applicant, the selection of the Applicant's submission for the list of Qualified Developers and invitation to the Applicant to respond to this RFQ, the conditional designation of a Sponsor pursuant to this RFQ or the sale of the site.
- L. All determinations as to the completeness or compliance of any Qualifications, or as the eligibility of any Applicant, will be within the sole discretion of the City.
- M. The City advises all Applicants that there is no legal obligation on the part of the City to issue the RFQ, and that the City reserves the right to use the Qualifications submitted pursuant to this RFQ as a basis for negotiation with Applicants as the City deems appropriate.
- N. This RFQ and any resulting agreement are subject to all applicable laws, rules and regulations promulgated by any Federal, State, or municipal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.

VII. CONFLICTS OF INTEREST

Current and former employees of the City of New York may respond to this RFQ only in accordance with Chapter 68 of the New York City Charter governing ethics and conflicts of interest affecting City personnel. Section 2604(c)(7) of the City Charter contains specific prohibitions that exclude enumerated groups of employees from participating in the sales process. In addition, current HPD employees may not respond to this RFQ.

Persons in the employ of the City considering the submission of Qualifications are advised that opinions regarding the propriety of their purchase of City-owned property may be requested from the New York City Conflicts of Interest Board. This body is empowered, under Section 2602 of the City Charter, to issue advisory opinions on conflict of interest questions and other matters of ethical considerations. It is not necessary, however, that such an opinion be obtained prior to responding to this RFQ.

Former employees of the City of New York are also advised that the City Charter imposes certain restrictions on post-employment and business relationships with the City. Such individuals should consult the specific provisions on this issue contained in the City Charter.

**APPENDIX A:
RFQ Neighborhoods/Areas**

RFQ Neighborhoods/Areas

| BOROUGH | COMMUNITY DISTRICT | NEIGHBORHOOD | APPROXIMATE # OF SITES* | TYPE OF SITES** |
|------------------|---------------------------|------------------------------|--------------------------------|------------------------|
| Bronx | 2/3/6 | Morrisania/Tremont | 8 | NIHOP |
| | 1/3 | Melrose | 8 | NIHOP |
| | 5 | Morris Heights | 1 | NCP |
| Queens | 12 | South Jamaica | 8 | NIHOP |
| | 12 | South Jamaica | 3 | NCP |
| | 14 | Edgemere/Hammels | 3 | NIHOP |
| Manhattan | 3 | Lower East Side | 2 | NCP |
| | 10 | Central Harlem | 1 | NCP |
| | 10/11 | Central Harlem | 5 | NIHOP |
| | 10 | Central Harlem | 4 | NIHOP/NCP |
| | 11 | East Harlem | 2 | NCP |
| Brooklyn | 16/17 | Brownsville South | 4 | NCP |
| | 16 | Brownsville South | 9 | NIHOP |
| | 16 | Brownsville North/Ocean Hill | 5 | NCP |
| | 16 | Brownsville North/Ocean Hill | 7 | NIHOP |
| | 3 | Bedford Stuyvesant North | 1 | NCP |
| | 3 | Bedford Stuyvesant North | 7 | NIHOP |
| | 3 | Bedford Stuyvesant Central | 3 | NCP |
| | 3 | Bedford Stuyvesant West | 9 | NIHOP |
| | 3 | Bedford Stuyvesant East | 9 | NIHOP |
| | 5 | East New York East | 10 | NIHOP |
| | 5 | East New York North | 3 | NCP |
| | 5 | East New York North | 7 | NIHOP |
| | 5 | East New York South | 3 | NCP |
| | 5 | East New York South | 11 | NIHOP |
| | 8 | Weeksville | 1 | NCP |
| | 8 | Weeksville | 4-5 | NIHOP |
| | 4 | Bushwick | 1 | NCP |
| | 4 | Bushwick | 4-5 | NIHOP |
| | 1 | Williamsburg | 1 | NCP |

*HPD reserves the right to add or withdraw sites from this RFQ.

**Anticipated Site programming is based on lot size, zoning, and context; however, programming is subject to change, at HPD's discretion.

APPENDIX B:
HPD-HDC Marketing Guidelines

MARKETING GUIDELINES

Updated March 2012



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1. Introduction
2. Basic Sequence of Activities
3. Marketing Plan Checklist
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INTRODUCTION



MARKETING GUIDELINES – INTRODUCTION

WHAT THIS MANUAL IS:

The Marketing Guidelines describe policies, procedures, and certain requirements for the marketing and selection of residents for developments (“Projects”) subsidized by the New York City Department of Housing Preservation and Development (“HPD”) and/or the New York City Housing Development Corporation (“HDC”) (together, the “Agencies”). Developers, owners, marketing agents, and sponsors of Projects (“Developer(s)”) must follow these guidelines in preparing marketing plans for their Projects and comply with its specific requirements.

The Developer should consult the monitoring agency in the event any questions or concerns arise with respect to the procedures set forth in these guidelines, as well as the occupancy requirements.

The primary objective of the marketing effort for the Project is to select diverse tenants, including those with mobility, visual, or hearing impairments that require an adaptable/accessible apartment. Outreach efforts utilized by the Developer are a critical tool in the development of a diverse applicant pool and tenancy.

The Developer must also comply with all applicable fair housing and equal housing opportunity requirements and the requirements of any other governmental agencies.

MARKETING GUIDELINES – INTRODUCTION

WHAT THIS MANUAL IS NOT

The Marketing Guidelines are not a comprehensive compliance manual. The Developer must ensure that its employees and agents are fully trained in all facets of the program and all requirements of the specific occupancy requirements of each Project. Maintaining compliance is the Developer's responsibility.

This manual also does not contain specific occupancy requirements for Projects. Developers must refer to their Project's Regulatory Agreement for income, rent, and other occupancy restrictions.

BASIC SEQUENCE OF ACTIVITIES



MARKETING GUIDELINES – BASIC SEQUENCE OF ACTIVITIES

BASIC SEQUENCE OF ACTIVITIES

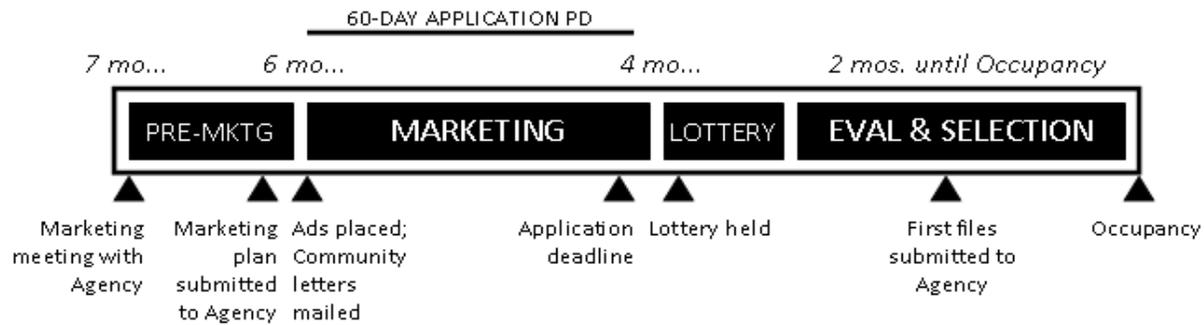


Figure 1: Major milestones in marketing process

| ACTIVITY | TIMELINE |
|---|---|
| 1. Project site sign erected and information posted on website and hotline | At the start of construction |
| 2. Inquiry list maintained | On an ongoing basis |
| 3. Marketing meeting held with Agency | Seven (7) months prior to anticipated occupancy |
| 4. Marketing Plan submitted to Agency at Marketing meeting | At least six (6) months prior to anticipated occupancy |
| 5. Community contact letters mailed and advertisements placed | Represents commencement of marketing period, at least sixty (60) days prior to application deadline date. |
| 6. Marketing sign erected with information on how to obtain applications | At commencement of the marketing period |
| 7. Lock box/P.O. Box established for receipt of applications | At commencement of the marketing period |
| 8. Applications mailed to inquiry list; requests for applications processed as received | When first advertisement is published |
| 9. Application postmark deadline | Represents completion of sixty (60) day marketing period |
| 10. Compliance Meeting held with Agency | Two weeks before the Lottery |
| 11. Lockbox/P.O. Box is opened; Hold | Seven (7) to ten (10) days after application |

MARKETING GUIDELINES – BASIC SEQUENCE OF ACTIVITIES

| lottery | deadline |
|--|--|
| 12. Log applicants; review applications | Approximately 2-3 months before occupancy. |
| 13. Submit files to monitoring agency | |
| 14. After approval from agency, occupancy begins | Occupancy begins. |

MARKETING PLAN CHECKLIST



Prior to implementing the Developer's marketing plan for the Project ("Marketing Plan"), the Developer must submit the Marketing Plan for Agency review and approval. Below is a Marketing Plan Checklist.

- ✓ CONSTRUCTION SITE SIGNAGE ERECTED
- ✓ INQUIRY LIST MAINTAINED
- ✓ FILE NOTICE OF INTENT WITH AGENCY
- ✓ MARKETING MEETING WITH AGENCY
- ✓ FILE MARKETING PLAN WITH AGENCY
- ✓ SUBMIT DRAFT OF ADVERTISEMENT TO AGENCY FOR APPROVAL
- ✓ SUBMIT MARKETING AGENT AND/OR MANAGING AGENT AGREEMENT TO AGENCY
- ✓ AGENCY ESTABLISHES CALLER SERVICE BOX
- ✓ REMIT PAYMENT TO AGENCY FOR CALLER SERVICE BOX
- ✓ DRAFT AND MAIL COMMUNITY CONTACT LETTERS
- ✓ AGENCY MAILES ELECTED OFFICIAL LETTERS
- ✓ MARKETING SIGN ERECTED WITH INFORMATION ON HOW TO OBTAIN APPLICATIONS
- ✓ PLACE ADVERTISEMENTS IN NEWSPAPERS
- ✓ PROVIDE AGENCY WITH ALL COPIES OF ACTUAL ADVERTISEMENTS
- ✓ MAIL APPLICATIONS TO INTERESTED APPLICANTS ON INQUIRY LIST; REQUESTS FOR APPLICATIONS PROCESSED AS RECEIVED
- ✓ HOLD INFORMATIONAL SEMINARS AT LOCAL FACILITIES, SUCH AS COMMUNITY BOARD(S) AND/OR LOCAL ORGANIZATIONS
- ✓ SCHEDULE LOTTERY WITH AGENCY
- ✓ HIRE STAFF FOR SCHEDULE LOTTERY DATE(S)
- ✓ HOLD LOTTERY
- ✓ ATTEND COMPLIANCE MEETING WITH AGENCY
- ✓ SUBMIT ELECTRONIC LOG TO AGENCY FOR REVIEW
- ✓ PROCESS LOTTERY LOG
- ✓ SUBMIT FILES TO AGENCY FOR REVIEW AND APPROVAL
- ✓ SUBMIT INTERMITTENT LOG UPDATES WITH DISPOSITION COMMENTS AND STATS REPORT
- ✓ REQUEST WAIVER(S), IF NEEDED
AGENCY APPROVAL DATE _____
- ✓ REQUEST OPEN MARKET, IF NEEDED
AGENCY APPROVAL DATE _____
- ✓ SUBMIT INITIAL MOVE-IN CERTIFICATION TO AGENCY
- ✓ SUBMIT FINAL LOG WITH DISPOSITION COMMENTS AND STATS REPORT

OUTLINE OF PROCEDURES

- I. PRE-MARKETING
- II. MARKETING
- III. LOTTERY
- IV. APPLICANT EVALUATION & RESIDENT SELECTION



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

I. PRE-MARKETING

A. PROJECT SITE SIGN AND MARKETING SIGN

The Developer must display a project site sign, provided by the Agency, on site in public view, beginning at the start of construction. The project sign is to remain erected on the site until construction is substantially complete. See *Site Sign Request Form, Attachment A-1*.

- ✓ **The Marketing Plan should state the date that the project site sign was erected.**

The Developer must also design and display on site and in public view a legible marketing sign with information on how to obtain an application for a unit. The marketing sign should be displayed upon commencement of the marketing period and remain until the conclusion of the marketing effort.

- ✓ **The Marketing Plan should include a sample marketing sign and should state the approximate date on which the sign will be erected.**

B. INQUIRY LIST

At the start of construction, an inquiry list should be maintained by the Developer's office. Inquiries must be accepted up to the deadline date for requests for applications. The inquiry list should include the following information:

- Name and contact information of those interested in renting/purchasing a unit;
- How the inquiry was received, e.g. via telephone, email, walk-in, or mail. (The Developer may select the procedure for accepting inquiries.)
- ✓ **The Marketing Plan should outline these inquiry list procedures.**

C. AGENCY WEB SITE AND HOTLINE POSTING

The Developer must make the following information available to the Agency for posting on the Web site and Affordable Housing Hotline (See *Web Site Posting Form, Attachment A-2*):

- Information related to the development (e.g. number of units; initial rents/sale prices);
- Developer or marketing agent contact info, if applicable;
- Expected construction completion date;
- Method for interested parties to be placed on an inquiry list.
- ✓ **The Marketing Plan should also include this basic project information.**

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

D. PRE-MARKETING MEETING

At least seven (7) months prior to anticipated occupancy, the Developer must contact the Agency to schedule a marketing meeting. At that time, Developer and Agency will meet to review the procedures for marketing, applicant evaluation and resident selection, occupancy, and management, as well as any related documents and reports. The Developer shall submit to the Agency a "Notice of Intent" form to initiate the marketing process.

- ✓ **The Marketing Plan should include a dated copy of the Notice of Intent. See *Sample Notice of Intent to Market, Attachment C.***

E. MARKETING PLAN

Following the pre-marketing meeting, the Developer must submit to the Agency for review and comment a proposed Marketing Plan which will outline procedures to be followed in the Pre-marketing, Marketing, and Applicant Evaluation and Resident Selection phases. See *Marketing Plan Summary Sheet, Attachment B* and See *Marketing Plan Checklist, p. 10.*

- ✓ **The Marketing Plan should include the approximate date at which each of these items will be implemented/completed.**

II. MARKETING

The formal marketing process should begin at least six (6) months prior to the anticipated occupancy of the first unit. The placement of advertisements and other outreach efforts commences the official 60-day marketing period.

The Developer must ensure that the Project is always in compliance with the provisions of the Project's Regulatory Agreement. The Developer should be aware of its obligation to obtain, verify and provide the Agency, on an ongoing basis, with all required information. The Developer should fully familiarize themselves with the provisions of the Regulatory Agreement.

A. OUTREACH

Marketing aims to achieve the broadest practical citywide representation in its outreach efforts. The Developer's outreach effort is an essential element in the development of a diverse applicant pool and tenancy. The Agency expects the Developer's Marketing Plan to be designed to achieve this objective.

The Agency requires the use of community and citywide civic organizations as part of the marketing effort.

Elected Official and Community Board Letters

At the commencement of marketing, the Agency submits letters to the Community Board and elected officials affiliated with the district in which the development is located.

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

Community Outreach Letters

The Developer must provide additional methods of community contact and describe these methods in the Marketing Plan. It should be stressed that targeted outreach is extremely important to the marketing process in order to adequately fill the preference categories. Community outreach letters should be mailed by the Developer at least sixty (60) days prior to the deadline date for receipt of applications. See *Outline of Contents for Community Contact Letter(s), Attachment D*.

At a minimum, the Developer should initiate contact with the local Community Board to discuss the project and possible outreach options. Some other examples of outreach methods include:

- Attending a monthly Community Board meeting to discuss the project;
 - Meeting with other local community groups, e.g. religious congregations;
 - Discussing project outreach with private and not-for-profit community organizations; and
 - Posting flyers in local unions or governmental agencies.
- ✓ **The Marketing Plan must describe all methods of community contact, including, but not limited to:**
- Any marketing consultants the Developer intends to retain, providing the Agency with a statement summarizing their relevant experience and expertise. All marketing consultants must be approved by the Agency;
 - Any management companies the Developer intends to retain, providing the Agency with a statement summarizing their relevant experience and expertise and include a brief management plan See *Outline of Management Plan, Attachment E*;
 - The intended outreach time schedules and types of materials to be distributed;
 - Specific organizations and institutions (e.g., Community Board, private and not-for-profit organizations, local newspapers, senior centers, labor unions, government agencies), and their respective roles in the marketing process.

B. ADVERTISEMENTS

- Advertisements should appear at least sixty (60) days prior to the deadline date for receipt of applications. See *Sample Advertisement with Logos, Attachments F-1 and F-2*.
- ✓ **The Marketing Plan must list advertisement publication dates and indicate the name(s) of the publications and the proposed dates of the advertisements to be utilized.**

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- The Developer shall begin marketing by placing an advertisement for applicants in accordance with the following:
 - a. The Agency will provide the Developer with the final advertisement format. No changes to the format will be permitted without the prior written approval of the Agency.
 - b. Copies of the advertisements must be submitted to the Agency for approval prior to publication. Advertisement draft approvals are required from multiple parties, in addition to the Agency, depending on the number of vested parties involved in the project. The Developer should ensure to allow enough time to receive each of these approvals. *See Sample Routing Slip, Attachment F-3.*
 - c. After obtaining Agency approval, the Developer is responsible for placing the ad. The ad must be advertised in at least three (3) newspapers, including:
 - ❖ One (1) citywide daily newspaper with a circulation of at least 200,000;
 - ❖ One (1) ethnic-based newspaper with a circulation of at least 10,000;
In order to insure that your marketing meets the Affirmative Fair Housing Requirements, in addition to choosing a citywide publication that is generally read by all ethnic groups, the ethnic publication chosen should be one that serves the minority group(s) least likely to apply for this housing. *For further guidance, see Attachment F-4 and F-5.*
 - ❖ One (1) local newspaper.
 - d. The ad is to run at least three (3) days with at least one (1) day falling on a weekend. The first day an Ad appears must be at least sixty (60) days prior to the application deadline. The Developer must run the additional two ads no later than 10 days after the first ad runs. Any delays must be reported to the Agency.
 - e. The Developer must provide the Agency with a copy of the tear sheet immediately after the advertisement runs.

C. APPLICATIONS

- ✓ **The Marketing Plan must include a sample of the proposed application and cover letter to prospective applicants and samples of the response letters to applicants.**

The Marketing Plan is to include a statement that family members and employees of the Developers and its principals are ineligible to apply for or receive an apartment. The cover letter should reiterate program guidelines and highlight the post office box to which applications may be returned. The format will be provided by the Agency. Any changes to the letter must receive prior approval from the Agency. *See Sample Cover Letter and Application, Attachments G1-3. See also Sample Letters, Attachments H-1 through H-6.*

Additionally, the following subjects should be outlined in order that the Agency may be afforded an opportunity to comment:

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- Number and type of units (if this description does not match the original underwriting and unit distribution described in the Regulatory Agreement, then the Developer must bring the discrepancy to the Agency's attention in writing);
- Initial rents or selling price to be charged;
- Minimum and maximum income range for each type of unit;
**Note: Please contact the Agency if you are unclear about the program's income and rent limits.*
- Listing of proposed fees
 - Applicants shall not be required to pay an application fee, but may be charged a non-refundable credit check fee:
 - For Units with Income Limits set at or below 60% of New York City's Area Median Income (AMI) Limit: The fee is not to exceed **\$25** per application (for households consisting of 1 or 2 adult members), or **\$50** (for households with 3 or more adult household members).
 - For Units with Income Limits set above 60% of New York City's Area Median Income (AMI) Limit: the fee is not to exceed **\$50** per application (for households with 1 or 2 adult members) or **\$75** per application (for households with 3 or more adult members).
 - ***Credit fees should only be collected when (a) an applicant appears to be otherwise eligible and (b) it is clear that a unit will be available if the applicant is approved.**
- The Developer's system and procedures for receipt and logging or numbering applications. *See Sample Log Sheet for Rental Units, Attachment J-1 and See Sample Log for Home Units – Attachment J-2. For more information about the logging and receipt of applications, please see the following "Lottery" section.*

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

III. LOTTERY

- The Agency requires a Compliance Meeting to be held approximately two weeks before the lottery date.
- The lottery will be held on a date or dates mutually agreed by the Developer and Agency, generally seven (7) to ten (10) business days following the close of the application period, if not sooner.
- **An Agency representative must be present at the time of the lock box/post office box opening and at the time applications are opened and logged.**
- Based on anticipated response volume, the Agency will recommend a minimum number of staff or volunteers to be provided by the Developer for the full day of the lottery. The Agency recommends that there be 20-25 staff members per day during a lottery, which may be adjusted by the Agency based on lottery response. Developer staff should be made familiar with the application log process, and freed from any other duties or distractions on the day of the lottery. Additional people made available will maximize the number of applications opened and logged. Agency monitors will be present strictly to observe the opening of applications and completion of the log sheets; they will be unable to assist in the actual opening and logging as not to divert their attention from their oversight responsibilities.
- If more than one day is required for the lottery, remaining applications must be secured in a locker or footlocker (to be provided by the Developer), which can accommodate a standard combination lock. The Agency will provide the lock with a combination known only to Agency staff. This locker or footlocker will be stored by the Developer in a location approved by the Agency monitor and subsequent days of opening and logging must also occur under Agency supervision. At the completion of rent-up/sales, after enough applications have been opened to achieve occupancy and establish a waiting list equal to at least the number of units in the building, any surplus applications will be shredded by the Developer.

A. APPLICATION COLLECTION AND PICK-UP

- The post office box used will be one governed by the United States Postal Service (i.e. not a privately owned business such as “Mailboxes Etcetera,” etc.) and must be located within New York City limits (i.e. New York, Bronx, Kings, Queens or Richmond Counties). The P.O. Box location must be pre-approved by the Agency, as certain branches with a history of problems may be excluded. Protocol for the opening of the P.O. Box varies by agency:
 - HDC will purchase and reserve the P.O. Box, with all charges and fees to be reimbursed by the Developer.
 - HPD will accompany the Developer to the designated post office on the day of the opening to purchase and open the P.O. Box.

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- **Applications will be picked up from the P.O. Box on the day of the lottery, generally seven (7) to ten (10) business days following the close of the application period. The applications must be picked up by the Developer in the presence of Agency staff.**
- If the post office requires that letters be picked up on a regular basis due to large volume of mail, the USPS will notify the Agency prior to picking up the mail and the Agency and Developer will place all letters, unopened, in a secure locker or footlocker. The Developer will then return to the post office on the day of the scheduled lottery to pick up, in the presence of Agency staff, any remaining mail.
- On the day of the lottery, Agency staff will meet the Developer at the applicable post office for the opening of the P.O. Box and the gathering of applications. Applications will be transported in the presence of at least one Agency monitor (such transportation to be provided by the Developer) to the identified location provided by the Developer for the opening of the applications.
- Any applications postmarked after the application deadline (“late applications”) will be set aside for possible consideration pursuant to this Outline of Procedures, and only after all applications postmarked by the deadline have been processed.
- Any applications received by means other than regular mail (e.g. overnight, certified or registered mail) will be set aside for possible future consideration.

B. LOG GENERATION

- On the initial lottery days scheduled, all applications, or a minimum number of applications equal to **at least fifty (50) times the number of affordable units that are being marketed**, will be opened and entered in a log in the order in which they were randomly opened. All names will then be selected in number order from this log. All subsequent loggings from this applicant pool, unless waived by the Agency, must take place in the presence of Agency staff. **No preferences will be waived unless all applications received on time have been opened.** *For more information on preferences, see Section IV-B “Order of Processing” or Section IV-H-1 “Preferences.”*
- The log sheets have been revised in a new format and will be provided by the Agency. Rather than merely logging in the head of household, the names of all household members identified on an application must now be recorded in the log sheets. *See Sample Log Sheet for Rental Units, Attachment J-1 and See Sample Log for Home Units – Attachment J-2.*
- A delineated line must be drawn at the end of the last log page containing all applications received up to the deadline date. Applications received after the deadline date or by other methods, such as overnight, certified or registered mail, are to be logged after the delineated line. *For information on maintaining a*

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

waiting list, see Section IV-F “Waiting List” or Attachment H-6 for a Sample Waiting List Letter.

- Developer must provide an electronic copy of the log to the Agency immediately after the lottery is completed.
- If the lottery takes more than one (1) day, the Developer must provide a copy of the updated log after each day’s logging is completed. In this case, remaining applications must be secured in a locker or footlocker (to be provided by Developer), which can accommodate a standard combination lock. The Agency will provide the lock with a combination known only to the Agency. This locker or footlocker will be stored by the Developer in a location approved by Agency monitors and subsequent days of opening and logging must also occur under Agency supervision. At the completion of rent-up/sales, after enough applications have been opened to achieve occupancy and establish a waiting list equal to at least the number of units in the building, the Developer must shred any surplus applications.
- Developer or representative must also provide copies of the log to the Agency for review indicating each applicant’s selection status. **Copies of the log must be provided prior to offering units to eligible applicants.** *For more information about Agency approvals required prior to signing leases and/or contracts, see Section IV-G “Agency Approval.”*
- Developer must offer units only to applicants who meet eligibility requirements in numbered order from this log, as long as units of appropriate size are available. An applicant to whom a unit has been offered must be given a reasonable specific amount of time to respond to the offer, and **not less than 5 business days** for a lease signing, before a Developer can proceed to offer a unit to the next eligible applicant on the log.
- If units of appropriate size are unavailable to eligible applicants from the log as they are being reviewed, the applicant’s name will remain on the log until an appropriate unit becomes available or until the log expires.
- Developer must retain the applicant log and all associated applications as a record for no less than three (3) years.

Depending on the level of response generated by the lotteries, particularly for low-income developments, it may not be practical to open and process all received applications. However, the Developer must initially open and log a number of applications that is at least fifty (50) times the number of available units. **This must be explained in the cover letter that accompanies the application.** If this pool is sufficient to fulfill all preferences, achieve rent-up/sales, and establish an adequate waiting list, the Agency may not require that additional applications be opened at that time. If preferences cannot be met, additional applications will need to be opened. The Agency will not waive any mandatory preferences unless all received applications have been

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

processed. Agency staff must be present to supervise the opening and numbering of all applications involved in the initial lottery of a project.

IV. APPLICANT EVALUATION AND RESIDENT SELECTION

The Developer will have primary responsibility for applicant evaluation and resident selection. Developer must select all prospective residents from the log sheet in the order logged in, with exceptions for permitted preferences only. Residents of the City of New York are to be given preference in the selection process over non-residents. Other statutory preferences are outlined below. *See Section IV-H-1 "Preferences."*

- ✓ **The Marketing Plan must specify criteria to be used for resident selection and rejection, along with procedures for handling rejected applications.**

An applicant cannot be rejected for any reason other than a reason that is consistent with the rejection criteria stated in the Marketing Plan. The Agency will approve the selection and rejection criteria outlined in the Marketing Plan prior to the start of marketing. The rejection criteria must be applied fairly and equitably to all applicants.

A. DISQUALIFICATION POLICIES

- No application will be disqualified prior to entering the lottery. Every opened application received will be assigned a unique log number. Disqualification letters, for reasons outlined below, will be processed and sent in order of log number.
- After the lottery, applicants may be disqualified, regardless of other eligibility factors, for one of several reasons:
 - Developer must disqualify those applicants for whom multiple copies of an application are received.
 - A "multiple" or "duplicate" application is defined as the appearance of any single applicant across two or more applications for any given project, whether or not the same household members are present.
 - **Developer, employees, agents, employees of agents, and family members of Developer, are prohibited from seeking a unit through the Developer's lotteries or Open Market, and are further prohibited from being considered through any other means for any unit being marketed by this Developer pursuant to this Outline of Procedures, regardless of their position with the firm.**
 - Employees of the Housing Development Corporation (HDC) are prohibited from seeking a unit in any project in which HDC is involved that is being marketed by the agent. *Note: HPD employees who apply for HPD involved projects should receive a Conflict of Interest waiver from HPD.
 - Applicant is not a resident of New York City.

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- Applicants may **not** be disqualified on rental projects solely on the basis that the applicant receives Section 8 assistance.
- **Note on Missing Information:**
Applications with missing required information, such as income or household size, would be processed as such. For instance, applicants without a stated income would be calculated as \$0 income, and likewise, unlisted household members would not be calculated. Unless qualified as an “extenuating circumstance,” changes to blank income and/or household size would result in an applicant being placed at the bottom of the log for consideration only after all other applications are exhausted.

Extenuating circumstances include:

- Death of a member of the household;
- Birth in the household;
- Divorce or other spousal situation;
- Court order of custody.

Developer must require the applicant to provide evidence of the extenuating circumstance.

B. ORDER OF PROCESSING

- The first applications processed and submitted to the agencies from the log must be those that meet one of the approved housing preferences. The order of preference category must maximize the number of applicants filling the preference categories. Experience suggests that this order, depending on lottery results and other factors, may help boost the filling of preference categories if generally followed:
 - (1) Disability
 - (2) Community Board
 - (3) Municipal Employee

For more information on processing of preferences, see “Preferences” Section IV-H-1.

- If preferences are not met and there are still unopened applications remaining, another day of opening applications to identify additional preference applicants must be scheduled with the Agency. No preferences will be waived unless all received applications have been opened.
- Only after all preferences have been achieved (or waived by the Agency following the exhaustion of the lottery) may non-preference applications be submitted to the Agency for approval. This is to prevent non-preference applicants from being processed for units that are intended for preference-eligible applicants. The screening of non-preference applicants may begin prior to achieving all preferences with Agency approval.

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- If units are still available after the Developer has exhausted all remaining applications, Developer must notify the Agency and randomly open and log a number of “late” applications set aside with the Developer sufficient to tenant the remaining vacancies. The Developer, or a representative, will then follow all procedures as outlined in this Section.
- Applications should be processed for submission to the Agency in groups of fifty (50) to prevent getting too far ahead in the lottery and potentially bypassing eligible applicants who are placed earlier on the log and appeal successfully within the two (2) week appeal timeframe. Even within those groups of fifty (50), attention must be given to remaining available units based on bedroom sizes and (for mixed-income buildings) income levels to allow for such appeals.
- At a minimum, a status report must periodically be issued by the Developer to the Agency to ensure that applicants are being processed in proper order. The report must outline the status of applicants on the log (i.e. if they were rejected the reason must be provided) and must be submitted electronically in an Excel format. Developer therefore must not submit a “Read Only” version. This is to ensure that applicants are being processed in proper order. Such status reports should be issued: (a) upon completion of the preferences before processing the general lottery pool and (b) upon the completion of each group of fifty (50) general lottery applicants thereafter. If a file is submitted for an applicant but there are applicants with lower log numbers whose status have not been confirmed, the agencies will withhold further approvals until the information has been satisfactorily documented. The status report, which must include all status comments, must also be accompanied by a letter reporting on the statistics, such as, but not limited to:
 - Number of logged applicants;
 - Number of units for each preference;
 - Status of each preference;
 - Number rejected for being over income;
 - Number rejected for being under income;
 - Number of applicants that fell within the income ranges; if applicable;
 - Number rejected for credit reasons;
 - Number rejected for criminal history;
 - Number rejected for housing court activity as further described in *Section IV-H-5*;
 - Number rejected for household composition;
 - Number of no-shows (include the no-show dates);
 - # terminated as per applicant’s request (applicant withdrew/cancelled application)
 - # rejected for failure to submit requested additional documentation;
 - # rejected for submitting duplicate applications ;
 - # rejected because household is comprised of full-time student(s) and does not meet any of the exceptions (in applicable programs);
 - # rejected because of household size;
 - # placed on low priority list and specify the reasons, e.g. living out of city;
 - any other rejection criteria used by the agent; and Number rejected for

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

submission of fraudulent information, etc.

- Stats Report Requirement is mandatory so that the Agencies may monitor the process of the lottery log. Further, such stat report information may be used to report on the statistics of the individual project and analysis of its lease-up.
- Developer must notify all applicants processed of their selection status by regular mail as soon as a determination has been made. A copy of the letter must be attached to the application and kept on file.

C. APPEALS

Ineligibility and Rejection Letters to Applicants must provide a specific reason why an applicant cannot be approved. Responses to appeals must be even more specific and detailed. For example, stating, “You are rejected because you are over-income” is not sufficient. The letter would need to state more specifically, as an example, “You have been deemed ineligible for this housing program because you do not meet the maximum income required for your family and unit size. The maximum income is \$35,000 and your household’s annual income has been determined to be \$36,000”.

- Developer will provide the Agency with a copy of the completed Log, indicating the final selection status of each applicant and reason for rejection. This includes, but is not limited to:
 - Income ineligibility;
 - Applicant is an employee or family member of Developer;
 - Applicant is not a resident of New York City;
 - Lack of adequate income to support mortgage payments;
 - Ineligible household size;
 - Poor payment or credit history;
 - Receipt of more than one application per household;
 - Falsification of information, etc.

D. INTERVIEWS

- All applicant/prospective tenant interviews, as well as lease signings, must be conducted within New York City limits (i.e. New York, Bronx, Kings, Queens, or Richmond Counties).
- Developer will notify each applicant to be interviewed by regular mail. Format for letter will be provided by the Agency. Letter will indicate:
 - Date, time, location of interview and phone number should applicant be unable to appear;
 - Required minimum amount of time, and **not less than ten (10) business days**, between letter postmark and interview date;

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- List of required documents to be brought to interview by applicant;
 - That Developer may make home visits or other appropriate inquiries to assist in qualifying;
 - That no broker or application fees will be charged to the applicant, except in New HOP programs;
 - If credit checks will be conducted by Developer, then that fee must be approved by the Agency.
 - For Units with Income Limits set at or below 60% of New York City's Area Median Income (AMI) Limit: Credit check fees are not to exceed \$25 for households with 1 or 2 adult members; \$50 for households with 3 or more adult members.
 - For Units with Income Limits set above 60% of New York City's Area Median Income (AMI) Limit: Credit check fees are not to exceed \$50 for households with 1 or 2 adult members; \$75 for households with 3 or more adult members.
 - No credit check fees may be charged to homeless applicants in designated special needs programs referred by the city.
 - A credit check fee can only be charged after an interview has been conducted and all other threshold selection criteria have been met.
- In cases where an applicant fails to appear for an interview, Developer must send a second letter by regular mail to schedule another interview. The applicant will be given a reasonable specific amount of time, but **not less than five (5) business days** from the postmarked date of the second letter in which to respond.
 - *Note: If the Developer elects in the Marketing Plan to perform home visits, such home visits **MUST** occur before submitting files for approval but after the interview. Further, if an applicant is rejected for a home visit, then the rejection letter must state the reason of the home visit rejection. The letter cannot simply state that the applicant failed the home visit.

E. OPEN MARKETING

If all applications have been processed and the entire applicant log has been reviewed for eligibility and there are still units available, **the Developer must contact the Agency for written approval to commence open marketing.** The Developer is required to complete a **Notice of Remarketing document** See *Notice of Remarketing, Attachment K*. Upon receipt of these forms, the Agency will create an advertisement for its website. Under open marketing, the Developer may utilize other methods to identify applicants beyond the scope of the lottery. Such methods may include additional advertising, signage on the building to attract walk-ins, or the use of brokers.

If using a broker, the Developer must fully absorb any related broker fees. No such fees may be passed on to applicants/residents of units. The exception to this, unless otherwise noted, is with HDC's New HOP programs. In the case of New HOP, a fee equal to half (1/2) of one month's rent is the maximum amount that may be charged to the residents as a broker fee. Any fee above that amount must be absorbed by the Developer.

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F. WAITING LIST

After the Project is initially occupied, the Developer must maintain a waiting list indicating persons interested in residing in the development and must fill vacancies from the waiting list. Whenever possible, the Developer must fill vacancies in units that have been adapted for households with disability preferences to a household that fulfills such preference. The Developer is to inform wait-listed applicants that it is the applicant's responsibility to notify the owner/manager every six (6) months that they wish to remain on the waiting list.

Upon conclusion of the rent-up, the Developer must document to the Agency how it plans to manage its waiting list going forward.

When the Developer needs to replenish a Project's waiting list, the Developer may request Agency approval to commence remarketing activity. The Agency does not supervise this process as closely as the initial marketing. However, the attached form must be completed and receive Agency approval before remarketing. See *Notice of Remarketing Attachment K*.

G. AGENCY APPROVAL

No residents may be moved into the building, and no leases or contracts signed, until Agency has approved the applicant in writing. This is true both during initial rent-up or sales and thereafter. Concurrent approvals by other involved agencies may also be required.

Developer may also not collect funds from prospective residents (i.e. security deposits, rents, etc.) until written Agency approval is received.

If files are complete in accordance with the revised procedures which follow, and no additional issues are raised with any of the information contained therein, Agency approval timetable is three (3) to five (5) business days from receipt of a file. However, if files are incomplete or if issues are raised that require further review either internally or with the NYC Department of Investigation (DOI), the process will take as long as necessary to (a) acquire the missing or additional paperwork from the Developer's management staff or (b) to complete an additional review with DOI. On a case-by-case basis, if such processes extend past ten (10) business days without a resolution, the agencies may grant permission to place such questionable applicants on hold and proceed with other applications while such special reviews are being completed. Although an added step, these procedures will both ensure the integrity of the Agency's programs and protect the Developer from the potential regulatory defaults for non-compliance, which can result from admitting applicants who are not truly eligible.

- ✓ **The Marketing Plan must also include procedures for determining applicant eligibility and verifying income and family size.**

HPD and HDC perform independent review of applicant income eligibility as an

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additional means of ensuring compliance with the Regulatory Agreement. The approvals are based on information in the files submitted to us by the Developer. HPD will review a percentage of applicants, while HDC will review all applicants. *Refer to Checklist for Tenant Income Certification, Attachment L-1.*

Applicant approval letters are not given under our role as low-income housing tax credit monitoring agencies and so these letters alone are not verification of tax credit compliance. Upon the Developer's annual tax credit certification review (as required by IRS monitoring rules), the Compliance Unit in the respective agencies will review files in their entirety to monitor compliance.

Developer must submit Tenant Income Certification (TIC) and verifications to the Agency along with the Applicant Information Form (AIF) to enable a review of the Developer's computation of eligibility. Developer must inform applicants that they will not be allowed to occupy a unit until the Agency has reviewed and approved their Tenant Income Certification. All such Approvals are given to the Developer in writing. See *Tenant Income Certification Cover Letter, Attachment L-2, See Tenant Income Certification form, Attachment for Low Income Attachment L-3 or Tenant Income Verification for Middle Income Attachment L-4. See also AIF, Attachment M.*

Tenant Lease and Related Documents

- Immediately prior to signing the lease, the statement in Pre-lease Acknowledgement and Certification must be reviewed with, and signed by, all adult household members. *See Pre-Lease Acknowledgement and Certification, Attachment N.* This statement warns against violating the primary residence rule, as well as provides a final confirmation as to the honesty of all information the applicants submitted throughout the process.
- Owners must use a lease that complies with the Rent Stabilization Law and regulations.
- **The Marketing Plan must include a copy of the lease for review.**
- For Projects financed by HDC, owners must execute an HDC lease rider which outlines the unique aspects of the program and how it differs from standard rent stabilization (such as the prohibition on sublets). *See Rider to Standard Rent Stabilization Lease for Low Income, Attachment O or See Rider to Standard Rent Stabilization for Middle Income, Attachment P.*
- If Developer finds an applicant eligible for a unit designated at 60% of AMI or below, then at the time of lease signing, the tenant must complete an Affirmation of Income. *See Affirmation of Income, Attachment Q.*
- If Developer finds an applicant to be eligible for a unit, then at the time of lease signing or sale closing, Developer must require that all adult household members execute three new IRS Form 4506-T, one listing the Developer, one listing the

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Agency and the other listing the NYC DOI in Line 5 of the form. See *IRS and State Forms, Attachments R-1 through R-5*.

H. **DETAILED SELECTION POLICIES**

Additional guidance on evaluation criteria and selection factors is provided on the following pages as follows:

- 1) Preferences
- 2) Household Composition Changes to an Application
- 3) Qualification As A Household
- 4) Income Eligibility
- 5) Background Checks And Other Factors
- 6) Occupancy Standards And Unit Distribution
- 7) Rent Levels and Income Standards
- 8) Other

1) **PREFERENCES**

a. **OVERALL RESIDENCY PREFERENCE FOR NEW YORK CITY RESIDENTS**

Non-residents of New York City can only be considered after all eligible, current New York City residents have been processed.

b. **MANDATORY PREFERENCES**

The following must also be considered and detailed in the plan:

- Community Preference

The Developer must, during initial rent-up, give an occupancy preference for fifty percent (50%) of the units to applicants who, at the time of application, are residents of the Community District in which the building is located. Applicants with community resident status must meet all other programmatic requirements of the Agency and the Developer (e.g., income qualification, credit worthiness).

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If after all applications have been opened and processed the community preference cannot be filled from applicants in the logbook, the Developer must provide a letter to the Agency stating how much of the preference has been achieved. The letter must include, but is not limited to the following information:

- Number of logged applicants;
- Number of units available for each preference;
- Number of applications approved for each preference;
- Number rejected for being over income;
- Number rejected for being under income;
- Number of applicants that fell within the income gap, if applicable;
- Number rejected for credit reasons;
- Number rejected for criminal history;
- Number rejected for housing court activity as further described in *Section IV-H-5*;
- Number rejected for household composition;
- Number of no-shows (include the no-show dates);
- # terminated as per applicant's request (applicant withdrew/cancelled application);
- # rejected for failure to submit requested additional documentation;
- # rejected for submitting duplicate applications;
- # rejected because household is comprised of full-time student(s) and does not meet any of the exceptions (in applicable programs);
- # rejected because of household size;
- # placed on low priority list and specify the reasons, e.g. living out of city;
- any other rejection criteria used by the agent;
- If any of the above rejection criteria does not apply or no applicant had been rejected for that criteria, please indicate "N/A" or "0 applicants", respectively; and
- Number rejected for submission of fraudulent information, etc.

See Stats Report Requirements p. 22-23

After review, the Agency may waive the remainder of this preference and authorize the Developer to proceed with the remainder of the log sequentially. If the community preference is fully achieved, any remaining community applicants will be processed from the log in the same order as other applicants.

○ Disability Preferences

The Developer must also give an occupancy preference to applicants for certain units who have at least one household member with a mobility,

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visual and/or hearing impairment and, as a result, require an accessible/adaptable unit. These preferences are as follows:

- Five percent (5%) of the units in the project (or one unit, whichever is greater) will have a preference for and are to be made adaptable/accessible for disabled persons with mobility impairments.
- Two percent (2%) of the units (or one unit, whichever is greater) will have a preference for and are to be made adaptable/accessible for disabled persons with visual and/or hearing impairments.

The Developer must write to The Mayor's Office for People with Disabilities to request potential referrals (with a copy to the Agency) at the time community letters are mailed out:

Mayor's Office for People with Disabilities
100 Gold Street, 2nd Floor
New York, NY 10038
Tel (212) 788-2830
Fax (212) 341-9843
TTY (212) 788-2838

If the disability preference is not fulfilled, applicants shall be processed from the logbook in the same order as other applicants.

- o Municipal Employee Preference:

The Developer must give an occupancy preference for five percent (5%) of the units (or one unit, whichever is greater) to municipal employees of the City of New York. *See Attachment S for a list of agencies whose employees are eligible for the preferences.* (*Note: HDC employees are not eligible for this preference. Employees of certain other agencies, such as HPD, are only eligible if they can provide a statement of no-conflict from their agency's ethics officer).

c. ADDITIONAL PREFERENCES AND SET-ASIDES:

There may be additional mandatory preferences tied to certain government programs or funding sources. These mandatory set asides are not to be marketed to the general public; however, they are subject to the same selection criteria and application process and must be approved by the Agency.

- ✓ **The Marketing Plan must reflect such preferences.**

- o Referrals:

The Agency may refer to the Developer potential residents who are

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being relocated or displaced due to a governmental action. Developer, if directed by the Agency, must first offer units to these referrals, and their applications must be processed according to program selection criteria for eligibility and must be approved by the Agency. Referrals must be entered into a separate log by the Developer or a representative. Developer must indicate the source of the referral on the log.

No additional, optional preferences may be implemented without the prior written approval of the Agency.

2) HOUSEHOLD COMPOSITION CHANGES TO AN APPLICATION

Changes to household composition in the application after it has been received will not be recognized, unless such change is an extenuating circumstance. Extenuating circumstances may include:

- Death of a member of the household;
- Birth in the household;
- Divorce or other spousal situation;
- Court order of custody.

The Developer must obtain from the applicant legitimate evidence of the extenuation circumstance, such as birth certificates.

3) QUALIFICATION AS A HOUSEHOLD

For the purposes of applying to HPD/HDC-financed affordable housing, the following terms shall have the meanings set forth below:

1. "Minor" shall mean a person under the age of 18 years.
2. "Adult" shall mean a person at or above the age of 18 years.
3. "Dependent" shall mean a Minor who is the lawful dependent of an Adult in the Household, as indicated by (i) a court order or other binding document establishing that such Adult is the legal guardian of, or is otherwise responsible for the custody and care of, such Minor, (ii) school records identifying such Adult as such Minor's legal guardian; (iii) written verification from a government agency, or a social service provider under contract to a government agency, confirming the placement of the Minor in the custody and care of such Adult, or (iv) federal or state income tax returns in which such Adult claims such Minor as a dependent.
4. "Guardian" shall mean an adult who is legally responsible for a Dependent.

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5. "Immediate Family Member" shall mean, with respect to any person, (i) his or her grandparent, parent or Guardian, child or Dependent (who meets the definition of "Dependent" set forth above), grandchild, sibling, spouse, or domestic partner, and (ii) any of their respective grandparents, parents or Guardians, children or Dependents, grandchildren, siblings, spouses, or domestic partners.
6. "Extended Family Member" shall mean, with respect to any person, (i) his or her Immediate Family Member, and (ii) his or her aunt, uncle, or first cousin, or any of their respective Immediate Family Members.

"Household" shall mean (i) a single person, or (ii) two or more persons who:

- (a) are Immediate Family Members;
- (b) are Extended Family Members who need to live together in order to support one another with respect to finances, child care, eldercare, medical care, or other extenuating family circumstance, as indicated by self-certifications explaining the family circumstances and needs; or
- (c) are financially interdependent, as indicated by (i) current leases or utility records demonstrating a shared address, and (ii) documentation, such as bank accounts, demonstrating shared assets.

If an applicant states that the applicant and his/her spouse are separated, then the Developer must require the applicant to provide "proof of a legitimate separation." A notarized statement is not sufficient proof of a legitimate separation. Examples of proof of a legitimate separation would be bank accounts or leases once held jointly are now no longer held jointly due to the separation. Both the latter and former documents must be provided to prove that the assets and/or lease were once held jointly but are no longer.

*Note on Student Rule for IRS Program Units: Low-income units in these programs are not to be occupied exclusively by students (for Low-Income housing tax credits, the IRS defines a "student" as a full-time student during five (5) calendar months of the calendar year at an educational institution, other than a correspondence school, with regular faculty and students), unless the household qualifies for an exception under the IRS code.

4) INCOME ELIGIBILITY

Income is determined in the same way income is determined under the federal Section 8 program. Developers should therefore obtain a current copy of the HUD Handbook 4350.3, which outlines these requirements. This handbook is available to print or view at <http://www.hud.gov>. In addition, the Developer should require its

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marketing staff to attend an industry training where these requirements are reviewed in detail.

A1. Assets

GENERAL PROGRAMS

The Developer must require that all adult members of the applicant household complete a certification of assets, which must be signed and notarized. Samples of such certifications are included in this manual. See *Asset Certification, Attachment T*. This form must identify both the specific assets and the actual income earned from the assets (such as the interest rate for a bank savings account).

- If the total value of assets on the certification form is less than \$5,000, and such information is consistent with the assets identified on the applicant's housing application, IRS rules for Tax Credit compliance allow that this self-certification is the only documentation required and the identified income generated from the asset is added to employment and other income. *However, it is a common misconception that this IRS rule is intended to exclude income from assets if the total value is under \$5,000. The income from assets must still be counted, but if it is under \$5,000 no further verification beyond the self-certification is required. The self-certification must still disclose the specific assets and the income from said assets. Accordingly, vague certifications that merely certify that an applicant has less than \$5,000 in assets are **not** acceptable.*
- If the total value of assets equals or exceeds \$5,000—or if there is an unexplained difference between the assets noted on the application and those subsequently noted on the certification—complete asset verification documents must be obtained. Refer to HUD Handbook 4350.3 for guidance regarding the appropriate documents to be obtained based on the type of assets being verified. As required under tax credit rules for all verification, documents must be current within 120 days of the tenant income certification (TIC) effective date (which is ultimately the move-in date). When over \$5,000 total, the actual earned income from the asset is compared to the imputed value (2% of the total) and the higher of these amounts is added to the household income.

HDC's NEW HOP PROGRAM

Income from assets is only considered when the applicant's income falls within \$10,000 of the maximum income level for the unit; however, applicants may submit asset income for consideration if they need it to meet the minimum income. When a household's total annual income is within \$10,000 of the program maximum income then all adult members of the applicant household must complete a certification of assets, which must be signed and notarized.

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Samples of such certifications are included in this manual and this form must identify both the specific assets and the actual income earned from the assets (such as the interest rate for a bank savings account). See *Asset Certification, Attachment T*.

*Note: If a unit is also subject to another governmental subsidy, such as State Tax Credits, that program's governing agency should be consulted regarding any additional or different income and asset requirements. All asset requirements must be disclosed in the Marketing Plan and approved by the agencies.

A2. Employment Income

The Developer must require that for all adult household members reporting general employment income, **all of the following** must be provided:

- *The most recent year's complete tax return.* If after May 1, the most recent year's tax documents due by the preceding April *must* be provided *unless* an applicant provides a copy of his request to the IRS for an extension (IRS Form 4868). In such cases the *previous* year's complete tax return may be accepted until October 15th, when the extension expires. The gross income reflected on the most recent tax return will be "the tax return income".
- *The most recent consecutive pay stubs (minimum of 6).* Income must be calculated by both (a) averaging the pay stubs and (b) projecting the year-to-date. The higher of these two amounts will be "the pay stub income".
- *Third Party Verification directly from the employer.* The Developer must mail or fax this form (See *Attachment Z-1*) directly to the applicant's employer, with instructions for the employer to return directly to the Developer. Envelopes and fax confirmations must be maintained to document that the information was obtained via direct third party procedures, and not transmitted through the applicant's hands. This form will request current salary, year-to-date income, and information about bonuses and anticipated increases. The highest amount calculated based on this information will be "the third party income". An applicant cannot be penalized for the lack of response from his/her employer in completing and returning the verification. However, the Developer must make at least three (3) attempts to obtain such third party employment verification. Developer must also obtain Third Party Verification of Termination directly from previous employers who are listed on the applicant's application and/or previous year's tax return.
- *COMPARISON and DETERMINATION:* Based on the three employment income verification sources above, the Developer must compare the tax

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return income, the pay stub income, and the third party income. *The highest of these amounts will be the employment income for the household member.*

- *Note: If an applicant has not filed taxes on reported income, the applicant will not be eligible for Agency-financed housing unless the applicant qualifies for a filing exemption under The Internal Revenue Code (see “Publication 501” on irs.gov). The Agency will not make available its limited housing resources to applicants with income that is required to be reported, but is not being reported, to governmental tax authorities.
- *Note: Unless a compelling argument can be made as to why an applicant’s income decreased, the tax return income will be the income calculated if it is the highest. The most obvious exceptions would be a decrease in income due to retirement or disability (or a widowed or divorced applicant whose most recent tax return still showed their spouse’s income).
- *Note: The Developer may request in writing that the Agency grant an exception to the above criteria if any other truly extenuating circumstance exists. The Agency will consider such requests on a case-by-case basis.

A3. Self-employment Income

Since self-employment income is more difficult to document via third party and subject to more variables and potential manipulation, special care must be given in the review of such income. The Developer must require that all adult household members reporting self-employment income provide both of the following:

- *Projected Self-Employment Income:* An estimate of current year’s earnings certified in (a) a letter from the applicant’s accountant, tax preparer or business manager OR (b) a notarized self-statement. If (b), the self –statement must be accompanied by additional documentation such as income receipts, a current financial statement/budget, or other information which supports the projection. This income will be “the projected self-employment income”.
- *Historical Self-Employment Income:* Most recent tax returns for the last three (3) years. (*Again, if after May 1, the most recent year due to be filed by the preceding April deadline must be provided unless documentation of an IRS extension filing is provided). If the applicant reported self-employment income in the same line of work for each of the three (3) years, then all three should be averaged *and evaluated*. If only the most recent two (2) years reflect self-employment income in the same

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

line of work, then those two years should be averaged and evaluated. The income calculated through these averages and evaluations will be “the historical self-employment income”.

- *COMPARISON AND DETERMINATION:* The projected and historical incomes are compared, and *the higher amount is what is used as income for the purposes of income eligibility.*

“Evaluated” means that the Developer must make an effort to identify any patterns that may logically result in a conclusion that the current or next year’s income will increase beyond the three (or two) year average. For example, the incomes for the past three (3) years for a self-employed applicant were \$30,000; \$32,000 and \$34,000. The straight average would be \$32,000. However, there is a clear pattern reflecting a gradual increase in this income source and so, consistent with that pattern, a logical evaluation of this applicant’s income would conclude that \$36,000 would be the current/next year’s income.

At least the most recent two years of tax returns must document that the applicant’s income has come from self-employment in the same line of work. Applicants who do not meet this “time test” have not established a suitable income-earning history through their self-employment, and there is insufficient data to accurately evaluate their income.

A4. Sporadic Income

Certain forms of income that are sporadic and non-recurring are not considered when calculating maximum household income as they are considered temporary in nature. All sources of income must be disclosed, but such non-recurring income may be excluded in the calculation process.

A5. Unemployed Household Members 18 and over

If a household member, who is 18 years of age or over, is unemployed, then the household member must complete an Unemployment Affidavit. See *Sample Unemployment Affidavit, Attachment I.*

A6. Continuing Need

For programs designed to be affordable for households at or below 60% of AMI, the applicant’s eligibility is also dependent on whether the applicant can demonstrate a “continuing need” for housing assistance. Any Agency-subsidized housing development aims to serve individuals and families with a true, continuing need for housing assistance and not those with other financial resources available or those who have a recent history of higher earning power and are only temporarily at an income level eligible for the program.

In determining “continuing need” for these programs, the below criteria must be satisfied, or the tenant is not eligible:

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- Asset Cap

The tenant must not have assets in an amount equal to or greater than \$250,000 (*Note: This does not include specifically designated retirement funds. A portion of retirement accounts may be counted to determine overall assets and income from assets, but such funds are not to be included in the \$250,000 cap.)

- Recent Income History

In addition to reviewing current income verifications, Developers must also evaluate an applicant's most recent income history based on their most recent tax returns. Unless a compelling argument can be made as to why an applicant's income decreased, the tax return income will be the income calculated if it is the highest. The most obvious exceptions would be an increase in income due to retirement or disability (or a widowed or divorced applicant whose most recent tax return still showed their spouse's income).

Here are examples:

The maximum income for a single applicant to Plaza Towers is \$30,000.

- Mary Smith is a seamstress who was laid off by her previous employer, where her tax return shows she earned \$32,000 a year. Her new employment with a different garment company pays her \$28,000 a year as documented by her pay stubs and 3rd party employer letter. *In this case, a compelling argument can be made not to use Mary's tax return income, even though that is the highest amount. The change in Mary's income was not voluntary and her new job/earnings are generally consistent with her recent history. The amount from her current pay stubs and 3rd party should therefore be used, under which she is eligible.*
- John Hower recently quit his job as a college professor, where his tax return shows he earned \$75,000 a year, to pursue other interests. He has recently started working as a waiter and presently earns \$27,000 a year based on his pay stubs and 3rd party verification. *In this case, no exception is warranted. John has clearly demonstrated a recent history of significantly higher earning patterns. The change appears to be voluntary and/or temporary in nature, which is not the intent of Agency-financed low-income housing programs (including those participating in the LIHTC Program). John is encouraged to apply to our programs in the future, after a minimum of a full year's tax returns as well as current verifications may document a suitable pattern of eligibility.*

The Developer may request in writing that the Agency grant an exception to the above criteria if a truly extenuating circumstance exists. The Agency will consider such requests on a case-by-case basis.

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A7. IRS Form 4506-T

The Developer must require all adult household members to execute three copies of IRS Form 4506-T, one for the owner/managing agent identified in line #5, the other for the Agency identified on the same line, and one with the New York City Department of Investigation noted in the same line. This form is a release by which the applicant authorizes the IRS to release transcripts directly to a third party. Furthermore, the applicant must complete an IRS Form 4506 – Request for a Copy of Tax Return, as well as a New York State DTF-505 Form Authorization for Release of Photocopies of Tax Returns and/or Tax Information. In the event that a tax return provided by the applicant appears to have potentially been altered or a file is otherwise suspicious, the Developer should make use of this form. The Agency also may make use of this form. Developers are encouraged to send these requests to the IRS upon receipt, so that in the event that files are flagged later at the Agency, an IRS response may already have been received back. Developer is to ONLY send in their copy. Do not send in Agency or DOI copies of forms.

If an applicant has been found to be eligible for a unit, then at the time of lease signing or sale closing, all adult household members must execute three new IRS Form 4506-T, Form 4506 and DTS-505 Form in accordance with the above. *See IRS and State Forms, Attachments R-1 through R-5.*

A8. Authorization to Release Information Form

The Developer must require that all adult household members execute a copy of the Authorization to Release Information Form.

5) BACKGROUND CHECKS AND OTHER FACTORS

Immigration Status/Credit History

Immigration status is not a condition of eligibility for any HPD- or HDC-financed building. Immigration status may not be questioned in any manner on the application, during the interview, or at any other time during the tenant screening process. This doesn't prevent a Developer from rejecting an applicant for failure to provide a Social Security Number or an Individual Tax Identification Number (TIN) when the Developer needs such information to check credit history. All applicants must be able to provide verifiable proof of legal income. Inability to provide documentation to verify income and credit is a basis for rejection, not immigration status.

Criminal Checks

The Developer must obtain a criminal background check for every applicant. The Developer must disclose in the project's selection plan which types of information revealed through such a check will or will not adversely impact an

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applicant's eligibility. The Developer must find an applicant ineligible if one or both of the following criminal findings is flagged during the criminal background check:

- A prior conviction of fraud in connection to any governmental housing program;
- An applicant is a criminal fugitive being sought by law enforcement for either incarceration or deportation (as such applicants would not lawfully be able to "anticipate" income or even be anticipated to be an included member of the household).

Housing Court Records.

The Developer may not automatically reject an applicant based on the applicant's housing court records. For instance, if the applicant can show that the case was brought about at no fault of their own, the applicant would remain eligible. The Developer must allow a reasonable amount of time, **and not less than 10 days**, for an applicant to contest a housing court record. If the applicant does not provide proof of no fault within the 10 day period, then the Developer may reject the applicant for failing to provide proof of no fault. The applicant then has the allotted time to appeal the decision.

Discovery of False Information

Submitting false or knowingly incomplete information to induce eligibility is grounds for rejection and may also lead to further investigation and, potentially, criminal prosecution.

Even before a file is submitted to the Agency, there are times when Developers may independently detect applicants who have falsified information. For example, the tax transcripts may come back and differ from the provided returns, or provided pay stubs or other documents may be detected as having been tampered with. In all such cases, this fraud (or potential fraud) must be reported. Even if it is detected early and does not result in the applicant receiving a unit, the attempt of fraud itself must be reported. Developers and their agents may report such findings to the Agency or, if they prefer, directly to The NYC Department of Investigation.

6) OCCUPANCY STANDARDS AND UNIT DISTRIBUTION

Occupancy Guidelines

The Developer must establish occupancy criteria based on unit size. Such criteria must be consistent with federal, state and local laws and with the Agency Regulatory Agreement. HUD has provided some guidance for establishing these criteria in the HUD Handbook 4350.3, Chapter 3, and Paragraph 3-23. This guidance states in part that, generally, a two person per bedroom standard is acceptable. However, it makes the following important distinction:

Owners must avoid making social judgments on a family's sleeping arrangement.

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

For example, it is not for the owner to determine whether an unmarried couple may share the same bedroom or whether a young child can share a bedroom with a parent.

In keeping with the above guidance, to maximize the utilization of its affordable units (another point considered in HUD's guidance) it is clear that married or similarly committed couples are intended to share one bedroom. Apart from that, however, if a family (a) qualifies as a household as defined in these Marketing Guidelines and (b) qualifies by both number of persons and income for more than one unit size, then it should generally be that family's decision as to which unit size they choose. The only additional exceptions would be certain programs, which may have statutorily imposed occupancy standards.

- ✓ **The Marketing Plan must clearly outline the Developer's occupancy criteria and associated statutory requirements.**

Unit Distribution

See Attachment U, Sample Apartment Distribution Chart.

The allocation of units (total number and number for each unit size) must match the information in the Agency Regulatory Agreement. For mixed-income buildings, please also note the following requirement pertaining to the distribution of units:

For 80/20 and other mixed-income developments only:

As soon as any of the units in the development are available for occupancy, at least twenty percent of those units must be occupied, or made continuously available for occupancy, by low-income households. The Developer is not to segregate or physically isolate the low-income units from those units not occupied by low-income tenants. Low-income tenants must be reasonably dispersed throughout the development. The Developer must also ensure that approximately twenty percent of each unit type (i.e. studio, one-bedroom, two-bedroom units) is low-income.

*Note: Distribution of all affordable units must be approved by the Agency.

7) **RENT LEVELS AND INCOME STANDARDS:**

Rents:

The Developer must establish the rents in accordance with the Agency Regulatory Agreement.

Maximum Income Levels:

The Agency will provide tenant income eligibility levels as modified by household size.

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

Minimum Income Levels:

Minimum income levels are established by the Developer based on the rent levels. However, the standard barometer for affordability is a family paying 30% of household income for rent purposes. In no instance should the minimum income established for initial rent-up result in a family paying more than 35% of income for rent. Although established by the Developer, minimum income levels are subject to approval by the Agency. However, the Developer may not establish minimum income levels for applicants with Section 8 or similar forms of housing subsidy. Such applicants must be accepted provided they meet all other eligibility criteria outlined in the marketing plan.

FOR LOW INCOME HOUSING TAX CREDIT COMPLIANCE:

Mixed-income projects participating in low income housing tax credit program, must elect designation as either “deep rent skewed” or “non-deep rent skewed” when they are originally placed in service.

Deep Rent Skewed Properties

Properties that Deep Rent Skew must have at least 15 percent of all the low income units occupied with tenants with incomes that are 40 percent or less of area gross median income and rents are restricted.

For properties that Deep Rent Skew, the Available Unit Rule must be implemented whenever a current household has an income level exceeding 170% of the current income limit. The Available Unit Rules states that if a tenant’s income increases to over 170% of the then-current income limit for the unit occupied by such tenant, the unit may continue to be deemed a low income unit provided the Developer rents the next available low income unit at the property to a family with an income equal to or below 40% of the area gross median (AMI) income at a restricted rent.

When a Developer of a property that Deep Rent Skews submits a re-rental file for Agency review, then the Developer must submit a Deep Rent Skew Certification, *Attachment V-1* along with the file.

Mixed-Income / “Non-deep rent skewed” properties

A Mixed-Income building is a building that includes market-rate units. For buildings that are Mixed-Income, the Available Unit Rule must be implemented whenever a current tenant has a household income level exceeding 140% of the current income limit. If a Developer discovers that a tenant’s income is above 140% of the current income limit, the Developer may continue to include the unit in the applicable fraction if the Developer rents the next available unit of comparable or smaller size in the same building to a tax credit eligible family at a restricted rent.

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

When a Developer of a Mixed-Income building submits a re-rental file for Agency review, then the Developer must submit a Mixed-Income Certification, *Attachment V-2* along with the file.

8) OTHER

Incorporation of “Fair Housing Laws”

There are Federal, State and local laws, orders and regulations prohibiting housing discrimination (“Fair Housing Laws”). Such Fair Housing Laws, as they may be amended from time to time, are hereby explicitly incorporated in these Procedures, any violation thereof will be a violation of these procedures.

Amendments

The Agency reserves the right to amend any provision of these procedures.

Inspections

The Agency reserves the right to conduct periodic inspections and spot-checks of the Developer’s marketing budget and procedures.

Brokers

The Broker Forms, Attachments R-7 and R-8 are to be completed and submitted with all applicant files that are not from the original lottery. If a project has gone “Open Market,” then the appropriate form must be completed by the Managing Agent or the Developer. If a new project that is still in its initial lease up goes “Open Market,” then the appropriate form must be submitted for all applicants not received from the lottery. The Third Party/Broker form does not need to be submitted for an applicant from the initial lottery.

Household Student Status Affidavit at Recertification

For units with income limits set at or below 60% of New York City’s Area Medium Income (AMI) Limit, please use Attachment Z-2 during the Annual Recertification process.

SUBMISSIONS AND ONGOING REPORTING REQUIREMENTS



MARKETING GUIDELINES – SUBMISSIONS

Both HPD and HDC require submission of the following items during the pre-marketing and marketing periods:

- Marketing Plan (to include all required information as described herein). See *Marketing Plan Checklist, p. 10*.
- Applicant Information Forms (AIF) and Tenant Income Certifications (TIC) completed by applicants and Developer. See *Attachments M and L1 – L4*.

Only HDC requires submission of the following items during the pre-marketing and marketing periods:

- The form of lease and all riders for Agency review. Additionally, the Pre-lease Acknowledgement and Certification and the HDC Lease Rider is to be used with all units. See *Attachments N, O and P*.
- In addition to Tenant Income Certifications, HDC projects require all documentation verifying income eligibility and family size. These certifications and verification documents, along with the Tenant Income Certification Submission Cover Letter, must be immediately forwarded to HDC for review *prior* to the anticipated dates of acceptance of the tenant and the signing of the lease.

For vacancies subsequent to initial project occupancy, the required Tenant Income Certifications and supporting documents must be transmitted for HDC review and approval prior to the signing of the lease.

Applicants must be informed by the owner that they will not be allowed to occupy a unit until HDC has reviewed and approved their Tenant Income Certification (TIC).

- Owner certification indicating the move-in date for the first tenant to occupy the development. (Once you have submitted this form for the “first tenant that occupies a unit in the project,” it does not have to be used thereafter.) See *Attachment W*.
- Unit Inspection Forms must be executed by approved residents and the owner and placed in the tenant’s file. This file must be kept at the management office. See *Attachment X*.
- After the initial lease-up of all the units in the project, certain obligations pertain to the project. In particular, Developers must submit on a quarterly basis, the move-out and/or unit transfer status report for the project along with the current rent roll. See *the Quarterly Unit Vacancy Report Instructions and Report, Attachment Y-1 and Y-2*.

ATTACHMENTS



MARKETING GUIDELINES – LIST OF ATTACHMENTS

- A-1. Site Sign Request Form
- A-2. Web Site Posting Form

- B. Marketing Plan Summary Sheet

- C. Notice of Intent to Begin Marketing

- D. Community Contact Letters

- E. Outline for Management Plan

- F-1. Advertisement Instructions
- F-2. Sample Advertisement
- F-3. Routing Slip of Advertisement Approvals
- F-4. Evidence of AFHM
- F-5. HUD 935.2a Form

- G-1. Application Cover Letter (Low Income)
- G-2. Application Cover Letter (Middle Income)
- G-3. Sample Application

- H-1. Sample Eligibility and Interview Letter
- H-2. Sample Ineligibility Letter
- H-3. Sample Approval Letter
- H-4. Sample Rejection Letter
- H-5. Sample Low Priority Letter
- H-6. Sample Wait List Letter

- I. Sample Unemployment Affidavit

- J-1. Log Sheet Sample (Rental)
- J-2. Log Sheet Sample (Home)

- K. Notice of Remarketing

- L-1. Checklist for Income Cert
- L-2. TIC Submission Cover Letter
- L-3. TIC (Low Income)
- L-4. TIC Middle Income

- M. AIF

- N. Pre-lease Acknowledgement

- O. HDC Lease Rider (Low Income)

- P. HDC Lease Rider (Middle Income)

- Q. Reaffirmation of Income

- R-1. IRS Form 4506-T (HDC)
- R-2. IRS Form 4506-T (Agent)
- R-3. IRS Form 4506-T (DOI)
- R-4. IRS 4506 (DOI)
- R-5. NYS DTF-505 Form (DOI)
- R-6. Authorization to Release Information
- R-7 & R-8. Broker / Third Party Certification

- S. List of Agencies Eligible for Municipal Preference

- T. Asset Certification

- U. Unit Distribution Chart

- V-1. Certification for Deep Rent Skewed Projects
- V-2. Certification for Mixed Income / “Non-Deep Rent Skewed” Projects

- W. Owner Cert of Initial Move-In

- X. Unit Inspection Form

- Y-1. Quarterly Vacancy Report Instructions
- Y-2. Quarterly Unit Vacancy Report

- Z-1. Employment Verification Form
- Z-2. Household Student Status Affidavit at Recertification

APPENDIX C: Equal Opportunity



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 50

APRIL 25, 1980

BUREAU OF LABOR SERVICES

By the power vested in me as Mayor of the City of New York,
it is hereby ordered:

Section 1. Purpose. It is the purpose of this Order to ensure compliance with the equal employment opportunity requirements of City, State and Federal law in City contracting.

§ 2. Bureau Continued. The Bureau of Labor Services shall continue to serve such purposes and to have such responsibilities as restated by this Order.

§ 3. Definitions. Whenever used in this Executive Order, the following terms shall have the following meanings:

(a) Bureau means the Bureau of Labor Services;

(b) construction project means any construction, reconstruction, rehabilitation, alteration, conversion, extension, improvement, repair or demolition of real property contracted by the City;

(c) contract means any written agreement, purchase order or instrument whereby the City is committed to expend or does expend funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing;

*amended
E.C. 94*

(i) Unless otherwise required by law, the term "contract" shall include any City grant, loan, guarantee or other City assistance for a construction project.

(ii) The term "contract" shall not include:

(A) contracts for financial or other assistance between the City and a government or government agency;

(B) contracts, resolutions, indentures, declarations of trust, or other instruments authorizing or relating to the authorization, issuance, award, and sale of bonds, certificates of indebtedness, notes or other fiscal obligations of the City, or consisting thereof; or

(C) employment by the City of its officers and employees which is subject to the equal employment opportunity requirements of applicable law.

(d) contracting agency means any administration, board, bureau, commission, department or other governmental agency of the City of New York, or any official thereof, authorized on behalf of the City to provide for, enter into, award or administer contracts;

(e) contractor means a person, including a vendor, who is a party or a proposed party to a contract with a contracting agency, first-level subcontractors of supply or service contractors, and all levels of subcontractors of construction contractors;

(f) Director means the Director of the Bureau of Labor Services;

(g) economically disadvantaged person means a person who, or a member of a family which, is considered economically disadvantaged under applicable law.

(h) employment report means a report filed by a contractor containing information as to the employment practices, policies and programs, employment statistics and collective bargaining agreements, if any, of the contractor in such form as the Bureau may direct by regulation;

(i) equal employment opportunity means the treatment of all employees and applicants for employment without unlawful discrimination as to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or affectional preference in all employment decisions, including but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, lay-off and termination, and all other terms and conditions of employment except as provided by law;

(j) trainee means an economically disadvantaged person who qualifies for and receives training in one of the construction trades pursuant to a program other than apprenticeship programs, approved by the Bureau and, where required by law, the State Department of Labor or the United States Department of Labor, Bureau of Apprenticeship and Training.

§ 4. Responsibilities of Bureau. The responsibilities of the Bureau shall be as follows:

(a) To implement, monitor compliance with, and enforce this Order and programs established pursuant to City, State and Federal law requiring contractors to provide equal employment opportunity;

(b) To implement, monitor compliance with, and enforce on-the-job training requirements on construction projects;

(c) To monitor compliance by contractors with State and Federal prevailing wage requirements where required;

(d) To advise and assist contractors and labor unions with respect to their obligations to provide equal employment opportunity;

(e) To advise and assist persons in the private sector with respect to employment problems;

(f) To establish advisory committees, including representatives of employers, labor unions, community organizations and others concerned with the enforcement of this Order; and

(g) To serve as the City's principal liaison to Federal, State and local contract compliance agencies.

§ 5. Contract Provisions.

(a) Equal Employment Opportunity. A contracting agency shall include in every contract to which it becomes a party such provisions requiring the contractor to ensure equal employment opportunity as the Bureau may direct by regulation.

(b) On-the-Job Training. A contracting agency shall include in every contract concerning a construction project to which it becomes a party such provisions requiring the contractor to provide on-the-job training for economically disadvantaged persons as the Bureau may direct by regulation.

(c) Subcontractors. A contracting agency shall include in every contract to which it becomes a party such provisions requiring the contractor not to discriminate unlawfully in the selection of subcontractors as the Bureau may direct by regulation.

§ 6. Employment Reports.

(a) Submission Requirements. No contracting agency shall enter into a contract with any contractor unless such contractor's employment report is first submitted to the Bureau for its review. Unless otherwise required by law, an employment report shall not be required for the following:

(i) a contract in the amount of \$50,000 or less;

(ii) an emergency contract or other exempt contract except as the Bureau may direct by regulation; and

(iii) a contract with a contractor who has received a certificate of compliance with the equal employment opportunity requirements of applicable law from the Bureau, or an appropriate agency of the State of New York or the United States within the preceding twelve months, except as the Bureau may direct by regulation.

(b) Bureau Review. The Bureau shall review all employment reports to determine whether contractors are in compliance with the equal employment opportunity requirements of City, State and Federal law and the provisions of this Order. The contracting agency shall transmit the employment report to the Bureau within ten business days after the selection of a proposed contractor. A contracting agency may thereafter award a contract unless the Bureau gives prior written notice to the contracting agency and the contractor as follows:

(i) If the Bureau notifies the contracting agency and the contractor within five business days after the receipt by the Bureau of the employment report that the contractor has failed to submit a complete employment report, the Director may require the contracting agency to disapprove the contractor unless such deficiency is corrected in a timely manner;

(ii) If the Bureau notifies the contracting agency and the contractor within fifteen business days of the receipt by the Bureau of the completed employment report that the Bureau has found reason to believe that the contractor is not in substantial compliance with applicable legal requirements and the provisions of this Order, the Bureau shall promptly take such action as may be necessary to remedy the contractor's noncompliance as provided by this Order.

Provided that a contracting agency may award a requirements contract or an open market purchase agreement prior to review by the Bureau of the contractor's employment report, but may not make a purchase order against such contract or agreement until it has first transmitted such contractor's employment report to the Bureau and the Bureau has completed its review in the manner provided by this Section.

(c) Employment Program. The Bureau may require a contractor to adopt and adhere to a program designed to ensure equal employment opportunity.

(d) Periodic Reports. Contractors shall file periodic employment reports after the award of a contract in such form and frequency as the Bureau may direct by regulation to determine whether such contractors are in compliance with applicable legal requirements and the provisions of this Order.

§ 7. Training Programs. The Bureau shall monitor the recruitment, training and placement of economically disadvantaged persons in on-the-job training programs on construction projects. Contracting agencies shall require contractors to make a good faith effort to achieve the ratio of one trainee to four journey-level employees of each craft on each construction project.

(a) The Bureau shall determine the number of trainees and hours of training required by each contractor or subcontractor for each construction project.

(b) In the event that a contractor fails to make a good faith effort to train the required number of individuals for the required amount of hours, the Bureau, after consultation with the contracting agency, shall direct such agency to reduce the contractor's compensation by an amount equal to the amount of wages and fringe benefits which the contractor failed to pay to trainees.

(c) On-the-job training of economically disadvantaged persons shall not be required on construction contracts in the amount of \$125,000 or less.

§ 8. Compliance Investigations and Hearings. The Bureau shall conduct such investigations and hold such hearings as may be necessary to determine whether contractors are in compliance with the equal employment opportunity requirements of City, State and Federal law and the provisions of this Order.

(a) Voluntary Compliance. The Bureau shall seek to obtain the voluntary compliance of contractors and labor unions with applicable legal requirements and the provisions of this Order.

(b) Noncompliance. Upon receiving a complaint or at its own instance, the Bureau shall determine whether there is reason to believe a contractor is not in compliance with applicable legal requirements and the provisions of this Order.

(c) Hearings. The Bureau shall hold a hearing on prior written notice to a contractor and the contracting agency before any adverse determination is made with respect to such contractor's employment practices or imposing any sanction or remedy for non-compliance with applicable legal requirements and the provisions of this Order. The hearing shall be held before a City hearing officer, or such other person designated by the Director, who shall submit a report containing findings of fact and recommendations to the Director. Based on the record as a whole, the Director shall determine whether a contractor has failed to comply with applicable legal requirements or the provisions of this Order and the appropriate sanctions for noncompliance.

(d) Notices. The Bureau shall give prior notice of any hearing and shall provide a copy of any hearing report and determination of the Director under paragraph (c) of this Section to the contracting agency, the Corporation Counsel and the Comptroller. The Bureau shall notify appropriate City, State and Federal agencies of violations of law and may, with the approval of the Corporation Counsel, initiate proceedings in such agencies.

§ 9. Sanctions and Remedies. After making a determination that a contractor is not complying with applicable legal requirements and the provisions of this Order, the Director may direct that such sanctions as may be permitted by law or contractual provisions be imposed, including the disapproval of a proposed contractor, the suspension or termination of a contract and the reduction of a contractor's compensation, except as follows:

(a) Within five business days of the issuance of a determination by the Director under Section 8(c), a contracting agency head may file with the Director written objections to the sanctions to be imposed. Where such objections have been filed, the Director and the contracting agency head shall jointly determine the appropriate sanctions to be imposed.

(b) In lieu of any of the foregoing sanctions, the Director may require a contractor to adopt and adhere to a program to ensure equal employment opportunity.

§ 10. Public Agencies. Any administration, board, bureau, commission, department or other public agency, not subject to this Order, which imposes by rule, regulation or order equal employment opportunity requirements, may, with the consent of the Mayor, delegate such responsibilities to the Bureau as may be consistent with this Order.

§ 11. Confidentiality. To the extent permitted by law and consistent with the proper discharge of the Bureau's responsibilities under this Order, all information provided by a contractor to the Bureau shall be confidential.

§ 12. Regulations. The Bureau shall promulgate such regulations, subject to the approval of the Mayor, as may be necessary to discharge its responsibilities under this Order, including regulations increasing the dollar amounts referred to in this Order. Any regulations of the Bureau establishing terms and conditions for contractors shall be approved as to form by the Corporation Counsel.

EQUAL EMPLOYMENT OPPORTUNITY

This contract is subject to the requirements of Executive Order No. 50 (1980) as revised ("E.O.50") and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the contractor agrees that it:

(1) will not engage in any unlawful discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

(2) the contractor agrees that when it subcontracts it will not engage in any unlawful discrimination in the selection of subcontractors on the basis of the owner's race, color, creed, national origin, sex, age, disability, marital status or sexual orientation;

(3) will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, creed, color, national origin, sex, age, disability, marital status or sexual orientation, or that it is an equal employment opportunity employer;

(4) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E. O. 50 and the rules and regulations promulgated thereunder; and

(5) will furnish all information and reports including an Employment Report before the award of the contract which are required by E. O. 50, the rules and regulations promulgated thereunder, and orders of the Director of the Bureau of Labor Services ("Bureau"), and will permit access to its books, records and accounts by the Bureau for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

The contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of the contract and noncompliance with the E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Bureau, the Director may direct the imposition by the contracting agency held of any or all of the following sanctions:

- (i) disapproval of the contractor;
- (ii) suspension or termination of the contract;
- (iii) declaring the contractor in default; or
- (iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of the Bureau may recommend to the contracting agency head that a Board of Responsibility be convened for purposes of declaring a contractor who has repeatedly failed to comply with E.O. 50 and the rules and regulations promulgated thereunder to be nonresponsible.

The contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of \$50,000 to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of the Bureau of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

The contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder."



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

Executive Order No. 108
December 29, 1986

Amendment of Executive Order No. 50
(April 25, 1980)

BUREAU OF LABOR SERVICES

By the power vested in me as Mayor of the City of New York,
it is hereby ordered:

Section 1. Prior Order Amended.

a. Section 6(a) of Executive Order No. 50, dated
April 25, 1980, is amended to read as follows:

"Submission Requirements. No contracting
agency shall enter into a contract with any
contractor unless such contractor's
employment report is first submitted to the
Bureau for its review. Unless otherwise
required by law, an employment report shall
not be required for the following:

(i) a construction contract in the
amount of less than \$1 million; a
construction subcontract in the amount of
less than \$750,000; or a supply and service
contract in the amount of \$50,000 or less
or of more than \$50,000 in which the
contractor employs fewer than 50 employees
at the facility or facilities involved in
the contract;

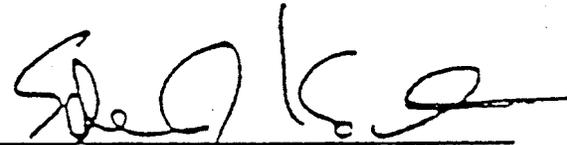
(ii) an emergency contract or other
exempt contract, except as the Bureau may
direct by regulation; and

(iii) a contract with a contractor who has received a certificate of compliance with the equal employment opportunity requirements of applicable law from the Bureau within the preceding twenty-four months, or an appropriate agency of the State of New York or of the United States within the preceding twelve months, except as the Bureau may direct by regulation."

b. Section 7(c) of such Order is amended to read as follows:

"On-the-job training of economically disadvantaged persons shall be required on all construction contracts covered by the submission requirements of this Order."

Section 2. Effective Date. This Order shall take effect immediately, but shall have no retrospective effect with respect to the two (2) year approval period provided for in Section 1(a) of this Order, amending Section 6(a) (iii) of Executive Order No. 50, dated April 25, 1980.



Edward I. Koch
M A Y O R



JUN 23 1986

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

Executive Order No. 94
June 20, 1986

Amendment of Executive Order No. 50
(April 25, 1980)

BUREAU OF LABOR SERVICES

By the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Prior Order Amended.

a. Section 1 of Executive Order No. 50, dated April 25, 1980, is amended to read as follows:

"Purpose. It is the purpose of this Order to ensure equal employment opportunity in City contracting."

b. Section 3(i) of such Order is amended to read as follows:

"equal employment opportunity means the treatment of all employees and applicants for employment without unlawful discrimination as to race, creed, color, national origin, sex, age, disability, marital status or sexual orientation in all employment decisions, including but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, lay-off and termination, and all other terms and conditions of employment;"

c. Section 5(a) of such Order is amended to read as follows:

"Equal Employment Opportunity. A contracting agency shall include in every

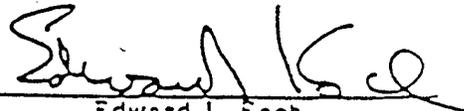
contract to which it becomes a party such provisions requiring the contractor to ensure equal employment opportunity as the Bureau may direct, consistent with this Order."

d. Section 12 of such Order is amended to read as follows:

"Regulations. The Bureau shall promulgate such regulations, subject to the approval of the Mayor, as may be necessary to discharge its responsibilities under this Order, including regulations increasing the dollar amounts and number of employees referred to in this Order. Any regulations of the Bureau establishing terms and conditions for contractors shall be approved as to form by the Corporation Counsel.

Nothing contained herein shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting employment or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. The regulations shall set forth this exemption for religiously-sponsored organizations and provide for the discharge of the Bureau's responsibilities in a manner consistent with such exemption."

Section 2. Effective Date. This Order shall take effect immediately.



Edward I. Koch
M A Y O R

§ 13. Annual Report. The Bureau shall submit an annual report to the Mayor concerning its responsibilities under this Order.

§ 14. Separability. If any provision of this Order or the application thereof is held invalid, the remainder of this Order and the application thereof to other persons or circumstances shall not be affected by such holding and shall remain in full force and effect.

§ 15. Revocation of Prior Orders. Executive Orders No. 71 (1968), No. 20 (1970), No. 23 (1970), No. 27 (1970), No. 31 (1971), No. 74 (1973), No. 7 (1974), and No. 80 (1977) are hereby revoked and the first paragraph of Section 2 of Executive Order No. 4 (1978) is hereby deleted. Nothing in this Order shall be deemed to relieve any person of any obligation not inconsistent with this Order assumed or imposed pursuant to an Order superseded by this Order.

§ 16. Effective Date. This Order shall take effect immediately.


EDWARD I. KOCH
M A Y O R

APPENDIX D: Qualifications Forms

Form A: Completeness Checklist and Applicant's Letter

A1 – Completeness Checklist (Tab A)

Before completing the following forms, please see instructions in **Section V (Submission Requirements)**.

| Tab | Form | ✓ |
|-----|--|---|
| A | Completeness Checklist and Applicant's Letter | |
| | 1. Completeness Checklist (Form A-1) | |
| | 2. Applicant's Letter (Form A-2) | |
| B | Neighborhood Preferences Narrative | |
| | 1. Neighborhood/Site Type(s) Narrative (<i>provided by Applicant</i>) | |
| | 2. Planning/Design Approach for Previous Projects (<i>provided by Applicant</i>) | |
| C | Applicant Description | |
| | 1. Development Team Information (Form C-1) | |
| | 2. Not-For-Profit Organization Description (Form C-2) | |
| | 3. Additional Evidence of Experience and Qualifications (<i>provided by Applicant</i>) | |
| D | Development Experience, Management Experience and Current Workload | |
| | 1. Residential Development Experience and Current Workload (Form D-1) | |
| | 2. Residential Management Experience and Current Workload (Form D-2) | |
| | 3. Management Questionnaire (Form D-3) | |
| E | Assets Statement | |
| | 1. Assets Statement (Form E or alternate statements) | |
| F | Financial Letters of Support (<i>provided by Applicant</i>) | |
| G | Community Support (<i>provided by Applicant</i>) | |

NIHOP and NCP RFQ
APPLICANT'S LETTER

NYC Department of Housing Preservation and Development
Office of Neighborhood Strategies
100 Gold Street, Room 9G-5
New York, NY 10038
Attention: Arielle Goldberg

Re: Application in Response to NIHOP and NCP RFQ

Dear Ms. Goldberg:

This letter is being submitted in connection with my qualifications ("Qualifications") submitted in response to the NIHOP and NCP RFQ ("RFQ") issued by the Department of Housing Preservation and Development ("HPD") of the City of New York ("City").

I have received, read, and understand the provisions of the RFQ. I understand that if HPD qualifies Applicant under the RFQ and if HPD assigns Applicant to the qualified sponsor list (the "List"), such assignment will mean only that Applicant may be requested to provide additional information in order to compete for Sites available through the RFQ. I recognize that assignment to the List will be subject to the following terms and conditions:

- A. The City is not obligated to pay nor shall in fact pay any costs or losses incurred by any Applicant at any time including the cost of responding to the RFQ.
- B. The City reserves the right to reject at any time any or all submissions and/or withdraw this RFQ in whole or in part, to negotiate with one or more Qualified Sponsors, and/or undertake projects on terms other than those set forth herein. The City likewise reserves the right, at any time, to waive compliance with, or change any of the terms and conditions of this RFQ, and to entertain modifications and additions to the applications of Qualified Sponsors.
- C. Qualification of an Applicant through this RFQ will not create any rights on the Applicant's part, including without limitation, rights of enforcement, equity, or reimbursement.
- D. This RFQ and any agreement or other documents resulting there from are subject to all applicable laws, rules, and regulations promulgated by any federal, state or municipal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.
- E. This RFQ does not represent any obligation or agreement on the part of the City, which may only be incurred or entered into by a written agreement which has been approved as to form by the City's Law Department and duly executed by the Applicant and the City.

- F. No commission for brokerage or any other fee or compensation shall be due or payable by the City, and an Applicant shall indemnify and hold the City harmless from and against any such claim for any such fee or compensation based upon, arising out of, or in connection with any action taken by the Applicant, the selection of the Applicant's submission for the List of Qualified Sponsors and invitation to the Applicant to respond to this RFQ, the conditional designation of a Sponsor pursuant to this RFQ, or the sale of a site.

- G. All determinations as to the completeness or compliance of any Qualifications, or as the eligibility of any Applicant, will be within the sole discretion of the City.

- H. The City advises all Applicants that there is no legal obligation on the part of the City to issue the RFQ, and that the City reserves the right to use the Qualifications submitted pursuant to this RFQ as a basis for negotiation with Applicants as the City deems appropriate.

- I. This RFQ and any resulting agreement are subject to all applicable laws, rules, and regulations promulgated by any federal, state, or municipal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.

Very truly yours,

Signature

Title

Applicant

Form C: Development Team Information and Applicant Questionnaire

C1 – Development Team Information (Tab C)

All applicants shall complete pages 1 - 3 of this form. Applicants that include a not-for-profit entity as principal of the developer or part of the Development Team shall also complete pages 4 -6.

Name of Applicant: _____

Name of Contact Person: _____ E-mail: _____

Mailing Address: _____

Telephone No: _____ Alternate Phone: _____

COMPOSITION OF APPLICANT ENTITY:

1. Type of organization (i.e. partnership, corporation, limited liability company, joint venture): _____

2. Provide the following information about all principals of the applicant. For corporations, provide the names of the officers and any shareholders owning 10% or more; for partnerships, provide the names of all general partners. For joint ventures, provide the information separately for each entity that comprises the joint venture. Also, state the role(s) that each principal would play in the development of the sites, using the categories specified below.

NAME OF ENTITY # 1: _____ **Percent Interest in Proposed Project:** _____

| PRINCIPALS: Name/Position/Title | Home Address | Role* | % Interest in Entity |
|------------------------------------|--------------|-------|----------------------|
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NAME OF ENTITY # 2: _____ **Percent Interest in Proposed Project:** _____

| PRINCIPALS: Name/Position/Title | Home Address | Role* | % Interest in Entity |
|------------------------------------|--------------|-------|----------------------|
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* Role Categories: GP = General/Managing Partner; GC = General Contractor; F = Provides financing, inactive; A = Architect; L = Legal Services; MA = Managing Agent; O = Other (specify)

Use additional sheets as necessary.

3. Provide the names, addresses, e-mail addresses, and telephone of members of the development team to the extent that these have been decided; if unknown, enter "N/A".

DEVELOPMENT TEAM:

| | |
|----------------------------|---------------------------------|
| <u>Architect:</u> | <u>Marketing Agent:</u> |
| <u>General Contractor:</u> | <u>Managing Agent:</u> |
| <u>Legal Counsel:</u> | <u>Social Service Provider:</u> |
| <u>Other:</u> | <u>Other:</u> |

Is there an identity of interest between any principals of the developer and any other entities that make up the development team? Yes [] No []

If yes, please explain.

4. Has any principal identified above, or any organization in which the principal is or was a general partner, corporate officer, or owned more than 10% of the shares of the corporation, been the subject of any of the following:

- (1) Conviction of, or charges currently pending for, arson, fraud, bribery, or grand larceny any felony or crime of dishonesty?
Yes [] No []
- (2) Noncompliance with fair housing or anti-discrimination laws, any applicable codes or ordinances, labor laws, or construction laws?
Yes [] No []
- (3) Had an ownership or management interest in real property that was the subject of a tax lien sale, was or is the subject of tax, mortgage, or lien foreclosure or enforcement proceedings, or is currently in tax or mortgage arrears?
Yes [] No []
- (4) Had an ownership or management interest in a property with respect to which HPD commenced an action in the Housing Part of the Civil Court, or with respect to which an administrator was appointed pursuant to Article 7-A of the Real Property Actions and Proceedings Law?
Yes [] No []
- (5) Denial of a certification of no harassment or any administrative or judicial finding of harassment?
Yes [] No []
- (6) Default or poor performance rating under any agreement with, or suspension or debarment by, any governmental entity?
Yes [] No []
- (7) In the last seven years, filed a bankruptcy petition or been the subject of involuntary bankruptcy proceedings?
Yes [] No []
- (8) In the last five years, failed to file any required tax returns, or failed to pay any applicable Federal, State of New York, or City taxes or other charges?
Yes [] No []
- (9) Had any negative findings from the City's Department of Investigation?
Yes [] No []

If the answer to any question is yes, provide the following information about each instance: name of principal(s); name(s) of organization(s) or corporation(s); principal's status in the organization or corporation (e.g. officer), the date of the action, and current status and disposition.

CERTIFICATION

[This certification must be signed by one of the principals listed above; if the applicant is a joint venture, it must be signed by a principal of each entity that comprises the joint venture.]

I certify that the information set forth in this application and all attachments and supporting documentation is true and correct. I understand that the City of New York will rely on the information in or attached to this document and that this document is submitted to induce the City of New York to select this proposal for development of a site.

I understand that this statement is part of a continuing application and that until such time that the subject project is finally and unconditionally approved by the City of New York, I will report any changes in or additions to the information herein, and will furnish such further documentation or information as may be requested by the City of New York or any agency thereof.

I understand that if I receive preliminary designation to develop this site, I must submit all additional disclosure forms required.

Name of Organization

Signature

Date

Print or Type Name and Title

Name of Organization

Signature

Date

Print or Type Name and Title

C2 – Not-For-Profit Organization: Applicant Description

Name of Organization: _____

Office _____

Address: _____

City: _____ State: _____ ZIP Code _____

Executive Director: _____

Contact Person: _____ Title: _____

Phone No. _____ FAX No. _____

ROLE OF ORGANIZATION IN THE PROJECT: Describe the role that the not-for-profit organization will play, such as developer, marketing agent, etc.

Date Established: _____ Date Incorporated: _____

CERTIFICATION: I CERTIFY THAT THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND ITS ATTACHMENTS IS TRUE AND CORRECT.

Signature of Officer

Print Name and Title

Date

C2 – Not-For-Profit Organization: Directors, Officers, and Key Staff

Name of Organization: _____

| Name and Home Address | Position and/or Office in Organization | Date of Initial Appointment | Current Occupation and Name of Employer |
|-----------------------|--|-----------------------------|---|
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Use additional sheets as necessary

C2 – Not-For-Profit Organization: Major Sources of Funding

Name of Organization: _____

Provide the following information regarding your major sources of funding during the two years preceding the deadline for submission of proposals under this RFP.

| Funding Source (Agency, Department, etc.) | Name of Program | Contact Person Name and Phone Number | Purposes of Funding | Dates of Funding | Funding Amount |
|---|-----------------|--|---------------------|------------------|----------------|
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Use additional sheets as necessary

D3 – Management Questionnaire

1. Across your portfolio, what is the typical ratio of property managers to number of units? Describe if staffing plans differ based on the funding source (e.g. LIHTC or HOME).
2. Describe the management and maintenance staffing plan envisioned for this project. If you have one, please submit a sample or project-specific Management Plan.
3. What property management certifications and licenses are held by your staff? (For example: RAM or IREM certification, tax credit certification, commercial real estate broker's license, etc.)
4. Please describe any LIHTC and/or HOME compliance coursework management staff has completed.
5. Has any property managed by the manager or owned by the owner ever had a recapture of LIHTC? If so, please explain in detail. Please include instances where you may have purchased or taken over management of a property with open compliance issues.
6. Have IRS Forms 8823s been issued for your properties, reporting noncompliance that was uncorrected at the time of issuance? If so, how many have been issued? Please include instances where you may have purchased or taken over management of a property with open compliance issues.
7. Do any properties managed by the manager or owned by an affiliate of the owner have open HOME compliance issues? If so, please explain in detail. Please include instances where you may have purchased or taken over management of a property with open compliance issues.
8. Do any properties managed by the manager or owned by an affiliate of the owner have open Class C NYC Housing Maintenance Code violations or open NYC DOB violations? If so, please explain in detail. Please include instances where you may have purchased or taken over management of a property with open violations.
9. Has the management company or any of its principals been disbarred by HUD or any other government agencies?
10. What is the vacancy rate across your portfolio as of the date of this submission? Please explain.
11. What are delinquent rents as a percentage of total rent roll across your portfolio of owned/managed properties? Please submit data showing arrears at 30, 60, and 90+ days arrearages.
12. Please submit a sample Monthly Management Report from the last year for an affordable housing property of your choosing.

Form E: Assets Statement

E- Assets Statement (Tab E)

[Assets Statement must describe financial status within the last twelve months and must be dated and signed.]

Principal or Individual whose assets are described below:

1. Personal Information

Name:

Business Name:

Business Phone:

Residence Address:

City:

State:

Zip Code:

Business Address:

City:

State:

Zip Code:

Position (Title):

Years of Service:

Salary:

Bonus/Commission:

Other Income:

Source of Other Income:

Are you a defendant in any lawsuits or legal action that may impact your financial standing?

If so, please describe:

Do you have any contingent liabilities?

If so, please describe:

2. Statement of Financial Condition

| Assets | Dollars (omit cents) | Liabilities | Dollars (omit cents) |
|---|-----------------------------|--|-----------------------------|
| Cash On Hand and in Banks | | Notes Payable to Banks <i>Secured</i> | |
| Notes Receivable | | Notes Payable to Banks <i>Unsecured</i> | |
| Mortgages Owned | | Notes Payable to Others <i>Secured</i> | |
| | | Notes Payable to Others <i>Unsecured</i> | |
| Marketable Securities Owned See Schedule A | | Debt Balances in Margin Accounts with Brokers | |
| Real Estate Owned | | Mortgages on Real Estate | |
| Cash Value of Life Insurance | | Loans Against Life Insurance | |
| Other Assets* (Itemize) | | Other Liabilities (Itemize) | |
| Total Assets | | Total Liabilities | |
| | | Net Worth | |

* Any interest in a closely held business must be documented by providing a current balance sheet for that business and stating the percent of interest held by the applicant.

Schedule A: Marketable Securities Owned

List separately and check (X) next to those pledged as collateral.

| Marketable Securities Owned | Dollars (Omit Cents) | Collateral? |
|-----------------------------|-------------------------|-------------|
| | | |
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3. Signature Page

You, the undersigned hereby represent the above to be a true and accurate Statement signed as of the date herein.

Name of Principal: _____

Signature of Individual: _____

Print Name and Title of Individual: _____

Date: _____

APPENDIX E:
Additional Information

I. OBLIGATIONS OF THE SELECTED DEVELOPER (Applicable if Qualified Sponsor is selected to develop a Site(s))

A. Development Team

The Developer will be responsible for assembling a Development Team, including at a minimum, a general contractor, architect, marketing agent, and proposed managing agent (if applicable). The Development Team will design, construct, and lease (and/or sell) the completed units. A consultant will not be considered part of the Development Team.

B. Schedule

The Developer will be responsible for arranging timely commencement and completion of the Project, will be held accountable for the schedules outlined in the Proposal and agreed upon with HPD, and will be required to submit ongoing status reports regarding Project development, financing, marketing, leasing, and management.

C. Community Outreach

The Developer will participate in required public forums, hearings, and briefings with the Community Board, elected officials, City agencies, and other organizations, as needed.

D. Design

Within six (6) months of selection the Developer must complete a set of schematic site plans, floor plans, and elevations that include any modifications to the original plans included in the Proposal in response to this RFQ, as agreed upon by HPD and the Developer, and submit them to HPD for review and approval. Prior to disposition, the Developer must submit and HPD must approve a complete set of schematic site plans, floor plans, elevations, samples of exterior building materials, and detailed specifications.

E. Environmental Documents and Review

The Developer will be responsible for preparing and submitting an Environmental Assessment Statement (EAS) in accordance with the guidelines contained in the latest edition of City Environmental Quality Review (CEQR) Technical Manual, including an EAS form, graphics and technical assessments and appendices, as necessary. It is anticipated that HPD will serve as the lead agency for the CEQR review and will oversee the preparation of all CEQR documentation; however, the Developer will be responsible for retaining a reputable environmental consultant, preparing and submitting all CEQR documents, and funding the cost of the studies and analysis required for completion of CEQR. The CEQR assessment will consider the discretionary ULURP approvals described below. The Developer will be solely responsible for any mitigation measures identified as a result of the CEQR review.

In addition, the Developer will be responsible for preparing associated environmental studies which could include, but are not limited to Phase I and Phase II Environmental Site Assessments (ESA), Phase IA archaeological assessments and noise/acoustical studies. The Developer will be responsible for implementing any remedial measures identified in connection with the redevelopment of the Site as determined by HPD. HPD does not make any representation or warranty whatsoever regarding the condition of the property or the suitability of the property for the uses contemplated by this RFQ. The

Developer will be solely responsible for providing engineering and institutional controls to allow for the re-use of the Site.

F. Sustainability

Selected developers will be expected to comply with Enterprise Green Communities certification requirements.

G. Public Land Use Approvals, if applicable

HPD will be the applicant for the Uniform Land Use Review Procedure (ULURP) application, with assistance from the Developer in preparing the supporting documentation for the application. The Project will also require City Council and Mayoral approval. Anticipated land use actions requiring approval under ULURP for development of the Site(s) may include a zoning map change, the disposition of City-owned property, and the designation of the Development Site as an Urban Development Action Area Project.

HPD design approval and ULURP (including certification) may take at least one (1) year from commencement. In addition, the Developer may be required to alter the design Proposal before and during the ULURP process to comply with any request for modifications.

H. Equity and Financing

The Developer must provide an equity contribution in the form of cash and/or payment of pre-development costs, secure necessary construction and permanent financing, provide guarantees if required, and meet any other terms and conditions as required by HPD, other lenders, and/or investors.

I. Taxes

The Developer will pay all transfer taxes associated with the conveyance of the Site to the Developer, and all transfer and recording taxes associated with project financing.

J. Marketing, Sales and/or Leasing

Marketing of the rental, retail and sale of the homeownership units, if applicable, is the sole responsibility of the Development Team. In carrying out these functions, the Developer must comply with HPD's marketing requirements, which are designed to ensure that the availability of the units is disseminated as widely and fairly as possible. The HPD-HDC Marketing Guidelines are stated in *Appendix B*, and will be part of the LDA and/or regulatory or program agreement that the Developer will execute. The marketing of the units will be monitored by HPD staff to ensure compliance with these requirements.

The rent and/or sales prices of the units projected in the Proposal are to be determined by the Developer in accordance with HPD and the requirements outlined in the NIHOP and/or NCP term sheets.

K. Maintenance and Operations

For rental projects, the Developer will be responsible for submitting maintenance and operations costs and data to HPD, as requested.

II. FINANCING INFORMATION AND CONDITIONS (Applicable if Qualified Sponsor is Selected to Develop a Site(s))

A. Disposition and Disposition Price

Disposition of the Development Site to the Developer will be subject to the following:

- Receipt of all public approvals required for disposition of the Site and development of the proposed Project on such Site, including without limitation, approval by the Mayor.
- Execution and delivery of the documents necessary to complete the disposition process within a time period specified by HPD. These documents include, but are not limited to, a Land Disposition Agreement (“LDA”), as required.
- The Site will be conveyed in accordance with the terms of the LDA to be entered into between the Developer and HPD and will be conveyed in “as-is” condition, including without limitation, all environmental conditions and hazards. The LDA will contain covenants running with the land that require the Developer to develop the Site in accordance with plans and specifications determined and approved by HPD.
- The simultaneous closing of a bona fide construction loan required to finance the full development of the Site.
- Upon conveyance, it is expected that the Developer will pay a nominal disposition price of \$1.00 cash per lot and will deliver an enforcement note and mortgage in the amount equal to the appraised value of the land, which may be payable at maturity.

B. Financing

It is the responsibility of the Developer to obtain construction and permanent financing from lenders in amounts consistent with the Proposal. Developers may use different lenders for construction and permanent financing. The amount of the Developer’s equity will be determined by the lender(s). The Developer will be required to submit a term sheet and letter of intent from a lender indicating willingness to lend an amount for construction financing of the Project within a period of time to be defined in a Negotiation Letter executed upon the selection of the Developer.

Proposals must include a primary financing scenario that does not propose competitive financing sources from Federal, State or City governments including but not limited to HCR or HPD 9% Low Income Housing Tax Credits or any other programs offered by HFA, HCR, or HPD.

Proposals must comply with all terms of any HPD subsidy program utilized. Please refer to http://www.nyc.gov/html/hpd/html/developers/finance_new_construction.shtml for further information and program term sheets.

Developers may propose additional subsidy sources. While multiple subsidy sources may be used, Proposals will be evaluated based on the efficiency of proposed financing plans.

C. Retail Incentives

The following retail incentive programs may be available:

- New York City Economic Development Corporation (NYCEDC)'s guide to financing and incentives can be found at: <http://www.nycedc.com/FinancingIncentives/Pages/FinancingIncentives.aspx>.
- FRESH Program: promotes the establishment and retention of neighborhood grocery stores in underserved communities by providing zoning and financial incentives to eligible grocery store operators and developers.
- NYC EDC Capital Access Loan Guaranty Program: Provides up to a 40 percent guarantee on loans for qualified NYC micro (under 20 employees) and small (21-100) businesses experiencing difficulty in accessing loans.
- NY Healthy Food & Healthy Communities Fund: A \$30 million statewide program created to provide grants and loans for food markets in underserved communities. Information on this program is available at: <http://www.liifund.org/products/community-capital/capital-for-healthy-food/new-york-healthy-food-healthy-communities-fund/>

D. Resale, Refinancing, and Recapture Restrictions

Residential Rental Component

The portion of the Subordinated City Debt attributable to any residential rental component of the Project is subject to repayment from refinancing and resale profits, and is non-evaporating.

Homeownership Component (if applicable)

Homeowners must agree to occupy their unit as a primary residence for 15 years following the initial purchase of the home. Any resale within the 15 years following the initial purchase must be at a price affordable to the targeted income groups and to a buyer who will be an owner-occupant and maintain the unit as his/her primary residence.

The Subordinated City Debt will be converted into an obligation of purchasers who acquire the units. The debt will be apportioned for each according to a formula determined by HPD.

Upon resale or refinancing, initial purchasers and subsequent owners may be required to make payments to the City out of resale profits and refinancing proceeds, where applicable. The use and recapture of any State and Federal funds will be guided by the specific guidelines for such funding source.

Retail/Commercial and Community Facility Components (if applicable)

The portion of the Subordinated City Debt attributable to the retail/commercial and community facility components of the Project is repayable from refinancing and resale profits, and is generally non-evaporating and non-extinguishing.

E. Real Property Taxes

The Development Site is subject to New York City real property taxes and charges. However, the tax exemptions described below may be available for eligible projects. Specific benefits may vary depending on characteristics of the project. For details of each program, it is necessary to consult the relevant statute and rules. Applicants should indicate which tax exemption program(s), if any, they plan to utilize. It is the responsibility of the Developer to apply for and meet the requirements of the specific tax benefit program(s). HPD makes no representations or warranties as to the continued availability of these benefits or as to the Project's eligibility to receive these benefits.

The Urban Development Action Area Program ("UDAAP") tax exemption is subject to approval by the City Council. The City Council may grant an exemption from the New York City real property taxes on the buildings/improvements for up to twenty (20) years. If the Council grants the full 20-year exemption, the improvements on the Site would be fully exempt from the New York City real property taxes on the buildings/improvements for the first ten (10) years with a gradual phase-in of full taxes over the remaining ten (10) years (10% per year). The full amount of the New York City real property taxes on the land must be paid each year.

The 421-a partial tax exemption for new multiple dwellings provides an exemption from the New York City real property taxes on the increase in assessed valuation resulting from the improvement to the property. The full amount of New York City real property taxes on the assessed valuation of the property in the tax year preceding the tax year in which construction commences must be paid each year. In addition, New York City real property taxes must also be paid for any commercial, community facility, or accessory uses that in total exceed 12% of the aggregate floor area of the project. The 421-a partial tax exemption allows up to three (3) years of construction period exemption, and up to twenty-five (25) years of post-construction exemption, including a gradual phase-out period depending upon the length of the final benefit period.

The 420-c tax exemption provides an exemption from New York City real property taxes for up to sixty (60) years for housing financed or previously financed in part with Federal Low Income Housing Tax Credits. In order to be eligible for this tax exemption, at least 70% of the units must be subject to the income and occupancy requirements of Internal Revenue Code Section 42. Projects must be owned or leased for at least thirty (30) years by a corporation, partnership, or limited liability company, of which at least fifty percent (50%) of the controlling interest is held by a charitable organization with 501(c)(3) or (4) tax exempt status whose purposes include the provision of low income housing, or a wholly-owned and wholly-controlled subsidiary of such a charitable organization. HPD must approve the regulatory agreement that imposes tax credit restrictions on the project's dwelling units and may also require a payment in lieu of taxes (PILOT.)

The 420-a tax exemption program provides a full exemption from New York City real property taxes for certain property owned by eligible not-for-profit institutions. If the community facility is the only portion of the Project that will receive a 420-a tax exemption, it must be in a separately assessed tax lot from the rest of the Project.

The Article XI tax exemption provides a complete or partial tax exemption from New York City real property taxes for up to 40 years for the new construction or rehabilitation of affordable housing carried out by a Housing Development Fund Company (HDFC).

An HDFC is a corporation formed to build and operate low-income housing. The formation of each HDFC which is a sponsor of an HPD project is individually approved by HPD.

Please refer to <http://www.nyc.gov/html/hpd/html/developers/incentive.shtml> for further information

III. ADDITIONAL REGULATIONS

A. Fair Housing Requirements

The Developer is required to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination.

B. Rent Stabilization

Initial rents will be established in accordance with the regulatory agreement consistent with the income requirements outlined in this RFQ. Prior to initial occupancy all units must be entered into the New York State Rent Stabilization system at rents specified in the regulatory agreement.

C. Warranty Coverage

Units must be sold with a warranty that is the same as the housing merchant implied warranty described in Section 777(a) of the New York State General Business Law. The warranty shall be applied to all units, regardless of the number of stories of the building in which they are located, and may not be limited, modified, or excluded by the methods provided for in Section 777(b).

D. Section 3 Clause

The project resulting from this RFQ may be subject to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135. If applicable to the project, (i) to the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of the project must be given to "Section 3 Residents" as such term is defined in 24 CFR 135.5; and (ii) to the greatest extent feasible, contracts for work to be performed in connection with any such project must be awarded to "Section 3 Business Concerns" as such term is defined in 24 CFR part 135.5.

E. HOME funds and Davis-Bacon

Every contract for the construction of housing (rehabilitation of new) that contains 12 or more units assisted with Federal HOME funds will be required to comply with Davis-Bacon and the Contract Work Hours and Safety Standards Acts.

F. Equal Opportunity

Agreements resulting from this RFQ will be subject to the provisions of Executive Order 50 and its implementing regulations as stated in *Appendix C (Equal Opportunity)*. A representative from the Developer and each entity with which the Developer partners will be required to attend a class administered by HPD outlining the requirements of Executive Order 50 and to submit Equal Opportunity forms provided by HPD verifying their compliance with its provisions.

G. Accessibility

Construction of the project must comply with the accessibility requirements of all applicable laws including, without limited to the New York City Building Code, the Fair Housing Act, the Americans for Disability Act, and Section 504 of the Rehabilitation Act of 1973.

IV. CONDITIONS, TERMS, AND LIMITATIONS

This RFQ is subject to the specific conditions, terms and limitations stated below:

- A. The City is not obligated to pay nor shall in fact pay any costs or losses incurred by any Applicant at any time including the cost of responding to the RFQ.
- B. The City reserves the right to reject at any time any or all submissions and/or withdraw this RFQ in whole or in part, to negotiate with one or more Qualified Developers, and/or undertake projects on terms other than those set forth herein. The City likewise reserves the right, at any time, to waive compliance with, or change any of the terms and conditions of this RFQ, and to entertain modifications and additions to the applications of Qualified Developers.
- C. The Qualification of an Applicant will mean only that HPD may commence negotiations with that Applicant regarding a Site. HPD will send written notification ("Negotiation Letter") to commence negotiations if a Qualified Developer is selected to develop a Site.
- D. Qualification of an Applicant through this RFQ will not create any rights on the Applicant's part, including without limitation, rights of enforcement, equity, or reimbursement.
- E. This RFQ and any agreement or other documents resulting there from are subject to all applicable laws, rules and regulations promulgated by any Federal, State or municipal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.
- F. This RFQ does not represent any obligation or agreement on the part of the City, which may only be incurred or entered into by a written agreement which has been approved as to form by the City's Law Department and duly executed by the Applicant and the City.
- G. The Sites that *may* be made available through this RFQ are to be disposed of in "as-is" condition. The City, its officers, agents and employees make no representation whatsoever as to the physical condition of the Sites or their suitability for any specific use.
- H. The Sites that *may* be made available through this RFQ shall be subject to New York City Real Property Taxes and charges. Tax benefits may be available under the Article XI, 421-a, UDAAP, 420-c, and/or 420-a tax exemption programs.
- I. No transaction will be consummated if any principal of any selected Applicant is in arrears, or in default upon any debt, lease, contract or obligation to the City of New York, including without limitation real estate taxes and any other municipal liens or charges. The City reserves the right not to review any Qualification by any such Applicant.
- J. Entities that are in debarred status by either the Comptroller of the City of New York or the United States Department of Labor, and entities with histories of convictions of criminal violations of the Occupational Health and Safety Act within the five years preceding the closing date, will not be eligible to enter into development agreements or serve as prime or general contractors on this project.

- K. No commission for brokerage or any other fee or compensation shall be due or payable by the City, and an Applicant undertaking to indemnify and hold the City harmless from and against any such claim for any such fee or compensation based upon, arising out of, or in connection with any action taken by the Applicant, the selection of the Applicant's submission for the list of Qualified Developers and invitation to the Applicant to respond to this RFQ, the conditional designation of a Sponsor pursuant to this RFQ or the sale of the site.
- L. All determinations as to the completeness or compliance of any Qualifications, or as the eligibility of any Applicant, will be within the sole discretion of the City.
- M. The City advises all Applicants that there is no legal obligation on the part of the City to issue the RFQ, and that the City reserves the right to use the Qualifications submitted pursuant to this RFQ as a basis for negotiation with Applicants as the City deems appropriate.
- N. This RFQ and any resulting agreement are subject to all applicable laws, rules and regulations promulgated by any Federal, State, or municipal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.

V. CONFLICTS OF INTEREST

Current and former employees of the City of New York may respond to this RFQ only in accordance with Chapter 68 of the New York City Charter governing ethics and conflicts of interest affecting City personnel. Section 2604(c)(7) of the City Charter contains specific prohibitions that exclude enumerated groups of employees from participating in the sales process. In addition, current HPD employees may not respond to this RFQ.

Persons in the employ of the City considering the submission of Qualifications are advised that opinions regarding the propriety of their purchase of City-owned property may be requested from the New York City Conflicts of Interest Board. This body is empowered, under Section 2602 of the City Charter, to issue advisory opinions on conflict of interest questions and other matters of ethical considerations. It is not necessary, however, that such an opinion be obtained prior to responding to this RFQ.

Former employees of the City of New York are also advised that the City Charter imposes certain restrictions on post-employment and business relationships with the City. Such individuals should consult the specific provisions on this issue contained in the City Charter.