



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING
FEDERAL HOUSING COMMISSIONER

Special Attention of:

Notice H 2024-1

All Eligible Owners
All Purchasers of Eligible Properties
All Multifamily Housing Staff
All Multifamily Assessment Contractors

Issued: January 8, 2024

Expires: This notice remains in effect until amended, superseded, or rescinded.

Amends: H-2023-05

Cross References

SUBJECT: Green and Resilient Retrofit Program for Multifamily Housing (GRRP) – Supplemental Notice A

Purpose

This Supplemental Notice amends Notice H 2023-05 to implement certain changes to the Green and Resilient Retrofit Program (GRRP). The GRRP Notice describes program requirements, processes, and monitoring after participant selection. Information about eligibility, application and selection procedures is contained in various Notice of Funding Opportunity (NOFO) publications.

Background

Section 30002 of the Inflation Reduction Act of 2022, (Public Law 117-169) (the “IRA”), titled “Improving Energy Efficiency or Water Efficiency or Climate Resilience of Affordable Housing”, provided funds for HUD to implement a new program to improve the housing quality and resilience of certain existing HUD-assisted multifamily properties for residents through loans, grants, and a variety of other actions to facilitate utility-saving and climate hazard-mitigating investments. These investments in American communities will also help combat the climate crisis and support equitable economic development.

HUD has designed the Green and Resilient Retrofit Program (“GRRP”) to implement Section 30002 of the IRA with three goals:

1. To reduce energy and water use in HUD-assisted multifamily properties,

2. To make HUD-assisted multifamily properties more resilient to extreme weather events and natural disasters, and
3. To reduce greenhouse gas emissions from HUD-assisted multifamily properties, both directly and by using materials with less Embodied Carbon.

Meeting these goals will reduce utility bills, greenhouse gas emissions, and the cost of property operations, thereby benefitting tenants, Owners, and communities at large. GRRP retrofits will modernize properties to improve residents' quality of life and provide safer living environments by improving indoor air quality, maintaining comfortable living temperatures, and preparing buildings to keep residents safe through extreme weather events and natural disasters. Improved properties must execute a new use restriction that extends the affordability period between 15 and 25 years, preserving high-quality, efficient housing for HUD-assisted residents. This Notice uses the terms "Green and Resilient Retrofit Program" and "GRRP" to refer to the various authorities discussed above.

Summary of Revisions in this Supplemental Notice

Implementation guidance for GRRP is currently described in Notice H 2023-05. This Supplemental Notice supplements and amends Housing 2023-05 in the following respects:

- Disbursement of GRRP Funds. Amends the disbursement requirements for the Elements, Leading Edge, and Comprehensive awards by revising the process for submitting draw requests, increasing the maximum amount of award funds that may be disbursed during the construction period, clarifying a condition for when remaining funds may be disbursed, and removing the requirement for an Escrow Deposit Agreement for the disbursement of Comprehensive Award funds.
- Surplus Cash Loan Terms. Provides updates to the terms for Surplus Cash Loans by clarifying when payments begin, allowing for the payment of deferred developer fees prior to calculating the Surplus Cash for the first ten years of payments, and extending the term of any Surplus Cash Loan from 15 years to up to 30 years.
- Renewable Energy Credits. Adds guidance about the purchase of renewable energy credits by the Owner to achieve a Leading Edge Qualifying Certification. Owners must continue to purchase credits for the greater of the duration required by the Certification or three (3) years.
- Davis-Bacon Wages and Project Labor Agreements. Clarifies when the Davis-Bacon wage rates should be locked in at the issuance of the Leading Edge Commitment (LEC) or Comprehensive Construction Commitment (CCC) and adds guidance for Owners that elect to submit a project labor agreement (PLA).
- Developer Fee Terms. Clarifies limits on the total developer fee.
- Other Technical and Clarifying Changes on the following items:
 - Resident Notification after Award

- GRRP Shared Savings Retainer
- Combining GRRP Award with Other Government Funds
- Energy Reduction Goal Methodology
- Elements Closing Package Requirements

Effective Date

The changes in this Notice shall be effective immediately.

Changes to Notice H 2023-05

1. The first paragraph of Section 3.5 is deleted in its entirety and replaced as follows:

The Owner must submit draw requests for funds for HUD approval after all prerequisites for disbursement have been satisfied. The Owner must follow all instructions provided by HUD in order to make draw requests and access funding. Additional information will be provided before closing.

2. The second sentence in the second paragraph of Section 3.5 is deleted in its entirety and replaced as follows:

After receipt and approval by HUD of the final closing docket, up to 90% of the Elements Award may be disbursed during the construction period following the submission of draw requests in a form prescribed by HUD.

3. The first paragraph of Section 4.6 is deleted in its entirety and replaced as follows:

The Owner must submit draw requests for funds for HUD approval after all prerequisites for disbursement have been satisfied. The Owner must follow all instructions provided by HUD in order to make draw requests and access funding. Additional information will be provided in the LEC.

4. Section 4.6.C is deleted in its entirety and replaced as follows:

C) Up to 80% of the Leading Edge Award may be funded after the Owner achieves 75% construction completion as certified by the Architect.

5. The first sentence of Section 4.6.E is deleted in its entirety and replaced as follows:

E) All remaining Leading Edge Award funds may be disbursed upon receipt by HUD of evidence that the Leading Edge Qualifying Certification has been secured or other documentation of completion of the Scope of Work as may be acceptable to HUD.

6. The fourth paragraph of Section 4.6 is deleted in its entirety and replaced as follows:

The Completion Certification package referenced in (D), above, must be in the form prescribed by HUD and must contain (i) a certification by a third-party accountant of the final Leading Edge Eligible Costs, (ii) a certification from the General Contractor, Architect, and Owner that the work sufficient to secure the Leading Edge Qualifying Certification has been completed together with a certification from the Owner that the process of securing the Leading Edge Qualifying Certification is in process (or evidence that the Leading Edge Qualifying Certification has already been secured), (iii) a certification from the Owner that the Property, the Award, and the Owner are in compliance with the GRRP Requirements, (iv) a record of all residents that did not return to the Property; (v) Section 3 reporting, (vi) a certification from the Owner that the Property has adopted a Disaster Preparedness Plan, (vii) the post-construction resiliency survey, and (viii) other items as may be required by HUD.

7. A new paragraph is added to the end of Section 4.6 as follows:

If the Owner purchases renewable energy credits to achieve the Leading Edge Qualifying Certification, the Owner must continue to purchase credits required to achieve or to maintain the Leading Edge Qualifying Certification for the duration required by the Certification or three (3) years, whichever is greater, unless otherwise approved by HUD.

8. The first paragraph in Section 5.8 is deleted in its entirety and replaced as follows:

Owners must cooperate with HUD to ensure the construction is completed in a timely manner including, but not limited to, making required Owner Contributions. Up to 90% of the Comprehensive Award may be disbursed during the construction period on the submission of draw requests, in a form prescribed by HUD. The Owner may make draw requests no more frequently than once in each calendar month. Draw requests shall be signed by the Owner and accompanied by backup documentation acceptable to HUD evidencing the incurred Comprehensive Eligible Costs. Disbursements will be conditioned on HUD's review and approval of the progress of construction, which may include on-site inspections and/or reviews of progress reports from the Architect and General Contractor.

9. The first sentence of Section 6.2.A is deleted and replaced as follows:

A) Payment Terms. During the term of a Surplus Cash Loan, beginning with the first Annual Financial Statement submission following HUD's acceptance of the Completion Certification, any Surplus Cash shall be distributed annually as described below:

10. Section 6.2.A.5 is added as follows:

(5) As noted in the definition of Surplus Cash, deferred developer fee approved in the Elements Closing Package, LEC or CCC may be paid prior to calculating Surplus Cash for the first ten years of payments.

11. Section 6.2.B is deleted in its entirety and replaced as follows:

- B) Term. The term of any Surplus Cash Loan shall be the later of the date which is coterminous with any first lien mortgage financing or up to 30 years following the Closing. The full unpaid balance, including any accrued but unpaid interest, will be due and payable at maturity.

12. Section 7 is amended to delete “Escrow Deposit Agreement” from the bulleted list of required legal documents for Comprehensive Awards.

13. The first sentence of the first paragraph of Section 8.1 is deleted in its entirety and replaced as follows:

Within thirty (30) Days of the Award Date, unless otherwise approved by HUD, the Owner must provide written notification to all residents of the Property that the Property has been selected for funding under GRRP.

14. The first bullet point of Section 9.5 is deleted in its entirety and replaced as follows:

- For properties assisted under a Section 8 housing assistance payments contract where the Scope of Work will result in the reduction of one or more utility components (e.g., gas, water, sewer, electric) paid by tenants and used to establish the utility allowance, HUD is authorizing a GRRP Shared Savings Retainer to the housing assistance payments contract that will be equal to 75% of the projected reduction to tenant-paid utility costs. Additionally, for properties assisted under a Section 8 housing assistance payments contract renewed with rents set on a budget-based rent adjustment when the Scope of Work will result in the reduction of one or more utility components (e.g., gas, water, sewer, electric) paid from Property accounts, HUD is authorizing a GRRP Shared Savings Retainer to the housing assistance contract rent that will be equal to 75% of the projected reduction to Property-paid utility costs. To implement this provision, HUD is waiving its existing calculation of subsidy pursuant to Section 8(c)(3) as implemented in 24 CFR § 880.501(d)(1), 881.501(d)(1), 883.602(c)(1), 884.106(a), 886.109(a), 886.309(a), and 891.560(c)(1) which establishes that the amount of the housing assistance payment made to the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family, and implementing an alternative calculation that includes a GRRP Shared Savings Retainer as part of the housing assistance payment.¹²

¹² The IRA authorizes HUD to waive or specify alternative requirements for any provision of Section 8(c) of the United States Housing Act of 1937 upon a finding that the waiver or alternative requirement is necessary to facilitate the use of GRRP funds. HUD has determined that this waiver facilitates the use of GRRP funds by giving property owners tools to support their share of upfront financing of capital improvements, allowing HUD to extend GRRP grants/loans to a larger swath of HUD’s multifamily assisted portfolio, without increasing HUD’s anticipated future rental assistance outlays.

15. The second bullet point of Section 9.5 is deleted in its entirety and replaced as follows:

- For properties assisted under a Section 202 or Section 811 project rental assistance contract subject to a budget-based rent when the Scope of Work will result in the reduction of one or more utility components (e.g., gas, water, sewer, electric) paid by residents and used to establish the utility allowance or paid from Property accounts, HUD is authorizing a GRRP Shared Savings Retainer to be included in the determination of the budget-based rent that will be equal to 75% of the projected reduction to tenant-paid and Property-paid utility costs. To implement this, HUD is authorizing the GRRP Shared Savings Retainer to be included as an additional allowable line item in the consideration of Project Expenses under Section 7-30 of Housing Handbook 4350.1 (or successor provision) and HUD 92457-A so that it can be incorporated into the determination of the budget-based rent.

16. Section 9.7 is deleted in its entirety and replaced as follows:

Owners receiving GRRP funds are permitted to receive rebates, incentives, grants, loans, or any other support through other IRA or Federal, state, or local assistance programs for activities at the Property, unless otherwise prohibited by the other assistance program. Whenever multiple federal sources are proposed, HUD will complete a Subsidy Layering Review (SLR) in accordance with Section 102(d) of the HUD Reform Act, and implementing regulations at 24 CFR Part 4, unless an acceptable agency has performed one. The purpose of the subsidy layering review is to ensure that assistance made available by HUD for a specific housing project will not be more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources. The subsidy layering review will ensure that costs are reasonable and cash flow is not excessive. Further, Owners are responsible for ensuring that there is no duplication of benefits and that GRRP funds are allocated to Eligible Costs in amounts that do not exceed the need and that the Eligible Costs are not allocated to another source of government assistance. A duplication of benefits is considered to have occurred when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose within the same time period, and the total assistance received for that purpose is more than the total need for assistance for that purpose. If a duplication of benefits for any GRRP Eligible Costs is found to have occurred, HUD may proceed with remedies including, but not limited to, reduction or repayment of such GRRP funds. Owners receiving funds from other Federal, state, or local assistance programs are responsible for full compliance with the requirements of such funds.

17. Section 10.5.A is amended to add two new sentences at the end as follows:

Notwithstanding U.S. Department of Labor regulations at 29 CFR 1.6, Davis-Bacon wage rates applicable under this paragraph A shall be locked in at the issuance of the LEC or CCC, as applicable, so long as construction begins within

90 days of issuance of the LEC or CCC. If construction does not begin within 90 days, the Davis-Bacon wage rates must be updated if a more recent wage determination has been issued within 90 days of construction start.

18. Section 10.5.B is deleted in its entirety and replaced as follows:

B. Alternatively, the Owner may select to submit to HUD prior to closing a project labor agreement (PLA) executed by the local building trade unions and the General Contractor that must:

- (1) be applicable to the Scope of Work for the Property;
- (2) bind all contractors and subcontractors for the Scope of Work through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;
- (3) allow all contractors and subcontractors performing the Scope of Work to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;
- (4) contain guarantees against strikes, lockouts, and similar job disruptions;
- (5) set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement;
- (6) provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and
- (7) fully conform to all statutes and regulations.

Any work not covered under a PLA would be subject to Davis-Bacon prevailing wage rates under paragraph A.

19. The first sentence of the third paragraph of Section 11 is deleted in its entirety and replaced as follows:

To demonstrate compliance with the 25% energy reduction requirement, Owners are required to model their post-retrofit energy consumption to determine their expected savings, which must be projected to reduce modeled site energy consumption by 25%.²⁰

20. The last paragraph of Section 11 is deleted in its entirety and replaced as follows:

All Owners receiving Comprehensive and Leading Edge Awards will be required to submit responses to a core resilience survey pre-construction, post-construction, and at other times as may be requested by HUD. For Owners receiving Comprehensive Awards, information necessary to complete the pre-construction survey will be collected during the Assessment Suite. Owners

²⁰ Reserved.

receiving Leading Edge Awards will submit the pre-construction survey in the Leading Edge Transaction Plan package. Owners receiving funding for Elements Awards shall submit the survey post-construction, and at other times as may be requested by HUD. Additionally, Owners may be required to submit responses to questions regarding utility use, resilience, resident engagement and safety, or other property related information necessary for HUD to track the implementation and impact of GRRP.

21. The first paragraph of Exhibit B is deleted in its entirety and replaced as follows:

Unless otherwise approved by HUD, all Elements Awards and Leading Edge Awards must meet the Financial Thresholds set forth below at application, at submission of the Leading Edge Transaction Plan package, at Closing, and at Completion Certification.

22. The description of Developer Fee in the third row of Exhibit B is deleted in its entirety and replaced as follows:

Total developer fee cannot exceed 15% of acquisition, hard, and soft costs, exclusive of reserves and developer fee. Further, if the Owner is proposing to utilize low-income housing tax credits and the allocating Housing Finance Agency allows a higher fee under the Qualified Allocation Plan, the deferred fee may equal the higher fee allowed by the Housing Finance Agency so long as the fee above 15% is contributed back to the Project through deferral or contribution.

23. Exhibit C is revised to delete “Property Management Agreement” and “Pre-Construction Resilience Survey” from the bulleted list of Elements Closing Package Requirements.

24. The first paragraph of Exhibit D is deleted in its entirety and replaced as follows:

Unless otherwise approved by HUD, below are all the required components of a complete Leading Edge Transaction Plan and the requirements of each component. HUD may request additional documentation not listed below if HUD determines in its sole discretion that such information is necessary to determine compliance with GRRP Requirements:

25. Exhibit D is amended to add the following new Section F.2.i:

If the Owner intends to purchase renewable energy credits to achieve the Leading Edge Qualifying Certification, the cost of such credits must be included in the expenses for the term required by the Leading Edge Qualifying Certification or three (3) years, whichever is greater.

26. The first paragraph of Exhibit E is deleted in its entirety and replaced as follows:

Unless otherwise approved by HUD, below are all the required components of a complete Comprehensive Transaction Plan and the requirements of each component. HUD may request additional documentation not listed below if HUD

determines in its sole discretion such information is necessary to determine compliance with GRRP Requirements:

Julia R. Gordon
Assistant Secretary for Housing –
Federal Housing Commissioner