NEW YORK STATE OF OPPORTUNITY. | Homes and Community Renewal

NYS Housing Finance Agency Affordable Rental Housing Term Sheet & Financing Guide

PROGRAM DESCRIPTION	
Goal:	The New York State Housing Finance Agency (HFA) Affordable Rental Housing Program provides tax-exempt bond financing that generates "as-of-right" 4% Federal Low Income Housing Tax Credits ("LIHTC") for multifamily rental housing projects developed by private for-profit and not-for-profit owners. The goal of the program is to promote affordable rental housing opportunities for low- to moderate- income individuals, families and seniors through flexible financing that supports a wide range of housing types, including new construction, adaptive reuse of non-residential buildings, and preservation of existing housing units. The program encourages a variety of projects that are responsive to the particular needs of a location and populations within the diverse communities throughout New York State, including urban, suburban and rural areas.
Eligible Uses:	*New Construction:* New construction of multifamily rental housing, including the creation of new units through the adaptive reuse of existing non-residential structures. *Preservation:* Preservation and rehabilitation of existing affordable multifamily rental housing. Housing that was initially financed through federal and/or state programs, such as the Mitchell-Lama program, Federal Section 8, Section 236, Section 202, Public Housing, or Low Income Housing Tax Credit (LIHTC) programs, USDA Rural Development and other similar programs are eligible.
Bonds:	HFA expects to fund the first mortgage loans for qualifying income restricted projects through the sale of new money tax-exempt private activity bonds. For mixed income projects, HFA may elect to fund the units reserved for households earning above 60% AMI through the sale of either taxable or recycled tax-exempt bonds, neither of which generate LIHTCs.
AFFORDABILITY REQUIREMENTS	
Affordability Requirements:	The project must meet Bond/LIHTC low-income set aside requirements: • At least 20% of all the units reserved for very low-income households earning at or less than 50% AMI; or • At least 40% (25% in NYC) of the units set aside for households earning at or less than 60% AMI. Projects using funding provided by the New York State Homes and Community Renewal Multifamily Open Window RFP must have at least 50% of all the units in the development set aside for households earning less than 60% of the AMI (LIHTC units), inclusive of the Bond/LIHTC set aside. A maximum of 50% of all units may be allocated as market rate units for households without income restrictions.
Rent Limits:	For all income-restricted units, gross rents cannot exceed 30% of the applicable percentage of AMI adjusted for family size. In some cases, HFA may allow an

	income band if required by other funders of the project to accommodate specific public policy goals. For example, maximum rents set at 57% of AMI may be permitted for a unit restricted for households earning up to 60% of AMI. In New York City, 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 HCR restriction period for all unit types.
Maximum Income Limits:	LIHTC Units: Tenant incomes must not exceed the applicable low-income set aside for the percentage of Area Median Income (AMI), adjusted for family size, as described in Affordability Requirements. Non-LIHTC Income Restricted Units: Subject to terms set forth in the HCR Multifamily Open Window RFP or other funding source.
Regulatory Agreement:	Borrowers will be required to enter into a Regulatory Agreement to ensure compliance with HFA policy including but not limited to, income restrictions, LIHTC requirements, restrictions on transfers, and financial reporting, typically for a period of at least 30 years for new construction projects and for a period of at least 40 years for preservation and supportive housing projects. The Regulatory Agreement will prohibit the borrower to waive the ability to request a Qualified Contract to terminate the Extended Use period under §42(h)(6)(E). The Regulatory Agreement must be executed prior to the issuance of the bonds. Requirements imposed by other loan and/or subsidy sources may be more restrictive but must be consistent with the HFA Regulatory Agreement.
DEVELOPMENT TEAM REQUIRMENTS	
Eligible Borrowers:	The borrower must be a single-asset, sole-purpose entity. For-profit, limited dividend, and not-for-profit borrowers are eligible. The sponsor and principal participants in the project must not be in default under any existing mortgage financing and must meet all HFA credit review criteria.
FIRST MORTGAGE LOAN TERMS	
Construction Loan Amount	Minimum amount necessary to fund in conjunction with other sources available during construction the cost of the project and adequate to fund more than 50% of the aggregate basis. At least 95% of costs funded by bond proceeds must be "good costs" as determined by bond counsel.
Permanent Loan:	Amount: Maximum 80% LTV of as-built appraised value (or such other level established by a credit enhancement provider acceptable to HFA), based on an independent appraisal commissioned by the lender and acceptable to HFA. Income to Expense: SONYMA: Minimum of 1.05 for 15 years and then not less than 1.00 for years 16-20 on projects with SONYMA mortgage insurance. Other Permanent Credit Enhancers' requirements must be acceptable to HFA.

	Debt Service Coverage: Minimum of 1.15, or as set by permanent credit enhancer Prepayment: Mortgage loans financed under the Affordable Housing Revenue Bond Resolution (“AHRB”) generally cannot be prepaid prior to a date which is approximately 17 years from the closing date.
Equity Requirements:	During the construction period the minimum equity exposure requirement of at least 10% of total development cost (TDC), can be met with cash and/or tax credit equity. During the permanent period, a cash equity contribution consisting of deferred developer fee, must be the aggregate amount that can be repaid by the projected cash flow as underwritten for the first 15 years after conversion.
Interest Rate:	HFA will establish a fixed rate depending on term of the loan and market conditions.
Credit Enhancement and Mortgage Insurance:	Credit enhancement is required in the full amount of the first mortgage loan. Such enhancement may take the form of a direct pay letter of credit from a highly rated institution or a credit facility provided by a government sponsored entity (GSE) acceptable to HFA. Other credit enhancements include mortgage insurance provided by SONYMA or HUD. Typical HFA mortgage loans are secured by a letter of credit during the construction period and mortgage insurance during the permanent period. *Note:* AHRB is HFA’s primary vehicle for financing affordable rental housing projects. Bonds issued under AHRB are rated by Moody’s Investors Service; and HFA will rely on the credit enhancer’s Moody’s Counterparty Risk Assessment rating in making the determination of acceptability.
Term/ Amortization:	Expected permanent term of 30 years for first mortgages, following the construction term with a 30 year amortization schedule. Fully amortizing longer term mortgages will be considered subject to credit enhancer agreement. Longer terms and balloons will be considered on a case by case basis and may warrant a higher mortgage rate.
Financing and Servicing Fees:	Application Fee: $15,000 for financing requests of $25 million or less; $45,000 for financing requests of more than $25 million. Due upon submission of an application. Servicing Fee: 0.25% of the total bond amount (applicable to long-term, short-term and IRP (if applicable) loans during construction and permanent periods. Tax Credit Monitoring Fee: If HFA does not provide permanent financing to a project for which it allocates LIHTC, or if the permanent financing of a project is prepaid, or the Agency otherwise is no longer entitled to a fee for servicing such financing, the Agency shall charge a monitoring fee based on the Agency’s estimate of the costs associated

with monitoring the project. This fee will be specified in the Regulatory Agreement and is currently 1% of a project's regulated rent.

Mortgage Origination Fee: 1% of the total bond amount.

Commitment Fee: The lesser of 0.2% of the total bond amount or $50,000. This fee may be deducted from the Mortgage Origination Fee.

Bond Issuance Fee (BIC): Payable at bond closing as part of the Closing Requisition. This is calculated based on the following table. The final amount of the BIC Fee is determined when the bond amount has been finalized.

% Applied to Mortgage Amount	**Principal Amount of Bonds**
0.336%	$1,000,000 - $5,000,000
0.504%	$5,000,001 - $10,000,000
0.672%	$10,000,001 - $20,000,000
0.840%	$20,000,001 or above

AHRB Estimated Underwriters' Fee: 1% of the total bond amount. This fee does not apply to back-to-back projects or Private Placement projects.

Other Closing Fees: In addition to the fees above, projects financed under AHRB are required to pay for a portion the financial advisor fee for the transaction. Projects funded under other financing vehicles (i.e. the private placement and back-to-back programs) are required to pay the fees listed above, excluding underwriters' fees, and certain other costs of issuance. These fees include: Trustee's fees, Financial Advisor Fee TEFRA Fee and Bond Counsel Fees.

SONYMA Fees and Other Fees:

SONYMA, through its Mortgage Insurance Fund, provides mortgage insurance for eligible affordable housing loans. For projects utilizing SONYMA as permanent credit enhancer, SONYMA's fees are:

- Application Fee: 0.10% of the permanent mortgage due at/before the project goes to HFA Board.
- One Month Principal & Interest (P&I): One month of principal and interest, including any servicing fees applicable during the construction period, due at permanent closing.
- SONYMA Mortgage Insurance Premium (MIP, or Annual Fee): 0.50% of the permanent mortgage, due at permanent closing.

HUD Section 236 Projects IRP Servicing Fee (applies only to projects that have a HUD IRP – the IRP payments are re-cast as part of the total HFA bond amount and loaned in a lump-sum with interest): 0.10% of the total loan amount (applicable to long-term, short-term and IRP loans during construction and permanent periods).

PRO FORMA REQUIREMENTS

Developer's Fee:	The maximum allowable developer fee is not to exceed 10% of acquisition plus 15% on all other projects costs, excluding reserves, partnership expenses, syndication fees and developer fee. Developer fees may be reduced and are subject to agency review. HFA may require a reduction in paid developer fee in order to reduce public subsidy. Deferred Fee is considered an equity contribution and source for the project. Deferred fee at permanent must be the aggregate amount that can be repaid by the projected cash flow as underwritten for the first 15 years after conversion. Any deferred developer fee interest rate is subject to HFA review and cannot exceed AFR. All housing development consultant and owners representative fees should be paid from developer fee. Maximum developer fees for projects receiving no subsidy from HCR will be required to defer the lower of the deferred fee defined above or 4% of total development cost excluding developer fee for a 15% developer fee and 2% of total development cost excluding developer fee for a 10% developer fee
Reserves:	*Replacement Reserve Capitalized:* $1,000 per unit Reserve for Replacement requirement for Preservation projects only. There are no capitalized reserve requirements for New Construction/Adaptive Reuse projects. *Replacement Reserve Annualized:* $250 per unit per year in annual Reserves for Replacement, payable monthly. This amount may be subject to annual increases. *Operating Reserves:* If required by an equity investor, credit enhancer, or other governmental entity providing subsidy financing to the Project, operating reserves may be funded in an amount of up to three months of debt service plus three months of operating expenses. Upon completion the 15-year tax credit compliance period, the balance of the reserve shall be applied to the prepayment of any outstanding HCR subsidy loan, however, at the sole discretion of the Agency, such balances may be applied to specific capital needs of the Project or funding for ongoing reserves. Any reserves in excess of these amounts, including reserves required by other funders, shall be established with developer fee eligible for payment during the construction period.
Contingencies:	Hard Cost Contingency: 5% of hard costs for New Construction projects and 10% of hard costs for Preservation and Adaptive Reuse projects. Soft Cost Contingency: Maximum 5% of soft costs less developer fee, reserves, and bond issuance costs. May be reduced and are subject to agency review in order to reduce public subsidy.

	For projects in receipt of HCR subsidy, Upon project conversion, the balance of all unutilized contingencies shall be used to reduce HCR subsidy.
OTHER DEBT	
HCR Subsidy Loans:	Subordinate Mortgage financing from HCR agencies including the Housing Finance Agency (HFA), the Housing Trust Fund Corporation (HTFC) and the Division of Housing and Community Renewal (DHCR) may also be provided to make a specific project financially feasible through the HCR Multifamily Open Window RFP.
EQUAL OPPORTUNITY GOALS	
Affirmative Fair Housing Marketing Plan:	Must comply with all HCR marketing guidelines and submit an Affirmative Fair Housing Marketing Plan acceptable to HCR's Office of Fair Housing and Equal Opportunity, which must be approved prior to project sign-off for the mailing of the Official Statement.
REVIEWS AND APPROVALS	
Environmental:	In order to comply with the Agency's environmental requirements, an applicant must complete the following: (1) File an application with the New York State Office of Parks Recreation and Historic Preservation's (NYS OPRHP) Cultural Resource Information System (CRIS) in order to obtain a "No Impact" determination. (2) Prepare a Phase I Environmental Site Assessment (ESA) Report. The Phase I ESA must be completed within six (6) months of Board financing approval and must follow the most recently revised version of ASTM Standard Practice E-1527. If "*recognized environmental conditions" (RECs)* exist at the site, as defined by ASTM E1527-13, a Phase II ESA Report will be required. (3) If the Project involves federal funding and/or permits, a National Environmental Policy Act (NEPA) federal environmental review will be required, in addition to the above requirements. If project sources, such as HOME or CDBG funds or PBVs, are utilized that trigger NEPA, this process could require several months. *New Construction projects must also complete:* The Short Environmental Assessment Form-Part 1 (SEAF-Part 1): Certain projects may require completion of a Full Environmental Assessment Form-Part 1. The applicant will be notified by the Agency's Environmental Unit if that is the case; *Preservation/Rehabilitation projects must also complete:* Certain projects, based on age and location, will be required to prepare an asbestos-containing materials (ACM), lead-based paint (LBP), and radon testing/analysis reports.
Appraisal Report:	An independent appraisal commissioned by the credit enhancement provider is required and subject to HFA review and approval. The project's acquisition cost must be the lesser of the actual acquisition cost or the value supported by an as-is

	value from an independent appraiser licensed to practice in the State of New York and acceptable to HFA. The appraisal must agree with analysis of rents and operating expense. If needed, an independent market study may be requested.
Scope of Work:	*New Construction:* Plans must be prepared by an architectural firm acceptable to HFA. Architects are responsible for providing designs that are at a minimum based on the applicable local codes and where none exist, the requirements of the NYS International Building and Residential Codes. Plans will be reviewed and approved by HFA Construction Review staff for code compliance, compliance with HFA policies, adherence to accessibility requirements and overall appropriateness to serve the intended population(s). HCR reserves the right to reject projects that have per unit development costs that exceed reasonable costs for the development of units according to the experience of the agency in financing projects in the applicable region. *Preservation*: The determination of the Scope of Services for existing buildings should be based on a physical or capital needs assessment (PNA or CNA) that is combined with an energy audit. Applicants are to include qualifications of consultants for both segments of the team. By June of 2017, a new format for this combined evaluation, called the Integrated PNA (IPNA), will be made available and will be required to be included in the HFA application submission. HFA may request changes to the Scope of Services to ensure the long term quality and sustainability of the project.
Green Building Standards:	All projects must comply with HFA's Green Building Standards. All New Construction projects must be Climate Bond Certified as Green Bonds, using criteria established by the Climate Bond Initiative (CBI). *Benchmarking:* HFA requires that all properties use benchmarking software services for providing automated energy usage data directly from utility companies. This collected monthly utility data including fuel, electricity and water is to be uploaded to an EPA ENERGY STAR Portfolio Manager® account designated by HFA and shared on an annual basis. Reporting will continue throughout the duration of the project's regulatory agreement as part of asset management. For new construction, documentation of the benchmarking service provider should be provided to HFA at construction loan conversion. Preservation projects must submit two prior years of utility use data to HFA in this benchmarking format as part of application.
Subsidy Layering Review:	The U.S. Department of Housing and Urban Development (HUD) requires that a Subsidy Layering Review (SLR) be conducted for all projects receiving Federal government subsidies, in addition to HUD assistance, to ensure that a project does not receive excessive public funds. Such assistance includes, but is not limited to, low income housing tax credits. The SLR may be conducted by HFA if HFA is the LIHTC allocating agency.

Low Income Housing Tax Credits:	Applicants request tax credits and Private Activity Bond financing from HFA apply for the tax credits as part of the mortgage loan application process. Any project financed with tax credits must comply fully with the requirements of Section 42 of the Code and the agency's Qualified Allocation Plan, including rehabilitation requirements for acquisition and rehabilitation projects.
Credit Committee and HFA Board Review:	All financing is subject to review and approval by the HFA Credit Committee, HFA Board and the New York State Public Authorities Control Board (PACB). Sale of Bonds is further conditioned on approval of the terms of sale by the State Comptroller's office. *Credit Committee consideration requires all information required in the application, in addition to:* • Draft Commitment Letters: Tax Credit LOI and draft Commitment letters from the construction lender, satisfactory evidence of commitment from all subordinate lender funding and social service funding providers. • Appraisal: An independent appraisal commissioned by the credit enhancement provider and acceptable to HFA. • Physical Needs Assessment: Completed and satisfactory to HFA for preservation projects. • Third Party Reports: Completed and satisfactory third party reports with reliance letters to HFA. • Plans: Architectural plans reviewed and approved by HFA. • Disclosure: Completed and satisfactory disclosure documents for principals and known investors in the project, as required by HFA. All members of a non-profit board must complete the disclosure process. • Financial Statements: Financial statements and credit reports. • Background Check: Satisfactory as completed by HFA. • Operating Statements: For preservation projects, submission of three years of audited historic building operating statements. • Acceptable project budget including agreed upon income, expenses, and sources and uses. • Signed contracts with qualified energy consultants to certify that the criteria of selected standards will be met *HFA Board consideration requires the above documents* ***plus:*** • SEQRA: Completed and satisfactory State Environmental Quality Review Act (SEQRA) review. • SHPO: No Impact determination letter from the State Historic Preservation Office (SHPO).

	• MWBE Goal Projection: Complete estimate for MWBE utilization goal for the project.
Public Hearing:	A public hearing, as required under the Tax Equity and Fiscal Responsibility Act (TEFRA) must be held for any project to be financed with tax-exempt private activity bonds.
CONSTRUCTION CLOSING	
Conditions Precedent:	In addition to the items listed above in final form for credit committee and HFA Board, conditions precedent to construction loan closing (necessary prior to mailing for the bonds) include, but are not limited to the following: • HUD Approval: Any approvals from HUD necessary for construction loan closing, including if applicable: Approval from HUD for pre-payment. • 95-5 Certification confirming that at least 95% of the costs will be funded by bond proceeds are "good costs." Should be completed and signed off by Bond Counsel. • Evidence from Project Accountant confirming that the 50% test will be met. • NEPA, if necessary, when Federal funds are included in the project. • Commitment Letters: Executed Tax Credit LOI and executed Commitment letters from the construction lender, all subordinate lenders, and social service funding providers. • Other Funding: Evidence of all other project funding, including executed commitments for service and operating funding for supportive housing deals. • Project Budget: Must be agreed to and in final form for all parties. • Plans: Final architectural plans reviewed and approved by HFA and building permits from local jurisdiction as necessary for HFA. • Note, mortgage, assignment of leases and rents, and UCC's. All documents in final form acceptable to all parties. • Certifications: Applicable certifications and attorney opinion letters. • Insurance: Property and liability insurance in form and substance acceptable to HFA. • Title: Good and marketable title, free and clear of encumbrances except as permitted by HFA. • Title Insurance: Title insurance and survey in form and substance acceptable to HFA. • HFA Named Beneficiary: Documentation will require that HFA be named a beneficiary on a number of documents, including but not limited to insurance certificates and completion guarantees. • MWBE Plan: An MWBE Utilization Plan acceptable to the agency.

	• Fair Marketing Plan: Fair Marketing Plan acceptable to HCR's Office of Fair Housing and Equal Opportunity. • Agreement on any real estate tax exemption/abatement must be in place. • Approval from the NYS Attorney General Office for property sale from non-profit entity. • Agreement of any rental and operating subsidies must be in place.
CONTACT INFORMATION	
Pre-application Technical Assistance:	Borrowers who would like to be considered for HFA financing should submit a project narrative, proposed budget and milestone timeline including supplemental funding approvals to the staff below. HFA will schedule a meeting prior to submission of the funding application. **Preservation:** Roger Harry Vice President Multifamily Finance, Preservation Phone: (212) 872-0506 Email: roger.harry@nyshcr.org **New Construction:** Leora Jontef Vice President Multifamily Finance, New Construction Phone: (212) 872-0537 Email: leora.jontef@nyshcr.org Mailing Address: New York State Homes and Community Renewal 641 Lexington Avenue, 4th Floor New York, NY 10022

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