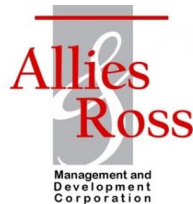


PROJECT-BASED VOUCHER AND GAP FINANCING PROGRAM

Round 8 - 2023

Attachment A PBV/Gap Financing Program & Underwriting Guidelines

(These Guidelines are subject to changes in
HACP/ARMDC's policy and regulatory requirements.)



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1.0 INTRODUCTION

The Housing Authority of the City of Pittsburgh (HACP), through this Request for Proposals (RFP), is soliciting qualified respondents (Respondents) to apply for funding through the Project-Based Voucher (PBV) and Gap Financing program (PBV/Gap Financing program). Eligible Respondents include private, for-profit developers and non-profit organizations. Respondent and Owner/Developer are used interchangeably in this RFP. Eligible uses of these funds are the development, rehabilitation and/or preservation of affordable, quality housing in the City of Pittsburgh.

HACP's PBV/Gap Financing program is created to provide the last resort development financing source and project-based operating subsidy for Owners/Developers to develop and preserve the availability of housing choices for low and moderate income families in the City of Pittsburgh. HACP and its instrumentality, Allies & Ross Management and Development Corporation (ARMDC), will perform programmatic analysis and underwriting analyses on all proposals submitted in response to this RFP. Respondents who receive a PBV/Gap Financing award are subject to and must perform services in compliance with HACP's policies, procedures, and Board of Commissioners' approvals; and all rules, regulations and requirements of PBV set forth in 24 CFR 983 and Mixed-Finance Development set forth in 24 CFR Part 905, Subpart F and all other applicable Federal regulations. PBV/Gap Financing projects must also comply with HUD's Moving to Work (MTW) local non-traditional development program guidelines as described below.

These guidelines may be subject to change and may be modified pending federal and state legislative requirements and/or HACP policy.

1.1 Project Funding

The Gap Financing loan is funded by HACP's MTW block grant funds and projects supported by MTW funds are subject to HUD's and HACP's compliance requirements. Any PBV/Gap Financing project, especially the closing of the Gap Financing loan, is subject to HUD's final approval as a Local Non-Traditional program. HACP/ARMDC will guide awardees through HUD approval processes for eligible, qualified, gap financing projects.

1.2 ARMDC

ARMDC, as HACP's instrumentality, performs various levels of development services for the PBV/Gap Financing program and will be the lender of Gap Financing loans. Under these Guidelines, the two entities, ARMDC and HACP, will be used interchangeably as ARMDC adheres to the regulations and policies established by HACP and HUD.

1.3 Eligible Projects & Respondents

Eligible projects are ones that create new affordable housing opportunities or preserve existing ones. Additionally, all of the units supported by the PBV/Gap Financing program must be located within the City of Pittsburgh and Owners/Developers must commit to the long-term preservation and management of the newly developed or rehabilitated affordable housing.

An eligible Respondent is a private, for-profit or non-profit individual or business, corporation, partnership, firm, joint venture or other legal entity, duly organized and authorized to do business in the City of Pittsburgh. Eligible Respondents must be financially sound and able to provide the services being procured by HACP.

2.0 GENERAL REQUIREMENTS

2.1 Good Standing and No Debarments/Suspensions

Each Owner/Developer must be in good standing with HACP, and any Federal, State, or city entity that has or has had a contracting relationship with the Owner/Developer. Good standing means continuously being in compliance with all explicit obligations, while not being subject to any form of debt, sanction, debarment, suspension, disciplinary censure, or any form of lawful preclusion from participating in any public procurement activity. If the Owner/Developer has previously utilized HACP's PBV/Gap Financing loan for any certain development project, HACP will review the status of the project, including the extent of compliance with the requirements of the PBV/Gap Financing loan and its other public funding sources (e.g. Low Income Housing Tax Credits (LIHTC)) in order to determine financial and regulatory risks. If the Respondent is not in good standing with HACP, ARMDC and/or any Federal, State or Municipal entity, or if a Federal, State or Municipal entity has terminated any contract with a Respondent for deficiencies or defaults, that Respondent must disclose this information to HACP in its proposal. HACP will consider such facts and circumstances during its evaluation of the Respondent's proposal, which may be sufficient ground for disqualification. If the Respondent is selected, but failed to disclose such information and HACP discovers it thereafter, then HACP could terminate the contract. Respondents must have and maintain all necessary insurance to cover malpractice liability and workers' compensation at all times, at least from the award date of this RFP.

2.2 Program Threshold Requirements

To be eligible for evaluation and thereby be eligible to receive funding, projects must meet the program threshold requirements as specified in Section IV Tabs 03, 04 and 05 of the RFP. All Respondents must provide adequate information in their proposals for HACP to determine the Respondent's compliance with the threshold items.

2.3 Site Control

Although site control is a threshold requirement for this RFP, HACP, at its discretion, may allow the site control to be completed within 90 days from the PBV/Gap Financing award date only if the proposed project submitted a convincing evidence of good faith efforts and mutual agreement among potential seller(s) and Respondent. If allowed, the 90-day site control deadline shall be strictly enforced, and any proposed projects failing to meet this requirement will have their award **immediately rescinded**. Acceptable forms of site control include: a deed to the property, exclusive negotiation letter from the City of Pittsburgh or Urban Redevelopment Authority (URA), a fully executed option agreement, and a fully executed purchase and sale agreement. If the Owner/Developer demonstrates site control through a contract of sale or an option agreement, such contract or agreement must remain in effect for at least 180 days after the RFP proposal due date and may include only commercially standard early termination clauses and conditions to closing.

2.4 Market Analysis

HACP requires a market analysis for all PBV/Gap Financing projects. This guidance adopts PHFA's market study requirements, regardless of whether the project uses LIHTC or not. The market study should ensure that the number and initial contract rents of housing units in a proposed development are supported by the existing and anticipated market. The market analysis should provide sufficient and clearly defined information that can be used for HUD's PBV site selection standards justification in conformity with HUD 24 CFR 905.602(d) unless the Owner/Developer provides a separate documentation for the site selection standards as described in Section 2.11 below.

2.5 Appraisal

If HACP's gap financing fund is used to acquire a real estate property for a project, HACP's funds must not be used to pay above the appraised value of the property. Any appraisals submitted must have had an inspection conducted within 120 days of the submission. Unless the appraisal is undertaken by or on behalf of the permanent project lender, HACP/ARMDC may wish to conduct its own appraisal and if it differs from the developer's, the final value will be settled through a third appraisal. The Owner/Developer must reimburse the costs of appraisals commissioned by HACP or ARMDC, if any.

2.6 Physical Capital Needs Assessment

A Physical Capital Needs Assessment (PCNA) is needed for all existing structures and rehabilitation projects applying for HACP funding. The PCNA assesses the current property condition and determines where critical improvements are required in order to ensure a long project lifecycle covering a minimum of 20 years. The PCNA report should include the following:

1. Inspection report and an opinion regarding both critical and non-critical needs that includes a detailed cost estimate of the up-front critical repairs and other costs that are required to ensure the project sustains a long lifecycle; and
2. Replacement reserve analysis that details a cost schedule for repairs or major maintenance. It is imperative that this analysis provides a concise recommendation for the per unit per annum contribution to the replacement reserve in anticipation of any expenditures or critical replacements identified by the first part of the report.

2.7 Substantial Changes

Any substantial changes to the proposal, as defined by HACP/ARMDC at its sole and absolute discretion, which includes but is not limited to changes in the Owner/Developer entity, unit mix, affordability requirements, and site location, during the underwriting or construction process must be reported to HACP/ARMDC, in writing. Any substantial changes to the initial proposal under the RFP are subject to HACP/ARMDC's approval, which may otherwise result in re-evaluation and possible termination of HACP's contingent commitment for the PBV/Gap Financing loan.

2.8 Funding Letters of Intent

For proposals indicating a gap in financing due to pending funding applications or letters of intent rather than binding commitments, Respondents will have a certain number of days from date of HACP's Gap Financing award or LIHTC award (***Owner/Developer must refer to the Critical Timeline Post-Award section as outlined in Section I of the RFP***) to submit evidence of all necessary financial commitments. Proposals indicating a gap in financing without a letter of intent, pending application, or specifically identified and available potential funding source (such as an open, announced, or recurring solicitation or competition, including possible gap financing offered by HACP) will not be considered.

2.9 Financial Capacity Review

HACP/ARMDC will perform a responsibility review of Respondents, which will include reference checks and financial background checks. Respondents will submit two years of audited financial statements to HACP/ARMDC as part of the review (see Section III, Tab 10.02 of the RFP). The financial statements will be evaluated by the Chief Financial Officer to determine the Respondent's (or affiliated entity's) financial capacity to perform the tasks delineated in this RFP.

2.10 Community Outreach

It is the Owner/Developer's responsibility to actively and sincerely conduct community outreach efforts including, but not limited to, hosting community meetings for areas the project will impact.

All efforts must be documented, and attendance of community members needs to be noted. Respondents should provide evidence of input from City of Pittsburgh’s Registered Community Organizations (RCO), if an RCO exists in the project’s neighborhood.

2.11 HUD Regulatory Compliance Requirements

2.11.1 PBV Site Selection Standards

The proposed project must be reviewed and approved by HUD’s Field Office as conforming to HUD’s site and neighborhood standards outlined in 24 CFR 905.602(d), which are enforced by HUD’s Office of Fair Housing Equal Opportunities (FHEO). Site and neighborhood selection standards approval is required for all development projects utilizing federally-assisted funds (i.e. MTW funds).

Please note that the Owner/Developer has a risk of HUD’s rejection of their site selection justification. Pursuant to the RFP award, each awardee shall work with HACP to prepare a site selection standards submission that will be reviewed by FHEO and a HUD field office. Pittsburgh’s HUD field office directly coordinates the submission and evaluation with FHEO. Only projects that receive FHEO’s approval will be funded. HACP bears no responsibility for HUD’s final decision.

2.11.2 Subsidy Layering Review

All federally funded and/or subsidized development projects are subject to HUD’s Subsidy Layering Review (SLR). In order to ensure that the amount of funds requested is not more than the demonstrated need, a SLR must be performed by HUD. Pursuant to Administrative Guidelines: Subsidy Layering Review [Docket No. FR–6359–N–01], HUD will perform the SLR certification process for local non-traditional development projects. A fully approved SLR is required for an Agreement to Enter into a Housing Assistance Payments Contract (AHAP) and Gap Financing closing.

2.11.3 Environmental Review

HACP must obtain HUD’s Part 58 environmental approval prior to execution of the PBV/Gap Financing program’s legal contracts and agreements (e.g., AHAP and Gap Financing loan documents) and release of any HUD funds for PBV/Gap Financing projects. All activities funded by the PBV/Gap Financing program are subject to an environmental review under HUD’s environmental regulations at 24 CFR Part 58 and must comply with the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321et seq.) and the related laws and authorities listed at 24 CFR 58.5. Please note that the City of Pittsburgh, as the responsible entity, will commence its environmental review process only upon receipt of Pennsylvania State Historic Preservation Office’s (SHPO) approval of the project. This review and approval process may take some time and it is recommended for the Owners/Developers to initiate this process at the onset.

The owner/developer must conduct two critical processes in sequence to complete the Part 58 environmental approval process as follows.

1. Assist HACP’s Development Manager in submitting the Section 106 form to the SHPO to inquire about the proposed sites/buildings’ historical significance. Depending on its analysis, SHPO may require archaeological investigations to be completed before giving its approval. The City of Pittsburgh only starts their environmental review process upon receipt of SHPO’s approval for the project. This process is one of those items that should be done soon after HACP’s RFP award and HACP staff can assist RFP awardees in finalizing and submitting the Section 106 packets to SHPO.

2. Conduct a Phase I Environmental Site Assessment (ESA) which will be submitted to the City of Pittsburgh (Part 58 responsible entity for HACP PBV/Gap Financing program). HACP will submit the ESA reports and SHPO approval to the City to initiate the City's Part 58 environmental review. The City will not accept a Phase I ESA report that is more than 6 months old at the time of submission. (Note: A Phase II ESA study or any further investigation must be conducted if recommended by the Phase I ESA report.)

2.11.4 Davis-Bacon Wage Requirements

All projects that apply for assistance under this PBV/Gap Financing RFP, regardless of how many PBV units will be operated in any project, are required to follow HUD-required wage determination wages covering the application of Davis-Bacon Wage Rates. Because these programs are resourced by federally-assisted funds (i.e., MTW funds), the Owner/Developer is required to adhere to all relevant standards. In order to ensure that the Owners/Developers are following the most current Davis-Bacon wage determinations, monitoring of the system will need to be implemented. Awardees must submit a request for Davis-Bacon wage determination to HACP's Development Manager at least a month before issuance of an invitation for bid (IFB) so that HACP/HUD's labor specialist can provide the wage determination that will be included in the IFB. If a construction contract is not awarded within 90 days from bid opening, an Owner/Developer is not "locked in" to a particular wage determination until the construction contract is signed. Wage determinations must not be more than 90-days old at the time the construction contract is signed.

2.11.5 Minority/Women-owned Contractors

Minority and Women Business Enterprise (MBE/WBE) commitment is required for projects funded by the PBV/Gap Financing program. ARMDC's MBE/WBE participation goals are follows:

- MBE Goal: 25% of Construction and Professional Contracts
- WBE Goal: 10% of Construction and Professional Contracts

MBE/WBE commitment is required for any projects funded by the PBV/Gap Financing program. Monthly utilization reports are required for HACP's review during the construction period and HACP may perform any necessary due diligence it deems appropriate to assess the accuracy or appropriateness of any reports. Relevant forms will be provided closer to the start of construction.

2.11.6 Section 3 Employment and Contracting Requirements

PBV/Gap Financing projects are required to comply with HUD's Section 3 training, employment and contracting requirements. Please refer to 24 CFR Part 75 et seq. and the HACP Section 3 Policy and Program requirements. A Section 3 Plan is required for any project funded by the PBV/Gap Financing program. Monthly status reports are required for HACP's review during the construction period. Relevant forms will be provided closer to the start of construction.

2.11.7 Veteran-owned Businesses

PBV/Gap Financing projects are encouraged to provide business contracting opportunities to veteran-owned businesses.

2.11.8 Federal Accessibility Standards

All federally-assisted new construction developments are required to include five percent (5%) or one (1) unit (whichever is greater) of mobility-impaired accessible units and an additional two percent (2%) or one (1) unit, (whichever is greater) must be sensory impaired accessible units in accordance with Section 504 of the Rehabilitation Act of 1973 (Section 504). The accessibility standard covered by Section 504 is the Uniform Federal Accessibility Standards (UFAS). UFAS is the default standard that projects have to comply with. However, if the Developer intends to

comply with Titles II and III of the Americans with Disabilities Act of 1990 (its standard is the 2010 Standards for Accessible Design), the project will have to be reviewed alongside UFAS and the stricter of the two standards shall apply. HACP requires that all units developed must be in compliance with all applicable Federal laws and regulations, Commonwealth of Pennsylvania laws and regulations and the City of Pittsburgh Building Codes.

All accessible units are subject to review and approval by HACP's third-party certifier and technical staff. Accessible unit/site design must be approved by HACP's third-party certifier prior to execution of the AHAP. Owners/Developers must submit design documents that have information (dimensions, grading, etc.) that is sufficient for the accessibility design review. It usually takes 1 – 2 months for all parties to review and revise the accessibility design. After construction, all units supported by subsidy will be subject to inspections and all accessible units and common areas will be subject to additional accessibility inspections prior to the execution of a Housing Assistance Payment (HAP) contract.

Each development project must demonstrate accessibility for, at minimum, five elements of accessibility requirements:

1. Housing units
2. Interior Accessible Route, such as hallways and elevators
3. Parking areas and the path from the parking spaces to the living units
4. Common Areas, including but not limited to, the exterior tenant trash receptacles and any ancillary property uses such as on-site playgrounds or recreation facilities
5. Non-Housing Program Facilities, if applicable.

2.11.9 Relocation

All acquisition, demolition, rehabilitation, and development activities supported by the PBV/Gap Financing program shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (or Uniform Relocation Act) and with implementation regulations at 49 CFR part 24.

2.11.10 Form HUD-5370 - General Conditions of the Contract for Construction

For construction contracts above \$150,000, the Developers must ensure that their construction contracts comply with Form HUD-5370 – General Conditions of the Contract for Construction.

3.0 PBV PROGRAM OVERVIEW AND REQUIREMENTS

HACP's PBV program is designed to conform to the Project-Based Voucher Program Final Rule published on October 13, 2005 at 24 CFR Part 983 as modified by the Housing and Economic Recovery Act of 2008 and Federal Register Notice 73 FR 71037, other applicable Notices from HUD, the implementing provisions of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) (Federal Register Notices 82 FR 5458 and 82 FR 32461), and HACP's Housing Choice Voucher Program Administrative Plan, its MTW Agreement, as well as the RFP.

- Any proposed development under the PBV/Gap Financing program must utilize PBV subsidy for a minimum of 10% of the development's total number of housing units.
- The owner entity and HACP will enter into the AHAP, which must be approved by HACP and fully executed by both parties prior to construction activities of the proposed project.
- Upon satisfactory completion of construction in accordance with the AHAP, HACP will enter into a PBV HAP contract with the property owner for designated PBV rental units for an initial term of twenty years, with the possibility of a contract extension if offered by HACP.

3.1 PBV Project Eligibility

Note that certain types of housing units and/or developments **are not eligible** for PBV assistance including:

- Shared housing;
- Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institution;
- Nursing homes or facilities providing continuous psychiatric, medical, nursing service, board and care, or intermediate care. However, HACP may approve assistance for a dwelling unit in an assisted living facility that provides home health care services such as nursing and therapy for residents of the housing;
- Units that are owned or controlled by an educational institution or its affiliate and designed for occupancy by the students of the institution;
- Manufactured homes;
- Transitional housing;
- Owner/Developer-occupied housing units;
- Units occupied by an ineligible family at the time of proposal submission or prior to execution of the HAP contract; however, HACP will accept proposals for existing properties with a limited number of currently ineligible households.
- Units for which construction or rehabilitation commenced prior to execution of the AHAP.
- Property will not be constructed or rehabilitated with other rental assistance under the U.S. Housing Act of 1937 in accordance with 24 CFR 983.54.

- Subsidized housing unit types determined ineligible in accordance with HUD regulations. These include, but are not limited to, public housing units; units subsidized with any other form of Section 8 assistance; units subsidized with any governmental subsidy that covers all or part of the operating costs of the housing; units subsidized with rental assistance under Section 236, Section 521 or Section 101; units subsidized with Section 202 including supportive housing for the elderly; units subsidized under Section 811; units subsidized with any form of tenant-based rental assistance as defined at 24 CFR 982.1(b)(2) including units subsidized with such assistance under the HOME program; and, units with any other duplicative federal, state or local housing subsidy as determined by HUD or HACP.

3.2 Rent Determination & Rent Reasonableness

All Respondents applying for subsidy must submit an application to HACP for rent determination and reasonableness. Initial contract rent for PBV units are subject to HACP review and approval, including review for rent reasonableness, as required by HUD.

Rent levels are subject to HACP review and approval, including review for rent reasonableness, as required by HUD. Final rent levels for the initial HAP contract will be determined upon HAP execution. The amount of the rent to the Owner/Developer is determined in accordance with HUD regulations. The rent to Owner/Developer including any applicable tenant utility allowances must not exceed the lowest of:

1. The applicable Tiered Voucher Payment Standard or for units meeting the mobility-impaired accessibility requirements, the applicable Reasonable Accommodation Voucher Payment Standard (as provided in Exhibit C); or
2. The rent reasonableness study conducted by HACP; or
3. The rent requested by the Owner/Developer.

Note: The Tiered Voucher Payment Standards and Reasonable Accommodation Payment Standards are subject to HUD's approval. Flexibility is limited to the MTW Agreement between HACP and HUD.

3.3 Excepted Units

The number of PBV-assisted units in the building cannot exceed the greater of 25 units or 25 percent (25%) of the total number of dwelling units in the project. The only currently available exceptions to this cap are:

- Units exclusively serving elderly families (head, co-head, spouse or sole member(s) is 62 years of age or older).
- Units made available specifically to households eligible for supportive services such as families with a household member with a disability, as well as other populations. This exception is designed for housing with linked supportive services for various special needs populations that have a preference for families requiring the available services. See HUD regulations at 24 CFR 983.56 as amended by notices implementing HOTMA, as referenced above.
- Projects in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey five-year estimates, are subject to an alternate cap, which is the greater of 25 units or 40 percent (40%) of the total number of dwelling units in the project.

Respondents considering "Excepted Units" MUST:

- Specifically identify the exception requested, and provide evidence of eligibility for the exception;

- For Excepted Units for supportive services, specifically identify the service to be provided, the entity providing the service, and provide a detailed description of the service including a description demonstrating service availability to all resident households and any preferences proposed for households requiring those services.
- The Excepted Units Plan will be reviewed and approved by HACP as part of the project's underwriting process.

3.4 Housing Quality and Fair Housing Requirements

All developments funded by PBV assistance must meet the following standards and requirements:

- Applicable laws regarding non-discrimination and accessibility requirements, including the Fair Housing Act and Title VI of the Civil Rights Act of 1964;
- Housing Quality Standards (HQS) (HQS is a series of standards for the condition of the unit related to habitability, safety, and decency. HQS standards can be found at 24 CFR Part 982.)
- PBV Site Selection Standards in HUD 24 CFR 905.602(d).

3.5 Initial Term and Contract Renewal

The initial term of the PBV HAP contract will be twenty (20) years unless otherwise specified. Prior to expiration of the initial contract term, the Owner/Developer will be required to renew the HAP contract for another maximum term allowed by HUD at that time, subject to HACP's approval and HUD's ability to provide PBV assistance based on available appropriations or other related factors.

3.6 Pre-Construction

The AHAP must be executed before construction can begin on a project. The awarded PBVs will be withdrawn should construction begin prior to issuance of the AHAP.

3.7 Unit Designation

Contracted PBV subsidy can float with a prior written approval from HACP as long as the substitute unit meets all PBV requirements. HACP will calculate rent reasonableness for any substitute unit and amend the exhibit of the HAP Contract to reflect the changes, if any.

3.8 Commitment to Utilize Awarded PBV Units as Replacement Units for Relevant HACP Developments

Up to one hundred percent (100%) of PBV units in the awarded project will be committed to be utilized as new replacement units for certain public housing units owned by HACP. For a potential Choice Neighborhoods Implementation Grant (CNIG) program of U.S. Department of Housing and Urban Development, the Owner commits to HACP that it will provide up to one hundred percent (100%) of PBV units in the awarded project as replacement units for certain CNIG applications or awarded CNIG programs that are sponsored by HACP (CNIG PBV Units). HACP and/or ARMDC will determine the types and number of CNIG PBV Units required for certain CNIG projects. The CNIG PBV Units must be offered to CNIG-eligible residents. The tenant applications of CNIG-eligible residents must be approved for the CNIG PBV Units as long as they meet low income housing tax credit regulations and are compliant with the lease agreement while residing in the Authority's properties and during the CNIG temporary relocation period, with no additional background checks or screening from the Owner Entity or its property manager.

3.9 Other Requirements

HACP will review all applications and, before selecting units, determine that each application is responsive to and in compliance with HACP's written selection criteria and procedures, and in conformity with HUD's program regulations and requirements. **All proposals must provide adequate information for HACP to determine proposal compliance with the following:**

- That the Owner/Developer and other project principals are not on the U.S. General Services Administration list of parties excluded from Federal procurement and non-procurement programs.
- Property must meet eligibility requirements under 24 CFR 983.53 (Eligible and ineligible Properties and HACP- owned units), 24 CFR 983.4 (Other Federal requirements), and the Site and Neighborhood Standards detailed above.
- Property will not be constructed or rehabilitated with other assistance under the U.S. Housing Act of 1937 in accordance with 24 CFR 983.54.

4.0 GAP FINANCING STRUCTURE AND LIMITS

The Gap Financing program will provide funding towards the development of affordable housing units (existing, rehabilitated, or newly constructed housing units) within the City of Pittsburgh. HACP intends to offer Gap Financing as the last source of funds required to implement a development plan (i.e. a development project would not be implemented but for the provision of HACP's Gap Financing loan). HACP will only provide Gap Financing to a particular project that has met all of the following criteria:

- Owners/Developers have secured a Project Based Voucher Award from HACP through this solicitation.
- Owners/Developers must secure either a 9% or 4% allocation of LIHTC from PHFA, or raise enough equity from alternate sources greater than, or equal to, the expected 9% or 4% LIHTC allocation covering at a minimum the units to be considered affordable in the project.
- Owners/Developers have applied for or secured commitment of other gap financing from 3rd parties other than HACP before HACP can commit any funding to the deal.
- Owners/Developers must secure written commitments from all possible funding sources (i.e. loans, grants, private equity, etc.).
- The project meets HACP's But/For Test.

4.1 Affordability Restrictions (Use Agreement)

Affordability income range and term must be approved by HACP and HUD. HUD's Use Agreement will govern certain affordability restrictions for each development. HUD's minimum affordability use term is 30 years and, if applicable, it will increase to follow any loan term of Gap Financing loan that goes beyond 30 years.

HACP must record a Use Agreement as the first document in a recording order of a Gap Financing project. In general, the income restriction will be consistent with the PBV income requirements and the term of affordability will be consistent with HUD's minimum term or the term of the Gap Financing loan, **whichever is greater**.

4.2 Eligible Activities

HACP's Gap Financing loan can be used for typical development project costs except for the following **ineligible uses**:

- Operating reserves
- Developer fee or deferred developer fee
- Construction of commercial or retail space

NOTE: ARMDC does not provide a predevelopment fund or predevelopment loan under the Gap Financing program.

4.3 Maximum Loan Amounts

The Gap Financing funds will be provided in the form of a construction loan or a construction/permanent loan. The maximum loan amount that can be provided is \$100,000 per PBV unit, regardless of the primary equity financing method (LIHTC or Non-LIHTC) and subject to HACP's funding availability. The maximum loan amount that can be provided to each project is subject to HACP's funding availability.

4.4 Loan Term

The maximum term of each ARMDC Gap Financing loan shall not exceed 45 years.

4.5 Loan Structure

- Cash Flow Based Loan
 - HACP's Gap Financing loan is provided as the last resort gap financing tool for the proposed projects. As a result, HACP's Gap Financing is often structured as a cash flow-based loan. HACP will review the project financing and deal structure in detail.
 - The Gap Financing loan should be the first position with respect to other soft loans except for deferred developer fee. Each project's overall cash flow distribution, especially Gap Financing loan repayment and any other related fees for HACP/ARMDC must be approved by HACP/ARMDC.
- Amortization Loan
 - Under certain conditions, such as favorable financial terms and conditions agreeable by all parties that can also help sustain HACP/ARMDC's affordable housing funds, the Gap Financing loan can be structured to provide a hard amortization debt that requires a fixed amount of loan repayment on an annual basis along with an annual service fees.

4.6 Debt Service Coverage Ratio

If the Debt Service Coverage Ratio (DSCR) exceeds 1.15 on average for the first 15 years in the operating pro forma calculation, the Owner/Developer should either:

1. Increase the amount of the senior hard loan to increase fixed repayment to lower the DSCR to 1.15 level or
2. Convert a portion or all of HACP's Gap Financing loan to a hard debt that generates fixed repayment to lower the DSCR to 1.15 or
3. Increase cash flow distribution substantially to HACP/ARMDC Gap Financing loan repayment if the loan is structured as a cash flow loan.

Note: ARMDC can consider a higher DSCR limit up to 1.20 if the ARMDC Gap Financing loan is structured for a 30-year or shorter amortization period. Based on a standard pro forma assumption (i.e., rents increase by 2 percent (2%) per year and expenses increase by 3 percent (3%) per year), a higher DSCR can be allowed to maintain DSCR at or above 1.00 during the first 15 years.

4.7 Loan Repayment

1. Loan repayment will begin within 180 days after the first full-year of property operations.
2. The soft loan repayment schedule will be based upon the borrower's capacity to repay the loan through the project's operating income as determined by ARMDC, using the projected operating cash flow analysis.
3. For cash flow loans, a balloon payment of principal and interest, if any, will be due on the maturity date of the loan. The HACP/ARMDC loan will at a minimum carry an interest rate equivalent to the long-term adjusted Applicable Federal Rate (AFR) at the time of closing, or at parity with other hard or significant soft debt, unless there is a compelling public purpose rationale to use a lower interest rate.

4.8 Total Development Costs Limits

HUD enforces limits on the Total Development Costs (TDC) of projects, especially those administered by Public Housing Authorities that use public housing funds. As a result, each application will be subjected to a review to ensure compliance with 24 CFR 905.314 TDC limits. The information shall be provided in HUD's spreadsheet template as part of HUD development proposal packet. (Exhibit A. Mixed-Finance Development Proposal and TDC Workbook)

4.9 Cost Reasonableness

HACP reserves the right to request additional information from all Respondents in order to determine the cost reasonableness of a proposed project. Development cost will be evaluated by comparing costs to similar developments or previous phases of a development. Total development costs and operating expenses will be evaluated on a per unit and/or per square foot basis.

4.10 HUD Cost Control and Safe Harbors

HACP's PBV/Gap Financing projects are subject to HUD's Cost Control and Safe Harbors. HUD's Cost Control and Safe Harbors regulate various elements of the project development budget. The TDC workbook model provides some key cost control items for verification. (Exhibit B. HUD Cost Control and Safe Harbors)

4.11 Cash Flow

Projects should not generate excessive cash flow. Annual net cash flow should be less than 10% of annual total operating expenses.

4.12 Completion Guarantee

ARMDC's Gap Financing loan also requires the Owner/Developer to provide a completion guarantee in a form prescribed by ARMDC.

4.13 Loan Disbursement

The disbursement of development funding sources must be clearly presented in a monthly draw schedule for the construction period and approved by ARMDC prior to financial closing.

ARMDC's Gap Financing loan proceeds will be disbursed only after the following conditions are met for each payment period:

- ARMDC's construction inspector's sign off on each payment application;
- Monthly MBE/WBE/Section 3 reports in ARMDC's prescribed format;
- Each draw request must be fully documented with an invoice guide that clearly describes uses of individual funding sources and a copy of backup documents including receipts.

4.14 Loan Closing Fees

HACP/ARMDC will be paid for the following items related to closing of the Gap Financing loan:

1. HACP/ARMDC legal fees: Up to \$25,000 (HACP, at its discretion, may require additional legal fee reimbursement for complex projects that include, but are not limited to, two limited partnerships, condominium ownership structure, more than one tax credit program, etc.)
2. Gap Financing Loan Origination fee: 1% of Loan Principal Amount
3. Servicing Fee: An annual servicing fee of \$5,000 or one-half percent (.5%) of the outstanding principal balance, whichever is lesser, shall be due each April 15th for the term of the Gap Financing loan or until the outstanding balance is repaid in full. The initial fee may be financed as part of the total project cost.

4. Construction Inspection Fee: \$5,000

4.15 Identity of Interest

If there is an identity of interest (IOI) between the Developer and the contractor/builder, i.e., a financial relationship between the two parties, the Developer may award the construction contract to the related contractor/builder only if it has met one of the following requirements prior to HUD's approval of the Development Proposal. If an IOI is applicable to a project, the developer must select one of the following allowable scenarios and provide the required information.

- 24 CFR 905.604(i)(1): There has been a bidding procedure and the related contractor's bid was the lowest bid received. Provide documentation on the bidding process and bids received.

OR

- 24 CFR 905.604(i)(2): There is an independent third-party cost estimate that shows the related contractor's price to be at or below the cost estimate. Provide a copy of the cost estimate and the related contractor's cost or construction contract.

5.0 HUD PROPOSAL & EVIDENTIARY DOCUMENTS

5.1 Proposal, HUD Evidentiary and Closing Documents

All gap financing projects must be presented to and approved by HUD’s panel and various HUD offices in addition to HACP/ARMDC. HUD’s Development Proposal templates are used for HUD’s panel review. (Exhibit A: Mixed-Finance Development Proposal and TDC Workbook).

Upon submission of the Development Proposal, HACP has to submit for HUD’s review certain evidentiary documents including the Use Agreement, ALTA survey, title policy pro forma, recording order, and HACP lawyer’s legal opinion. It typically takes a minimum of 45 days for HUD’s proposal review/comments and another minimum of 45 days for HUD’s Evidentiary documents review/final gap financing program approval.

HUD Evidentiary Documents for Typical Project
HUD Use Agreement
ALTA Survey
Pro forma Lender’s Title Policy (For ARMDC’s loan)
Recording Order Memorandum
Site and Neighborhood Standards (HUD’s approval)
HACP Legal Opinion Letter

NOTE: HUD reserves the right to request any additional evidentiary documents.

HACP/ARMDC Financial Closing Documents (Submit these documents to the ARMDC’s Development Manager at least 2 months prior to the anticipated financial closing date)	
PBV	PBV Agreement to Enter Into Housing Assistance Payment Contract (AHAP). Prior to the execution of an AHAP, the Owner/Developer must ensure compliance with all HACP and HUD required compliance, such as the completion of a Rent Reasonableness approval, Subsidy Layering Review, Environmental Assessments, accessibility design approval, and Excepted Unit Plan.
A/E and Construction	Architectural Contract
	Construction Contract
	100% Architectural Construction Documents and Specifications
	Building Permits
	Construction Drawings and Manual approved and sealed
	Evidence of Contractor’s Insurance
Financing	Planning/Zoning Approvals
	Commitment Letters for All Other Financing (Initial and Final)
	Final/Updated HUD Development Proposal/TDC Calculation Packet
	ARMDC Loan Agreement, Mortgage, Promissory Note
	Completion Guaranty (ARMDC loan)
	Loan Documents From All Other Funding Sources
Overall Project Schedule	

	HUD Part 58 Approval (7015.16)
	Subsidy Layering Review
Other HUD Requirements	M/WBE Subcontract Commitment
	Section 3 Plan
	Relocation Plan (If applicable)
	Davis Bacon Wage Decision (latest update prior to execution of construction contract)
Other	Good Standing Certifications & Incumbency Certificates
	Management Plan and Management Agreement
	Form of Resident Leases (including Tenancy Addendum Section 8 Project-Based Voucher Program)
	Phase I – Environmental Site Assessment
	Physical Needs Assessment (If applicable)

5.2 Major Milestones for Gap Financing Loan Approval

ACTIVITY	DURATION
RFP Award/Conditional Commitment of PBV/Gap Financing	Approximately 2 months after an RFP is advertised/published
Due diligence items	<i>Owner/Developer must refer to the Critical Timeline Post-Award section as outlined in Section 5.3 below and Section I of the RFP</i>
Part 58 Approval Process <ul style="list-style-type: none"> • <i>Step 1:</i> State Historic Preservation Office inquiry & approval. • <i>Step 2:</i> City of Pittsburgh & HUD Field Office Environmental Review. 	The entire process can take 5 – 6 months for a non-complicated project. It can take longer if archaeological investigations and detailed environmental analysis/remediation plans are required.
Submission of HUD Development Proposal Package	Upon completion of all funding awards (e.g., LIHTC, FHLB’s AHP, etc.) and final commitments of equity and loans
HUD Panel Review	Within 30-45 days from the submission of a proposal package (If the proposal package has significant issues or insufficient information, HUD’s review may take longer.)
Complete Draft of Agreement to Enter into PBV HAP Contract (AHAP)	Timeline of AHAP process is separate from the Gap Financing program
Initial Evidentiary Submission to HUD	After HUD’s panel review and preliminary (verbal) approval from HUD’s grant manager
HUD approval for financial closing	Within 45 days from the initial evidentiary submission with no significant issues
Financial Closing (including Gap Financing loan documents and AHAP)	

5.3 Due-Diligence Items

The Owner/Developer must submit due-diligence items within a certain number of days from date of HACP's Gap Financing award or LIHTC award (***Owner/Developer must refer to the Critical Timeline Post-Award section as outlined in Section I of the RFP.***).

1. Securing of all equity and grant funding awards and written commitment of all loans
2. Draft of HUD Development Proposal package including the TDC workbook
3. Draft of Exhibits B and C of the AHAP

**Exhibit A. Mixed-Finance Development Proposal and
Total Development Cost (TDC) workbook
(See Attached)**

Note: This is for reference only.
Respondents are not required to complete and submit these documents.

Exhibit B. HUD Cost Control and Safe Harbors
(See Attached)

**Exhibit C. Tiered Voucher Payment Standards and Reasonable
Accommodation Payment Standards**
(See Attached)