Department of Housing Preservation & Development
nyc.gov/hpd

NYC Department of Housing Preservation and Development (HPD)

Office of Development, Division of Preservation Finance

HUD Multifamily Program – Term Sheet

Program Description	The HUD Multifamily Program leverages public resources and private sector financing to rehabilitate, recapitalize and preserve privately-owned HUD-assisted rental housing throughout New York City. The Program's mission is to ensure low-income households remain in affordable apartments over the long term, to promote financial and physical stability, and to promote revitalized neighborhoods. The Program achieves these goals by providing tax exemptions and/or low-interest loans using City capital funds at below-market interest rates in order to ensure projects remain financially and physically viable. The following term sheet applies to all projects receiving assistance from HPD unless specifically noted in each section. Additional sections will apply to projects receiving City Capital and will be identified as such.
Eligible Applicants / Borrowers	For Program purposes, HUD-assisted is defined as properties where a majority of the units are covered by a form of project-based rental assistance including various types of Housing Assistance Payment (HAP) contracts, Moderate Rehabilitation (MOD-Rehab), Moderate Rehabilitation Single Room Occupancy (MOD-SRO) or Rental Assistance Demonstration Phase II (RAD) contracts and/or properties that received federal subsidies through programs including the HUD 202, 236, or 811 programs. To qualify for an Article XI tax exemption, the fee simple owner must be a single-purpose Housing Development Fund Company (HDFC). All single-purpose HDFCs must utilize the HPD-approved Certificate of Incorporation form. Projects seeking a 420C, extension of an existing Article V tax exemption, and/or City capital subsidized loan may also apply to the program. Limited partnerships, corporations, joint ventures, limited liability corporations or 501(c)(3) corporations are also eligible to participate. The Program is open to for-profit and non-profit participants. The development team must have a demonstrated track record of successfully developing, owning and operating comparable projects, or must form a joint venture with an entity that has such expertise.
Real Estate Property Tax Exemptions	Projects may be eligible for a full or partial Article XI exemption under NYS Private Housing Finance Law; a full or partial extended Article V exemption under NYS Private Housing Finance Law; or a full or partial 420-C exemption under NYS Real Property Tax Law, if it has received Low Income Housing Tax Credits. Exemptions for projects not receiving City capital are sized according to the below terms: • Exemption level: 12% GRT (Gross Rent Tax). Gross Rent is defined as total annual residential (which includes tenant share plus total subsidy payments) rental and commercial income received. • For projects with market-based HAP contracts (e.g. Mark Up to Market, Mark to Market), the GRT payment will increase by the difference of the base contract amount and 25% of future rent increases over the term of the exemption period. Property tax liability will be capped at 17% of contract rent.

	• The GRT may be adjusted downward to ensure the financial viability of the project based on HPD's maintenance and operations (M&O) standards, including:
	  • Debt, including HPD Capital Subsidy, to leverage rehab needs;
	  • Standard minimum debt service coverage of 1.15 on all financing
	  • Standard minimum income to expense ratio (1.05 standard)
	
	HPD may increase the level of exemption to reduce the need for HPD subsidy.
	
	Debt Refinancing*:* Projects refinancing at the time of closing with HPD must have the portion of any refinancing proceeds that have resulted from the tax exemption (i.e. the difference in proceeds between a transaction without a tax exemption and the proposed tax exemption) placed in a restricted HPD-controlled reserve. These reserves must be restricted to affordable housing uses only.

HPD City Capital Loan Terms	Projects may apply for City capital-subsidized low-interest loans for projects with moderate or substantial rehabilitation needs where projects are unable to leverage sufficient debt to address capital needs without an HPD loan.
	
	Eligible Uses: Loan proceeds may be used for rehabilitation and limited associated soft costs. Acquisition may be permitted if supported by an as-is appraisal acceptable to HPD. Refinancing is not an eligible use.
	
	Loan Terms:
	• Loan term: 30 years
	• Loan amount: Up to $50,000 per unit
	• Loan uses: Moderate or substantial rehabilitation of existing multifamily projects. HPD subsidy may be used for hard costs and eligible soft costs
	• Senior Debt Term must be concurrent with the HPD loan term
	• <u>Overall Interest Rate</u>: the long-term, monthly Applicable Federal Rate (AFR), with a minimum floor of 2.5%.
	• <u>Paid Interest Rate</u>: 1% per annum (includes 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.
	• Debt Service Coverage Ratio: 1.15 on all financing.
	• Payment and Performance Bond or Letter of Credit: 10% of hard costs excluding contingency.
	• Upgrades completed as a result of the financing are not eligible for Individual Apartment Increases (IAIs) or Major Capital Improvement Increases (MCIs).
	
	Equity:
	  • For-profit developers: 10% of total allowable development costs
	  • Non-profit developers: minimum of 2% of total allowable development costs, except on LIHTC financed transactions, for which the LIHTC equity may satisfy this requirement.
	
	Developer's Fee:
	  • Will be paid in increments based on project milestones. Up to half may be paid during the construction period with up to 10% of the fee payable at closing and the balance not paid during the construction period payable upon permanent loan conversion.
	  • For-profit: 5% of total development cost less existing debt, developer fee, and reserves. Net Developer Fee Cap – N/A. 50% of the cash equity requirement must remain in the deal.

	• Nonprofit: 8% of total development costs less existing debt, acquisition and reserves + 5% of acquisition. Net developer fee cap of $10,000/du Cash Flow: ○ For Profit: developer receives 100%. ○ Nonprofit: developer receives 50% and 50% is placed in the project's reserves
Reserve Requirements	Replacement reserve: $300 per unit per year paid from cash flow, increasing at 3% annually. Replacement reserves must remain with the property for the full term of the HPD regulatory agreement. Additional reserves may be required in order to address critical and short-term needs identified in the Integrated Physical Needs Assessment. See additional IPNA information in the Design and Construction Requirements section below. Social services requirements: all projects must provide stabilization and retention services for all project tenants commensurate with the scope of services listed in HRA's Senior Affordable Housing Tenant Services RFP (more information can be found through the HHS Accelerator system here). Projects applying for assistance under this term sheet that are not already providing such services must fund services through project income though a service provider on HPD's pre-qualified list (https://www1.nyc.gov/site/hpd/services-and-information/housing-retention-stabilization-services-pql.page).
HPD City Capital only: Fees	Fees must be paid by owners and are not counted towards owner equity requirement. • Construction signage fee of $100 per building for projects • Equal Opportunity Filing Fee of no more than $1,400 per Project for Borrower and any General Contractors involved in project. • Davis Bacon/Prevailing Wage Monitoring fee per project: $30,000 (if applicable on City Capital projects)
Regulatory Restrictions	Projects will be subject to a regulatory agreement with a minimum term of 30-years with the following requirements: • Section 8 HAP Contract: The contract must be extended to the maximum term possible prior to closing, and the owner must make good faith efforts to renew the contract upon expiration. • Rent stabilization: All units are required to be registered with the New York State Rent Stabilization system according to NYS Housing Community and Renewal guidelines. • Affordability: all units must be affordable to households earning no more than 50% AMI, including unsubsidized units. • Mark Up to Market and Mark to Market contracts: Units that are not rent stabilized may have initial legal rents set at 200% of Section 8 / HAP contract rents in effect at closing. • Budget-Based Contracts: Units that are not rent stabilized may have initial legal rents set at 120% of Section 8 / HAP contract rents in effect at closing. • Required homeless preference of 30% must be established in accordance with HPD and HUD marketing/tenant selection requirements, including that every other vacant unit will be rented to a homeless household (alternating with units rented using the project's waitlist administered by HUD). The source of referrals for the homeless units will be HPD's Homeless Placement Unit.

	• Owner must execute a service contract commensurate with the scope of services listed in HRA's Senior Affordable Housing Tenant Services RFP acceptable to HPD. • All projects eligible for participation in HUD's Family Self-Sufficiency (FSS) program that do not currently participate in the program must apply for funding from HUD in at least one Notice of Funding Opportunity (NoFO), and if awarded must participate in FSS and advertise this program to their tenants • Projects with existing HOME-funded and LIHTC units will continue to be subject existing restrictions and monitoring requirements during the HOME and/or LIHTC compliance period.
Design and Construction Requirements	An Integrated Physical Needs Assessment (IPNA) is required. The IPNA is a physical needs assessment that includes energy, water, and health assessments, including identification of deficiencies, recommended improvements (scope of work), and associated construction costs for those improvements. HPD will require that all critical and short-term needs (within at least three years following closing) are addressed. HPD will recognize an IPNA 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, additional costs are the responsibility of the owner. More information is available using this link: https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/ipna-pre-qualified-firms.pdf As an alternative, HPD may accept HUD's Capital Needs Assessment Tool (HUD CNA E Tool) that automates and standardizes the preparation, submission and review of a capital needs assessment. More information is available using this link: https://www.hud.gov/program_offices/housing/mfh/cna The Developer is required to comply with HPD's Aging in Place requirements, including distributing an Aging in Place survey to all tenants and submitting the results to HPD before closing, and including any requested upgrades in the scope of work. Please note that Aging in Place surveys must be distributed to all tenants and requested upgrades included in the scope of work regardless of age or other demographics of individual tenants. For more information, please see HPD's Aging in Place guidelines on our website, https://www1.nyc.gov/site/hpd/services-and-information/aging-in-place.page HPD also strongly recommends that all projects include at least one of the following (ideally identified based on tenant feedback): 1. Provision of free WiFi service for all residents (including any infrastructure needed to provide such service) for any projects that do not already provide such service to tenants. 2. Community room renovations and upgrades for projects with a community room, and ensuring that the community room is accessible and available to tenants through the term of the regulatory agreement. 3. Landscaping or public/private plaza improvements for projects with landscaping/plaza features or sufficient available space for landscaping/plaza, including upgrades to courtyards, play yards and other outdoor tenant gathering areas 4. Laundry room renovations and upgrades for projects, and ensuring that the laundry room is accessible and available to tenants through the term of the regulatory agreement. 5. Interior public space (lobby/entryway, stairwell, and public hallway) renovations

	HPD'S DESIGN GUIDELINES FOR PRESERVATION: HPD's new Design Guidelines for Moderate Rehabs and Design Guidelines for Substantial/ Gut Rehabs establish minimum design standards that ensures that all HPD projects can meet NYC's climate goals and laws while incorporating best practices for resiliency, health, and safety: • As of March 1st, 2023, all new HPD Preservation projects* must comply with the applicable version of the HPD Design Guidelines for Preservation based on the appropriate HPD Rehab Classification. • Note that projects with scopes that are maintenance only, or do not affect 2 or more systems (e.g., plumbing, heating, roof, etc.) are not subject to the Guidelines but must comply with the applicable requirements for that section of the Guidelines (e.g., heating equipment must comply with requirements for heating systems). **LOCAL LAW 97:** Most buildings > 25,000 SF are subject to Local Law 97 starting in 2024. The Design Guidelines will ensure that projects are able to comply. For projects not subject to the Design Guidelines, refer to the HPD LL97 Prescriptive Measures Checklist, or the IPNA's LL97 Compliance Tab. **SOLAR:** Per HPD's Solar Where Feasible Mandate, all HPD projects are required to install solar where it is deemed cost-effective. A Solar Feasibility Analysis is required to assess cost-effectiveness as part of the IPNA process. HPD's non-profit partners at Solar One can help owners/ applicant complete the Solar Feasibility Analysis and Screening Tool, contact: affordable@solar1.org **INCENTIVES:** Projects must pursue all available utility incentives, including • AMEEP (the NY Affordable Multifamily Energy Efficiency Program), which provides up to $2,000 per unit for projects following a comprehensive pathway, or more for projects implementing significant equipment or envelope improvements. • The HPD Retrofit Electrification Pilot for projects seeking to electrify heating or hot water • NYSERDA's Heat Pump Program (NYS Clean Heat) or other Multifamily Building Programs - NYSERDA and • DEP's Water Conservation & Reuse Grants - DEP (nyc.gov)
City Capital Projects only: Design and Construction Requirements	Prior to closing, all projects receiving HPD financing 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. **ENTERPRISE GREEN COMMUNITIES CRITERIA (EGCC):** All substantial and gut rehabilitation projects receiving funding from HPD must comply with the New York City Overlay (NYC Overlay) to EGGG or may pursue certification with LEED v4, gold or platinum. Per HPD's Rehab Classifications, projects with scopes that include all three of the following items are considered Substantial Rehabs: ○ Heating system replacement (includes equipment and distribution system) ○ Work in at least 75% of dwelling units (including but not limited to fixture replacements) ○ Substantial work on building envelope (including replacement or alteration of ≥50% of total glazing area or ≥50% of total opaque envelope).

	Proposed layout changes may require review and approval by HPD's Division of Building and Land Development Services.
Fair Housing and Accessibility Requirements	The Developer is 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 Disability Act, and Section 504 of the Rehabilitation Act of 1973.
Marketing Requirements	All projects must be marketed according to HPD, HDC and/or HUD 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.
Other Requirements	Projects where HPD/HDC's loan contribution is more than $2 million will have to comply with the M/WBE Build Up Program requiring developers/borrowers to spend at least a quarter of HPD-supported costs on certified M/WBEs over the course of design and construction of an HPD-subsidized project. A minimum goal will be required for each project subject to the program. Developers may adopt a goal higher than the minimum. HPD requires developers, general contractors, and subcontractors working on projects receiving more than $2 million in City subsidy to share job openings in entry- and mid-level construction positions with HireNYC and to interview the qualified candidates that HireNYC refers for those openings.
Initial Submission Requirements	All projects must first complete a preliminary application to HPD's Division of Preservation Finance.
HPD Contact	HPD/HUD Multifamily Loan Program Federally Assisted Portfolio Loan Programs 100 Gold Street, 9th floor New York, NY 10038 (212) 863- 8920 hpdhudmf@hpd.nyc.gov

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.