



CINCINNATI DEVELOPMENT FUND

REQUEST FOR PROPOSALS FOR AFFORDABLE HOUSING PROJECTS CITY OF CINCINNATI AMERICAN RESCUE PLAN ACT FUNDING

SECTION 1 – INTRODUCTION AND PROGRAM NARRATIVE

(A) Introduction, Background, and Amount of Funding:

The Cincinnati Development Fund, Inc (“CDF”) is issuing this Request for Proposals (“RFP”) to use certain American Rescue Plan Act (“ARPA”) funds allocated to the City of Cincinnati for the production, rehabilitation, and preservation of affordable housing to increase long-term housing security to respond to the negative economic impacts of the COVID-19 pandemic on households and communities in the City of Cincinnati (the “City ARPA Funds”).

Background and authority: this RFP is being issued pursuant to a Funding and Management Agreement between the City of Cincinnati and CDF (the “City Agreement”), dated July 27, 2023, in which the City engaged CDF to oversee and deploy the City ARPA Funds to encourage the production of new affordable housing units and the preservation of existing affordable housing units, and to increase capacity within the development industry for the production of housing units, consistent with the American Rescue Plan Act of 2021, Pub. L. No. 117-2, Treasury’s Coronavirus State and Local Fiscal Recovery Funds Final Rule, 87 Fed. Reg. 4338 (2022) (codified at 31 C.F.R. Part 35) (the “Final Rule”), and the City Agreement.

Amount of funding: the City Agreement, through this RFP, is making available a total of \$4,750,000.00 of City ARPA funds for the production and preservation of affordable housing.

(B) RFP Details

CDF will accept applications until January 11, 2023, and announce awards in mid-to-late February.

Awards will be made in the form of forgivable loans or recoverable grants. Award amounts and terms will be determined by CDF, in its professional discretion, pursuant to the evaluation criteria described in this RFP. CDF reserves the right, in response to an application for City ARPA funds, to recommend an award of City ARPA funds in conjunction with other CDF loan products, or an award of funds from other sources CDF administers.

Applications will be subject to the eligibility and programmatic requirements in Section II, the minimum threshold requirements in Sections 2(C)(i) and 2(C)(ii) and the evaluation criteria in Section 3. Notwithstanding the foregoing, CDF reserves the right to evaluate applications in the context of whether such applications, in CDF's professional judgment, advance the goals of the City Agreement and are eligible uses of City ARPA funds under the Final Rule or any other similar guidance issued by the Treasury Department.

CDF award recommendations made in response to RFP applications will be subject to administrative approval of the City of Cincinnati.

4% LIHTC Contingent Applications Allowed: Applicants intending to utilize a 4% LIHTC allocation that has not yet been awarded may submit an application that presumes the award of a non-competitive 4% LIHTC award. In other words, the project financing information for such applications should include a presumption that a 4% LIHTC has been awarded, and CDF will share this presumption in assessing whether the minimum threshold requirement has been satisfied, and in otherwise evaluating the project as described in Section III.

(C) RFP DATES:

- November 15 – RFP is issued. Written questions accepted by email at AHLF@cindenvfund.org
- December 8 – Deadline to submit RFP questions in writing to AHLF@cindenvfund.org
- December 13 – CDF to release FAQ addressing written questions.
- December 20 – Pre-application letters declaring intent to apply encouraged
- January 11 – Applications seeking an award due
- February – CDF recommends awards to City of Cincinnati Department of Community & Economic Development
- February – CDF issues award letters

Notwithstanding the foregoing schedule, CDF reserves the right to issue an award or awards on earlier dates to accommodate project finance timelines. Please also note that any project receiving an award of City ARPA funds will be subject to the applicable City of Cincinnati and federal regulations described in Exhibit A.

SECTION 2 – ELIGIBILITY, PROGRAMMATIC REQUIREMENTS, AND APPLICATION THRESHOLDS

This section explains (1) what types of housing projects are eligible for City ARPA Funds awards, (2) the programmatic requirements that will come with any award, as well as (3) the minimum thresholds that must be met for an application to be considered in the evaluation and review process. Applications may be submitted by for-profit or non-profit entities, and quasi-governmental entities engaged in the direct development of housing but may not be submitted by individuals.

(A) Eligible Uses

The Final Rule establishes that the production, rehabilitation, and preservation of affordable housing to increase the supply of affordable and high-quality living units are each responsive to the needs of populations impacted by the negative economic effects of the COVID-19 pandemic and are therefore an enumerated eligible use of City ARPA Funds.

The City Agreement establishes the City ARPA Funds may be used for (1) acquisition costs or (2) hard construction costs and reasonable soft costs related directly to the construction of multifamily rental units. **Awards may not exceed 40% of total project cost and will be subject to the following caps:**

Area Median Income ("AMI") Level for Unit	Maximum Award per 1-2 Bedroom Unit	Maximum Award per 3+ Bedrooms
Up to 60% AMI	\$50,000 per unit	\$60,000 per unit
Up to 80% AMI	\$25,000 per unit	\$30,000 per unit

Notwithstanding the foregoing, the maximum per unit award for any unit in a LIHTC-financed project that satisfies the average income set-aside for LIHTC eligibility shall be equal to the maximum for the "up to 60% AMI" units.

Eligible type of housing: City ARPA Funds may be used to pay the development costs related to the following types of housing:

- Multi-family rental housing.
- Permanent supportive housing to improve access to stable, affordable housing among individuals who are homeless.

Eligible affordability: The Final Rule and related guidance from the Treasury Department further establish that City ARPA Funds may be used to pay the development costs related to the production, rehabilitation, or preservation of housing in either of the following two categories:

Option 1: A project will be presumed eligible if it meets the resident income, affordability term, housing quality, and tenant protection requirements of any of the following federal housing programs:

- Low-income Housing Tax Credit (LIHTC)
- HOME Investment Partnerships Program (HOME)
- National Housing Trust Fund
- Public Housing Capital Fund
- Homeownership assistance that would be eligible under the Community Development Block Grant (at 24 CFR 507.201(n))
- Section 202 Supportive Housing for the Elderly Program
- Section 811 Supportive Housing for Persons with Disabilities Program

Eligibility may be established either through evidence an applicant has been approved for funding through any of these programs, or a demonstration that the project will meet the resident income, affordability term, housing quality, and tenant protection requirements of one of the programs.

Option 2: the production or preservation of multi-family rental units restricted during the affordability term to residents earning no more than **65% of Area Median Income (AMI), as defined by HUD, or 300% of the Federal Poverty Level (FPL)** will be presumed eligible.

- Current applicable AMI levels for the Cincinnati MSA can be found [here](#).
- Current FPL levels can be found [here](#).
- Current FPL levels for the Cincinnati MSA can be found [here](#).

Values from those links are shown here:

FY 2023 Income Limit Area	Cincinnati, OH-KY-IN HUD Metro FMR Area						
Median Family Income	\$103,600.00						
Income Limit Category	Extremely Low Income (30% AMI)	Very Low Income (50% AMI)	Low Income (60% AMI)	ARPA Eligible (65% AMI)	Moderate Income (80% AMI)	300% Federal Poverty Level	300% FPL Cincinnati MSA Adjusted
1 Person	\$21,240	\$35,400	\$42,480	\$46,020	\$56,640	\$43,740	\$30,796
2 Person	\$24,270	\$40,450	\$48,540	\$52,585	\$64,720	\$59,160	\$50,476
3 Person	\$27,300	\$45,500	\$54,600	\$59,150	\$72,800	\$74,580	\$69,292
4 Person	\$30,330	\$50,550	\$60,660	\$65,715	\$80,880	\$90,000	\$85,519
5 Person	\$32,760	\$54,600	\$65,520	\$70,980	\$87,360	\$105,420	\$100,926
6 Person	\$35,190	\$58,650	\$70,380	\$76,245	\$93,840	\$120,840	\$118,027
7 Person	\$37,620	\$62,700	\$75,240	\$81,510	\$100,320	\$136,260	\$135,127
8 Person	\$40,050	\$66,750	\$80,100	\$86,775	\$106,800	\$151,680	\$152,228

- City ARPA Funds may be used to pay the development costs related to a mixed-income project (i.e., a multi-family housing project that includes both rent-restricted affordable units and market rate units), but only in an amount proportional to the percentage of eligible units in the project. In other words, if 25% of a project's units are reserved for families at or below 65% AMI for the affordability period, and 20% of the total development costs of the project are attributable to such reserved units, then City ARPA Funds may be used to pay for up to 20% of the total development costs.
 - Applicants should note, however, that while the above describes a cap on eligible use of the City ARPA Funds, CDF will use the evaluation criteria described in Section 3 to independently determine a recommended award amount based on the factors described therein.

Notwithstanding the foregoing, CDF reserves the right to apply different eligibility standards and/or issue supplements to this RFP in the event the Treasury Department issues new guidance subsequent to the publication of this RFP.

(B) Programmatic Requirements

All awards of City ARPA Funds will include legally-binding obligations to comply with the following programmatic requirements. Applicants must demonstrate the ability to comply with these requirements to be considered for any award.

- *Affordability Term:*
 - If the project is eligible through an Option 1 federal program, the term and form of the restriction must match that program's affordability term requirements. In the event the required affordability term of the eligibility-creating federal program is less than 15 years, the required term must nevertheless be at least fifteen (15) years unless CDF determines a shorter term allowed by that program's affordability term requirements is necessary for the project's viability *and* the project is receiving a City of Cincinnati property tax

abatement of less than fifteen (15) years or is not receiving a property tax abatement. Notwithstanding the foregoing, the affordability term shall not be less than ten (10) years.

- If the project is eligible through the general 65% AMI/300% FPL, or if the project is seeking a loan, the affordability term shall be twenty (20) years and recorded as a covenant against the property.
- *Maximum Monthly Rents:*
 - A maximum monthly rent limit amount shall be established for each affordable unit based on the number of bedrooms in the unit. The maximum amount shall be pre-determined based on a formulaic calculation used by both the Ohio Housing Financing Agency and HUD. No adjustments will be made for utility expenses. Rents limits shall be reset each year once updated income levels are posted by HUD and made effective
- *Income verification:*
 - The restrictive covenant or other legal instrument containing the affordability term will also include the requirement that ARPA-funded units may only be rented or sold to individuals or families whose income is verified. The form of income verification required of any federal program being used to establish eligibility will satisfy this requirement. In the absence of a federally-established form of income verification, award recipients will generally be required to verify income at the time of lease-up and as determined by CDF in the award agreement.
- *Project Timing:*
 - All City ARPA Funds must be committed through a contract between CDF and awardee no later than 12/31/24, and expended by the awardee according to the terms of that contract no later than 12/31/26.
- *Required Award Contract Terms:*
 - All award contracts will include, but not be limited to, the terms described in Exhibit A. These terms include various federal requirements *and* obligatory reporting requirements that an applicant must agree to accept and follow if receiving an award.
- *Recoverable Grants/Loans:*
 - All award agreements will contain terms that make award amounts recoverable if the project covenants are violated, and in particular the affordability covenants.
- *Assignable Right of First Refusal:*
 - All award agreements will require an assignable right of first refusal ("ROFR") be granted to the City in the restrictive covenant, which ROFR shall include the following language:
 - "The City shall have the right to assign this right to a non-profit organization that has a mission to preserve affordable housing or may assign it to an organized cooperative organization of tenants of the subject property. If at any time after recording of the restrictive covenant the owner intends to sell the property and has received a bona fide third party offer to purchase the property, then beginning on the day the owner provides written notice of such offer to the City and/or assignee, then the City or its assignee shall have 60 days to exercise a right to match that offer, then shall secure financing and close within 180 days of exercising such right. In the event that the right is not timely exercised, or closing does not timely occur, then the owner is free to complete the transaction with the third party offeror. Notwithstanding the foregoing, the City may waive this

provision for a Loan upon the written request of CDF in its sole and absolute discretion.”

(C) Minimum Threshold for Further Consideration of Application

To be considered for an award, completed applications must satisfy the following threshold criteria, as determined by CDF staff review:

- (i) Application must demonstrate eligibility as described in section 2(A);
- (ii) Application must demonstrate commitment to the programmatic requirements in section 2(B);
- **(iii) must demonstrate readiness to proceed upon receipt of an award of City ARPA funds in relation to all the following criteria:**
 - **Site Control**
 - Applicants must demonstrate site control through a direct property interest (ownership or lease), a legally binding purchase option, or some other similar legal right evidencing the same site control.
 - **Zoning/Entitlements**
 - Applicants must demonstrate the project satisfies any applicable land use regulations and will not require any additional governmental approvals to proceed other than the permit approvals related to the building code.
 - **Financing**
 - Applicants must demonstrate the project’s ability to proceed upon award of City ARPA funds by providing evidence of commitments from other project lenders and funders. To the greatest extent possible, letters of commitment should identify amounts, terms and conditions, and any timing requirements associated with the funds.

SECTION 3 – EVALUATION CRITERIA

CDF will evaluate completed applications that exceed the minimum threshold described in Section 3(C) and make recommendations for awards based on review of the following criteria:

- **Affordability Impact (25%)**
 - Total number of units eligible to be directly funded by City ARPA Funds (all such units being “Affordable Units”).
 - Percentage of total Affordable Units in relation to total unit count.
 - Number of non-eligible income-restricted units, up to 80% of AMI.
 - In other words, applications restricting units at 80% AMI or below will receive additional consideration, regardless of whether the production of such units is a directly eligible use of the City ARPA Funds.
 - Presence of Affordable Units for which City ARPA funds created the affordability or deepened the affordability (i.e., other funding sources for the project do not require affordability or require affordability at a higher AMI or FPL level).
- **Mixed-Income, Opportunity Area Impact (10%)**
 - Does the project include a mix of Affordable Units and non-income-restricted, market rate units (such project being “Mixed-Income”)?

- Whether or not the project is Mixed-Income, is the project located in a High or Very High Opportunity Census Tract, as defined by the Ohio Housing Finance Agency's 2022-2023 Urban Suburban Rural (USR) Opportunity Index? To determine if the project is located within a High or Very High Opportunity Census Tract, please consult the interactive mapping tool found [here](#).
- **Project Viability, Timeline, and Need (40%)**
 - **Developer Capacity**
 - Demonstrated capacity of project team: developer, general contractor, architects and engineers, non-profit partners, property manager etc.
 - Past project history, including existence of any code enforcement citations or tenant lawsuits against any entity or partner identified in the application.
 - Experience with public funding sources, including affordable housing funding sources.
 - **Financing/Project Underwriting**
 - Feasibility of the project, including demonstration of market demand.
 - Presence and amount of other financial Commitments.
 - General underwriting by CDF to assess viability of project financial assumptions
 - Identification of project need by CDF, which will include analysis of whether a project can support additional hard debt, whether such hard debt source is included in the application's pro forma and sources and uses.
 - **Readiness to Proceed**
 - Projected timeline from receipt of City ARPA award to commencement and completion of construction, and then occupancy.
 - **Project types and uses assessed by category**
 - CDF underwriting and feasibility analysis of applications will be assessed in the context of other projects of that type; i.e., the viability and funding needs of multi-family LIHTC projects and smaller multi-family projects by smaller developers will be considered in the context of other, similar projects.
- **Leveraging (20%)**
 - Amount per Eligible Unit subsidy.
 - Use of other public funding sources outside of City of Cincinnati sources, if applicable.
 - Ratio of award request to total project cost.
- **Quality and Design Amenities (5%)**
 - The presence and quality of the following types of amenities geared toward improving the income-restricted tenant or owner's experience while inhabiting the space:
 - Accessibility
 - Depending on the type of construction, project may be subject to compliance with Fair Housing Act of 1988, the Americans with Disabilities Act (ADA) and/or Section 504 of the Rehabilitation Act of 1973.
 - For additional consideration, and if applicable, demonstrating how the project exceeds ADA requirements to remove additional physical barriers that may limit movement or access for people with disabilities.
 - Universal Design

- For consideration in the project evaluation, applicant must demonstrate how the project will incorporate features of Universal Design Standards at common building and individual unit entries, interior stairways and hallways, bathrooms and kitchens, closets and storage rooms, and with electrical and plumbing fixtures.
- Sustainability
 - For consideration in the project evaluation, project must commit to obtaining an energy efficiency or green building certification from any of the following: Home Energy Rating System (HERS), ENERGY STAR, Enterprise Green Communities, Leadership in Energy & Environmental Design (LEED), and/or National Green Building Standard (NGCBS). For LEED & NGCBS, a minimum Silver level certification will be required for evaluation consideration.
- Quality of Life Amenities
 - Other amenities the project will incorporate on-site to improve the quality of life for residents. On-site amenities considered may include in-unit or commonly accessible laundry facilities, resident parking, private and/or common area green space, dedicated exercise & fitness areas, storage, and other supportive services for residents.

Notwithstanding the foregoing, CDF reserves the right to consider factors other than those identified in this Section III when evaluating applications, or to weigh the factors identified in Section III differently, in the context of whether such applications, in CDF's professional judgment, advance the goals of the City Agreement and are eligible uses of City ARPA Funds under the Final Rule or any other similar guidance issued at any time by the Treasury Department.

SECTION IV – EVALUATION AND AWARD PROCESS

Applications will be considered through the following process:

- CDF staff will review applications for completeness and notify applicants when an application is complete.
- CDF staff will review completed applications to determine if the minimum thresholds described in Section 2(C) have been satisfied, if applicable.
 - Applicants not meeting the minimum threshold, if applicable, will be notified and such applications will be denied.
- Applications meeting the above-described minimum threshold, if applicable, will be reviewed by CDF staff pursuant to the evaluation criteria described in Section III.
 - CDF reserves the right to ask applicants additional questions, and for additional information, during this review process.
- CDF staff will make preliminary recommendations for awards to CDF Executive Review Committee.
- CDF Executive Review Committee will determine preliminary award recommendations.
 - Applicants not recommended for funding will be notified upon such determination.
- Preliminary award recommendations are presented to the City of Cincinnati Department of Community & Economic Development for review and approval.

- Upon Department of Community & Economic Development approval, CDF Executive Review Committee confirms award recommendations and Legal Agreements governing the awards are executed.

SECTION V – APPLICATION AND CONTACT INFORMATION

Applications should be submitted to CDF through www.cindevfund.org.

Questions regarding the RFP must be submitted in writing to AHLF@cindevfund.org no later than December 8. CDF will publish responses to relevant questions through an FAQ on December 13.

EXHIBIT A

REQUIRED AWARD CONTRACT TERMS

- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations, including, but not limited to, the Clean Air and Federal Water Pollution Control Act.
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.
- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
- The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.
- Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- The Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
- Copeland Anti-Kickback Act (40 U.S.C. 3145) which prohibits a contractor or subcontractor from inducing a person employed in construction into giving up any part of the compensation to which he or she is otherwise entitled.
- Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) which requires contractors and subcontractors to pay laborers and mechanics employed in the performance of the contract one and one-half times their basic rate of pay for all hours worked in excess of 40 hours in a workweek.

- Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) which prohibits the use of federal funds to influence or attempt to influence Congress or a federal agency to award or renew a federal contract, grant, or any other award.
- Americans With Disabilities Act; Accessibility.
 - *Applicability.* This section may be applicable if any of the City ARPA Funds are used for costs associated with construction or rehabilitation of real property (such construction or rehabilitation being a “**Project**”). Cincinnati City Council adopted Motion No. 201600188 on February 3, 2016 (the “**Accessibility Motion**”). The Accessibility Motion directs City administration to include language specifically requiring compliance with the Americans With Disabilities Act, together with any and all regulations or other binding directives promulgated pursuant thereto (collectively, the “**ADA**”), and imposing certain minimum accessibility standards on City-subsidized projects regardless of whether there are arguably exceptions or reductions in accessibility standards available under the ADA or State law.
 - *Requirement.* If this section is applicable per the paragraph above, then (a) the Project shall comply with the ADA, and (b) if (i) any building(s) within the Project is subject to the accessibility requirements of the ADA (e.g., by constituting a “place of public accommodation” or another category of structure to which the ADA is applicable) and (ii) such building is not already required to meet the Contractual Minimum Accessibility Requirements (as defined below) pursuant to the ADA, applicable building code requirements, or by any other legal requirement, then the Service Provider shall cause such building(s) to comply with the Contractual Minimum Accessibility Requirements in addition to any requirements pursuant to the ADA and the applicable building code or legal requirement. As used herein, “Contractual Minimum Accessibility Requirements” means that a building shall, at a minimum, include (a) at least one point of entry (as used in the ADA), accessible from a public right of way, with respect to which all architectural barriers (as used in the ADA) to entry have been eliminated, and (b) if such accessible point of entry is not a building’s primary point of entry, conspicuous signage directing persons to such accessible point of entry.