

# **INCLUSIONARY HOUSING PROGRAM**

Administering Agents for Inclusionary Housing Projects

## **REQUEST FOR QUALIFICATIONS**

**Issue Date:** May 16, 2022

**Qualifications Submission Deadline:** Rolling Basis

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## I. INTRODUCTION

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The New York City Department of Housing Preservation and Development (“HPD”) administers New York City’s (“City”) Inclusionary Housing programs, which aim to promote neighborhood economic diversity in the highest-density districts and in neighborhoods planned for significant residential growth. The City’s Voluntary Inclusionary Housing programs (“VIH”) – the R10 and the Designated Area (IHDA) programs – offer an optional floor area bonus in exchange for the creation or preservation of permanently affordable housing. Mandatory Inclusionary Housing (“MIH”) requires affordable housing as part of all residential development above a certain size in applicable areas or in any new construction housing developments in recently re-zoned neighborhoods throughout New York City.<sup>1</sup>

Pursuant to the City’s Zoning Resolution (“ZR”) and the Rules of the City of New York (“RCNY”), both the MIH and VIH programs require an Administering Agent. Per the ZR, an Administering Agent is “the entity responsible for ensuring, pursuant to a regulatory agreement, that: (a) each subject rental affordable housing unit is rented in compliance with such regulatory agreement at rent-up and upon each subsequent vacancy; or (b) each subject homeownership affordable housing unit is owned and occupied in compliance with such regulatory agreement at sale and upon each resale.”

This Request For Qualifications (“RFQ”) invites applicants (“Applicants”) to submit professional qualifications (“Qualifications”) to become an approved Administering Agent (“Qualified Administering Agent”) for the Inclusionary Housing programs. Qualified Administering Agents will be included on a pre-qualified list (“List”) that will be published on HPD’s website allowing owners to review and select Qualified Administering Agents from the List, at their own expense. HPD will not be involved in the hiring process and will not be responsible for paying for Administering Agent services. This RFQ does not represent any obligation or agreement whatsoever on the part of the City or HPD.

### Applicants

The qualifying requirements for an Administering Agent are defined in ZR Section 23-96(e). The zoning text states that, “HPD shall approve each administering agent and may revoke such approval at any time before or during the regulatory period,” and that an Administering Agent must be a not-for-profit entity, and not be an affiliate or owner of the development unless the project is “participating in a Federal, State or local program that provides adequate independent means of ensuring compliance with the regulatory agreement.” This is applicable to both MIH and VIH projects.<sup>2</sup>

Further, per 28 RCNY Chapter 41, an Administering Agent Agreement between HPD and an Administering Agent memorializes the rights and responsibilities of such Administering Agent. This executed agreement is recorded as an exhibit to every VIH Regulatory Agreement and MIH Restrictive Declaration.

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<sup>1</sup> Capitalized terms not defined herein shall have the meaning set forth in the New York City Zoning Resolution and the Rules of the City of New York.

<sup>2</sup> New York City ZR § 23-96(e)

Per 28 RCNY §41-02 (b), Administering Agents for Affordable Housing will be selected by the owner and must be approved by HPD based on criteria including, but not limited to:

1. A background investigation of the principals of the Administering Agent
2. Determination that the Administering Agent is a not-for-profit
3. Implementation by the Administering Agent of satisfactory procedures for relocating renters, when applicable and
4. Determination that the Administering Agent is not an owner, affiliate of owner or managing agent of the VIH Generating Site or MIH Development, unless HPD determines that the Generating Site or MIH Development is participating in a Federal, State or local program that has procedures for conducting a review based upon the above criteria or the owner and any such managing agent or affiliate are not-for-profit entities with adequate safeguards to ensure that such entities comply with the MIH and VIH programs.

All Applicants must adhere to the requirements of this RFQ. The application must include all information requested for all principals and/or officers of the Applicant. Upon review, HPD, at its discretion, may notify an Applicant that additional information or clarification is necessary. An Applicant's submission of Qualifications will be deemed to be permission for HPD to make such inquiries concerning the Applicant as HPD deems necessary.

## II. DEFINITIONS

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***Capitalized terms not otherwise defined in this RFQ have the meanings set forth in the ZR or the RCNY.<sup>3</sup>***

**Applicant**

A not-for-profit organization that submits Qualifications in response to this RFQ.

**City**

The City of New York.

**List**

The pre-qualified list of Administering Agents that HPD will publish on its website and that may serve as a resource for any Owner considering developing Inclusionary affordable housing projects on its site(s).

**Owner**

An individual or entity that owns the project site.

**Principal**

A board member, director, or officer of the not-for-profit entity that will act as the Applicant for this RFQ

**Qualified Administering Agent**

An entity HPD determines to be qualified to be an Administering Agent.

**Qualifications**

Material submitted in response to this RFQ that details the Applicant's experience and capacity with monitoring Affordable Housing Units.

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<sup>3</sup> For general definitions regarding Inclusionary Housing see ZR § 23-911 and 28 RCNY Chapter 41

### III. QUALIFICATION REQUIREMENTS

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In addition to the Qualifications considerations below, the Applicant entity and all principals will be required to go through the HPD [Integrity Review](#) process. The Integrity Review process is intended to verify the integrity and competence of individuals and entities seeking to do business with HPD. Additional information regarding the process of Integrity Review and the disclosure forms that must be submitted with the Applicant's response to this RFQ are available on the [HPD Website](#).

#### **A. Statutory and Regulatory Compliance**

HPD will consider the history of compliance with Federal, State, and local statutory and regulatory requirements of all buildings managed by the Applicant including, but not limited to, compliance with New York State Homes and Community Renewal (HCR) registration requirements (or equivalent rent regulatory agency requirements for properties located outside of New York State), compliance with Section 8 and Low Income Housing Tax Credit (LIHTC) requirements, the number of Housing Quality Standards violations pursuant to 24 CFR 982, and the United States Department of Housing and Urban Development (HUD) Real Estate Investment Center scores. Applicant will be asked to submit a written explanation of any unresolved instances of non-compliance and documentation that any such non-compliance has been resolved, if requested by HPD, and to demonstrate familiarity with the ZR and the RCNY regarding Administering Agent responsibilities.

#### **B. Marketing/Rent-up Experience**

HPD will consider Applicant's demonstrated ability to take on initial leasing or sale and review of income certifications for new projects, as well as subsequent leasing or sale and tenant or purchaser eligibility review. Marketing experience can be demonstrated by an entity's status on the pre-qualified list of Marketing Agents through the HPD Marketing Agent RFQ or, if not on such list, the submission of an application through the Marketing Agent RFQ.

#### **C. Monitoring Experience**

Applicant must demonstrate the capacity to monitor the affordability of a property in a professional manner on a scale commensurate with the needs and regulatory requirements of affordable housing programs. This includes other local, State or Federal affordable housing programs with compliance requirements. The Applicant must demonstrate experience monitoring government-subsidized and regulated buildings and other buildings in the Applicant's monitoring portfolio. HPD shall consider the experience of the Applicant's principals and senior staff.

#### **D. Applicant Background Information**

HPD will consider information disclosed by Applicant in application materials as well as other sources of information regarding the Applicant.

#### **E. Applicants with Limited Experience**

HPD will consider Applicants with limited experience in the above categories, but who

demonstrate general understanding of, or training received within, related capacities. Such related experience includes, but is not limited to, experience in accounting, auditing, review of tenant or purchaser files, asset management, real estate, marketing, etc., that illustrates capacity to professionally and effectively comply with specified guidelines. Applicants who have knowledge of or have received technical training in areas such as, but not limited to, financial reporting, invoice and payment processes and service and contract management, may be considered. The Applicant must submit a narrative describing the training and/or certification(s) received and any related experience as a supplement to Question 10 of the Application.

## IV. SUBMISSION REQUIREMENTS AND QUALIFICATION PROCESS

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### A. Inquiries

Applicants should direct all communications and inquiries regarding this RFQ to HPD at [inclusionary@hpd.nyc.gov](mailto:inclusionary@hpd.nyc.gov).

### B. Time and Place of Submission

This RFQ will be ongoing, and applications will be accepted on a rolling basis. Submissions can be submitted electronically to [inclusionary@hpd.nyc.gov](mailto:inclusionary@hpd.nyc.gov) or via mail sent to 100 Gold Street, Room 5-G3, New York, NY 10038. Once an application is submitted, it will be considered final. We encourage applicants to seek any answers to questions in advance of completing the application at [inclusionary@hpd.nyc.gov](mailto:inclusionary@hpd.nyc.gov).

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.

All submissions become the property of HPD. HPD will review submissions in the order in which they are received.

### C. Application Materials

Applicants must submit a full response to the RFQ and meet the criteria set forth by HPD in order to be considered for inclusion in the List. HPD will eliminate from further consideration all submissions that are not complete or do not conform to the requirements of the RFQ. All Applicants, including those qualified through any previous HPD RFQ, must submit a response to this RFQ and meet the minimum criteria set forth. HPD may request additional information, interviews, site visits, and/or presentations from any or all Applicants.

A complete package shall include answers to all of the questions in the application and shall include the required attachments as set forth in Section VI of this RFQ.

### D. 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 Applicant, 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 such 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.

**E. Review and Evaluation**

HPD will determine Applicant's inclusion on the List based on the criteria specified in **Section III Qualification Requirements**. HPD may disapprove the inclusion of any or all members of the Applicant's team and may require Applicants to substitute other individuals. HPD will notify all Applicants as to whether they have been included on the List.

HPD will accept applications on a rolling basis.

Every year, or as HPD deems necessary, HPD will review the qualifications of entities on the List to determine their continued eligibility. At such time, Qualified Administering Agents will be required to provide any information requested by HPD and will have an opportunity to resolve any concerns raised by HPD. Failure of Qualified Administering Agents to provide any information requested by HPD or satisfy HPD's requests will result in removal from the List. In addition, every three years after initial approval, each Administering Agent will be required to reapply through the RFQ process; failure to do so may result in immediate removal from the List.

## V. CONDITIONS

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This RFQ is subject to the specific conditions stated below:

- A. HPD is not obligated to pay, nor shall HPD in fact pay, any costs or losses incurred by Applicants at any time, including any costs associated with responding to the RFQ.
- B. HPD reserves the right to reject, at any time, any or all submissions and/or to cancel this RFQ in whole or in part. HPD also reserves the right to, at any time, waive compliance with, or change any of the terms and conditions of, this RFQ and to entertain modifications and/or additions to Applicants' submissions.
- C. The City reserves the right to monitor and assess an Applicant on any and all projects and/or associations with HPD with regard to poor performance and unlawful actions.
- D. Inclusion of any Applicant on the List does not guarantee that such Applicant will be selected by any owner for any project.
- E. Selection of an Applicant as a Qualified Administering Agent for programs administered by the Inclusionary Housing Program and/or assignment of a project to a Qualified Administering Agent will not create any rights on the Applicant's part, including, without limitation, any rights of enforcement, equity, or reimbursement.
- F. All determinations in connection with this RFQ (including, but not limited to, any determinations regarding the experience, capability, capacity, financial resources of any Applicant or regarding the addition or removal of an Administering Agent to or from the List) shall be at the sole discretion of HPD.
- G. HPD is not legally obligated to issue this RFQ.
- H. This RFQ and any agreement or other documents resulting therefrom are subject to all applicable laws, rules and regulations promulgated by any Federal, State or local authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.
- I. HPD reserves the right to discontinue the List at anytime.
- J. HPD's inclusion of any Applicant on the List does not relieve such Applicant from any HPD-required reviews if Applicant is selected by an owner for any project.
- K. HPD's inclusion of any Applicant on the List does not guarantee that HPD will approve such Applicant if Applicant is selected by an owner.

- L. HPD's inclusion of any Applicant on the List of Qualified Administering Agents is not an endorsement of an Applicant's ability to monitor any project. Owners must make their own determinations as to whether any Administering Agents on the List is qualified for their projects.
- M. Any material misrepresentation made by an Applicant or any failure by an Applicant to disclose any material information in connection with its response to this RFQ may result in the Applicant's disqualification from consideration for inclusion on the List of Qualified Administering Agents or, if Applicant is already on the List, the removal of the Applicant from the List as well as Applicant's disqualification from consideration.
- N. Each Applicant has a continuing obligation, prior to and after placement on the List, to update HPD regarding any material changes to information that such Applicant has provided to HPD within thirty (30) days of any such material changes, including, but not limited to, material changes to information regarding investigations, subpoenas and changes of principals.
- O. Each Applicant has a continuing obligation, prior to and after placement on the List to provide any documentation and/or information requested by the City. Failure of any Applicant to provide such documentation and/or information when requested by the City may result in the Applicant's disqualification from consideration for inclusion on the List, or, if the Applicant is already on the List, the removal of the Applicant from the List as well as Applicant's disqualification from consideration.
- P. HPD reserves the right to utilize the List for other HPD programs.
- Q. Every year, or, as HPD deems necessary, HPD may review the qualifications of Administering Agents on the List to determine the eligibility of Administering Agents to remain on the List. At such time, Administering Agents will be required to provide any information requested by HPD. Failure of Administering Agents to provide any information requested by HPD may result in the removal of such Administering Agents from the List of Qualified Administering Agents. Applicants found not eligible must wait one year from the date of the denial letter before reapplying.

VI. APPLICATION

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**ADMINISTERING AGENT: REPRESENTATION OF QUALIFICATIONS**

**APPLICANT DESCRIPTION**

This document represents the requirements to qualify as an Administering Agent under the Inclusionary Housing Program (“Program”). Administering Agents’ roles are provided in the Zoning Resolution, available [here](#), and Title 28 of the Rules of the City of New York, §41- 02, available [here](#), any applicable Regulatory Agreement, and any applicable Administering Agent Agreement, including but not limited to, their roles concerning initial rental, re-rental and sale of Affordable Housing.

Name of Applicant: \_\_\_\_\_

EIN/SSN \_\_\_\_\_

Office Address: \_\_\_\_\_

Date Established: \_\_\_\_\_ Date Incorporated: \_\_\_\_\_

Name of Contact Person: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Email Address: \_\_\_\_\_

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**APPLICANT ENTITY:**

1. Provide the names of the board members, directors, and officers of the not-for-profit entity.

HPD reserves the right to deny changes made to the composition of the Applicant entity after approval.<sup>1</sup> In a separate attachment, provide an organizational chart for the entity.

Principals: Name and Position/Title	Primary Address	Date of Initial Appointment

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<sup>1</sup> Per section 28 RCNY §41- 02 determination that the Administering Agent is not an owner, affiliate of or managing agent of the Generating Site or MIH Site.

2. Provide a description of the not-for-profit organization's mission and how being qualified as an Administering Agent fits within that mission and current operation of the organization. **Attach** the not-for-profit entity incorporation documents. Please provide no more than 1 page. Use additional sheets as necessary.

3. Is the Applicant not-for-profit affiliated or sharing services, space, staff, or other resources with a for-profit entity? If yes, please describe what resources are being shared and safeguards in place to ensure proper separation of interests.

4. Submit a narrative describing the Applicant's experience that illustrates its capacity to professionally and effectively monitor buildings for compliance with Federal, State, or local affordable housing programs. Related experience could additionally include, but is not limited to, experience in accounting, auditing, real estate marketing, etc., if Applicant does not have direct monitoring and compliance experience with Federal, State, or local affordable housing programs. Please provide in no more than 2 pages.

5. If the Applicant would also like to be listed as an Administering Agent for IH Homeownership projects, please also provide the below additional documentation.

1. Describe specific experience managing or monitoring a limited equity cooperative, including experience approving sales of shares, evaluating prospective buyers' income, approving draws from reserve accounts, monitoring board activity, etc.
2. Does the Applicant have dedicated staff that provide homeownership counseling and limited equity cooperative management?
3. Does the Applicant have experience in providing homeownership education? If so, provide a sample of any course material used for a first-time homebuyer education course.

6. **Attach** an example monitoring report template or actual monitoring report illustrating how the Applicant would report monitoring activities, milestones, and issues to HPD.

7. Attach "[Administering Agent RFQ\\_Attachment](#)" form provided in RFQ package as an Excel Sheet. Complete all tabs:

**First tab** - list all properties currently owned, managed, or controlled by the Applicant, all principals and related entities. Use additional pages as needed. List only those properties inside New York City.

**Second tab** - list all properties marketed or monitored by the Applicant and all principals in current and past portfolio. Use additional pages as needed.

**Third tab** - provide names, titles and experience of current staff members. Attach any certifications the Applicant or principals and staff of the Applicant entity may have concerning compliance with affordable housing and fair housing laws (e.g., Fair Housing Act, Section 504, Low Income Housing Tax Credits, Certified Occupancy Specialist, etc.).

**Fourth tab** - provide (3) references from for-profit or not-for-profit groups that have contracted or worked in cooperation with the Applicant. Provide the relevant contact information and a description of the relationship with the reference entity.



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## NARRATIVE OF MARKETING, RENT-UP, AND MONITORING EXPERIENCE

Please provide responses to the following questions using additional sheets as necessary and provide attachments as requested.

1. Is the Applicant an approved Marketing Agent on the prequalified list for HPD?

YES  NO

1A. If the response to #1 was YES, provide date of approval: \_\_\_\_\_

1B. If the response to #1 was NO, has the Applicant submitted an application to the Marketing Agent RFQ?

YES  NO

1C. If the response to #1B was YES, provide date such application was submitted:

\_\_\_\_\_

1D. If such an application has not yet been submitted, you must attach all documents required by the Marketing Agent RFQ to the IH team.

2. Does the Applicant have staff member(s) solely dedicated to compliance and monitoring of the Inclusionary Housing Program requirements?

YES  NO

2A. If the response to #2 was YES, how many current staff are solely dedicated to compliance and monitoring?

2B. If the response to #2 was YES, provide the name(s) and title(s) of staff member(s) responsible for compliance and monitoring:

2C. If the response to #2 was NO, provide the name(s) and title(s) of staff member(s) who will be responsible for compliance and monitoring and the percentage of their time that will be dedicated to these functions:

3. Has the Applicant worked directly with households to collect personal private information, including income documents and other necessary information to qualify or enroll households in a local, State or Federal government program such as Section 8, LIHTC, HOME, 421-a, public assistance or other affordable housing program?

YES  NO

3A. If the response to #3 was YES, provide a list of all programs the Applicant has experience in administering:

3B. If the response to #3 was NO, provide the name of any staff members that have above experience and a description of their experience:

3C. If the response to #3 was NO, provide list of trainings and courses that personnel have taken to gain expertise to conduct this work:

4. Does the Applicant have experience maintaining or monitoring a housing lottery waitlist?

YES  NO

4A. If the response to #4 was YES, provide address of at least 3 projects with active waitlists:

4B. If the response to #4 was NO, provide name of any staff members that have above relevant experience:

4C. If the response to #4 was NO, provide a list of trainings and courses that personnel have taken to gain expertise to conduct this work:

5. Does the Applicant have a dedicated phone number, email address, or other communication software/tools to receive household questions or complaints related to an IH unit?  YES  NO

5A. If the response to #5 was YES, provide all phone numbers and email addresses where inquires or complaints are received:

5B. If the response to #5 was NO, provide a description of how households will contact your entity with questions regarding their lease, rent, or Affordable Housing Unit:

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**AFFIRMATIONS:**

1. Does the Applicant have a process and understand it is their responsibility to request and check annual leases and ensure rent is consistent with DHCR registrations, is within the annual rent increase limit and remains less than the qualified annual median income (AMI) of the current year associated with the Affordable Housing Unit, or otherwise meet the requirements of the VIH Regulatory Agreement or MIH Restrictive Declaration?

YES    NO

2. Does the Applicant have a process and understand it is their responsibility to submit the Administering Agent Affidavit to HPD Asset Management and retain all documentation supporting the affidavits?

YES    NO

3. Has the Applicant read and understood their responsibilities under the Zoning Resolution and 28 RCNY Chapter 41, related to an Administering Agent?

YES    NO

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CERTIFICATION

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 approve this application.

I understand that this statement is part of a continuing application and that until the Applicant entity is conditionally 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 monitor projects, I must submit all additional disclosure forms required.

I understand HPD reserves the right to conduct site visits and/or interviews and/or request that submitting organizations make presentations and/or demonstrations, and/or provide clarifying information as HPD deems applicable and appropriate.

_____	_____
Name of Organization	Authorized Signatory
_____	_____
Date	Print or Type Name and Title
_____	_____