



## **Clean Energy Investment Tax Credit Series:**

Low Income Communities Bonus  
(EJ Solar 20% Bonus Adder)

Category 3: Residential Building Project

### **General Application Tips**



*Multifamily Housing Programs - June 2024*

# Presenters

**Bennett Hilley, HUD Office of Multifamily Housing Programs**

**Scott McGivern & Les Russo, Over the Rainbow**, an Illinois non-profit organization dedicated to providing independent living solutions for individuals with physical disabilities

**Paul Schechter, Sunny Side Development**, a nonprofit organization dedicated to creating affordable, sustainable housing in Wisconsin

# Goal

- **Launch a series of recordings that will be posted on the new tax credit tools and other resources to fund energy generation that are now available under the IRA**
- **Help Owners/agents of HUD assisted properties to access this new (and time-limited tool) tax credit bonus for reducing the cost of installing solar at HUD-assisted and other Federally-supported multifamily affordable housing**
- **Share best practices for application process for those preparing an application for 2024 Program Year (which is currently open)**

*Initial 30-day application window will conclude on June 27 at 11:59 pm ET.*

*After this date, applications will be reviewed on a rolling basis until capacity limits are reached.*



# Disclaimers

- This presentation provides information on certain components of the Low-Income Communities Bonus Credit Program. This presentation will not cover all aspects of the Program.
- This presentation represents the views of those participating in the presentation only (HUD and certain stakeholders) and no other Federal entities.
- Please refer to the official IRS guidance (Revenue Procedure 2024-19 and Treasury Regulations 1.48(e)-1) for complete information on eligibility requirements and the application process.
- The information provided in this presentation should not be considered tax advice or tax filing support. Please consult a tax professional, accountant, or attorney if you need tax-related assistance.

# Overview of Topics

- Registering
- Documenting Eligibility for Qualified Residential Property
  - Eligible Covered Projects
  - Documentation examples
- Site Control
- Executed Solar Contract
- Communications during Application Review Process and Approval Process



Residential solar project in Anchorage, Alaska (Source: DOE, EERE)

# Registering

- Register for a [Login.gov](https://login.gov) account
  - *You can use the same username and password to access any agency that partners with Login.gov.*
- Low-Income Communities Bonus Credit Program Applicant Portal  
(<https://eco.energy.gov/ejbonus/s/>)
  - 1) Register as a User
    - *You will be prompted to select either EIN or TIN and enter your organization's EIN or TIN (enter the EIN or TIN you plan to use for tax filing purposes), Parent Taxpayer Identification Number, and UEI Number.*
  - 2) Submit Application for an Allocation

Resource:

[Applicant User Guide for 2024 Program Year](#)

# Eligible Covered Housing Programs



## What properties are considered eligible under Category 3?

- Generally, most multifamily properties that receive operational and/or capital subsidies through Federal affordable housing programs
- This includes several HUD programs, USDA, LIHTC, and others that require long-term affordability covenants

A full list of programs can be found here: [Category 3 Eligible Covered Housing Programs](#)

# Eligible Covered Housing Programs



## ***HUD Multifamily Housing Property Examples:***

- Section 8 with Project Based Rental Agreements (PBRA)
- Section 202 Supportive Housing for the Elderly Project Rental Assistance Contracts (PRAC)
- Section 202 Direct Loan Program
- Section 811 Supportive Housing for Persons with Disabilities PRAC
- Section 236 Interest Rate Reduction Payments (IRP)
- FHA Section 221(d)(3) with Below Market Interest Rate (BMIR) as outlined in Section 221(d)(5)

## ***Other HUD Property Examples:***

- Section 9 Public Housing
- Section 8 with Project Based Voucher (PBV)
- Section 8 Moderate Rehab Program
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program
- HOME Investment Partnerships & National Housing Trust Fund Programs
- HOPWA, ESG, CoC, Rural Housing Stability Assistance programs



# Documentation to Demonstrate Eligibility

## Existing Properties:

Documentation must demonstrate agreement for long-term assistance or an affordable housing covenant and include following information:

- Name of eligible Federal covered housing program;
- Property address(es) OR Property's name [*may suffice if address not included*]

For multifamily properties, assistance contracts are more likely to meet these requirements than use/regulatory agreements, which would demonstrate eligibility but may require supplemental documentation.

### ***Quick Tips!***

Certain HUD form documents do NOT include the property address; if so, be prepared to submit additional documentation (with initial application or upon reviewer request).

*For properties in which Federal subsidy is provided through a local jurisdiction/housing authority instead of directly through Federal agency, covenant or agreement with State/local jurisdiction must mention eligible Federal program.*

# Documentation to Demonstrate Eligibility



## Options for Existing Properties:

### HUD Rental Assistance Contract Examples:

- Housing Assistance Payment (HAP) Contract - *Section 8 PBRA or Section 8 PBV*
- Project Rental Assistance Contract (PRAC) or Renewal – *Section 202 or 811*

### Other HUD Contract Examples:

- Annual Contributions Contract (ACC) Amendment or Mixed Finance ACC Amendment [public housing project-level]
- Mod Rehab or Mod Rehab SRO Contract
- Section 236 Interest Reduction Payment Contract

#### **Quick Tip!**

Document with an expiration date (such as a PRAC or HAP) must be valid through DOE/IRS approval in order for property to be considered eligible. In particular, any contract/contract renewal with a 2024 expiration would face in this scenario.

**In these situations, please contact HUD for additional support.**

# Documentation to Demonstrate Eligibility



## Options for Existing Properties (Continued):

- **Affordable Housing Covenant, Use or Regulatory Agreement Examples:**
  - RAD Use Agreement
  - Declaration of Trust (DOT) or Declaration of Restrictive Covenant (DORC)
  - Section 221(d)(3) BMIR Regulatory Agreement
  - Section 236 Use Agreement
- **Loan Agreement**
  - Pre-1974 Section 202 direct loans

# Documentation to Demonstrate Eligibility



## **Purchase/Acquisition of Existing Eligible Property:**

- Signed purchase agreement is not required for this requirements as it is the property that determined to be eligible, not the owner entity.
- However, the applicant entity does need to demonstrate site control.

## **New Properties/Awards:**

- Preliminary award letter including the program name, property name and property address
- Award agreement should be executed and on HUD letterhead
- Examples:
  - Section 202 or 811 Capital Advance Award letter signed by HUD
  - Section 8 PBV - Agreement to Enter into a HAP Contract (AHAP) signed by Public Housing Authority



# Demonstrating Eligibility



## Section 8 Project Based Rental Assistance – HAP Contract

OMB Approval 2502-0612  
(Exp. 7/31/2025)

**Part I**  
**PBRA Housing Assistance Payments Contract**  
**for the Conversion of Public Housing to**  
**Project-Based Section 8 (Rental Assistance**  
**Demonstration Component 1)**

**U.S. Department of Housing and**  
**Urban Development**  
**Office of Multifamily Housing**  
**Programs**

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is required to apply to the Rental Assistance Demonstration program as authorized by the Consolidated and Further Continuing Appropriations Act of 2012 and subsequent appropriations. Requirements for RAD were established in PIH 2012-32 and subsequent notices. The information will be used to enter into a contract for housing assistance payments and to dictate the terms under which such payments will be made. There are no assurances of confidentiality.

Type of Financing at Time of Conversion:	Section 8 Project Number:	FHA Project Number (if applicable):

This contract is a housing assistance payments contract (HAP Contract) between the United States of America, acting through the Department of Housing and Urban Development (HUD), and

\_\_\_\_\_  
I LLC  
(Owner). The HAP Contract is subject to Notice H 2019-09 PIH 2019-23 (HA), as revised or amended from time to time (or any successor document) ("RAD Notice"), including 24 C.F.R. Part 880 (as in effect November 5, 1979, as amended), as modified and as published in Appendix I of the RAD Notice, and the RAD Civil Rights Notice, PIH 2016-17 (HA).

### 1.1 Statutory Authority, Purpose of HAP Contract, and HAP Contract Terminology.

- (a) **Statutory Authority.** The HAP Contract is entered pursuant to the Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, 125 Stat. 673 – 675 (Nov. 18, 2011); as amended by the Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, 128 Stat. 635 (Jan. 17, 2014); as further amended by the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2757 – 2758 (Dec. 6, 2014), as further amended from time to time; section 8 of the United States Housing Act of 1937 (Act), 42 U.S.C. 1437 et seq.; and the Department of Housing and Urban Development Act, 42 U.S.C. 3531 et seq.

### 1.2 Scope: Assignability of HAP Contract: and HUD Requirements.

- (a) **Scope of HAP Contract.** The HAP Contract consists of Part I, Part II, and the exhibits identified in section 1.4(d) of the HAP Contract, which are hereby incorporated into and made a part of the HAP Contract.
- (b) **Assignability of HAP Contract.** HUD may assign the HAP Contract at any time to a public housing agency (PHA) for the purpose of PHA administration of the HAP Contract to the extent permitted under any Annual Contributions Contract (ACC) between HUD and the PHA. Unless and until HUD assigns the HAP Contract to a PHA, HUD shall be the Contract Administrator (CA) and, in that capacity, a party to the HAP Contract. Upon any assignment of the HAP Contract by HUD to a PHA, the PHA shall assume all the contractual obligations of HUD under the HAP Contract (or of any PHA to which HUD had previously assigned the HAP Contract) and shall replace HUD (or any PHA to which HUD had previously assigned the HAP Contract) as the CA and as a party to the HAP Contract during the ACC term.
- (c) **HUD Requirements.** The HAP Contract shall be construed and administered in accordance with the RAD Notice. With the exception of the provisions of 24 C.F.R. Part 880 and section 8 of the Act that are identified in Appendix I and Appendix II of the RAD Notice, respectively, as inapplicable, the HAP Contract shall further be construed and administered in accordance with all statutory requirements and all HUD regulations and other requirements, including any amendments to and/or changes in statutory requirements, HUD regulations (including 24 C.F.R. Part 880), and other requirements. However, any changes in HUD requirements, except to the extent required by statute, that are inconsistent with the provisions of sections 2.5(a)(1) or 2.8 shall not be applicable.
- (d) **Statutory Changes during Term.** If any statutory change during the term of the HAP Contract is inconsistent with section 2.5(a)(1) or 2.8 of the HAP Contract, and if HUD determines and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of such sections because of such statutory change, then the Contract Administrator or the Owner may terminate the HAP Contract upon notice to the other party. Notwithstanding such termination, the project shall remain subject to the RAD Use Agreement encumbering the property on which the project is located.

### 1.3 Effective Date, Initial Term, and Funding For Initial Term of HAP Contract.

- (a) **Effective Date and Initial Term.** The HAP Contract begins on December 1, 2023 and shall run for an initial term of twenty (20) years.

# Demonstrating Eligibility



## Example PRAC Renewal

DUNS #: \_\_\_\_\_ UEI: \_\_\_\_\_ Property ID: \_\_\_\_\_  
U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF HOUSING  
CONTRACT RENEWAL TO THE  
PROJECT RENTAL ASSISTANCE CONTRACT

I. CONTRACT INFORMATION:

Project Rental Assistance Contract No. \_\_\_\_\_  
Project Name \_\_\_\_\_ Housing \_\_\_\_\_  
Project Number \_\_\_\_\_  
Project Address \_\_\_\_\_ Avenue \_\_\_\_\_  
\_\_\_\_\_ New York \_\_\_\_\_ County \_\_\_\_\_

II. EXPIRING CONTRACT:

Except as specifically modified by this Contract Renewal, all provisions of the Expiring Project Rental Assistance Contract are renewed.

III. TERM OF THE RENEWAL:

The Term of the Contract Renewal begins on \_\_\_\_\_  
April 17, 2022

Subject to the availability of appropriations, to make housing assistance payments for any year in accordance with the Contract Renewal Amendment, as determined by HUD, the Contract Renewal Amendment shall run for a period of one year, beginning on the first day of the term, expiring 4/16/2023.



# Demonstrating Eligibility



## Example Public Housing Declaration of Trust

### Declaration of Trust

(Public Housing Modernization Grant Projects)

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

OMB No. 2577-0270  
exp. 09/30/2013

**Whereas**, (1, see instructions) \_\_\_\_\_  
(herein called the Public Housing Agency (PHA), a public body corporate and politic, duly created and organized pursuant to and in accordance with the provisions of the laws of the (2) State of \_\_\_\_\_, and the United States of America, Secretary of Housing and Urban Development (herein called HUD) pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437, et seq.) and the Department of Housing and Urban Development Act (5 U.S.C. 624) entered into a certain contract with the effective date as of (mm/dd/yyyy) (3) \_\_\_\_\_ -1986, (herein called the Annual Contributions Contract) and a certain Modernization Project Grant Amendment to the Annual Contributions Contract with the effective date as of (mm/dd/yyyy) (4) \_\_\_\_\_ 1994, (herein called the Modernization Grant Amendment) providing for a grant to be made by HUD to assist the PHA in modernizing lower income housing project(s); and

**Whereas**, as of the date of the execution of this Declaration of Trust, the Modernization Grant Amendment and the Annual Contributions Contract cover certain individual lower income housing projects located in: (5) City of \_\_\_\_\_ County; State of \_\_\_\_\_ which will provide approximately (6) 192 dwelling units; and which lower income housing projects are known as Modernization Project No. (7) \_\_\_\_\_ and individual projects as follows:  
Project No. (8) \_\_\_\_\_ with approximately \_\_\_\_\_ dwelling units,  
Project No. (8) \_\_\_\_\_ with approximately \_\_\_\_\_ dwelling units, and  
Project No. (8) \_\_\_\_\_ with approximately \_\_\_\_\_ dwelling units; and

**Whereas**, the modernization of each Project will have been financed with grant assistance provided by HUD.

**Now Therefore**, to assure HUD of the performance by the PHA of the covenants contained in the Modernization Grant Amendment and the Annual Contributions Contract, the PHA does hereby acknowledge and declare that it is possessed of and holds in trust for the benefit of HUD, for the purposes herein stated, the following described real property situated in: (9)

City \_\_\_\_\_ County; State of \_\_\_\_\_

**To Wit:** (Insert legal description for each individual project. )(10)

SEE ATTACHMENT A

and all buildings and fixtures erected or to be erected thereon or appurtenant thereto.

The PHA hereby declares and acknowledges that during the existence of the trust hereby created, HUD has been granted and is possessed of an interest in the above described Project property, **To Wit:**

The right to require the PHA to remain seized of the title to said property and to refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer, conveyance, assignment, lease, mortgage, pledge or other encumbrance of said

### Quick Tip!

*DOT's do not typically list a property address, so be prepared to submit other documentation as well to connect DOT to a specific property or address.*

**You can contact HUD for additional support.**

# Site Control



## Timing:

- Must demonstrate site control as of the date of the application submission

## Ways to Demonstrate Site Control:

- Ownership
  - Acquisition: If HUD-assisted property is being purchased by a new owner, submit Purchase Agreement or similar documentation
- Executed lease contract
- Site access agreement or similar agreement between property owner and applicant



# Executed Solar Contract

## The purchase contract should:

- Include property address (in this case, the eligible covered housing project)
- Describe the solar system
  - Production capacity of solar system
- Include estimated price of system installation + purchase
- Be signed by all parties (executed)
- Be executed prior to application submission



### **Quick Tip!**

*The requirement to submit an Interconnection Agreement as part of an application will typically will not apply to on-site multifamily residential projects unless it is a front-of-the-meter installation OR system capacity is over 1mW*

# Executed Solar Contract



## Other Tips about Solar System Production Capacity:

- You should ask the solar contractor to provide the system's total AC and DC capacity (as the application requires this to be part of general submission)
- There are rules about size changes from approval to placed-in-service.
  - If the system's production capacity decreases **by greater of 25% greater or 2kW in size**, you will lose the credit award.
  - This type of change (and the risk associated) is more likely to occur in residential projects.
- Reviewers will defer to information about capacity in application portal fields, not to what information included in solar contract.

# Application Portal Communications/Approval Process



- Applicant is unable to communicate with reviewer outside of official Application Portal
- DOE Application reviewer will submit questions or requests in to cure deficiencies.
- Applicant has a limited amount of time to respond before Application is denied.
  - It was 30 days; however, currently it is limited to 12 days.
  - After applicant responds to a reviewer question, they cannot add narrative or send attachments at a later date until reviewer has responded again.
- Approval Notification Process/Review Timeframe

# Thank you!

## Questions:

- If you have questions for the Office of Multifamily Housing Programs team working on solar, please send an email to [AssetManagementPolicy@hud.gov](mailto:AssetManagementPolicy@hud.gov) with the word “**Solar**” in the Subject Line.
- If you have a question related to other HUD-supported properties or communities and their eligibility for this bonus program, we will do our best to get you to the right place as well.

## Additional Program Resources:

- [2024 Program Year DOE and Treasury Webinar](#)

## Solar Resources:

- [Renewable Energy Resources](#) on HUDEXchange
- [HUD Guide for Solar Energy](#)