Department of Housing Preservation & Development
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NYC Department of Housing Preservation and Development (HPD)

Office of Development, Division of New Construction Finance

Extremely Low & Low-Income Affordability (ELLA) Program
Term Sheet

Program Description	HPD's ELLA Program funds the new construction of low income multi-family rental projects in which a minimum of 70% of the units are at low income rents affordable to households earning up to 60% of Area Median Income (AMI). Up to 30% of the units may have rents affordable to moderate income households earning up to 100% of AMI. At least 10% of units must be set aside for formerly homeless households. HPD subsidy is in addition to other public and private sources including but not limited to: private institutional lenders; the New York City Housing Development Corporation's (HDC) Extremely Low & Low-Income Affordability (ELLA) Program; HCR programs such as the New Construction Capital Program (NCP), the Supportive Housing Opportunity Program (SHOP), Homes for Working Families Initiative (HWF), the Low Income Housing Trust Fund Program (HTF), Middle Income Housing Program (MIP), New York State Low Income Housing Tax Credit Program (SLIHC), etc; 4% Federal Low Income Housing Tax Credits (4% LIHTC) with Tax Exempt Bond Financing from HDC or the New York State Housing Finance Agency, or 9% Federal Low Income Housing Tax Credits (9% LIHTC) awarded by HPD or HCR.
Eligible Borrowers and Sponsors	In order to be eligible for Capital funds, a borrower must be a Housing Development Fund Corporation either alone or in partnership with other for-profit or non-profit entities. The development team must have a demonstrated track record of successfully developing, marketing, and managing the type of project proposed. Borrowers must demonstrate sufficient financial stability and liquidity to construct and operate the project.
Required Affordability Tiers	All projects must have at least 10% of the units set aside for formerly homeless households. Projects must comply with one of the following Options for affordability tiers: <u>Option 1:</u> ▪ 10% of the units serving formerly homeless households, ▪ 10% of the units serving households up to 30% of AMI, ▪ 10% of the units serving households up to 40% of AMI, ▪ 10% of the units serving households up to 50% of AMI, ▪ (Optional): up to 30% of the units with rents affordable to households earning 70%-100% of AMI, and ▪ Remaining units serving households up to 60% of AMI <u>Option 2:</u> ▪ 30% of the units serving formerly homeless households, ▪ 5% of the units serving households up to 40% of AMI, ▪ 5% of the units serving households up to 50% of AMI, ▪ (Optional): up to 30% of the units with rents affordable to households earning 70% - 100% of AMI, and ▪ Remaining units serving households up to 60% of AMI Projects are encouraged to include supportive housing units or to create intergenerational housing by incorporating senior housing units, including under the zoning rules for Affordable Independent Residences for Seniors (AIRS). Preference will be given to projects that include at least 20% of the units with rents affordable to households earning 70% of AMI or above.

HPD Loan Amount

HPD subsidy is based on the selection Option 1 or Option 2 as well as the percentage of units set aside for households earning 70% AMI or greater, as outlined in the table below. Note that all units within a project will receive the same subsidy amount per unit.

% of Units at ≥80% AMI within Option 1 or 2	Option 1 Subsidy per Unit	Option 2 Subsidy per Unit
100% of units at ≤ 60% of AMI	$130,000 per Unit	$140,000 per Unit
10% of units at ≥70% of AMI	$133,000 per Unit	$143,000 per Unit
20% of units at ≥70% of AMI	$140,000 per Unit	$148,000 per Unit
30% of units at ≥70% of AMI	$145,000 per Unit	$150,000 per Unit

Per Unit subsidy amounts represent the maximum subsidy per unit and may be reduced based on the actual financing needs of the project.

Project Selection: preference will be given to projects that request less than the maximum term sheet subsidy based on the selected affordability mix.

Requests for Above Term Sheet Subsidy: Projects that request more than the maximum subsidy will be considered for funding, but will not receive preference. For every $5,000 per unit in additional subsidy provided above the term sheet maximum, projects will be required to provide an additional 5% of units to serve formerly homeless families or make an additional 5% of units affordable in perpetuity.

Mandatory Inclusionary Housing (MIH): MIH projects that request subsidy for the MIH units will be required to provide an additional 15% of permanently affordable units.

Voluntary Inclusionary Housing/Other Sources: Maximum per-unit subsidies may be reduced for projects utilizing other sources, including Inclusionary Housing, or rental assistance such as Project Based Vouchers, absent broader/deeper affordability or project benefits.

Rents and Marketing Bands

Rental Tier	Income Limit	Maximum Initial Rents**			
		Studio*	1 BR	2 BR	3 BR
Our Space***	30% of AMI	$215	$283	$425	$512
27% of AMI	30% of AMI	$331	$426	$521	$594
37% of AMI	40% of AMI	$475	$605	$736	$843
47% of AMI	50% of AMI	$618	$784	$951	$1,091
57% of AMI	60% of AMI	$761	$963	$1,166	$1,339
70% of AMI	80% of AMI	$947	$1,196	$1,445	$1,661
80% of AMI	100% of AMI	$1,091	$1,375	$1,660	$1,910
90% of AMI	110% of AMI	$1,234	$1,554	$1,874	$2,158
100% of AMI	130% of AMI	$1,377	$1,733	$2,089	$2,406

**Studio Rents are sized based on a 0.6 Household Factor*

***Rents are based on 2017 HUD income limits and assume tenant pays electricity with no electric stove.*

****Ourspace units are underwritten at Shelter Rent Allowance. Capital subsidy may be reduced for homeless units that come with a rental subsidy.*

Initial Rents: Initial rents for tenants with low incomes (30% of AMI, 40% of AMI, 50% of AMI, and 60% of AMI) are calculated at 30% of 27% of AMI, 30% of 37% of AMI, 30% of 47% of AMI, and 30% of 57% of AMI. All other rents are calculated at 30% of the target AMI. All rent levels are calculated as gross rents less a utility allowance.

Rent Increases: Subsequent rent increases for restricted units will be governed by the lower of AMI or rent stabilization increases. No vacancy or luxury decontrol will be permitted for the duration of the HPD restriction period for all unit types.

Marketing Bands: Projects must comply with the above listed Marketing Bands, or where other funding sources restrict the allowable maximum income. In addition, Program seeks to minimize overlapping income limits between tiers.

Loan Terms

- Loan Term: 30 year minimum (Loan terms vary by funding source).
- Interest Rate: Applicable Federal Rate (AFR) monthly long-term rate simple during construction and compounding monthly during permanent. An additional 0.25% servicing fee will be applied during construction, as applicable. The actual paid rate during construction will be up to 1% per annum in addition to the servicing fee. The actual paid rate during permanent will be up to 1% per annum, inclusive of the servicing fee. The difference between AFR and the paid rate will defer and accrue, with balloon due at maturity. HPD may reduce the interest rate to below AFR in return for extended affordability of 60 years or permanent affordability for at least 15% of the units.
- Amortization: Balloon payment up to 100% of HPD loan amount.
- Debt Service Coverage: 1.15 on all financing. Ratio may be higher on projects whose debt service coverage ratio falls below 1.00 before year 21.
- Loan to Cost: May not to exceed 90% overall of total development cost.
- Income to Expense: Minimum of 1.05 on all financing; 1.10 when commercial space is more than 25% of gross income.
- Developer's Fee: As described in the HPD Low Income Housing Tax Credit Qualified Action Plan (QAP), total developer fee is not to exceed 15% of improvement costs (excluding developer fee, reserves, and syndication and partnership expenses) and 10% of acquisition costs for tax credit projects. Up to 10% of the fee may be paid during construction. Consultant fees should be paid from the developer fee. HPD may require a reduction in paid developer fee in order to reduce public subsidy. HPD requires that the deferred developer fee be based on 15 years of cash flow. The total paid fee at permanent conversion is limited to 10% of the total development cost exclusive of the developer fee.
- Consultant Fees: Consultant fees, including development consultants, owner's representatives, etc. must be paid from the developer fee.
- Land Acquisition: Acquisition costs for privately owned land will be reviewed by HPD and may be approved at up to appraised value.
    - For publicly-owned sites: Disposition in most cases will be for $1 per lot with the balance of appraised value in an enforcement note and mortgage, payable upon maturity with AFR compounded monthly. The enforcement note and mortgage may be structured as a forgivable loan in return for extended affordability beyond what is minimally required by other sources of funds. Publicly-owned sites may include sites owned by HPD, other government agencies and property owned by NYCHA.
- Projects funded with Federal funds require compliance with Section 3 new hires and Davis Bacon prevailing wages, as applicable.

	• Preference will be given to projects demonstrating cost containment.
Equity Requirement	An equity requirement may be implemented for projects with substantial nonresidential income and/or have a high percentage of units above 80% of AMI. Any required equity would be a percentage of total allowable development costs excluding costs attributable to LIHTC eligible basis. This equity requirement would also be exclusive of the paid and deferred developer's fee. Reduced land price below value will be considered as part of the equity requirement.
Units for Formerly Homeless Households	• Homeless referrals must come directly from HPD except projects that receive a supportive housing social service contract award from New York State Office of Mental Health (OMH) or New York City Department of Health and Mental Hygiene (DOHMH) or another government agency. • All projects with homeless set-aside units must submit a **Social Service Plan** and a proposed **Social Service Provider** for HPD approval prior to marketing and lease-up of the homeless set-aside units, except those receiving referrals from a government agency under a social service contract. • For projects with a social service contract that provides rental assistance above tax credit rents, HPD may require that a portion of net cash flow be deposited into a social service reserve • The unit distribution for homeless units must be approved by HPD. • For developments with Project-Based Section 8, a **Rent-Up Reserve** of up to $1,500 per homeless unit may fund rental income. • For projects with Our Space units or without a social service contract, a capitalized **Social Service Reserve** of up to $7,500 per homeless unit and annualized reserve of $9,500 per 5% of the homeless units (rounded up) may fund the approved social service plan. • HPD may require an additional set-aside of up to $2,000 per studio homeless unit, or up to $3,000 if the homeless units include family units, to fund furnishings for homeless units at initial rent-up.
Design and Construction Requirements	• Projects must meet HPD Design Guidelines for Multifamily New Construction and Senior Housing and plans must be approved by HPD. HPD also strongly encourages the incorporation of the critical success factors outlined in "Laying the Groundwork: Design Guidelines for Retail and Other Ground-Floor Uses in Mixed-Use Affordable Housing Developments". • HPD will approve unit distribution. Projects are suggested to have a minimum of 15% one-bedroom, a minimum of 30% two-bedroom or larger, and a maximum of 25% studio units. Projects that include supportive housing units for singles may be allowed to exceed the 25% studio threshold.

Unit Type	Net Square Footage
Studio	350 - 400 sq. ft.
1 BR	500 - 550 sq. ft.
2 BR	650 - 725 sq. ft.
3 BR	850 - 950 sq. ft.
4 BR	950 - 1,075 sq. ft.

- HPD reserves the right to participate in construction monitoring.
- HPD may at its discretion require competitive bidding for general contractors.
- All projects must achieve Green Communities Green Certification. The Green Communities

	Criteria and Certification portal is available online at http://www.greencommunitiesonline.org/ • All projects will be required to retain a qualified benchmarking service provider to track utility usage for heating, electric and water. The HPD Benchmarking and Performance Tracking Protocol is available online at http://www1.nyc.gov/site/hpd/developers/green-building.page • Projects must be in full compliance with the design requirements of all applicable laws, including, but not limited to, the *New York City Zoning Resolution, the New York City Building Code, the New York City Housing Maintenance code, the New York State Multiple Dwelling Law, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973*. Projects receiving New York State Homes and Community Renewal (HCR) funding must also comply with the HCR Design Guidelines, as applicable.
Real Estate Tax Benefits	• Projects may qualify for §420-c, §421-a, or Article XI tax exemptions. See HPD Tax Incentive Programs guidelines for more details. Projects may be subject to a PILOT in the HPD Regulatory Agreement depending on the availability of project cash flow. • Developers must provide proof of any such tax exemption prior to construction loan closing.
Closing Requirements	Closing requirements prior to construction loan closing include (but are not limited to): • Completed and satisfactory Sponsor Review disclosure documents for all applicable individuals and entities in the project. Further disclosure documentation may be required. • Completed and satisfactory Equal Opportunity documents for applicable entities, including contractors and sub-contractors, in the project. Further documentation may be required for contractors and sub-contractors on the Enhanced Contractor Review status list. • Completed and satisfactory HUD Section 3 documents for applicable entities in the project, if project is receiving federal funding, including project-based Section 8 vouchers. • Completed and satisfactory Campaign Finance documents for applicable individuals and organizations in the project. • Completed and satisfactory Environmental Review including, but not limited to, City Environmental Quality Review (CEQR), and/or State Environmental Quality Review Act (SEQRA), and/or National Environmental Policy Act (NEPA), as applicable, for projects with federal funding (Project Based Section 8 Vouchers, HOME Funds, etc.). Detailed environmental studies and compliance measures may be required. • Architectural plans approved by HPD's Building and Land Development Services • Approval and Permits by the NYC Department of Buildings (DOB) • HPD may require the inclusion of an HPD rider as part of the construction contract. • Borrower's organizational documents including W-9 forms and IRS EIN letters. • Projects with HOME funds must comply with HOME Compliance requirements. • HPD requires that the general contractor secures projects by a letter of credit for 10% of hard costs excluding contingency. Payment and Performance bond for 100% of hard costs may be accepted in lieu of letter of credit. • HPD may require that it be named beneficiary on documents, including but not limited to insurance certificates and completion guarantees.
Rent Up	• All projects must be marketed according to HPD and HDC Marketing Guidelines and Tenant Selection Criteria. The developer must submit a marketing plan for agency review and

	approval prior to marketing. • On an annual basis, HPD may require a certified rent roll, written certification of tenant incomes, and other supporting documentation.
Conversion	Closing requirements prior to permanent loan conversion include (but are not limited to): • Evidence of rent registration with HCR in compliance with rent stabilization requirements • 95% residential rental achievement • 100% commercial/retail occupancy evidenced by executed leases HPD may accept master leases guaranteed by guarantors, if approved by the first mortgage provider. • Evidence of real estate tax benefits. • Temporary or Final Certificate of Occupancy from NYC Department of Buildings (DOB). • Architect's Statement post-completion regarding accessibility • Certificate of Completion from HPD on publicly-owned sites. • Evidence of HOME compliance.
Proposal Review Information	For consideration, please submit project information, including: • Location (Borough/Block/Lot and address) and description of site and proposed development. Include commercial, community space, parking and residential square footage. • Proposed pro-forma including development and operating budgets, as well as acquisition price per developable floor area for privately owned sites. Include an appraisal for private site acquisitions. • Whether the project is generating tax benefits or zoning bonus to another project. • Proposed development team (borrower, contactor, architect, management company), respective principals and previous development experience over the last 10 years. HPD and NYC development experience should be highlighted.
Additional Requirements	Developers are required to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination. The Developer must also construct the project in compliance with all laws regarding accessibility for people with disabilities, including but not limited to the New York City Building Code, the federal Fair Housing Act, the Americans With Disabilities Act, and Section 504 of the Rehabilitation Act of 1973. Eligible HPD-financed projects will be subject to the Agency's economic opportunity programs including HireNYC and M/WBE Build Up. Such projects must meet the obligations of each applicable program and initiative. Additional information can be found at http://www1.nyc.gov/site/hpd/developers/hirenyc.page and http://www1.nyc.gov/site/hpd/developers/mwbe-build-up-program.page. HPD requires a fee of $1,400 for monitoring compliance with Executive Order 50 of 1980 (as amended by Executive Order 94 of 1986, Executive Order 108 of 1986, and Executive Order 159 of 2011) which requires equal employment opportunity in New York City contracting and monitoring compliance with the Federal Davis Bacon Act (40 U.S.C. §3141 et seq.), State Labor Law §§220 and 230, Real Property Tax Law §421-a(8), and New York City Administrative Code §6-109 which require the payment of prevailing wages and compliance with labor standards.

HPD Contact	**Multifamily New Construction Programs** 100 Gold Street, Room 9I-5 mfnc@hpd.nyc.gov Phone: 212-863-5613

HPD, in its sole discretion, may, at any time and without prior notice, terminate the program, amend or waive compliance with any of its terms, or reject any or all proposals for funding.