Department of Housing Preservation & Development
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NYC Department of Housing Preservation and Development (HPD)
Office of Development, Division of Preservation Finance

LIHTC Preservation (Year 15) - Repositioning Term Sheet

Program Description	HPD's Low Income Housing Tax Credit Portfolio Preservation ("Year 15") Program ensures the future financial and physical viability and preserves the long-term affordability of Low Income Housing Tax Credit ("tax credit") properties that are reaching the end of the initial tax credit compliance period. The program assesses the needs of each project and develops a repositioning strategy to address projects' financial and capital needs as part of the Year 15 tax credit investor exit review. Repositioning strategies may include tax exemptions, subsidies for loans, extensions or modifications of existing mortgages, and securing additional subsidy through debt.
Eligible Projects	Tax credit properties at the end of their initial tax credit compliance period or tax credit properties that have previously exited the investor. May combine non-tax credit properties with tax credit properties when it improves operations and reduces the need for subsidy.
Eligible Borrowers	Limited partnerships, corporations, joint ventures, limited liability companies, 501(c)(3) corporations and sole purpose housing development fund corporations. The program is open to for-profit and not-for-profit borrowers. Borrowers must demonstrate sufficient financial stability and liquidity to rehabilitate and operate the project.
Eligible Uses	Moderate rehabilitation of multiple dwellings, including SROs. Loans are intended for buildings needing replacement of building systems, structural improvements and modernization of apartment interiors.
HPD Loan Amount	Up to $20,000 per unit depending on the rehabilitation needs of the buildings and availability of existing reserves. Per-unit subsidies may be reduced for projects utilizing other sources, including the Inclusionary Housing Program, absent broader/deeper affordability or project benefits. HPD will consider available funding sources in the following order: existing project reserves and HPD subsidy. HPD will also evaluate and determine the project's ability to repay outstanding loans. HPD may approve the release of a portion of excess reserve funds for other affordable housing initiatives only if the project does not need additional HPD subsidy and the project's cash flow, capital and reserve needs are adequate for an additional 30 years. The remaining excess funds shall remain in the project's blocked reserve account. HPD reserves the right to determine the amount, if any, that will be released to the Sponsor. Reserve withdrawal requests during repositioning will be evaluated in the context of the project's available resources and repositioning needs. Additional homeless set aside requirements and/or longer regulatory restriction periods will apply to projects requesting over the term sheet limit.
HPD Loan Terms	• Maximum loan term: 30 years, repayable balloon • Overall Interest Rate: the long-term, monthly-compounding Applicable Federal Rate (AFR), with a minimum floor of 2.5% (compounding monthly).

	• Paid Interest Rate: 1% per annum (plus 0.25% servicing fee during construction). HPD may reduce the paid rate to leverage additional private financing. Any unpaid interest will defer and accrue, to be paid as a balloon at maturity.
Underwriting Terms	• I & E Trending: 2% income increase and 3% expense increase. • Vacancy and Collection Loss Rate: 5% for Residential and 10% for Commercial. • Replacement Reserves: minimum of $500 per unit at initial repositioning/capitalization and $250 per unit per year, increasing at 3% annually. • Initial Operating Reserve: 6 months of M&O plus debt service and sizing for long term capital needs and projected operating shortfalls for next 15 years. Project is expected to meet the annual Operating Reserve Targets outlined in the Project's Funding and Disbursement Agreement. . Upon repositioning, all project reserves are required to be transferred to HDC for servicing where they will remain in place for the benefit of the project during the restriction period. • M&O: The lower of actual expenses or a level acceptable to HPD. HPD will determine if adjustments for elevator, union labor, building size, and special services related to supportive housing are appropriate and will apply the adjustment to the final underwriting. • Construction Contingency: 5%. • Construction Monitoring Fee: Up to $70,000 per project payable to the Sponsor based on number of residential units, capital needs, and availability of funds. One-third of the Construction Monitoring fee will be held back until construction is completed, existing violations are removed, proof of tax exemption, and proof of completion for all maintenance items is provided. • Up to $15,000 may be recognized to reimburse for a Technical Assistance Provider. HPD must approve the contract between the Technical Assistance Provider and Sponsor. • Existing HPD Debt: May be extended to run concurrent with the new regulatory term at current interest rate up to 1% per annum inclusive of 0.25% servicing fee. Based on the level of affordability provided, a monthly compounding interest rate the higher of 2.5% or the long-term, monthly-compounding Applicable Federal Rate (AFR) will accrue and defer, to be paid as a balloon at maturity with up to 1% as the paid interest rate. • Cash Flow Release: Modification of existing cash flow restrictions may include a release of cash flow once expenses (inclusive of debt service and reserve contributions) are paid. • A Payment and Performance Bond or Letter of Credit will be required for projects with construction costs in excess of $1,000,000.
Fees and Closing Costs	• Subject to funding availability, the following fees can be paid from project reserves or loan proceeds: $100 420c application fee + $80/unit for Class A units or $60/unit for Class B units if applicable, $100 construction signage fee per building for projects that receive a capital loan, required third party reports (i.e. asbestos) for projects that receive a capital loan, and up to $15,000 in legal fees. All remaining closing costs (including all title costs) are the responsibility of the Sponsor and cannot be funded with project reserves or City Capital. • Payment of any transfer taxes from project resources is not permitted.
Regulatory Requirements	• Projects with post-1989 tax credits must conform to the basic income, occupancy, rent and other restrictions outlined for tax credit projects in IRS

	Section 42. Projects must also comply with all income, occupancy and rent restrictions outlined in current and any supplemental regulatory agreements. Projects with pre-1990 tax credits must agree to extend the affordability levels required during the initial tax credit restriction period. • Owners must agree to extend the affordability period through the later of (i) the term of the any additional mortgage provided, or (ii) 15 additional years from the current restriction period. • Projects with previous 100% homeless unit requirements shall maintain at least 30% of the total units as homeless units. All other projects shall maintain their initial requirements. Projects with no previous homeless requirements shall set aside at least 10% of the total units as homeless units. All homeless unit vacancy referrals must be made by HPD's Homeless Placement Unit. In the event of financial hardship, HPD may waive the homeless requirement if deemed necessary. • All units must remain registered with DHCR and are subject to New York State Rent Stabilization through the regulatory term. Work completed as a result of the financing would not be eligible to trigger Individual Apartment Increases (IAIs) or Major Capital Improvement increases (MCIs). Vacancy and luxury decontrol are not permitted for the duration of the HPD restriction period. • HPD may be willing to broaden affordability restrictions after the original Extended Use Period and/or for non-LIHTC units for projects that can reduce subsidy, introduce deeper affordability, leverage other sources of funds and/or pay down existing debt.
Real Estate Tax Benefits	All projects are required to have a tax benefit in place at repositioning. Projects are expected to receive a full or partial 420-c or Article XI tax exemption. Projects with commercial space will be responsible for the payment of commercial taxes after repositioning. Projects not eligible for 420-c tax exemption may apply and qualify for exemption under Article XI. If awarded, projects may be subject to either a 10% Shelter Rent payment or a PILOT payment.
Design and Construction Requirements	Projects must complete a Green Physical Needs Assessment (GPNA) from a firm that has been pre-qualified by HDC (http://www.nychdc.com/Current%20RFP)). Prior to closing, all projects must complete benchmarking on a whole building basis using a Benchmarking Software Provider Firm that has been pre-qualified by HDC: http://www.nychdc.com/Current%20RFP. Funded projects must benchmark throughout the loan and regulatory term. All projects must comply with HPD's Standard Specification (see: http://www1.nyc.gov/site/hpd/developers/specifications-rehabilitation/master-guide-specifications-for-rehabilitation-projects.page), as the specifications relate to the project's HPD-approved scope of work. Requisitions will be processed by HPD; a 10% retainage will be held until 100% completion. Subject to funding availability, the following can be paid through the project development budget: GPNA base cost of up to $5,000 per ownership entity plus up to $250 per unit for the first 20 units in a project and up to $125 per unit for all remaining units.

Fair Housing and Accessibility Requirements	Depending on project scope, an architect must execute a statement to HPD stating that in the architect's professional opinion, if the project is constructed in accordance with the HPD-approved plans, the completed building(s) in the Project will be in compliance with the construction and design requirements contained in Chapter 11 of the New York City Building Code and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.794) and implementing regulations at 24 CFR Part 8.
Marketing	All projects must be marketed according to HPD and HDC marketing guidelines. The developer must submit a marketing plan for agency review and approval. Where applicable, marketed projects will be required to use HPD's and HDC's lottery process.
Application Process	Sponsors interested in repositioning a project in fiscal year 2017 or later should contact the project's syndicator or HPD to discuss a repositioning strategy. Application packages should be submitted electronically to the technical assistance provider, if applicable or to HPD for review.
HPD Contact	**Kerry LaBotz, Director LIHTC Preservation (Year 15)** hpdyear15@hpd.nyc.gov (212) 863-8940 NYC HPD 100 Gold Street, Room 9-S7 New York, NY 10038

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.

NOTE: The project receiving funding under this program 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.