

HUD Multifamily Program – Term Sheet
Tax Exemption Only

Program Description	<p>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. 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 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 or 236 programs. 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.</p> <p>The Program achieves these goals by providing tax exemptions in order to ensure projects remain financially and physically viable. HPD may also provide low interest subsidy for renovations and related costs. For more information see the HUD Multifamily Program Subsidy Term Sheet.</p>
Eligible Applicants	<p>To qualify for an Article XI tax exemption, the fee simple owner must be a Housing Development Fund Company (HDFC). The HDFC may execute a nominee agreement with a limited partnership, corporation, or limited liability corporation. 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. The Program is open to for-profit and non-profit participants.</p>
Real Estate Tax Benefit Terms	<p>Projects may be eligible for full or partial Article XI exemption under NYS Private Housing Finance Law; or 420-C benefits under NYS Real Property Tax Law.</p> <p>Exemption level: 10% of 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.</p> <p>Exemptions will be sized to account for the following:</p> <ul style="list-style-type: none"> • Replacement reserve: higher of 3% of residential income or \$250 per unit per year paid from cash flow. Replacement reserves must remain with the property for the full term of the HPD regulatory agreement. Budget-based HAP projects may get special consideration regarding reserve sizing to aid in addressing capital needs. • Projects may be required to provide additional reserve funds for critical repairs and maintenance based on an Integrated Physical Needs Assessment (IPNA). For more details regarding an IPNA, please use this link: http://www1.nyc.gov/site/hpd/developers/development-programs/integrated-physical-needs-assessment.page <p>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.</p>

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More information is available using this link:
https://www.hud.gov/program_offices/housing/mfh/cna

Actual level of benefit may be adjusted based on numerous factors, including but not limited to:

- total sum of equity distributions/refinancing proceeds,
- loan to value on financing,
- standard debt service coverage of 1.15 on all financing,
- income to expense ratio (1.05 standard),
- Current level of taxation/exemption.

For properties that currently have a tax exemption, HPD will evaluate the current level of taxation in determining the supportable future taxation level. If the current taxation level is supportable, the new exemption level will remain consistent. Current tax exemptions are likely to continue with an exemption amount based on the higher of the current tax benefit, or 10% of gross rent (gross rent tax or “GRT”).

Underdeveloped land in regulated housing developments may provide opportunities for both new affordable housing and for extending/deepening affordability of the existing affordable housing.

To facilitate affordable housing development opportunities on underdeveloped land and parking lots in regulated affordable housing, HPD may provide City Capital subsidy conforming with a New Construction term sheet or consider deepening the level of tax exemption on the preservation site in exchange for increased affordability on new construction projects. Priority will be given to projects that most efficiently use City resources.

Range of Benefits

- For projects with HAP contracts that receive budget-based or operating cost adjustment factors (OCAF) increases, HPD may allow the level of benefit to remain consistent over the life of the tax exemption.
- For projects with HAP contracts eligible for periodic market-based rent increases in excess of OCAF, 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 gross rent.
- HPD may be willing to consider affordable housing development on vacant land in sizing its tax exemption.

Regulatory Restrictions; Allowable Income Levels; Rent Setting

Projects will be subject to a regulatory agreement with a minimum 30-year restriction period 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.
- For HAP Units: Allowable income levels and rents may be consistent with the HUD-requirements.
- For non-HAP units, with rents set below 60%: AMI can be rented to households earning up to 10% above the rent limitation. Units with rents set above 60% can be rented to households earning up to 20% above the rent limitation.

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- 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.
- Mark Up 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. Units with upgrades completed as a result of the financing are not eligible for 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.
- Mark to Market and 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. Units with upgrades completed as a result of the financing are not eligible for 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.
- Required homeless preference of 20% must be established in accordance with HPD and HUD marketing/tenant selection requirements. The source of referrals will be HPD's Homeless Referral Unit. In the event of financial hardship, HPD may reduce or waive the homeless preference if deemed necessary.
- Existing HOME-funded and LIHTC units will be subject to additional restrictions and monitoring during the HOME and/or LIHTC compliance period.
- The Developer is required to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination.

Initial Submission Requirements

- No later than 120 days **prior to** anticipated closing date, Sponsor will submit for HPD review:
- Project proposal including: location and description of the site, proposed acquisition details if applicable, independent third-party Physical Needs Assessment (IPNA), proposed scope of work, proposed financing plan and evidence of eligibility for other financing sources (as applicable).
 - Project history including a summary of ownership history with supporting documentation, any existing mortgages, use restrictions, tax exemptions and rental assistance.
 - Organizational chart of existing ownership and future ownership.
 - Evidence of HUD rental assistance, including copies of current and renewal contracts and pending applications for rent subsidy increases.
 - Past three years of project operating budgets, historical rent rolls for three previous years, current project rent roll, and three years of audited annual financial statements.
 - Description of development team including borrower, architect, contractor, and management company, with list of principals, previous experience (particularly with HPD) and recent financial statements of principal entity(ies).
 - For a project that is refinancing, an independent 'As Is' appraisal performed within the past twelve months may be required for a project to be considered for an exemption. The independent appraisal must be

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	<p>in line with HPD Appraisal Guidelines and include an 'As Is' market valuation that assumes an unsubsidized project with market rate financing, unencumbered by rent restriction as applicable, applicable property taxes, market rents that consider the existing conditions, the projected cost of rehabilitation to achieve the market rents and rent stabilization, as applicable.</p> <p>http://www1.nyc.gov/assets/hpd/downloads/pdf/developers/as-is-appraisal-guidelines.pdf. Please contact the Program with any questions.</p> <ul style="list-style-type: none"> • Disclosure: Prior to consideration for exemption, developers must disclose any pending applications before HPD, HDC, the New York City Acquisition Fund, the Department of City Planning or the City Council that may be related to the project, including but not limited to requests for other forms of financing, tax benefits or exemptions and land use actions.
Fair Housing and Accessibility Requirements	<p>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.</p> <p>Work to assist tenants aging in place may also be required by HPD and included in the scope of work.</p>
Marketing Requirements	<p>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.</p>
HPD Contact	<p>Director, HPD/HUD Multifamily Loan Program 100 Gold Street, 9th floor New York, NY 10038 (212) 863- 8920 hpdhudmf@hpd.nyc.gov</p>

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.