



**Homes and
Community Renewal**

HCR Multifamily Finance 9% RFP Winter 2022

March 3, 2022

General Overview

- The HCR Multifamily Finance 9% RFP is a competitive process used to award 9% Low-Income Housing Tax Credits (LIHTC) and subsidy loan financing to sponsors proposing affordable multifamily housing projects.
- Applications are scored in accordance with the Qualified Allocation Plan (QAP). The point structure is summarized in the RFP and the full QAP is available on the RFP webpage (<https://hcr.ny.gov/winter-2022-multifamily-9-lihtc-rfp>).
- Pre-Application Technical Assistance is Mandatory within 12 months of applying. See: <https://hcr.ny.gov/technical-assistance-multifamily-finance-9-lihtc-rfp-applicants>
- All projects must meet at least one State Housing Goal (listed in the RFP). Similarly, available funding, set-asides and other important guidance is contained in the RFP.
- All applications are reviewed for completeness, threshold and program eligibility prior to scoring. Refer to program Term Sheets on RFP webpage.

Key Dates in the RFP

Design Waivers Due	March 3, 2022 at 3:00 PM
Register users/emails for drop box	March 10, 2022 at 3:00 PM
Deadline to request TA session, Design Unit occupied rehabilitation package due, and/or LIHTC/SLIHC fee deferral	March 17, 2022 at 3:00 PM
Deadline to submit applications	March 31, 2022 at 11:59 PM ET

Submission Requirements

- Complete Submissions Will Consist Of:

- Application (Excel workbook)

- Completing all relevant “Exhibits” as either fillable Excel worksheets or as .pdf as directed, and

- Uploading all relevant “Attachments” individually in .pdf as directed

- Underwriting model (Excel workbook)

- Note file naming conventions in the instructions.

- Refer to the 2022 Aspera DropBox Instructions at https://hcr.ny.gov/system/files/documents/2022/02/2022-aspera-dropbox-instructions_0.pdf **PRIOR** to requesting dropbox access.

- Be sure to request access to the Aspera DropBox by March 10th at 3:00 p.m.

What's New – Winter 2022 RFP

- Artist preference policy. See Fair and Equitable Housing Office (FEHO) policy page: <https://hcr.ny.gov/marketing-plans-policies>
- Full market study required, prepared no earlier than December 1, 2021.
- HOME funds available only for supportive housing projects
- HCR has updated its existing smoke-free policy. See Finance Application Attachment D-6.

Project Based Voucher RFP

- HCR is planning to release a separate RFP for Section 8 Project-Based Vouchers (PBVs) later this year.
- Applicants under the 9% RFP may still indicate an intention to apply for PBVs and include such assumptions in the proposed underwriting.
- Dependent on the timing of the PBV RFP, a 9% award could be made conditioned on the applicant make a successful application under the PBV RFP.
- HCR anticipates the same income targeting requirements in the upcoming PBV RFP: Very Low (50% AMI) and Extremely Low (30% AMI).

Technical Assistance

- Do **NOT** wait until March 17, 2022 to submit the request for Technical Assistance.
- In order to accommodate Technical Assistance requests and schedule the sessions in an appropriate time frame, HCR advises applicants to submit Technical Assistance requests at least 4 weeks prior to the application submission date (March 3, 2022).
- All required documents must be included in the Technical Assistance request in order for the session to be scheduled.
- For resubmissions of applications from the two previous RFP's, application summaries were issued for unsuccessful applications. Applicants should rely on those summaries in preparing the Winter 2022 submission.
- TA sessions are not necessary unless a session has not occurred in the previous 12 months or the project has changed significantly, i.e., new site, different unit/income mix.

Clean Energy Incentives for High Performance Projects – Phase 1B Program Criteria

- Clean Energy Incentive (CEI) funding in Demonstration Phase 1B will be available for New Construction, Adaptive Reuse, and now Substantial and Moderate Rehab projects.
- Applicants interested in the CEI funds must complete the CEI Phase 1B Workbook document in its entirety, including the additional attachments required.
 - New Construction and Adaptive Reuse projects must complete the eligibility, new construction scope, and budget worksheets in the Phase 1B Workbook.
 - Existing building (Moderate & Substantial Rehab) projects must complete the eligibility, existing building, and budget worksheets in the Phase 1B Workbook.
 - Mixed projects must complete the eligibility, mixed project scope, and budget worksheets in the Phase 1B Workbook.
- Budgets and scope of work submitted as part of the 9% LIHTC Finance and Underwriting Applications should **NOT** include the enhanced CEI scope and costs.
- CEI funds will be provided as permanent financing.
- If awarded through the 9% RFP, projects selected for this demonstration program will be informed and assigned a TA provider to assist in the design enhancements and budget adjustments.

New ESA Phase 1 Standard

On November 1, 2021, ASTM released a new Phase I Environmental Site Assessment Standard (E1527-21). ASTM has submitted that standard to the EPA for the agency's review for compliance with the federal regulations. It is anticipated that the review by the EPA could require up to one year. The HCR Design Guidelines will not be updated to require E1527-21 until that process is complete.

In order to allow the greatest flexibility for projects to meet standards required by other institutions, HCR will accept any of the following:

1. Continue using and citing the ASTM E1527-13 Standard until the EPA approves the new ASTM E1527-21 Standard for compliance with the AAI regulations;
2. Use and cite the new ASTM E1527-21 Standard now; or,
3. Cite the ASTM E1527-13 Standard, and indicate that the Phase I ESA also incorporates procedures as prescribed in the new ASTM E1527-21 Standard.

See <https://www.natlawreview.com/article/new-astm-e1527-21-standard-practice-phase-i-environmental-site-assessments-esa> for detailed information.

What (Was) New – Summer 2021 RFP

- Same optional Energy/Green Building programs as the Summer 2021 RFP
- Benchmarking required. Costs limited to \$495 per building per year. See <https://hcr.ny.gov/steps-hcr-benchmarking-program>.
- Broadband requirements. See Design Guidelines, updated June 2021.
- Updated QAP in effect May 26, 2021.

Design Requirements

General Guidance & Reminders

- 2021 HCR Design Guidelines Applicable
 - Requests to waive any specific design criteria of the 2021 HCR Design Guidelines should be submitted via the Design Waiver Request Form and can be submitted to Kristy Whitcher; kristy.whitcher@hcr.ny.gov.
- Requirements for all Mandatory Green Building Practices and Mandatory Energy Efficiency Practices are referenced in the 2021 Design Guidelines.
 - All applicable requirements need to be addressed in Exhibit D-3 _Outline Specifications.
- All required remediation work shall be properly identified in Exhibit D-3 _Outline Specifications and included as line items in Exhibit D-4 Construction Cost Estimate.
- General Conditions and General Requirements shall be adequately detailed and broken down by line item in Exhibit D-4 Construction Cost Estimate. All shall align with the definitions of General Conditions and General Requirements found in the Glossary of the Capital Programs Manual.

Design Requirements

Mandatory Energy Efficiency Strategy Guidance

- Recent updates to two NYSERDA programs will be addressed in a *Mandatory Energy Efficiency Strategy Notice to Applicants* and have not been updated in the 2021 Design Guidelines.
- NYSERDA has recently updated the requirement for the New Construction – Housing Program Opportunity Notice - PON 4337. This will affect projects utilizing the New Construction – Housing (NC-H) program as follows:
 - The program updates include offering only 2 categories of incentives; *Carbon Neutral-ready* (formerly Tier 2) and *Carbon Neutral-ready + Health* (formerly Tier 3).
 - In general, both require all-electric designs for heating/cooling and DHW.
 - Applicants accepted into the NYSERDA NC-H program prior to these updates should include evidence of such in their application.
- NYSERDA Multifamily Performance Program (MPP) has recently been replaced with a new program (AMEEP) run by the Joint Utilities of New York.
 - The new AMEEP program is not an eligible program for meeting the requirements of the HCR Mandatory Energy Efficiency Strategy or Optional Green Building Program.
 - Applicants accepted into the NYSERDA MPP program prior to these changes should include evidence of such in their application.

Middle Income Housing Program (MIHP)

- MIHP must be the ONLY HCR financing in a unit.
- MIHP units must be self-supporting, i.e., income from MIHP units must cover the debt service and operating costs for MIHP units.
- Pay attention to the required AMI's based on the other HCR financing in the project. For example, a project outside of NYC requesting 9% LIHTC/SLIHC/HTF/MIHP **MUST** show MIHP units **OVER** 90% AMI. MIHP units targeted at 90% are not eligible.
- Review Exhibit I-4 MIHP eligibility for ALL requested HCR programs to ensure MIHP requirements are met.
- No term sheet for MIHP. MIHP is included within other HCR term sheets.

Community Investment Fund (CIF)

- CIF only available for non-residential uses
- See Underwriting slides 4 and 5 for Common Mixed-Use Project Issues

Federal Funds (HOME vs FHTF)

- Uniform Relocation Act: **REQUIRED** for any occupied property, residential or non-residential. Know the rules and what documents must be included in the application to ensure compliance with the Uniform Relocation Act.
 - No 104(d) for FHTF
- Different Environmental Requirements:
 - HOME: Part 58 NEPA
 - FHTF: no Part 58 NEPA, Environmental laws included in property standards. See FHTF Term Sheet for specific environmental requirements and prohibitions note on Environmental slide 25.
- Davis Bacon:
 - Applicable for 12 or more HOME assisted units
 - Not applicable for FHTF
- If requesting federal funds, **BE AWARE** of **ALL** federal requirements.

Underwriting Issues

Common LIHTC/SLIHC Equity Issues

Due Diligence Fees

- Investor/Syndicator due diligence costs being paid from equity installments cannot be included in the development budget as a project expense. The LIHTC/SLIHC equity shown in the budget must show the equity NET of the fees payable. The fees need to be listed on line 9 in the Tax Credit Work Sheet in the Underwriting application model. Make sure the fees are consistent with what is stated in the Letter of Interest (LOI).

Example

\$9,500,000 is the gross LIHTC equity reflected in the syndicator's LOI. \$50,000 in due diligence fees will be paid out of the first equity installment. Budget should not include those \$50k in expenses, and the LIHTC equity shown as a source should be \$9,450,000.

Equity Available During Construction

- Do not show tax credit equity that is to be advanced at 100% construction completion as being available during construction, when indicating the equity available as construction financing in the development budget.

Underwriting Issues (2)

Common HTF Rent Affordability Requirement Issues

- Units funded by NYS Low-Income Housing Trust Fund (HTF) must comply with HTF affordability requirements.
- Units are to be leased to households paying a minimum of 30% of annual income to gross rent up to a maximum of 48%. Setting rents at an affordability level much lower than the intended maximum AMI target is not allowed.

Example: Rents set at 48% AMI affordability and units to be targeted up to 60% AMI. This would not be allowed. HCR will require the units to be regulated at or below 50%AMI.

Refer to Section 7.06.02 of the Capital Programs Manual

Underwriting Issues (3)

Common Operating Budget Issues

- Be sure to provide appropriate operating cost documentation. At a minimum applicants must provide documentation for Property taxes, Insurance, Utilities (heat, electricity, gas, water & sewer) and Broadband Internet costs.
- Utility estimate must clearly indicate owner paid versus tenant-paid utilities.
- Application is internally inconsistent on what utilities are included in rent and what utilities are in the tenant utility allowance.
- Budgeted operating costs are not consistent with the documentation provided.

Underwriting Issues (4)

Common Mixed-Use Projects Development Cost Issues

- Avoid showing insufficient eligible financing sources to cover non-residential development costs. HCR will only allow LIHTC equity to be used for non-residential development costs in the case of an IRS-eligible Community service Facility (CSF). Up to 10% of an HTF award can be used for CSF costs. CIF is the only other HCR funding available for non-residential space. See CIF Term Sheet.
- Development costs of the non-residential space are understated because a proportional share of development costs are not attributed to the non-residential space, e.g., attributing no acquisition costs to a non-residential space.

Underwriting Issues (5)

Common Mixed-use Projects Operating Issues

- The residential and non-residential projects must each stand on their own operationally.
- Residential rental income cannot be used to subsidize the non-residential project.
- Ability of the residential project to cover operating expenses and debt service must not rely upon income from non-residential rents.
- Application should clearly explain in the project narrative the assumptions made on the operations of the non-residential space, including rents and lease terms.
- Applicant must enter into a master lease in the event of a non-residential vacancy to ensure non-residential operating costs will be covered.

Underwriting Issues (6)

Common Mixed-Income Project Issues

- Ensure that units targeted over 60% AMI have sufficient sources of eligible financing to cover the development costs of the units.
- Ensure that units over 60% AMI generate sufficient income to cover their operating expenses and any debt service attributable to them.

Underwriting Issues (7)

Cash Flow Limits Reminder

- In projects with a conventional permanent loan, HCR will allow initial cash flow at the greater of up to \$35 per unit per month (pu/pm) OR the amount necessary to meet the lender's and/or mortgage insurer's debt service coverage requirements.
- In projects without a conventional bank loan, to maintain positive cash flow through the first fifteen years of operations, HCR will allow initial per unit cash flow to exceed \$35 pu/pm.
- For LIHTC/SLIHC financed projects, HCR will require projects with cash flow over \$35 pu/pm to defer as a permanent financing source developer fee equal to the aggregate amount of cash flow above \$35 pu/pm over the project's initial 15 years of occupancy.

See Section 5.07 of CPM Underwriting Standards

Section 3

(Federal Housing and Community Development Act of 1968)

- Recipients of HUD funding (CDBG, HOME, Federal HTF and Section 8 PBVs) in excess of \$200K must comply with Section 3, which requires “to the greatest extent feasible” that employment, training and contracting opportunities be given to low-income people in the area of the project and those companies that are hired or owned by them.
- Updated requirements based on labor hours worked
- See HUD CPD Notice 21-07:
<https://www.hudexchange.info/resource/6416/notice-cpd2107-section-3-of-the-housing-and-urban-development-act-of-1968/>
and HCR Section 3 Compliance Webpage:
<https://hcr.ny.gov/section-3-compliance>
- Bi-annual reporting cycle: report on whether Section 3 goals have been met or provide justification and documentation as to why goal not met
- Question? Need technical assistance? Dinorah.Santiago@hcr.ny.org

Environmental Reminders

Follow all directions.

A. For E-6 this means (including but not limited to):

1. Copy and paste questions into a document and address each question and subpart. If a question is inapplicable indicate N/A, with a brief explanation of why.

2. Include a map of search radius marking the project site. If a project consists of scattered site, provide a map with a central location identified, or multiple radius maps as needed.

3. If site is in a zone that allows industrial uses, an area that historically allowed industrial uses and remains predominantly industrial uses, or was granted a variance but is otherwise within an area allowing industrial uses there is a presumption the site is not suitable. A thorough analysis with local support will be necessary to overcome that presumption along with a showing that industrial uses will not be located near the project site in the future.

4. If site is in an area with high noise or air emissions (including from traffic) ensure mitigation is proposed.

5. Include a statement as to why/how the project site does not create a disproportionate environmental impact on occupants.

Environmental Reminders (2)

B. For E-4, Smartgrowth this means (including but not limited to):

1. Consider all aspects of the total project that are open or used by non-tenants.
2. Ensure criterion 11 includes an analysis of impacts per the indicated DEC guidance.

C. For E-2, SHPO, this means a project review must be initiated. If SHPO has indicated a Letter of Resolution or Memorandum of Agreement is needed, HCR will not proceed with that process unless or until an award is made. Note that the need for an agreement will impact the project score.

D. For FHTF applications this means (including but not limited to): ensure project meets all site standards as described in the regulation and summarized on the term sheet. A project that does not demonstrate it meets all site standards (including wetland and floodway prohibitions) will not undergo scoring review.

Final Thoughts and Reminders

- Questions may be asked ONLY through email submission to 9%RFP@nyshcr.org. Questions and Answers will be posted and updated periodically. Please check the website daily.
- Reminder: Applicants must be an existing legal entity with a Federal ID Number
- Reminder: All application components must be submitted and submitted in the appropriate file format(s). For example, a single .pdf document of the entire application cannot be reviewed and will be deemed unresponsive to the RFP.
- Don't wait until the last minute to begin the application
- Continue to check www.hcr.ny.gov/multifamily in case of updates. Any updates to documents will be posted in the Record of Revisions.
- Good luck!

Questions & Answers

9%RFP@hcr.ny.gov

www.hcr.ny.gov