

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5505-N-01]

**HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) for
Energy Innovation Fund – Multifamily Pilot Program**

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This NOFA announces the availability of \$25 million in Fiscal Year (FY) 2010 funding from an Energy Innovation Fund for a Multifamily Energy Pilot, directed at the multifamily housing market, to catalyze innovations in the residential energy efficiency sector that have promise of replicability and to help create a standardized home energy efficient retrofit market. In addition to the application requirements set forth in this NOFA, the applicants must also comply with all terms and conditions contained in the Notice of HUD's Fiscal Year (FY) 2010 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY 2010 NOFAs for Discretionary Programs (General Section), posted to Grants.gov on June 7, 2010, and followed by a notice of web availability on Grants.gov published in the Federal Register (FR-5415-N-01).

APPLICATION DEADLINE DATE: The application deadline date is 11:59:59 p.m. on **Thursday, October 20, 2011**. Please see the General Section for instructions for timely receipt, including actions to take if the application is rejected.

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in this NOFA. Questions regarding the FY2010 General Section should be directed to the Office of Departmental Grants Management and Oversight at (202) 708-0667 (this is not a toll-free number) or the NOFA Information Center at (800) HUD-8929 (toll-free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877-8339. The NOFA Information Center is open between the hours of 10:00 a.m. and 6:30 p.m. eastern time, Monday through Friday, except federal holidays.

OVERVIEW INFORMATION:

A. Federal Agency Name. U.S. Department of Housing and Urban Development, Office of Multifamily Housing Programs.

B. Funding Opportunity Title. Energy Innovation Fund – Multifamily Energy Pilot Program.

C. Announcement Type. Initial announcement.

D. Funding Opportunity Number. The Federal Register number for this NOFA is FR-5505-N-01. The OMB approval number for this program is 2502-0599.

E. Catalog of Federal Domestic Assistance (CFDA) Number(s). 14.319 Energy Innovation Fund.

F. Application Deadline Date. The deadline date is 11:59:59 p.m. eastern time on **Thursday October 20, 2011**. Applications must meet the timely receipt requirements of the General Section. See Section IV of the General Section regarding application submission procedures and timely filing requirements. Applicants need to be aware that following receipt, applications go

through a validation process in which the application may be accepted or rejected. Please allow time for the process to ensure that you meet the timely receipt requirements. Please see the FY2010 General Section for instructions for timely receipt, including actions to take if the application is rejected. Applicants should carefully read the section titled “INSTRUCTIONS ON HOW TO DOWNLOAD AN APPLICATION PACKAGE AND APPLICATION INSTRUCTIONS” in the General Section. This section contains information on using Adobe Reader, HUD’s timely receipt policies, and other application information. The latest version of Adobe Reader used by Grants.gov is Adobe Reader 9.4 which is compatible with PCs and MAC computers.

G. Additional Overview and Contact Information.

1. Purpose of the Program. On December 16, 2009, the President signed the Consolidated Appropriations Act of 2010 (Pub L. 111-117). This legislation includes an appropriation of \$50 million for an Energy Innovation Fund to catalyze innovations in the residential energy efficiency sector that have promise of replicability and to help create a standardized home energy efficient retrofit market. Of this amount, Congress directed that \$25 million shall be for the Multifamily Energy Pilot Program (the Program), directed at the multifamily housing market. This NOFA provides information and instructions for applying for a grant.

The primary purpose of the Program is to stimulate innovative approaches for increasing the energy efficiency of existing multifamily residential properties that can be replicated by others. HUD expects that outcomes of the Program will include:

- a. Reduced energy consumption in multifamily residential properties, with resulting savings for families, property owners, and in some cases the Federal government, and lower greenhouse gas emissions.
- b. Increased private investment to support energy efficiency in such properties.
- c. Green jobs in construction, property management, and technical analysis (e.g., energy audits, building commissioning), including job opportunities for low-income people.
- d. Acquisition and analysis of data on the costs, benefits, challenges, and opportunities associated with retrofitting such properties.
- e. Approaches for retrofitting such properties that can be scaled up, applied more widely and adopted by other parties.
- f. Approaches that propose solutions to the disparity among the parties when their financial or other interests are not the same, such as the difference in perspective when utilities are paid only by the ownership or only by the tenants, i.e., the so-called “split incentives” issue.

2. Two Program Activity Types. Awards will be made in each of two different categories:

- a. Financing Demonstrations, and
- b. Applied Research Demonstrations.

3. Matching Funds Required. Participation in the Energy Innovation Program requires that a successful applicant (Grantee) has matching funds to complement grant funds. The level of funding that an applicant must demonstrate to be considered for participation is as follows:

- a. Applicants for Financing Demonstrations must demonstrate that they have acquired matching funds of at least \$2 of private, non-governmental (other than federal, state, local, or tribal) capital for every \$1 requested, and will be required to bring additional matching funds of \$1 for every \$1 loaned at the project level.
- b. Applicants for Applied Research Demonstrations must demonstrate that they have acquired matching funds of at least \$1 of private, non-governmental capital (other than federal, state, local, or tribal) for every \$1 requested.

4. Award Information. HUD anticipates that the maximum award amount will be:

a. Financing Demonstrations - Up to \$7.5 million awarded to any eligible applicant inclusive of their related parties.

b. Applied Research Demonstrations - Up to \$3 million awarded to any eligible applicant inclusive of their related parties.

An applicant is eligible for only one award to the applicant entity, either in the category for financing demonstrations or applied research demonstrations. Notwithstanding an award of grant funds made to any applicant entity, one separate award (in either category) may be made to another entity in which the applicant has an interest, as long as the interest is less than 50 percent ownership or control and is therefore not considered a Related Party as defined herein.

5. Eligible Applicants. Eligible applicants are limited to:

a. Treasury-certified community development financial institutions with affordable housing development and rehabilitation programs.

b. National, regional, or local private or non-profit entities currently administering affordable housing development and rehabilitation programs, including technical assistance and capacity building programs. Such entities must manage or direct programs impacting a minimum of 1000 units of affordable housing.

c. Special purpose financing entities, such as housing trust funds, whose primary purpose is the preservation, rehabilitation, and/or new construction of affordable rental housing serving low-income households.

d. Nonprofit or for-profit organizations (and/or consortia thereof) that own or control a portfolio of Eligible Multifamily Properties. Such entities must manage or direct programs impacting a minimum of 1000 units of affordable housing.

FULL TEXT OF ANNOUNCEMENT:

I. Funding Opportunity Description

A. Program Description:

Pursuant to the Consolidated Appropriations Act of 2010 (Pub L. 111-117), this Program will support innovations in financing and conducting applied research to address primary barriers to the retrofitting of certain multifamily residential properties to be more energy efficient on a cost effective basis. The goals of this NOFA are to: (1) demonstrate solutions to the primary and longstanding challenges to implementing energy efficiency and renewable energy improvements in existing affordable multifamily properties; (2) leverage private capital and additional public funding to demonstrate “proof of concept” of specific models; and (3) conduct applied research to document and disseminate mainstream, scalable approaches to retrofitting affordable multifamily properties.

B. Authority. The authority for this program is the Consolidated Appropriations Act of 2010 (Pub L. 111-117 approved December 16, 2009).

C. Terms and Definitions.

1. Administrative Costs for Grantees. Administrative Costs are expenses for the general administration of the organization and costs that do not relate solely to the activities carried out by the grant. Administrative costs pursuant to a grant award are limited to no more than 10 percent of the total grant amount. Activity delivery costs are not considered administrative costs. Costs for technical assistance or costs for specific expertise to carry out the Program are considered direct costs and are not considered administrative costs.

2. Cooperative Agreement. The award shall be in the form of a cooperative agreement. HUD anticipates having substantial involvement during the period of performance, including but not limited to: oversight of the progress made, proposed activities and results of those activities, monitoring of funds drawn, and project deliverables and timelines. The terms of the cooperative agreement include the work to be performed under the grant and any special conditions or requirements, including the extent of HUD involvement.

3. Eligible Multifamily Properties. Eligible Multifamily Properties are existing properties with at least 5 units, having a primary purpose of residential housing, in which a majority of units are reserved for Low-Income households as defined below, inclusive of public housing.

4. Letter(s) of Intent. As a part of the application process, the applicant must demonstrate the ability to match funds in conformance with program requirements. To do so, applicants must either demonstrate their own capacity to provide required funds or must provide letters of intent from one or more third parties. To qualify, the letter must include the third party 1) agreeing to perform an activity specified in the application; 2) demonstrating the financial capacity to deliver the resources necessary to carry out the activity; and 3) evidencing the intent to commit the resources to the activity if the application is funded. Each letter of intent must include the third party organization's name, the applicant's name, and describe the proposed total level of commitment expressed in dollar value as it relates to the proposed program activity. The letter of intent must be written on the letterhead of the third party organization, must be executed by an official of the organization legally authorized to make commitments on behalf of the organization, must be dated no earlier than the date of publication of this NOFA, and must state that the commitment remains valid for the full period of grant activities should an award be granted. Prior to the execution of the Cooperative Agreement and other related grant documents (collectively "Grant Documents"), each organization involved in providing the matching funds will be required to reconfirm the availability of such funds, and convert the Letter of Intent to a Third Party Commitment Letter through documentation in form and substance described below. All such funds shall conform to the requirements of 24 CFR 84.23.

5. Low Income. Low-income is defined as family income that does not exceed 80 percent of the median family income for the area, per Section 3 of the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437a).

6. Occupancy Normalization. A methodology for adjusting energy consumption measures to recognize vacant units and other unique occupancy characteristics (also see "Weather Normalization"). All data must be normalized to 100 percent occupancy.

7. Related Parties. Related parties are parties in which one party owns more than 50 percent of the capital interest in or profits from another party or parties, or any person or business concern that directly or indirectly controls policy of a principal or has the power to do so.

8. Special Purpose Financing Entity or "SPE." For the purposes of this NOFA, an entity created for the primary purpose of preserving, rehabilitating, and/or constructing affordable rental housing to serve low-income households. An SPE is a separate legal structure created to provide liquidity and/or obtain favorable external funding, and may take various forms, including partnerships and trusts. An SPE will have separate financial statements and not be required by law or accounting standards to consolidate its financial statements with those of another entity.

9. Substantial Progress. Substantial progress shall be measured by milestones defined in the Final Work Plan for each grant activity.

10. Terms and Conditions of the Award. The Grant Documents will specify the level of involvement HUD anticipates will be required to oversee or monitor the award and, if applicable, an approved activity. The Grant Documents will incorporate the Final Work Plan, and any other

documents that affect and/or control the relationship between HUD and the Grantee. The Grant Documents will also include Grantee reporting requirements with reports due on a quarterly basis to confirm successful completion of milestones established in the Final Work Plan. The terms and conditions will also require the Grantee to obtain HUD approval of any proposed key staff changes. HUD retains the right to accept or reject proposed changes to key staff.

11. Third Party. A party that the applicant is engaging to support its application for participation in the Program, and who may, if an award is made to the applicant, become a source of matching funds. This term may also be used in reference to a “third party insurer” or “third party lender” where specifically referenced herein.

12. Third Party Commitment Letter. A letter from a third party, to be provided to HUD only after preliminary selection of an applicant, confirming the intent of the third party to participate in a specific activity under this Program and stating an irrevocable commitment to participate. A third party commitment letter must specify the authority by which the commitment is made, the amount of the commitment, the proposed use of funds, and the relationship of the commitment to the proposed investment. The third party commitment letter must affirm that the commitment is contingent only upon the award of funds under this Program.

13. Treasury-Certified Community Development Financial Institution or “CDFI.” An institution bearing a certification designated by the CDFI fund from the Department of Treasury upon successful application by that institution.

14. Use Agreements. An agreement entered whereby the owner binds the property and agrees to preserve rents at an established affordability level (e.g. “moderate income” tenants, “low income” tenants, or “very low income” tenants) and/or impose use restrictions, as established in such agreement in exchange for a financial benefit or as a requirement for specific program participation.

15. Weather Normalization. A methodology to mathematically adjust actual energy use data so that it can be compared to energy typically used in an average year for the same location. Heating degree days and cooling degree days are used to normalize consumption by determining the consumption amount per degree day and multiplying by the average year degree day value.

16. Work Plan. A draft Work Plan will be required with the application submission. A Final Work Plan will be negotiated after selection but prior to Grant award. The draft Work Plan submitted by the applicant must include a detailed description of each grant activity to be performed, including: activity milestones, timelines for completion of the activity milestones, and timelines for when and how the federal funds and matching funds will be used. The draft Work Plan must be sufficiently detailed, including budget and match information, for oversight and/or monitoring purposes and must identify the performance goals and objectives to be achieved, including any deliverable documents and/or program accomplishments or outputs. HUD will approve the Work Plan or notify the applicant of matters that need to be addressed prior to and as a condition of its approval and the award of the grant by HUD.

II. Award Information

A. Award Notice.

1. HUD will notify all applicants as to whether or not they have been conditionally selected for an award. If selected, HUD’s notice concerning the amount of the grant award (based on the approved application) will constitute HUD’s conditional approval, subject to negotiation and execution of the Grant Documents by HUD.

2. If an applicant is conditionally selected for an award, HUD will require the applicant to participate in negotiations to determine the specific terms and conditions of the Grant

Documents. HUD will follow the negotiation procedures described in the **General Section**. The selection is conditional and does not become final until the negotiations between the applicant and the HUD are successfully concluded and the Grant Documents are signed and executed based upon the negotiations. Costs may be denied or modified if HUD determines that they are not allowable, allocable, and/or reasonable.

3. As a result of negotiations, HUD may request an applicant to submit revisions to the proposed Work Plan and budget. HUD may request these be delivered electronically by email as well as faxed to HUD using the facsimile cover page found in your original conditionally approved application. Faxed copies of materials will be attached to your electronic application file so that HUD has a complete record of the submission including any changes as a result of negotiations.

4. In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected applicant fails to provide HUD with requested information within specified time frames, an award will not be made to that applicant. In this instance, HUD may offer an award and proceed to negotiate with the next highest-ranking applicant subject to consideration given to the range of innovative activities and also to geographic diversity as described below in Section V.C.5.

B. Funding Availability. Approximately \$25 million is being made available in FY2010 funds for two types of awards:

1. Financing Demonstrations. Financing Demonstrations are initiatives that demonstrate innovative methods for financing retrofits of multifamily properties that achieve the criteria described in this NOFA. The maximum award amount under the Financing Demonstration component will be \$7.5 million to any applicant.

Financing Demonstrations must offer a plan to achieve both of the following:

- a. Leverage additional capital; and
- b. Test new ways of funding retrofit improvements.

Examples of eligible financing demonstrations are:

- (1) energy retrofit financing vehicles providing investor equity;
- (2) loan loss reserves; interest rate reductions;
- (3) secondary financing; loan guarantees; secured and unsecured loans;
- (4) energy-related revolving loan programs;
- (5) on-bill utility repayment programs or other mechanisms; and
- (6) power purchase agreements, energy performance contracts, or similar financing structures.

2. Applied Research Demonstrations. Applied Research Demonstrations are initiatives that demonstrate innovative and scalable methods of defining and implementing a solution to a longstanding barrier to multifamily residential retrofits that is not primarily financial in nature. The barrier could be behavioral, structural, regulatory, or related to availability of information or options. Applied Research Demonstrations must apply a proposed solution to an actual property or group of properties and be applicable to other similar properties. The maximum award amount for the Applied Research component will be \$3 million to any applicant.

Examples of Applied Research are:

- a. Solutions that provide more information on and greater owner and/or tenant control over energy use;
- b. Solutions that convert properties from master metered/owner paid utilities to individually metered/tenant paid utilities that result in efficiencies and savings, or vice versa; and

c. Conservation practices and solutions that address the problem of split incentives by creating incentives for parties that promote investment strategies for energy improvements.

3. Number of Awards. An applicant is eligible for only one award to the applicant entity, either in the category for financing demonstrations or applied research demonstrations.

Notwithstanding an award of grant funds made to any applicant entity, one separate award (in either category) may be made to another entity in which the applicant has an interest, as long as the interest is less than 50 percent ownership or control and is therefore not considered a Related Party as defined herein.

4. Type of Awards. HUD will award a minimum of one grant for financing demonstrations and a minimum of two grants for applied research activities. The number of grants to be awarded in each category will be finally determined based upon the rating and ranking factors with consideration given to the range of innovative activities and the geographic diversity. If there are no successful applicants for one of the two program activities, all grant funds may be awarded in one category (either "all financing demonstrations" or "all applied research").

5. Period of Performance. All awards will be made for a period of performance not to exceed 24 months commencing upon award execution.

III. ELIGIBILITY INFORMATION

A. Eligible Applicants.

1. Treasury-certified community development financial institutions.

2. National, regional, or local private or non-profit entities currently administering affordable housing development and rehabilitation programs (inclusive of Public Housing Authorities and federally recognized Tribal Governments), including technical assistance and capacity building programs.

3. Special purpose financing entities, such as housing trust funds, whose primary purpose is the preservation, rehabilitation, and/or new construction of affordable rental housing serving low-income households.

4. Nonprofit or for-profit organizations (and/or consortia thereof) that own or control a significant portfolio of Eligible Multifamily Properties.

B. Other

1. Eligible Activities.

a. Financing Demonstrations. All activities under the financing demonstrations must offer a plan to achieve both of the following:

(1) Leverage additional capital; and

(2) Test new ways of funding retrofit improvements. Examples of eligible activities are:

(a) Revolving Loan Funds. A revolving loan fund (RLF) is an eligible use of funds only when the activities supported by the loans are eligible activities under the Program. A revolving loan fund is a self-replenishing pool of monies created when the interest and/or principal payments from previous loans (or proceeds from their sale) provide funding for additional lending.

(b) Loan Loss Reserves. Funds may be used for a loan loss reserve to support loans made with private and public funds and to support a sale of loans made by a Grantee or third-party lenders into a secondary market, subject to the following conditions. The activities supported by the matching funds are limited to eligible activities which further the purposes of the Program. Additionally, a Grantee must ensure that the following conditions are met:

(i) a Grantee shall review and monitor loans provided by third party lenders to ensure that loans are being made to support eligible activities;

(ii) a Grantee establishing a loan loss reserve has no legal or financial obligation beyond the funds committed to the reserve and is not subject to further recourse in the event losses exceed the amount of the reserve;

(iii) any funds used to establish a loan loss reserve not used in connection with loan losses paid to third party lenders or secondary market investors must be used by or at the direction of the Grantee and for an eligible use, including capitalization of a RLF; and

(iv) under no circumstances shall funds be released to a third party lender or secondary market investor for any purpose not pertaining to loan losses.

(c) Interest Rate Subsidies. Grant funds may be used for interest rate subsidies subject to the conditions identified in this section. An interest rate subsidy is when one party (e.g., Grantee) provides a payment based on the net present value of the difference between a target return to the lender or loan investor and the interest rate based on the borrower's interest rate. This has two primary purposes:

(i) increase project affordability and demand by reducing monthly payments; and

(ii) maintain or increase lender/investor interest in making loans by yielding higher returns.

In order to ensure that a use of grant funds for interest rate subsidies furthers the purposes of the grant program, the loans supported by the interest rate subsidies must be for the purchase and installation of energy efficient or renewable energy products or applications.

(d) Third Party Loan Insurance. Grant funds may be used for the purchase of third party loan insurance subject to the conditions identified in this section. Third party loan insurance is a financial arrangement whereby a third party bears some portion (or all) of the risk of a loss on a specific portfolio. This typically takes the form of a lender or investor purchasing an insurance policy from a third party against losses on a portfolio of loans up to a fixed percentage (the stop loss) of the sum of all the original loan amounts. The maximum insurance payout is determined by the value of the portfolio and not the value of individual loans. In order to ensure that a use of grant funds for third party loan insurance furthers the purposes of the grant program, the loans supported by the third party loan insurance must be for the purchase and installation of energy efficient or renewable energy products or applications.

b. Applied Research.

Applied research grants encourage applicants to develop innovative approaches to identify and mitigate barriers that currently impede or discourage investments in multifamily energy efficiency. Examples of such approaches might include, but are not limited to, any or any combination of the following:

(1) Conversion of utilities throughout a portfolio of properties from master-metered/owner paid to tenant metered/tenant paid, or vice versa, with tenant utility allowance appropriately-sized, and detailed tracking of baseline, benchmarking, and consumption resulting from conversion;

(2) Development and implementation of a comprehensive tenant outreach and education program across a portfolio of properties, with target goals to track and to reduce personal energy consumption, and detailed tracking and reporting of results;

(3) Programs that innovatively address the so-called "split incentive" challenges (cases where utilities are paid by residents, but equipment is owned by the property owner) with proactive approaches to equipment efficiency upgrades, resident programs for conservation, shared savings and incentives plans, and detailed tracking and reporting of savings results;

(4) Retrofit plans that employ technologies readily available in the market but heretofore not applied in multifamily settings, designed to manage, track, and reduce energy consumption.

2. Threshold Requirements.

a. See the **General Section** for threshold requirements applicable to all programs.

b. Requirements for All Applications.

(1) General HUD Threshold Nondiscrimination and Other Requirements. See section III.C.2 through section C.5 of the General Section. In particular, applicants should review those provisions that could result in the failure to receive funding, including the DUNS Number Requirement, Compliance with Fair Housing and Civil Rights Laws, provisions relating to Delinquent Federal Debts, and the Name Check Review. HUD will not make awards to entities that are debarred, suspended or are on the HUD Limited Denial of Participation List. HUD also reserves the right to review information in the Federal Award and Performance Integrity System (FAPIS).

(2) Program Specific Threshold Requirements. In addition to the threshold requirements of the General Section, each application must meet the following program specific threshold requirements:

(a) Matching Funds. Participation in the Program requires that applicants have matching funds to complement grant funds. The level of funding that an applicant must demonstrate to be considered for participation is as follows:

(i) Applicants for Financing Demonstrations must demonstrate that they have acquired matching funds of at least \$2 of private, non-governmental (other than federal, state, local, or tribal) capital for every \$1 requested. (Please note that, under Program Requirements below, applicants for Financing Demonstrations, in addition to the threshold matching requirements at the fund level as stated above, the plan must include a requirement that all properties utilizing financing through the Demonstration obtain additional matching funds at the property level of at least \$1 of matching funds for every \$1 of Demonstration financing utilized by that property.)

(ii) Applicants for Applied Research Demonstrations must demonstrate that they have acquired matching funds of at least \$1 of private, non-governmental capital (other than federal, state, local, or tribal) for every \$1 requested.

Leverage of public sources of funds may supplement, but not substitute for, the private matching funds threshold requirements in (a) and (b) above. Regardless of matching requirements, sources of additional funds may include private capital commitments, public sources including funds from HUD and contributions from other sources including foundations, and endowments. When using federal funds, the statute governing those funds must allow the use of the funds for the matching/leveraging purpose. Applications must include Letters of Intent for source(s) of matching funds.

(b) Maximum Matching and Leveraging Funds. In addition to the Matching Funds requirement described above, Applicants are encouraged to have additional leveraged funds to complement Program grant funds, as described below. However, Applicants must demonstrate that matching and leveraged funds combined do not exceed \$9 of capital for every \$1 requested, i.e., funding requested under this NOFA must constitute at least 10 percent of total capital investment at the project level.

(c) Copyright and Intellectual Property Right Requirements. Because the replicability of proposed solutions is a desired outcome of the Energy Innovation Program, HUD will not award grants to an applicant who proposes a proprietary solution. This prohibition on award includes proposing to use as a platform or create after development, a tool, system, or

methodology that is proprietary to the Grantee or any third party, or that relies on protected intellectual property. The use of widely available technical systems (e.g. ACCESS © or EXCEL ©) is generally permitted.

(d) Energy Performance. This Program is directed to achieve significant improvements in energy consumption that can be modeled by other entities in the future. Your application must provide an analysis to support a projected reduction in energy consumption of at least 20 percent on average by project over pre-intervention performance.

(e) Verification of Energy Savings (post-intervention). Your application must describe how you will measure and verify energy savings resulting from activities funded under the Program. At a minimum, the measurement methodology must incorporate weather normalization and occupancy normalization, and must be based on consumption data rather than cost data. Further, whole building consumption must be distributed by tenant and owner components. Collection of data as described herein may require the Grantee or a sub-grantee to obtain tenant releases for individual unit utility data collection.

The application must propose how the data for energy savings will be collected in an electronic, spreadsheet format, and must include, at a minimum, each fuel and utility source, and baseline consumption data for each utility source (minimum 12 months of usage) in the unit of measure appropriate to the utility type (kwh for electric, BTUs for natural gas, gallons for fuel oil, gallons for water/sewer, etc). The proposed spreadsheet data collection format must be submitted with the application. If selected for award, the HUD approved data collection methodology will be used when reporting. The reporting requirement will be part of your award agreement.

3. Program Requirements.

a. Eligible Multifamily Properties. Any activity under this Program must occur in or be associated with eligible multifamily housing units.

b. Economic Opportunities for Low- and Very Low-Income Persons (Section 3). The Program requires recipients of funding to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 CFR part 135. Applicants are advised to carefully review this section prior to seeking funding. Section 3 requires recipients to ensure, to the greatest extent feasible, that training, employment, and contracting will be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low-and very low-income persons in the area in which the project is located. To implement 24 CFR 135.9(a) of the Department's Section 3 rules, applicants for funding under programs covered by Section 3 shall, by signing the application, certify compliance. The applicant's discussion of the approach to meeting Section 3 requirements will be evaluated under Factor 1 of the rating factors described in this NOFA with higher points given where it is clear that a feasible plan exists to train and employ Section 3 residents and contract with Section 3 business concerns in furtherance of the proposed activities; and to meet the requirements of 24 CFR Part 135, particularly subpart B-Economic Opportunities for Section 3 residents and Section 3 Business Concerns, and Subpart E-Reporting and Recordkeeping.

Additional information on the requirements can be found at:

<http://www.hud.gov/offices/fheo/section3/section3.cfm>

c. Affirmatively Furthering Fair Housing. Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to administer the programs and activities relating to housing and urban development in a manner which affirmatively furthers fair housing. HUD requires the same of its funding recipients. Successful applicants will have a duty to affirmatively further fair housing

opportunities for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability, and familial status. Activities addressing this criterion may include distribution of printed materials to residents (in translations appropriate to the resident population), staffing discussion groups with residents, or similar forms of outreach related to energy conservation and its association with an improved quality of life for residents. This criterion might also be successfully addressed by inviting residents to participate in some aspects of the grant activity. By submitting the application for HUD funding assistance, the applicant is certifying that, if awarded funds, the applicant and any subawardees will affirmatively further fair housing and comply with the requirements of the General Section.

d. Program Design. To the extent that these practices can be applied to any aspect of the activity, an applicant's program design must include the following:

(1) Project energy assessment or audits. Proposals must set a protocol for evaluating the energy performance and identifying the cost-effectiveness of energy investments.

(2) Quality installation of energy improvements, where applicable. Proposals must describe how quality assurance of contractors and their work will be provided.

e. Additional Requirements for Matching at the Property Level: For applicants for Financing Demonstrations, in addition to the 2:1 threshold matching requirements at the fund level as stated above, the plan must include a requirement that all properties utilizing financing through the Demonstration obtain additional matching funds at the property level of at least \$1 of matching funds for every \$1 of Demonstration financing utilized by that property.

f. Actual Properties. No pure research is allowed. As a condition precedent to obligation of funds, evidence of site control (e.g., title document, option to purchase, purchase and sale agreement, ground lease agreement) must be provided for each property. Should substitution of a property be needed by a Grantee, the Grantee must request HUD's approval of the substitution. In selecting sites, applicants are advised against selecting properties located in a floodplain. Based upon the timeline for the period of performance and the objective of being able to demonstrate energy savings through either financing demonstrations or applied research demonstrations, if sites are proposed that are in floodplains, HUD may request the applicant to select an alternate site.

g. Copyright and Intellectual Property Restrictions. Applicants cannot copyright or claim intellectual property rights for ideas set forth and undertaken with Program award funds.

h. Use Agreements. HUD will require that the ownership of properties benefiting from grant funds enter into use agreements or have in place existing use agreements, which include affordability restrictions extending for at least 10 years from date of delivery of grant benefit (for a sub-recipient owner) or commencement of grant-related activity (for a Grantee owner). A Use Agreement executed by the owner of any beneficiary property is required whether the associated property is owned by a direct funds recipient, a sub-recipient, a borrower or any other program participant. HUD will require that the ownership of a property benefiting from these grant funds:

(1) have an existing Use Agreement with a remaining term of at least ten years from date of delivery of the grant benefit or commencement of grant-related activity; or

(2) extend the term of any existing Use Agreement for a period of at least ten years from the appropriate date as defined above; or

(3) Execute a new Use Agreement for a period of no less than ten years from this date.

New Use Agreements shall be in a form and substance prescribed by HUD and any recordation expenses may be included in administrative costs and shall be borne by the Grantee.

i. Letter of Commitment Requirements. Prior to the execution of the Grant Documents and as required by HUD, each organization involved in providing the matching funds for the award activity will be required to reconfirm the availability of such funds, through documentation in form and substance described below. After an applicant receives preliminary selection notification to receive a grant and all negotiations with respect to creating the Final Work Plan are complete, any third party providing a Letter of Intent at the application phase described above must provide a Third Party Commitment Letter which must specify the authority by which the commitment is made, the amount of the commitment, the proposed use of funds, and the relationship of the commitment to the proposed investment. All Third Party Commitments must be submitted using form HUD96011 that was part of the application submitted to HUD as the cover page to the information being faxed. This will allow HUD to place the information in its electronic record for the application. For persons who submitted multiple funding requests for which HUD requested a determination of which application to review, please be sure to track the application submitted and used by HUD for its review and evaluation so that you can use the correct form HUD96011 to fax the required letters. Each time you download an application from Grants.gov it contains a unique embedded ID number. HUD uses that number to associate faxes to an application submission.

j. Operations & Maintenance Plan. Applications must include development and implementation of an operations and maintenance plan at each beneficiary property incorporating best practices from the green building industry and appropriate for the operation of affordable housing. Examples providing an acceptable level of information are found in the HUD Mark-to-Market Green Initiative Operations and Maintenance Plan and the Enterprise Green Communities Operations and Maintenance mandatory requirements. Additionally, applications must describe how residents of participating multifamily properties will be engaged. Such involvement may be evidenced by a plan to conduct periodic tenant meetings or other training on best practices for energy savings, delivery of informational materials, unit visits or individual counseling, contests or similar activities.

For Financing Demonstrations, sub-grantees may develop their own plan so long as the Grantee reviews and accepts the plan prior to commencement of the grant activity. For Applied Research Demonstrations, and for financing Demonstrations where the Grantee's direct association with the property makes such plans necessary at the Grantee level, the Grantee may be required to amend any preliminary plan to meet the requirement of the Final Work Plan.

k. Right to Approve Key Staff or Subawards. HUD may require the approval of all subaward agreements prior to a selected applicant/grantee making the subaward. HUD also reserves the right to approve any proposed changes to key staff that are identified in the application or Grant Documents. The approval of key staff and the identification of the key staff agreed to by HUD will be included in the Grant Documents. Any proposed subawards subject to prior HUD review and approval shall also be identified in the Grant Documents, along with the timeframe in which HUD will make the determination.

l. Disbursing Funds. Grantees must comply with the terms of the Grant Documents with respect to the grant funds. The Grant Documents will contain the necessary requirements for how and when funds may be requested.

m. Audit Requirements. Any Grantee that disburses \$500,000 or more in federal financial assistance in a single program or fiscal year must meet the audit requirements established in 24 CFR parts 84 and 85 in accordance with OMB A-133.

n. Loan Defaults. Grantees are not required to replenish or replace any amounts lost to loan default so long as the lost funds were lent for an eligible program purpose in an approved program lending activity.

o. Financial Capacity of Third Parties Providing Commitment Letters. The third party must demonstrate its financial capability by providing appropriate documentation with the commitment letter. Additional information related to commitments of other resources is provided in Rating Factor 3 in Sections V.B.1.c and V.B.2.c. of this NOFA (Matching Funds and Leveraging above the Matching Funds Requirement).

See Section IV.B.6.d. of the General Section "Submission of Narrative Statements, Third-Party Letters, Certifications, and Program-Specific Forms" for instructions on how third party documents are to be submitted electronically as part of the application.

p. Progress Milestones

(1) HUD expects Grantees to make timely, substantial progress in accomplishing approved activities. The milestones that are expected to be met to meet the substantial progress requirement will be described in the Final Work Plan. Grantees will be expected to report progress against the established milestones in the Final Work Plan. Awards on a cost reimbursement basis may require submission of documentation and HUD approval to release the funds requested.

(2) All permitted activities must be completed and grant funds fully disbursed within two years of award.

q. Program Income Specific Requirements. Applicants must have sufficient knowledge and experience to identify and account for program income. Each application must contain a specific section stating how the applicant will address program income accounting and reporting requirements. All program income including interest earned on any grant supported activity (if it generates program income it has to be accounted for whether it is paid to a grantee or is used for a program purpose without passing back to the grantee) is subject to the terms and conditions of the original grant and such U.S. Treasury rules as may apply. More specifically each Grantee must document receipt of program income, both principal and interest, and how the funds were used. These requirements for documentation and reporting requirements (detailed later in this document) will be detailed in the Final Work Plan and contained in the Grant Documents.

r. Eligible Use of Funds. Funding provided must be used primarily to fund allowable costs associated with energy interventions of Eligible Multifamily Properties. Eligible uses also include:

(1) project technical support costs for energy assessments, audits, energy savings measurement and verification, and energy benchmarking; and

(2) project technical assistance, including development and implementation of operations and maintenance plans incorporating best practices for green and/or efficient building improvements, including tenant outreach, education, and incentives.

s. HUD's Electronic Line of Credit Control System. Applicants must be eligible to acquire rights and access under HUD's Electronic Line of Credit Control System (eLOCCS). This is the sole mechanism for obtaining grant funds. Grantees are required to have HUD approval before making any withdrawal of grant funds from the eLOCCS system.

C. Prohibition Against Lobbying Activities:

Unless excluded from this requirement by other provisions of law, applicants are subject to the provisions of Section 319 of Public Law 101-121 (approved October 23, 1989) (31 U.S.C. 1352) (the Byrd Amendment), which prohibits recipients of federal contracts, grants, or loans from

using appropriated funds for lobbying the executive or legislative branches of the federal government in connection with a specific contract, grant, or loan. In addition, applicants must disclose, using Standard Form SFLLL (SFLLL), "Disclosure of Lobbying Activities," any funds, other than federally appropriated funds, that will be or have been used to influence federal employees, members of Congress, or congressional staff regarding specific grants or contracts. Federally recognized Indian tribes and tribally designated housing entities (TDHEs) established by federally recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but state-recognized Indian tribes and TDHEs established only under state law must comply with this requirement.

D. Public Posting of Applicant Information. Applicants must agree to allow HUD to distribute all or portions of funded applications on a public website and/or to use submitted content in marketing materials. Applicants may not have copyright or intellectual property rights on ideas or projects proposed under this NOFA.

IV. Application and Submission Information

A. How to Request Application Package.

See the General Section for specific procedures concerning the electronic application submission and timely receipt requirements. Copies of the published NOFAs and application forms for HUD programs announced through NOFAs may be downloaded from the grants.gov website at <http://www.grants.gov>. If there is difficulty accessing the information, customer support is available from Grants.gov by calling its Support Desk at 800-518-GRANTS, or by sending an email to support@grants.gov. The Grants.gov help desk is open 7 days a week, 24 hours a day, except federal holidays. General information is available from the NOFA Information Center at 800-HUD-8929 or 800-HUD-2209 (TTY) between the hours of 10 a.m. and 6:30 p.m. eastern time, Monday through Friday, except on federal holidays. When requesting information, please refer to the name of the Program.

B. Content and Form of Application Submission

1. Electronic Submission.

Applications must be submitted electronically, as prescribed in the General Section using the grants.gov website.

2. Page Limitation, Font Size and Format for Naming of Files.

Narrative applications cannot exceed the equivalent of 30 single-sided standard 8-1/2" x 11" pages total, not including attachments. Attachments cannot exceed the equivalent of 60 single-sided pages in total. Applications must be in 12 point font and attachments presented by facsimile transmission or as a "PDF" file document must be legible. File names should clearly indicate which application item the file contains.

3. Application Submission Requirements.

- (a) Applicants must read and follow the application submission requirements carefully.
- (b) Applications must be filed following the instructions for this opportunity as they appear on the grants.gov website.
- (c) Applications must be formatted for 8.5" by 11" viewing and printing.
- (d) Attachments must follow the proper naming convention: 50 characters or less, no spaces, no special characters (example: -, &, *, %, /, #, \) including periods (.), blank spaces and accent marks. Special characters may NOT be used within the application form fields or file names. Underscores can be used in place of spaces.

(e) Each document must be labeled (with titles) to reflect the type of proposal ("financial demonstration" or "applied research demonstration") and its content (e.g. "abstract_summary", Factor1, Factor2, Factor3, et seq, "supporting documentation").

(f) All pages of each document must be numbered sequentially.

(g) All documents must be presented in "native" format, not "pdf", unless required to preserve the integrity of a document as executed by a third party.

(h) Zip files contained within zip files cannot be accommodated; documents in such files will not be reviewed.

4. Application Items. The application must contain the following:

a. Abstract. Consisting of up to four-pages, a summary of the proposed project, which will not be scored and does not count toward the narrative page limit. The summary must include:

(1) total dollars of grant funds requested by the applicant;

(2) matching funds amount and sources;

(3) any additional leveraged amounts and sources;

(4) proposed use of the award;

(5) primary types of properties to be served;

(6) anticipated outcomes;

(7) section stating how the applicant will address program income reporting requirements;
and

(8) brief description of how the activities are innovative and potentially replicable by others.

(9) Problem Statement. Specifically address the problem(s) the proposal would help address.

(10) Methodology. Describe how the methodology for addressing the problem(s) would work and what it would demonstrate.

(11) Replicability. Describe how results – positive or negative – will be disseminated to other interested parties for their potential adoption.

b. a list of documents for each zip file; first for the abstract/summary and factor narratives file and second for the supporting document and forms file.

c. SF424_Application_for_Federal_Assistance. Applicants must include the nine digit ZIP code (ZIP code plus four digits) associated with the applicant address in box 8d of the SF424. Also, be sure to provide a Project Name in Line 11 of the SF424 and use the same Project Name in all references to the application as the information will pre-populate the other forms contained in the application download package.

d. SF424 Supplement Survey on Equal Opportunity for Applicants titled "Faith Based EEO Survey" (SF424SUPP) on Grants.gov (optional submission).

e. SFLLL_Disclosure_of_Lobbying_Activities. Note that federally recognized Indian tribes are not required to submit this form (see the General Section).

f. HUD2880_Applicant_Recipient_Disclosure_Update_Report titled "HUD Applicant Recipient Disclosure Report" on Grants.gov.

g. HUD424CB_Detailed_Budget, which is a budget for all funds (federal and non-federal). Note that the HUD 424CB is a standard form budget template, and includes budget lines that are not allowable items under the Program, e.g., land and building acquisition costs. When completing the HUD 424CB, please ensure that only budget items allowed under the Program are populated.

h. Sources and Uses. Each major activity that will be undertaken will need to be identified as a part of the comprehensive project on the appropriate budget sheet discussed immediately above in subsection 4.g. Each activity described here must be related specifically to work described in the proposed Work Plan. Use that document to identify the source of funding and the amount of

funds that will be used to carry out that particular source's share of the activities identified. Also prepare and maintain a Sources and Uses Table in a form similar to the sample shown below, identifying all sources in the columns of the chart and all uses in the rows.

Sources & Uses Table

Uses \ Sources	Source: HUD EIF Grant Funds	Source: Matching Funds Applicant/ Consortium _____ (name)	Source: Additional Leveraged Funds from _____ (name)	Source: Additional Leveraged Funds from _____ (name)	Total
Activity 1 Use _____	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Activity 2 Use _____	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Activity 3. Use _____	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Activity 5 Use _____	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
Total	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

(Table Note: Provide an additional column for each additional source.)

- i.** HUD2993_Acknowledgment_of_Application_Receipt, for applicants submitting paper applications only (see Section IV.C. below).
- j.** Documentation of Letters of Intent provided by third parties on their letterhead in support of Rating Factor 3, "Matching Funds and Leveraging above the Matching Funds Requirement." Requirements for Letters of Intent are described in Section I.C.4. of this NOFA and rating factors are found in Section V.B.
- k.** If the applicant is a private nonprofit organization, a copy of its organization's IRS ruling providing tax-exempt status under section 501 of the Internal Revenue Code of 1986, as amended and a current certificate of good standing.
- l.** If the applicant is applying as a consortium, it must provide a copy of the consortium agreement, which must be executed by all consortium members.
- m.** Narrative response to Factors for Award. The total narrative response cannot exceed the equivalent of 30 single-sided standard 8-1/2" x 11" pages total in 12 point font, not including attachments. Submitting pages in excess of the page limit will not disqualify an application. However, HUD will not consider or review the information on any excess pages, and if there is key information on those pages, the application may fail to meet a threshold requirement.
- n. Work Plan.** A proposed Work Plan as described in Section I.C.16. must be submitted by the applicant with its application. The proposed Work Plan must include a detailed description of each grant activity to be performed, including: activity milestones, timelines for completion of the activity milestones, and timelines for when and how the federal funds and matching funds will be used. The proposed Work Plan must be sufficiently detailed, including budget and match information, for oversight and/or monitoring purposes and must identify the performance goals and objectives to be achieved. The proposed Work Plan is subject to negotiation should an applicant be preliminarily selected for a grant award. HUD will approve the Final Work Plan and it will be incorporated into the Grant Documents.

o. Fair Housing Requirements. Applicants must describe how they will address impediments to fair housing, including specifying applicable and eligible uses of the Energy Innovation Fund grant – for example, by incorporating universal design concepts into retrofits, language assistance services to persons with limited English proficiency (on the basis of national origin), affirmative fair housing marketing, or by rehabilitating housing in a manner that provides greater housing choice or increases access to opportunity for persons in classes protected by the Fair Housing Act.

p. Form HUD2990, certified by the designated official for the RC/EZ/EC if the applicant is applying for bonus points pursuant to the requirements of Section V.B. in this NOFA and Section V.A.1.a. of the General Section.

C. Waiver of Electronic Application Requirement. Applicants must follow the instructions included in the **General Section**, unless granted a waiver for cause to the required electronic application requirement. The request for a waiver must provide a justification for cause in accordance with HUD’s waiver policy of 24 CFR 5.1005. Applicants requesting a waiver must submit the request in writing no later than 15 days prior to the application deadline date. The letter must be addressed to Carol J. Galante, Acting Assistant Secretary for Housing, Federal Housing Commissioner at the address below. The waiver can be submitted via email or fax to:

U.S. Department of Housing and Urban Development,
451 Seventh Street SW, Room 6230, Washington, DC 20410
ATTN: Theodore K. Toon, Affordable Housing Preservation, Multifamily Housing Division
EIFApplication@hud.gov
(202)708-5494

Paper applications will not be accepted from applicants that have not been granted a waiver. If an applicant is granted a waiver, the approval notice will provide instructions for application submission and receipt requirements. All applications in paper format must have received a waiver to the electronic application requirement and must be received no later than 3:59:59 p.m. close of business on the application deadline date to allow scanning of any packages in accordance with HUD Security procedures.

V. Application Review Information

A. Rating Points. Points, other than bonus points, are assigned to each of five factors identified below. Applicants should review the factors carefully and respond specifically to each factor.

B. Rating Criteria.

1. Financing Demonstrations. The maximum number of points to be awarded for the Multifamily Energy Pilot Financing Demonstrations is 100. The minimum score for an application to be considered for funding is 75 points. The Program is subject to bonus points, as described in the General Section requirements for FY2010. Two bonus points may be awarded for work that benefits an RC/EZ/EC as described in Subsection f below.

a. Rating Factor 1: Applicant’s Relevant Experience and Capacity (up to 25 points) The applicant must demonstrate its ability and capacity to undertake its proposed activities, use its award successfully, and maintain compliance with its grant terms.

(1) Management team and key staff (up to 10 points). Identify and describe management team and key staff (up to five people who are integral to implementation of the project). Applications that demonstrate recent (within five years) and relevant experience directly related to the proposed work activities will receive more points. HUD is particularly interested in the quality of the work experience and expertise of the management staff and the key staff

responsible for each activity identified in the application. Applicants that demonstrate more recent and relevant experience will receive higher rating points. Additional points will be awarded for feasible staffing or contracting plans that meet Section 3 criteria.

(2) Organizational experience (up to 5 points). Describe recent and relevant experience and qualifications of the organization in financing the retrofit of multifamily residential properties. HUD is interested in knowing the number of properties that the organization has been involved with and the extent of the work that was done related to those properties, particularly in the area of energy innovations to achieve energy savings or the financing of such energy innovations, as applicable to the component of the activity for which you are applying. Data related to actual reduction in consumption should also be supplied to the extent possible.

(3) Capacity (up to 10 points). Describe the applicant's capacity to successfully implement proposed activities, specifically including necessary financial resources, technical expertise, reporting systems and access to Eligible Multifamily Properties associated with proposed activities. In the case of an applicant that has received awards from other federal programs, HUD reserves the right to contact officials from the appropriate federal agency or other agencies to determine whether the applicant is in compliance with current or prior award agreements, and to take such information into consideration in rating this factor

(4) In the case of an applicant that has previously received funding through any HUD program, HUD will consider and may, in its discretion, deduct up to 15 points in total from an application for an applicant (or its affiliates) that have a documented history of non-compliance with maintaining sufficient financial resources (up to 5 points), insufficient management and/or staffing capacity (up to 5 points), or inadequate reporting systems or failure to report timely (up to 5 points) as measured by the terms of that funding.

b. Rating Factor 2: Soundness of Approach (up to 35 points).

Describe in a clear statement the problem to be addressed, and how the activities under the proposed solution will demonstrate a sound approach to resolution of that problem. The applicant should generally provide a detailed Work Plan that includes the following information:

- a description of the energy retrofit financing plan and structure,
- the implementation/delivery plan,
- the monitoring/verification plan; and
- the strategy for feedback and continuous improvement of the Program during its operation.

The plan must contain the following elements:

(1) Implementation Strategy (Up to 15 points). Identify and describe the soundness of the project's implementation strategy, including: 1) the approach to be undertaken to establish the financing mechanisms proposed, and 2) partners proposed as part of the venture, including the following: a) the extent of their time commitment to participate, b) any financial commitments made to support the matching funds requirements, c) and how the proposed activities will meet the relevant Threshold Requirements of Section III.B.2. above (specifically those requirements relating to matching funds, energy performance, verification of savings, and operating and management planning). In addition, describe:

- (a) How the specific financing approach was selected and the pros and cons weighed in determining the approach to be taken;
- (b) Any known barriers or obstacles likely to occur and what alternate approach you plan to take to overcome the obstacles;
- (c) Significant impacts anticipated as result of the investment, both to the property and to

HUD's goal of achieving innovative approaches to energy savings in multifamily housing including how results and outcomes will be measured, analyzed, reported, and shared;

(d) The specific activities to address Section 3 and AFFH requirements, including expected results to be achieved;

(e) How program income will be tracked and accounted for throughout the life of the award; and

(f) How and when Use Agreements will be obtained and monitored for compliance during the life of the award.

(g) The plan for collecting, measuring and analyzing energy usage and other data to monitor progress against established milestones in the work plan and meeting HUD reporting requirements.

(2) Innovation and Replicability (up to 20 points).

(a) **Innovation (up to 10 points).** Describe and document the extent to which the proposed activities are innovative and the likelihood of proposed activities/approaches being replicated in the near term by others. Innovative projects are ones that are new solutions or help advance progress on one or more challenges to significantly improving energy efficiency at multifamily residential properties. Discuss the role the applicant will play in disseminating the lessons from its activities and to whom the dissemination of the lessons will be directed. Anticipated outcomes are expected to be used to educate others on the benefits of the approach and the programs. HUD will award higher points to applicants who propose activities:

(a) not tested previously (perhaps due to cost or lack of funding);

(b) designed to undertake research on ideas rarely tested;

(c) newly emerging in the industry; or

(d) unique ideas never tested or tried previously.

The more innovative the approach, taking into account potential obstacles and risks, yet setting forth a clear statement of the proposed work plan including all elements, the higher the rating points to be awarded.

(b) **Replicability (up to 10 points)** Describe how the applicant will acquire, measure and analyze data on the costs, benefits, challenges, and opportunities associated with the retrofit of the eligible properties, how this approach aligns with industry standards for data collection, measurement, and analysis, and how the data collection and reporting will further the replicability of the proposed activities.

Proposed activities that are able to effectively collect, measure, analyze, and report on results, costs/benefits, and other critical measures of the effectiveness of the approach will have greater likelihood of being replicable and will receive more points. Proposed activities which more strongly establish the basis for their activities' replicability across a broad segment of the industry will receive more points.

c. Rating Factor 3: Matching Funds and Leveraging above the Matching Funds

Requirement (up to 15 points). The applicant must identify and describe its strategy for leveraging dollars over and above the required matching amounts. Leveraged funding sources may include private capital, philanthropic and foundation funds, utility and state energy incentive programs, as well as local, state, and/or other federal funding. The applicant must verify in its application that identified and proposed sources of leveraged funds do not prohibit the combining of those funds with federal grant funds. Describe the methodology and status for achieving the leveraging approach described above. Indicate the nature (private or public) of the

sources and amounts of committed capital available at the time of the application and expected to be available over the life of the award. In rating this factor HUD will take into account the amount of funds identified by the application deadline date through the letters of intent provided by entities agreeing to provide funding, if an award from HUD is obtained.

(1) Leveraging above minimum threshold matching requirement (up to 10 points).

Describe the extent to which the application commits to exceeding the matching requirements. Consideration will be given based on the amount of additional leverage as well as the level of commitment of those matching funds the applicant can document. Provide what documentation is available to indicate the level of commitment, as well as a description of the strategy for obtaining additional leverage and likely sources. Applications with higher leverage ratios (up to the maximum threshold of 9:1) and higher levels of financial commitment will receive greater consideration as follows:

Matching plus leveraging dollars per \$1 of grant funds requested	\$2 required plus \$0 additional leverage	\$2 required match plus \$.5 additional leverage	\$2 required match plus \$1.0 additional leverage	\$2 required match plus \$1.5 additional leverage	\$2 required match plus \$2 additional leverage	\$2 required match plus more than \$2.5 additional leverage
Additional points	0 points	2 points	4 points	6 points	8 points	10 points

Table of Points for additional leverage above required matching funds.

Leveraged funds must be in cash or cash-equivalent funding commitments. In-kind services (e.g. donated office space or staffing) cannot be used to meet the leveraging requirements of this Program.

(2) Continuation beyond grant period (up to 5 points). Describe the extent to which program funds will be reinvested beyond the timetable for disbursement of funds under the Program. Applications that demonstrate a strategy for repayment of the funds in some form, and/or for replenishing funds from other sources to extend the activities (i.e. a pilot program that could become an on-going program) will receive more points.

d. Rating Factor 4: Low Income Housing Needs (up to 10 points).

Describe the extent to which the applicant will target its activities towards underserved populations and areas of high housing need, especially with respect to benefits to underserved populations from the energy-related improvements. Indicate the percentage of eligible units targeted in the Work Plan (hereinafter "targeted eligible") that will serve Low-Income Households. Also indicate the extent to which targeted eligible properties are or will be subject to long-term affordability requirements, how long such requirements will remain in place, and whether any existing requirements will be extended. Alternatively describe the owner's willing to extend existing requirements and for what period. Applications that have higher percentages of funding for Low-Income units and/or higher percentages of Low-Income units that would require

targeted eligible properties to meet longer affordability periods will receive higher scores as follows:

Term of Use Agreement (remaining or as extended)	% Affordable		
	>60% and <75%	>75% and <100%	100%
10 years up to 15 years	2 points	4 points	6 points
15 years up to 20 years	4 points	6 points	8 points
More than 20 years	6 points	8 points	10 points

Table of Points for additional percentage of affordable units and additional length of existing Use Agreement. (Eligible properties are required to have a majority of units reserved for Low-Income households.)

e. Rating Factor 5: Sustainable Solutions (up to 15 points). The applicant must describe the projected environmental benefits resulting from the work to be accomplished through the Energy Innovation Fund award, as well as the methodology underlying the impact estimates. Impacts should be clearly identified as: primary or secondary impacts, financial or non-financial measures, and quantitative or qualitative factors. Describe these solutions in terms of energy consumptions savings, other environmental benefits, comfort and health of residents, number and size of units (by number of bedrooms) to be included, and any other similar factors appropriate to this solution.

(1) Energy savings and greenhouse gas emission reductions (up to 13 points).

Describe the extent to which energy savings may be achieved beyond the minimum required target of 20 percent better energy performance on average per project; expected quantitative impact of the proposed project in terms of energy saved and emissions avoided; and extent to which the proposed solutions generate financial savings from measures beyond consumption (for example, rate analysis, bulk and advance utility purchased, time-of-day peak load and rate strategies, etc). Generally, applications that document a potential to exceed the minimum targeted requirement of 20 percent improved energy performance will receive more points. When describing these savings, provide estimates using weather and occupancy normalized data, estimates of the type of energy source(s) the savings will include, and assumptions about pricing and trending.

(2) Capacity Building and Knowledge Sharing (up to 2 points). Applicants requesting the policy priority points must demonstrate the direct impact their project can have in advancing practices to improving energy efficiency in multifamily housing. Applicants must identify the outputs and outcomes their projects are expected to achieve related to capacity building and knowledge sharing, as well as the outcome measures they will report on. To receive the full points under this policy priority an applicant must respond to at least two of the activities listed below and explain how success will be measured during the grant performance period:

(a) Activities

- Implementation of a dissemination plan for project results and effective practices.
- Presentation of project findings at academic and/or professional conferences.

- Training providers of housing for low-income households on effective practices to improve energy efficiency.

(b) Measures of success:

- Adoption of effective practices for improving energy efficiency by multifamily housing providers following project completion.
- Presentation of project findings at two or more appropriate academic and/or professional conferences.
- Publication of project findings in one or more scientific or professional journals.

f. RC/EZ/EC-II Bonus Points. Applicants are eligible to apply for and receive up to 2 bonus points related to work to support RC/EZ/ECs. See the General Section for details on RC/EZ/EC bonus points. In order to qualify for the bonus points the applicant must submit a form HUD2990, certified by a person authorized to certify on behalf of the RC/EZ/EC-II or by the Chair of the governing body of the RC/EZ/EC, certifying that the proposed activities in the application furthers or supports the strategic plan for a zone that was designated by HUD or the U.S. Department of Agriculture.

2. Applied Research Demonstrations. The maximum number of points to be awarded for the Multifamily Energy Pilot Applied Research is 100. The minimum score for an application to be considered for funding is 75 points. The Program is subject to bonus points, as described in the General Section requirements for FY2010. Two bonus points may be awarded for work that benefits an RC/EZ/EC as described in Subsection f below.

a. Rating Factor 1: Applicant’s Relevant Experience and Capacity (up to 25 points).

(1) Management team and key staff (up to 10 points). Identify and describe management team and key staff (up to five people who are integral to implementation of the project). Applications that demonstrate recent (within five years) and relevant experience directly related to the proposed work activities will receive more points. HUD is particularly interested in the quality of the work experience and expertise of the management staff and the key staff responsible for each activity identified in the application. Applicants that demonstrate more recent and relevant experience will receive higher rating points. Additional points will be awarded for feasible staffing or contracting plans that meet Section 3 criteria.

(2) Organizational experience (up to 5 points). Describe recent and relevant experience and qualifications of the key staff and the organization in financing the retrofit of multifamily residential properties. HUD is interested in knowing the number of properties that the organization has been involved with; the extent of the work that was done related to those properties, particularly in the area of energy innovations to achieve energy savings and managing such energy innovations; how you handled the project where there were existing residents; how you determined what innovations were the most cost effective; and the impact of the work performed on existing residents during and after the work was performed. Data related to actual reduction in consumption should also be supplied to the extent possible.

(3) Capacity (up to 10 points). Describe the applicant’s capacity to successfully implement proposed activities, specifically including necessary financial resources, technical expertise, reporting systems and access to Eligible Multifamily Properties associated with proposed activities. In the case of an applicant that has received awards from other federal programs, HUD reserves the right to contact officials from the appropriate federal agency or other agencies to determine whether the applicant is in compliance with current or prior award agreements, and to take such information into consideration in rating this factor.

(4) In the case of an applicant that has previously received funding through any HUD program, HUD will consider and may, in its discretion, deduct up to 15 points in total from an application for an applicant (or its affiliates) that have a documented history of non-compliance with maintaining sufficient financial resources (up to 5 points), insufficient management and/or staffing capacity (up to 5 points), or inadequate reporting systems or failure to report timely (up to 5 points) as measured by the terms of that funding agreement.

b. Rating Factor 2: Soundness of Approach (up to 35 points). Describe in a clear statement the problem to be addressed, and how the activities under the proposed solution will demonstrate a sound approach to resolution of that problem. The applicant should generally provide a detailed Work Plan that includes the following information:

- a description of the energy research plan and structure,
- the implementation/delivery plan,
- the monitoring/verification plan; and
- the strategy for feedback and continuous improvement of the Program during its operation.

The plan must contain the following elements:

(1) Implementation Strategy (up to 15 points). Identify and describe the soundness of the project's implementation strategy, including the reasonableness of the approach and how the proposed activities will meet the relevant Threshold Requirements of Section III.B.2. above (specifically, those requirements relating to matching funds, energy performance, verification of savings and operating and management planning). In addition, provide:

(a) How the applicant will acquire, measure, and analyze data on the costs, benefits, challenges, and opportunities associated with the retrofit of the eligible properties, and how this approach aligns with industry standards for data collection, measurement, and analysis;

(b) Identification of specific barriers to the proposed approach and how they will be addressed;

(c) Contingency plans for responding to unforeseen obstacles; and

(d) Significant impacts anticipated as result of the investment, both to the property and to HUD's goal of achieving innovative approaches to energy savings in multifamily housing including how results and outcomes will be measured, analyzed, reported, and shared.

Applications that reflect more thorough description and documentation of these issues will receive more points.

(2) Innovation and Replicability (up to 20 points).

(a) **Innovation (up to 10 points).** Describe and document the extent to which the proposed activities are innovative and the likelihood of proposed activities/approaches being replicated in the near term by others. Innovative projects are ones that are new solutions or help advance progress on one or more challenges to significantly improving energy efficiency at multifamily residential properties. Discuss the role the applicant will play in disseminating the lessons from its activities and to whom the dissemination of the lessons will be directed.

Anticipated outcomes are expected to be used to educate others on the benefits of the approach and the programs. HUD will award higher points to applicants who propose activities:

(a) not tested previously (perhaps due to cost or lack of funding);

(b) designed to undertake research on ideas rarely tested;

(c) newly emerging in the industry; or

(d) unique ideas never tested or tried previously.

The more innovative the approach, taking into account potential obstacles and risks, yet setting

forth a clear statement of the proposed work plan including all elements, the higher the rating points to be awarded.

(b) **Replicability (up to 10 points)** Describe how the applicant will acquire, measure, and analyze data on the costs, benefits, challenges, and opportunities associated with the retrofit of the eligible properties, how this approach aligns with industry standards for data collection, measurement, and analysis, and how the data collection and reporting will further the replicability of the proposed activities.

Proposed activities that are able to effectively collect, measure, analyze, and report on results, costs, benefits, and other critical measures of the effectiveness of the approach will have greater likelihood of being replicable and will receive more points. Proposed activities which more strongly establish the basis for their activities' replicability across a broad segment of the industry will receive more points.

c. Rating Factor 3: Leveraging Funds above the Matching Funds Requirement (up to 15 points). The applicant must identify and describe its strategy for leveraging dollars over and above the required matching amounts. Leveraged funding sources may include private capital, philanthropic and foundation funds, utility and state energy incentive programs, as well as local, state, and/or other federal funding. The applicant must verify in its application that identified and proposed sources of leveraged funds do not prohibit the combining of those funds with federal grant funds. Describe the methodology and status for achieving the leveraging approach described above. Indicate the nature (private or public) of the sources and amounts of committed capital available at the time of the application and expected to be available over the life of the award. In rating this factor HUD will take into account the amount of funds identified by the application deadline date through the letters of intent provided by entities agreeing to provide funding, if an award from HUD is obtained.

(1) Leveraging above minimum threshold matching requirement (up to 10 points). Describe the methodology and status for achieving the match funds required and what commitments have been obtained to date for those funds including the sources and amounts of committed funds to date. In addition, the applicant must identify leveraged funds that will be added to the award over and above the required matching funds. In identifying funding sources indicate the nature (private or public) of the sources and amounts of committed capital available. In addition, please specify the following:

- (a) The name of the entity providing the resource;
- (b) The name of a contact for the entity providing the resource who is familiar with the contribution toward this application;
- (c) The telephone number of a contact for the resource who is familiar with the contribution toward this application;

Leveraged funds must be in cash or cash-equivalent funding commitments. In-kind services (e.g. donated office space or staffing) cannot be used to meet the leveraging requirements of this Program.

Applications that specifically utilize leveraged funds that exceed matching funds requirement for activities and measures that directly improve energy performance in Eligible Multifamily Properties will receive more points. Applications with higher leverage ratios and higher levels of financial commitment (up to the maximum threshold of 9:1) will receive greater consideration as follows:

Matching	\$1 required	\$1 required	\$1 required	\$1 required	\$1 required	\$1 required
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plus leveraging dollars per \$1 of grant funds requested	match plus \$0 additional leverage	match plus \$.5 additional leverage	match plus \$1.0 additional leverage	match plus \$1.5 additional leverage	match plus \$2 additional leverage	match plus more than \$2.5 additional leverage
Additional points	0 points	2 points	4 points	6 points	8 points	10 points

Table of Points for additional leverage above required matching funds.

(2) Continuation beyond grant period (up to 5 points). Describe the extent to which the research program will be continued beyond the timetable for disbursement of funds under the Program. Applications that suggest longer term sustainability will receive more points.

d. Rating Factor 4: Low Income Housing Needs (up to 10 points).

Describe the extent to which the applicant will target its activities towards underserved populations and areas of high housing need, especially with respect to benefits to underserved populations from the energy-related improvements. Indicate the percentage of eligible units targeted in the Work Plan (hereinafter "targeted eligible") that will serve Low-Income Households. Also indicate the extent to which targeted eligible properties are or will be subject to long-term affordability requirements, how long such requirements will remain in place, and whether any existing requirements will be extended. Applications that have higher percentages of funding for Low-Income units and/or higher percentages of Low-Income units that would require targeted eligible properties to meet longer affordability periods will receive higher scores as follows:

Term of Use Agreement (remaining or as extended)	% Affordable		
	>60% and <75%	>75% and <100%	100%
10 years up to 15 years	2 points	4 points	6 points
15 years up to 20 years	4 points	6 points	8 points
More than 20 years	6 points	8 points	10 points

Table of Points for additional percentage of affordable units and additional length of existing Use Agreement. (Eligible properties are required to have a majority of units reserved for Low-Income households.)

e. Rating Factor 5: Sustainable Solutions (up to 15 points). The applicant must describe the projected environmental benefits resulting from the work to be accomplished through the Energy Innovation Fund award, as well as the methodology underlying the impact estimates. Impacts

should be clearly identified as: primary or secondary impacts, financial or non-financial measures, and quantitative or qualitative factors. Describe these solutions in terms of energy consumptions savings, other environmental benefits, comfort and health of residents, number and size of units (by number of bedrooms) to be included, and any other similar factors appropriate to this solution.

(1) Energy savings and green house gas emission reductions (up to 13 points).

Describe the extent to which energy savings may be achieved beyond the minimum required target of 20 percent better energy performance on average per project; expected quantitative impact of the proposed project in terms of energy saved and emissions avoided; and extent to which the proposed solutions generate financial savings from measures beyond consumption (for example, rate analysis, bulk and advance utility purchased, time-of-day peak load and rate strategies, etc). Generally, applications that document a potential to exceed the minimum targeted requirement of 20 percent improved energy performance will receive more points. When describing these savings, provide estimates using normalized data, estimates of the type of energy source(s) the savings will include, and assumptions about pricing and trending.

(2) Capacity Building and Knowledge Sharing (up to 2 points). Applicants requesting the policy priority points must demonstrate the proposed direct impact their project can have in advancing practices to improving energy efficiency in multifamily housing, and/or advancing practices in the financing of energy efficiency improvements in multifamily housing. Applicants must identify the outputs and outcomes their projects are expected to achieve related to capacity building and knowledge sharing, as well as the outcome measures they will report on. To receive the full points under this policy priority an applicant must respond to at least two of the activities listed below and explain how success will be measured during the grant performance period:

(a) Activities

- Implementation of a dissemination plan for project results and effective practices.
- Presentation of project findings at academic and/or professional conferences.
- Training providers of housing for low income households on effective practices to improve energy efficiency.

(b) Measures of success:

- Adoption of effective practices for improving energy efficiency by multifamily housing providers following project completion.
- Presentation of project findings at two or more appropriate academic and/or professional conferences.
- Publication of project findings in one or more scientific or professional journals.

f. RC/EZ/EC-II Bonus Points. Applicants are eligible to apply for and receive up to 2 bonus points related to work to support RC/EZ/ECs. See the General Section for details on RC/EZ/EC bonus points. In order to qualify for the bonus points the applicant must submit a form HUD2990, certified by a person authorized to certify on behalf of the RC/EZ/EC-II or by the Chair of the governing body of the RC/EZ/EC, certifying that the proposed activities in the application furthers or supports the strategic plan for a zone that was designated by HUD or the U.S. Department of Agriculture.

C. Review Process

1. Threshold Eligibility and Completeness Review. Applicants requesting Energy Innovation Fund Multifamily grants must meet all of the Eligibility Requirements outlined in Section III of this NOFA and all Application and Submission Requirements identified in Section IV. All applications that meet these threshold requirements will be rated and ranked.

2. Substantive Review. If upon initial screening an application is deemed to meet the threshold requirements and the applicant and proposed properties are determined to be eligible, HUD will conduct the substantive review of the application in accordance with the rating criteria described. As part of the review process, HUD may contact the applicant by telephone, email, or mail for the sole purpose of clarifying or confirming application information. After submitting its application, the applicant will not be permitted to revise or modify its application in any way nor attempt to negotiate the terms of an award. Detailed rules regarding Corrections to Deficient Applications appear in Subsection 8 below. If contacted for clarifying or confirming information, the applicant must respond within the time parameters as provided in Subsection 8. Rating elements are not items that are curable deficiencies.

3. Funding Decisions. Awards will be made based on Applicants' experience and ability to use an Energy Innovation Fund grant to support the goals of the Energy Innovation Fund and this Multifamily Energy Pilot Initiative, and in accordance with the rating and ranking points system set forth in this document. After all eligible applications have been reviewed and scored, HUD will make award determinations in order by score with the highest rated application at the top of the selection roster.

4. Limitations on Award Amounts:

HUD reserves the right to reduce or adjust the funding amount based upon:

- a. The eligibility and reasonableness of the proposed costs related to the activities to be conducted during the award;
- b. A proposed activity or an element of a proposed activity does not meet the purposes of the Program, and accordingly HUD will reduce the HUD budget amount; and/or
- c. The need to put in place more effective management controls to ensure project success by requiring an additional key staff person; and/or
- d. The level of funds available for award under the Program.

5. HUD Geographic Diversity. HUD will take geographic diversity into consideration for award purposes only after all eligible applications have been reviewed and scored, and only to the extent necessary to achieve the broader HUD policy objective of innovation pursuant to this NOFA. If a subject application in either program activity offers to cover substantially the same geographic area as a higher rated application, HUD may choose to skip over that subject application to the next highest rated applicant in order to gain greater geographic diversity.

6. Environmental Conditions. Properties with known adverse environmental conditions will not be accepted in the applicant/Grantee's work plan unless there is a documented source of funding that has been secured to mitigate the adverse conditions. To the extent that such individual properties can be identified at any stage of the application or work process and no such funding for mitigation is documented, they must be eliminated from participation. Further guidance on achieving required HUD environmental review prior to the release of any funding to a sub-Grantee or for direct use by a property owned by the Grantee should be reviewed at Section VI. F. Notwithstanding any agreement on a final Work Plan, and without limiting any other term or condition in this NOFA or otherwise, all activities remain subject to the environmental requirements in Section VI of this NOFA.

7. Ownership of Copyright and Intellectual Property and Exclusion from Eligibility Due to Reservation. HUD reserves a royalty-free, nonexclusive, and irrevocable license to replicate, reproduce, publish, or otherwise use, and to authorize others to use for Federal government purposes: (a) the copyright in any work developed under this award, sub-award, or contract awarded under this cooperative agreement/grant; and (b) any rights of copyright to which an

grantee or sub-grantee or a contractor purchases ownership with award funds. HUD will not award funds to an applicant that proposes a proprietary solution.

8. Corrections to Deficient Applications. After the application deadline, and in accordance with the electronic submission grace period described in this notice, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information provided by an applicant. After HUD receives an application, HUD may contact an applicant to clarify an item in its application or to correct curable (correctable) technical deficiencies. HUD may not seek clarification of items or responses that improve the substantive quality of an applicant's response to any rating factors or which correct deficiencies which are in whole or part of a rating factor, including items that impact RC/EZ/EC bonus points. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application, and will do so on a uniform basis for all applicants.

Examples of curable (correctable) technical deficiencies include inconsistencies in the funding request, failure to submit the proper certifications that do not impact the score of an applicant, and failure to submit an application that contains a signature by an official able to make a legally binding commitment on behalf of the applicant. In the case of an applicant that received a waiver of the regulatory requirement to submit an electronic application, the technical deficiency may include failure to submit an application that contains an original signature. If HUD finds a curable deficiency in the application, HUD will notify the applicant by electronic mail describing the clarification or technical deficiency. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be received by HUD within 10 calendar days of the date of receipt of the HUD notification and be sent by electronic mail to the address provided in the notice. (If the deadline date falls on a Saturday, Sunday, or federal holiday, then the applicant's correction must be received by HUD on the next day that is not a Saturday, Sunday, or federal holiday.) In the case of electronic submissions to Grants.gov, any clarifications or cure items must be submitted electronically using the facsimile telephone number and form HUD96011, Facsimile Transmittal, contained in the last application package submitted to HUD. The additional information provided by facsimile will be matched to the electronic application in HUD's files. When submitting technical deficiency cure items, please place in the in the box labeled "Name of Document Submitting" in form HUD96011 the following information: Technical Cure plus the name of the document. If the name of the document is long and you need space to fit the document name, just label the Technical Cure as TC followed by the document name. When submitting a facsimile, applicants must follow the facsimile requirements found elsewhere in this notice. If the deficiency is not corrected within the above time frame, HUD will reject the application as incomplete, and it will not be considered for funding.

For paper applications, the wrong DUNS number on an application will be treated as a technical deficiency and the applicant will be permitted to provide a corrected SF424 to the location indicated in the waiver approval within the specified cure period and in accordance with the notification of the need to cure the application. Failure to correct the deficiency and meet the requirement to have a DUNS number and active registration in the CCR will render the application ineligible for funding. All applicants are advised to check and maintain their DUNS numbers and CCR registrations with posting of this General Section so any updates or changes are completed well in advance of application deadline dates.

VI. Award Administration Information:

A. Preliminary Selection/Notification. HUD will notify all applicants as to the outcome of the preliminary selection process. If an applicant is preliminarily selected, HUD's notice concerning the amount of the grant award (based on the approved application) will constitute HUD's preliminary selection, subject to negotiation and execution of the Grant Documents by HUD. Successful Energy Innovation Fund Program applicants will be notified of the preliminary selection and will receive instructions for proceeding to negotiations. When an applicant is preliminarily selected for an award, HUD will require the applicant's participation in negotiations to determine the specific terms of the Grant Documents. HUD will follow the negotiation procedures described in the General Section. The selection is preliminary and does not become final until the negotiation between an applicant and the HUD is successfully concluded, the Final Work Plan is approved by HUD, and the Grant Documents are signed and executed. Costs may be denied or modified if HUD determines that they are not allowable, allocable, and/or reasonable. In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected applicant fails to provide HUD with requested information, an award will not be made to that applicant. In this instance, HUD may preliminarily select and proceed to negotiation with another applicant in accordance with the selection process identified in Section V.C. of this NOFA. HUD reserves the right to reject an application if information comes to the attention of HUD that adversely affects an applicant's eligibility for an award, adversely affects HUD's evaluation or scoring of an application, or indicates evidence of fraud or mismanagement on the part of an applicant.

B. Debriefing:

For a period of 120 days, beginning 30 days after the final awards for assistance are publicly announced, HUD will provide to a requesting unsuccessful applicant a debriefing related to its application. A debriefing request must be made in writing or by email by the applicant's authorized official whose signature appears on the SF424, or his or her successor in the office and submitted to Theodore K. Toon, Associate Deputy Assistant Secretary for Affordable Housing Preservation, Multifamily Housing Division, U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Room 6230, Washington, DC 20410 or EIFapplication@hud.gov. Information provided during a debriefing will include, at a minimum, the final score received for each rating factor, final evaluation comments for each rating factor, and the final assessment indicating the basis upon which assistance was provided or denied.

C. Administrative and National Policy Requirements. In addition to the requirements listed below, please review all requirements in Section III of the General Section.

D. Environmental Notice and Waiver of Selected Floodplain Management Regulations.

1. Requirements of Executive Order 11988 and Waiver of Specific Sections. This NOFA provides notice that HUD is waiving specific sections of the regulation implementing Executive Order 11988-Floodplain Management ("EO 11988"), specifically 24 CFR 55.20 (b), (c), and (g). This modified process will allow the Program to be implemented more efficiently while maintaining compliance with EO 11988.

The Energy Innovation Fund will be subject to the decision-making process as outlined by § 55.20 (a), (d), (e), (f), and (h) of HUD regulations. However, a modified process will be used to adapt the remaining steps of the decision-making process to the program structure. EO 11988's notice requirements and consideration of alternatives described at § 55.20 (b), (c), and (g) will be implemented in a way that differs from the normal decision-making process of 24 CFR Part 55. Due to the nature of the Program and its existence as a pilot program, energy innovation activities will have limited impacts on floodplains. Pursuant to the terms of the waiver and program requirements, the Fund consists of

minor improvements to existing structures and will not increase unit density 20 percent or more, will not significantly expand the footprint of the structure and paved areas, and will not involve actions that involve a conversion from nonresidential to residential land use. This process still requires that a floodplain analysis will be performed consistent with § 55.20 (a), (d), (e), (f), and (h). Alternatives will be considered and two notices will be provided consistent with EO 11988. Since the scope of the Program is of limited impact, the need to demonstrate retrofit technology is great, and the requirements of EO 11988 will be met, there is good cause to waive these provisions of the decision making process. If for some reason the terms of the waiver cannot be met for a specific project, the project will be subject to the full decision making process under 24 CFR 55.20 or the project will be rejected. Further terms of the waiver and compliance with EO 11988 are described below in the remaining paragraphs of this Subsection VI.D.

2. Notice of Site Selection. Early public notice is provided through this Notice of Funding Availability (NOFA). The public may offer comments on the proposal to and process of providing funding under this NOFA in floodplains for a period of 15 days. Comments should be submitted to:

Theodore K. Toon
Associate Deputy Assistant Secretary for Affordable Housing Preservation
Multifamily Housing Division
U.S. Department of Housing and Urban Development
451 Seventh Street SW, Room 6230
Washington, DC 20410-7000

3. Alternatives Outside of the Floodplain. Alternatives should be considered by applicants and will be considered by HUD. The applicant's initial consideration of alternatives should include locations outside of the floodplain (or 500-year floodplain for critical actions), alternative methods to serve the identical project objective, and a determination not to finance an action at the site if a non-floodplain alternative is more appropriate. HUD will allow grant recipients to substitute properties so long as they are comparable. After identifying alternatives, the floodplain evaluation will identify impacts of the floodplain proposal and non-floodplain alternatives. Where projects are selected within floodplains, minimization techniques will be pursued.

4. Floodplain Sites. If a floodplain site is selected, minimization techniques will be implemented to avoid adverse effects and incompatible development. Where practicable, equipment will be elevated above the site's base flood elevation, flood-proofing of structures and equipment will be performed, and wetlands, natural vegetation, and drainage will be preserved. Additionally, any surfaces paved through the Fund will use permeable surface materials where practicable. Rain gardens and bioswales should be considered when drainage is impacted. HUD will consider alternatives in light of the minimization requirements consistent with the terms of 24 CFR 55.20(f).

5. Fulfilling EO 11988 Requirements. In order to fulfill the final notice requirement under EO 11988, the final notices will be published on a HUD website. The website will publish the address of the floodplain action, a description of the action, the amount of funding received, and an explanation as to why there was no alternative to the proposed floodplain site. Individual projects accepted for participation in the Program and located in floodplain sites will be listed and described at:

<http://www.hud.gov/offices/hsg/omhar/readingrm/mfenergy.xls> or
<http://www.hud.gov/offices/hsg/omhar/readingrm/mfenergy.pdf>

6. Other Requirements of 24 CFR Part 50 or 55 Not Waived. Purchase of flood insurance for any structure receiving funding in a FEMA Special Flood Hazard Area (SFHA) is mandatory and will remain in place during the term of participation in the Energy Innovation Fund Program. The community in

which a property is located must also be in good standing with the National Flood Insurance Program for any project to proceed in a SFHA. Additionally the prohibition on assistance to a floodway subject to the terms of 24 CFR 55.1(c) will apply to Energy Innovation Fund Program.

E. Coastal Barriers Resources Act. HUD funding under this NOFA may not be used for activities within a Coastal Barrier Resources System.

F. Conditions to Satisfy Environmental Compliance Requirements. Individual project sites to be funded directly or indirectly by awards under this NOFA may not be known at the time the individual grant are awarded and also may not be known when some of the individual subgrants are made. Therefore, in accordance with 24 CFR 50.3(h), the application and the Grant Document must provide that no commitment or expenditure of HUD or private funds to a project may be made until HUD has: (1) completed an environmental review to the extent required under applicable regulations; and, (2) given notification of its approval, in accordance with 24 CFR 50.3(h). In addition, under 24 CFR 50.3 (h), an applicant's execution of a grant application shall constitute an assurance to HUD that the applicant agrees to assist HUD to comply with 24 CFR 50 and that the applicant shall: 1) supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by this part; 2) carry out mitigating measures required by HUD or select alternate eligible property; and 3) not acquire, rehabilitate, convert, lease, repair, demolish, or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received. All Grantees will be required to provide a certification, as an additional condition of grant award, that they will not release funds to any property for which HUD has not completed the environmental compliance review. Further, Grantees will be responsible for monitoring all properties entering the Program throughout the grant activity and to certify monthly to HUD that any new properties have completed the review process. This certification will be provided to HUD c/o the Office of Affordable Housing Preservation.

Further HUD must complete the required environmental compliance review before any funds for the specific project can be drawn from the Electronic Line of Credit Control System (eLOCCS).

G. Lead-Based Paint Hazard Control.

All pre-1978 residential property assisted under the Rural Fund Program is covered by the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and HUD's implementing regulations at 24 CFR part 35. The Environmental Protection Agency's Renovation, Repair and Painting Rule, found within 40 CFR 745 (see <http://www.epa.gov/lead/pubs/renovation.htm>), applies to pre-1978 housing and child-occupied facilities when renovation, repair or painting work is conducted.

H. Funding Restrictions. Funds cannot be used for the following activities

1. Income payments to subsidize individuals or families;
2. Political activities;
3. Projects or activities intended for personal gain or private use; or
4. Acquisition of land or building.
5. No profit is permitted with regard to grant funds.
6. A limit of up to 10 percent of any grant may be used for Administrative Costs. Funds used for Financing Demonstrations may be utilized as subsidy, debt, equity, guarantee, credit enhancement, loan loss reserve, or other form of financial support approved by HUD.

I. Applicable Reporting Requirements.

1. Quarterly Reporting Requirements

All Grantees must report to HUD quarterly, within 30 days of the end of a calendar quarter (3/31, 6/30, 9/30, and 12/31), in formats approved by HUD. If there are fewer than 45 days remaining in the quarter in which the grant agreement documents are signed, then the first quarterly reports will be due 30 days after the second calendar quarter date subsequent to the award date.

Quarterly report requirements are as follows:

- a. Report on the status of the milestones in the Work Plan, comparing the schedules for milestone completion and expenditures to actual activity.
- b. Report on the dollar amount of funds expended to date, the amount of sub-awards made, and the amount of funds remaining. The report must provide information for total expended, federal dollars expended, and for non-federal funds expended. Grantees will submit an expanded and updated the Sources and Uses to present this information.
- c. Report on Program Income as per applicable program income rules as stated in the terms and conditions of the grant agreement.
- d. For Financing Demonstrations only awards that create a revolving loan fund report on matching dollars for grant activities at the project loan level. Provide information sufficient to demonstrate compliance with the requirement for a property owner to utilize \$1 of matching funds for every \$1 of financing borrowed from the Grantee's revolving loan fund.
- e. Report to address management questions. HUD is interested in understanding and reporting on the effects of the grant activities on the macro level. Therefore, the fourth quarterly report for each funding year shall be an annual report and shall include regular quarterly reporting described above plus the following additional information. The Grantee will report on:
 - (1) The number of units and the number of properties receiving energy retrofits.
 - (2) The energy consumption and costs prior to retrofit in properties receiving energy retrofits.
 - (3) Specific retrofit measures being applied.
 - (4) Estimated and actual costs of the retrofit measures.
 - (5) Energy consumption reductions anticipated and, when completed, as achieved after project retrofits.
 - (6) Financial savings from improved energy efficiency for the property and for residents.
 - (7) Financial structures utilized to finance energy improvements and the associated transaction costs.

2. Final report. The final report to HUD is due 60 days after the end of the project period. As part of the final report, the Grantee will provide all closeout documents requirement by HUD. The report will provide a final summary of program activities and outcomes including:

- a. A review of actual outcomes compared to anticipated outcomes. The review should refer to the original problem statement, methodology, and replicability discussions provided in the application abstract and compare the outcomes of the Program activity to the original expectations.
- b. A discussion of lessons learned, including consideration of anticipated and unanticipated problems and solutions.
- c. A discussion of the benefits that resulted from the Program activity.

3. Report to address Section 3 requirements. 24 CFR Part 135 Subparts B and E-direct reporting and recordkeeping requirements for Section 3 and such reports should be submitted to HUD as part of the quarterly reporting.

4. Reports required for release of HUD funds. Grantees are required to have HUD approval before making any withdrawal of grant funds from the eLOCCS system.

5. General Requirements. Generally federal funds used to capitalize a RLF or fund loan loss reserves, interest rate subsidies and third-party loan insurance maintain their federal character with regard to program eligible uses in perpetuity, and continue to remain subject to all annual reporting requirements. Specifically, after the close of the grant period, Grantees with funds remaining in financing programs will prospectively be required to report basic information on the Program on an annual basis until the funds are either: (1) rolled into another eligible activity; or (2) fully disbursed through default. Furthermore, federal requirements that apply to funds under this NOFA, such as Buy-American provision requirements, the National Environmental Protection Act (NEPA), the National Historic Preservation Act (NHPA), including the reporting requirements, may continue to be applicable at each revolution of an RLF or on any residual funds from loan loss reserves that were funded through this NOFA

6. Racial and Ethnic Data. If you are collecting client-level data, then HUD requires that funded recipients collect racial and ethnic beneficiary data. It has adopted the Office of Management and Budget's Standards for the Collection of Racial and Ethnic Data. In view of these requirements, the applicant should use HUD27061, Racial and Ethnic Data Reporting Form (instructions for its use), found on www.hudclips.org. or a comparable electronic data system for this purpose.

7. Transparency Act Reporting. Recipient Reporting is required under the Federal Financial Assistance Accountability and Transparency Act of 2006 as amended.

a. Prime Awardee Reporting. Prime recipients of HUD financial assistance are required to report sub-awards made either as pass-through awards, sub-recipient awards, or vendor awards in the federal government-wide website www.fsr.gov or its successor system. Starting with awards made October 1, 2010, prime financial assistance awardees receiving funds directly from HUD are required to report sub-awards and executive compensation information both for the prime award and sub-awards, including awards made as pass-through awards or awards to vendors, where both the initial award is \$25,000 or greater or the cumulative award will be \$25,000 or greater if funding incrementally as directed by HUD in accordance with OMB guidance. The reporting of award and sub-award information is in accordance with the requirements of Federal Financial Assistance Accountability and Transparency Act of 2006, as amended by section 6202 of Public Law 110-252, hereafter referred to as the "Transparency Act" and OMB Guidance issued to the Federal agencies on September 14, 2010 (75 FR 55669) and in OMB Policy guidance. The prime awardee will have until the end of the month plus one additional month after a sub-award or pass-through award is obligated to fulfill the reporting requirement. The Transparency Act requires the creation of a public government-wide website in which the following sub-award data will be displayed:

- (1) Name of entity receiving award;
- (2) Amount of award;
- (3) Funding agency;
- (4) North American Industry Classification System (NAICS) code for contracts/CFDA program for financial assistance awards;
- (5) Program source;
- (6) Award title descriptive of the purpose of the funding action;
- (7) Location of the entity (including Congressional district);
- (8) Place of Performance (including Congressional district);
- (9) Unique identifier of the entity and its parent; and
- (10) Total compensation and names of top five executives.

For the purposes of reporting into the FFATA Subaward Reporting System (FSRS) reporting site, the unique identifier is the Dun and Bradstreet Universal Numbering System (DUNS) number the entity has obtained from Dun and Bradstreet, and for Prime awardees the DUNS number registered in the Central Contractor Registration as required by HUD regulation 24 CFR 5.1004.

b. Prime Awardee Executive Compensation Reporting. Prime awardees must also report in the government-wide website the total compensation and names of the top five executives in the prime awardee organization if:

- (1) More than 80 percent of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- (2) Compensation information is not readily available through reporting to the Securities and Exchange Commission (SEC).

c. Subaward Executive Compensation Reporting. Prime awardees must also report in the government-wide website the total compensation and names of the top five executives in the sub-awardees, pass-through or vendor organization if:

- (1) More than 80 percent of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- (2) Compensation information is not readily available through reporting to the Securities and Exchange Commission (SEC).

d. Transparency Act Reporting Exemptions. The Transparency Act exempts any sub-awards less than \$25,000 made to individuals and any sub-awards less than \$25,000 made to an entity with annual expenditures less than \$300,000. Sub-awards with a cumulative total of \$25,000 or greater are subject to sub-award reporting beginning the date the sub-award total award amount reaches \$25,000. Any other exemptions to the requirements must be approved by the Office of Management and Budget.

8. Compliance with Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), hereafter referred to as “Section 872.” Section 872 requires the establishment of a government-wide data system to contain information related to the integrity and performance of entities awarded federal financial assistance and making use of the information by federal officials in making awards. It is anticipated that the federal data system will be known as the Federal Awardee Performance and Integrity Information System (FAPIIS). Only federal officials and the entity will be able to view the information in the FAPIIS system.

Further, recipients of federal funds with a cumulative value greater than \$10 million and their direct (i.e., first-tier) sub-recipients would be required to report to the FAPIIS system. The data collection requirements include information about certain civil judgments, criminal convictions, and outcomes of administrative proceedings that reached final disposition within the most recent 5-year period and were connected with the award or performance of a federal or state award. Recipients and first-tier sub-recipients must report information at least semi-annually to maintain the currency of the information. Section 872 also requires that an entity be allowed to submit comments to the data system about any information that system contains about the entity. Use of the FAPIIS system requires a DUNS number and current valid registration in the CCR for HUD awardees and first-tier sub-recipients.

Prior to making a funding decision, the federal official authorized to make the award is required to determine whether the entity is qualified to receive an award, taking into consideration any information about the entity that is in the data system. OMB is in the process of issuing

regulations regarding federal agency implementation of Section 872 requirements. A proposed rule was published in the Federal Register on February 18, 2010, by OMB seeking public comments no later than April 19, 2010.

HUD's terms and conditions to its FY2010 awards will contain requirements related to meeting Section FFATA and Section 872 requirements.

J. Recapture or Deobligation of Funds. Funds not being utilized in the manner provided or otherwise contemplated under the final Work Plan are subject to recapture or deobligation by HUD, in HUD's sole discretion.

1. Causes for recapture or deobligation of funding may include, but are not limited to:

- a. failure to meet required deadlines for performance by Grantee and/or a sub-grantee;
- b. non-performance or improper performance under the terms of the Grant Documents;

and

c. suspension, debarment, or other serious enforcement actions taken against the Grantee, a recipient or affiliates thereof;

2. If awarded funds are recaptured or deobligated for any reason, HUD reserves the right, in its sole discretion, to:

a. award those funds to the next highest-ranking applicant on the list of qualified applications received by HUD; and/or

b. award those funds to other award recipients that have demonstrated high-performance in their grant activity based on timeliness and milestones met under the terms of a Work Plan, and whose grant activity offers a clear avenue for furthering the existing protocol.

3. Any re-award of funds pursuant to this section is subject to a maximum funding cap for the total award (initial award amount plus any additional award of recaptured funds from other grants) of ten million dollars (\$10 MIL) for a financing demonstration grant and five million dollars (\$5 MIL) for an applied research demonstration grant.

VII. Other Information.

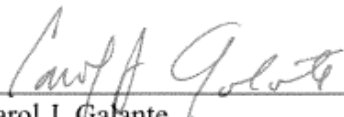
A. Further Information and Technical Assistance. Before the application deadline date, HUD staff may provide general guidance and technical assistance about this NOFA. However, staff is not permitted to assist in preparing the application. Also, following selection of applicants, but before awards are announced, staff may assist in clarifying or confirming information that is a prerequisite to the offer of an award. An applicant may contact Theodore K. Toon, Energy Innovation Fund – Multifamily Pilot Program, Office of Affordable Housing Preservation, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6230, Washington, DC 20410, telephone (202) 708-0001 (this is not a toll-free number). This number can be accessed via TTY by calling the toll-free Federal Information Relay Service Operator at (800) 877-8339. For technical support for downloading an application or electronically submitting an application, please call Grants.gov help desk at 800-518-GRANTS (this is a toll-free number) or send an email to support@grants.gov.

B. Paperwork Reduction Act Statement. If it is determined that the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) is applicable to the information collection requirements in this Notice, instructions will be provided to applicants. In accordance with the Paperwork Reduction Act, HUD may not consider or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid OMB control number. HUD expects to hold an information webcast via satellite for potential applicants to learn more about the Program and

preparation of an application. For more information about the date and time of this webcast, consult the HUD website at www.hud.gov.

C. “Close Out” of Financing Programs Only. Grantees may end or reduce funding for a RLF program, loan loss reserve program, or other eligible financing program at any time as long as any remaining funds are used by the Grantee for an eligible purpose after submitting and finalizing an amendment to the Grant Documents through HUD. Alternatively, the funds may be returned to HUD.

Dated: Aug 8, 2011



Carol J. Galante
Acting Assistant Secretary for Housing-Federal
Housing Commissioner Acting Commissioner for
Housing

[FR- 5505-N-01]